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Payroll Practitioners  
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## Holidays Act 2003

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## 16 Entitlement to annual holidays

(1) After the end of each completed 12 months of continuous employment, an employee is entitled to not less than 4 weeks' paid annual holidays.



## **(2) For the purposes of subsection (1), the 12 months of continuous employment—**

- (a) includes any period during which the employee was—
  - (i) on paid holidays or leave under this Act (for example, family violence leave); or
  - (ii) on parental leave under the Parental Leave and Employment Protection Act 1987; or
  - (iii) on volunteers leave within the meaning of the Volunteers Employment Protection Act 1973; or
  - (iv) receiving weekly compensation under the Accident Compensation Act 2001 or former Act as well as, or instead of, payment from the employer; or
  - (v) on unpaid sick leave or unpaid bereavement leave or unpaid family violence leave; or
  - (vi) on unpaid leave for any other reason for a period of no more than 1 week; but
- (b) unless otherwise agreed, does not include any other unpaid leave, being leave other than that referred to in paragraph (a)(v) and (vi).



(3) If, for the purposes of subsection (2)(b), an employer and employee agree that any period of unpaid leave of more than 1 week is to be included in the employee's 12 months of continuous employment, the divisor of 52 to be used for the purposes of calculating the employee's average weekly earnings must be reduced by the number of whole or part weeks greater than 1 week that the employee was on the unpaid leave.



## 17 How employee's entitlement to annual holidays may be met

(1) An employer and employee may agree on how an employee's entitlement to 4 weeks' annual holidays is to be met based on what **genuinely constitutes a working week for the employee**.

(2) If an employer and employee cannot agree on how an employee's entitlement to 4 weeks' annual holidays is to be met, a Labour Inspector may determine the matter for them.

(3) In making a determination, the Labour Inspector may take into account any matters that the Labour Inspector thinks fit, including the matters specified in section 12(3).



## Section 18 Taking of annual holidays

- (1) An employer must allow an employee to take annual holidays within 12 months after the date on which the employee's entitlement to the holidays arose.
- (2) If an employee elects to do so, the employer must allow the employee to take at least 2 weeks of his or her annual holidays entitlement in a continuous period.
- (3) When annual holidays are to be taken by the employee is to be agreed between the employer and employee.
- (4) An employer must not unreasonably withhold consent to an employee's request to take annual holidays.



## 19 When employee may be required to take annual holidays

(1) An employer may require an employee to take annual holidays if—

(a) the employer and employee are unable to reach agreement under section 18(3) as to when the employee will take his or her annual holidays; or

(b) section 32 (which relates to closedown periods) applies.

(2) If subsection (1) applies, an employer must give the employee not less than 14 days' notice of the requirement to take the annual holidays.