

Payroll – Holidays Act and relevant daily pay

‘Relevant daily pay’ is a term used in the Holidays Act 2003. It is the amount that you have to pay employees when they have time off work for a public holiday, an ‘alternative holiday’, sickness or injury, or for a bereavement.

By law, relevant daily pay must include certain components of the employee’s pay. Usually it’s clear what a person’s relevant daily pay is, but the Holidays Act 2003 states how it must be calculated on occasions when it’s not clear.

The term ‘relevant daily pay’ was not used in holidays legislation prior to the 2003 Act. The previous Act used the term ‘holidays on pay’. Note that the law can and does change quickly. The latest on holidays legislation can be found on www.ers.govt.nz.

When is ‘relevant daily pay’ used to calculate pay?

An employee has to be given their relevant daily pay for time they take off work for:

- Public holidays;
- Alternative holidays (see below);
- Sick leave (if they’re entitled to it); or
- Bereavement leave (if they’re entitled to it).

What is an alternative holiday?

An employee who works on a public holiday which would otherwise be a working day for them is entitled to an alternative holiday. They are entitled to be paid for a full day’s alternative holiday, regardless of the actual number of hours they worked on a public holiday.

If an employee was on call on a public holiday and had to restrict their activities, they are entitled to an alternative holiday, even if they weren’t actually called out.

If they were not required to restrict their activities and did not attend a call out, they are not entitled to an alternative holiday.

What does relevant daily pay include?

Relevant daily pay is the amount the employee would have been paid had they worked on the day in question.

Relevant daily pay includes:

- Productivity or incentive-based payments (including commission) if the employee would have otherwise received those payments on that day;
- Overtime if the employee would have received overtime payments on that day; and
- The cash value of any board or lodgings that the employer provides for the employee.

Does it include the time and a half rate for a public holiday?

The Holidays Act 2003 says that relevant daily pay is the ‘amount of pay that the employee

should have received had the employee worked on the day concerned’.

Logically speaking, if they worked on a public holiday, they would have been paid time and a half. So it could be surmised that the relevant daily pay for someone who doesn’t work on a public holiday is time and a half their normal rate.

This would defeat the aim of the compulsory time and a half rate – to compensate people for giving up their public holiday to work. For this reason, the Holidays Act 2003 states that relevant daily pay does not include the time and a half rate for working on a public holiday.

Can we set an amount in the employment agreement?

The Holidays Act 2003 allows employment agreements to specify a special rate of relevant daily pay. However, the amount specified must be at least what it would be if it was calculated under the Act.

How is relevant daily pay calculated?

Relevant daily pay is clear in many cases, but if it’s not clear, the following calculation must be used:

$$\frac{a}{b}$$

where:

‘a’ is the employee’s gross earnings for:

- The 4 calendar weeks before the end of the last pay period immediately before the calculation is made; or
- Where the employee’s normal pay period is longer than 4 weeks, the pay period immediately before the calculation is made.

‘b’ is the number of whole or part days during which the employee earned the earnings in the 4 calendar weeks (or longer, as the case may be), including any day on which the employee was on paid annual or other leave, but

excluding any other day on which the employee did not work.

Example for full-time salaried work

The employee has a salary of \$40,000 per year, which divided by 52 equals \$769.23 (gross) per week.

She works 5 days per week, so her weekly pay is divided by 5, making her relevant daily pay \$153.85.

Examples for part-time salaried work

Example 1 - The employee works part-time and has a salary of \$30,000 per year, which divided by 52 equals \$576.92 (gross) per week. He works 4 days per week, Monday to Thursday, so his weekly pay is divided by 4, making his relevant daily pay \$144.23.

However, if the public holiday falls on a Friday, or he needed sick or bereavement leave on a Friday, he would not be entitled to his relevant daily pay because he doesn’t normally work on that day.

Example 2 - The employee works part-time and has a salary of \$30,000 per year, which divided by 52 equals \$576.92 (gross) per week. She works 6 hours per day, 5 days per week, so her weekly pay is divided by 5, making her relevant daily pay \$115.38.

Example for irregular hours

The employee’s daily pay varies because he is paid a piece rate, and is allowed to work as many hours as he wishes, so long as he works for at least 4 hours every weekday.

The end of the employee’s last pay period before Queen’s birthday (7 June) is 4 June.

From 7 May 2004 until 4 June 2004, the employee’s gross earnings were \$1650.

On 21 May, he took a day of unpaid leave.

The employee’s relevant daily pay would be as follows:

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$$\frac{1650}{19} = \$86.84$$

where:

'a' = \$1650 (gross earnings)

'b' = number of days during 4 calendar weeks (28), minus 8 non-work days (weekends), minus one day of unpaid leave = 19.

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