

The Workplace Relations Act 2015 **August 2015**
ANNUAL LEAVE AND SICK LEAVE

From the 1st August the Workplace Relations Act 2015 introduced an amendment to the **Organisation of Working Time Act 1997** and has amended **Sections; 19, 20, 23;** which set down the annual leave entitlements for employees. This amendment has the potential to impact both employers and employees significantly.

Accrual of Annual Leave during Sick Leave

The amendments to Section 19, 20, 23 of the Organisation of Working Time Act 1997 have introduced a legal requirement for the accrual of annual leave entitlements for employees during periods of certified sick leave.

Employees are now entitled to accrue annual leave whilst out sick and to carry over the leave accrued beyond the 6 months of the subsequent leave year, (as was previously prescribed in the Act) up to 15 months.

This means that the annual leave may be taken by an employee, absent due to certified sickness, up to 15 months after the expiry of the leave year in which the annual leave was accrued.

It is notable that this entitlement to accrue annual leave during periods of certified illness applies

only to statutory annual leave and not to any leave governed by contractual arrangements.

Employers will now need to take the following steps:-

- incorporate this change into their normal practice,
- ensure that any contracts, practices and policies reflect these additional entitlements.
- ensure that medical certificates are received for all relevant leave periods according to Company T&Cs
- accrue the cost of the leave earned in accounts going forward
- Include holiday pay where a long term sick person's employment ends with the company

Employees are not entitled to pay when they are on sick leave, thus an employer should not agree to do so if requested.

Once the 15 month period has expired an employee is no longer entitled to be paid holiday pay due for that period.

This update is a summary only provided by the MSS HR Support Service.

Please contact us for further details on this Update or about our services.