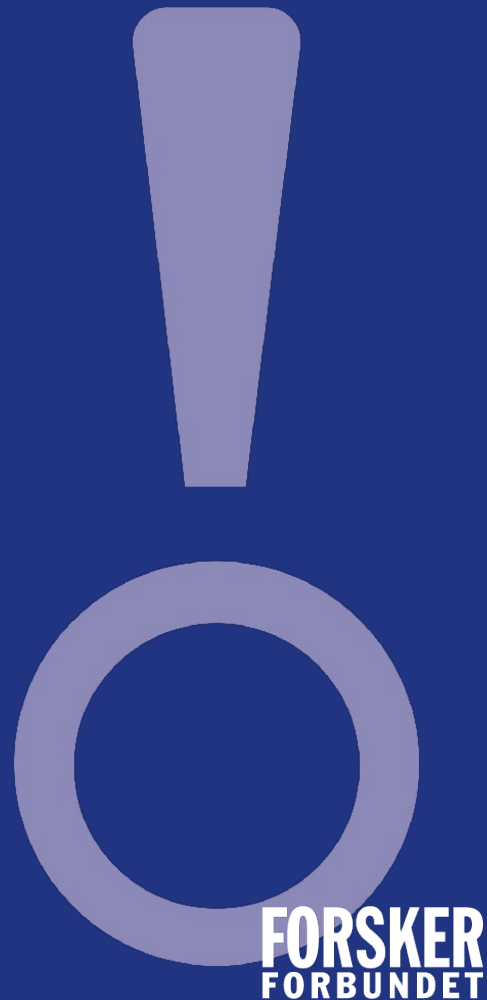




Working in Norway

Know your rights!



Annual Leave and Holiday Pay

- How much annual leave are you entitled to accrue?
- How is the time of leave decided?
- Advance Leave and Leave Transfer
- Outstanding Leave
- What happens to your vacation time if you're sick?

Annual Leave and Holiday Pay continued

- Resignation Notice Period and Leave
- New Employment and Leave
- Leave while Furloughed
- Part-time Employment and Leave
- Holiday Pay

How much annual leave are you entitled to?

- Statutory Holiday (leisure leave)
 - Holiday Act § 5 – fixed for the safety of the worker
 - Minimum 4 weeks and 1 day
 - 25 work days is equivalent to 4 weeks and 1 day
 - Upon the age of 60 one extra vacation week is given
(6 workdays)

How much annual leave are you entitled to? continued

- Contractual Holiday– "the fifth week"
 - Businesses with basic collective agreements/basic wage agreements, 5 extra days (workdays)
 - Basic collective agreement of the State
 - Collective agreement of KS (Norwegian Association of Local and Regional Authorities)
 - NHO (Confederation of Norwegian Enterprise)
 - Virke
 - Spekter
 - Oslo municipality

Holiday Pay

- Chapter 3 of the Holiday Act §§ 10 on Calculation and 11 on Dispersal of Payment
- Basis for calculation
 - Wages during the accrual year
 - Bonus, but may be somewhat unclear depending on nature of bonus and the time of payment
 - Additional benefits are not included in calculation (work telephone, car, gym membership, etc)

Holiday Pay continued

- The ordinary rate is 10.2% of the holiday allowance basis
- An increased rate of 2.3% for employees over 60, as a result of the extra holiday week
- Earnings during illness and care benefits, cf. National Insurance Act

Holiday Pay continued

- Holiday allowance rules may be waived by a collective bargaining agreement
- Contractual holiday means that the collective agreement stipulates that there is a collective agreement of 12% holiday allowance
- §11 - payment of holiday allowance

Holiday Pay continued

- Main rule: Paid out on the last regular payday before vacation
- If the holiday is divided, the payment shall be divided accordingly
- Normally, holiday pay is paid in June and deductions for wages for the 5th holiday week coincide with this

Rules about holiday pay

- Holiday pay for outstanding leave
- §11 no. 2 - Main Rule: Paid for the transferred part when the holiday is actually taken
- Usually everything is paid in advance of the main holiday

Rules about holiday pay continued

- § 11, no. 3 Payment of holiday pay upon termination of employment
- All accrued holiday pay is paid on the last regular payday before resignation
- Different practices based on agreement

How is the vacation period determined?

- The employer shall discuss the determination of the holiday well in advance with the employee or with the representatives.
- If an agreement is not reached, the employer makes a decision, within the limits given in §§ 7-9
- An employee over the age of 60 determines the period of the extra holiday on their own, unless otherwise agreed upon. The extra holiday can be taken all at once or separately.

How is the vacation period determined? continued

- An employee can request to be notified of the holiday period as soon as possible and no later than 2 months before the holiday starts, unless special reasons prevent this.
- An employee over the age of 60 must give the employer at least 2 weeks' notice before taking extra leave.

Holiday management

§ 7 the vacation period

- The Holiday Act distinguishes between main holiday and residual holiday
- §7 no. 1 - Main holiday and the main holiday period
- Employee may claim 18 consecutive days of vacation during the period June 1 - September 30 (3 weeks)
- Limits the employer's managerial prerogative
- The employee may require that the residual holiday, cf. § 7 no. 2 be given within the year (seven working days)

Holiday management

§ 7 the vacation period continued

- Limits the employer's managerial prerogative
- The employee may require that the residual holiday, cf. § 7 no. 2 be given within the year (seven working days).



May also request the context of the basic collective agreement week, but not both weeks at the same time

Advance Leave and Leave Transfer

§ 7nr.3 3

- A written agreement on advance leave can be submitted in **12 days**
- Can submit a written agreement requesting transfer of leave of up to 12 vacation days to the following year
 - The 5th vacation week (the contractual holiday) is not included and can be additional, based on the basic collective agreement

Advance Leave and Leave Transfer

§ 7nr.3 3 continued

- Advance leave and transfer beyond this can not be negotiated
- If vacation is not completed in accordance with the law, the holiday must be transferred. It shall not be compensated by repaying salary deductions, etc.



See the Working Time Directive in the EU and EU practice

What happens to my leave if I am sick? §9

- An employee who becomes completely incapacitated before the holiday may require that the holiday be postponed until later in the year. The claim must be documented with a medical certificate and made no later than the last working day that the employee in question should have had before the holiday.

What happens to my leave if I am sick? §9 continued

- An employee who has been completely incapacitated during the holidays may require that a corresponding number of work days be postponed and granted as a new holiday later in the year. The requirement must be documented with a medical certificate and made without undue delay after resumption of work.

Vacation and resignation notice period, § 8

- Resignation by employee § 8, no. 1 - no effect on leave
 - leave can be arranged and used during the notice period
 - rules on the duty to notify and discuss with employer must be observed
 - holidays agreed on before resignation are taken as agreed upon
- Can you demand to have a vacation?
 - No

Vacation and resignation notice period, § 8 continued

- Certain exceptions
 - If the employee is not otherwise allowed to take leave before the end of the calendar year
 - An employee over the age of 60 may require that the extra holiday week be taken

Vacation and resignation

- Termination from employer § 8, nr. 2
 - Can not order the employee to take leave during the notice period if the notice period is shorter than three months
 - Time for holidays cannot be changed due to termination, nr. 3

Vacation and resignation continued

- No rule without exception
 - §6 no.3: unforeseen events
 - significant operational issues
 - impossible to get a replacement

Leave while newly employed

Vacation Law § 5 (3)

- Right to full vacation time if joining by September 30
- Employed after 30/9 - right to 6 working days



Note: only applicable if it can be shown that full vacation has not already taken place with another employer earlier in the holiday year

Leave while newly employed

Vacation Law § 5 (3) continued

- The right to full vacation applies regardless of whether an employee has earned holiday pay from another employer
- The employee has the right to say no to taking leave if the holiday allowance does not cover the loss of income during the time of leave
- Limitations in section 7 (1) of the Act - may not require 18 working days if you start in a position after August 15

Part Time Positions and Leave

- The Holiday Act: all employees have the right to the full amount of leave, ie 25 working days
- Also part-time employees
- The law shall ensure all employees, irrespective of partial employment, a total holiday period of 4 weeks and 1 day per year (plus the contractual holiday)

Part Time Positions and Leave

continued

- Can you take out individual days? The Holiday Act does not have rules on this
- Must be agreed upon separately, not based on the law

Issues given the current situation

- The right to alter holiday/leave from the employers side
 - May change due to unforeseen events, cf. § 6 (3)
 - Is corona such a foreseeable event?
 - The provisions of the Holiday Act regarding fixed holiday, changing of holidays and compensation may be waived by entering into a collective agreement or other agreement, § 6 and 7.

Issues given the current situation continued

- Can an employee demand to have his or her vacation changed?
 - In theory no
 - However, it is entirely possible to agree upon changes
 - Today's situation requires flexibility - both ways

Issues given the current situation continued

- Temporary termination - what happens with a fixed holiday?
 - The Holiday Act also applies when the employee is temporarily laid off
 - Can be used normally, if agreed upon as leave during the termination period
 - May be required to take holidays during the layoff period
 - The holiday period does not count as layoff time
 - NAV is notified of holiday leave and unemployment benefit is stopped - employee receives holiday allowance

Issues given the current situation continued

- Advance on holiday allowance
 - There may be an increased need for some
 - Layoffs reduce the income base
 - The rules in section 11 of the Holiday Act must be waived through a separate agreement at the collective level - assumes advance at a different time than during holiday leave or in the month of June.