



Established in 1969 by the constituent parties - THE ELECTRICAL CONTRACTORS' ASSOCIATION OF SCOTLAND (now 'SELECT') and UNITE THE UNION

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To all SJIB and SELECT Members

Dear Sir/Madam,

Calculating Holiday Pay – Updated Guidance

In response to the ever-changing landscape of employment case law, the Holidays and Holiday Pay - Section D of the SJIB Handbook is currently under review.

Key Points

SELECT issued guidance to its Members in June and October 2017 which has been available on the SJIB website, click [here](#) to access circular 171 and [here](#) to access circular 174. However, over the last two years, the method used to calculate holiday pay has evolved in line with case law built by various Employment Tribunal (ET) judgements. Subsequently, the SJIB has decided to issue this further guidance and to advise that consideration should be given to the following when calculating holiday pay: -

What should be included in holiday pay calculations?

Holiday pay must take into consideration all eligible earnings, including:

- Guaranteed overtime
- Normal non-guaranteed overtime
- Voluntary overtime – where consistent and regular
- Commission
- Travel payments

How should holiday pay be calculated?

ET case law has recently established that employees must be paid the same amount when they are on holiday as when they are at work (regardless of shift pattern) for at least the first 20 days of their holiday (pro rata).



The current formula set out in D5.2 of the SJIB Handbook, which was intended to help employers who do not have their own methods of holiday pay calculation, does not reflect this principle. The correct formula for the calculation (of the amount of holiday pay per week) is as follows: -

$$\frac{\text{Total eligible earnings in the last 12 weeks}^*}{12}$$

* *For detailed information on what comprises “the last 12 weeks” employers are advised to refer to Sections 221-224 of the Employment Rights Act and the [ACAS Guidance on Holidays and Holiday Pay](#)*

What is the significance of Euro Days?

As with the previously established factors which should be taken into account when calculating holiday pay, this guidance only applies to the 20 days of annual leave (inclusive of public holidays) derived from the EU Working Time Directive (‘Euro Days’). The remaining 10 days need only be paid at the employees’ basic rate.

Summary

This guidance means that employees who regularly and consistently work any type of overtime beyond their contracted hours must now have that overtime factored in alongside other eligible payments included in their holiday pay calculations.

Employers who regularly offer employees voluntary overtime may need to review the way in which holiday pay is calculated.

Further information

The parties will continue to monitor future case law and guidance as it becomes available through the courts or as a result of Government reviews.

Members wishing further information should contact the SJIB on 0131 445 9216 or email fiona.cornwall@sjib.org.uk, nicola.jengaenga@select.org.uk, michelle.courtney@sjib.org.uk, and/or lynne.macdonald@sjib.org.uk

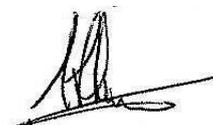
Yours faithfully



Fiona Harper
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