



The new Danish Holiday Act

Observation points for both employer and employee

The transition period to get to the new Holiday Act governs the period – 1 September 2019 – 31 August 2020. Special rules apply for this period.

1 September 2020 the new Danish Holiday Act enters into force. The Holiday Act implements concurrent holidays as well as new possibilities for instance regarding advance holidays.

This newsletter highlights what to observe during the transition period, the most relevant changes in the new Holiday Act and finally advice on planning holidays in 2019 and 2020.

1. Transition Period

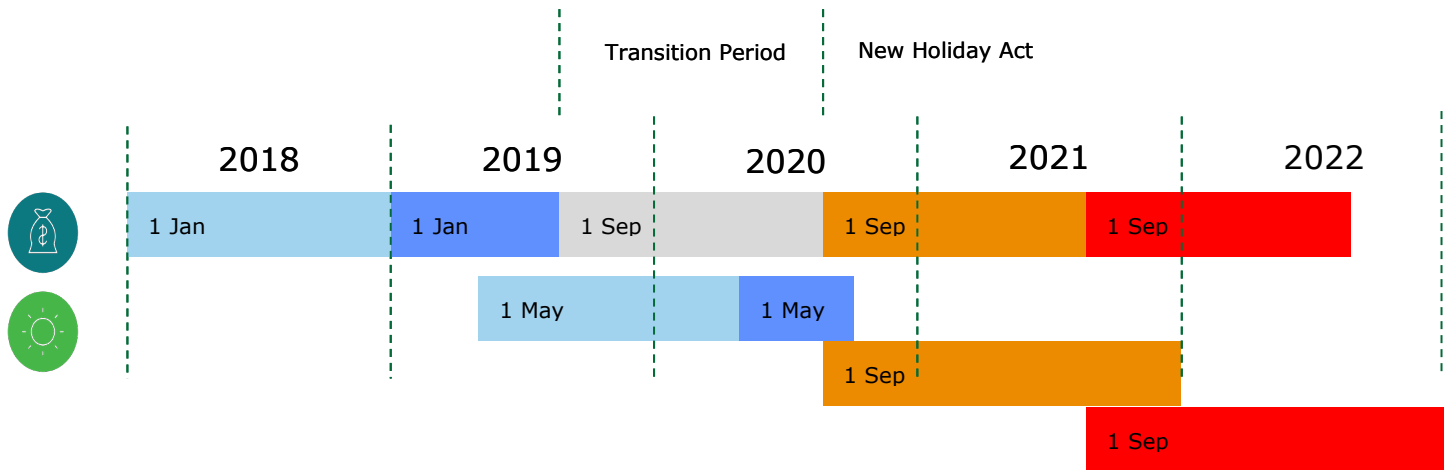
The Transition Period governs the period from 1 September 2019 – 31 August 2020. All holidays qualified for in this period will be frozen, until the employee is eligible to go on pension.

When the Transition Period is over, the employer shall calculate the holidays qualified for by each employee and report this no later than 31 December 2020 to Feriekonto/Feriepengeinfo or the new fund (Lønmodtagernes Fond for Tilgodehavende Feriemidler).

In general, the employer may choose to pay the reported amount into the fund or to retain the reported amount in the company. Should the employer wish to retain the amount in the company, this will not contain a risk for the employee, should a liquidation of the company apply, as the employee is certain to receive the reported amount, which is secured under the Danish Employees' Capital Pension Fund (Lønmodtagernes Garantifond). When retaining the amount, the company must pay a yearly interest. Whether or not the company should pay or retain the amount is up to the company to decide. The decision will typically be based on financial as well as administrative considerations.

The employer must remember to continuously report to the fund that the employer wishes to retain the amount in the company. Should the employer forget this, the entire amount will be due for payment.

The Transition Period (grey) schematically looks like this:



2. Main changes

The new Holiday Act changes the way, in which employees qualify for paid vacation significantly. The current Holiday Act operates with qualification year following the calendar year and a holiday year in the year following in the period from 1 May – 30 April. This means that today new employees – either in the first job or moving to Denmark to be covered by the Holiday Act – will have to work for up to 16 months before being eligible to paid holiday.

The new Holiday Act operates with concurrent holiday, meaning that holiday can be taken in the same year in which the holiday entitlement is qualified for. To provide the employees with improved flexibility in planning the paid holiday, the new Holiday Act operates with a 16 months period, in which the holidays can be taken. This means that the employee will have 2,08 after 1 month's employment, and that the employee will have a number of outstanding paid holidays during the year, and this number increases every month, where the employee works, and decreases when the employee takes paid holiday.

Employees still qualify for 2,08 days of paid holidays during every month of employment, and accordingly 25 days per year.

The new Holiday Act introduces the possibility of taking paid holidays in advance, meaning that if the employee wants to take holidays and has not yet qualified for (a sufficient number of) paid holidays, an agreement between the employer and the employee can be made. Should the employment end, the employer is entitled to set off the value of the paid advance holidays against the employer's payments to the employee.

Today, some employment contracts and/or employee handbooks contain provisions stating that the employer may deviate from the general notice periods for holidays (3 months for main holiday and 1 month for residual holiday). In the new Holiday Act it is only possible to agree on such a deviation, when the actual need for the shortened notice arises.

Further minor changes apply, for instance rules about automatic payment of the 5th holiday week. Should the employee wish to transfer the 5th holiday week to the following holiday period, the employee and the employer must enter into a written agreement no later than 31 December. Otherwise, the holidays will automatically be paid out to the employee.

It is important to notice that extra holidays (the 6th week, feriefridage etc.) are not covered by the rules mentioned above. The extra holidays are therefore not frozen and are in general based on agreement and not on the Holiday Act.

It is relevant for employers to review the wording in employee contracts and/or employee handbooks to see, if the wording fits the new holiday rules. This is especially important for rules about extra holidays, transfer and/or payout from one holiday year to the next, advance holidays and notice for holiday.

3. Planning holidays

Employees who have been employed from 1 January 2019, have qualified for 16,64 paid holidays. These holidays can be taken in the period 1 May – 30 September 2020 (dark blue in the overview above). Any of those days not taken will automatically be transferred to the new Holiday Act (orange in the overview above).

Should an employee wish to take 15 days in July and 5 days in October, the employee might transfer holidays from the holiday year 2019-2020 (light blue in the overview above) into the period 1 May – 30 September 2020 (dark blue in the overview above). 5 days can be transferred. Another option is to agree on taking advance holidays. Should the employee have extra holidays, this will make the transition period even easier to manage.

In general, employees should therefore be able to take paid holidays in the transition period, if the employees follow a normal holiday pattern, especially if the employees have extra holidays or transferred holidays.

About Deloitte

Deloitte provides audit, consulting, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 286,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

Deloitte Touche Tohmatsu Limited

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms and their related entities. DTTL (also referred to as "Deloitte Global") and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

© 2019 Deloitte Statsautoriseret Revisionspartnerselskab. Member of Deloitte Touche Tohmatsu Limited.