



EMPLOYER NEWS 2022

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PUBLIC HOLIDAY PAY

An employee must be paid for a day off on a public holiday if it falls on a day that the employee would otherwise have worked.



Employees who work on a public holiday are entitled to payment at one and a half times ordinary pay for that day (or more if agreed), as well as a 'Day in Lieu' (being any other day, as a day's paid Annual leave). This means they can take another day as a holiday and be paid for it.

Part time employees who work regularly on the same day as a public holiday are entitled to pay for that day in proportion to the number of hours they work at one and a half times ordinary pay.

ANNUAL HOLIDAY PAY

Employees are entitled to a minimum of 4 weeks paid leave for every 12 months of service. Holiday pay for annual leave is the greater of:

- The current ordinary weekly pay (excluding overtime), at the time the leave is taken; and
- The employee's average weekly gross earnings (including overtime) for the 12 months immediately before the end of the last pay period, before the annual holiday.

Holiday pay must be paid to the employee before they take leave, unless the employer and employee agree in writing that the normal pay cycle will continue undisturbed during the holiday.

For those of you who may still be making manual payroll calculations, you can check the amounts to be paid by using the holiday pay tool on the Ministry of Business, Innovation and Employment's website.

HYBRID WORK NOT ALL GAINS—STUDY

New research has revealed good news, and bad news, about working some of your week from home.

Hybrid workers are saving an average \$250 per week, or \$13,000 per year, according to a survey of 1,026 New Zealanders.



Lower commuting costs and avoiding the pricey process of buying lunch in the city generates most of the savings, said Garrett Heraty, the local Managing Director of networking giant Cisco, which commissioned a global study of some 28,000 workers across 27 countries (the research was commissioned by the tech giant, but carried out independently, and demographically weighted).

New Zealand respondents were saving around 15 percent more per week than the global average, Heraty said.

There were also gains in time, with the average hybrid worker regaining four hours. That time was spent with family, friends and pets, and the equivalent of two extra workouts a week, Heraty said—which fed into the survey's other major finding—77.4 percent said hybrid working has increased their overall wellbeing, and similar percentages said they were happier and had better work-life balance.

The bad news: Only 40.3 percent of New Zealand respondents said their stress levels had reduced, markedly less than the global average. And only a quarter find hybrid working more relaxing and the working environment less pressurised.

Source: NZ Herald

CONTENTS

- PUBLIC HOLIDAY PAY

- HYBRID WORK NOT ALL GAINS—STUDY

- EMPLOYMENT BREACHES COST \$28,000

- PREPARING FOR THE HOLIDAY SEASON

- MONDAYISATION AND HOW IT WORKS

- FAIR PAY AGREEMENTS

- CONVINCING PEOPLE OUT OF RETIREMENT

- SEASONAL STAFF

- DON'T DITCH YOUR PAPER CALENDAR

CONTACT US

Perriam & Partners
Unit 4, 35 Sir William Pickering Drive
PO Box 20 222, Christchurch 8543

Tel: 03 358 3108
Email: reception@perriams.co.nz
Visit us on the web: www.perriams.co.nz

EMPLOYMENT BREACHES COST CONVENIENCE STORE \$28,000

The Labour Inspectorate is reminding employers that they are required to keep accurate wages, time, holiday and leave records under the Employment Relations Act 2000 and Holidays Act 2003.

In a recent decision, the Employment Court has ordered the operator of a Greerton convenience store to pay arrears and penalties of more than \$28,000 following a Labour Inspectorate investigation into poor record keeping, holiday and leave breaches, and failure to pay the minimum wage.

Irrespective of the size of a business, it is crucial that employers understand the importance of accurately recording wages, time, holidays and leave, says Callum McMillan, Labour Inspectorate Regional Manager.

“Failure to keep complete and accurate records may have consequences for the employer, resulting in infringement notices or penalties,” says Mr McMillan.

“Correct record keeping helps employers and employees work through misunderstandings about pay and entitlements – and all employees have the right to access these records.”

Despite the store’s failure to keep proper records, the inspectorate was able to identify nearly \$20,000 in minimum wage and holiday pay arrears.

Source: employment.govt.nz

PREPARING FOR THE HOLIDAY SEASON

Despite changing times, wage subsidies and other Covid related effects in the workplace, New Zealand employment law, including the Employment Relations Act and Holidays Act, continues to apply to all employment relationships. Here, we remind you of your obligations for the upcoming Holiday Season.

PUBLIC HOLIDAY DATES

- Christmas and Boxing Day, Monday 26 and Tuesday 27 December 2022.
- New Year’s Day and the day after, Monday 2 and Tuesday 3 January 2023.

MONDAYISATION AND HOW IT WORKS



When public holidays fall on the weekend, they are often observed on the following Monday, or in some cases Tuesday.

When these holidays fall on a weekday, they are observed on the actual weekday. When they fall on a weekend it depends on whether your employee would usually work that day:

- If the employee would usually work on the weekend day, then the public holiday is observed on the actual day.
- If your employee doesn’t usually work on the weekend, then the holidays that fall on Saturday or Sunday are observed on the next non-holiday day instead.
- An employee who works on a public holiday (or a public holiday observed) should be paid time and a half for the hours worked. They’re also entitled to earn an alternative public holiday.

Check out the common employee scenarios below:

Scenario 1:

In this scenario, the employee normally works Saturday to Wednesday, and Christmas day falls on a Sunday.

If they work on the 25 and 26 of December, they should be paid time and a half for the hours worked. They’re also entitled to earn an alternative public holiday for both days.

December 27 will be a standard work day for them as their Christmas holiday was observed on the 25 December.

Scenario 2:

This employee doesn’t normally work weekends, but would usually work on Mondays and Tuesdays but isn’t because their office is closed.

In this scenario, Christmas day falls on Sunday, so it’s observed on Tuesday. So, this employee should be paid a statutory holiday taken for Monday and Tuesday.

The statutory holiday taken will enter automatically if your employee is on standard hours.

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FAIR PAY AGREEMENTS BECOME LAW

A new legislative framework governing the introduction of Fair Pay Agreements ("FPAs") which ushers in a new bargaining system in terms of industrial relations in New Zealand came into effect on 1 December 2022.

WHAT IS A FPA?

FPA's will require unions and employer associations to bargain for minimum terms of employment that would apply to all employees covered under a FPA in a particular industry or sector. If at least 25% of the tasks in an employee's role is covered by an FPA then they will fall wholly to be covered by the FPA (or more favourable terms). FPA's will be valid for 3 - 5 years in duration once in place, and if an employer fails to comply fines up to \$40,000 will apply.

WHAT'S THE PROCESS FOR APPLYING FOR A FPA?

According to Employment New Zealand the key step in establishing an FPA is via a union initiating the process by applying to the Chief Executive of the Ministry of Business, Innovation and Employment for approval to negotiate a Fair Pay Agreement for a specific occupation or industry. Applications can be lodged from 1 December 2022.

If an FPA application is approved, employee and employer bargaining sides may form, and the bargaining process begins. Once the bargaining sides agree, covered employees and employers can vote on whether they support the employment terms proposed and, if there is a majority (from both bargaining sides), the FPA will become operative and bind the parties as terms of employment.

FPA's will set minimum employment terms, and are required to include minimum terms of employment including:

- Defining work covered by an FPA;
- Provide for standard hours of work;
- Set minimum pay rates, including overtime & penalty rates;
- Provide for training and development initiatives;
- Provide for employee leave entitlements.

WHO CAN BARGAIN FOR A FPA?

Eligible unions and employer associations can bargain on behalf of employees covered by a proposed FPA, and also extend to including representing employees and employers who are not members of their respective organisations.

Source: employers.co.nz

CONVINCING PEOPLE OUT OF RETIREMENT

An Australian business owner has come up with a clever way to deal with a dire staff shortage and believes other businesses crying out for workers would be wise to follow suit.



Barry Iddles has convinced senior citizens to come out of retirement and work at the 360Q restaurant in Queenscliff, Victoria in Australia and his new grey-haired workers have the business booming.

Iddles said the idea came from his daughter. "She'd been travelling and said the only people working in the Outback were grey-haired nomads in their caravans working in reception, etc."

"I said, well, I'm gonna get home and I'm going to approach hitting the seniors market. So I had 42,000 postcards mailed out through Australia Post promoting our winter trade."

Iddles didn't want to waste the back of the postcard, so he decided to tailor his message to cover all age ranges. "I put on it 'Juniors', come and learn the art of hospitality. 'Millennials' come and show us what you can do, 'cause they know everything, and 'Seniors' come back to work for us for one or two shifts a week."

Iddles was rapt with the result. "Well, I got 12 seniors and they're absolutely fantastic. I managed to pick up a few juniors... The young and the old get on very well."

Over the winter the popular seaside restaurant does anywhere from 1,500 to 2,000 meals per week, and Barry said it hadn't been an issue that his senior staffers hadn't done hospitality before.

"None of these guys have got any hospitality experience at all, but they do have life skills and they took to it like a duck to water. The interaction between young and old is absolutely amazing. I would like to see everyone out here and in New Zealand become positive and proactive. Don't be frightened to hire the older generation, and don't be frightened to get the young ones in and train them up."

"Don't go around going 'There's no staff, there's no staff' because I guarantee if that's your attitude, you'll never get anyone."

Source: RNZ.co.nz

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EMPLOYMENT AGREEMENTS FOR SEASONAL STAFF



Christmas and New Year is a busy business time for some employers.

Many have to take on extra staff, usually on a fixed term or casual employment agreement, to keep up with customer demand.

Employers need to ensure that the employees are employed on the appropriate type of agreement, and that the minimum statutory requirements for that type of agreement are satisfied.

If the employee is to be used consistently during the busy time but will not be required once it is finished, a fixed term employment agreement is likely to be the most appropriate contract.

In this case, the employment agreement itself must state; when the employment agreement will end i.e. on a particular date or at the end of a particular project or season, the reason why the employment will end then; and the way in which the employment will end.

However, if the employee is only to be engaged on an "as and when required" basis and there is no expectation of work from one engagement to the next, then a casual employment agreement is likely to be the most appropriate contract.

For public holidays, if it is clear that a casual employee would have worked on that day (had it not been a public holiday), then they are entitled to be paid for that public holiday just like any other employee.

DON'T DITCH YOUR PAPER CALENDAR

Are you thinking of ditching paper calendars for staff in favour of digital? Consider the following first:

Mobile calendars, found on every smartphone, are quick and convenient to use. But a new study finds a significant downside.

In the first of three experiments, the researchers randomly divided participants into two groups, giving some of them monthly paper calendars and instructing the others to use their smartphone calendars. The participants were asked to copy any existing plans to their calendar and then schedule two additional events: a study session and a leisure activity. Email surveys two weeks later showed that 52% of those with paper calendars had followed through in attending the added events, versus just 33% of those using digital calendars.

In the second experiment, participants about to embark on a home improvement project were asked to enter the relevant activities into a paper or a mobile device. All participants then indicated the extent to which the planning process helped them see a big picture of upcoming events and rated their plans on characteristics including concreteness, feasibility and overall effectiveness. The people with paper calendars reported the strongest sense of seeing a big picture.

The third experiment reinforced the finding that people using paper calendars were more likely than digital calendar users to carry out their scheduled activities, and it showed that this happened because they were better able to take a big picture view of their plans.

Source: Harvard Business Review, Sept—Oct 2022



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