

This guide is for staff and explains your minimum leave entitlements in compliance with the Holidays Act, regardless of the payroll system used

1. Annual leave accrues in weeks
The Act provides 2 dimensions for annual leave - time and money. The time dimension, 4 weeks, accrues at the end of each year of service. The value dimension accrues each pay at a rate of 8% on liable earnings until your anniversary, at which time the 4 weeks accrues and takes on "weekly" value.

2. Sick leave accrues in days
Sick leave accruals begin with 5 days after six months of service and then a further 5 days after each year of service from that date. Accrual may be limited to 20 days.

3. Work on a Public Holiday
Must be paid at penal (time+half) rates for the time worked. If you would normally work that day then you are entitled to accrue a whole day of alternative leave which you can take later, or have paid out after 12 months by agreement.

4. Payment for leave taken
Annual leave must be paid out at best weekly value. Sick, Public, Alternative etc. are all subject to Relevant Daily Pay (RDP) rules, meaning that each day must be paid at best daily value.

For more information

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I want to know how many hours annual leave I have left

It is important to understand that the Holidays Act does not work that way. In fact it never really did, it's just that people got used to lazy, non-compliant systems doing it that way.

The Holidays Act came into effect in April 2004, and prescribes weeks as the annual leave accrual method - hours and days just do not mean the same thing and would have to be constantly adjusted to get the correct result. It is the \$value that each week is worth that is important (as well as ensuring you get all your annual leave as time off).

The correct question then is "How much annual leave do I have left, and how much is it worth?"

You should get two answers: The leave balance remaining from your last anniversary and it's value, and your termination value which is calculated up to the end of your last pay. Anything else is likely to be misleading as it's probably only an estimate.

Consider the following example:

Jo is employed part-time, working around 20 hours per week, and accrues annual leave at 8% of hours worked (equivalent to 80 hours accrued leave after 12 months, which looks a lot like 4 x 20 hour weeks). After 12 months sterling service, Jo is offered a full-time position at 40-hours per week - effectively doubling Jo's income. If Jo had accrued annual leave in weeks, each week would now be worth the new weekly pay (the equivalent of 160 hours) - frankly, Jo has lost 2 weeks value (80 hours) worth of annual leave - and probably doesn't know it.

The important thing here is that accruing in weeks provides measurable value for time off, and a way of valuing that time in dollar terms - converting the time to hours is a relatively meaningless exercise - if your payroll is set up correctly then your leave balance will be the number of weeks you have left from accruals up to your last anniversary - anything else is simply an estimate, and is likely to be misleading if not completely inaccurate.

So, by asking your payroll person to provide an estimate in hours, you're really asking an impossible to answer question. The answer can be estimated, but you're probably in as good a position to guess what it's worth in terms of hours as anyone else.

In the example above, it's great if my hours or weekly value increases, but what happens if my hours or earnings are reduced?

Glad you asked. Unlike the "instant increase" provided for by a new contract that provides more income, your annual leave weekly value diminishes quite slowly (it takes 52 weeks for the reduced value to take effect completely). If you have unused annual leave, and your contract conditions or hours of work are reduced, then it's probably better for you if you take the remaining leave earlier to get most value from it - although the change in conditions may just be temporary, so you have to consider carefully. You also

don't want to be short of annual leave if your workplace closes down over Christmas, so be careful when deciding what to do.

Consider this: Jo has gone from full-time, 40 hours per week, to part-time, 20 hours per week. If Jo takes 1 week annual leave shortly after the contract changes, the week off is worth around as much as the old weekly earnings - way more than a current week is worth.

How are weeks better than hours or days?

At my last job the payslip showed hours right up to date?

Your previous payroll system was probably non-compliant, and you may well still be owed annual leave - or they were using an estimating process to try to indicate your leave balance - or a Labour Inspector has ordered that the method being used is sufficient to meet the minimum requirements of the Holidays Act (*possible, but very unlikely*), or they made constant adjustments to your leave balance to cater for changing work patterns (*also unlikely*).

Not as a rule, and not as a right.

Annual Leave cannot be Cashed-Up without a written application from the Employee.

Your employer does not need to approve or give a reason for declining any application, and their decision, to approve or decline the application, must also be in writing.

An Employee may cash up to a maximum of 1 week of Annual Leave in any 12 month period.

A factsheet is available on the SmoothPay website.

Can't I just have my annual leave paid out to me - I'm happy to carry on working?

How much should I be paid for a Public Holiday?

Days off for Public Holidays, Sick leave, Special leave and Alternative leave are all subject to Relevant Daily Pay (RDP) rules specified by the Holidays Act.

If you would normally have worked that day, then you're entitled to be paid "best daily value" (*our term*), comparing:

1. The amount you would be paid had you been at work (*the amount must include any potential overtime, productivity incentives etc and can be difficult to determine unless you have a fixed roster or agreed set hours*), or

2. An agreed daily rate - *rare, but possible*, or

3. failing accurate determination from Option 1 and having no agreed rate, the average per day calculated on your liable gross earnings over the last 52 weeks, divided by the number of whole or part days worked or on paid leave during that period.

Your payroll person must take all these factors into account when paying out a leave day - and different amounts might be perfectly correct for different days off.

Strictly speaking, annual leave only has a correct value at the time it is taken - because it's best weekly value may change every pay period.

When you take annual leave your payroll person compares your currently weekly value with your average over the last 52 weeks (imagine doing that manually every time someone wanted to take a day or week off). If you work really irregular hours, they may also consider your weekly average over the last 4 weeks.

If you apply for 1 day off, and typically work a 5 day week, your day off will be worth 1/5th of a best value week - not what you would have earned for that day, and certainly not 8 hours at your normal pay rate! It wouldn't be fair on your employer to only take annual leave on "high-value" days - it is fair to be paid based on weekly value.

If you work a 4 day week, then your day off will be worth 1/4 of a best value week.

Taking 1 hour of annual leave is hardly what the Holidays Act designers had in mind for a restful period of absence from work, however it's important that you understand that the 1 hour will be interpreted as a proportion of a best value week - and may bear no resemblance to an ordinary hour at all.

Again, your payroll person needs to consider all these variables and arrive at the result that provides you with the best outcome.

How is annual leave valued?

How is my termination value calculated?

If you were casual, then you've already been paid out your annual leave - it must be shown clearly on your payslips. What!? No payslips? You're entitled to annual leave calculated as follows:

If you're not casual (or your employer doesn't make available payslips that showed your annual leave paid each period) then your termination payment is calculated as follows:

1. Any current pay entitlement and any unused alternative leave days, plus
2. The "best weekly value" of any leave remaining unused from your previous anniversary (otherwise zero), plus
3. Add on 8% of all liable earnings since your last anniversary (including items 1 and 2 above)
4. Less any annual leave taken in advance at cost value (where item 2 is negative)

If the period of unused leave in item 2 added to your leaving date would extend over any public holidays that would usually be working days, then you're entitled to payment for those public holidays as well.

If the final pay would be equivalent to more than one pay period, then the tax should be adjusted to suit the appropriate number of pay periods the payment covers, otherwise the tax may be far too high.

How much should I be paid if I work on a public holiday?

Everyone who works on a public holiday is entitled to be paid at penal rates (time+half) for the time worked - even if you're on salary (and you may end up earning less than if you had stayed home).

If you would normally have worked that day, then you're also entitled to a whole day off as alternative leave - you can elect to take that on any suitable day, or cash it in by agreement after 12 months. It is not appropriate to accrue alternative leave as hours for hours worked - the Act specifies one day alternative leave for any work on a public holiday - even if it's only half an hour.

I'm casual - does any of this apply to me?

Yes, and No.

Your annual leave (termination) payment occurs each time you are paid, and it is usually added on at 8% but in some cases may be paid as part of an inclusive hourly rate (in which case it must be at least the minimum hourly rate plus 8%).

You may or may not be entitled to sick leave - your employer can decide to allow sick leave, though that's unusual, or if you work 20 or more hours per week for at least six months then you may also be entitled to accrue sick leave.

If the nature of your engagement (even though it might be classified casual) would normally require your presence on any day that would have provided work if it wasn't a public holiday, then you *may* be entitled to payment for that day (a case in point is viticulture and orchard picking operations where the crop is ready, so the employee would normally have been required to work - true, but tough on the employer).

If you work on a public holiday then yes, you're entitled to be paid penal rates for your work.

They didn't make the rules easy did they?

You're right, which is why we have prepared this guide to help you understand some of the issues surrounding correct accrual and payment of leave entitlements.

There are many more issues of course, but in the end it comes down to some basic understanding of the process involved.

So, if you have questions you should start by asking your payroll person - if they get it right, they deserve a medal.

If you don't get a satisfactory answer (they may not be fully aware of the Holidays Act requirements, and their payroll may not provide much help either, especially if it's not set up correctly or doesn't provide proper "best value week" calculations etc), contact the Labour Department to verify your understanding. They're there to help both you and your employer make the right decisions.

We hope you find this guide useful, and welcome any feedback.

Labour Department hotline: 0800 20 90 20
or visit their website for useful guides: www.dol.govt.nz