

Employment

1932-16

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

**Subsidiary
1968.12.17**

Order made under s.36.

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER

(1968.12.17)

1.1.1969

Amending enactments	Relevant current provisions	Commencement date
Order of 23.7.1970	para.4(1)	
LN. 1972/113	paras. 2(1), 4(1), Sch. 1 and 2	
1975/169	Sch. 1	
1982/048	para 7(1)	
1985/065	Sch.2	1.1.1985

EU Legislation/International Agreements involved:

Directive 93/104/EC

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Title.
2. Interpretation.
3. Application.
4. Duration of annual holidays.
5. Payment for annual holidays.
6. Accrued holiday pay due on termination of employment, or death.
7. When employee deemed employed for purposes of Order.
8. Employees not required to work on a day of public holiday.
9. Employees who work on a public holiday.
10. Minimum nature of conditions prescribed.
11. Posting of notices.

SCHEDULE 1

Minimum holiday pay for employees whose remuneration is wholly or mainly derived from tips or commissions.

SCHEDULE 2

Duration of employees' annual holidays

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

**Subsidiary
1968.12.17**

Title.

1. This Order may be cited as the Employment (Annual and Public Holidays) Order.

Interpretation.

2.(1) In this Order, unless the context otherwise requires,—

“accrued holiday pay” means the pay to be paid by an employer to an employee on the termination of the employment under the provisions of paragraph 6;

“annual holiday” means the annual holiday to which an employee is entitled under the provisions of this Order;

“one day’s holiday pay” means in the case of an employee who is normally employed on seven days a week one-seventh, on six days a week one-sixth, or on five days or less a week one fifth of any prescribed weekly remuneration, or remuneration the employee normally receives from the employer for a week’s work, provided that in cases where an employee’s remuneration is wholly or mainly derived from tips or commissions he shall not be paid in respect of each day less than the amount set out in Schedule 1;

“public holidays” means any of the following days:

- (a) New Year’s Day, Good Friday, Easter Monday, Commonwealth Day, the Monday immediately following the day appointed for the celebration of Her Majesty’s Birthday, Spring Bank Holiday, Late Summer Bank Holiday, Christmas Day and Boxing Day; or
- (b) such other days as may in accordance with subparagraph (2) of this paragraph be substituted for such days;

“working day” means—

- (a) in the case of an employee conditioned to a 7 day week any day other than a public holiday;
- (b) in the case of an employee conditioned to a 5¹/₂ or 6 day week a day other than a public holiday or a Sunday;
- (c) in the case of an employee conditioned to a 5 day week or lesser period a day other than a public holiday, a Saturday or a Sunday;

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

“rest day” means one day in each week not being a public holiday which has been notified to the worker before the commencement of that week as a rest day, or failing such notification, Sunday.

(2) Where in any employment it is not the custom or the practice to observe as holidays the days specified in subparagraph (a) of the definition of “public holiday” in subparagraph (1), subject to the provisions of this subparagraph other days not fewer in number may be substituted for such days by agreement between the employer and the employee or his representative:

Provided that the foregoing provisions of this subparagraph shall not apply in respect of Christmas Day or Good Friday.

Application.

3. This Order shall not apply to employees in the Dock Labour Pool or to employees of those official employers who are members of the Official Employers Joint Industrial Council.

Duration of annual holidays.

4.(1) Subject to the provisions of this Order an employer shall, between 1st January and 31st December in each year, allow a holiday (hereinafter referred to as an “annual holiday”) to every employee who was employed by him for four weeks or more during the twelve months immediately preceding the 1st January in that year, (which twelve months period is hereinafter referred to as the “qualifying period”). The duration of an employees’ annual holiday shall be related to the period of his employment with the employer during the qualifying period in accordance with the tables contained in Schedule 2.

(2) An annual holiday shall be allowed on consecutive days. Any rest day or public holiday which intervenes in a period of annual holiday shall not count as a day of annual holiday. In such cases the periods of annual holiday immediately preceding and succeeding such days shall be deemed to be consecutive:

Provided that where the employee is entitled to an annual holiday in excess of seven days if the employer and the employee so agree the holiday may be taken in two or more separate periods so however that one period shall cover not less than seven consecutive calendar days and that no such period shall be less than one full working day.

(3) An employer shall give to an employee reasonable notice of the commencing date or dates and duration of his annual holiday periods and

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

**Subsidiary
1968.12.17**

such notice may be given individually to an employee or by the posting of a notice in the place where the employee is employed.

Payment for annual holidays.

5. An employee qualified to be allowed an annual holiday under the provisions of paragraph 4 shall be paid by his employer in respect thereof, on the last pay day preceding the commencement of such annual holiday, or of each period thereof as the case may be, one day's holiday pay in respect of each day thereof.

Accrued holiday pay due on termination of employment, or death.

6.(1) Where an employee ceases to be employed by an employer, the employer shall, on termination of the employment, pay to the employee one day's holiday pay in respect of each day of accrued annual holiday to which the employee would have been entitled under the provisions of paragraph 4 less any days of annual holiday already allowed, that is to say—

- (a) in respect of any period of employment occurring before the 1st January immediately preceding the termination date; and
- (b) in respect of any period of employment since the 1st January, immediately preceding the termination date:

Provided that accrued holiday pay shall not be payable to an employee in the following circumstances—

- (i) where the employee is dismissed on the grounds either of dishonesty or of misconduct and is so informed by his employer at the time of dismissal; or
- (ii) where the employee leaves his employment without having given his employer notice of termination of employment in accordance with section 54(2) of the Act.

(2) Where any employee dies while in the employment of an employer, the amount of any accrued holiday pay to which he would have been entitled had he given notice to terminate the employment to his employer expiring on the date of his death shall be due and paid to the legal personal representative of the employee by the employer.

When employee deemed employed for purposes of Order.

7.(1) An employee shall be treated as having been employed—

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

- (a) for a week in respect of any week in which the employee has worked for the employer for not less than 20 hours; and
- (b) when absent from work—
 - (i) on public holidays or during any period of annual holiday allowed in accordance with the provisions of this Order;
 - (ii) during any period of proved incapacity for work due to sickness or personal injury, including any occupational disease or personal injury caused by accident arising out of and in the course of his employment compensable

under the Social Security (Employment Injuries Insurance) Act not exceeding a maximum of 12 weeks in the aggregate during the period of 12 months immediately preceding 1st January in each year,

for the purpose of calculating any period of employment entitled an employee to an annual holiday or to any accrued holiday pay.

(2) An employee shall be treated as having been employed during any period of incapacity for work caused by personal injury by accident arising out of and in the course of his employment or by any occupational disease compensable under the Social Security (Employment Injuries Insurance) Act exceeding twelve weeks up to and not exceeding the first twelve continuous months of such incapacity, for the purpose of calculating any period of employment entitling him to an annual holiday but notwithstanding any other provisions of this Order he shall not be treated as being employed during any part of such period exceeding the maximum period of 12 weeks which may be taken into account in accordance with the provisions of subparagraph (1)(b)(ii), for the purpose of calculating any accrued holiday pay to which he may be entitled.

Employees not required to work on a day of public holiday.

8. An employee who is not required to work on a public holiday shall be paid by his employer in respect thereof on the pay day following the holiday, one day's holiday pay:

Provided that the above provisions shall apply only if the employee has been in the employer's employment for the six days immediately preceding the holiday and (unless excused by the employer as absent by reason of proved sickness) worked for the employer on the last working day on which work was available to him prior to the holiday and on the next such working day after the holiday.

Employees who work on a public holiday.

9.(1) Where an employee is required to work on a public holiday and is allowed by his employer a holiday in lieu of the public holiday on a day other than a rest day or half day and within the period of 28 days preceding or following the public holiday he shall be paid for the day so allowed, one day's holiday pay.

(2) Where a period of 28 days following the public holiday has expired or the employee's employment with the employer has terminated, whichever shall first occur, and the employer has not allowed him a day of holiday in lieu of the day of public holiday he shall be paid for the working day next following the 28th day after the public holiday or the last day of his employment as the case may be, one day's holiday pay in addition to the amount to which he is entitled in respect of any work done on that day:

Provided that if it is agreed between the employer and the employee that no holiday in lieu shall be allowed, the employer shall pay the employee in respect of that day an addition of not less than one day's holiday pay on the pay day next following the public holiday.

Minimum nature of conditions prescribed.

10. The provisions of this Order shall not be interpreted as preventing the allowance by any employer of any annual or public holiday condition or the payment of holiday remuneration more favourable than those prescribed herein.

Posting of notices.

11. A copy of this Order drawn up in English and Spanish in a form approved by the Director shall be exhibited by the employer in each place of employment in a conspicuous position where it can be conveniently read by the employee.

1932-16

Employment

**Subsidiary
1968.12.17**

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

SCHEDULE 1

Minimum holiday pay for employees
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	£
Age 20 and over	2.24
Age 19 and under 20 years	2.11
Age 18 and under 19 years	1.82
Age 17 and under 18 years	1.39
Age 16 and under 17 years	1.29
Age 15 and under 16 years	1.21

Employment

1932-16

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

**Subsidiary
1968.12.17**

SCHEDULE 2

Duration of employees' annual holidays

TABLE I.

Period of employment preceding 1st January each year (i.e. during qualifying period)	Duration of Annual Holiday for employees with not more than three years continuous service conditioned to a week of:		
	5 days or less	5.5 or 6 days	7 days
Not less than 48 weeks	15 working days	18 working days	21 working days
Not less than 44 weeks but less than 48 weeks	14 “ “	17 “ “	19 “ “
Not less than 40 weeks but less than 44 weeks	12 “ “	15 “ “	17 “ “
Not less than 36 weeks but less than 40 weeks	11 “ “	14 “ “	16 “ “
Not less than 32 weeks but less than 36 weeks	10 “ “	12 “ “	14 “ “
Not less than 28 weeks but less than 32 weeks	9 “ “	10 “ “	12 “ “
Not less than 24 weeks but less than 28 weeks	8 “ “	9 “ “	11 “ “
Not less than 20 weeks but less than 24 weeks	6 “ “	7 “ “	9 “ “
Not less than 16 weeks but less than 20 weeks	5 “ “	6 “ “	7 “ “
Not less than 12 weeks but less than 16 weeks	4 “ “	5 “ “	5 “ “

Subsidiary
1968.12.17**EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.**

Not less than 8 weeks but less than 12 weeks	2 “ “	3 “ “	3 “ “
Not less than 4 weeks but less than 8 weeks	1 “ “	2 “ “	2 “ “

TABLE: II.

Period of employment preceding 1st January each year (i.e. during qualifying period)	Duration of Annual Holiday for employees with three or more years continuous service conditioned to a week of:		
	5 days or less	5.5 or 6 days	7 days
Not less than 48 weeks	20 working days	24 working days	28 working days
Not less than 44 weeks but less than 48 weeks	18 “ “	22 “ “	26 “ “
Not less than 40 weeks but less than 44 weeks	17 “ “	20 “ “	23 “ “
Not less than 36 weeks but less than 40 weeks	15 “ “	18 “ “	21 “ “
Not less than 32 weeks but less than 36 weeks	13 “ “	16 “ “	19 “ “
Not less than 28 weeks but less than 32 weeks	12 “ “	14 “ “	16 “ “
Not less than 24 weeks but less than 28 weeks	10 “ “	12 “ “	14 “ “
Not less than 20 weeks but less than 24 weeks	8 “ “	10 “ “	12 “ “
Not less than 16 weeks but less than 20 weeks	7 “ “	8 “ “	9 “ “

Employment

1932-16

EMPLOYMENT (ANNUAL AND PUBLIC HOLIDAYS) ORDER.

**Subsidiary
1968.12.17**

Not less than 12 weeks but less than 16 weeks	5 “ “	6 “ “	7 “ “
Not less than 8 weeks but less than 12 weeks	3 “ “	4 “ “	5 “ “
Not less than 4 weeks but less than 8 weeks	2 “ “	2 “ “	2 “ “
