



Making payroll & HR easy

EXPLAINING LEGISLATION

CALCULATING HOLIDAY PAY & ENTITLEMENT

All you need to know about
calculating holiday pay and
entitlement.

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CALCULATING HOLIDAY PAY & ENTITLEMENT

WHAT THE LAW REQUIRES

The law governing holiday pay in the UK rests on two key pieces of legislation dating from the turn of the millennium.

The European Working Time Directive 2003 (EWTD) was passed in the European Council in 1993 and committed all EU states to institute national legislation – this was done through the Working Time Regulations 1998 (WTR) in the UK.

The EWTD gives employees the right to four weeks – 20 working days – paid holiday each year, and this was reflected in the WTR. But the UK Government then went further, enshrining the right to 5.6 weeks holiday in the Working Time (Amendment) Regulations 2007.

ROLLED-UP PAY

The EWTD lays down minimum safety and health requirements for the organisation of working time. One of these requirements is for paid holiday to be taken as holiday, so employees can relax and rest, and the holiday pay should be paid for the time the holiday is taken.

In Scotland, rolling-up pay is banned. In the rest of the UK you can roll-up, provided it is shown as a separate item labelled holiday pay on your payslips – particularly useful for paying casual workers.

HOW THE LAW HAS CHANGED

Since this legislation was instituted there have been many Employment Tribunals, Appeals and Judgments called to look at what counts for the purposes of holiday pay, how it should be paid, and how far back holiday pay can be claimed.

How to calculate holiday pay

| Working Pattern | Pay |
|--|---|
| Fixed hours and fixed pay (part-time or full time) | A week's holiday pay equals how much a worker gets for a week's work |
| Shift work with fixed hours (part-time or full time) | As above, unless the worker is paid a shift premium for some of those shifts (for example one week nights at a premium, one week days at standard rate) – in which case a week's holiday pay equals the average number of weekly fixed hours worked in the previous 12 weeks at their average hourly rate |
| No fixed hours (variable hours workers) | A week's holiday pay is the average pay a worker got over the previous 12 weeks (in which they were paid) |
| No fixed hours (casual workers) | Holiday pay is 12.07% of their hourly rate (for the statutory minimum 28 days) which, unless you are in Scotland, can be rolled-up and paid with their pay <i>providing</i> it is shown as Holiday Pay on their payslip |

Commission

Following the conclusion to a long-running case in the Supreme Court in 2017, commission should be included in holiday pay calculations where overall pay depends on the work done – with contractual commission schemes being the obvious example.

Key case law:

Lock v British Gas

Work-related travel

Pay to staff for traveling for the purpose of work qualifies for holiday pay purposes. This does not normally include time spent traveling to and from an employee's home to their normal place of work, whether that's to a regular workplace or a different location each day.

Key case law:

Federación de Servicios Privados del Sindicato Comisiones Obreras v Tyco Integrated Security SL and Tyco Integrated Fire & Security Corporation Servicios SA; Whittlestone v BJP Home Support

Sickness

During a period of sick leave annual leave continues to accrue. The employee can take it later, or may even request to designate some sick leave as paid holiday. In some circumstances holiday may be carried over into the next holiday year.

Overtime (both required and voluntary)

Required overtime is where you are contractually obliged to provide overtime and the employee is equally obliged to undertake it. For instance, staff must contractually work every fourth Saturday in addition to Monday to Friday. Holiday pay should be paid.

4

Minimum No. of Paid Weeks
Holiday in the EU

5.6

Minimum No. of Paid Weeks
Holiday in the UK

Following a case in 2017, pay for **voluntary overtime** that 'extends for a sufficient period of time on a regular or recurring basis' counts as a worker's normal pay and must now be included in holiday pay calculations.

This extends overtime to include voluntary overtime that is worked at certain times of the year, and overtime worked frequently throughout the year. Voluntary overtime that is genuinely ad hoc (i.e. it is unusual or rare for the employee to work it) needn't be included.

This also affects employers using other practices such as out-of-hours standby, call-out, and travel allowances.

Key case law:

Dudley Metropolitan Borough Council v Willets

FULL-TIME EMPLOYEES

How to calculate holiday pay for full-time employees

STATUTORY REQUIREMENTS

Regardless of how many days holiday you give, the calculation will follow the same format.

In all cases, the total number of days used for the calculations should always be inclusive of bank holidays – whether you close on bank holidays or not.

Basic formula to calculate a full-time employee's holiday entitlement:

$$\begin{array}{ccc} 28 \text{ DAYS} & \div & 12 \\ \text{NO. OF DAYS INC. BANK HOLIDAYS} & & \text{MONTHS} \end{array} = \begin{array}{c} 2.33 \text{ DAYS} \\ \text{HOLIDAY ENTITLEMENT PER MONTH} \end{array}$$

EXAMPLE: STARTER

Employee begins three months into the holiday year.
Company closes for bank holidays

$$\begin{array}{ccc} 2.33 & \times & 9 \\ \text{DAYS} & & \text{MONTHS} \end{array} = \begin{array}{c} 20.97 \\ \approx 21 \text{ DAYS} \end{array}$$

(Rounded up to 21 days which includes any bank holidays falling on one of their normal working days)

So if your holiday year was 1st April to 31st March, and this person begins in July, they will have the August bank holiday, Christmas Day, Boxing Day and New Year's Day – a total of four bank holidays taken out of their 21 days, leaving 17 days which can be booked as annual leave.

If your holiday year was 1st January to 31st December, and this person begins in April, they will have Good Friday, Easter Monday, May Day, Late May Spring Bank holiday, August bank holiday, Christmas Day and Boxing Day, a total of seven bank holidays out of their 21 days, leaving 14 days which can be booked as annual leave. If you don't close for the bank holidays the calculation is exactly the same – the employee will be entitled to all 21 days.

EXPLAINING LEGISLATION FULL-TIME EMPLOYEES



EXAMPLE: LEAVER

Employee leaves three months into the holiday year.

Company closes for bank holidays

$$\begin{array}{ccccccc}
 2.33 & \times & 3 & = & 6.99 \\
 \text{DAYS} & & \text{MONTHS} & & \approx 7 \text{ DAYS}
 \end{array}$$

This employee will have accrued seven days holiday, inclusive of any bank holidays which have occurred in the first three months of the holiday year.

The bank holiday(s) plus any holiday they have already taken should be deducted from the seven days they have accrued. If there is entitlement left, this should be paid with their final salary.

If they have taken more holiday than the seven days they have accrued, you will need to reclaim the overpayment from their final salary.

The same will apply where the company doesn't close – they will still have accrued seven days so deduct what holidays, if any, they have taken, and either pay for the remainder or recover the excess as above.

$$\begin{array}{ccccccc}
 25 & + & 8 & = & 33 \\
 \text{DAYS} & & \text{BANK HOLIDAYS} & & \text{HOLIDAY DAYS}
 \end{array}$$

$$\begin{array}{ccccccc}
 33 & \div & 12 & = & 2.75 \\
 \text{HOLIDAY DAYS} & & \text{MONTHS} & & \text{DAYS A MONTH}
 \end{array}$$

So: $2.75 \times$ Number of months left in holiday year for a starter, or $2.75 \times$ Number of months already gone in the holiday year for a leaver.

Using the example above, if the employee begins three months into the holiday year:

$$\begin{array}{ccccccc}
 2.75 & \times & 9 & = & 24.75 \\
 \text{DAYS A MONTH} & & \text{MONTHS LEFT} & & \approx 25 \text{ DAYS}
 \end{array}$$

25 INCLUSIVE OF BANK HOLIDAYS IF YOU CLOSE ON BANK HOLIDAYS.

PART-TIME EMPLOYEES

Statutory minimum holiday entitlement for part-time employee

STATUTORY REQUIREMENTS

There is no difference in the statutory requirements for part-time employees.

This quicksheet shows you all the standard calculations for regular part-time employees assuming you provide the statutory minimum holiday entitlement.

Formula to calculate a part-time employee's holiday entitlement:

$$\begin{array}{c}
 \text{FULL TIME} \\
 \text{ENTITLEMENT} \\
 \text{INCLUDING BANK HOLIDAYS}
 \end{array}
 \div
 5 \text{ DAYS}
 \times
 \begin{array}{c}
 \text{NUMBER} \\
 \text{OF DAYS} \\
 \text{THE PART TIME EMPLOYEE WORKS}
 \end{array}$$

| Days worked per week | Formula | Total no. of days (Rounded up) |
|----------------------|--|--------------------------------|
| 1 | $28 \div 5 = 5.6 \text{ days}$ | 6* |
| 2 | $28 \div 5 \times 2 = 11.2 \text{ days}$ | 11.5* |
| 3 | $28 \div 5 \times 3 = 16.8 \text{ days}$ | 17* |
| 4 | $28 \div 5 \times 4 = 22.4 \text{ days}$ | 22.5* |
| 5 | $= 28 \text{ days}$ | 28* |

In all of these calculations, the days' entitlement are their normal working days, so the employee who works five days a week, two hours per day will be entitled to 28 days at two hours.

* Inclusive of bank holidays which fall on one of their normal working days

PART-TIME EMPLOYEES

CALCULATING ENTITLEMENT IN HOURS

If a part-time employee works different hours each day, you could use their weekly hours to calculate their holiday entitlement.

For example, if your full time hours are 40 per week, and an employee's part-time hours are 26 per week: 8hrs Monday, 3hrs Tuesday, 4.5hrs Wednesday, 3.5hrs Thursday and 7hrs on Friday.

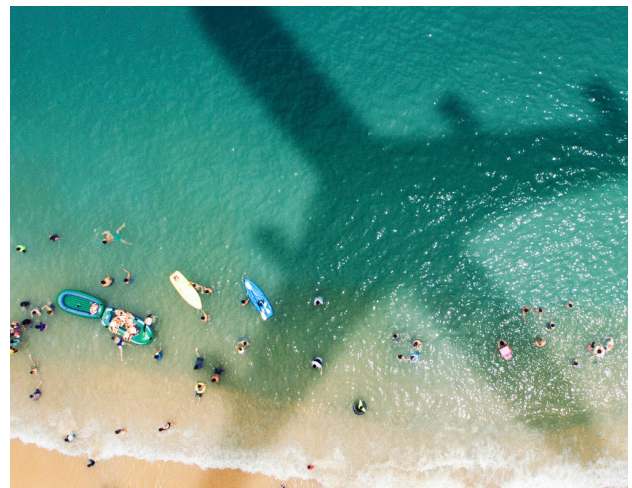
Then the calculation would be:

$$\begin{array}{ccccc} 28 & \times & 8 & = & 224 \\ \text{DAYS} & & \text{HOURS PER DAY} & & \text{HOURS ENTITLEMENT} \end{array}$$

$$\begin{array}{ccccc} 224 & \div & 40 & = & 5.6 \\ & & \text{HOURS PER WEEK} & & \text{HOURS PER DAY} \end{array}$$

$$\begin{array}{ccccc} 5.6 & \times & 26 & = & 145.6 \\ & & \text{HOURS PER WEEK} & & \approx 146 \text{ HOURS} \end{array}$$

146
HOURS



PART-TIME EMPLOYEES

Part-time employees starting or leaving part way through the holiday year

Sometimes there is confusion when calculating part-time entitlement for a starter or leaver. So, first use the basic calculation to work out a part-time employee's holiday entitlement per month of service.

Now multiply this by the number of months left in the holiday year for a starter, or the number of months already gone for a leaver.

EXAMPLE: STARTER

A part-time employee begins seven months into the holiday year, working three days per week, and full time entitlement is 23 days plus eight bank holidays.

| | | | |
|-----------------------|--|---------------|--------------|
| $23 + 8 = 31$ | DAYS | BANK HOLIDAYS | HOLIDAY DAYS |
| $31 \div 5 = 6.2$ | HOLIDAY DAYS | DAYS IN WEEK | |
| $6.2 \times 3 = 18.6$ | | DAYS WORKED | ≈ 19 DAYS |
| $19 \div 12 = 1.58$ | DAYS | MONTHS | DAYS A MONTH |
| $1.58 \times 5 = 7.9$ | | MONTHS LEFT | ≈ 8 DAYS |
| 8 | INCLUSIVE OF BANK HOLIDAYS WHICH FALL ON ONE OF THEIR NORMAL WORKING DAYS* | | |

In this example, the employee would receive eight days for the remainder of the holiday year.

EXAMPLE: LEAVER

Employee leaves eight months into the holiday year, working two days per week – the company does not close for bank holidays. Full time entitlement is 30 days.

| | | | |
|-------------------|--------------|---------------------|---------------|
| $30 \div 5 = 6$ | HOLIDAY DAYS | DAYS IN WEEK | |
| $6 \times 2 = 12$ | | DAYS WORKED | DAYS |
| $12 \div 12 = 1$ | DAYS | MONTHS | DAY PER MONTH |
| $1 \times 8 = 8$ | | MONTHS ALREADY GONE | DAYS |

Therefore, if this employee has taken less than eight days holiday they should be paid for the remaining accrued holiday with their final salary or, if they have taken more than eight days, the excess will need to be deducted from their final salary.

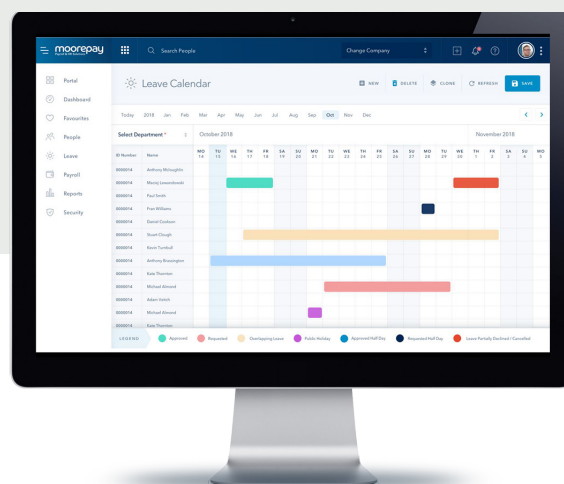
MAKE CALCULATING HOLIDAY PAY & ENTITLEMENT EASY

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