

No. 143

For further
information contact:

Judith Ellery
jellery@metcalfes.co.uk
0117 9453080

Bethan Southcombe
bsouthcombe@metcalfes.co.uk
0117 9453084

LONG TERM SICK LEAVE AND HOLIDAY PAY

The European Court of Justice (ECJ) has this morning finally handed down its opinion in the case of Stringer v HMRC (previously known as Ainsworth v HMRC).

The ECJ held:

- a worker who is on sick-leave for the whole of an annual leave year is **entitled** to a period of four weeks' paid annual leave, despite the fact they are not actually at work. The national courts can decide whether the paid leave can be taken *during* that year, or whether it should be carried over to another year, but either way **the employee is entitled to be paid** at some point.
- the right to paid annual leave is **not extinguished** at the end of a leave year if the worker was on sick leave for the whole of that year, or if he was absent on sick leave for part of the year and was still on sick-leave when his employment terminates

The house of lords will now give a final judgment, and (in the light of the ECJ opinion) will no doubt overturn the Court of Appeal's decision from April 2005 that the right to paid holiday leave did *not* accrue during periods of sickness absence.

For further information, please contact Bethan Southcombe on 0117 945 3084 or e-mail employment@metcalfes.co.uk