

**Guidelines for implementing the annual leave system, jointly issued by the Federation of Finnish Commerce and Service Union  
United PAM**

23 November 2016

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*These guidelines for implementing the annual leave system are intended for member companies of the Federation of Finnish Commerce and union representatives of Service Union United PAM. These implementation guidelines include references to the Collective Agreement for the Commercial Sector and the text of the new agreement on the annual leave system. As such, the guidelines are intended to be read alongside these documents. The organisations will maintain and update these guidelines as required. KL/PAM 23 November 2016. Previous version 21 October 2016.*

## Background: the competitiveness pact of spring 2016 and the provision on extending annual working time

The competitiveness pact negotiated by the central labour market organisations in March 2016 included a provision on extending working time by 24 hours. In spring 2016, the Federation of Finnish Commerce and Service Union United PAM held negotiations on implementing the competitiveness pact. The outcome of the negotiations is that working time will be extended by switching from a weekday public holiday system to an annual leave system. This constitutes a **permanent structural change** to the collective agreement.

The weekday public holiday system provided employees with an average of approximately 8.4 days of leave, while the annual leave system will grant a maximum of 6.5 days of leave. Part of the extension of working time will be realised by a system known as the “six-month waiting period for annual leave”, whereby annual leave will begin to accrue after the employment relationship has lasted six months.

### New annual leave system takes effect on 1 January 2017

The annual leave system will take effect permanently for the entire commercial sector on 1 January 2017. The annual leave system will be applied to the following collective agreements between the Federation of Finnish Commerce and Service Union United PAM:

- Collective Agreement for the Commercial Sector
- Collective Agreement for Retail Supervisors
- Collective Agreement for Warehouse and Transportation Supervisors
- Collective Agreement Protocol for Salaried IT Employees in the Commercial Sector
- Collective Agreement for Sales Personal at Hankkija-Maatalous Oy

The annual leave system applies to all employees falling within the scope of application of these collective agreements.

Under the annual leave system, weekday public holidays no longer have the effect of reducing working time, nor is compensation paid for reduced working time on weekday public holidays. However, double wages will continue to be paid for hours worked on weekday public holidays. Every employee accrues annual leave corresponding to the actual hours that they work, and the value of days of annual leave is the same for all employees regardless of the number of hours stated in their contracts.

The organisations recommend that any accrued leave in working time banks, flexitime and other corresponding “credit for leave” be taken before the end of the year because these hours will not be counted as hours that have actually been worked, nor will they be taken into consideration in the accrual of annual leave.

## 1. Accruing annual leave

### Annual leave accrues from the actual number of hours worked

Under the annual leave system, employees accrue annual leave every calendar year **based on the actual number of hours worked**. As such, the accrual of paid leave does not depend on the form of the employment relationship or the number of hours in the employment contract. The employer must monitor the number of hours that are actually worked, collecting information to cover each salary payment period, or even more

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detailed information. In the interests of properly applying the annual leave system, it is essential that both parties to the employment relationship are aware of the actual number of hours worked and the amount of annual leave accrued. The organisations recommend that information be made easily visible; for example, it could be included on the employee's payslip.

The concept of "hours actually worked" refers to the time spent working, as well as the time for which the employee is obliged to be at the workplace and at the employer's disposal. Training required by the employer is counted as working time to the extent that the employer pays for loss of earnings from regular working hours, taking into account company-specific practices.

In other regards, other time that is to be considered working time in the meaning of Chapter 2, Section 4 of the Working Hours Act (*Työaikalaki*, 605/1996) is included in the actual number of hours worked. For example, travel time is not included in working hours if it does not constitute work performance. Work done from home by an employee is considered working time in accordance with the Working Hours Act insofar as the employer specifies the working time arrangements and monitors compliance with the working time.

Time during which union representatives and health and safety representatives are released from work is counted as equivalent to actual working time. The same applies to locally agreed periods of time during which the health and safety ombudsman is released from work. The time during which deputy union representatives and deputy health and safety representatives are released from work is taken into consideration in terms of accrual when they are called upon to deputise for absent parties. Time spent participating in trade union courses that have been approved by the training working group of the Federation of Finnish Commerce and PAM and that fall within the scope of employer subsidy is treated as equivalent to actual working time.

Time spent when an employee participates in meetings of Service Union United PAM's executive committee, council, contracts subcommittee or other corresponding organs is not considered actual working time unless it is also time during which a union representative or health and safety representative is released from work.

### Six-month waiting period

The actual number of working hours will be calculated as of 1 January 2017 (contract text example 1) for employment relationships that began before 1 January 2017.

Employment relationships beginning on or after 1 January 2017 will be subject to a "six-month waiting period", during which the actual number of hours worked will not count towards the accrual of annual leave (contract text examples 2 and 3).

Employees accrue one full day of annual leave for every 220 hours of work that they actually do, as shown in the table in Section 1. The value of one day of annual leave is 7.5 hours. An exception to the aforementioned is made for the "seventh day of annual leave", which is granted as leave but is worth half a day's annual leave – 3 hours and 45 minutes. As such, the annual leave system produces a maximum of 6.5 days of paid leave.

## 2. Granting annual leave

The idea behind the annual leave system is to enable employers to take business requirements into account more effectively than under the weekday public holiday system, while also taking employees' wishes into consideration when allocating days of leave. The organisations encourage both parties to the employment relationship to engage in open dialogue in the workplace every calendar year and whenever necessary to identify when would be best for leave to be taken. This also provides employees with a genuine opportunity to influence the timing of annual leave.

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The organisations recommend that annual leave be granted as and when it is accrued by employees during the accrual period, or even in advance. However, annual leave must be granted by the end of April of the year after the annual leave was accrued. If the employer has an acceptable reason for not being able to grant annual leave by this deadline, cash compensation must be paid in lieu of the annual leave on the company's next salary payment date after April, and this must be done without requiring a separate request or agreement.

Annual leave may be granted in advance when the employee falls within the scope of annual leave accrual. This may be relevant around the Epiphany holiday (6 January) if the company decides not to open its shop or office on the day in question.

At the employee's initiative, a written agreement may be made whereby annual leave is granted by the end of the calendar year following the accrual year. This situation may be relevant if an employee would like to save up annual leave to use for a personal activity or for a period following the end of parental leave.

### Annual leave in the work shift plan

Annual leave must not coincide with other forms of leave. These include annual holiday, the employee's weekly day off, planned surgery or weeks off for employees in part-time retirement who work every second week (as of 1 January 2017, this will also include people in partial early retirement).

Whenever possible, annual leave should be granted in conjunction with other forms of leave, such as the employee's weekly day off or annual holiday. However, employers have the option of allocating annual leave to individual days, such as weekday public holidays. When two days of annual leave are granted within the same week, at least one of the days of leave must be granted in conjunction with a different form of leave.

The employee's viewpoints must be heard when annual leave is granted. Such a hearing may take place in accordance with principles that are otherwise followed within the company, in the same way as for wishes related to annual holiday and weekly days off. The essential point is that employees have the opportunity to express their wishes regarding the timing of annual leave. Periods of three or more consecutive days of annual leave must be agreed upon with the employee.

Annual leave must be marked in the work shift plan. The abbreviation "VV" is used for this. Notifications regarding annual leave must be made in accordance with the schedule for publishing the work shift plan.

No shifts can be planned to start or end on the calendar day on which annual leave is granted. Days and weeks are considered to be calendar days and calendar weeks unless otherwise agreed in the workplace. For example, the employer cannot plan for annual leave to be taken on a Wednesday if the employee's shift ends at 1am on Wednesday.

Annual leave must be granted in the form of whole days off, and one day of annual leave is worth 7.5 hours. However, a key exception is included in this general rule: when an employee has earned 6.5 days of annual leave, the period remaining after 6 days have been taken must be granted in the form of a whole day off. The value of the last "half" day is 3 hours and 45 minutes.

When a half-day of leave is granted, the number of working days in the week in question is 4 and the working time is a maximum of 33 hours and 45 minutes. The corresponding impact will be taken into consideration in the reference period. In practice, the employer can therefore have the remaining 3 hours and 45 minutes of work done at a different time in the week or reference period.

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However, the employer and employee can make an agreement on how the portion of leave remaining after 6 days is granted (contract text example 10).

Absences do not change annual leave in accordance with the work shift plan. Days of annual leave marked on the work shift plan are considered to have been granted, even if the employee falls ill on the day designated for annual leave.

If time off work on the eve of a major public holiday falls on a day of annual holiday, it will be counted as time off work granted on the eve of a major public holiday.

Days of annual leave marked in the work shift plan cannot be changed unilaterally without the employee's consent.

When employees are on annual leave, they accrue annual holiday in accordance with the Annual Holidays Act (*Vuosilomalaki*, 162/2005). Taking annual leave following annual holiday is considered equivalent to returning to work. The salary paid for periods of annual leave is taken into consideration when calculating the annual holiday pay. However, if cash compensation is paid in lieu of annual leave, this is not taken into consideration when calculating the annual holiday pay.

### 3. Effect of annual leave on working time and agreeing on a different value for annual leave

#### Annual leave reduces working time

Annual leave implemented in the work shift plan reduces the number of working days in the week or reference period in question by one and the number of hours by the value of the annual leave in question.

When arranging working times for one week, the employer may plan 4 working days and 30 hours of work for a week that includes 1 day of annual leave. Similarly, the employer may plan 3 working days and 22.5 hours of work for a week that includes 2 days of annual leave.

Planning of working time in a reference period will change under the annual leave system. Weekday public holidays no longer reduce the maximum working time in the reference period. Employees' maximum working time during the weeks in the reference period is therefore 37.5 hours multiplied by the number of weeks. Only annual leave taken during the reference period will reduce the maximum working time in the period, as well as the number of working days.

The form of the employee's employment contract or the contractual working hours make no difference to the effect of annual leave on working time.

Increased wages are paid to employees for additional work and overtime in excess of the employee's regular maximum working time in a calendar week or over the reference period. Contract text examples 4, 5, 6 and 7 illustrate the effect of annual leave on working time and the payment of increased wages.

#### Agreeing upon a different value for annual leave

The value of one day of annual leave is 7.5 hours. However, there are two exceptions to this general rule.

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At the employee's initiative, an agreement may be made regarding the value of individual days of annual leave. In practice, this possibility applies to situations in which the employee would like to take annual leave instead of a working day in the work shift plan (contract text examples 8 and 9).

In accordance with Section 23, the employer and the employee may agree upon a different value for the day of annual leave in the event that the employee's working time is regularly organised into shifts that last less than 7.5 hours and are **always of the same duration**. This applies particularly to employees who are on partial child-care leave, part-time pensions (as of 1 January 2017, partial early retirement) or, due to an equivalent arrangement, always work shifts of less than 7.5 hours. The value of a day of annual leave will be adjusted to correspond to the length of a regular work shift. At the same time, an agreement must also be reached regarding how compensation will be granted for the value of the remaining leave (contract text example 11).

The employee uses up a number of hours of annual leave corresponding to the length of the shift as stated in the work shift plan. This may result in a situation where the employee's total number of days of annual leave decreases if he/she requests annual leave on several longer-than-normal working days. If the employee has only accrued one day of annual leave, it is natural to agree that the employee receives 7.5 hours of compensation for one working day and any time from the shift in excess of this is taken as unpaid leave. Alternatively, the employer and the employee may agree to modify the work shift plan so as to ensure that the remaining hours are done elsewhere.

The ability to make agreements on these matters enables more flexible solutions without the employer being required to make other changes to the work shift plan.

In addition to the above, the employer and the employee may agree that the portion of leave in excess of 6 days be granted in a different form than leave from work; for example, the employee's working day(s) may be shorter, cash compensation may be paid in lieu of leave, or the leave may count as credit in a working time bank (contract text example 10).

#### 4. Pay for a period of annual leave

During a period of annual leave, the employee receives a wage and fixed supplements, excluding **hourly supplements** for working conditions and working hours. Fixed supplements include language, responsibility and personal supplements.

The payment of some supplements may be tied to a specific season. For example, it may be the case that a language supplement or a supplement for warehouse working conditions is only paid at certain times of year, such as during the tourist season or in winter. Whether these supplements are taken into consideration in the employee's pay depends on whether the annual leave is taken or cash compensation is paid at a time for which the supplement has been agreed or when the prerequisites for payment of the supplement are otherwise met.

In addition, employees working on commission should receive their average daily commission during periods of annual leave.

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## 5. Payment of cash compensation in lieu of annual leave

### Continuous payment of cash compensation in lieu of annual leave

When the employment relationship has lasted six months, the employer and the employee may agree that cash compensation will be paid in lieu of annual leave on an ongoing basis in accordance with Section 23. In such cases, the employee is paid cash compensation without a separate agreement on the salary payment date after having accrued annual leave.

It may be practical to agree upon ongoing payment of cash compensation in lieu of annual leave for outsourced employees or in situations where an employee works very infrequently.

### Payment of cash compensation in lieu of an individual day of annual leave

At the employee's initiative, an agreement may be made to pay cash compensation for an individual day of annual leave or part thereof. Cash compensation is paid on the employee's next salary payment date (contract text example 12).

### Amount of cash compensation

The amount of cash compensation is obtained by calculating the employee's **personal** hourly wage and multiplying this by the value of the period of annual leave. The calculation takes into consideration the employee's fixed supplements, excluding **hourly** supplements for working conditions and working times as described above in relation to the salary payable for periods of annual leave.

The hourly wage of employees who receive a fixed monthly salary is obtained by dividing the monthly full-time salary by **160**. As such, the pay for employees earning a pro rata monthly salary must first be converted to a sum corresponding to full-time work, and this figure must then be divided by 160.

### Expiry of annual leave during an employment relationship

If it has not been possible to grant annual leave for an acceptable reason (such as a long period of sick leave) in accordance with Section 2 by the end of April of the year after the leave was accrued, cash compensation will be paid in lieu of leave on the following salary payment date after April. In such situations, the employee's express consent is not required to pay cash compensation in lieu of granting leave (contract text example 13).

If, at the employee's initiative, a written agreement has been made to grant annual leave by the end of the calendar year following the year during which the leave was accrued and it has not been possible to do this, cash compensation will be paid on or before the following salary payment date after the end of the calendar year.

## 6. Annual leave at the end of an employment relationship

When an employment relationship ends, cash compensation will be paid in lieu of any annual leave that has accrued but has not yet been granted. The employee must receive compensation for every hour of annual leave. The employer is obliged to pay compensation for every hour of annual leave that has not been granted regardless of the number of days of annual leave that have been granted.

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If, at the employee's initiative, an agreement has been made to take annual leave before the employee has accrued it and the employment relationship ends for a reason attributable to the employee, the employer is entitled to reclaim the compensation paid to the employee for the period of annual leave. The employer does not have this entitlement if the employer has planned the annual leave in advance and the employment relationship ends before the employee has accrued the annual leave in question.

### Flexitime arrangements in the annual leave system

The organisations have received questions regarding how the annual leave system is to be reconciled with businesses such as wholesalers or office workers in the commerce sector, who largely work to a rhythm that acknowledges weekday public holidays. In such cases, the company and the employees are both accustomed to not working on weekday public holidays.

In practice, office work is often subject to a flexitime arrangement in accordance with the Working Hours Act, so each employee is responsible for the precise timing of his/her working hours. Unlike other occupational groups, office-based employees are also subject to regulations concerning leave on certain days on the eve of major public holidays and fixed Saturday leave. These forms of leave apply to work shift planning, so the employer cannot require employees to work on Saturdays or other restricted days without an agreement being made. Under a flexitime system, the employer does not have the power as work supervisor to instruct employees when they must work longer hours.

Even when the maximum amount of annual leave is accrued, it is not sufficient to cover all weekday public holidays and leave on days before major public holidays. As such, the arrangement of flexible working hours must incorporate a local agreement in a way that treats employees consistently and equally to determine when employees can come to work and how these days off will be enabled so that the work is done at a different time; for example, in the form of longer working days or on Saturdays. Subject to agreement, employees may use their working time credit and take leave on weekday public holidays.

Under the Employment Contracts Act (*Työsopimuslaki*, 55/2001), the employer is obliged to pay salary to employees if the employees are unable to work for a reason attributable to the employer. As such, the employer cannot unilaterally declare that employees must not come to work on a certain day, such as the Epiphany holiday (6 January), and then deduct 7.5 hours from employees' working time credit.

In workplaces similar to those described above, it is generally in the common interest of both parties for weekday public holidays to remain non-working days. If no other agreement can be reached to have employees' work done on days other than public holidays, the employer may terminate the flexitime arrangement and introduce a system based on reference periods. Under such a system, every weekday public holiday (worth 7.5 hours) for which leave is granted can be recovered by working longer days. In this case, the employer has the right and the obligation to arrange work and plan work shifts in accordance with the collective agreement without the flexibility accorded by the flexitime system. The arrangement may be specific to individual employees, and flexible working time models may be used concurrently with systems based on reference periods.

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## Alternative to the annual leave system — local agreement on the introduction of a weekday public holiday system

The annual leave system will be applied automatically within companies as of 1 January 2017, without any additional measures. If the employer and employees feel that a weekday public holiday system would better correspond to the needs of the company and the employees, a local agreement can be made, in accordance with Section 23 of the Collective Agreement for the Commercial Sector, that the annual leave system will not apply to the company or part thereof. In accordance with Section 23 of the Collective Agreement for the Commercial Sector, the parties to the agreement are the employer and employee, employees or union representative.

### Making an agreement with a union representative

If a union representative has been nominated for the workplace in accordance with the Collective Agreement for the Commercial Sector, the union representative can agree upon the introduction of a weekday public holiday system on behalf of the employees whom he/she represents. However, the union representative must first hold discussions with the occupational group in question and determine their position on the matter.

If there are several union representatives, the representative in question can act as a party to the agreement in his/her own area of operation.

### Making an agreement with employees

The employer may make agreements with employees in accordance with Section 23 in all circumstances. In such cases, the introduction of the weekday public holiday system must be agreed upon **with every employee belonging to the occupational group in question**.

### Duration of the agreement

In accordance with Section 23 of the Collective Agreement for the Commercial Sector, a local agreement can be made indefinitely or for a fixed term. Indefinite agreements can be terminated with three months' notice. Similarly, fixed-term agreements that have lasted over nine months can be terminated with three months' notice. In spite of the termination, the agreement on using the weekday public holiday system will continue until the end of the calendar year.

As such, the parties may agree on the arrangement being in force for an indefinite period, and it will automatically continue for one calendar year at a time unless it is terminated with three months' notice. If, for example, notice of termination is given in October 2017, the notice period will end in January 2018. As such, the agreed weekday public holiday system will remain in force until the end of the 2018 calendar year, and the annual leave system will take effect from the beginning of 2019 unless a new agreement is made regarding the application of the weekday public holiday system.

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## Effects of local agreements

### The weekday public holiday system is retained

As a result of a local agreement, the annual leave system in the Collective Agreement for the Commercial Sector will not apply to all or part of the company; instead, the regulations related to the weekday public holiday system will be in force for the duration of the agreement, one calendar year at a time.

### The working time of full-time employees will be extended to 38 hours per week

The working time of full-time employees (averaging 37.5 hours per week) will be extended as a result of the competitiveness pact to 38 hours per week. As such, a weekday public holiday has the effect of decreasing the working time by 7.6 hours rather than 7.5 hours. The contracted working hours must not change as a result of an agreement in accordance with Section 23. The extension to working time is valid for the duration of the agreement in accordance with Section 23 for one calendar year at a time.

The weekday public holiday system and 38-hour working week will also apply to new full-time employees entering employment relationships in the middle of the calendar year.

When agreeing upon the introduction of the weekday public holiday system in accordance with Section 23, the collective agreement's separate working time protocol for the 38-hour working week and weekday public holiday system will be complied with. The protocol sets out the precise numbers of hours under the system, the rules for paying increased wages, and the effect of weekday public holidays in terms of reducing working time. According to the protocol, full-time employees will have a regular weekly working time of 38 hours under the system. At the same time, any changes to flexible working hours should be agreed upon.

The employment contracts for new employees should contain an agreement for an average of 37.5 hours of working time. In addition, a local agreement in accordance with Section 23 is to be provided for the employee's information and used as the basis for the extension to working time called for by the competitiveness pact and arranged in accordance with the aforementioned working time protocol.

If the employee's employment contract contains an agreement on 38 hours of work per week, such an entry is only valid when an agreement has been made on the introduction of the weekday public holiday system in accordance with Section 23 (separate working time protocol under the 38-hour working week and weekday public holiday system). When such a contract ends and when transitioning to coverage under the annual leave system, the employee's general average working time of 37.5 hours per week is to be complied with. As such, the entry concerning 38 hours of working time per week will be invalidated, and it will not bind either of the parties to the employment relationship. For the sake of clarity, 37.5 hours should be entered into employment contracts in this case.

### Employees falling within the scope of *Pekkaspäivä* accrued days off (working time of 40 hours per week)

The introduction of the weekday public holiday system can also be agreed upon within companies that grant "*Pekkaspäivä*" days off to reduce the annual working time. In such cases, the average 37.5-hour

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working time is realised using 40-hour working time arrangements in accordance with the protocol. The extension to working time in accordance with the competitiveness pact is realised by reducing the number of *Pekkaspäivä* days off, and the accrual of *Pekkaspäivä* days off in accordance with the following table:

<i>Duration of employment</i>	<i>Number of Pekkaspäivä days off</i>
2–4 months	3 days
5–7 months	7 days
8–12 months	11 days

#### The working time of part-time employees will not change

The working time of part-time employees will remain the same, as will the terms and conditions of the weekday public holiday system. The reduction of working time or cash compensation is obtained by dividing the weekly working time agreed upon in the employment contract by 5. The weekday public holiday system will also apply to new part-time employees entering employment relationships in the middle of the calendar year.

#### Applying working time systems in parallel

Companies can choose to apply both working time systems in parallel. For example, the annual leave system may be applied to sales and warehouse personnel, while an agreement may be made for a weekday public holiday system in accordance with Section 23 for office-based employees, thereby extending the working time of full-time office-based employees to 38 hours per week. However, the same working time system must be applied consistently within occupational groups. For example, companies cannot apply the annual leave system only to part-time employees while applying the weekday public holiday system to full-time employees.

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## Other considerations

### Independence Day (6 December) and May Day (1 May)

Under the weekday public holiday system, Independence Day and May Day were public holidays that resulted in working time being reduced. As with other weekday public holidays, the effect of these days in terms of reducing working time has been transferred to the current annual leave system.

The labour market organisations are of the opinion that this solution does not conflict with the provisions in the Act on Spending Independence Day as a General Holiday (*Laki itsenäisyyspäivän viettämisestä yleisenä juhla- ja vapaapäivänä*, 388/1937):

*If Independence Day falls on a weekday, work in the authorities, courts and schools, as well as work in state, municipal and private agencies, companies and work-sites, must be suspended on that day as if it were a Sunday.*

*Let the provisions pertaining to working on Sundays apply to the rights of employees to refrain from working on Independence Day.*

Or in the Act on Arranging May Day as a Holiday for Workers in Certain Cases (*Laki vapunpäivän järjestämisestä työntekijäin vapaapäiväksi eräissä tapauksissa*, 272/1944).

*Employees engaged in work of such a type that they have Sundays off shall be given a day off for May Day, even if it falls on a weekday.*

*For work in commercial businesses and offices on May Day, let the relevant provisions be complied with.*

The law restricting the opening hours of commercial premises in retail, barber and hairdressing businesses (*Laki vähittäiskaupan sekä parturi- ja kampaamoliikkeen aukioloajoista*, 945/2009) has been repealed and it is no longer force as of 1 January 2016. As such, the legislation applying to Independence Day and May Day does not oblige work to be suspended in the commercial sector.

Double wages must be paid for work done on Independence Day and May Day. The employee must have consented to working on Sundays in order to work on these days. The employer is responsible for planning work shifts and allocating work.

The working time arrangements in the Collective Agreement for the Commercial Sector reduce the employee's annual working time more than any law requires. As such, the provisions of the collective agreement remain more favourable for employees than compelling legislation.

### Senior salaried employees

Senior salaried employees do not fall within the scope of the Collective Agreements for the Commercial Sector by virtue of their positions. As such, the extension of working time in accordance with the Collective Agreements for the Commercial Sector does not directly and automatically apply to senior salaried employees in the commercial sector.

*These guidelines for implementing the annual leave system are intended for member companies of the Federation of Finnish Commerce and union representatives of Service Union United PAM. These implementation guidelines include references to the Collective Agreement for the Commercial Sector and the text of the new agreement on the annual leave system. As such, the guidelines are intended to be read alongside these documents. The organisations will maintain and update these guidelines as required. KL/PAM 23 November 2016. Previous version 21 October 2016.*