

Public Holidays and Holiday Pay

Kiwi businesses, especially those involved in contracting and service industries, often close for annual holidays just prior to Christmas and re-open in the New Year. Many businesses encourage their staff to take leave over the festive season 'when things are quiet'. Staff employment agreements will include provision for staff to take at least part of their annual leave during this close-down period. The calculation of holiday pay is an integral part of employees' final pay for the calendar year.

Employees are entitled to receive their pay for annual leave before they commence their leave. This provision provides an employee with money to pay for travel and accommodation.

The employer and employee can agree to leave the normal pay cycle undisturbed by the time off work. If so, it's recommended that the employees' employment agreements reflect this.

The general rule for public holidays is that they are taken on the day they fall. There are four public holidays that are treated differently. They are:

- **Christmas Day** **Sunday 25th December 2011**
- **Boxing Day** **Monday 26th December 2011**
- **New Years Day** **Sunday 1st January 2012**
- **2nd January** **Monday 2nd January 2012**

When any of these four public holidays fall on a Saturday or Sunday it is important to first look at your employee's work patterns.

Monday to Friday workers

As Christmas day and New Year's Day fall on a Sunday, the holiday is transferred to the following Tuesday (27 December and 3 January).

Boxing Day and the day after New Years Day will be observed on the days they fall (Monday 26 December and Monday 2 January).

Weekend Workers

If you or your employees would normally work on the Sunday that Christmas Day and New Year's Day fall on this year, the public holiday is observed on the day it falls (Sunday 25 December and Sunday 1 January). This means the employee is entitled to that day off on pay.

Casual and on-call workers

The calculations for casual or on-call workers is more complex. We suggest that you use the Department of Labour on-line calculator to work out entitlements. This can be found at www.dol.govt.nz/holidaystool

Calculating annual holiday pay

Whichever of the following is the larger becomes the rate of the weekly holiday pay.

1. **'Average weekly earnings'**: Calculate 'total gross earnings' for the 12 months before the end of the last pay period before the annual holiday and divide this figure by 52.
2. **'Ordinary weekly pay'**: Multiply the ordinary hourly rate of the employee's pay as at the start of the holiday by the number of hours worked in a 'normal' week.

Calculating pay for statutory (public) holidays

1. **'Relevant daily pay'**: Find the amount of pay that the employee would have received if he or she had worked on the day concerned.
2. **'Average daily pay' is used when using relevant daily pay is not possible or practicable or there is variation in the daily pay during the pay period when the holiday occurs.** Calculate gross earnings for the 52 weeks before the end of the immediately preceding pay period and divide by the number of whole or part days during which the employee earned those earnings including days of paid holiday or leave.

In the case of employees who have commenced employment during the year, their average weekly earnings are calculated by taking the amount of their gross earnings from starting work until the last pay period before the holiday and dividing that amount by the number of weeks worked. For examples on holiday pay please visit the Department of Labour's website: <http://www.dol.govt.nz/>

Pay calculations can be complex especially when employees receive allowances, (e.g. travel) and have deductions made (e.g. KiwiSaver, student loan) so contact us if you need assistance in getting these important calculations right.

Close downs

Special rules apply when there is a customary annual business closedown. This closedown can occur either across the entire workplace, or for part of an enterprise.

As an employer you may implement such a closure once year and require your employees to take annual leave during the period of the closedown. You are required to provide employees with at least 14 days notice.

For employees with less than 12 months' service, the level of holiday pay for the closedown period can be established by:

- The employer paying the employee 8% of gross earnings to date (the employee's anniversary date will then be treated as starting on the date on which the closedown began); or
- The employer and employee agreeing to the employee taking paid annual holidays in advance even though the leave has not yet accrued.