

## EMPLOYER UNABLE TO PROVIDE WORK

### SNIJIB NATIONAL WORKING RULE 9, TEMPORARY LAY-OFF

In cases where abnormal weather conditions interrupt work over a period, the employer may make suitable and appropriate arrangements in order to be able to provide employees with work.

Where an employee is available for work but the employer is unable to provide any work for the employee (for whatever reason), then the employee is due to be paid his guaranteed weekly graded rate of wages for that complete pay-week. This will include circumstances where the employer normally provides the transportation of employees and the transportation is cancelled because of bad weather or travel disruption.

While the provision of work continues to be temporarily unavailable, no wage payment is due to the employee in respect of such workless days.

The employer must confirm in writing that the firm intends to implement a period of temporary lay-off under National Working Rule 9 (contact SNIPEF IR [here](#) for template letters). The letter should be sufficient evidence for the employee to provide to the local job centre as proof of not being in receipt of a wage payment.

Such temporary lay-off and non-payment of wages does not break continuity of employment, therefore the employee continues to accrue their holiday entitlement. If an employee has accrued holidays they may wish to take them as a means of income during the temporary stoppage of work.

In terms of Working Rule 9 Guaranteed Week an operative receives his full contractual pay for the 1<sup>st</sup> week of temporary lay-off. Thereafter, in any period of 13 weeks an employee is legally entitled to receive statutory guaranteed payments as a minimum.

#### CLOSURE OF BUILDING SITES

If a main contractor closes a building site at short notice causing work to be temporarily stopped and there is no work available for employees at alternative sites, the Temporary Lay Off procedure can be followed. See The SNIJIB National Working Rules, Rule 9(4) which can be accessed at the SNIJIB website by [clicking here](#).



#### WORKPLACE CONDITIONS

HSE does not specify specific minimum temperatures for work being carried outdoors. However employers should ensure an effective risk assessment process is followed where employees are required to work outdoors during periods of extreme weather conditions. Additional measures may need to be put in place such as the provision of different personal protective equipment, providing mobile facilities for warming up. More information can be found on the HSE's website by [clicking here](#).

#### EMPLOYEE UNABLE TO GET TO WORK DURING BAD WEATHER

Employees are expected to make reasonable efforts to get to work and although employers can encourage employees to explore alternative transport, employers should not pressurise employees into putting their safety at risk. It is unreasonable for an employer to insist on attendance where this would pose a risk to the employee's health and safety. Where advice from public authorities or transport authorities is not to travel unless it is "a matter of life and death" employees should not be put under pressure to attend work for fear of not being paid if they don't attend where this would put their safety at risk.

If the workplace is open and an employer is able to provide work but an employee is unable to get to work because their house is snowed in or their usual mode of transport is out of operation, an employer may by **mutual agreement** allow the employee to take a day of paid holiday or unpaid leave.

The options available which an employer may wish to consider are as follows:

- Mutually agree for the employee to take a day of unpaid leave;
- Mutually agree for the employee to take annual leave;
- Make up lost time at a later agreed date by mutual agreement.

## **DISRUPTION TO EMPLOYEE'S CARE ARRANGEMENTS**

Another possible consequence of exceptional weather conditions is that care arrangements can be disrupted due to schools and nurseries closing. Statutory dependency leave allows an employee the right to request unpaid time off for dependants.

In normal circumstances an employee would use this right to arrange a replacement carer but at a time when there is widespread disruption due to inclement weather, extra latitude may need to be given to employees in this situation to enable them to establish care arrangements.

## **DISCIPLINARY ACTION**

Where an employer has investigated and is aware that an employee had an available mode of transport which would have enabled him to attend work (such as the employee's buses are only running twice instead of four times an hour) but they have not attempted to travel to work, this should be treated as a disciplinary matter (in the same manner that an employer investigates and treats any other form of absenteeism).

**Getting advice: Contact the IR department  
at the SNIPEF offices at [info@snipef.org](mailto:info@snipef.org)**