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## UK Employment Law Update

**Prof. Dr. Ronald B. Crawford - Director  
HRODC Postgraduate Training Institute**



<b>UK Employment Law Update – Changes to UK Employment Lay</b>	
Area of Change, Date & Reference	Details of Change
<p>National Living Wage (NLW) From: <a href="#">Department for Business, Innovation &amp; Skills</a> First published: 24 August 2015 Part of: <a href="#">National Minimum Wage</a></p>	<p>Policy paper <b>National Living Wage (NLW)</b> Published 24 August 2015 <b>Contents</b></p> <ol style="list-style-type: none"> <li>1. <a href="#">About the new National Living Wage</a></li> <li>2. <a href="#">Rates</a></li> <li>3. <a href="#">Low Pay Commission and future rates</a></li> </ol> <p><b>1. About the new National Living Wage</b></p> <p>The government wants to move from a low wage, high tax, high welfare society to a higher wage, lower tax, lower welfare society.</p> <p>With record employment, the highest GDP growth in the G7, over 2 million jobs created since 2010, and 1.1 million more forecast by the Office for Budget Responsibility (OBR), the government believes that now is the right time to take action to ensure low wage workers can take a greater share of the gains from growth.</p> <p>The new National Living Wage is an essential part of this. It ensures that work pays, and reduces reliance on the state topping up wages through the benefits system.</p>

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	<p><b>2. Rates</b></p> <p>From April 2016, the government will introduce a new mandatory National Living Wage (NLW) for workers aged 25 and above, initially set at £7.20 – a rise of 50p relative to the current National Minimum Wage (NMW) rate. That’s a £910 per annum increase in earnings for a full-time worker on the current NMW.</p> <p>The adult NMW rate is currently £6.70. From 1 April 2016 the premium will come into effect on top of the NMW, taking the National Living Wage to £7.20. The NMW will continue to apply for those aged 21 to 24, with the premium added on top for those aged 25 and over, taking the total hourly rate to the National Living Wage.</p> <p><b>3. Low Pay Commission and future rates</b></p> <p>The government published the <a href="#">Low Pay Commission's (LPC) new remit</a> on 8 July 2015. The government has asked the LPC to recommend the level of the path of the National Living Wage going forward, with the target of the total wage reaching 60% of median earnings by 2020. On OBR forecasts a full-time NMW worker will earn over £4,800 more by 2020 from the NLW in cash terms.</p> <p>The LPC will also continue to provide recommendations for the other NMW rates as they have done previously.</p>

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<p>Holiday Entitlement Clarifies                      Aug 11, 2015  <a href="https://www.gov.uk/employers-adoption-pay-leave/recover-statutory-pay">https://www.gov.uk/employers-adoption-pay-leave/recover-statutory-pay</a></p>	<p><b>1. Entitlement</b></p> <p>Almost all <a href="#">workers</a> are legally entitled to 5.6 weeks' <a href="#">paid holiday</a> per year (known as statutory leave entitlement or annual leave). An employer can include bank holidays as part of statutory annual leave.</p> <p><u>Working 5 days a week</u></p> <p>Most workers who work a 5-day week must receive 28 days' paid annual leave per year. This is calculated by multiplying a normal week (5 days) by the annual entitlement of 5.6 weeks.</p> <p><u>Working part-time</u></p> <p>Part-time workers are also entitled to a minimum of 5.6 weeks of paid holiday each year, although this may amount to fewer actual days of paid holiday than a full-time worker would get.</p> <p><b>Example</b></p> <p>A worker works 3 days a week. Their leave is calculated by multiplying 3 by 5.6, which comes to 16.8 days of annual paid leave.</p> <p><u>Irregular hours</u></p> <p>People working irregular hours - eg shift work or term-time work - need to <a href="#">calculate their leave entitlement for irregular hours</a>.</p>

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### Limits on statutory leave

Statutory paid holiday entitlement is limited to 28 days. Staff working 6 days a week are only entitled to 28 days' paid holiday and not 33.6 days (5.6 multiplied by 6).

### Bank holidays

Bank or public holidays do not have to be given as paid leave.

An employer can choose to include bank holidays as part of a worker's statutory annual leave.

### Extra leave

An employer can choose to offer more leave than the legal minimum. They don't have to apply all the rules that apply to statutory leave to the extra leave. For example, a worker might need to be employed for a certain amount of time before they become entitled to it.

Use the [statutory leave calculator](#) to work out a worker's leave.

### Other aspects of holiday entitlement

Workers have the right to:

- get paid for leave
- build up ('accrue') holiday entitlement during maternity, paternity and adoption leave
- build up holiday entitlement while off work sick
- choose to take holiday at the same time as sick leave

### Disputes

<b>UK Employment Law Update – Changes to UK Employment Lay</b>									
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	<p>Paid annual leave is a legal right that an employer must provide. If a worker thinks their right to leave and pay are not being met there are a number of ways to <a href="#">resolve the dispute</a>.</p> <p><b>2. Holiday pay: the basics</b></p> <p>Workers are entitled to a week’s pay for each week of leave they take.</p> <p>A week’s pay is worked out according to the kind of hours someone works and how they’re paid for the hours. This includes full-time, part-time and casual workers.</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: center;"><b>Working pattern</b></th> <th style="text-align: center;"><b>Pay</b></th> </tr> </thead> <tbody> <tr> <td>Fixed hours and fixed pay (part time or full time)</td> <td>A week’s holiday pay equals how much a worker gets for a week’s work</td> </tr> <tr> <td>Shift work with fixed hours (part time or full time)</td> <td>A week’s holiday pay equals the average number of weekly fixed hours a worker worked in the previous 12 weeks at their average hourly rate</td> </tr> <tr> <td>No fixed hours (ie casual work)</td> <td>A week’s holiday pay is the average pay a worker got over the previous 12 weeks (in which they were paid)</td> </tr> </tbody> </table>	<b>Working pattern</b>	<b>Pay</b>	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)	A week’s holiday pay equals the average number of weekly fixed hours a worker worked in the previous 12 weeks at their average hourly rate	No fixed hours (ie casual work)	A week’s holiday pay is the average pay a worker got over the previous 12 weeks (in which they were paid)
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### Calculating average hourly rate

To calculate average hourly rate, only the hours worked and how much was paid for them should be counted. Take the average rate over the last 12 weeks. If no pay was paid in any week, count back a further week, so that the rate is based on 12 weeks in which pay was paid.

### Rolled-up holiday pay

Holiday pay should be paid for the time when annual leave is taken. An employer cannot include an amount for holiday pay in the hourly rate (known as ‘rolled-up holiday pay’). If a current contract still includes rolled-up pay, it needs to be re-negotiated.

### More information

This is a general guide and doesn’t cover every type of working arrangement or all scenarios. For specific information about your holiday pay entitlement, contact the [Advisory, Conciliation and Arbitration Service \(Acas\)](#).

### **Acas**

Telephone: 0300 123 11 00

Textphone: 18001 0300 123 1100

Monday to Friday, 8am to 8pm

Saturday, 9am to 1pm

### **3. Calculate leave entitlement**



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	<p>Annual leave begins to build up ('accrue') as soon as a worker starts their job.</p> <p>An employer can use a 'leave year' or an 'accrual' system to work out how much leave their staff should get.</p> <p><u>Leave year</u></p> <p>An employer must usually tell their staff the dates of their statutory leave year as soon as they start working, eg it might run from 1 January to 31 December.</p> <p>Workers must take their statutory leave during this time. If a leave year isn't set out in a contract then it will start:</p> <ul style="list-style-type: none"> <li>• on the 1st day of a new job (if started after 1 October 1998)</li> <li>• on 1 October (if started on or before 1 October 1998)</li> </ul> <p>The leave year and holiday entitlement is not affected by maternity, paternity or adoption leave. The employee still builds up ('accrues') holiday over these periods.</p> <p style="text-align: center;"><b>Leave entitlement when starting a new job</b></p> <p>If a worker starts their job part-way through a leave year, they're only entitled to part of their total annual leave for the current leave year. What they get depends on how much of the year is left.</p> <p>Use the <a href="#">holiday entitlement calculator</a> to work out how much leave someone has left.</p>

### Accrual system

An employer can use an accrual system to work out a worker's leave during the first year of the job. Under this system, a worker gets one twelfth of their leave in each month. So by the third month they'd be entitled to a quarter of of their total leave, eg 7 days out of 28 for a 5-day week.

### Carrying over leave

The worker's contract says how many days' leave they can carry over into the next year. If a worker gets 28 days' leave, they can carry over up to a maximum of 8 days.

If a worker gets more than 28 days' leave, their employer may allow them to carry over any additional untaken leave. Check the employment contract, company handbook or intranet site to see what the rules say.

If a worker can't take all of their leave entitlement because they're already on a different type of leave (eg sick, maternity or parental leave), they can carry over some or all of the untaken leave into the next leave year.

An employer must allow a worker to carry over a maximum of 20 of their 28 days' leave entitlement if the worker couldn't take annual leave because they were off sick.

### **4. Booking time off**

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	<p>The general notice period for taking leave is at least twice as long as the amount of leave a worker wants to take (eg 2 days’ notice for 1 day’s leave), unless the contract says something different.</p> <p>An employer can refuse a leave request but they must give as much notice as the amount of leave requested, eg 2 weeks’ notice if the leave requested was 2 weeks.</p> <p>Although employers can refuse to give leave at a certain time, they can’t refuse to let workers take the leave at all.</p> <p><u>Part leave days</u></p> <p>Some workers may be entitled to a part leave day - eg if they’re part-time or have a half day’s leave to take. How a part-day should be taken is up to the employer.</p> <p><u>When leave can and can’t be taken</u></p> <p>Employers can:</p> <ul style="list-style-type: none"> <li>• tell their staff to take leave, eg bank holidays or Christmas</li> <li>• restrict when leave can be taken, eg at certain busy periods</li> </ul> <p>There may be rules about this in the employment contract or it may be what normally happens in the workplace. The notice period for this is at least twice as long as the leave they want their staff to take.</p>

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	<p><b>5. Taking holiday before leaving a job</b></p> <p>During their <a href="#">notice period</a> the worker may be able to take whatever is left of their statutory annual leave.</p> <p>Use the <a href="#">holiday entitlement calculator</a> to work this out. How much they get depends on how much of the holiday year has passed.</p> <p><u>Taking more leave than the entitlement</u></p> <p>If a worker has taken more leave than they're entitled to, their employer must not take money from their final pay unless it's been agreed beforehand in writing. The rules in this situation should be outlined in the employment contract, company handbook or intranet site.</p> <p><u>Getting paid instead of taking holidays</u></p> <p>The only time someone can get paid in place of taking statutory leave (known as 'payment in lieu') is when they leave their job. Employers must pay for untaken statutory leave (even if the worker is dismissed for gross misconduct).</p> <p>If an employer offers more than 5.6 weeks' annual leave, they can agree separate arrangements for the extra leave.</p>

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<p>Employment Appeals Tribunal Rules that Overtime Counts For Holiday Pay Tuesday, November 4, 2014</p> <p><a href="http://www.gmb.org.uk/newsroom/eat-rules-overtime-counts-for-holiday-pay">http://www.gmb.org.uk/newsroom/eat-rules-overtime-counts-for-holiday-pay</a></p>	<p>GMB Welcome EAT Judgement That Overtime Pay Should Be Included In Pay For Holiday Leave</p> <p>Members who did not get the same pay during holiday as during the rest of the year should contact union to be advised of their rights and to have claims assessed and taken forward says GMB</p> <p>GMB commented on the EAT judgement that overtime pay is part of normal remuneration and to be included as such in the calculation of pay for holiday leave. <i>See notes to editors for copy of press release from EAT.</i></p> <p>Paul Kenny, GMB General Secretary, said “This judgment ensures that workers are properly paid for holidays and is a good and welcome result.</p> <p>This judgment clarifies that voluntary overtime and time spent waiting for emergency call outs must be included in holiday pay calculations.</p> <p>Members who did not get the same pay during holiday as during the rest of the year should contact GMB to be advised of their rights and to have their claims assessed and taken forward.</p> <p>GMB look forward to a sensible discussion with employers who need to have a rethink about the way holiday pay is dealt with.</p>

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	No doubt certain elements and interest will condemn the European Directive upon which this court decision is based that will give workers in the UK the extra pay they have been denied by UK employers and politicians for years.”
Employment Appeals Tribunal Rules that Overtime Counts For Holiday Pay <b>By Katie Hope</b> Business reporter, BBC News	Workers have won a landmark case at the Employment Appeal Tribunal (EAT) to include regular overtime in holiday pay. But what does the ruling mean and how will it affect you?  <b>What was the court hearing actually about?</b>

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	 <p style="text-align: right;">Up</p> <p>until now most employers have paid holiday at an employee’s basic rate of pay            Under EU law, workers are entitled to four weeks’ holiday pay a year but there are no details on how it should be calculated. Up until now, the UK government has interpreted the</p>

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	<p>EU Working Time Directive as saying that holiday pay should be at an employee’s basic rate of pay, which means any additional payments for regular overtime aren’t included. As a result, most employers have not included regular overtime in their calculation of holiday pay.</p> <p>The tribunal ruling suggests that the government and UK companies have been interpreting the EU directive wrongly.</p> <p>The Employment Appeal Tribunal ruled on three test cases against the engineering company Amec, industrial services firm Hertel and maintenance company Bear Scotland. The staff at these firms said they consistently worked overtime, but that was not included in holiday pay, meaning they received considerably less pay when on holiday compared to when they were working.</p> <p><b>How many people will this affect?</b></p>

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	<div style="text-align: center;">  </div> <p>It's difficult to say for sure. The government estimates that one-sixth of the 30.8 million people currently in work get paid overtime.</p> <p>However, the government's figures are based on data from the Office for National Statistics data on the number of people in work between June and August 2014. It's not an accurate</p>

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	<p>figure of the number of people who have worked regular overtime and who are likely to bring a claim.</p> <p>"This decision does not open up the floodgates for past claims. What this decision does say to workers is, going forward, you will receive what the UN asked for in 1938 and again in 1970, and what Europe then asked for in 1998. Namely, you will receive a normal wage for your periods of rest," said Unite executive director Howard Beckett.</p> <p>A recent survey of Federation of Small Business (FSB) members found that a third of small businesses with employees paid staff for voluntary overtime. It said that this suggested that up to 400,000 firms could be affected.</p> <hr/> <p><b>I work regular overtime. How do I make a claim?</b></p>

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	<p>Workers who feel they have a claim could contact conciliation service Acas</p> <p>Unions are already asking workers who haven't received the same pay during their holidays as the rest of the year to contact them.</p>

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	<p>If workers are not part of a union, they could contact a claimants firm to fight their case, or approach their employer directly or via conciliation service Acas.</p> <p>"Employers will now have to include overtime in calculating holiday pay, and those that don't should be under no illusion that Unite will fight to ensure that our members receive their full entitlement," said Unite's Mr Beckett.</p> <ul style="list-style-type: none"> <li>• 23% of full-time working men and 15% of part-time working men do overtime</li> <li>• 12% of full-time working women and 15% of part-time working women do overtime</li> </ul> <p>Source: ONS, government</p> <p>Getty Images</p> <p>While the Employment Tribunal has found in favour of the workers the companies can still appeal against the decision. The cases could then be referred to the more senior domestic Court of Appeal, or to the EU courts in Luxembourg for clarification on how the European law should be interpreted.</p> <p>However, Addleshaw Goddard managing associate Annabel Mackay told the BBC this shouldn't affect a worker's claim.</p> <p>"The decision may be appealed, but this main point on holiday pay is difficult to argue with. The key principle is guided by EU health and safety law that they don't want people to be put off taking their holiday because they will be paid less," she added.</p>


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	<p><b>How far back can I make a claim for?</b></p>  <p style="text-align: right; font-size: small;">GETTY IMAGES   f</p> <p>there is a gap of more than 3 months, a worker can only claim for the previous holiday</p>

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	<p>The potential for backdated claims has been limited, with the tribunal ruling that employees cannot claim more than three months after the last incorrect payment.</p> <p>Under some circumstances, employees may be able to claim holiday pay further back using a breach of contract claim.</p> <p>"They [employees] would have to try and argue that the entitlement to holiday at the right rate was part of the contract and bring a breach of contract claim. Those claims can go back 6 years," adds Ms Mackay.</p> <p><b>What does this mean for employers?</b></p>

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	 <p>The Institute of Directors has called the issue a 'time bomb' which could wipe out some small businesses.</p> <p>The Institute of Directors has called the issue a "time bomb" which could wipe out some small businesses.</p>

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	<p>And manufacturers’ organisation EEF has said more than 90% of its members expect payroll costs to "spiral" as a result of the ruling.</p> <p>Two-thirds of its members estimate that the change to holiday pay calculations will add more than 3% to their current payroll costs, while two out of five anticipate an increase of at least 5%.</p> <p>"We won't see the full extent of damage until further down the line. There is a real danger that this ruling could ultimately hit jobs, pay and future investment," said Tim Thomas, head of employment policy at EEF.</p> <p>Law firm DLA Piper says many employers will now need to decide how to deal with existing claims.</p> <p>"Unions have already filed a substantial number of claims for underpaid holiday pay, which have been stayed pending the outcome of the appeal cases. The decision of the EAT may provide an incentive to settle claims, as the potential for back pay is now limited." it said.</p> <p>It also said longer term, employers are likely to try to minimise the increased liability for holiday pay by using bank or agency staff to cover periods of increased demand rather than offering permanent staff overtime.</p>

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<p>Employment Appeals Tribunal (EAT) Ruling on Carry Over of Holiday Pay Gives Employers Greater Certainty Sept. 22, 2013 <a href="http://www.foxwilliams.com/news/845">http://www.foxwilliams.com/news/845</a></p>	<p>The relationship between workers’ rights, their holiday and how those rights are affected by sickness absence has been a much debated subject in recent years. A particular issue has been to what extent a worker on long-term sick leave, who has been unable to take holiday due to sickness, is entitled to carry forward accrued but untaken holiday to a subsequent leave year.</p> <p><i>Sood Enterprises Ltd v Healy</i> adds more clarity for employers regarding this issue. In <i>Sood</i> the EAT held that the holiday that a sick worker can carry over is a maximum of 4 weeks (20 days) per holiday year and that unless there is a relevant agreement in place, employers are not compelled to carry over any further contractual leave.</p> <p><b>The law</b></p> <p>The European Working Time Directive (the Directive) governs this area of law and was implemented in the UK by way of the Working Time Regulations 1998 (WTR).</p>

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	<p>Workers in the UK are entitled to 28 days annual leave in each leave year. This is comprised of:</p> <ul style="list-style-type: none"> <li>20 days ‘ordinary’ annual leave (regulation 13, WTR), a right guaranteed by the Directive.</li> <li>8 days ‘additional’ annual leave (regulation 13A, WTR), a right under domestic legislation only.</li> </ul> <p>Prior to <i>Sood</i> ordinary annual leave could be carried over to the following leave year when a worker is on long - term sick leave, but the question remained whether the ‘additional’ 8 days could carry over.</p> <p><b>Facts</b></p> <p>The claimant, Mr Healy had worked for Sood Enterprises as a handyman and carwash worker for several years and was entitled to 28 days’ statutory annual leave. In July 2010 he suffered a stroke and was absent from work until he resigned in June 2011. He had taken 11 days’ holiday out of his 28-day entitlement in 2010 (leaving him with 17 days’ leave), and had accrued 14 days’ holiday in 2011 when his employment ended. He received no payment in lieu of accrued holiday on termination of his employment and</p>

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	<p>brought unpaid holiday claims.</p> <p><b>ET decision</b></p> <p>The employment tribunal relied on the EAT decision in <i>NHS Leeds v Larner</i>, in which the EAT found that a worker who was signed off sick for the whole of the leave year was presumed not to have been well enough to exercise what the ECJ has described as the “right to enjoy a period of relaxation and leisure” and was therefore entitled to carry over the full holiday entitlement to the next leave year.</p> <p>The employment tribunal found Mr Healy was entitled to be paid in lieu of holiday accrued under both regulation 13 and 13A for both the 2010 and 2011 leave years and ordered the Respondent to pay him in lieu of a total of 31 days’ holiday made up of 17 days’ holiday accrued but not taken owing to long-term sickness in 2010, and 14 days’ holiday accrued but not taken for the same reason in 2011 to date of termination.</p> <p><b>EAT decision</b></p>

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	<p>The EAT upheld the decision regarding the 2011 leave year. However it rejected the Tribunal’s approach regarding the 2010 year, finding that regulation 13A, did not allow for the carrying over or payment in lieu of the additional 8 days’ entitlement, only the 20 days of ordinary statutory leave. On that basis the EAT reduced the award for 2010 to a payment of <b>£725.90 to £384.30</b></p> <p>The EAT also clarified that the Directive was enforceable against private employers. Relying on the Court of Appeal decision in <i>Larner</i> where it explained that there is a direct effect against emanations of the state, and that domestic law should be interpreted if possible to be compatible with the Directive. Therefore, the WTR has to be read as to be compatible with the Directive even where the litigants are private individuals or companies.</p> <p><b>What does this mean for employers?</b></p> <p>This decision is good news for employers as, provided there are appropriate clauses within the employment contract, a worker on long term sick leave will only be able to carry forward the maximum 20 days in respect of any given year and not the full 28 days as previously</p>

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	<p>feared.</p> <p><b>Government reforms</b></p> <p>The Coalition has indicated that when the WTR are amended in line with recent ECJ decisions on holiday and sickness, its intention is to limit the carry over of holiday to the 20 days minimum amount and not the additional 8 days. The <i>Sood</i> judgment should go some way to push government in the right direction.</p>
<p>European Ruling on Work Travel Time  <a href="http://www.irishtimes.com/business/work/european-ruling-on-work-travel-time-may-raise-irish-wages-bill-1.2349005">http://www.irishtimes.com/business/work/european-ruling-on-work-travel-time-may-raise-irish-wages-bill-1.2349005</a></p>	<p>European ruling on work travel time may raise Irish wages bill</p> <p>Firms may have to pay employees without fixed base for journeys to and from work</p>

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	 <p>Because the ruling covers the European Union working time directive, it is expected to affect workers across the bloc. Photograph: Thinkstock</p> <p><b>Charlie Taylor</b></p> <p>Topics: business</p>

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	<p>ork</p> <p>Sep 12, 2015, 01:00</p> <p><b>First published:</b>Sat, Sep 12, 2015, 01:00</p> <p><b>Core Sharing Services</b></p> <p>Irish companies could face substantial wage bill increases after a European Court of Justice (ECJ) ruling that time spent travelling to and from home by staff without a fixed working base should count towards hours worked.</p> <p>The decision relates to a case involving staff at a Spanish security firm named Tyco. However, because the ruling covers the European Union working time directive, it is expected to affect workers across the bloc.</p> <p>The ruling says excluding journeys made by employees from working time would be contrary to the objective of protecting the safety and health of workers pursued by EU law. It essentially means businesses will have to pay employees without a fixed working base for their journey time and will also affect how rest break entitlements and maximum working hours are calculated.</p> <p>The case came about after Tyco closed a large number of regional offices across Spain in 2011 and technically assigned all its employees to the company’s headquarters in Madrid.</p>

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	<p><b>No fixed place of employment</b></p> <p>The staff employed by the firm instal and maintain security equipment in homes and on commercial premises located within whatever geographical area are assigned to them, and so have no fixed place of employment. With some staff members travelling for up to three hours a day without pay, employees went to court to argue that time spent commuting from home to business appointments should be officially classified as working time.</p> <p>The British government tried to intervene in the case, arguing that allowing travelling time to be counted as working time would lead to substantially higher business costs. The ECJ dismissed this argument and sided with the Spanish employees.</p> <p>It said that where workers who do not have a fixed or habitual place of work, time spent travelling between their homes and the premises of the first and last customers designated by their employer constitutes working time within the meaning of the directive.</p> <p><b>Carrying out duties</b></p> <p>“The court considers workers in such a situation to be carrying out their activity or duties over the whole duration of those journeys,” it said, adding that it also took the view that staff</p>



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	<p>are at the employer’s disposal during travelling time and should officially be classified as working at such moments.</p> <p>The ruling is potentially good news for those who don’t have a set workplace such as tradespeople and care workers. However, Patrick Walshe, employment law expert at Irish legal firm Philip Lee, advised employees not to get overexcited by the decision.</p> <p>“I suspect that in an extreme case such as this one where someone has to spend hours travelling to work without pay may be one thing but I strongly doubt whether many people would successfully be able to argue this,” he said.</p> <p>“Obviously decisions of the ECJ are binding on the entire community but I think this is one that is going to have to result in an amendment to our Working Time Act . . . Once our legislation is amended – which could be years away – it would fall on individual courts and tribunals to interpret.”</p> <p>Employers’ group Ibec said careful consideration must be given to those employers with workers travelling to a variety of locations in the course of the working day.</p>

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	<p>“Our advice has consistently been that travel time from a worker’s home to a variety of possible working locations is likely to be considered working time,” said Ibec head of employment law services Rhona Murphy.</p>
<p>Shared Parental Leave and Pay Oct 28, 2015 <a href="https://www.gov.uk/shared-parental-leave-and-pay-employer-guide/overview">https://www.gov.uk/shared-parental-leave-and-pay-employer-guide/overview</a></p>	<p><b>1. Overview</b></p> <p>Employees may be entitled to Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) if:</p> <ul style="list-style-type: none"> <li>their baby is due on or after 5 April 2015</li> <li>they adopt a child on or after 5 April 2015</li> </ul> <p>Until 4 April 2015 fathers may get <a href="#">Additional Paternity Leave and Pay</a> instead.</p> <p>Employees can <a href="#">start SPL</a> if they’re <a href="#">eligible</a> and they or their partner end their maternity or adoption leave or pay early. The remaining leave will be available as SPL. The remaining pay may be available as ShPP.</p> <p>Employees can take SPL in up to 3 separate <a href="#">blocks</a>. They can also share the leave with their partner if they’re also eligible. Parents can choose how much of the SPL each of them will take.</p>

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	<p><b>Example</b>A mother could end her maternity leave after 12 weeks, leaving 40 weeks (of the total 52 week entitlement) available for SPL. If both the mother and her partner are eligible, they can share the 40 weeks. They can take the leave at the same time or separately. SPL and ShPP must be taken between the baby’s birth and first birthday (or within 1 year of adoption). SPL and ShPP are only available in England, Scotland and Wales.</p>
Statutory Adoption Pay and Leave	<p><b>1. Entitlement</b></p> <p>When an employee takes time off to adopt a child or have a child through a surrogacy arrangement they might be eligible for Statutory Adoption Pay and Leave.</p> <p><u>Statutory Adoption Leave</u></p> <p>Employees can take up to 52 weeks’ Statutory Adoption Leave. The first 26 weeks is known as ‘Ordinary Adoption Leave’, the last 26 weeks as ‘Additional Adoption Leave’.</p> <p>Leave can start:</p> <ul style="list-style-type: none"> <li>on the date the child starts living with the employee or up to 14 days before the expected placement date (UK adoptions)</li> </ul>

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	<ul style="list-style-type: none"> <li>when an employee has been matched with a child to be placed with them by a UK adoption agency</li> <li>when the child arrives in the UK or within 28 days of this date (overseas adoptions)</li> <li>the day the child’s born or the day after (parents in surrogacy arrangements)</li> </ul> <p><u>Statutory Adoption Pay</u></p> <p>Statutory Adoption Pay (SAP) for employees is:</p> <ul style="list-style-type: none"> <li>90% of their gross average weekly earnings for the first 6 weeks</li> <li>£139.58 a week or 90% of their gross average weekly earnings (whichever is lower) for the next 33 weeks</li> </ul> <p>Tax and National Insurance need to be deducted.</p> <p>Calculate an employee’s adoption leave and pay using the <a href="#">maternity and paternity calculator</a>.</p> <p>Some employment types like agency workers, directors and educational workers have <a href="#">different rules for entitlement</a>.</p> <p><u>Extra leave or pay</u></p> <p>You can offer more than the statutory amounts if you have a company scheme for adoption leave and pay. You must make sure your scheme’s policies are clear and available to staff.</p>

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## Employment rights

An employee's [employment rights](#) (like the right to pay, holidays and returning to a job) are protected during adoption leave. You still have to pay Statutory Adoption Pay even if you stop trading.

### **2. Eligibility**

Some employees won't qualify for both leave and pay.

#### Statutory Adoption Leave

Employees must:

- give you the [correct notice](#)
- be classed as an [employee](#)

They don't have to give you proof of the adoption or surrogacy unless you request it.

#### Statutory Adoption Pay

Employees must:

- have worked for you [continuously](#) for at least 26 weeks by the week they were matched with a child
- be on your payroll and earn at least £112 a week in an 8-week period - the 'relevant period'
- give you the [correct notice](#)
- give you [proof of the adoption or surrogacy](#)

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	<p>Calculate an employee’s matching week, relevant period, notice period and adoption pay using the <a href="#">maternity and paternity calculator</a>.</p> <p>There are <a href="#">special rules for some employee situations</a>, eg if they leave, become sick or if they or their child dies.</p> <p><u>Overseas adoptions</u></p> <p>The conditions are the same, except the employee:</p> <ul style="list-style-type: none"> <li>• must have ‘official notification’ (permission from a UK authority) that they can adopt from abroad</li> <li>• must fill in the declaration on <a href="#">form SC6</a> if they’re adopting a child with their partner</li> </ul> <p>Form SC6 confirms they’re not taking paternity leave or pay.</p> <p><u>Employees in surrogacy arrangements</u></p> <p>The child must be due on or after 5 April 2015 for the employee to be eligible for Statutory Adoption Pay and Leave.</p> <p>The other conditions are the same except for Statutory Adoption Pay they must have worked for you continuously for at least 26 weeks by the 15th week before the week the baby is due.</p> <p>If you ask, they must give you <a href="#">proof</a> that they intend to become the baby’s legal parent.</p>

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### Who can't qualify

Employees won't qualify for either adoption leave or pay if they:

- become a special guardian or kinship carer
- adopt a stepchild
- adopt a family member or stepchild
- adopt privately, eg without permission from a UK authority or adoption agency

### **3. Notice period**

Notice doesn't have to be in writing unless you request it.

### Statutory Adoption Leave

Within 7 days of being matched with a child, employees must tell you:

- how much leave they want
- their leave start date
- the 'date of placement' - the expected or actual date the child is placed with them

You have 28 days to write to them confirming their leave start and end date.

### **Employees in surrogacy arrangements**

At least 15 weeks before the due date, employees must tell you when the baby is due and when they want to start their leave. You can ask for this in writing.

### **Changes to leave dates**

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	<p>Employees must tell you about changes to leave dates at least 28 days before their original start date or the new start date - whichever is earlier.</p> <p>You must write to them if you have to amend their leave start and end dates.</p> <p>Employees must give 8 weeks' notice if they want to change the date they return to work.</p> <p><u>Statutory Adoption Pay</u></p> <p>Employees must usually give you 28 days' notice before they want to be paid Statutory Adoption Pay, unless the time between the child being matched and placed is less than that.</p> <p><u>Overseas adoptions - leave</u></p> <p>The rules are different for leave if it's an overseas adoption. Employees must tell you:</p> <ul style="list-style-type: none"> <li>• the date of their 'official notification' and the expected date the child arrives in the UK - within 28 days of getting the notification</li> <li>• the actual date the child arrives in the UK - within 28 days of this date</li> <li>• how much leave they want and when they want it to start - giving you 28 days' notice</li> </ul> <p>You have 28 days to write to them confirming their leave start and end date.</p> <p><b>4. Proof of adoption</b></p> <p>Employees must give you proof of adoption to qualify for Statutory Adoption Pay. Proof isn't needed for Statutory Adoption Leave unless you ask for it.</p>

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	<p>For adoption, the proof must show the:</p> <ul style="list-style-type: none"> <li>• name and address of the agency and employee</li> <li>• date the child was matched, eg the matching certificate</li> <li>• the expected or actual date of placement, eg a letter from the agency</li> <li>• the relevant UK authority’s ‘official notification’ confirming the parent is allowed to adopt (overseas adoptions only)</li> <li>• the date the child arrived in the UK, eg plane ticket (overseas adoptions only)</li> </ul> <p>You must <a href="#">keep records</a> of the proof.</p> <p><u>Surrogacy arrangements</u></p> <p>Proof isn’t needed for leave or pay unless you ask for it.</p> <p>If you ask, employees must give you a written statement (‘statutory declaration’) to confirm they intend to apply for a <a href="#">parental order</a> in the 6 months after the baby’s birth.</p> <p><b>5. Refusing pay or leave</b></p> <p><u>Statutory Adoption Leave</u></p> <p>You can’t refuse adoption leave or change the amount of leave employees want to take off.</p> <p>For adoption, you can delay the start date if the employee doesn’t have a reasonable excuse for giving you the wrong amount of notice. To delay it, write to them within 28 days of their leave request.</p>

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### Statutory Adoption Pay

You can refuse Statutory Adoption Pay if the employee doesn't qualify.

To refuse it, give the employee [form SAP1](#) within 7 days of your decision. They must get this form within 28 days of their request for Statutory Adoption Pay or the date they were matched with the child (whichever is earlier).

### **6. Record keeping**

You must keep records for HM Revenue and Customs (HMRC), including:

- [proof of adoption](#)
- the date Statutory Adoption Pay started
- the payments of Statutory Adoption Pay you've made - including dates
- the payments you've [reclaimed](#)
- any weeks you didn't pay and why

You must keep records for 3 years from the end of the tax year they relate to (eg by using [form SAP2](#) or keeping your own records).

### **7. Help with statutory pay**

For [financial help with statutory pay](#), you can:

- reclaim payments (usually 92%)
- apply for an advance if you can't afford payments

Employment Law Updates – Changes to UK Employment Law, from Statutory Instruments Amending Pre-existing UK Employment Legislation: A Guide to The Legal Community, Researchers, Lecturers and Students. HRODC Postgraduate Training Institute – London UK Paris Milan Dubai Kuala Lumpur Amsterdam [www.hrodc.com](http://www.hrodc.com); <http://www.hrodc-mobile.com/>; <http://www.hrodc-business-products-and-services.com/index.html>. Diploma Short Courses Intensive Postgraduate Diploma Programmes including Petroleum - Oil and Gas - Accounting, Oil and Gas Petroleum Operation, Human Resource Management (HRM) in the Petroleum Oil and Gas Industry, Health and Safety in the Petroleum - Oil and Gas - Industry, Trainer Training, Organisational Development, Training for Trainers, Training Needs Analysis, Organisational Development, Protocol Management, Change Management, Organisational Structure and Design, Recruitment & Selection, Research, etc.

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With Kindest Regards,




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