

# Construction Industry Joint Council



December 2020

## Holiday Entitlement 2021

### 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 2022.

### The holiday year and associated arrangements

- 1) The annual industry entitlement is 22 days each year. Plus 8 days of Public/Bank holidays making an annual total of 30 days.
- 2) The holiday year runs from 1st January to 31st December. Those days of the winter holiday that fall into the next calendar year will normally be taken from holidays earned in the previous year.
- 3) The concept of Easter (spring) and Summer holidays has been discontinued in favour of "Other Holidays" WR.18.2 now states:- *The remaining 15 days of Industry holidays may be taken at any time by agreement with the employer. An operative requesting to take paid holiday must give the employer reasonable written notice and, as a minimum, equivalent to twice the duration of holiday requested (ie. two weeks written notice to take a one week holiday) and the employer can either accept or reject the request, not later than the period equivalent to the period of holiday requested.*

### 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 22 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 (22 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 52 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 52 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 0.577 days per week of service. Viz. 30 days in a complete year.

The "Industry" element of this accrues at the rate of 0.423 days per week of service. Viz. 22 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.

Cont'd overleaf



### Calculation of holiday entitlement for an operative who either leaves or joins during the year (cont'd)

By way of example an operative who is employed for 20 weeks would have earned a total of  $20 \times 0.577 = 11.54$  days of paid holiday of which  $20 \times 0.423 = 8.46$  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.

#### ● Annual & Public/Bank holidays 2021 - 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 2nd April
Easter Monday	- Monday 5th April
Early May Bank Holiday	- Monday 3rd May
Spring Bank Holiday	- Monday 31st May
Summer Bank Holiday	- Monday 30th August
Christmas Day (substitute)	- Monday 27th December
Boxing Day (substitute)	- Tuesday 28th December
New Year's Day (substitute)	- Monday 3rd January 2022

#### ● Other holidays - England and Wales

As stated at the beginning of this briefing flexibility has been introduced regarding when the 15 days of non-allocated Industry holidays may be taken.

This does not prevent an employer from designating a particular period of "close down". That is to stick with the old Easter close down or some other period. If an employer wishes to designate a "close down" then the workforce should be notified of such close down at the beginning of the holiday year.

#### ● 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 2021 will be from normal finishing time Friday 24th December 2021 to normal starting time Monday 10th January 2022 in accordance with WR.18.1.

#### ● Annual & Public/Bank holidays 2021 - 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 5th April
Early May Bank Holiday	- Monday 3rd May
Friday immediately preceding The Annual Local Trades Holiday	- Fixed by Local Authority
Friday and Monday at the Autumn Holiday	- Fixed by Local Authority
Christmas Day (substitute)	- Monday 27th December
Boxing Day (substitute)	- Tuesday 28th December
New Year's Day (substitute)	- Monday 3rd January 2022

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

#### ● Other holidays - Scotland

As stated at the beginning of this briefing flexibility has been introduced regarding when the 15 days of non-allocated Industry holidays may be taken.

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#### ● 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 a winter holiday of 2 calendar weeks. The Winter Break in 2021 will be from normal finishing time Friday 24th December 2021 to normal starting time Monday 10th January 2022 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.

#### For further information please contact your trade association

##### Build UK (Contractor Members)

0844 249 5351

##### Civil Engineering Contractors Association (CECA)

020 7340 0450

##### Home Builders Federation (HBF)

020 7960 1600

##### National Access & Scaffolding Confederation (NASC)

020 7822 7400

##### National Association of Shopfitters (NAS)

01883 624961

##### National Federation of Builders (NFB)

03450 578160

##### National Federation of Roofing Contractors (NFRC)

020 7638 7663

##### Painting & Decorating Association (PDA)

02476 353 776

##### Scottish Building Federation (SBF)

0131 556 8866