

# Regulations on holidays for employees on ships

**Legal basis:** Laid down by Royal Decree on 22 December 1989 under the Act of 29 April 1988 No. 21 relating to Holidays section 2 (2). Issued by the Ministry of Local Government and Labour (currently the Ministry of Trade, Industry and Fisheries).

**Added legal basis:** The authoritative responsibility for the Regulations was transferred to the Ministry of Trade and Industry on 5 July 2002, cf. Royal Decree of 5 July 2002 No. 718.

**Amendments:** Amended by Regulation of 7 August 2017 No. 1236.

## **Section 1 *Scope of application***

These Regulations apply to any employee who is covered by the Act of 21 June 2013 No. 102 relating to employment protection etc. for employees on board ships (Ship Labour Act).

## **Section 2 *Time and place for the holiday***

For employees on ships engaged on foreign voyages, a main holiday comprising 18 working days may be granted outside of the main holiday period between 1 June and 30 September.

The employer may not give the employee holiday in ports outside of the country where the employee was hired or is at home.

## **Section 3 *Taking holidays during parental and care leave***

An employer may not without the employee's consent fix holidays to periods of leave for fathers in connection with childbirths pursuant to section 8 of Regulations of 3 February 1986 No. 234 concerning leave in connection with pregnancy, childbirth, adoption and during the child's first year of living (available in Norwegian only).

If the period of leave mentioned in the first paragraph coincides with an already fixed holiday, the employee may demand postponement of the number of working days of holiday included in the period of leave.

Under the terms and conditions of sections 6 and 7 of the Act relating to Holidays, an employer may fix holiday dates to a period when the employee has extended parental leave pursuant to sections 9 and 10 of the Regulations of 3 February 1986 No. 234 concerning leave in connection with pregnancy, childbirth, adoption and during the child's first year of living.

The rules of this section may not be departed from in any employee's disfavour in a collective agreement or other agreement in advance.

## **Section 4 *Earning holiday pay entitlements during illness, parental leave, etc.***

An employee who is not covered by the National Insurance pursuant to Act of 17 June 1966 No. 12 on National Insurance, but has at least 3 months of service qualifies for holiday pay from that employer during absence owing to:

- (1) incapacity for work due to illness or injury for a total period of up to 3 months. The employer may require that the incapacity is supported by a medical certificate;
- (2) pregnancy up to 12 weeks around the birth;
- (3) care leave for adoption for up to 12 weeks.

Holiday pay during such absence is calculated based on the average income within regular working hours during the last 4 weeks before the holiday or before leaving.

An employee who has not been employed in the enterprise following his absence may not claim holiday pay pursuant to the preceding paragraphs unless his absence is due to notice by the employer or health reasons.

The rules of this section may be departed from in a collective agreement.

## **Section 5 *Payment of holiday pay***

When holiday pay is paid on the termination of employment (Act relating to Holidays section 11 item 3), or on death (Act relating to Holidays section 11 item 5) the deduction rule in section 11 item 3 second paragraph of the Act relating to Holidays does not apply to employees who in the shortened qualifying year 1 May to 31 December 1988 were subject to the Regulations of 19 March 1948 on holidays for seafarers.

#### **Section 6 *Method of payment, deductions from holiday pay***

Act of 21 June 2013 No. 102 relating to employment protection etc. for employees on board ships (Ship Labour Act) section 4-3 applies correspondingly to the right to make deductions from holiday pay.

#### **Section 7 *Departure***

These Regulations may not be departed from in any employee's disfavour unless it is expressly provided in the Regulations that a rule may be departed from by agreement. An agreement that departs from the Regulations in any employee's disfavour must be entered into in writing in order to be invoked by the employer.

An employer who is bound by a clause in a collective agreement which departs from the Regulations may apply it to all employees who perform the kind of work covered by the agreement, provided a majority of them are bound by the agreement.

#### **Section 8 *Entry into force and transitional rules***

I. These Regulations enter into force on 1 January 1990. As from the same date, the Regulations of 19 March 1948 No. 230 on holidays for seafarers are repealed.

II. Holidays during the holiday year from 1 January to 31 December 1990 shall be taken in accordance with the rules of the Act of 29 April 1988 No. 21 relating to Holidays.

In the qualifying year from 1 January to 31 December 1989, employees covered by the Regulations of 19 March 1948 on holidays for seafarers earn holiday pay under the provisions of these Regulations item III. Holiday pay earned in this period may be paid pursuant the provisions of section 11 of the Act of 29 April 1988 No. 21 relating to Holidays.

These transitional rules may be departed from in a collective agreement.