

Construction Industry Joint Council



November 2015

Holiday Entitlement 2016

Introduction

This briefing gives guidance on the programme of Public/Bank holidays and annual holidays, which apply in England, Wales and Scotland until the New Year 2017.

The holiday year

Under the provisions of the Working Rule Agreement the holiday year runs from the second Monday in January each year (WR.18). For 2016 the holiday year will run from Monday 11 January.

Calculation of holiday pay

Following the decision of the Employment Appeal Tribunal (EAT) in the case of Bear Scotland & Ors -v- Fulton & Ors relating to the calculation of holiday pay under the provisions of the EU Working Time Directive the CIJC has changed the way holiday pay is calculated for the 21 days of annual Industry holidays. The method of calculating pay for the 8 days of annual Bank and Public holidays remains unchanged.

Payment for annual holidays (21 days each full year)

Payment for annual holidays, which shall be made on the last payday preceding the commencement of each holiday period as follows:

Calculation of pay for annual holidays

A week's pay is the average of the previous 12 complete weeks' pay including overtime in accordance with WR.4, taxable travel allowance in accordance with WR5.1, Bonus in accordance with WR2 and regular allowances in accordance with WRs 6, 7, 8, 9, 10, 11 & 13. Weeks during which the operative is absent due to sickness are to be excluded.

One day's pay is calculated by dividing a week's pay, as defined above, by the contractual hours in the normal working week and multiplying by the contractual hours in the particular day.

Payment in respect of public/bank holidays

Payment for days of public/bank holiday shall be made by the employer to an operative in his employment at the time of each such holiday on the payday in respect of the pay week in which such holiday occurs, except that payment for Christmas, Boxing Day and New Year's Day shall be made on the last pay day before the Winter Holiday. The amount of payment for each day of public/bank holiday shall be in accordance with either:

A - Where the operative's pay does not vary with the amount of work done

A week's pay is simply the normal weekly wage for the contractual weekly hours as defined by the contract of employment, including, where appropriate, any fixed bonus and regular payments and/or allowances made under WRs 6, 7, 8, 9, 10, 11 & 13 but **excluding** overtime in accordance with WR.4.

B - Where the operative's pay varies with the amount of work done

Where earnings vary because of piecework or productivity bonus arrangements, then a week's pay is arrived at by calculating the earnings during the normal working week as defined by the contract of employment, averaged over the 12 complete weeks worked immediately prior to the holiday week, including, where appropriate, any fixed bonus and regular payments and/or allowances made under WRs 2, 6, 7, 8, 9, 10, 11 & 13 but excluding overtime in accordance with WR.4. Weeks during which the operative is absent due to sickness are to be **excluded**.

One day's pay is calculated by dividing a week's pay as defined by either A or B above by the contractual hours in the normal working week and multiplying by the contractual hours in the particular day.

Calculation of holiday entitlement for an operative who either leaves or joins during the year

Total paid holiday entitlement accrues at the rate of 0.558 days per week of service. Viz. 29 days in a complete year.

The "Industry" element of this accrues at the rate of 0.404 days per week of service. Viz. 21 days under the CIJC agreement.

The Public and Bank holiday element of 8 days accrues at the rate of 0.154 days per week of service.

By way of example an operative who is employed for 20 weeks would have earned a total of $20 \times 0.558 = 11.16$ days of paid holiday of which $20 \times 0.404 = 8.08$ is to be paid as "Industry" days which includes overtime in accordance with WR.4.

Payment for the remaining 3.08 days for Public and Bank holidays excludes overtime.

If, on leaving, the operative has been paid for less than the accrued entitlement then a payment in lieu of the difference must be made with the final wage.

If, on the other hand, the operative has been paid for more than the accrued holiday entitlement then an appropriate deduction should be made from the final wage.

Cont'd overleaf



Holiday Entitlement 2016 - 2017

● Annual & Public/Bank holidays 2016 - England & Wales

The following are days to be recognised as Public/Bank holidays for purpose of the Working Rule Agreement provided that such days are generally recognised as holidays in the locality in which the work is being done.

Good Friday	- Friday 25th March
Easter Monday	- Monday 28th March
May Bank Holiday	- Monday 2nd May
Spring Bank Holiday	- Monday 30th May
Summer Bank Holiday	- Monday 29th August
Boxing Day	- Monday 26th December
Christmas Day (substitute day)	- Tuesday 27th December
New Year's Day (substitute day)	- Monday 2nd January 2017

● The Easter (Spring) holiday - England & Wales

The fixed close-down during the Easter week has been discontinued, releasing 4 days holiday to be taken at another time by agreement with the employer.

If the employer wishes to continue with the Easter close-down then the operatives affected should be notified at the beginning of the year. Similarly, if the employer wishes to have a close-down at some other time the operatives affected should be notified of the dates at the beginning of the holiday year.

● Summer holidays - England & Wales

The Working Rule Agreement states that the summer holiday shall be 2 calendar weeks, not necessarily consecutive, to be granted in the 'summer period'.

● Winter holiday and Associated Public/Bank holidays - England & Wales

The Working Rule Agreement states that there shall be 7 working days taken in conjunction with Christmas Day, Boxing Day and New Year's Day to give a winter holiday of 2 calendar weeks. The Winter Break in 2016 will be from normal finishing time Friday 23rd December 2016 to normal starting time Monday 9 January 2017 in accordance with WR.18.1.

● Annual & Public/Bank holidays 2016 - Scotland

The following are days to be recognised as Public/Bank holidays for the purposes of the Working Rule Agreement, provided that such days are generally recognised as holidays in the locality in which the work is being done.

Easter Monday	- Monday 28th March
Early May Bank Holiday	- Monday 2nd May
Friday immediately preceding The Annual Local Trades Holiday	- Fixed by Local Authority
Friday and Monday at the Autumn Holiday	- Fixed by Local Authority
Boxing Day	- Monday 26th December
Christmas Day (substitute day)	- Tuesday 27th December
New Year's Day (substitute day)	- Monday 2 January 2017

Members who require further information about the dates of the holidays to be fixed by a local authority should consult their local authority.

● The Easter (Spring) holiday - Scotland

The fixed close-down during the Easter week has been discontinued, releasing 4 days holiday to be taken at another time by agreement with the employer.

● The Easter (Spring) holiday - Scotland cont'd

If the employer wishes to continue with the Easter close-down then the operative affected should be notified at the beginning of the year. Similarly, if the employer wishes to have a close-down at some other time the operatives affected should be notified of the dates at the beginning of the holiday year.

● Summer holidays - Scotland

The Working Rule Agreement states that the summer holiday shall be 2 calendar weeks, not necessarily consecutive, to be granted in the 'summer period'.

● Winter holiday and Associated Public/Bank holidays - Scotland

The Working Rule Agreement states that there shall be 7 working days taken in conjunction with Christmas Day, Boxing Day and New Year's Day to give winter holiday of 2 calendar weeks. The Winter Break in 2016 will be from normal finishing time Friday 23rd December 2016 to normal starting time Monday 9 January 2017 in accordance with WR.18.1.

Payment for work on Public/Bank holidays

All hours worked on a day designated as a Public/Bank holiday shall be paid for at double time (WR.19.4). An operative who has worked on a Public/Bank holiday should be given another paid day's holiday in lieu and not paid holiday pay for the day worked. The day in lieu should be taken by agreement between the operative and the employer.

Night-work and shift-work

In the case of night-work or shift-work, it is customary for a holiday period to commence and finish at the start of the shifts which include the midnight proceeding or the midnight at the end of the holiday period for normal day workers.

Flexibility associated with the Winter Holiday

The Working Rule Agreement provides that all or some of the days of the winter holiday can be taken on alternative days (WR.18.1). Where it is agreed that the days should be changed the entitlement remains two weeks. By way of example, from Wednesday to Tuesday - a fortnight away, inclusive.

For further information please contact your trade association.