



The Human Resources Specialists

November 2009
HR KNOWHOW
WHAT'S NEW

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Leave – closedown, entitlement and calculations

Annual leave / closedown

With Christmas around the corner, employers need to be planning annual leave requirements for this period.

Where an employer's business is open over the Christmas period the employer needs to assess the staffing requirements based on the operational requirements of the business. Annual leave requests from employees who have a leave entitlement available will need to be accepted or declined accordingly.

Where a Company or Organisation closes down over the Christmas period an employer can require employees to take annual leave at this time. Employers must give employees 14 days notice of this requirement in writing. We attach a template for the closedown advice.

Annual leave calculation / payment during closedown

For the purposes of clarification annual leave is accrued throughout the year, but the entitlement to take that leave does not occur until the employee has completed 12 months of employment.

Calculation of pay for annual leave when employee has annual leave entitlement

Where an employee is entitled to and takes annual leave, the employer must calculate annual leave pay;

- for the agreed portion of the annual leave entitlement; and
- at a rate based on the greater of:
 - the employee's ordinary weekly pay as at the beginning of the annual leave; OR
 - the employee's average weekly earnings for the 12 months immediately before the end of the last pay period before the annual leave

For those employees who do not have annual leave entitlement at the time of the closedown there are two options for the employer for the treatment of leave during this period:

1. Payment of 8% of the employee's gross earnings and re-setting the employee's anniversary date, OR
2. Leave in advance or unpaid leave

1. Payment of 8% of an employee's gross earnings and re-setting the employee's anniversary date

Where an employer closes down in December 2009 and an employee has not worked the first full 12 months of continuous employment, an option for the employer is to pay the employee 8% of his/her gross earnings, less any annual leave taken in advance since the commencement of employment until the commencement of the closedown.

The date of the closedown, or the date nominated by the employer reasonably proximate to the closedown date, becomes the new annual leave anniversary date. The employee would then, at the next closedown in December 2010, be entitled to annual leave of 4 weeks (less any annual leave taken in advance during the year).

The balance of the period of the closedown is taken as unpaid leave.

2. Leave in advance or unpaid leave

- Where an employee has not worked a full 12 months of continuous employment as at the date of the closedown the employer may elect to either re-set the anniversary date and pay 8% as above, or choose to treat the period as annual leave in advance.

- Where an employee has completed at least 12 months of continuous employment but has exhausted some or all of his/her annual leave entitlement as at the date of the closedown, therefore having insufficient annual leave to cover the entire period, the employee must take any annual leave entitlement owing at this time.

For the remaining period of the closedown the employer and employee may agree that the employee is to take the balance of the period as either:

- annual leave in advance (to be off-set against the annual leave entitlement when it arises), OR
- unpaid leave.

Calculation of paid annual leave if taken in advance

If an employee takes paid annual leave in advance the employer is to calculate the agreed portion of paid annual leave as follows;

- at a rate that is based on the greater of;
- the employee's ordinary weekly pay as at the beginning of the annual leave; OR
- the employee's average weekly earnings for

(a) the 12 months immediately before the end of the last pay period before the annual leave if the employee has worked for the employer for not less than 12 months; OR

(b) the period of employment before the end of the last pay period before the annual leave if the employee has worked for the employer for less than 12 months

Public holidays

If Public Holidays fall during a period an employee is on annual leave and on a day the employee would otherwise have worked, the Public Holidays are to be treated as paid Public Holidays, and not taken as an annual leave day.

Where an employee is not required to work on a Public Holiday that would have otherwise been a normal working day, that employee is paid at the ordinary time rate for that day. Where an employee is required to work on a Public Holiday that would have otherwise been a working day for the employee, the employee shall receive time and one half for time actually worked and also becomes entitled to an alternative holiday. Payment for a Public Holiday is to be calculated using the relevant daily pay for that employee.

Because Boxing Day and 2 January fall on a Saturday over this Christmas period, these Public Holidays will be observed:

- on the Saturday for an employee who would normally work on a Saturday, OR
- on the following Monday for an employee who would normally not work on a Saturday

Casual employees

Casual employees are treated differently under the Act because holiday pay is paid as an identifiable component of the wages or at the conclusion of the casual engagement. Entitlement to a Public Holiday only occurs if the Public Holiday falls on a day that would have otherwise been a working day for that employee. This would apply only if the casual employee's usual work pattern or roster, or where a casual employee is employed for a period of casual employment, would have required that employee to have otherwise worked on the day the Public Holiday falls.

If you require assistance with annual leave calculations, or have any queries relating to the matters outlined in our Newsletter please call us on **09 377 9891** or email kh@knowhow.co.nz.

Referrals

We are very grateful to our clients who provide us with referrals and it is a key part of our business growth. If you know of a business owner or manager who needs expert HR advice we hope you will consider referring them to us.

Kind regards

Sylvia Wood

MEMORANDUM

Date:

To: All Employees

From:

Subject: Annual Leave / Closedown Requirements

We confirm that the Company will closedown for the period fromuntiland advise that you will be required to take annual leave during this period.

During the closedown there are 4 public holidays. If these public holidays are normal working days for you, you will be paid for them.

If you have been employed for less than 12 months you will be paid 8% of your gross earnings up to the date of the closedown.

For employees who do not have full entitlement to annual leave for the period of the closedown the Company may grant paid annual leave in advance.

Please complete an application for annual leave form (attached) outlining your intention to take leave during the Christmas/New Year period byand return this to me.

If you have any queries please raise these with me.

Regards

Employer

LEAVE APPLICATION

Name:		Position:	
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Date of Application:		Manager:	
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Type of Leave Requested

Annual Sick Bereavement Other

The employee requests that the sick leave is to be treated as annual leave
(only where sick leave has been exhausted)

Is this leave in advance? Yes/No

The employee acknowledges and agrees that where he/she has requested this leave be taken in advance of his/her entitlement arising, and his/her employment is terminated, the employee authorises the employer to deduct from his/her final pay such leave taken in advance that has not been offset by his/her future leave entitlement. Should the deduction not cover all such monies owing, the employee agrees to enter into an arrangement for repayment with the employer.

	Day	Month	Year	Number of Working Days
First Working Day				
Last Working Day				

Where applicable:

Sick leave reason:

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Doctors Certificate Attached:

Bereavement Leave - Relationship with person deceased:

Other leave:

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Employee's Signature		Date	
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Approval

Yes No
 With pay Without pay

Manager's / Employer's Signature		Date	
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