

Employers – Annual leave/holidays

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Annual leave/holidays entitlements

All employees (part-time, full-time, fixed-term and casual) get at least four weeks of paid annual leave/holidays every anniversary of starting work with that employer*.

Please note these key points:

- Employment agreements can provide for extra days or weeks of holidays.
- Annual leave/holidays can be taken at any time agreed between the employer and the employee.
- If the parties can't agree, then the employer can direct the employee to take leave, with at least 14 days' notice.
- Annual leave/holidays don't expire if they're not taken.
- When an employee leaves their job, they are paid out for any annual leave/holidays they are entitled to but haven't taken, and any annual leave/holidays they have accrued since the last anniversary date.
- If their employer agrees, an employee may take annual leave/holidays in advance (i.e. before they have become entitled to them).
- If an employee wants to take entitled annual leave/holidays, employers can't refuse without reason.
- The points above exclude Armed Forces.

*Note: For more information, you should refer to the 'Annual holidays entitlements' section at employment.govt.nz.

Public holidays, alternative holidays, bereavement leave, sick leave and other types of leave are covered separately in 'Other leave'. For more information, you should refer to employment.govt.nz.

Calculation of annual leave/holidays

When it comes to an employee taking annual leave/holidays, there are two key questions that need to be answered: how much leave are they taking, and what should they be paid for this leave?

An introduction to these issues:

To calculate your employee's annual leave/holiday entitlement, you need to establish what their weekly work pattern is. This is then used to determine how much leave is being taken. In some situations this might not be obvious, so it's important that you agree on this with the employee.

Some common situations are discussed below. They'll give you a general sense of the key types of patterns that apply. References to more detailed information are provided.

For more information, refer to the 'Annual holidays entitlements' section at employment.govt.nz.

Permanent employee with a constant work pattern

Annual leave/holidays are simple to work out for employees who work set hours and days each week. On each anniversary of the start date of employment, the employee is entitled to four weeks of paid annual leave/holidays.

For example, an employee who works three days per week will become entitled to 12 days' annual leave/holidays after one year's continuous employment. (At three days per week, three days over four weeks = 12 days.)

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Calculation of annual leave/holidays continued

Permanent employee with a work pattern that varies from week to week

What a week's annual leave/holiday looks like in terms of days off work should be determined at the point the leave is taken.

If the employee's work pattern is predictable (for example, a set roster pattern of four days on, four days off), a week's annual leave/holiday will be calculated based on what days the employee would have been working in the week in which they want to take annual leave/holidays.

Annual leave/holidays for some casual and fixed-term employees

The right to four weeks' annual leave/holidays per year applies to all types of employees. Some fixed-term and casual employees may be paid their annual holiday entitlement on a holiday pay-as-you-go basis:

- fixed-term employees on a contract of less than 12 months
- casual employees whose employment pattern is so intermittent or irregular that it isn't possible or practicable to attempt to provide 4 weeks' paid annual leave/holidays.

These two groups can agree to receive holiday pay with their regular pay on a pay-as-you-go basis.

Note the following:

- The employee must agree to it.
- It must be at a rate not less than 8% of the employee's gross earnings.
- It must be a separately identifiable part of the employee's pay and on their payslip.

Note: For more information, you should refer to the 'Casual, fixed-term or changing work patterns' section at employment.govt.nz.

Payment for annual leave/holidays

To determine the correct payment for annual leave/holidays, you must calculate both the employee's ordinary weekly pay and average weekly earnings. Their leave must be paid at the higher of these two rates.

Ordinary weekly pay

Ordinary weekly pay is everything an employee is normally paid, including:

- regular allowances, e.g. shift allowance
- regular productivity or incentive-based payments, e.g. commission
- the cash value of board or lodgings
- regular overtime.

Irregular, one-off or discretionary payments are not included.

Average weekly earnings

Average weekly earnings are determined by calculating the employee's gross earnings over the 12 months prior to the end of the last payroll period before the annual leave/holiday is taken, and dividing that figure by 52. The following payments make up gross earnings and should be included in the calculation:

- salary and wages
- allowances (but not reimbursing allowances)
- all overtime
- piece work
- at-risk, productivity or performance payments
- commission
- payment for annual holidays and public holidays

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Payment for annual leave/holidays continued

- payment for sick and bereavement leave
- the cash value of board and lodgings supplied
- amounts compulsorily paid by the employer under ACC (e.g. the first week of compensation)
- any other payments that are required to be made under the terms of the employment agreement.

Unless the employment agreement says otherwise, reimbursement, discretionary or ex gratia payments (e.g. discretionary bonuses) are not included in these calculations. Neither are payments made by ACC, or when an employee is on voluntary military service, or payments for cashed-up holidays.

Note: For more information, you should refer to the 'Calculating annual holiday payments' section at employment.govt.nz.

Payments when employment ends

Any outstanding annual holiday entitlement, and any annual leave/holidays accrued since the last anniversary date, must be paid out when employment ends.

Note: For more information on termination payments, you should refer to the 'Calculating payment for leave and holidays in final pay' section at employment.govt.nz.

The importance of record keeping

As an employer, you must keep wage, time, holidays and leave records that comply with the law (the Employment Relations Act 2000 and the Holidays Act 2003).

Most importantly, these records must include, for each employee, a record of the hours worked each day in a pay period and the pay received for those hours. This information is essential to getting an employee's minimum entitlements correct.

In the case of annual leave/holidays in particular, you must be able to show that you've correctly given your employees their minimum annual leave/holiday entitlements and paid them correctly for these. This will also help you clarify any disputes with your employee(s) on this matter.

Whether you use a fully computerised payroll system or a manual system, you need to check to make sure it accurately records any changes to your employees' hours and pay.

If you don't understand or you don't think you're keeping accurate records, you can call the Employment New Zealand phone line on 0800 20 90 20 toll free. You may also choose to seek professional advice.

Note: For more information, you should refer to the 'Keeping accurate records' section at employment.govt.nz.

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More information

The Employment New Zealand site provides detailed information on employment rights and obligations: Go to www.employment.govt.nz – the leading source of information on employment in New Zealand.

If you still need information call the Employment New Zealand phone line on 0800 20 90 20 toll free. A translation service is available. You can make contact anonymously or via a third party.

These services are available to you free of charge.

About the MBIE Employment Learning Modules Fact Sheets

This fact sheet is designed to support a series of learning modules (including interactive quizzes) about minimum employment rights provided free of charge by MBIE. We encourage you to have a look at these modules to learn even more about your employment obligations.

Legal disclaimer:

The modules are designed to provide a brief overview of key points only, to encourage further learning, and refer to more detailed information at employment.govt.nz.

- The modules do not purport to be a qualification and do not infer that any legal competence has been attained.
- It remains the responsibility of any person who has completed any module to comply with all legal requirements applicable to them under New Zealand law.
- MBIE encourages all users to familiarise themselves with relevant New Zealand law. Where this is not practical or the user is unsure of any legal aspect they are advised to obtain suitable professional advice."