Holiday Pay accrues to Sick Workers

The European Court of Justice (ECJ) has ruled that all workers are currently entitled to up to 24 days holiday pay (due to increase to 28 in April 2009) for each year they are on sick leave.

In its Judgment the ECJ has stated the worker does not lose his right to paid annual leave which he has been unable to exercise because of sickness. He must be compensated for his annual leave not taken.

The ECJ also held that the right to paid annual leave is not to lost at the end of the leave year and/or of a carry-over period laid down by national law where the worker has been on sick leave for the whole or part of the leave year and where his incapacity to work has persisted until the end of his employment relationship, this being the reason why he could not exercise his right to paid annual leave.

This Judgment has huge implications for employers particularly in the current economic climate. We will be providing a full report on this Judgment in our next briefing.

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