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Payroll Practitioners
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Holidays Act 2003

Alternative Holidays



When Payment for Public Holiday Must Be Made

Section 55. When payment for public holiday must be made

An employer must pay an employee for a public holiday in the pay that relates to the pay period in which the holiday occurs.

Alternative Holiday Must Be Provided If Employee Works on Public Holiday

Section 56. Alternative holiday must be provided if employee works on public holiday—

(1) An employee is entitled to another day's holiday (an "alternative holiday") instead of a public holiday if—

- (a) the public holiday falls on a day that would otherwise be a working day for an employee; and
- (b) the employee works (in accordance with his or her employment agreement) on any part of that day.

(2) If subsection (1) applies, an employer must—

- (a) provide the employee with an alternative holiday; and
- (b) pay the employee for working on the public holiday in accordance with section 50.

(3) The entitlement to an alternative holiday remains in force until—

- (a) the employee has taken the holiday; or
- (b) the employee has been paid for the holiday in accordance with section 60(2) or section 61.

(4) An employee is not entitled to an alternative holiday under this section if the employee works for the employer only on public holidays.



To determine an otherwise working day for an employee when not clear Section 12 must be used.

12 Determination of what would otherwise be working day

(1) This section applies for the purpose of determining an employee's entitlements to a public holiday, an alternative holiday, to sick leave, to bereavement leave, or to family violence leave.

(2) If it is not clear whether a day would otherwise be a working day for the employee, the employer and employee must take into account the factors listed in subsection (3), with a view to reaching agreement on the matter.

(3) The factors are—

(a) the employee's employment agreement:

(b) the employee's work patterns:

(c) any other relevant factors, including—

(i) whether the employee works for the employer only when work is available:

(ii) the employer's rosters or other similar systems:

(iii) the reasonable expectations of the employer and the employee that the employee would work on the day concerned.

(d) whether, but for the day being a public holiday, an alternative holiday, or a day on which the employee was on sick leave or bereavement leave or family violence leave, the employee would have worked on the day concerned.



Requirements of Alternative Holiday

57 Requirements of alternative holiday

(1) An alternative holiday provided under [section 56](#) must—

- (a) be taken by the employee on a day that is agreed between the employer and employee; and
- (b) be a day that would otherwise be a working day for the employee; and
- (c) be a whole working day off work for the employee, regardless of the amount of time the employee actually worked on the public holiday; and
- (d) not be taken on a public holiday.

(2) If an employer and employee cannot agree under subsection (1)(a) on when an alternative holiday is to be taken, the day must be taken on a date determined, on a reasonable basis, by the employer.

(3) If subsection (2) applies, the employer must give the employee at least 14 days' notice of the requirement to take the alternative holiday.



Payment for alternative holiday

60. Payment for alternative holiday—

- (1) An employer must pay an employee not less than the employee's relevant daily pay for the day which is taken as the alternative holiday.
- (2) Payment for an alternative holiday must be made—
 - (a) in the pay that relates to the pay period in which the alternative holiday is taken; or
 - (b) if the employee has not taken the alternative holiday before the date on which his or her employment ends,—
 - (i) at the rate of the employee's relevant daily pay for his or her last day of employment; and
 - (ii) in the pay that relates to the employee's final period of employment.

Alternative Holiday May Be Exchanged For Payment

Section 61. Alternative holiday may be exchanged for payment—

- (1) An employee may request the employer to exchange the employee's entitlement to an alternative holiday for a payment.
- (2) A request under subsection (1)—
 - (a) may be made only if 12 months have passed since the employee's entitlement to the alternative holiday arose; and
 - (b) may be made whether or not the employee has been required to take the alternative holiday under section 58.
- (3) If the employer agrees to the employee's request, the employer must pay the employee the amount agreed between the employer and the employee in exchange for the alternative holiday.
- (4) The employer must make the payment for the alternative holiday as soon as practicable after the employer has agreed under subsection (3).