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GlobalG.A.P. GRASP V2

New Zealand Supplementary Information and Glossary

Purpose

This document is intended to be provide supplementary information and explanations to the formal GlobalG.A.P. GRASP V2 National Interpretation Guidelines (NIG) and GRASP V2 Points and Criteria within the New Zealand context.

Document Control

Version	Changes Made	Author	Date published
V1.0	New document	Karen Morrish	31 July 2023
V1.1	Annual Review - Updates to broken links section 4, 6, 7, 8. - Additional resource links to section 3, 4, 5, 6, 8, 10, 11, 12, 13. - Section 8, update to the Fair Pay Agreement Legislation. - Update section 12 title. - Additional Important Information; update broken links and additional resource links.	NZ-NTWG Technical Officer	30 September 2024

Disclaimer

This document endeavours to interpret and present guidance information correctly at the time of publication (July 2023). Regulations and market requirements are subject to change (e.g. minimum wage) and will not be incorporated into these guidelines until the next version of GRASP is published. It remains the responsibility of the grower to ensure that they are working to the latest regulations in New Zealand.

GRASP SECTIONS

GENERAL

These two points are relevant for the entirety of the GRASP V2. NIG.

- **Record storage times**
 - Employment records must be kept for six (6) years, records kept for IRD purposes must be retained for seven (7) years.
- **Privacy Act 2020 requirements for all records**
 - All Employers must develop a Privacy Policy and make this available to all employees. It is recommended that additional communications (e.g. posters) are used to raise awareness of the policy.
 - The auditor must ensure that a Privacy Policy is in place before conducting the audit. If it not in place, then the audit will be abandoned given the privacy risks.
 - It is also recommended that businesses complete a privacy impact assessment available on the Privacy Commissioner website (<https://privacy.org.nz/responsibilities/privacy-impact-assessments/>)
 - All data containing personal information or unique identifiers must also be stored in accordance with the Privacy Act (Principle 5).
 - A Person may not be identifiable to others.

SECTION 1: Right of Association and Representation

- **Union registration**

Unions can register via this process: <https://www.companiesoffice.govt.nz/all-registers/registered-unions/registering-as-a-union>
- **Labour Contractors**

A list of registered contractors can be found on the NZ GAP website ([NZGAP Contractor Register](#)) or via Zespri's C.A.V. standard (<https://industry.zespri.com/contractors/>)

SECTION 2: GRASP Worker Representation

No supplementary information.

SECTION 3: Complaint Progress

- **Employment Agreements**
 - These are required to detail the steps that will be taken to resolve problems, including the 90 period within which a Personal Grievance must be filed within: <https://www.employment.govt.nz/starting-employment/hiring/trials-and-probationary-periods>
- Employment New Zealand sets out the steps to take to resolve problems, this includes mediation, the labour inspectorate and records of settlement.
- Any information kept on complaints must be recorded and stored in accordance with the Privacy Act 2020 (Privacy Principle 5) and kept for six years.

SECTION 4: Producer's Human Rights Policies

- New Zealand was a founding member of the International Labour Organisation (www.ilo.org). Ratification to the principles can be found at: <https://www.mbie.govt.nz/assets/0a9265ba54/international-labour-conventions-ratified-by-nz.pdf>
- Human Rights Act 1993: <https://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304475.html>
- New Zealand Bill of Rights Act 1990: <https://www.legislation.govt.nz/act/public/1990/0109/latest/DLM224792.html>

SECTION 5: Access of Labor Regulation Information

- “Know your employee rights” information is available for employees (starting employment, hours and wages, minimum rights, leave and holidays, workplace policies, resolving problems and ending employment) at <https://www.employment.govt.nz/starting-employment/rights-and-responsibilities/employee-rights-and-responsibilities>
- Translated pages are available in these languages: Māori, Arabic, Chinese, Cook Islands Māori, Fijian, French, German, Gujarati, Hindi, Japanese, Korean, Niuean, Punjabi, Samoan, Spanish, Tagalog, Thai, Tongan and Vietnamese
- New law to protect migrant workers: <https://www.employment.govt.nz/news-and-updates/new-law-to-protect-migrant-workers>
- Changes to migrant exploitation protection work visas: <https://www.immigration.govt.nz/about-us/media-centre/news-notifications/changes-to-the-migrant-exploitation-protection-work-visa>

SECTION 6: Terms of Employment Documents and Forced Labour Indicators

- What an **Employment Agreement** must be included in all agreements by law, a full and up to date list can be found at <https://www.employment.govt.nz/starting-employment/employment-agreements/creating-an-employment-agreement>
- The MBIE Employment Builder Tool; <https://eab.business.govt.nz/employmentagreementbuilder/startscreen/>
- An Employment Agreement must also be signed by both parties.
- Accepted documentation to prove eligibility to work within New Zealand is a NZ passport or an overseas passport with the appropriate visa which can be verified at VisaView on the INZ website: <https://www.immigration.govt.nz/about-us/our-online-systems/visaview>
- A New Zealand drivers' licence may also be another form of photo identification acceptable for confirming certain details
- The legitimacy of contractors can be checked on the following places:
 - NZ Companies Register
 - CAV status (as detailed in Section 1)
 - NZGap contractor status (as detailed in Section 1)
- A business should also check with the Employment Courts for any Employment Relations Act breaches; https://www.employmentcourt.govt.nz/judgments/decisions/?Filter_Jurisdiction=17

or on the stand-down list <https://www.employment.govt.nz/starting-employment/hiring/employers-on-stand-down> and <https://www.immigration.govt.nz/employ-migrants/your-responsibilities-and-obligations/law-immigration-employment/immigration-law/immigration-stand-down-list>

- Employers must have a valid Accredited Employer Work Visa (AEWV) accreditation from 2024 onwards (<https://www.immigration.govt.nz/employ-migrants/new-employer-accreditation-and-work-visa>)
- All Employment Agreements must be in writing and acknowledged by both parties
- Employment Agreements must be given to a prospective employee before employment commences (a proposal for employment). The employee is then given sufficient time to take the agreement away, read it, obtain external advice if necessary, before signing and returning. Only then can employment commence (as per the Employment Relations Act 2000. Section 64(2)).
- A Job Description (as detailed in the Employment Agreement) should not be basic, it must be appropriate to the role and tasks reflecting the duties that the employee will carry out. It may also contain a broad statement such as “and any other reasonable instruction....”
- Other useful information sources:
 - MBIE Fact Sheet: <https://www.employment.govt.nz/tools-and-resources/> (Working Arrangements)
 - Employment NZ: <https://www.employment.govt.nz/fair-work-practices/flexible-work>

SECTION 7: Payments

- Inland Revenue states that **wage information kept** must include: Total gross earnings (before PAYE is deducted), amount of earnings not liable for ACC earner levy, amount of PAYE deducted, donations or tax credits, child support or student loan deductions, KiwiSaver employee deductions and gross employer contributions, other superannuation contributions, ESCT (Employer Superannuation Contribution Tax), any employee share scheme (ESS), value of tax-free reimbursing allowances, any advanced pay, any personal service rehabilitation payments, any extra pay that’s taxed at less than 17.5c in the dollar.
- Employers must be able to prove that piece rates equate to at least minimum wage payments with the averaging period of work completed being no longer than a fortnight (14 days). The calculation must be understandable by both the employer and employee. There must be evidence of the correct payment of piece rates and must apply to employees and workers (contracted or sub-contracted).
- There is no legislative requirement for payslips to be provided or kept, but it is an Employees right (as per the Privacy Act 2020) to view their own records (Principle 6)
- Templates for wages and time record sheets (including piece rates) are available on the MBIE website: <https://www.employment.govt.nz/starting-employment/rights-and-responsibilities/record-keeping>
- Other useful information sources:
 - <https://www.ird.govt.nz/managing-my-tax/record-keeping>

SECTION 8: Wages

- **Wage and time records** must include the following:

name, postal address, age (if under 20), date that work started, employment agreement type (individual or collective), signed copy of the agreement, type of work employed for number of hours worked each day and pay for each of those hours, any additional hours worked (for those on salary), any employment relations education taken, wages paid in each pay period and how they have been calculated, dates of becoming entitled to annual holidays, sick leave, bereavement, family violent leave and current entitlement levels dates of any leave taken (inc. annual, sick, bereavement and family violence) with payment received for each, date and amount of payment and the portion of any paid out annual holidays, dates and numbers of hours worked on public holidays and payment for these the date (24-hour period) the public holiday/part of is transferred to and the date the employee became entitled to any alternative holiday, dates of/payments for public or alternative holidays that weren't worked but were entitled to holiday pay, cash value of any alternative holidays exchanged for payment, cash value for any board/lodgings provided date when employment ended, amount of holiday pay received at end of employment, and copy of their tax code declaration (IR330)

- Additionally, employers records should also include:
 - Records of all wage deductions, such as PAYE/student loan/superannuation/other agreed deductions, dates that any extra provisions in employees' employment agreements take effect, evidence of compliance with H&S responsibilities, evidence of rest and meal breaks provided (or compensation for those)

<https://www.employment.govt.nz/hours-and-wages/breaks/rest-and-meal-breaks>, ICE contact details (In Case of Emergency), employee's bank details if this payment method has been agreed to, details or work permits, if applicable.
- **Collective agreements** detailed should show the title and expiry date of the agreement and the employee's classification.
- Wage and time records must also demonstrate that the minimum hourly rate was earned for each hour worked.
- Overtime is on a voluntary basis (the employee agrees to it) and it is paid at least at the minimum wage rate.
- **Public Holidays**

<https://www.employment.govt.nz/leave-and-holidays>

Employees get a paid day off on public holidays if it's a day they would normally work. If the employee ends up working on the public holiday, they are paid at least time and a half and get an alternative day off. Where a public holiday falls on a Saturday or Sunday, and the employee doesn't normally work on that day, the public holiday is "Mondayised" and moved to the following Monday (or in some cases the Tuesday).
- Holidays Act 2003. Section 50. Employer must pay employee at least time and a half for working on public holiday.
- ~~The Fair Payment Agreements system brings together unions and employer associations within a sector to bargain for minimum employment terms for all covered employees in an industry or occupation. The Fair Pay Agreements dashboard details at which stage agreements are (national): <https://www.mbie.govt.nz/business-and-employment/employment-and-skills/fair-pay-agreements/fpa-dashboard>~~
- The Fair Pay Agreements Act Repeal Act received Royal assent on 19 December 2023 and came into force on 20 December 2023. This Act repeals the Fair Pay Agreements legislation:

<https://www.mbie.govt.nz/business-and-employment/employment-and-skills/fair-pay-agreements>

- Other useful information:
 - The MBIE website has a useful “Otherwise working day calculator”
<https://www.employment.govt.nz/assets/uploads/documents/leave-and-holidays/Factors-to-use-to-decide-whether-a-day-is-an-otherwise-working-day.pdf>
 - <https://www.employment.govt.nz/pay-and-hours/pay-and-wages/types-of-pay> (Pay and Wages). Deductions must be in writing and agreed to by the employee, they must be actual and reasonable and transparent.
 - Holidays: <https://www.employment.govt.nz/leave-and-holidays>

SECTION 9: Working age, child labour, and young workers

- Any exemptions to the work hours for school-age children (<16y) must be obtained from the Ministry of Education in writing
- School-age children (<16y) must NOT:
 - Drive any tractor or any vehicle (other than a car, truck, motorcycle or machinery that weighs 700kg or less)
 - Ride on any vehicle when it’s towing or is attached to anything, nor ride on anything towed by or attached to any vehicle
 - Note: there is an exception for agriculture which allows young doing contract work who are over the age of 12 years to use tractors for agricultural work provided they are fully trained, or being trained, or they live on the property
- School-age children (15 years or younger) also cannot work:
 - In any area where goods or hazardous substances are being manufactured
 - In any area where the work requires lifting heavy weights
 - In any area where the work being done is likely to harm the employee
 - With any machinery or assist work with any machinery

SECTION 10: Compulsory School Age and School Access

- Education agencies available in NZ that provide information and resources about studying and teaching within NZ:
 - <https://www.education.govt.nz/our-work/our-role-and-our-people/education-in-nz/education-agencies>
- Other useful information:
 - Young workers in New Zealand:
<https://www.employment.govt.nz/assets/uploads/documents/employment-new-zealand/young-workers-in-new-zealand-snapshot.pdf>

SECTION 11: Time Recording Systems

- Employment Relations Act 2000. Section 69ZD. The rest and meal breaks that an employer must provide are as follows:

Hours working	Rest break	Meal break
2-4 hours	10 minutes PAID	-
4-6 hours	10 minutes PAID	30 minutes UNPAID
6-8 hours	2 x 10 minutes PAID	30 minutes UNPAID
Over 8 hours	As per 6-8 hours PLUS:	
Extra 2-4 hours	10 minutes PAID	

Extra 4-6 hours	10 minutes PAID	30 minutes UNPAID
Extra 6-8 hours	2 x 10 minutes PAID	30 minutes UNPAID

- Employment Relations Act 2000. Section 69ZE also outlines the timing of rest and meal breaks
- How Paid breaks are calculated:

$$\text{PAY} = \frac{\text{Minutes break (e.g. 10)}}{60} \times \frac{\text{Take pay for the day}}{\text{Total hours worked for the day}}$$

- Truck drivers work and rest requirements:
 - Drivers must take a break of at least 30 minutes after 5 ½ hours of work time
 - In any cumulative workday (24 hours), a maximum of 13 hours can be worked then a continuous break of 10 hours must be taken.
 - A truck driver can accumulate a total of 70 hours work time before they must take a continuous break of at least 24 hours.
- Note: payment for hours of work and rest breaks must be done so in an identifiable way so that it can be shown that the breaks have been taken and amount paid for the breaks
- Other useful information:
 - Calculating breaks and leave: <https://www.employment.govt.nz/leave-and-holidays/calculating-payments-for-leave-and-holidays/>
 - Hours of Work: <https://www.employment.govt.nz/pay-and-hours/hours-and-breaks/hours-of-work>
 - Annual leave/holidays: <https://www.employment.govt.nz/leave-and-holidays>
 - <https://www.employment.govt.nz/hours-and-wages/breaks/rest-and-meal-breaks>
Paid Rest Breaks - a rate of pay for breaks can be calculated based on the rate of pay employees will have been receiving at the time of the break (inc. piece rates)

SECTION 12: ~~Time Recording Systems~~ Working Hours & Breaks

- ~~No supplementary information~~
- Other useful information: <https://www.employment.govt.nz/pay-and-hours/hours-and-breaks/hours-of-work>

SECTION 13: Disciplinary Procedures

- Depreciative value must also be taken into consideration (with deductions) where applicable
- Other useful information:
 - <https://www.employment.govt.nz/resolving-problems/how-to-resolve-problems/disciplinary-process/disciplinary-process>
 - Example of a disciplinary process: <https://www.employment.govt.nz/assets/uploads/documents/resolving-problems/disciplinary-process-high-level.pdf>

Additional Important Information – The Holidays Act 2003

Compliance with The Holidays Act is required throughout the implementation of GRASP. The full Act can be found on here: <https://www.legislation.govt.nz/act/public/2003/0129/latest/DLM236387.html>

Specific attention should be paid to the following areas of the Act when employing workers within New Zealand:

1. Record Keeping - MUSTs

Source: <https://www.employment.govt.nz/hours-and-wages/keeping-accurate-records/>

Source: <https://www.employment.govt.nz/starting-employment/rights-and-responsibilities/record-keeping>

Employers must make sure they:

- Keep employees' wages and time records.
- Keep employees' holiday and leave records.

The following records **must** be kept by the employer:

- Name, postal address, age (if under 20 years) and the date they started working.
- If they're on an individual employment agreement or a collective agreement (and the title and expiry date of the agreement and the employee's classification) and a copy of the agreement.
- The kind of work they are employed for.
- The number of hours worked each day in a pay period and the pay for those hours. If these are agreed and they work them as usual hours then a statement of those usual hours and pay will be enough. This can be recorded in:
 - the wages and time record
 - employment agreement
 - a roster, or
 - any other document or record normally used during employment.

For an employee on a salary, usual hours include any additional hours worked that are consistent with the employment agreement. However, an employer must record additional hours if they're required, to have records in enough detail to show that they're complying with minimum entitlements.

- The wages paid in each pay period and how these have been calculated.
- The dates they last became entitled to annual holidays and sick leave and their current entitlement to annual holidays and sick leave.
- The dates of leave taken, including annual holidays, sick leave and bereavement, and payment received for each.
- Any annual leave cashed up as well as the date and amount paid for each entitlement year.
- The dates and number of hours worked on public holidays and the payment for these; the date (or 24-hour period) the public holiday or any part of it has been transferred to, and the date the employee became entitled to any alternative holiday (day-in-lieu).
- The dates of, and payments for, any public holidays or alternative holidays they didn't work but were entitled to holiday pay.
- The cash value of any alternative holidays they gave up for payment.
- The cash value for any board and lodgings provided.

- The date when employment ended, and the amount of holiday pay they received at the end of employment.
- A copy of their tax code declaration (IR330).
- Details of any employment relations education leave taken.

2. Record Keeping - SHOULDs

The following record ***should*** be kept by the employer:

- Records of all wage deductions, such as PAYE, student loan deductions and superannuation contributions, and any agreements for wage deductions.
- Requests to transfer public holidays (and whether or not these were agreed to).
- Requests to cash-up annual holidays (and whether or not these were agreed to).
- Dates that any extra provisions in employees' employment agreements take effect.
- Records of the date employees become entitled to sick and bereavement leave (to avoid disputes).
- Evidence of compliance with health and safety responsibilities.
- Evidence of rest and meal breaks provided (or compensation for these).
- Copies of employees' personal contact details, such as their email addresses, home phone and mobile numbers, if they want to provide these.
- In case of emergency (ICE) contact details.
- Employees' bank account details if this payment method has been agreed to.
- Details of employees' work permits, if applicable.

3. Leave Entitlements and Holidays

All leave entitlement and holidays information can be found here:

<https://www.employment.govt.nz/leave-and-holidays>

An excellent, in-depth resource can also be found here:

<https://www.employment.govt.nz/assets/Uploads/tools-and-resources/publications/leave-holiday-guide-employees-legal-entitlements.pdf>

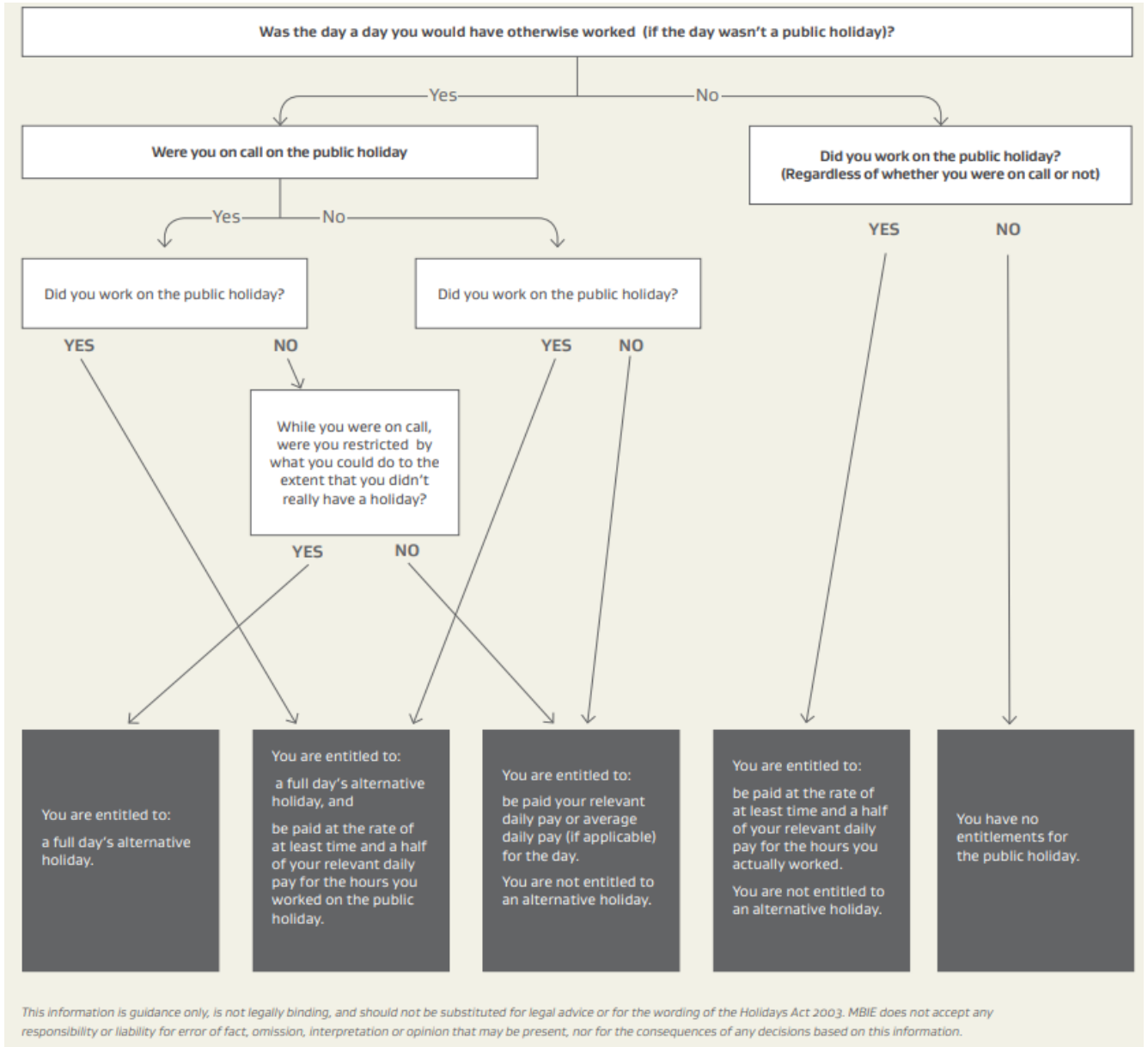
Other useful information: <https://www.employment.govt.nz/assets/uploads/documents/starting-employment/employment-rights-new-zealand.pdf>

Holiday/Leave Type	Entitlement	Further Details
Annual	Four weeks paid annual holidays (annual leave) each year	As a minimum, all employees are entitled to four weeks' paid holidays a year. Employees generally get annual holiday entitlements after 12 months of continuous employment with their employer and then after every following 12 months of employment. Further information regarding unpredictable work patterns can be found in the resource above. <i>Payment is generally at the rate of the greater of: the ordinary weekly pay at the start of the holiday or the employee's average weekly earnings for the 12-month period just before the end of the pay period before the annual holiday is taken</i>

Sick	Employees get a minimum of 10 days' paid sick leave a year after the first six months and another 10 days' sick leave for each 12-month period after that	Sick leave entitlement is not pro-rated. <i>Payment: Sick leave should be paid at the relevant daily pay:</i>
Bereavement	An employee can take up to three days' paid leave on the death of the employee's spouse or partner, parent, child, sibling, grandparent, grandchild, or their spouse's or partner's parent. An employee can take up to one day's paid leave if their employer accepts they have suffered a bereavement (of a person not already covered above). The above two categories are eligible after six months of employment.	<i>Payment: Bereavement leave should be paid at the relevant daily pay</i>
Family Violence	Employees get a minimum of ten days' paid family violence leave a year after the first six months and another ten days' family violence leave for each 12-month period after that. Unlike sick leave, unused family violence leave does not accrue	<i>Payment: Family violence leave should be paid at the relevant daily pay</i>
Public	Paid leave on public holidays, when the public holiday falls on a day that would otherwise be a working day for the employee.	When a public holiday is worked, the employee should be paid at a rate of time and a half (at least). <i>Payment: Unworked public holidays should be paid at the relevant daily pay</i>
Alternative Day	If an employee works on a public holiday that is an otherwise working day for the employee they are entitled to an alternative holiday (another day off on pay). The employee gets the full day off, even if they only work for a small part of the day.	<i>Payment: Alternative holidays should be paid at the relevant daily pay</i>
Other	By individual negotiation	Other types of leave do not take away from the minimum statutory entitlements for annual,

(i.e. <i>domestic, special or family leave</i>)		public, alternative, sick, bereavement or family violence leave
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The following guidelines may be useful:



Source: <https://www.employment.govt.nz/assets/Uploads/tools-and-resources/publications/leave-holiday-guide-employees-legal-entitlements.pdf> Page 25

Ordinary Weekly Pay (OWP)

What is a regular payment for Ordinary Weekly Pay (OWP)?

PRINCIPLES FOR EMPLOYERS TO USE

- Ordinary weekly pay (OWP) is the amount of pay that the employee gets under their employment agreement for an ordinary working week. It includes payments for overtime and productivity or incentive-based payments if those payments are a regular part of the employee's pay. It includes the cash value of any board or lodgings provided by the employer for the employee. If you are unsure whether a regular payment should be included, ask yourself if the payment usually forms part of the employee's pay.
- For some payments, working out what is regular is a judgment call. If you are unsure you should seek advice, or to reduce your risk err on the side of caution and include it.
- Have a discussion in good faith with your employee about what you have included and why you have included some payments and not others especially if you think there might be disagreement or confusion.
- If you can't work out ordinary weekly pay - use the OWP formula - go back to the last pay period before the holiday is taken and then go back 4 weeks (or length of pay period) from there, work out gross earnings (minus anything not in OWP) and divide by 4. You might use the OWP formula if there is a payment made regularly but the amount of the payment varies.
- Remember it is how regular the type of payment is that is important, not how often the payment is made or whether the amount of the payment is the same or similar each time the payment is made.

YES	MAYBE	NO
<p>Payments made every week</p> <p>Payments made every fortnight</p> <p>'Regular payments' include payments such as:</p> <ul style="list-style-type: none"> • regular allowances eg. shift allowance • regular productivity or incentive payments (including commission or piece rates) • regular overtime payments • cash value of board and lodgings. <p>Regular payments are payments made for work regularly undertaken even if payment for the work is made less often.</p> <p>It is the payment which needs to be regular, not the size of the payment, e.g. an employee usually does overtime on a Monday, but the amount of overtime varies; it is still a regular payment to be included in OWP but you might need to use the OWP formula to calculate OWP.</p>	<p>Occasional payments</p> <p>Might be included. In these instances you should look at the nature of the payment. If it is only paid occasionally (eg. quarterly) but is based around activity happening each week then it should be apportioned and included. If the payment is for example related to an annual target such as customer satisfaction, it would be less likely to have to be included.</p> <p>Discuss these payments with the employee so you have a shared understanding. When exercising your judgment, if you are unsure, it is recommended you seek advice or err on the side of caution and include the payment if you want to reduce the risk of non-compliance.</p>	<p>Truly discretionary payments</p> <p>One off or exceptional payments</p> <p>You should seek advice before deciding that a payment is not included in ordinary weekly pay.</p> <p>A truly discretionary payment is very unusual. You should also discuss it with the employee as they may be confused or expect the payment to be included.</p>
<p>Payments made more often than not (eg. usually made each week, fortnight etc).</p> <p>Payments made each pay period (should be included and apportioned evenly).</p>	<p>Payments which are regular but don't get paid every pay period. If these relate to the actual work performed by the employee on a regular basis (eg. commission on sales or piece rates) these may be included and apportioned. If they are more general eg. payments related to overall performance over a certain period these are less likely to be included. Use careful judgment.</p>	<p>Payments for employer contribution to a superannuation scheme for the benefit of the employee.</p> <p>Overtime or productivity/ incentive payments which don't occur with a predictable frequency eg. weekly/ fortnightly/ monthly or more often than not.</p> <p>Non-taxable reimbursing allowances or compensatory payments.</p>

This information is guidance only, is not legally binding, and should not be substituted for legal advice or for the wording of the Holidays Act 2003. MBE does not accept any responsibility or liability for error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information.

Source: <https://www.employment.govt.nz/assets/uploads/documents/pay-and-hours/Holiday-Act-Guidance-tools-5-What-is-a-regular-payment-for-Ordinary-Weekly-Pay-.pdf>

Ordinary Weekly Pay vs Average Weekly Earnings (OWP vs AWE)

Ordinary Weekly Pay vs Average Weekly Earnings (OWP vs AWE)

Payment for annual holidays - you must pay the greater of Ordinary Weekly Pay (OWP) and Average Weekly Earnings (AWE)

Calculation of OWP	Calculation of AWE
<p>In OWP Principle - regular payment</p> <ul style="list-style-type: none"> Wages/salary Regular overtime Regular allowances (eg. shift) Cash value of board/lodgings Regular productivity/incentive based payments 	<p>In Gross Earnings for AWE Principle - payment contractually bound to make</p> <ul style="list-style-type: none"> Wages/salary including overtime, most allowances Holidays and leave payments, long service, retiring
<p>Not in OWP Principle - not regular payment</p> <ul style="list-style-type: none"> Not regular productivity, incentive or overtime payments One-off discretionary payments Employer not bound to make Employer contribution to superannuation schemes 	<p>Not in AWE (not GE) Principle - payment not contractually bound to make</p> <ul style="list-style-type: none"> Completely discretionary payments Reimbursements Employer contributions to superannuation

Flowchart for OWP calculation:

- Is it possible to work out OWP?
 - NO**: Use the OWP formula. Go to end of last pay period before the holiday is taken. From there, go back 4 weeks (or length of pay period if longer than 4 weeks). Work out Gross Earnings for that period and deduct anything that is not OWP. This includes payments that are not a regular part of the employee's pay. See "What is a regular payment for OWP?" for examples. Divide your answer by 4.
 - YES**: Calculate OWP.

Flowchart for AWE calculation:

- AWE = 1/52 of Gross Earnings for the last 12 months before end of last pay period, unless the employee has worked less than 12 months, in which case the divisor of 52 is reduced to equal however many whole or part weeks they worked, or in some circumstances following leave without pay; see "Leave without pay" for more information.
- If the employment agreement specifies a rate for OWP this can be used only if it is equal to or greater than the OWP you have calculated.

COMPARE OWP AND AWE. You must pay the employee's annual holidays at the greater rate.

This information is guidance only, is not legally binding, and should not be substituted for legal advice or for the wording of the Holidays Act 2003. MBE does not accept any responsibility or liability for error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information.

Source: <https://www.employment.govt.nz/assets/uploads/documents/pay-and-hours/Holiday-Act-Guidance-tools-4-Ordinary-Weekly-Pay-vs-Average-Weekly-Earnings.pdf>

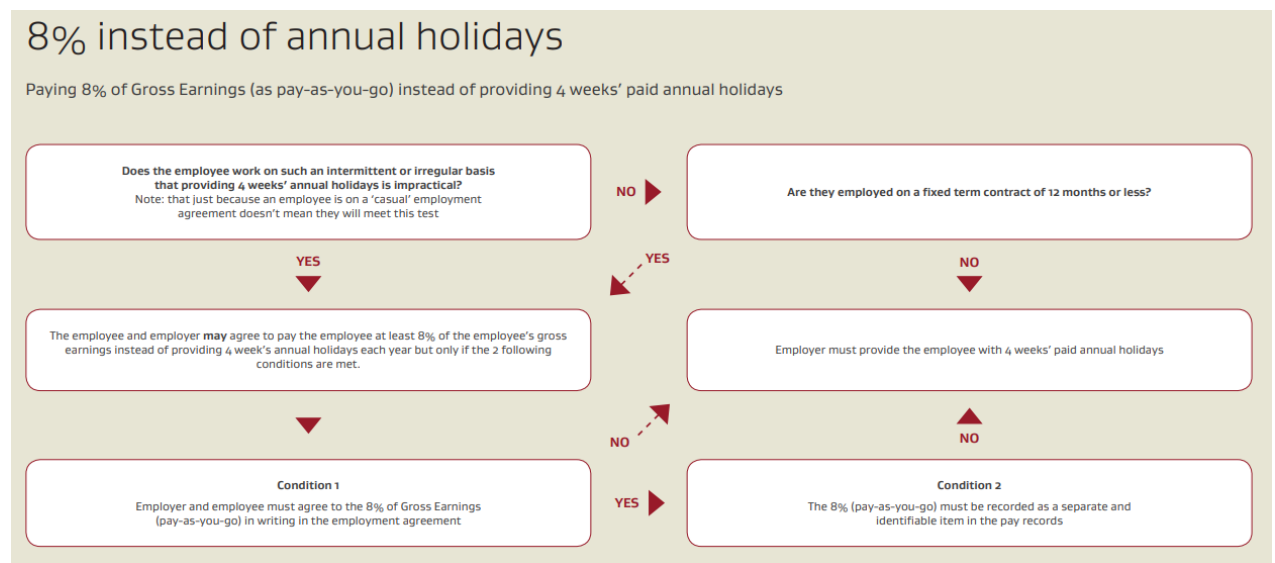
4. Accumulation of Holiday Pay

An employee may be paid 8% of their gross earnings as annual holiday pay with their salary or wages (i.e. on a pay-as-you-go basis) in two specific situations:

- If an employee is employed on a genuine fixed-term agreement of less than 12 months, or
- If an employee’s employment pattern is so intermittent or irregular that it isn’t possible or practicable to try to provide four weeks paid annual holidays.

The employee must agree to this in their employment agreement and the 8% must be an identifiable amount in the wages and time records, in addition to the employee’s normal wages/salary, (and should be shown as a separate item on any payslip).

Another useful resource from Employment New Zealand is below:



Source: <https://www.employment.govt.nz/assets/Uploads/tools-and-resources/flowcharts/4957c9d4f8/Holiday-Act-Guidance-tools-8-percent-instead-of-annual-holidays.pdf>

<https://www.employment.govt.nz/assets/uploads/documents/pay-and-hours/Holiday-Act-Guidance-tools-8-percent-instead-of-annual-holidays.pdf>

Glossary (in alphabetical order)

Term	Clarification	Relevant sections
Agricultural work organisation	Union	1
Average daily pay	ADP is a daily average of the employee's gross earnings over the past 52 weeks. This means the employee's gross earnings are divided by the number of whole or part days the employee worked, including any paid leave or holiday during that period https://www.employment.govt.nz/assets/Uploads/tools-and-resources/publications/0b08fa3ffc/using-relevant-daily-pay-and-average-daily-pay.pdf http://apps.employment.govt.nz/holiday-tool/rdpanswer.aspx https://www.employment.govt.nz/pay-and-hours/pay-and-wages/leave-and-holiday-pay/public-holiday-pay	11
Average weekly earnings	Average weekly earnings are worked out by calculating the employee's gross earnings over the 12 months prior to the end of the last payroll period before the annual holiday is taken and dividing that figure by 52. These payments make up gross earnings and should be included in the calculation: <ul style="list-style-type: none"> • salary and wages • allowances (but not reimbursing allowances) • all overtime • piece work • at-risk, productivity or performance payments • commission • payment for annual holidays and public holidays • payment for sick and bereavement leave • the cash value of board and lodgings supplied • the first week of compensation payable by the employer under s97 of the ACC Act 2001 • any other payments that are required to be made under the terms of the employment agreement. https://www.employment.govt.nz/assets/Uploads/tools-and-resources/flowcharts/df7b3fa737/Holiday-Act-Guidance-tools-4-Ordinary-Weekly-Pay-vs-Average-Weekly-Earnings.pdf https://www.employment.govt.nz/assets/uploads/documents/pay-and-hours/Holiday-Act-Guidance-tools-4-Ordinary-Weekly-Pay-vs-Average-Weekly-Earnings.pdf	11
Casual	(<i>colloquial terminology</i>). No regular hours of work, pattern or guarantee, no ongoing expectation. Has an Employment Agreement	6
Collective bargaining	Negotiation of wages and other conditions of employment by an organised body of employees	8
Commission	Pay is based on sales made or targets met	8
Contractor	Contracted worker for a specific purpose. Invoices the employer for their services. Has a Contract for Service Agreement	6

Debt bondage	Where an employee is forced to work as a means of repaying a debt or any other obligation OR the debt repayment takes the worker below the minimum wage OR the debt is impossible to pay	6
Employee	Any person of any age employed directly by an employer to do the work for hire or reward under an Employment Agreement	General
Family Farm	A farm run as a family's core business by the core family members (not employed managers)	General
Fixed Term	End date is based on an actual date or event (i.e. harvest or parental leave). There is an Employment Agreement in place	6
Term	Clarification	Relevant sections
Hazard	(as defined in the HSAW Act 2015): anything that can cause harm. Including a person's behaviour where that behaviour has the potential to cause death, injury, or illness to a person (whether or not that behaviour results from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person's behaviour)	9
ILO	International Labour Organisation	4
Labour Agency	Labour contractor	6
Labour organisation	Labour contractor	2
MBIE	Ministry for Business, Innovation and Employment	1
Minor	<16 years old. 15 years old or younger	9
NGO	Non-Governmental Organisation	4
Ordinary weekly pay	Ordinary weekly pay is the amount an employee receives under his or her employment agreement for an ordinary working week, including: <ul style="list-style-type: none"> regular allowances, such as a shift allowance regular productivity or incentive-based payments (including commission or piece rates) the cash value of board or lodgings regular overtime. Intermittent or one-off payments as well as discretionary payments and employer contributions to superannuation schemes are not included in ordinary weekly pay. https://www.employment.govt.nz/assets/Uploads/tools-and-resources/flowcharts/e56f41f9df/Holiday-Act-Guidance-tools-5-What-is-a-regular-payment-for-Ordinary-Weekly-Pay-.pdf https://www.employment.govt.nz/assets/uploads/documents/pay-and-hours/Holiday-Act-Guidance-tools-5-What-is-a-regular-payment-for-Ordinary-Weekly-Pay-.pdf	11
PAYE	Pay As You Earn (NZ's way of collecting income tax and ACC levies from employees)	7
Payment for PPE (Personal Protective Equipment)	This is not permitted. PPE is a cost of the employer	8
Payment for training	Training undertaken during normal working hours must be paid. Payment for training outside of work hours is negotiated between the employer and employee	8
PCBU	Person Conducting a Business or Undertaking	General, 9, 12
Penal rates	Additional amounts agreed to for doing certain tasks or shifts or hours	8

Permanent	Ongoing. Has an Employment Agreement	6
Piece rate	A commission where the employee is paid for the number of pieces that worked on. For example, being paid for the number of trays of vegetables picked, or the number of trees pruned. Employees paid per piece must still receive at least the relevant minimum wage for each hour worked calculated over the pay period of a maximum 2-weeks .	7
Term	Clarification	Relevant sections
Relevant daily pay	Relevant daily pay is the amount the employee would have earned on the day if they had worked, and it includes: <ul style="list-style-type: none"> productivity or incentive payments, including commission or piece rates; if the employee would have received those payments had they worked overtime payments the cash value of board and lodgings provided https://www.employment.govt.nz/assets/Uploads/tools-and-resources/publications/0b08fa3ffc/using-relevant-daily-pay-and-average-daily-pay.pdf http://apps.employment.govt.nz/holiday-tool/rdpanswer.aspx https://www.employment.govt.nz/assets/uploads/documents/pay-and-hours/What-is-in-Relevant-Daily-Pay.pdf	11
Salary	Fixed amount per year (must still be equal to or higher than the relevant minimum wage rate for each hour worked)	8
Voluntary	The employee is not forced to do overtime. Any overtime work is paid	6
Wages	Payment based on the time worked (normally per hour)	8
Worker	Any other worker contracted (by a Labour Contractor) to do work for hire or reward under a Contract for Service	General
Worker organisation	Union	1
Workers (generic)	Any employee or worker (Contractor or sub-contractor) engaged in employment	4