



HOLIDAY PAY RULING EXPECTED LATER TODAY AND IT'S IMPLICATIONS FOR BUSINESSES

RMIF members may have heard that two important decisions of the Employment Appeal Tribunal (EAT) are expected today on whether or not 'voluntary' overtime should be used when calculating holiday pay for employees. This follows related developments earlier this year in [Lock v British Gas](#) on the inclusion of commission in holiday pay.

At the moment, an employee's holiday pay can (depending on the type of employee) be calculated on their basic pay, but workers and trade unions have argued that overtime and commission payments should be included, due to the fact that in some industries they can form a large proportion of total 'take-home' pay.

POTENTIAL RAMIFICATIONS

If the EAT rule in favour of the employees, then it is anticipated that up to 5 million people could be entitled to claim for extra holiday pay that, in some cases, may stretch back to 1998; when the UK implemented the Working Time Regulations.

This 'holiday-pay time bomb' could potentially mean that the value of such claims could run into the hundreds of millions of pounds in backdated pay for business to find. The issue has pitted the workers and unions, against employers and the coalition government; who have already argued that overtime should not be used in holiday pay calculations.

Any ruling is likely to be appealed against, whatever the outcome, meaning a definitive decision could be some time away yet.

Once the ruling is known please keep your eyes peeled for a follow-up article, in which our legal team at MILS will further assess the case.