

This Factsheet is a guide to the main obligations an Employer has for the provision and payment of *Public Holiday 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*.

Public Holiday Leave entitlement

Non-permanent (Casual) Employees

Casual Employees **may** be entitled to payment for a *Public Holiday* if the *Public Holiday* falls or is observed on a day they would normally work. This applies regardless of the nature of service.

Further, if they have an entitlement to payment for a *Public Holiday*, and they work that day, then they are entitled to payment at penal rates and an accrual of *Alternative Leave* to replace the *Public Holiday*.

If they don't have an entitlement to payment, but work on a *Public Holiday*, then payment at penal rates applies.

Before committing to payment (or not), you should check with the *Department of Labour* as to your obligations and the Employee's entitlement.

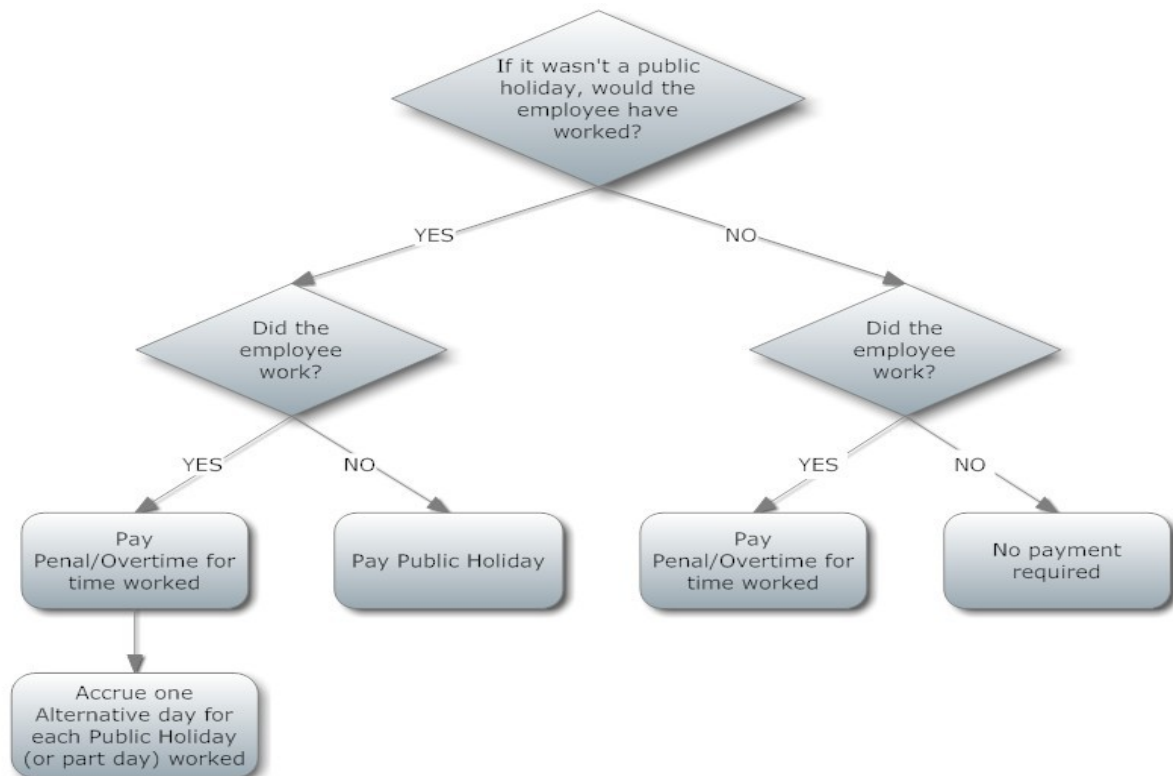
Permanent Employees

Full and Part-time Employees are entitled to payment for absence from work for *Public Holidays* where the *Public Holiday* falls or is observed on what would otherwise be a normal working day for the Employee.

If the Employee works on such a day (to which they have an entitlement to payment), then they must be paid *Penal Rates* for the time worked (*and yes, it may be less than would have earned had they stayed home*) and an accrual of a whole day *Alternative Leave* to replace each *Public Holiday* day that was worked.

If they don't have an entitlement to payment, but work on a *Public Holiday*, then payment at penal rates applies.

Here is a handy flowchart you can use to check an Employee's entitlement:



Important concepts

- *Penal/Overtime* must be paid where an Employee works on a Public Holiday. It is **NOT** recorded as *Public Holiday Leave - they were not absent*
- *Relevant Daily Pay (RDP)* must be used for the payment of *Public Holiday Leave*.
- **RDP** is the amount an Employee would have received had they been at work (taking into consideration any opportunity for overtime or additional allowances), and failing that, then their *Average Daily Pay (ADP)* over the last 52 weeks (prior to 1 April 2011 the formula uses the last 4 weeks).
- Leave is valued **at the time it is taken**, and you must be certain you are paying the correct amount.
- You can enter whole days (defaults to 1) or part days or hours, however the results are probably inconsistent with the intent of the Holidays Act, which is payment at a daily rate for each day of leave.

Payment for Public Holiday Leave

- If you **know** what the Employee would have earned had they been at work that day (instead of being absent), then you would tick the "*I know...*" option (or *Unlock* the leave entry) and edit the entries to suit (hours, rate and number of *Leave Days* being taken - defaults to 1), otherwise
- If you **don't know** what the Employee would have earned, then you must use *Average Daily Pay (ADP)*. **SmoothPay's RDP Assistant** will display:

- 1) their averaged ordinary daily earnings, based on their contract
- 2) their *Average Daily Pay (ADP)* value (e.g. total earnings for last 4 weeks divided by the number of days paid in that period).

You can, and should, change the divisor if they were paid for more/less days in the period being used for the average calculation.

Permanent corrections to days paid can, and should, be made in Edit Employee...Pay History. Days being paid each pay period should be entered correctly in Pay Input.

- 3) an agreed daily rate
- 4) same as #1 using a new pay rate entered (if any)

A daily work pattern for the last 4 weeks is also displayed to help you determine an Employee's entitlement to leave (*requires you to be using dated pay inputs correctly*) - you might wish to use these **ADP** rates if they produce a better value than #2 or #3.

By default, **SmoothPay** will choose the most valuable daily rate from 1, 2 or 3 (*it assumes the User doesn't know what the Employee would have earned, though there are options to allow you to pre-select various options instead of the most valuable to the Employee*), however you are at liberty to select a different value, or make your own entries. You must be certain that the value paid is not less than their entitlement.

Common errors

It is not correct to consume Public Holiday leave in hours. The Act stipulates days.

If any Employee works on a Public Holiday, they must be paid Penal/Overtime for the time worked (*not Public Holiday, as they were not absent*)

It is not correct to pay extra to avoid the accrual of an Alternative day. Alternative days can only be cashed in when the Employee leaves, or by request after 12 months have elapsed from the date of accrual.

It is not correct to simply pay an Employee their ordinary hours and rate of pay for Public Holiday leave, unless you know that is exactly what they would have earned that day. You must also consider, had it not been a Public Holiday, if they might have earned overtime, productivity allowances or any other earnings.

For these reasons it is generally correct to use Average Daily Pay (**ADP**), unless it would result in a value less than your anticipated daily value. 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 **RDP** and **ADP** calculations.

If you have elected to override or unlock the leave entry you must be certain that the number of days entered is representative of the amount being paid for leave. A common error is to unlock the entries and forget to change the number of days. If you unlock an entry, it becomes your responsibility to get it right.

Further reference

Department of Labour website	http://www.dol.govt.nz/
SmoothPay documentation and forms	http://www.smoothpay.co.nz/tutorials/
Department of Labour contact centre	0800 20 90 20
SmoothPay HelpDesk	(06) 353 6462

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