

## FREQUENTLY ASKED QUESTIONS: HOLIDAYS ACT, ANNUAL LEAVE CHANGES 2007

### 1. When do I have to pay holiday pay at 8%?

You only need to pay holiday pay at 8% if an employee leaves employment on or after 1<sup>st</sup> April 2007.

### 2. When is 8% holiday pay calculated from?

The 8% holiday pay is calculated from the employee's last anniversary date, even if that anniversary falls prior to 1<sup>st</sup> April 2007.

### 3. When do I have to provide the 4 weeks annual holiday under the Holidays Act 2003?

You only need to provide 4 weeks annual holiday under the Act, once the employee has reached his or her anniversary on or after 1<sup>st</sup> April 2007.

### 4. What happens to the accrual for annual leave between 1<sup>st</sup> April 2006 and 31 March 2007. Does it accrue at 6% or 8%?

Annual leave accrues at 6% during that period.

### 5. What happens if an employee leaves shortly after 1<sup>st</sup> April 2007?

If an employee leaves his or her employment on or after 1<sup>st</sup> April 2007 then that employee will be entitled to holiday pay calculated at 8% from their last anniversary, even though that anniversary date would fall in the 1<sup>st</sup> April 2006 to 31<sup>st</sup> March 2007 period, i.e. the effect is retrospective.

### 6. Employment starts on 16<sup>th</sup> March 2006. What is the leave entitlement and how does that affect the accrual for the 2005/2006 year?

The change from 6% to 8% will have no impact on the 2005/2006 year for this employee. As at 16<sup>th</sup> March 2007 this employee will be entitled to the three weeks holiday provided by the Holidays Act 2003.

The employee will then accrue holiday pay at 6% from 16<sup>th</sup> March 2007 until 31<sup>st</sup> March 2007. However, on 1 April 2007 the employee's accrual from 16 March 2007 will be recalculated at 8%.

### 7. What if the employee in question 6 resigns on 16 March 2007. How should leave have been accrued? Is the entitlement still 3 weeks?

The accrual should be 6% and the entitlement is still 3 weeks.

### 8. Anniversary start date is 1<sup>st</sup> October. Does entitlement to 4 weeks leave start on 1<sup>st</sup> April 2007 or does 4 week entitlement not start until 1<sup>st</sup> October 2007?

The calculation at 8% do not start until 1<sup>st</sup> April 2007. However, this employee's accrual would have been calculated at 6% from 1<sup>st</sup> October 2006. On 1<sup>st</sup> April 2007 that accrual must be recalculated at 8% from 1<sup>st</sup> October 2006. The employee does not have an entitlement to 4 weeks leave until 1<sup>st</sup> October 2007.

If the employee leaves on 31 March 2007 that employee would only be entitled to holiday pay calculated at 6% from 1<sup>st</sup> October 2006 but if the same employee leaves on or after 1<sup>st</sup> April 2007 then that employee would be entitled to holiday pay calculated at 8% from 1<sup>st</sup> October 2006.

### 9. What happens if the employee in question 8 has only taken 1 weeks annual leave between 1<sup>st</sup> October and 1<sup>st</sup> April 2007. On April 1<sup>st</sup> 2007, is the entitlement for that employee 2 weeks (ie. 3 weeks less the one week taken) or is it 3 weeks (ie. the 4 weeks less the one week taken)?

There are two possibilities; either (1) the employee had an entitlement to leave or (2) the leave was taken in advance.

a. If the employee took 1 weeks leave that the employee was already entitled to, i.e. it was leave the employee was entitled to as at 1<sup>st</sup> October 2006, then taking that leave would make no difference to what occurs on 1<sup>st</sup> April 2007.

On 1<sup>st</sup> April 2007 the employee's holiday pay accrual would change from 6% to 8% for the period from 1<sup>st</sup> October 2006.

b. However, if the employee had no entitlement to leave and took 1 weeks leave in advance then on 1<sup>st</sup> April 2007 that employee's holiday pay accrual would change from 6% to 8% for the period from 1<sup>st</sup> October 2006 less the amount paid for the one week taken in advance.

### 10. Does an employer need to make any preparations for the 8% or 4 weeks on 1<sup>st</sup> April 2007?

An employer is not required to make any preparations but it is prudent for employers to make some provision for the sudden retrospective effect of annual leave accruals becoming 8% on 1<sup>st</sup> April 2007. Employers will need to consider carefully how they make this provision.

Some employers have simply made provision within their budgets and will make an adjustment to payroll for 1<sup>st</sup> April 2007. Some payroll systems are able to record the accrual now without allocating that to employees prematurely, i.e. if an employee leaves prior to 31<sup>st</sup> March 2007 that employee gets paid out at 6% only not 8%. How employers prepare will need to be considered in relation to their own business and capabilities of their payroll systems.

Employers who make preparations do need to be careful to ensure that leave is not personally allocated to individuals prior to 1<sup>st</sup> April 2007, otherwise an employer may end up paying out leave that an employee is not entitled to if the employee leaves prior to that date.

### 11. If I want to make preparations and ensure I have budgeted or accrued for 1<sup>st</sup> April 2007 when do I start calculating from?

You only start calculating from each employees anniversary date. So for the employee in question 8 calculations would only start from 1<sup>st</sup> October 2006. However, for the employee in question 6 those calculations would not start until 16<sup>th</sup> March 2007.

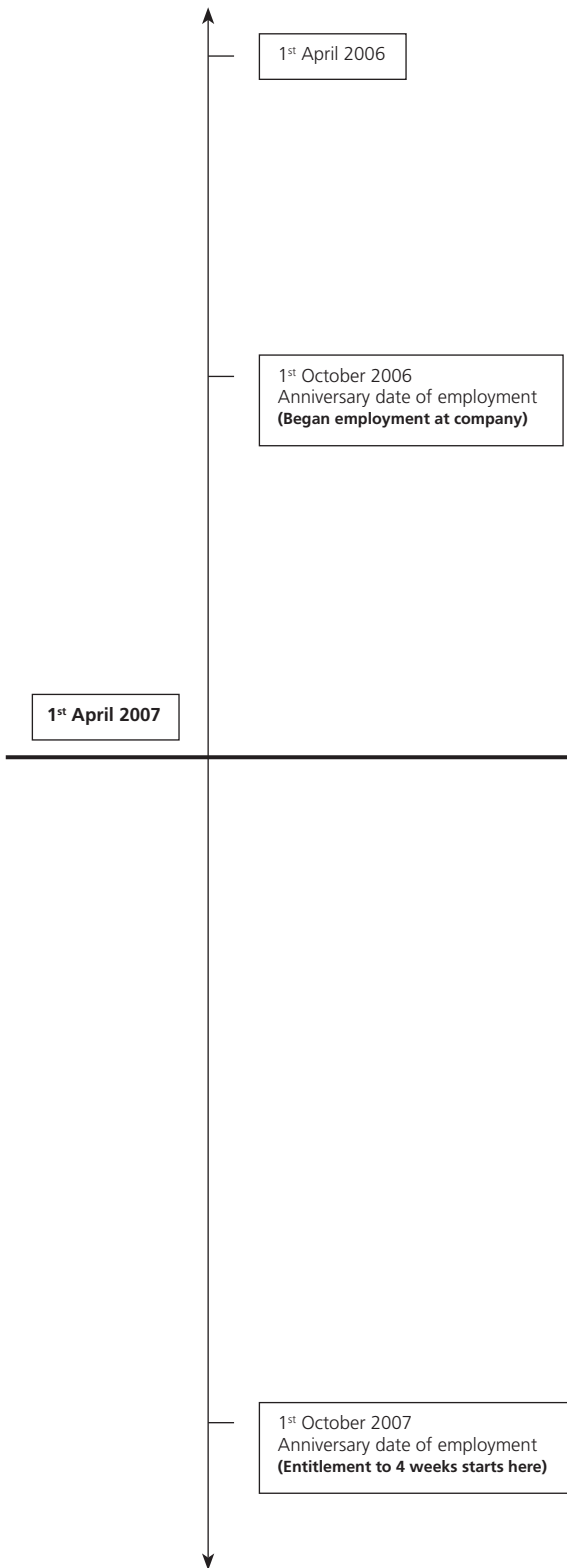


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### Employee with an anniversary of 1<sup>st</sup> October



### Entitlement to Holiday Pay

