The Insolvency Service

Insolvency Practitioner Regulation Section
16th Floor
1 Westfield Avenue
Stratford
London
E20 1HZ

Tel: 020 7291 6771
www.gov.uk/government/organisations/insolvency-service

DEAR INSOLVENCY PRACTITIONER
Issue 107 – July 2020

Message from the Insolvency Service

Dear Reader

Please find enclosed the latest updates from the Insolvency Service.

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66) Changes to the reference period used to calculate the rate of holiday pay following redundancy (for those with variable weekly pay)

The reference period applied to calculations for **holiday pay only** has been extended from 12 weeks to **52 weeks**. This reference period change **applies to all employees with variable pay**. The change intends to provide additional protection to employees, particularly those with seasonal variations in pay.

The increased reference period was recommended by the Taylor Review of Modern Working Practices, which the Government progressed through the Good Work Plan. This change ensures holiday pay for employees with variable pay more accurately reflects their actual annual earnings.

Further information on the change is available here.

What this means for insolvency practitioners

Insolvency practitioners should now calculate the rate of pay for holiday pay for all employees with variable pay using the 52-week reference period. Advice on calculations can be found here. This change is effective immediately.

How do insolvency practitioners notify the Redundancy Payments Service (RPS) of the rate of pay pertaining to holiday pay

In the short term and in order to ensure there is no disruption to payments being made to claimants, a dedicated email address will be set up for insolvency practitioners to use for the RPS to receive this additional rate of pay data. Please see additional chapter with detailed information on the process for submission along with FAQs.

The RPS is reconfiguring its systems and will work with insolvency practitioners to ensure that the automated interface to the RPS is able to receive this additional rate of pay as soon as possible.

Claimants

The RPS is also updating its systems for claimants to submit their 52-week pay rate. This will include updating the claimant interface with the RPS.

Claims since 6 April 2020

The legislation came into force on 6 April, however the RPS has only recently become aware of its applicability to the holiday pay element of a redundancy payment. The guidance on GOV.UK has now been updated to reflect this application. The change is expected to have only a small impact, if any, on the overall amount of monies payable following redundancy. Holiday pay typically represents only 5% on average of the total amount paid, and therefore the change to the calculation basis is not expected to have a material impact on overall amounts paid to individuals. However, there may be some claimants since 6 April where this legislative change has not been applied and on the new basis of calculation are due a small top-up payment. The RPS is taking steps to review these payments and will pay any further amounts that may be due.

Request

Where insolvency practitioners are dealing with large numbers of employees, the RPS inspectors will work closely with them to ensure the information is efficiently shared.

Enquiries regarding this article may be sent to:
RPS.Stakeholder@insolvency.gov.uk

67) Changes to the reference period used to calculate the rate of holiday pay following redundancy (for those with variable weekly pay): Redundancy Payments Service process

This article is to provide details on how insolvency practitioners should submit the secondary rate of pay for holiday pay to the Redundancy Payments Service (RPS).

Background

As of 6 April 2020, the reference period for holiday pay has been extended from 12 weeks to 52 weeks. This change relates to **holiday pay only** and applies to both holiday pay accrued and holiday taken but not paid, for all employees with variable pay.

The RPS will still need the 12-week average to calculate all other components.

Process for providing second rate of pay

At present the 52-week rate of pay cannot be submitted through IPUS. The RPS is working on IT changes which will allow the second rate of pay to be included in the RP14A and will send a further update when this is available.

In the meantime, the process for getting this information to the RPS is as follows:

1. All RP14As should be submitted as usual, including information at the 12-week average rate of pay.

2. Once insolvency practitioners have submitted the RP14A the RPS will email a separate spreadsheet to complete with the 52-week average rate of pay for the holiday pay calculation.

	A	B	C	D	E	F	G	H	I
1	(Do Not	(Do No	(Do Not I	Case	Employee	Claim Refere	Weekly wage core	Weekly wage override	Holiday 52 week details
2	378a95b5-e	OBjDqe+>	##########	Smoke Test 1 Lt	Migration TestJ	LN10127759	350.00		Requested
3									

3. Please complete the spreadsheet and return it to the RPS **within five working days** to RPS.holidaypay@insolvency.gov.uk.

4. The RPS will work with insolvency practitioners to improve this process to make it as efficient as possible whilst it is in operation.

There is guidance online about [calculating holiday pay for employees without fixed hours or pay](#).

Information from claimants - RP1

Whilst the RPS updates its IT systems and online claim form, it will only be asking insolvency practitioners to provide the secondary rate of pay. Claimants will continue to fill in their holiday pay information on the RP1 based on 12 weeks.

The fact sheet and payment letter will make clear to the claimant that the RPS have used an alternative rate of pay to calculate their holiday pay, based on information supplied by the insolvency practitioner.

In the short term, this approach will allow the RPS to continue to process holiday pay payments quickly, and avoid claimants having to separately calculate and submit their rate of pay for holiday pay.

Frequently asked questions

1. How do I calculate the 52-week rate of pay?

There is guidance online to help insolvency practitioners calculate the 52 week rate of pay.

2. What about payments made since 6 April?

The RPS will be contacting insolvency practitioners for cases between 6 April and now to request 52-week rates of pay.

Any claimant who has received holiday pay already, which should have been higher, will receive a top up payment.

Overpayments will be offset where there are future claims made to the RPS.

3. What about holiday taken but not paid prior to the 6 April and post?

Any holiday taken but not paid prior to the 6 April will need to be calculated on the 12-week average. If on or after this date, it will need to be calculated on the revised 52-week average.

4. Exactly what information will practitioners need and in what format?

Insolvency practitioners will need to provide the 52-week rate of pay in the spreadsheet. The spreadsheet will be sent to practitioners directly following the receipt of an RP14A with a holiday pay component.

The only information practitioners will need to add to the spreadsheet is the 52-week rate of pay, in column H of the spreadsheet.

Column G of the spreadsheet will tell practitioners the current rate of pay we have for the claimant.

	A	B	C	D	E	F	G	H	I
1	(Do Not	(Do No	(Do Not I	Case	Employee	Claim Refere	Weekly wage core	Weekly wage override	Holiday 52 week details
2	378a95b5-e	OBjDqe+›	##########	Smoke Test 1 Lt	Migration TestJ	LN10127759	350.00		Requested
3									

5. What if practitioners don't have the 52-week information for redundancy payments made since 6 April?

Where a claimant has been employed for less than 52 weeks, the reference period is shortened to the number of weeks of their employment.

The reference period must only include weeks for which the claimant was actually paid. It must not include weeks where they were not paid as they did not work. This principle has not changed under new legislation. The legislation also introduces a cap on how far back the reference period may go, which is 104 weeks. Where this gives less than 52 weeks, the reference period is shortened to that lower number of weeks.

6. When will practitioners be able to submit the 52-week rate via the RP14a?

Changes are underway to the IT system which are expected to be implemented in the coming months.

While average underpayments are expected to be small, the RPS has decided to introduce this interim solution and make top-up payments to those already paid in order to ensure that claimants receive their correct amount promptly.

7. Will claimants have to supply the 52-week data as well?

The RPS is not currently asking claimants to supply the 52-week data. Changes will be made to the RP1 application to allow claimants to provide this in future.

Guidance is being developed for claimants to help them understand the calculation for when the RPS start asking them to provide the information.

8. What information will practitioners give to claimants to explain how their Holiday pay was calculated?

The payment letter claimants receive to confirm what payments they will receive has been amended to notify them that the reference period for holiday pay has changed to 52 weeks.

They will be advised to speak to the insolvency practitioner in their case if they do not agree with the rate of pay applied.

9. How will this impact Proof of Debts (PoDs)?

Any affected proof of debts will be amended in due course.

Enquiries regarding this article may be sent to:
RPS.Stakeholder@insolvency.gov.uk

26) HMRC - Dropbox file sharing service for VAT426 repayments

After a successful trial, insolvency practitioners can now use the Dropbox file sharing service to submit VAT426 forms. By using Dropbox, practitioners will know that HMRC has received the form, and it guarantees that any supporting documentation will not become separated from the claim.

This is part of HMRC's work to help insolvency practitioners by speeding up and simplifying processes. HMRC takes the security of personal information very seriously. To keep risks to a minimum, one of the preferred methods of data transfer for HMRC is Dropbox.

There is a risk attached to all forms of electronic data transfer and some remain with Dropbox. Insolvency practitioners will need to confirm with HMRC that they have a clear understanding and acceptance of any associated risks and that they are content to send information concerning their business details. HMRC will provide guidance throughout this process.

What insolvency practitioners need to do

If practitioners would like to sign up to this service, please email your details to dmvat426team@hmrc.gov.uk and HMRC will contact you to go through the process.