

Rules on carrying over annual leave to be relaxed to support key industries during COVID-19

- Government to amend regulations to allow annual leave to be carried over into the next 2 years
- measures will ensure workers won't lose their leave entitlements
- move gives flexibility to business at a time when it is needed most

Workers who have not taken all of their statutory annual leave entitlement due to COVID-19 will now be able to carry it over into the next 2 leave years, under measures introduced by Business Secretary Alok Sharma today (Friday 27 March).

Currently, almost all workers are entitled to 28 days holiday including bank holidays each year. However, most of this entitlement cannot be carried between leave years, meaning workers lose their holiday if they do not take it.

There is also an obligation on employers to ensure their workers take their statutory entitlement in any one year – failure to do so could result in a financial penalty.

The regulations will allow up to 4 weeks of unused leave to be carried into the next 2 leave years, easing the requirements on business to ensure that workers take statutory amount of annual leave in any one year.

This will mean staff can continue working in the national effort against the coronavirus without losing out on annual leave entitlement.

The changes will also ensure all employers affected by COVID-19 have the flexibility to allow workers to carry over leave at a time when granting annual leave could leave them short-staffed in some of Britain's key industries, such as food and healthcare.

Business Secretary Alok Sharma said:

Whether it is in our hospitals, or our supermarkets, people are working around the clock to help our country deal with the coronavirus pandemic.

Today's changes will mean these valued employees do not lose out on the annual leave they are entitled to as a result of their efforts, and employers are not penalised.

Environment Secretary George Eustice said:

From our fields to our supermarkets, we are hugely grateful to the many people working around the clock to keep the nation fed.

At this crucial time, relaxing laws on statutory leave will help ensure key workers can continue the important work to keep supplies flowing, but without losing the crucial time off they are entitled to.

We welcome the measures the food industry is already taking to keep shelves stocked and supply chains resilient, and will continue to support them with their response to coronavirus.

The changes will amend the Working Time Regulations, which apply to almost all workers, including agency workers, those who work irregular hours, and workers on zero-hours contracts.

The change is aimed at allowing businesses under particular pressure from the impacts of COVID-19 the flexibility to better manage their workforce, while protecting workers' right to paid holiday.

1. The Working Time Regulations 1998 convey a range of health and safety protections on workers, including daily and weekly rest breaks and paid statutory annual leave. Annual leave is granted by regulations 13 and 13A of the Working Time Regulations 1998, giving 4 weeks and 1.6 weeks of annual leave respectively.
2. The 4 weeks of annual leave granted by regulation 13 cannot generally be carried between leave years, with exceptions when a worker cannot take annual leave due to sickness or maternity leave. The 1.6 weeks of annual leave granted by regulation 13A can be carried forward one leave year (but no further) through an agreement between workers and their employers.
3. There is an obligation on an employer to ensure that their workers have an adequate opportunity to take their holiday. This holiday cannot be replaced with a payment in lieu unless the worker is leaving employment.
4. The Working Time (Coronavirus) (Amendment) Regulations 2020 amends the Working Time Regulations 1998 to create a further exemption relating specifically to COVID-19. Where it is not reasonably practicable for a worker to take some, or all, of the holiday to which they are entitled due to the coronavirus, they have a right to carry the 4 weeks under regulation 13 into the next 2 leave years. This will not apply to the 1.6 weeks under regulation 13A leave, but this can be carried forward one year by agreement between workers and employers.
5. For the purposes of annual leave, a year is the leave year as agreed in writing between the worker and their employer, usually stipulated in a worker's contract. Although for some workers this will align with the calendar year (1 January to 31 December), it can be any year long period that is agreed upon.
6. All employers are subject to the Working Time Regulations 1998, and thus

will be subject to the changes in the Working Time (Coronavirus) (Amendment) Regulations 2020.

7. All workers are subject to the Working Time Regulations 1998 unless they are subject to a different set of regulations. The Working Time Regulations 1998 do not apply to:

- workers covered by the Merchant Shipping (Hours of Work) Regulations 2002
- workers covered by the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004
- workers covered by the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003

8. Furthermore, the regulations giving a right to paid annual leave do not apply to:

- where characteristics peculiar to certain specific services such as the armed forces, or to certain specific activities in the civil protection services conflict with the regulations
- workers covered by the Civil Aviation (Working Time) Regulations 2004
- the activities of workers who are doctors in training