

# Your complete guide to calculating holiday pay

Getting to grips with  
the complexity

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# What is Holiday Pay?

Holiday pay refers to the rate of pay a worker receives during their agreed annual leave and is mandated by The Working Time Regulations. This entitlement ensures employees do not lose their take-home pay when they take annual leave.



Holiday pay calculations are based on an employee's regular working hours. However, this calculation becomes more challenging when workers do not work standard hours, such as part-time, shift work, zero-hours contracts or term-time working patterns.

Further confusion has been added to this complexity following some high-profile tribunal cases and judgements that challenged how employers calculated holiday pay for employees with non-regular hours. The result is a minefield for employers calculating holiday entitlement.

**In 2023, there were approximately 1.18 million people on zero-hour contracts in the UK. This has risen from 1.03 million in 2022, and since 2000, there has been a net increase of nearly 1 million people on this type of employment contract.**

Source: [Statista](#)

## The holiday pay entitlement saga

There are two parts to the rollercoaster ride of holiday pay. How is the pay calculated, and what should the entitlement be for workers who are on non-standard hours?

It is important to understand the context of where the holiday pay calculation saga has come from. So here goes!

In 1998, The Working Time Regulations brought in a new regime of four weeks' statutory holiday to all workers, which UK workers benefitted from thanks to the UK's membership of the European Union. In 2007, this was further gold-plated by the UK government with the introduction of 1.6 weeks' additional statutory entitlement.

**UK workers are entitled to 5.6 weeks of holiday pay.**



Since 2011, however, we have seen a raft of legal challenges to the interpretation of statutory holiday entitlement, which has seen the 'simple' concept of a week's pay now including things such as commission and overtime in the calculation.

In July 2022, 24 years after the WTR was introduced, holiday pay calculations were still being challenged in the Supreme Court. In a landmark case, Harpurs and Brazel, the Supreme Court confirmed that part-year workers are entitled to an enhancement of 5.6 weeks holiday pay, paid at the same rate as their pay whilst working, despite these workers not working for 13 or more weeks of the year. Although this case set off alarm bells with employers, the reality was that it was a very specific set of circumstances that did not relate to most employees.

## Confusion reigns for employers

In short, the whole process of holiday calculations was a mess. Judgements seemingly contradicting each other, and employers were left in the vulnerable position of not knowing what to do and worrying about the risk non-compliance could bring if employees decided to challenge their calculations.

## New regulations seek to simplify the process

It has been clear for some time that legislative intervention is needed to clarify the position of workers not on standard working hours and pay levels. The Government has been in consultation since the Harpurs & Brazel case and issued a **consultation document** earlier in 2023 to streamline holiday pay calculations for part-year and irregular-hours workers.

On 8 November 2023, the Government, with uncharacteristic speed, announced its response to two public consultations on statutory holiday pay reform and published the regulations from **1 January 2024**.





# Holiday pay entitlement

## Workers are entitled to a week's pay for each week of statutory leave.

Full time employees receive 5.6 weeks of paid holiday a year, pro rata for those working less hours than full time. You can use the [Holiday Calculator](#) on the gov.uk website to calculate this.

Almost all people are classed as workers, including agency workers, workers with irregular hours and workers on zero-hours contracts.

Employees on fixed hours and fixed salary are typically paid monthly, and if they take a week's holiday, their pay is the same at the end of the month as they usually receive.

**A full-time, standard-hours worker calculates holiday pay at 12.07% of their annual salary**

A worker continues to accrue holiday entitlement while on sick, maternity, parental, adoption, or any other type of statutory leave. If someone is on sick leave, they can still request holiday leave.

Although the Working Time Regulations established every worker's right to 5.6 weeks of annual leave, this is a minimum, and some employees may have additional holiday entitlement as part of their employment contract. This is known as **contractual holiday entitlement**.

Employers can decide whether to include Bank Holidays as part of a worker's statutory annual leave, as there is no entitlement for employees to be given Bank or public holidays as paid leave. Many employers count Bank and public holidays as part of the 28-day statutory annual leave entitlement, so employees may have 20 days

of holiday entitlement plus Bank/public holidays (8 days), which gives them 28 statutory days (or 5.6 weeks).

The **Employment Rights Act** defines a working week as starting on a Sunday and ending on a Saturday. There is an exception for workers whose pay is calculated weekly by a week ending on a day other than Saturday. For example, if a worker's pay is calculated by a week culminating in a Thursday, the employer should treat a week as starting on a Friday and finishing on a Thursday.

## The complications of irregular-hours workers

The situation becomes more complicated when a worker does not work fixed or regular hours, so does not receive the same pay every week or month. In this instance, the rules were that the employer would look back at the previous paid weeks, known as the holiday pay reference period, to calculate what that employee should be paid for a week's leave.

### Pre 6 April 2020

Before 6 April 2020, employers were required to look back to the last 12 weeks employees worked and earned pay to establish a reference period for their average weekly wage. Employers would look back as far as necessary to get 12 weeks of paid work, ignoring any weeks without remuneration.

For employees with highly seasonal working patterns, this could benefit or detract from them, depending on where the reference period was taken in the year.

### April 2020 - January 2024

In April 2020, this reference period was increased to 52 weeks. The idea is that it would spread out this seasonality by looking back for a full 52 weeks of paid work.

This change also limited employers' time to look back to get this 52-week reference period to two years (104 weeks). If the employee did not have 52 weeks of paid work in those two years, the employer took the data of the paid work they had and holiday pay would be calculated based on an average of these paid weeks.

Employers didn't need to go back the full 104 weeks, just as far back as needed to get 52 weeks of pay reference.

### Post 1 January 2024

As previously mentioned, several high-profile tribunal cases resulted in government consultations in 2023. The outcome has been a change again to simplify the calculation process for employers and employees.

**The 52-week reference period for non-standard hours workers has now gone, and in its place is an average for a pay period based on the same 12.07% rate used for full-time, regular-hours workers.**





## How does this work out for employees with irregular hours?

Worker	Pre-Jan 2024 holiday pay calculation	Holiday calculation post-January 2024
Max has been working for his employer for 20 weeks. He is on a zero-hours contract.	Max does not have 52 weeks of data, so his employers use data from his 20 weeks of employment and average his earnings for those 20 weeks.	Max's employer will work out his holiday pay based on the rate 12.07% for his most recent pay period.
Maya works part-time and has worked for her employer for three years.	Maya's holiday pay is averaged from her earnings in the past 52 weeks.	Maya's holiday pay is calculated at 12.07% of her hours worked. Part time employees have the annual leave and bank holidays pro rata to the hours they work.
Ben works irregularly for his employer, and in the last 104 weeks, he has received pay in 35 of them.	Ben has only 35 weeks that he has been paid in the previous two years, so his employer calculates his holiday pay from average earnings in those 35 weeks.	Ben will receive 12.07% for the hours worked in the pay period if he takes leave.
Rachel works irregularly for her employer and, in the last two years (104 weeks), has received pay in 82 of them.	As Rachel has been paid for more than 52 weeks in the 104-week reference period, her employer averages her pay from the most recent 52 weeks of pay.	Rachel will receive 12.07% for the hours worked in the pay period if she takes leave.
Arjun works five 12-hour shifts, followed by four days off.	Arjun is a salaried employee so his holiday pay is calculated as 12.07% of annual salary.	Arjun's holiday pay calculation does not change from previous method.
Sara works in term time only, and she has her pay spread over 12 months.	Sara is salaried so holiday pay is calculated at 12.07% of her annual salary.	Sara's holiday pay calculation does not change from previous method.

**The new Regulations are the biggest shake up in holiday pay since 1998 and The Working Time Regulations. They provide valuable clarity, especially to the education sector, which has many term time and peripatetic workers.**

### 2024 Regulations

- The 52-week average for non-standard hours employees is no longer legally required
  - This includes employees with irregular hours, part-time workers and those on zero-hours contracts
  - There will be new defined categories of 'irregular hours workers' for those whose contractual hours are wholly or mostly variable, and 'part-year workers' who are employees whose contracted hours require them to work part of the year only (such as term time workers). This does not include statutory periods of not working, such as parental leave or sickness absence.
  - Irregular hours and part-year workers will now have their holiday pay calculated at **12.07% of the hours worked during that pay period**, as per standard hours workers.
  - For holiday years commencing after 1 April 2024, workers with irregular hours, part-time workers and zero-hour contracts will accrue holiday pay on the last day of each pay period at the rate of 12.07%.
  - The pay period will be their normal pay period, be it weekly, fortnightly, four weekly or monthly, subject to a maximum of 28 days holiday per year.
- Employers can continue to calculate holidays based on the previous 52-week average; however, taking holiday pay at 12.07% of pay in each pay period will ensure that any fluctuations in pay attract holiday pay at the relevant time.
  - All employees will receive four weeks of normal pay and 1.6 weeks of basic pay (unless the employer decides to pay the same rate in respect of the full statutory holiday entitlement).
  - Irregular-hour workers and part-year workers accrue holiday when they are on maternity/family-related leave (Statutory Leave) or sick leave.
  - Rolled-up holiday pay will be allowable, but only for employees with irregular, part-time, zero-hours contracts and employed agency workers.
- Although the regulations are showing a start date of 1 January 2024, this is principally to do with the repealing of the Covid Regulations and accrual of Covid carry-over leave; the reality is that the new rules with irregular hours, part-time and zero-hours contracts **will apply to annual leave years beginning 1 April 2024.**



## Calculating holiday pay for leavers

When an employee has handed in their notice, their holiday entitlement is calculated pro rata based on the leaving date according to their notice period. During this notice period, the worker may be able to take whatever is left of their statutory annual leave.

If a worker has taken more leave than they are entitled to, at the point in the year when they leave, the employer must not take money from their final pay unless it has been agreed beforehand in writing. The rules should be outlined in the employment contract, company handbook or intranet.

When leaving a job, it is the only time an employee can be paid for accrued holiday rather than taking the leave. This is called 'payment in lieu'. It is based on the statutory 5.6 weeks' leave. If the employee has additional contractual leave, payment in lieu for this part should have a separate arrangement and, again, should be outlined in the contract or employee handbook.

Employees who are dismissed, even for gross misconduct, must still be paid for their accrued holiday entitlement.



## Accrued Holiday Pay for Agency Workers

Calculating holiday pay for an agency worker is accrued depending on the number of hours worked at a rate of 12.07%.

Paid annual leave for agency workers can only be requested once they have accrued enough worked hours.

## Frequently Asked Questions

### Q. What is contractual holiday entitlement?

Contractual holiday entitlement is the amount of paid leave an employee has to take each year as agreed in their employment contract. This is often above the legal minimum set by employment laws of 5.6 weeks.

The employer decides the amount of contractual holiday entitlement and forms part of the employee's contracted terms and conditions.

### Q. What components should be included when calculating holiday pay?

Pay elements such as overtime, contractual bonuses, and commission should be included in holiday pay calculations.

### Q. Is the 12.07% calculation applicable for holiday pay for all workers?

New regulations brought in on 1 January 2024 sets the holiday pay calculation for irregular hour workers to align with standard hour workers at 12.07% of a pay period's salary. This applies for leave years commencing 1 April 2024.

### Q. Are employers allowed to withhold holiday pay?

Employers are legally required to provide holiday pay as per The Working Time Regulations.

### Q. Can employees opt for payment instead of taking annual leave?

Payment in lieu of annual leave is not permitted, except under specific conditions such as employment termination or if specified in the contract of employment.

### Q. Is it possible to carry over holiday entitlement to the next year?

While statutory holiday entitlement generally can't be carried over, employer policies may allow carrying over a limited number of days under special circumstances.

### Q. What does 'rolled-up' holiday pay mean?

Previously illegal, 'rolled-up' holiday pay involves supplementing an employee's salary to include holiday pay. The new regulations allow for some rolled-up pay for certain irregular-hours employees but not for full-time, regular-hours employees. It may require a contractual change.

### Q. Are employees entitled to time off on Bank and national holidays?

Working on Bank or national holidays is the employer's decision. If the workplace is closed on these days, it may count against annual leave.

### Q. What holiday accrual are part-time workers entitled to?

Part-time workers are entitled to 5.6 weeks of pro-rata paid holiday, regardless of their working patterns.

### Q. Are overtime and bonuses included in holiday pay calculations?

Contractual pay elements like commission, regular overtime, and bonuses are included for the initial 4 weeks of holiday pay but not for the additional 1.6 weeks allotted to UK employees (that takes the entitlement up to 5.6 weeks).

# Let IRIS solutions take the strain of payroll compliance

Payroll and HR compliance is an ever-moving feast and a real pain point for those working in HR and payroll. Holiday pay is just one of the many areas of legislation you need to be aware of to ensure your staff are paid accurately.

IRIS provides both software and service solutions to make sure every pay run is a success and that all complexities are taken care of.



Staffology Payroll is our market-leading payroll software solution, recognised for its simple set-up, vast array of features and seamless integration with other software. Whether you are paying five people or 5000, the Staffology solution delivers fast, accurate payroll every time.

## Payroll Automation

Eliminate the costs and time associated with routine tasks with Staffology's payroll automation features, included as standard.

## Cloud-based

Since its birth in 2018, Staffology's heritage has always been web-first. With this pedigree, there is no compromise on its cloud capabilities.

## Comprehensive integrations

Let your data flow effortlessly when you connect the Staffology API to your HR, accounting, payment and attendance software.



## Holiday Pay with Staffology Payroll

Our payroll software has the features you would expect for managing holiday allowances and recording days off but also supports holiday calculations and the payment of holiday pay as required.



For larger businesses who want a full HR and payroll system, our IRIS Cascade HRi solution saves time and money by bringing all HR functionality onto one cloud-powered dashboard. It is a customisable system that can handle everything a medium to large-sized business can throw at it, from annual leave, payroll, recruitment and training to well-being and talent management.

## Build your system

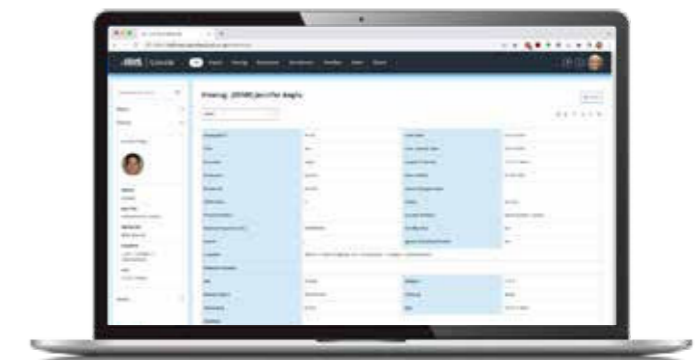
IRIS Cascade HRi provides a suite of intelligent software models so we can create a tailored solution that can grow with you.

## Cost-effective

You only pay for the number of employees you have and the modules you take, so no paying for functionality you don't need.

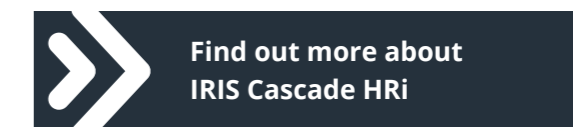
## On-going support

IRIS is your trusted partner, so once set up, our teams of specialists are on hand to ensure you get the very best from the software.



## IRIS Cascade HRi Payroll Module

The payroll module within IRIS Cascade HRi is intuitive and designed to remove complexity and reduce the time spent on payroll. It provides the tools to take control of your costs and provide the insightful data needed to make informed business decisions.







# Fully Managed Payroll

Unlike many software vendors, IRIS also provides a fully managed solution. We can take the pressure and hassle of managing your payroll in-house and act as your payroll team.

IRIS Fully Managed Payroll uses a BACS-approved payroll bureau, our market-leading software solutions and teams of highly qualified payroll professionals. We have solutions that suit SME businesses, large corporations, education and public sector organisations.



## Compliance

Have peace of mind that your payroll and pensions are fully compliant, no matter how often regulations and legislation changes.

## Accuracy

Getting payroll right is mission-critical and has a significant impact on the happiness and morale of your employees.

## Resilience

For many organisations with a small payroll team, this can be a risk and potential point of failure. By outsourcing, you have consistency and resilience.

[Find out more about IRIS Fully Managed Payroll](#)

