
ANNUAL HOLIDAYS WITH PAY REGULATIONS
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This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.

Legislation incorporated in this Consolidation	Public Instrument	Date in Force
Annual Holidays with Pay Regulations 1980	101/80	6/10/1980
Annual Holidays with Pay (Amendment) Regulations 1983 <i>Except for Regulation 3</i>	45/83	04/04/1983 06/10/1980
Annual Holidays with Pay (Amendment) Regulations 1989	72/89	14/07/1989
Annual Holidays with Pay (Amendment) Regulations 1995	43/95	01/05/1995
Annual Holidays with Pay (Amendment) Regulations 2010	1/10	07/01/2010

In exercise of the powers conferred upon him by Section 9 of the Annual Holiday with Pay Ordinance, the Chief Officer hereby makes the following Regulations:—

1. These regulations may be cited as the Annual Holiday with Pay Regulations, 1980.
- 2.—(1) In these Regulations, unless the context otherwise requires—
 - “contribution month”, in relation to an employee whose wages are calculated on a monthly basis, means the calendar month and in relation to other employees means a period of four or five calendar weeks beginning in each calendar month;
 - “contribution period”, in relation to an employee whose wages are calculated on a monthly basis, means the calendar month and in relation to other employees means the calendar week ;
 - “insurance office” means a Labour and Social Insurance Office existing at the date of these Regulations or an Area Office;
 - “wages” includes any monetary remuneration from the employment of an employee or any profit from such employment having a monetary value which cannot be ascertained, excluding special commissions and ex-gratia payments.
- (2) Any word or expression used in these Regulations not otherwise defined shall in these Regulations have the meaning assigned to it under the Ordinance.
3. Every employer who has not registered under the provisions of the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance, 1980, shall register with the nearest insurance office on the prescribed form or with the Chief Officer by applying in writing giving his name, address and location of employment, the number of persons employed by him and any other information which the Chief Officer may require of him.
4. The leave year period in relation to an employee for whom contributions are paid under the provisions of the Ordinance shall be the same as the contribution year period under the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance, 1980(a).

(a) Ordinance 16/1980 as amended

5.—(1) The amount of contribution payable by the employer shall be calculated on every pound of the total wages of the employee for each contribution period, but shall be varied depending on the days of holiday for which the employee is eligible and on whether the employee is working five or six days in a week in accordance with the First and Second Schedule to these Regulations:

Provided that if the total amount of wages on which the amount of contribution payable by the employer is not a whole sum of pounds, such total amount shall be calculated to the nearest whole sum of pounds, provided that the amount of five hundred mils shall be calculated as one pound:

~~Provided further that the weekly amount of wages on which a contribution is payable shall not exceed eighty four pounds and the corresponding monthly emoluments shall not exceed three hundred and sixty pounds. (a)~~

Provided further that no contribution shall be payable in relation to any amount of wages exceeding the maximum weekly or monthly rate of insurable earnings prescribed from time to time under the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance, 1980 (b).

(2) For the purpose of calculating the amount of contribution on any commission, thirteenth month salary or any other payment counting as wages and relating to a period longer than the usual period of payment, such payment shall be divided by the number of contribution periods falling in such longer period and a contribution shall be payable on the amount of wages so calculated, for each contribution period within such period, subject to the aggregating of contributions which may have previously been paid during such contribution period.

6.—(1) Upon the employment of any employee, every employer, unless with the approval of the Chief Officer other arrangements have been made in his case, shall supply himself with a contribution card for such employee in respect of whom contributions were paid under the Ordinance and these Regulations.

(2) An employer shall supply himself with a contribution card by making application in writing to the nearest insurance office on the prescribed form or to the Chief Officer giving the name and Social Insurance number of every employee in respect of whom such application is made as well as any other information that may be required:

Provided that if the employer is unable to obtain from the employee the information required for the making of an application for a contribution card, he shall apply for the issue of a temporary contribution card with regard to such employee.

(3) The employer shall in every contribution period enter on the contribution card the amount of wages due to the employee during that period, subject to the maximum amount prescribed by regulation 5, the amount of contribution payable by him during that period as well as any other information which may be demanded by the Chief Officer.

7.—(1) Every contribution which the employer is liable to pay under the provisions of the Ordinance or the Republican Law shall be paid not later than the end of the calendar month following the contribution month in respect of which the contribution is payable.

(2) All the contributions which the employer is liable to pay shall be paid by him at the insurance office which the Chief Officer may determine or in such manner as he may approve with regard to any particular case or category of cases.

(3) During each payment of contributions the employer shall—

- (a) produce the contribution cards of all the employees in respect of whom contributions are paid; and
- (b) submit a certificate of contributions in the prescribed form.

(4) The Chief Officer may modify the procedure set out in paragraph (3) of this regulation with regard to any particular case or category of cases.

(a) Proviso repealed and replaced by Public Instrument 45/1983 – came into force on 04 April 1983

(b) Ordinance 16/1980 and 6/1983 as amended

8.—(1) Not later than the end of the calendar month following the contribution month within which the employment of any employee is terminated, the employer shall, unless with the approval of the Chief Officer other arrangements have been made in his case, deliver or cause to be delivered the contribution card to the insurance office at which he last paid a contribution in respect of that person.

(2) Before it is delivered, the employer shall ensure that any such contribution card is properly completed with regard to the following matters, namely the occupation of the employee while in the service of the employer, the date of termination of employment and his last known address ; and the employer shall also ensure that the contribution card is signed by the employee before it is delivered.

(3) The employer shall not later than the end of the calendar month following the latest contribution month of the contribution year—

- (a) deliver the contribution card to the insurance office where he last paid contributions for the employee;
- (b) ensure that any contribution card so delivered is completed and signed by the employee as provided in paragraph (2) of this regulation; and
- (c) apply for a new contribution card for the employee if the employment of that employee by the employer continues.

9.—(1) Before the commencement of the holiday or within ~~three~~ *nine* (a) months of the end of the holiday, the employee shall apply in the prescribed form to the nearest insurance office for his holiday pay.

(2) The employer shall during normal working hours allow the employee time to attend an insurance office or make alternative arrangements to the satisfaction of the Chief Officer for the purpose of paragraph (1) of this Regulation.

(3) The employer shall provide the employee, for the purpose of complying with the requirements of the appropriate authorities of the Republic, written evidence of the date on which the employee proposes to take his holiday.

(4) An amount equal to the value of contributions shall be payable to an employee during the leave year in respect of which he is entitled to a holiday:

Provided that there shall be no liability for the payment of any holiday pay in respect of any leave year before the expiry of five months following the end of the said leave year.

~~(5) The whole holiday pay due to the employee shall be paid to him notwithstanding the fact that he may not take all his holiday within a continuous period:~~

~~Provided that such period shall not be less than nine continuous days or at least four continuous days where the employee has worked less than fifty weeks during the holiday year. (b)~~

(5) Notwithstanding the fact that the employee may not take all his holiday within a continuous period, he shall be entitled to opt for payment of the holiday pay due to him either in one or in two instalments. In the latter case the employee shall receive seventy per centum of his holiday pay when he takes his first holiday in the year and shall be paid the balance of the amount due to him in December of the same year:

Provided that the employee shall not be entitled to any holiday pay unless the holiday is of a duration of at least nine continuous days, or if he has worked only part of the holiday year, for a period of at least four continuous days.

(a) Amended by Public Instrument 1/2010 – came into force on 07 January 2010

(b) Paragraph (5) repealed and replaced by Public Instrument 72/89 – came into force on 14 July 1989

9A. For the purpose of determining the eligibility of an employee to holiday pay, any contribution which an employer has failed to pay in contravention of these Regulations shall be regarded as being payable where an employer's liability to pay such a contribution ~~has been confirmed by a Court decision.~~ has been determined by the Chief Officer(a). (b)

10. Where the employment of an employee who is affected by a holiday scheme approved by the Chief Officer under the provisions of subsection (1) of Section 10 of the Ordinance is terminated, the employer shall grant the employee holiday with pay in proportion to the period during which no holiday has been granted to the employee or any payment made to him in lieu of holiday.

11.—(1) The employer shall keep a holiday register in the manner and form prescribed by the Chief Officer. In the register he shall record:—

- (a) the name, age and sex of the employee;
- (b) the identity card number and the Social Insurance card number of the employee;
- (c) the date on which the employee entered his employment;
- (d) the date the employee leaves his employment;
- (e) the wages paid to the employee, during each contribution period; and
- (f) the date and length of the holiday given to the employee for each leave year of his service.

(2) The holiday register shall be kept available for inspection by an Inspector at all reasonable times.

(3) Any entries in the register required to be kept under paragraph (1) of this regulation shall be admissible as evidence of the facts therein stated and the fact that any entry required by this regulation has not been made shall be admissible as evidence that the requirement has not been observed.

12. In calculating the number of holidays under Section 5 of the Ordinance, any part of the day less than one half of it shall be disregarded, but part of the day equal to or exceeding one half thereof shall be regarded as a whole day.

13.—(1) Any person who knowingly aids, abets or counsels the commission of any act or assists, incites or allows the commission of any act, as a result of which—

- (a) the contributions payable under these Regulations have falsely been represented as having been collected;
- (b) benefits other than those payable under the Ordinance and these Regulations have been paid or such benefits have been paid to persons other than those entitled to them,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three hundred pounds or to imprisonment not exceeding six months or to both such fine and imprisonment.

(2) Any person who wilfully or negligently omits to take any action as required under the Ordinance or these Regulations in relation to the collection of contributions to the Fund or the payment of benefits therefrom shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two hundred and fifty pounds.

(3) The Judge's Court, in addition to any fine imposed upon conviction for any offences committed under sub-paragraphs (a) and (b) of paragraph (1) of this Regulation, shall order that any unpaid contribution to the Fund under these Regulations shall be paid forthwith or, as the case may be, shall order that any sum paid by the Fund in contravention of the Ordinance or these Regulations shall be refunded.

(a) Text inserted by Public Instrument 43/1995 – came into force on 01 May 1995

(b) Regulation 9A inserted by Public Instrument 45/1983 – came into force on 04 April 1983

14. Where an offence under the Ordinance and these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who has been purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

SCHEDULE 1

(Regulation 5)

Amount of weekly contribution in respect of an employee working five days in a week.

Period of leave (days)	Mils per £ earned
	40
	45
10	50
11	55
12-13	60
14	65
15	70
16	75
17	80
18	85
19	90
20	100
21-22	105
23-24	110
25	115
26	120
27	125
28	130
29	135
30	140
31	145
32	150
33	155
34	160
35	
36	

The weekly contribution for any leave exceeding 36 days shall be increased proportionately.

SCHEDULE 2

(Regulation 5)

Amount of weekly contribution in respect of an employee working six days a week.

Period of leave (days)	Mils per £ earned
12	40
13-14	45
15	50
16-17	55
18	60
19-20	65
21	70
22-23	75
24	80
25-26	85
27	90
28-29	95
30	100
31-32	105
33	110
34-35	115
36	120

The weekly contribution for any leave exceeding 36 days shall be increased proportionately.