New Zealand Payroll Practitioners Association
Developing and Supporting Payroll Professionals

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Calculation to use for: Sick, Bereavement, Alternative, Public and Family Violence

- Section 9 Meaning of relevant daily pay
- Section 9A Average daily pay

Section 9 Meaning of relevant daily pay

(1) In this Act, unless the context otherwise requires, **relevant daily pay**, for the purposes of calculating payment for a public holiday, an alternative holiday, sick leave, bereavement leave, or family violence leave,—

(a) means the amount of pay that the employee would have received had the employee worked on the day concerned; and

(b) includes—

(i) productivity or incentive-based payments (including commission) if those payments would have otherwise been received had the employee worked on the day concerned:

(ii) payments for overtime if those payments would have otherwise been received had the employee worked on the day concerned:

(iii) the cash value of any board or lodgings provided by the employer to the employee; but

(c) excludes any payment of any employer contribution to a superannuation scheme for the benefit of the employee.

(2) However, an employment agreement may specify a special rate of relevant daily pay for the purpose of calculating payment for a public holiday, an alternative holiday, sick leave, bereavement leave, or family violence leave if the rate is equal to, or greater than, the rate that would otherwise be calculated under subsection (1).

(3) To avoid doubt, if subsection (1)(a) is to be applied in the case of a public holiday, the amount of pay does not include any amount that would be added by virtue of section 50(1)(a) (which relates to the requirement to pay time and a half).

Section 9A Average daily pay

(1) An employer may use an employee’s average daily pay for the purposes of calculating payment for a public holiday, an alternative holiday, sick leave, bereavement leave, or family violence leave if—

> (a) it is not possible or practicable to determine an employee’s relevant daily pay under section 9(1); or
>
> (b) the employee’s daily pay varies within the pay period when the holiday or leave falls.

(2) The employee’s average daily pay must be calculated in accordance with the following formula:

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

where—

> a is the employee’s gross earnings for the 52 calendar weeks before the end of the pay period immediately before the calculation is made
>
> b is the number of whole or part days during which the employee earned those gross earnings, including any day on which the employee was on a paid holiday or paid leave; but excluding any other day on which the employee did not actually work.

(3) To avoid doubt, if subsection (2) is to be applied in the case of a public holiday, the amount of pay does not include any amount that would be added by virtue of section 50(1)(a) (which relates to the requirement to pay time and a half).