

This Factsheet is a guide to the main obligations an Employer has for the provision and payment of *Annual Leave* as provided for by the Holidays Act, along with additional links to further reference material.

If there is any question or argument relating to an Employee's entitlement, or the amount that should be paid, you should contact the *Department of Labour* and ask for a determination by a *Labour Inspector*.

## Annual Leave Entitlement

### Non-permanent (Casual) Employees

*Casual Employees* have their Annual Leave entitlement paid out every pay period, so there is no ongoing liability for Annual Leave from an Employer's perspective. This does not mean there is no liability for leave for Sick, Public, Alternative, Bereavement or 1<sup>st</sup> Week ACC.

You should check the relevant *Guides* on our website for more information.

Typically, Annual Leave is automatically calculated as 8% of the Employees earnings and shows as *Holiday Pay* on their *Payslip*. **SmoothPay** automatically establishes these settings when a *Casual* Employee is added.

You may elect to pay *Casual* Employees an inclusive pay rate, however you must ensure that the rate is at least the current minimum hourly rate plus 8%. **SmoothPay** will show the *Holiday Pay* content as a dollar value on the Employee's *Payslip*.

Short term and/or Employees working irregular and inconsistent work patterns may also be regarded as '*Casual*' and paid Annual Leave as they go.

### Permanent Employees

*Full* and *Part-time* Employees are entitled to 4 weeks Annual Leave accrual **after** every 12 months of service.

**SmoothPay** automatically establishes these settings when a *Permanent* Employee is added.

## Important Concepts

- The remainder of this document applies only to *Permanent* Employees.
- Annual Leave is valued **AT THE TIME IT IS TAKEN** and you must be certain you are paying the correct amount.
- These rules are **not** the same as those used for *Sick*, *Public*, *Bereavement* and *Alternative Leave*.
- Leave is accrued and consumed in **weeks** (you may use other accrual methods, however the Act stipulates weeks and you must be able to prove the amount paid is at least as much or better than provided for if weeks were used. **SmoothPay** will always recommend weeks, and regard any other method as non-compliant).
- You can enter whole or part weeks, days or hours (days or hours will be converted automatically to the proportion of a week that would represent).
- Annual Leave paid in advance must be paid using the same payment calculation as accrued leave.

## Payment for Annual Leave

- You must pay Annual Leave using the best weekly value determined from:
  1. Ordinary Weekly Earnings (**OWE**),
  2. Average Weekly Earnings (**AWE**),
  3. An agreed weekly value.
- OWE is the amount an Employee would have received for a normal week's work.
- AWE is based on earnings for the last 12 months (or since the Employee started if less than 12 months ago)

By default, **SmoothPay** will choose the most valuable weekly rate from 1, 2 or 3.

## Common Errors

If a *Permanent (Full or Part time)* Employee works fewer than 5 days per week, it is **NOT** correct to reduce their Annual Leave accrual to match. The Act stipulates a minimum of 4 weeks annual leave per year of service.

You cannot deduct unused leave from an Employee's accrued entitlement, nor can you impose an arbitrary annual leave accrual cap. The intent of the Act is to ensure the Employee takes uninterrupted time off from work.

It is **NOT** correct to accrue or consume Annual leave in hours or days, even though you can set these alternative methods in **SmoothPay**. The Act stipulates weeks. It could be argued that using hours or days where it is demonstrably better than the provisions of the Act is OK, however you're making life tough for yourself and you must still adhere to the best weekly value rules, so, with respect, you should use weeks.

It is **NOT** correct to simply pay an Employee their ordinary hours and rate of pay for Annual Leave unless it produces more than the value determined by the payment rules above. Exceptions may be Salaried Employees, or those who work exactly the same every day, however the Act does not exempt these types of Employees from the payment calculations, and an average calculation may produce more than the Employee's current salary.

If you have elected to *Unlock* the leave entry you must be certain that the number of weeks entered is representative of the amount and period of Annual Leave. A common error is to unlock the entries and forget to change the number of weeks. If you *Unlock* an entry, it becomes **your** responsibility to get it right.

You should never pay an Employee more Annual Leave than they would receive as *Termination (Final) Pay*. If you overpay, it's remotely possible you could recover the overpayment but don't bank on it.

**All** Leave should be applied for in **writing**. We suggest using **SmoothPay's Leave Application form** under *Forms* on our website, as it provides for overpayment recovery and approval.

It is **NOT** correct to cash up Annual Leave using the *Holiday Time Type and Earnings Classification* in *Pay Input*, as the Employee is not absent. You should use the *Holiday Pay Rate Assistant...Cashing Up* buttons in *Pay Input*. Please refer to **SmoothPay's Cashing up Annual Leave** Factsheet for details.

## Further Reference

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| Department of Labour website        | <a href="http://www.dol.govt.nz/">http://www.dol.govt.nz/</a>                             |
| SmoothPay documentation and forms   | <a href="http://www.smoothpay.co.nz/tutorials/">http://www.smoothpay.co.nz/tutorials/</a> |
| Department of Labour contact centre | <b>0800 20 90 20</b>  |
| SmoothPay HelpDesk                  | <b>(06) 353 6462</b>  |

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