NZPPA:
Holidays Act 2003 Calculations

Holidays Act 2003

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There are five main leave entitlements under the act, they are:

- **Annual Holidays** (4 weeks of annual leave)
- **Public Holidays** (11 public holidays)
- **Sick Leave** (5 days after 6 months)
- **Bereavement Leave** (3 days for close family members, 1 day for everyone else)
- **Alternative Holidays** (for working on a public holiday that is an otherwise working day)

Gross Earnings

This is the main area where mistakes are made because there are different periods of gross earnings that are being used in the different calculations under the act.

The periods are:

- 12 months taken for the last pay period back 52 weeks.
- 4 weeks taken from the last pay period back 4 weeks.
- From start date to end date (less that 12 months)
- From last entitlement date to end date (less than 12 months)
- If there is special standard pay cycle different to above then gross earnings can be also taken for that period.

Gross Earnings

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Section 14

- Gross earnings, in relation to an employee **for the period during which the earnings are being assessed**, means all the payments that the employee is required to pay under the employee's employment agreement

Discretionary payments

discretionary payment—

(a) means a payment that the employer is not bound, by the employee's employment agreement, to pay the employee; but

(b) does not include a payment that the employer is bound, by the employee's employment agreement, to pay the employee, even though—

(i) the amount to be paid is not specified in that employment agreement and the employer may determine the amount to be paid; or

(ii) the employer is required under that employment agreement to make the payment only if certain conditions are met.

What types of bonuses go into different Annual Holidays calculation?

		Example	Answer
Ordinary weekly pay	Is the bonus payment paid in a four week period, period after period?	Monthly bonus	Include in gross earnings (Four week rule)
	Is the bonus payment paid every quarter?	Quarterly bonus	No not included in gross earnings
Average weekly earnings	Is the bonus payment paid in the 12-month period?	Annual bonus	Include in gross earnings
	Is the bonus payment paid every quarter?	Quarterly bonus	Include in gross earnings
8% Gross earnings	Is the bonus paid on termination?	Paid on termination	Would be included in gross earnings

Annual Holidays Calculations

There are three calculations used to calculate annual holidays payment. The three calculations apply to five different situations.

The calculations are:

- Average Weekly Earnings
- Ordinary Weekly Pay
- 8% of Gross Earnings

Average Weekly Earnings

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Section 5. Interpretation
(1) In this Act, unless the context otherwise requires,—
"average weekly earnings" means 1/52 of an employee's gross earnings

Example:

Gross earnings

Divisor (52 Weeks)

Worked example:

$52,000

52

= $1000

Ordinary weekly pay

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Section 8

- Ordinary weekly pay is used for the purposes of calculating annual holiday pay

Ordinary weekly pay

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- **Means the amount of pay that an employee receives under his or her employment agreement for an ordinary working week.**

- This includes

  - Productivity or incentive-based payments (including commission) if those payments are a regular part of the employee's pay; and
  - Payments for overtime if those payments are a regular part of the employee's pay; and
  - The cash value of any board or lodgings provided by the employer to the employee.

OWP – 4 week

(2) If it is not possible to determine an employee's ordinary weekly pay under subsection (1), the pay must be calculated in accordance with the following formula:

$$\frac{a - b}{c}$$

where—

a is the employee's gross earnings for—

(i) the 4 calendar weeks before the end of the pay period immediately before the calculation is made; or

(ii) if, the employee's normal pay period is longer than 4 weeks, that pay period immediately before the calculation is made

b is the total amount of payments described in subsection (1)(c)(i) to (iii)

c is 4.

8% of Gross Earnings

The 8% calculation is done for accrual in regard to the following situations:

- On termination (**before completing 12 months**)
- On termination (**from last entitlement date to end date after 12 months**)
- **Pay as you go** (fix term less than 12 months or a casual)
- **Closedown** (cashing up from start date to start of closedown)

Calculation of annual holiday pay

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Section 21

- Annual holiday pay must be –
  - For the agreed portion of the annual holidays entitlement; and
  - At the rate that is based on the greater of –
    - The employee's **ordinary weekly pay** as at the beginning of the annual holiday; or
    - The employee’s **average weekly earnings** for the 12 months immediately before the end of the last pay period before the annual holiday

Holiday in advance

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Section 22

Must be paid at the greater of:

- The employee's ordinary weekly pay as at the beginning of the annual holiday; or
- The employee's average weekly earnings for:
  - The 12 months immediately before the end of the last pay period before the annual holiday if the employee has worked for the employer for 12 months or more; **or**
  - The period of employment before the end of the last pay period before the annual holiday if the employee has worked for the employer for less than 12 months.

Employment Ends Within 12 Months

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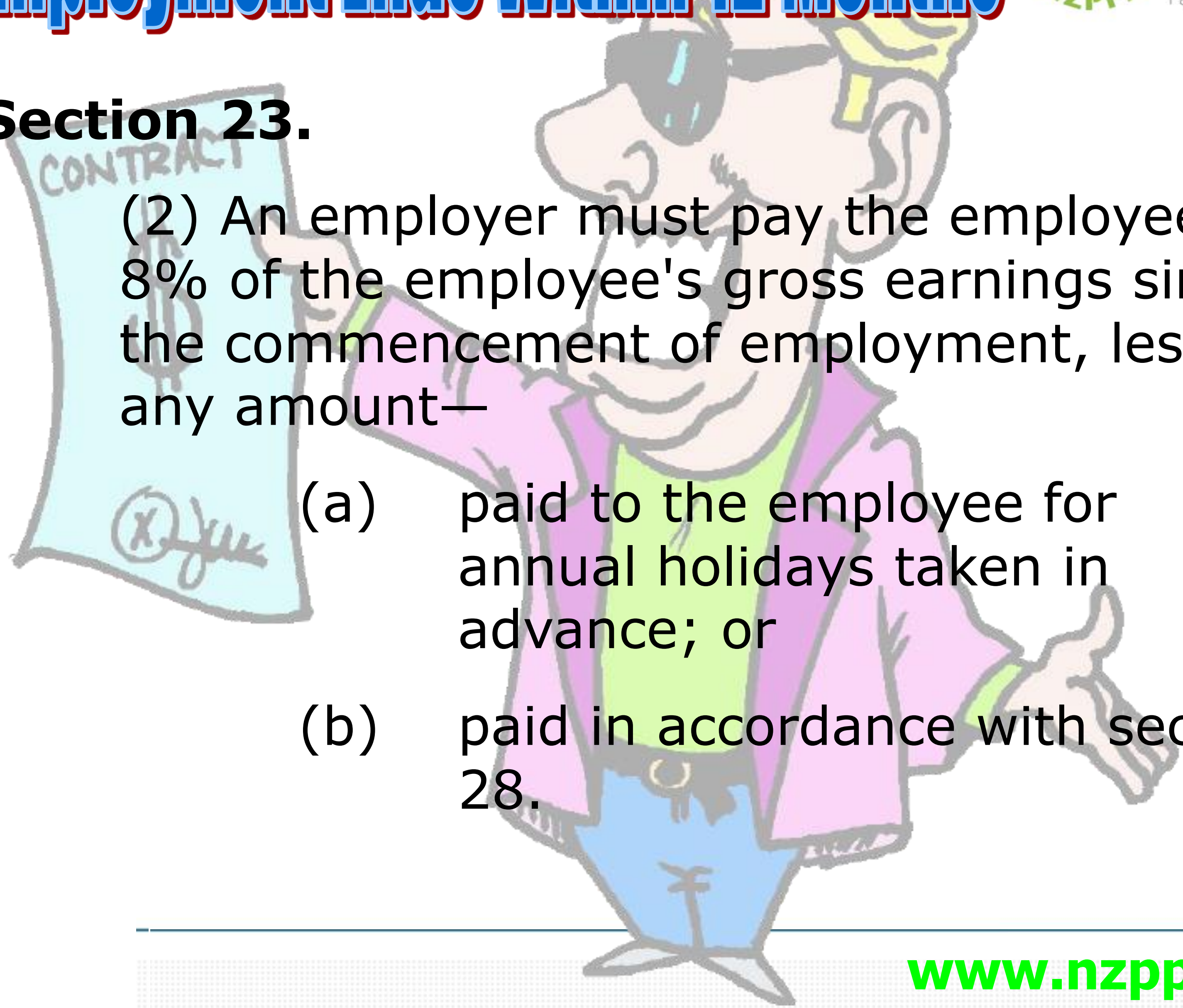

Section 23.

(2) An employer must pay the employee 8% of the employee's gross earnings since the commencement of employment, less any amount—

(a) paid to the employee for annual holidays taken in advance; or

(b) paid in accordance with section 28.

Annual Holiday Pay If Employment Ends

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Section 24.

(2) An employer must pay the employee for the portion of the annual holidays entitlement not taken at a rate that is based on the greater of—

(a) the employee's ordinary weekly pay as at the date of the end of the employee's employment; or

(b) the employee's average weekly earnings during the 12 months immediately before the end of the last pay period before the end of the employee's employment.

Before Further Entitlement Has Arisen

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Section 25

(2) An employer must pay the employee 8% of the employee's gross earnings since the employee last became entitled to the annual holidays, less any amount—

(a) paid to the employee for annual holidays taken in advance; or

(b) paid in accordance with section 28.

Section 24,25,26 - Holiday pay on holiday pay

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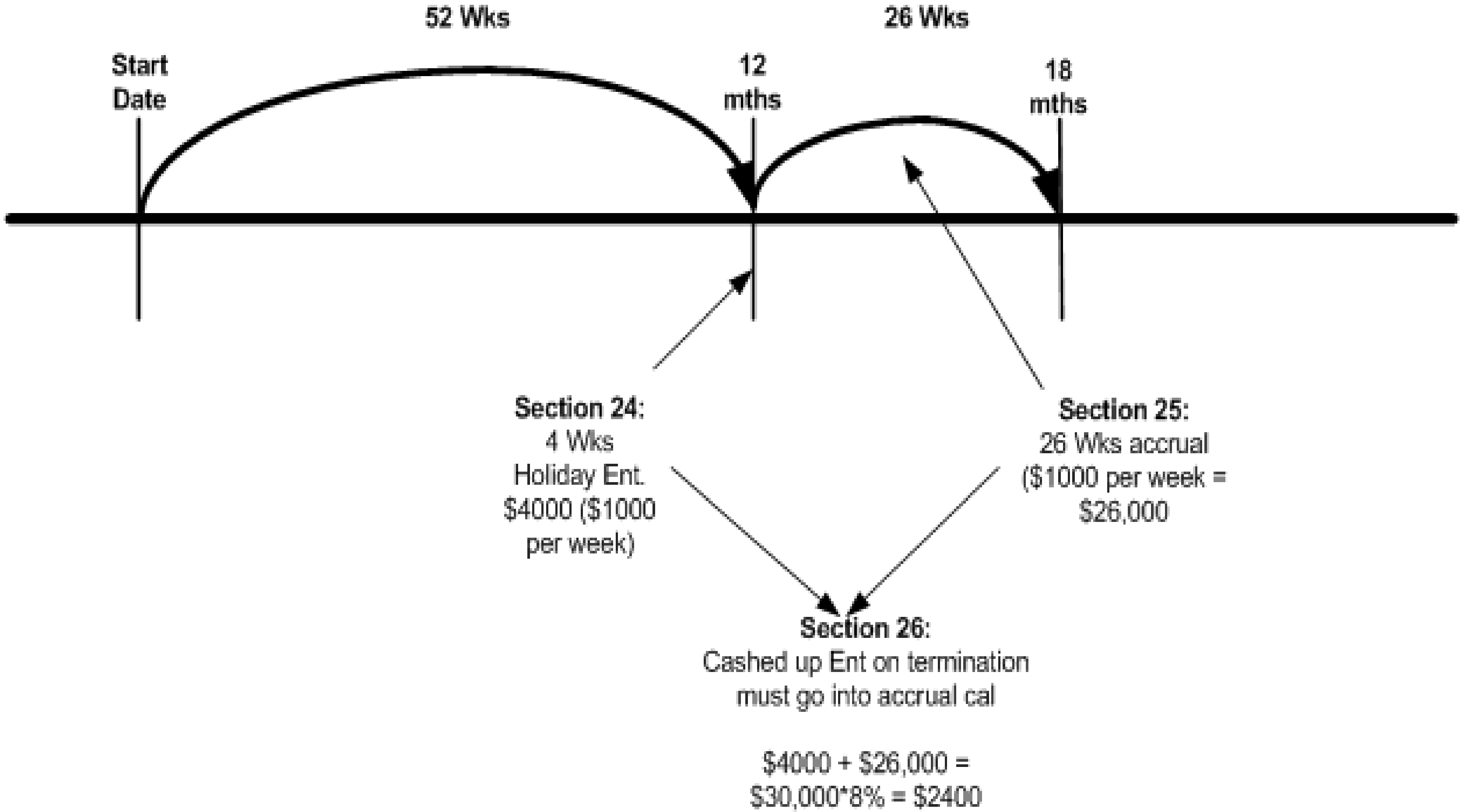

Relevant daily pay

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Section 9

- Relevant daily pay, for the purposes of calculating payment for a public holiday, alternative holiday, sick leave, or bereavement leave, means the amount of pay that the employee would have received had the employee worked on the day concerned.

Relevant daily pay

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It includes:

- Productivity or incentive-based payments (including commission) if those payments would have otherwise been received on the day concerned; and
- Payments for overtime if those payments would have otherwise been received on the day concerned; and
- The cash value of any board or lodgings provided by the employer to the employee

S9A Average daily pay

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(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, or bereavement 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.

Average Daily Pay

(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.

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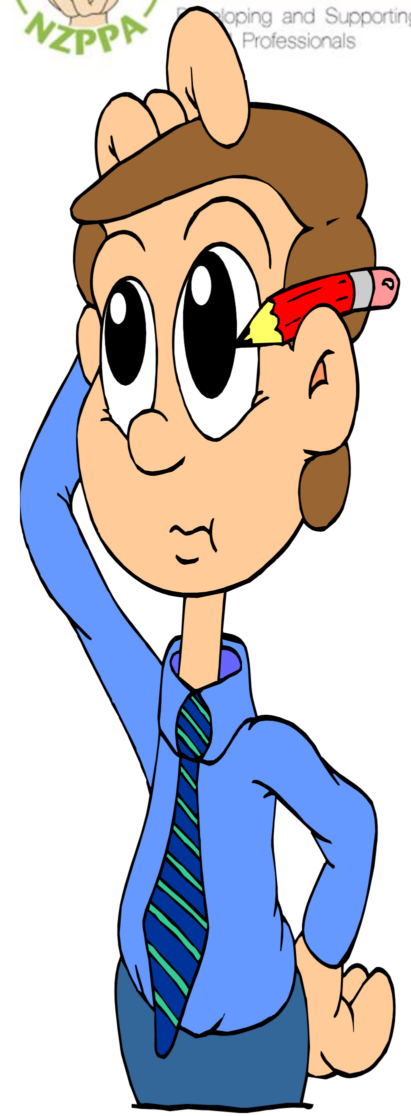
Questions??



Please email questions to : paytech@nzppa.co.nz