

Act relating to Holidays

Information issued by
the Ministry of Local Government

Information
series
④

Royal Norwegian Ministry
of Local Government

Contents

	Page
Chapter I. General provisions	
§ 1. Purpose of the Act	4
§ 2. To whom the Act applies	4
§ 3. Prohibition against departures from the Act	5
§ 4. Qualifying year and holiday year	5
Chapter II. Holidays	
§ 5. Length of holidays	6
§ 6. Fixing holiday dates, changes and compensation	7
§ 7. Holiday periods	8
§ 8. Taking of holidays during periods of notice	9
§ 9. Taking of holidays during illness, leave of absence, industrial disputes etc.	10
Chapter III. Holiday pay	
§10. Calculation of holiday pay	12
§11. Payment of holiday pay	15
Chapter IV. Miscellaneous provisions	
§12. Change of ownership of an enterprise	17
§13. Advice	17
§14. Compensation	17
§15. Powers of the King to establish longer holidays	17
§16. Entry into force	18
§17. Transitional rules	18
§18. Repeal and amendment of other Acts	19

Act no. 21 of 29 April 1988 relating to Holidays

As amended, most recently by Act no. 34 of 15 June 1990.
Cf. Act no. 43 of 16 June 1972. Cf. earlier Acts no. 8 of 19 June 1936 § 23 and no. 3 of 14 November 1947.

Chapter I. General provisions

§ 1. Purpose of the Act

The present Act shall ensure that employees have annual holidays and holiday pay.

§ 2. To whom the Act applies

(1) (Employee)

Persons who work in the employment of others (employees) are entitled to holidays according to this Act.

(2) (Employees on ships)

In respect of employees on ships or groups of such employees, the King issues Regulations concerning the more detailed rules required by the conditions of service at sea.¹ The Regulations may depart from the rules in the present Act, but not from subsections 1, 2, 3 and the first paragraph of subsection 5 of § 5 relating to the length of holidays and subsections 2 and 3 of § 10 relating to the percentage rates of holiday pay.

(3) (Svalbard)

The King issues Regulations laying down that the Act or parts of it shall apply to Svalbard. The Regulations may depart from the rules in the present Act.

(4) (Equivalent arrangements)

The Ministry may decide that the Act or particular provisions of the Act shall not apply to groups of employees who through pay scales or collective agreements or in other ways are assured of holiday arrangements which on an overall assessment are at least as favourable as the arrangement according to the present Act.

(5) (Fishermen)

Holidays for fishermen are regulated by Act no. 43 of 16 June 1972.

1 Regulations relating to holidays for employees on ships, issued by Royal Decree no. 1285 of 22 December 1989.

§ 3. Prohibition against departures from the Act

No departure may be made from the present Act in an employee's disfavour, unless it is specifically laid down in the Act that a provision may be departed from by agreement.¹ An agreement which departs from the Act in an employee's disfavour must be entered into in writing for an employer to be able to invoke it.

An employer who is bound by a clause in a collective agreement which departs from the Act may apply it to all employees² who do the kind of work covered by the agreement, provided a majority of them are bound by the agreement.

1 See §§ 5 (7), 6 (4), 7 (3), 8 (5), 9 (5), 10 (6), 11 (8), and 17 (2).

2 Cf. § 2 (1).

§ 4. Qualifying year and holiday year

The holiday year is the calendar year. The qualifying year for holiday pay is the preceding calendar year.

Chapter II. Holidays

§ 5. Length of holidays

(1) (Normal annual leave in connection with holidays)

Employers shall ensure that employees have 25 workdays' leave in connection with holidays each holiday year.

(2) (Extra holidays for employees over the age of 60)

Employees who reach the age of 60 before 1 September in a holiday year shall be given 6 workdays' extra holiday. If the extra holiday is divided up, the employee may only demand as many working days off as he normally works in a week.

(3) (Length of holidays for persons appointed in a holiday year)

An employee who takes up a post no later than 30 September of a holiday year is entitled to full holidays, but cf. subsection 1 of § 7. An employee who takes up a post at a later date is entitled to holidays of 6 workdays.

An employee may only demand holidays according to the preceding paragraph insofar as it is shown that he has not already had full holidays from another employer earlier in the holiday year.

(4) (Calculation of holidays)

All days count as workdays except Sundays and statutory church or public holidays.¹

Workdays during holidays which, according to an employee's work schedule, would in any case have been days off, are counted as holidays and deducted from the number of days according to subsections 1, 2 and 3.

(5) (Additional time off in connection with Sunday or shift work, irregular working hours, etc.)

An employee who works on Sundays may claim time off either on the Sunday immediately preceding or on the Sunday immediately following his holiday. This only applies, however, when

a period of holiday is taken comprising at least 6 workdays.

An employee may demand that the time from the end of work before a holiday to the return to work after the holiday shall amount to at least 16 hours altogether in addition to the length of holiday according to the provisions above. This only applies, however, when a period of holiday is taken comprising at least 18 workdays.

(6) (Employees not qualified for full holiday pay)

Employees may claim annual leave in connection with holidays according to the provisions above irrespective of holiday pay earned. Employees may refuse to take holidays or any additional time off insofar as their holiday pay does not compensate for pay lost during absence on holiday. If an enterprise ceases operations wholly or in part in connection with holidays, all employees affected by the stoppage may nevertheless be ordered to take holidays and any additional time off for the same period of time.

(7) (Departure)

The provisions in the second paragraph of subsection 5 may be departed from in a collective agreement.

1 Cf. Act no. 1 of 26 April 1947.

§ 6. Fixing holiday dates, changes and compensation

(1) (Who determines holiday dates)

In good time before holidays, employers shall discuss the fixing of holiday dates and setting up of holiday lists with each individual employee or his representative. If agreement is not reached, the employer fixes the holiday dates within the limits which follow from §§ 7-9.

Unless otherwise agreed, employees over the age of 60 decide themselves when to take their extra holidays. Extra holidays may be taken together or divided into periods of one or more days.

(2) (Notification)

An employee may demand to be notified of the holiday dates fixed as early as possible and at the latest 2 months before the holiday begins, provided special reasons do not prevent this.

Employees aged over 60 must give employers at least 2 weeks' notice before taking extra holidays.

(3) (Changes of fixed holiday dates, compensation etc.)

Fixed holiday periods of which an employee has been notified can be changed by the employer if this is necessitated by unforeseen events. Such changes may only be made when, because of unforeseen events, holidays taken as fixed would cause significant operating problems, and when no replacement can be found for the employee.

The employer shall take up the question of a change with the employee in advance. The employee is entitled to the assistance of a representative at the discussion. At the discussion, the employee is obliged to present information on additional expenses for which he will claim compensation.

An employee may claim compensation for documented additional expenses resulting from the change in holiday dates. Compensation for additional expenses which were not made known by the employee at the discussion may only be claimed insofar as they appear to be natural consequences of the change.

The above provisions do not apply to cases where holiday dates are changed according to §§ 8 and 9.

(4) (Departure)

The rules in this Section may be departed from in a collective agreement or other agreement.¹

1 See the last period of the first paragraph of § 3.

§ 7. Holiday periods

(1) (Main holiday)

An employee may demand to have his main holiday, comprising 18 workdays, fixed for the main holiday period, 1 June -

30 September. This does not apply, however, to an employee who takes up his post after 15 August in the holiday year. If a holiday is fixed for the 1 June - 30 September period and postponed pursuant to § 9, no claim may be made to take the holiday at a later date in that period.

(2) (Remaining holiday)

An employee may demand to take the remaining holidays (7 workdays) together within the holiday year.

(3) (Departure)

The rules in this Section governing holiday periods within the holiday year may be departed from in a collective agreement or other agreement.¹ Written agreements may also be entered into concerning the taking of holidays in advance and the transfer of holidays of up to 12 workdays to the following holiday year. Transfers of holidays beyond that limit may not be agreed.

1 See the last period of the first paragraph of § 3.

§ 8. Taking of holidays during periods of notice

(1) (Notice given by an employer)

An employer may not without the employee's consent fix holidays to periods of notice following notice given by the employer unless the period of notice is 3 months or longer. An employee may refuse to take a previously fixed holiday during such a period prior to leaving his post.

(2) (Notice given by an employee)

Subject to the conditions which follow from §§ 6 and 7, holidays may be fixed and taken in the period following notice given by an employee.

(3) (Changes in the dates fixed for a holiday)

The dates fixed for a holiday may not without the employee's consent be changed owing to notice, unless the conditions in subsection 3 of § 6 are met.

(4) (Right to have holidays fixed to a period of notice)

An employee may demand to take his holiday before the end

of a period of notice, if after that period not enough time remains in which to take the holiday within the main holiday period or the holiday year, cf. subsections 1 and 2 of § 7. An employee who himself gives notice after 15 August may nevertheless not demand to have his holiday fixed for the period before 30 September.

(5) (Departure)

The rules in this Section may not be departed from by agreement to an employee's disadvantage before notice has been given.

§ 9. Taking of holidays during illness, leave of absence, industrial disputes etc.

(1) (Taking holidays during absence through illness etc.)

An employee who is completely incapacitated for work before his holiday, may demand to have the holiday postponed until later in the holiday year. The demand must be supported by a medical certificate and be submitted at the latest on the last working day the employee would have worked before the holiday.

An employee who has been completely incapacitated for work for at least 6 workdays in the holiday may demand to have a corresponding number of workdays' holiday postponed and given to him as a new holiday later in the holiday year. The demand must be supported by a medical certificate and be submitted without undue delay after the employee's return to work.

If for reasons of incapacity for work the total annual leave in connection with holidays can not be taken by the end of the holiday year, an employee may demand to have up to 12 workdays transferred to the next holiday year. A demand for such a transfer must be submitted before the end of the holiday year.

(2) (Taking holidays during maternity leave and leave to provide necessary care)

An employer may not without the consent of the employee fix holidays to periods of leave during which maternity benefits or benefits for care of adoptive children are being paid according

to §§ 3-21 and 3-21 A of the National Insurance Act. The same applies to leave in connection with births given to fathers and other providers of care in pursuance of subsection 2 and 4 of § 31 of the Working Environment Act.

If the period of leave as mentioned in the first paragraph coincides with an already fixed holiday, the employee may demand postponement of the number of workdays of holiday that is included in the period of leave.

Subject to the conditions which follow from §§ 6 and 7, an employer may fix holiday dates for a period when an employee has extended leave to provide care according to § 31, subsection 3, or § 32 of the Working Environment Act.

(3) (Holidays during military service and other compulsory service)

An employer may not without the employee's consent fix a holiday for a period when the employee is engaged in compulsory service in the Home Guard or Civil Defence or in military reserve training exercises.

If compulsory service as mentioned in the first paragraph coincides with a previously fixed holiday, an employee may demand postponement of the number of workdays' holiday spent in such service.

Subject to the conditions which follow from §§ 6 and 7, an employer may fix the dates of annual leave in connection with holidays for one year in a period when an employee is engaged in initial military service pursuant to Act no. 29 of 17 July 1953 relating to compulsory national service, or in compulsory civilian service according to Act no. 3 of 19 March 1965 relating to exemption from military service for reasons of personal conviction.

(4) (Holidays during industrial disputes)

During a lawful industrial dispute (strike or lockout), holidays may be fixed and required to be taken in accordance with the rules in §§ 6 and 7. An employer may not because of a lawful industrial dispute change the dates fixed for a holiday. If an employer fails to pay holiday pay in accordance with subsection 4 of § 11, the fixed holiday is not regarded as having

been taken during the period of absence.

(5) (Departure)

The rules in subsections 1, 2 and 3 may not be departed from in an employee's disfavour in a collective agreement or other agreement in advance. The rules in subsection 4 may be departed from in a collective agreement.

Chapter III. Holiday pay

§ 10. Calculation of holiday pay

(1) (Basis for calculating holiday pay)

Holiday pay from an employer is calculated on the basis of wages paid in the qualifying year. Wages do not include payments to cover expenses for car travel, board, lodging and the like.

The following payments are not included in the basis for calculating holiday pay:

- a) holiday pay according to the present Act, paid during the qualifying year,
- b) shares of net profits,
- c) regular payments earned and paid irrespective of absence of holiday, or
- d) the value of goods, services or other benefits other than payments in money. The value of full or partial board received as part of payment for work shall, however, be included in the basis for calculating holiday pay.

The basis on which holiday pay is calculated shall be shown in

the salary and deduction statement for the qualifying year.

(2) (The general percentage rate)

An employee is entitled to holiday pay from his employer amounting to 10.2 per cent of the basis on which holiday pay is calculated (cf. subsection 1).

(3) (Higher rate for employees over the age of 60)

For employees who are over 60 years of age and entitled to extra holidays according to subsection 2 of § 5, the rate rises by 2.3 percentage points.

Holiday pay according to the first paragraph is not paid in respect of that part of the basis on which holiday pay is calculated which exceeds 6 times the basic amount according to § 6-2 of the National Insurance Act². The basic amount for the purpose of this calculation shall be the amount applicable on 31 December of the qualifying year. If an employee resigns in the course of the qualifying year, the calculation shall be based on the basic amount applicable at the resignation date.

(4) (Earning holiday pay entitlements during illness, maternity leave, leave to care for children, etc.)

Wages according to subsection 1 also include sickness benefit paid by an employer during the employer's period. The same applies to sickness benefit for up to 10 days paid by an employer in the event of children's illness, cf. § 3-22 of the National Insurance Act².

National Insurance pays holiday pay on the basis of:

- a) sickness benefit paid by National Insurance for up to 10 weeks (50 sickness benefit days) in each qualifying year, cf. subsection 4 of § 3-5 of the National Insurance Act². In addition, National Insurance pays holiday pay based on sickness benefit refunded by National Insurance to the employer in respect of employees who are excepted from the rules concerning employers' periods according to the first paragraph of § 3-7 of the National Insurance Act, or in respect of absence for longer than 10 days in the event of children's illness according to subsection 3 of § 3-22 of the National Insurance Act². National Insurance also pays holiday pay based on up to 12 weeks (60 sickness benefit days) of sick-

ness benefit relating to children's illness according to subsection 3 of § 3-23 of the National Insurance Act².

- b) the pensionable part of the maternity benefit to employees, cf. § 3-21 of the National Insurance Act², for up to 12 weeks at the full rate or for up to 15 weeks at 80 per cent of the full rate.
- c) benefit paid to employees caring for adoptive children, cf. § 3-21 A of the National Insurance Act², for up to 12 weeks at the full rate or up to 15 weeks at 80 per cent of the full rate.

National Insurance also pays supplementary holiday benefits in connection with unemployment benefits, subject to such limitations as follow from subsection 5 of § 4-3 of the National Insurance Act².

(5) (Qualifying for holiday pay during compulsory military and civilian service)

An employee who has worked for an employer for at least 3 months qualifies for holiday pay from that employer during unpaid absence owing to:

- a) compulsory military service pursuant to Act no. 29 of 17 July 1953 relating to compulsory national service,
- b) compulsory civilian service according to Act no. 3 of 19 March 1965 relating to exemption from military service for reasons of personal conviction, or
- c) compulsory service in the Civil Defence or Home Guard for up to a total of 3 months each qualifying year.

The holiday pay is calculated on the basis of the employee's sickness benefit basis according to § 3-4 of the National Insurance Act² on the date when the leave begins.

An employee who has not been employed in the enterprise following his absence may not claim holiday pay according to the first paragraph, unless his absence is due to notice by the employer or health reasons.

(6) (Departure)

The rules in this Section concerning the calculation of holiday

pay from employers may be departed from in a collective agreement.

1 Amended by Act no. 34 of 15 June 1990.

2 Act no. 12 of 17 June 1966.

§ 11. Payment of holiday pay

(1) (General rules)

Holiday pay earned in the employment of an employer the preceding qualifying year is paid on the last normal pay day before the holiday. An employee may nevertheless demand payment of holiday pay at the latest 1 week before the beginning of the holiday.

If holidays are divided, holiday pay shall be divided correspondingly. The amount by which holiday pay exceeds wages for normal working hours in the holiday may nevertheless be paid in connection with the taking of the main holiday or together with wages for June.

(2) (Holiday pay for holiday not taken)

If holiday time has been transferred to a following holiday year, holiday pay in respect of the transferred holiday is only paid when the holiday is taken, cf. the provisions in subsection 1.

Holiday pay in respect of holidays which have neither been taken in the course of the holiday year nor transferred to the next holiday year is paid on the first normal pay day after the end of the holiday year.

(3) (Payment on the termination of employment)

If employment is terminated, all holiday pay entitlements are to be paid on the last normal pay day before the post is vacated. Such holiday pay as can not be calculated at that time may be paid in connection with the final pay settlement.

A deduction may be made from the payment amounting to 1.4 per cent of the basis for calculating holiday pay earned in the employment of the employer concerned in the shortened qualifying year 1 May to 31 December 1988.

(4) (Payment in the event of industrial disputes)

The absence of an employee in connection with a lawful industrial dispute (strike or lockout) does not entail an obligation to pay according to subsection 3 above.

An employee who has vacated his post in connection with a lawful industrial dispute shall be paid holiday pay in respect of holidays fixed previously or subsequently, in accordance with the provisions in subsection 1.

(5) (Payment on death)

If an employee dies, all holiday pay earned shall be paid to the estate together with the final pay settlement. Subsection 3 of § 11 applies correspondingly.

(6) (Method of payment, deductions from holiday pay, etc.)

The method of payment, the right to make deductions from holiday pay, and the obligation to inform about how holiday pay has been calculated are regulated by § 55 of the Working Environment Act¹.

(7) (National Insurance payments)

Holiday pay paid out of National Insurance according to the second paragraph of subsection 4 of § 10 is paid, regardless of the rules above, in the second half of May in the year following the qualifying year, cf. the second paragraph of subsection 1 of § 15-1 of the National Insurance Act².

(8) (Departure)

The rules in subsections 1-5 may be departed from in a collective agreement.

1 Act no. 4 of 4 February 1977.

2 Act no. 12 of 17 June 1966.

Chapter IV. Miscellaneous provisions

§ 12. Change of ownership of an enterprise

If there is a change of ownership (owner or lessee) of an enterprise, the new owner assumes the previous owner's obligation to give annual leave in connection with holidays and pay holiday pay according to the present Act. Holiday pay to which entitlements were acquired under the previous owner may still be claimed from him.

§ 13. Advice

The Labour Inspectorate¹ gives advice concerning the present Act.

1 See Chapter XIII of Act no. 4 of 4 February 1977.

§ 14. Compensation

If an employer or someone acting on his behalf deliberately or negligently fails to ensure that an employee has holidays and receives holiday pay in accordance with the rules in the present Act, the employer becomes liable to pay compensation.

The compensation shall cover the financial loss plus a reasonable amount in compensation for lost welfare. The liability may be mitigated if owing to the size of the loss or other circumstances it is reasonable for the employee to take all or part of the loss on himself.¹

1 Cf. § 5-2 of Act no. 26 of 13 June 1969.

§ 15. Powers of the King to establish longer holidays

The King may decide to introduce rights to holidays up to 5 workdays longer than the holidays according to § 5. Each in-

crease must be justifiable in the light of the country's overall economic situation. The general rate for holiday pay shall be 10.6 per cent when holidays of 26 workdays are decided on, and after decisions on holidays of 27, 28, 29 and 30 workdays, respectively 11.0, 11.4, 11.8 and 12.3 per cent.

§ 16. Entry into force

The present Act enters into force on 1 January 1990.

However, the transitional provisions in § 17 enter into force on 1 May 1988.

§ 17. Transitional rules

(1) (Definitions)

«The new Act» means the present Act.

«The old Act» means Act no. 3 of 14 November 1947 relating to holidays.

(2) (Taking holidays)

In the shortened holiday year 1 May - 31 December 1989, an employee to whom the old Act applies is entitled to holiday of 18 workdays. Within that period, an employee who reaches the age of 60 before 1 January 1990 is entitled to extra holiday of 4 workdays. Holidays in the shortened holiday year 1 May - 31 December 1989 shall be taken according to the rules in the old Act.

Holidays in the holiday year 1 January - 31 December 1990 shall be taken according to the rules in the new Act. An employee to whom the new Act applies may nevertheless demand to have a holiday period comprising 7 workdays of his holidays for the 1990 holiday year fixed for the period 1 January - 30 April 1990.

Agreements may be entered into¹ whereby holidays for the 1990 holiday year are taken during the shortened holiday year 1 May - 31 December 1989, and whereby holidays of up to 12 workdays are transferred from the holiday year 1 May 1988 -

30 April 1989 to the shortened holiday year 1 May - 31 December 1989.

(3) (Qualifying for and payment of holiday pay)

In the shortened qualifying year 1 May - 31 December 1988, an employee to whom the old Act applies qualifies for holiday pay pursuant to the rules in the old Act, but with a general holiday pay rate of 11.3 per cent. Holiday pay to which entitlement is built up during this period shall, when holidays are taken in the shortened holiday year 1 May - 31 December 1989, be paid according to the rules in the old Act.

In the qualifying year 1 January - 31 December 1989, an employee to whom the old Act applies qualifies for holiday pay according to the rules in § 6 of the old Act, but with a general holiday pay rate of 10.2 per cent. Holiday pay to which entitlement is built up during this period shall, when holidays are taken in the 1990 holiday year, be paid according to the rules in the new Act.

If employment is terminated between 1 May 1988 and 31 December 1989, holiday pay to which entitlement has been built up according to the above provisions shall be paid according to the rules governing payment dates in the old Act. From the amount payable, a deduction may be made of 1.4 per cent of the basis for calculating holiday pay earned in the employment of the employer concerned during the shortened qualifying year 1 May - 31 December 1988.

On 1 January 1990, a new qualifying year begins in accordance with the rules in the new Act.

(4) (Validity of earlier decisions)

Decisions taken pursuant to the third paragraph of § 1 of the old Act shall apply in relation to the new Act until the Ministry decides otherwise.

1 See the last period of the first paragraph of § 3.

§ 18. Repeal and amendment of other Acts

- - -

INFORMATION SERIES

**Published in a series presenting
the activities of the Royal Norwegian
Ministry of Local Government:**

**No. 1 Local Government Financing in
Norway - the General Purpose
Grants Scheme**

**No. 2 Local Government Financing in
Norway**

No. 3 Labour relations in Norway

No. 4 Act relating to Holidays

**For further information on the Holidays Act,
apply to:**

The Directorate of Labour Inspection

P.O.Box 8103 Dep.

0032 OSLO

NORWAY

Tel. +47 2 95 70 00

or to

The Local Labour Inspectorate.

**For further information on the Regulations relating
to holidays for employees on ships, apply to:**

The Maritime Directorate

P.O.Box 8123 Dep.

0032 OSLO

NORWAY

Tel. +47 2 35 85 00