

Reference No: Nil; **Date:** 18/04/2001

18/04/2001 LP:- Sick Leave - entitlement in respect of public holidays

Dear Personnel Officer,

I wish to draw your attention to a provision of the Organisation of Working Time Act, 1997.

Under Section 21 of the Act (*"Entitlement in respect of public holidays"*) staff absent from work prior to a public holiday or privilege day will be entitled to benefit from the public holiday or privilege day unless the absence is:

- (i) in excess of 52 weeks by reason of an occupational injury;
- (ii) in excess of 26 weeks by reason of illness or injury;
- (iii) in excess of 13 weeks by reason not referred to above but being an absence authorised by the employer including lay-off. Staff on Maternity, Adoptive, Parental and Term-Time Leave will maintain their entitlement to public holidays and privilege days.
- (iv) an absence by reason of a strike.

The text of Section 21 and the Third Schedule is attached at appendix 1 for your convenience.

Yours sincerely,

Ken Spratt
Assistant Principal

General Conditions

Appendix 1

“Entitlement in respect of public holidays.

21.—(1) Subject to the provisions of this section, an employee shall, in respect of a public holiday, be entitled to whichever one of the following his or her employer determines, namely—

- (a) a paid day off on that day,
- (b) a paid day off within a month of that day,
- (c) an additional day of annual leave,
- (d) an additional day's pay:

Provided that if the day on which the public holiday falls is a day on which the employee would, apart from this subsection, be entitled to a paid day off this subsection shall have effect as if paragraph (a) were omitted therefrom.

(2) An employee may, not later than 21 days before the public holiday concerned, request his or her employer to make, as respects the employee, a determination under subsection (1) in relation to a particular public holiday and notify the employee of that determination at least 14 days before that holiday.

(3) If an employer fails to comply with a request under subsection (2), he or she shall be deemed to have determined that the entitlement of the employee concerned under subsection (1) shall be to a paid day off on the public holiday concerned or, in a case to which the proviso to subsection (1) applies, to an additional day's pay.

(4) Subsection (1) shall not apply, as respects a particular public holiday, to an employee (not being an employee who is a whole-time employee) unless he or she has worked for the employer concerned at least 40 hours during the period of 5 weeks ending on the day before that public holiday.

(5) Subsection (1) shall not apply, as respects a particular public holiday, to an employee who is, other than on the commencement of this section, absent from work immediately before that public holiday in any of the cases specified in the Third Schedule.

(6) For the avoidance of doubt, the reference in the proviso to subsection (1) to a day on which the employee is entitled to a paid day off includes a reference to any day on which he or she is not required to work, the pay to which he or she is entitled in respect of a week or other period being regarded, for this purpose, as receivable by him or her in respect of the day or days in that period on which he or she is not required to work as well as the day or days in that period on which he or she is required to work.”

“THIRD SCHEDULE

ENTITLEMENT UNDER section 21 IN RESPECT OF PUBLIC HOLIDAYS: EXCEPTIONS

Each of the following are the cases mentioned in section 21 (5) of absence by the employee concerned from work immediately before the relevant public holiday:

1. such an absence, in excess of 52 consecutive weeks, by reason of an injury sustained by the employee in an occupational accident (within the meaning of Chapter 10 of Part II of the Social Welfare (Consolidation) Act, 1993),
2. such an absence, in excess of 26 consecutive weeks, by reason of an injury sustained by the employee in any accident (not being an accident referred to in paragraph 1) or by reason of any disease from which the employee suffers or suffered,
3. such an absence, in excess of 13 consecutive weeks, caused by any reason not referred to in paragraph 1 or 2 but being an absence authorised by the employer, including a layoff,
4. such an absence by reason of a strike in the business or industry in which the employee is employed.”