

Holiday Pay – Guidance for Employers – March 2015.

On the 4th November 2014 the Employment Appeal Tribunal in London handed down a Judgement 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 Judgement applied only to the 4 weeks (20 days) of annual paid holiday entitlement (now known as Euro days) under the EU Directive and not the additional holiday 1.6 weeks (8 days) under the provisions of the UK Working Time Regulations or any additional holiday provisions.

As a result of this Judgement it is necessary to amend the calculation of holiday pay for certain of the holidays under the provisions of the CIJC Working Rule Agreement to include average (over 12 complete weeks) overtime arising from WR.4 and taxable travel allowance in accordance with WR5.1. A promulgation IR 2015.06 has been published giving details of the revision to the Working Rule Agreement. It is acknowledged that the UK Government will, after the general election, amend the provisions of the UK Working Time Regulations and as such the changes agreed could be subject to amendment.

Generally employers are treating the first 20 days of holiday in each year as “Euro” days and the remainder in the traditional way. However, for ease of administration and transparency the CIJC have agreed to treat the 21 days of Industry holiday as Euro days and Public/Bank holidays in the traditional way.

Treatment of those who start and/or leave part way through the year.

Total holiday pay entitlement will continue to accrue at the rate of 0.558 days per week of service. Viz. 29 days in a complete year. The “Euro” element of this will accrue at the rate of 0.404 days per week of service. Viz. 21 days under the CIJC agreement

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 $20 \times 0.404 = 8.08$ to be paid as “Euro” days.

On leaving an appropriate adjustment to pay should be made to reflect actual payments received.

For operatives who remain in employment beyond the end of the holiday year an appropriate adjustment should be made to the Christmas holiday pay to reflect Euro days actually earned.

ACAS have published guidance on calculating holiday pay which can be found at:-

<http://www.acas.org.uk/holidaypay>