

**JCNC UNITE REPRESENTATIVES**

---

5<sup>th</sup> December 2013

To: Julie Armstrong

*(Delivered by email)*

Dear Julie,

**Re: Holiday Pay**

I wrote to you some time ago to request a meeting to discuss cabin crew holiday pay. I have listed below an approximate timeline / key points. We are looking to *negotiate* a settlement on this issue and are hopeful of avoiding moving to formal process / potential legal battle especially taking into consideration the following:

In 1998 the Working Time Regulations (the Regulations) came into force in England and Wales and for the first time gave worker's rights to rest breaks and annual leave. At that time the protection offered by the Regulations did not cover mobile workers, who were governed by separate legislation. On 13 April 2004 the Civil Aviation (Working Time) Regulations (the Aviation Regulations) introduced such rights for ... 'persons employed to act as crew members on board a civil aircraft flying for the purposes of public transport'.

Whilst the amount of pay that crew members should receive in respect of a period of annual leave is not expressly mentioned in the Aviation Regulations it should be acknowledged that (i) Sections 221 – 224 of the Employment Rights Act 1996, which define a week's pay may be relevant and (ii) cabin crew members pay varies with the amount of work done.

We would also like the decision from the ECJ to be considered and taken into account.

The timeline / important points are as follows:

1. In 2007 Thomas cook crew members raised grievances in relation to holiday pay as when on holiday cabin crew only received basic pay when on leave. This forced people to give up holidays as they could not afford to take time off.
2. Cabin crew pay is comprised of 3 main elements and several other allowances: Basic Pay, Commission 12% from on board sales, and FDA / ABA (flight duty allowance / away from base allowance)
3. The current rate of FDA / ABA is £3.41 PH with 81 pence tax free as this is subsistence allowance, the remaining £2.60 is classed as pay following a review from the HMRC (this is a higher rate than pilots receive).

4. The above rate was agreed for all cabin crew in August 2009 following harmonisation agreement from Thomas Cook & MY Travel merger.
5. Prior to this the Thomas Cook rate was aprox £2.80 per hour with 25% or 35% taxable dependant on long or short haul flying. The My Travel arrangement was £2.58 this was 100% tax free
6. The grievances / Tribunals were stayed in anticipation of the Williams v BA ruling (this has now been resolved)
7. In the harmonisation agreement a rate of £280 per anum pro rated was agreed as an interim measure until the ECJ ruling on the Williams v BA case. The rationale for this amount was based on an agreement reached at Thompson Airways of £10 per day for the statutory 28 days entitlement although we are contracted to 36 days annual leave.
8. We have learned that the pilots have now reached an agreement (in recent months) of £450 per anum and received several thousands in back pay.
9. It is worth noting that Pilots receive significantly less FDA / ABA than cabin crew and do not receive commission on sales.
10. On this basis we believe that the cabin crew holiday pay should be more than the pilots.
11. We are looking to have the rate increased and receive back pay.

I look forward to hearing from you soon.

Yours sincerely,

Martin Browne  
Chairman – JCNC Committee