



# HOLIDAYS ACT 2003 Payroll Specification

## Principles Only

Updated August 2008

### DISCLAIMER

Please note the following:

- This specification is an information resource only and is not a substitute for legislation or for legal advice.
- This specification is a guide only and will not necessarily cover all situations. Each user will need to ensure that the information in this specification is tailored appropriately to each particular situation.
- While every effort has been made to ensure accuracy, the Department of Labour takes no responsibility for the results of any actions taken on the basis of information in this specification, nor for any errors or omissions.
- Similarly, there may be other ways of complying with the legislation that are not set out in this specification.

# 1. PRINCIPLES

## 1.1 Annual leave

*Note: This does not cover the exceptions and details e.g. close downs, changes to anniversary date, what constitutes gross earnings, the taking of annual leave in advance, the effect of taking leave without pay, payment when employment ends, ACC, Parental Leave, fixed term contracts etc. These are all covered in the detailed section of the specification.*

**After the end of each complete 12 months of continuous employment an employee is entitled to not less than 4 weeks paid annual leave. The way that this entitlement is to be met should be agreed between the employer and employee. Any agreement must genuinely reflect the right to receive 4 weeks annual leave per year.**

Where entitlement to Annual leave is clear then there is no requirement for an agreement to be made. However, whenever an employee's work patterns change then an agreement about the transition and conversion of entitlement will need to be reached.

The employer and employee should ideally agree to:

- what genuinely constitutes a working week for the purpose of the employee's entitlement to annual leave – this can be provided for in weeks, days or hours (if this is the most convenient way for the parties); or
- where annual leave is to be accrued<sup>1</sup> throughout the entitlement year, what the accrual will be based on (e.g. ordinary hours excluding overtime hours, fixed number of days per week).

When work patterns change, any agreement should ideally change to reflect the new genuine working week for the employee. This agreement can include how any previously accrued entitlements will be treated e.g. the agreement could be to still provide 4 full weeks annual leave, based on the new working pattern.

Where there is a dispute or the parties cannot or do not agree on how an employee's annual leave entitlement is to be met, a Labour Inspector is able to determine the matter for the parties. In making such a determination the Labour Inspector will use an accrual method based on 4/52 of time worked, if there is not a clear working week or working pattern.

This means that how annual leave are implemented in your software will depend on the nature of the agreements that the users of your software will have entered into.

Some examples of valid agreements are provided as an Appendix to this document. They do not cover all of the possible combinations but should illustrate the key points in the range of ways that annual leave provisions can genuinely be agreed upon. The examples provided are:

**Example 1:** Entitlement is recorded in hours and based on 4/52 of the ordinary hours worked in the year when the entitlement arose – no change to method of calculation when work patterns changed.

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<sup>1</sup> By accrual we are referring to the method of calculation not whether the leave is available to the employee.

**Example 2:** Parties agree that the annual leave entitlement will be 4 weeks based on the work patterns at the time the leave is taken – no change to method of calculation when work patterns changed.

**Example 3:** Entitlement is recorded in days and based on 4/52 of an agreed working week expressed in days – change to method of entitlement including conversion of accrued entitlement when work patterns changed.

**When the employee takes annual leave, they will need to identify the amount of leave being taken in a manner that is consistent with the agreement on how the entitlement will be met.**

**The entitlement balance will then need to be reduced by a corresponding amount.**

**Annual leave pay will be need to calculated based on:**

- the amount of leave being taken (in weeks or part weeks); times
- the greater of:
  - (a) ordinary weekly pay; or
  - (b) average weekly earnings in the 12 months prior to the holiday.

**Where holidays are accrued , the payment should be made to the employee in the unit of accrual, (for example if the employee accrued in hours they should be paid in hours) but always based on the employee's ordinary weekly pay of average weekly earnings (for example an employee could have a notional average hourly rate and ordinary hourly rate).**

All of the following calculations count back from the end of the last pay period before the calculation is made.<sup>2</sup>

**Ordinary weekly pay will be the greater of:**

**(a) the amount of pay that the employee receives under his or her employment agreement for an ordinary working week<sup>3</sup> (at the beginning of the annual leave); or**

**(b) where (a) can not be determined, then based on the following calculation:**

$$\frac{\text{Gross earnings for previous 4 weeks pay periods}^4 - \text{Gross earnings}}{4}$$

**(conditional)**

**(c) if a special rate of ordinary weekly pay for the purpose of calculating annual leave pay is specified in an employment agreement and is equal to or greater than the amount under (a) or (b) then that amount (otherwise just use (a) or (b) above).**

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<sup>2</sup> Consideration will be given in the full spec as to whether a second calculation of average will be required if the leave is over more than one pay period.

<sup>3</sup> See Appendix 2 for what types of payment are included/excluded from the calculation above.

<sup>4</sup> Or pay period before calculation is made if longer than 4 weeks.

**Average weekly earnings are:**

**Gross earnings in previous 12 months pay periods**

**52**

Where the entitlement to annual leave has been accrued in hours or days then the calculations above will need to be adjusted to reflect that. The key principle is that any method of calculation is based on average weekly earnings or ordinary weekly pay. This divisor must be consistent with the method of accrual.

For example if the annual leave accrual is 4/52 of ordinary hours worked then the following calculations should apply:

Ordinary **hourly pay** will be the greater of:

(a) the amount of pay that the employee receives under his or her employment agreement for an ordinary hour – including all of the relevant types of payment (at the beginning of the annual leave);or

(b) where (a) can not be determined, then based on the following calculation:

Gross earnings in previous 4 weeks pay periods – gross earnings (conditional)

Total ordinary hours in the previous 4 weeks pay periods

(c) if a special rate of ordinary hourly pay for the purpose of calculating annual leave pay is specified in an employment agreement then that amount can be used if it would be equal to or greater than the amount under (a) or (b) (otherwise just use (a) or (b) above).

Average **hourly** earnings are calculated as follows:

Gross earnings in previous 12 months pay periods

Total ordinary hours in the previous 12 months pay periods

Or if the annual leave accrual is 4/52 of 3 days a week then the following calculations would apply:

Ordinary **daily pay** will be the greater of:

(a) the amount of pay that the employee receives under his or her employment agreement for an ordinary day (at the beginning of the annual leave);or

(b) where (a) can not be determined, then based on the following calculation:

Gross earnings in previous 4 weeks pay periods – gross earnings (conditional)

12 (i.e.3 days per week \* 4)

(c) if a special rate of ordinary daily pay for the purpose of calculating annual leave pay is specified in an employment agreement than that amount can be used if it would be equal to or greater than (a) or (b) (otherwise just use (a) or (b) above).

Average **daily** earnings are calculated as follows:

Gross earnings in previous 12 months pay periods

156 (i.e. 3 days per week \* 52 weeks per year)

Detailed examples are contained in Appendix 1.

## ***Principles Continued***

### **1.1 Public Holidays**

*Note: This does not cover the exceptions and details e.g. agreements to sell alternate days, agreements to work on public holidays that are not the usual day of work, employees on call for public holidays, employees on call for public holidays only, transition arrangements etc. These are all covered in the detailed section of the specification.*

**Each employee shall have an entitlement to 11 public holidays if those holidays fall on days that would otherwise be working days for the employee.**

Public Holidays are:

- Christmas Day
- Boxing Day
- New Year's Day
- 2 January
- Waitangi Day
- Good Friday
- Easter Monday
- ANZAC Day
- "Queen's Birthday" – first Monday in June
- Labour Day (4th Monday in October)
- The anniversary day of the province – or day locally observed as that day

When any of the first 4 days listed above fall on a Saturday/Sunday and the employee does not usually work on that day then the public holiday is transferred to the following Monday/Tuesday. (i.e. if the day falls on a Saturday, it will be transferred to the Monday, and if it falls on a Sunday, it will be transferred to a Tuesday. This should be recorded.)

**If an employee would not otherwise work on the day of the public holiday and does not actually work on that day then they have no entitlement to be paid for the public holiday.**

**If the employee would not otherwise work on the day on which a public holiday falls, but does work, they will be entitled to payment at time and a half for the time worked, but not an alternative holiday.**

**If the employee would otherwise work on the day of the public holiday and the employee does not work on that day then they are entitled to receive payment of not less than the relevant daily pay for that day.**

**If the employee would not otherwise work on the day of the public holiday and the employee is required to work on that day they are entitled to receive payment at time and half for the time they work on that day. They are also entitled to an alternative holiday. When they take the alternative holiday they will be entitled to receive payment of not less than the relevant daily pay for that day.**

**If an employee is specifically employed only to work on public holidays they are entitled to receive payment at time and a half for the time they work on the public holiday.**

**Relevant daily pay will be the greater of:**

**(a) the amount of pay that the employee would have received had the employee worked on the day concerned including any overtime or irregular payments that would have been paid to the employee had they worked that day (however, if overtime is worked due to the employee's absence then this is not included in relevant daily pay).**

**OR**

**(b) where (a) can not be determined then based on the following calculation:**

$$\frac{\text{Gross earnings in previous 4 weeks pay periods}^5}{\text{Number of whole or part days the employee was paid in the previous 4 weeks pay periods}}$$

**OR**

**(c) if a special rate of relevant daily pay for the purpose of calculating payment for a public holiday is specified in an employment agreement then that amount can be used if it is equal to or greater than the amount in (a) or (b) (otherwise just use (a) or (b) above).**

**Example 1:** Employee A regularly works/is paid:

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	TOTAL
Hours	8	8	8	5	5	34
Payment	\$120	\$120	\$120	\$75	\$75	\$510

If Monday is a public holiday and they don't work during that day then they will receive a \$120 payment for that day, as this is their relevant daily pay.

If Monday is a public holiday and they work for 4 hours, receive an alternative holiday and take it on a Friday then they will receive:

\$15 \* 1.5 \* 4 (i.e. 4 hours at time and a half for the Monday) = \$90 payment for working on the Monday and

\$75 when they take their alternate holiday on the Friday

<sup>5</sup> Or the gross earnings from the previous pay period if longer than 4 weeks.

**Example 2:** Employee B works irregular hours but regular days:

PAY PERIOD		MON	TUE	WED	THURS	FRI	TOTAL
1 wk ago	Hours	8	4	3	0	8	23
	Payment	\$120	\$60	\$45		\$120	\$345
2 wks ago	Hours	2	2	5	0	5	14
	Payment	\$30	\$30	\$75		\$75	\$210
3 wks ago	Hours	8	8	8	0	5	29
	Payment	\$120	\$120	\$120		\$75	\$435
4 wks ago	Hours	5	2	2	0	5	14
	Payment	\$75	\$30	\$30		\$75	\$210

If Monday is a public holiday and they don't work during that day then they will receive (based on the calculation in (b) above):

$$\frac{(\$345 + \$210 + \$435 + \$210)}{16} = \$75$$

If Monday is a public holiday and they work for 4 hours, receive an alternate holiday and take it on the following Tuesday then they will receive:

\$15 \* 4 \* 1.5 (i.e. 4 hours at time and a half for the Monday) = \$90 payment for working on the Monday and

\$75 when they take their alternative holiday on the following Tuesday.

## ***Principles Continued***

### **1.2 Sick Leave**

*Note: This does not cover the exceptions and details e.g. employees who do not have continuous service, or the transitional provisions, or ACC interface.*

**An employee has an entitlement to 5 days sick leave after they have completed 6 months continuous service with the employer. The entitlement is increased by 5 days for each subsequent 12 months continuous service up to a maximum of 20 days current entitlement. An employer can allow an employee to increase this maximum.**

**If the employee takes sick leave (on a day they would otherwise have worked) then they are entitled to receive payment of not less than their relevant daily pay for that day.**

**The definition of relevant daily pay is the same as that defined above for public holidays.**

## ***Principles Continued***

### **1.3 Bereavement Leave**

*Note: This does not cover the exceptions and details e.g. employees who do not have continuous service, multiple bereavements etc.*

**An employee is entitled to bereavement leave after they have completed 6 months continuous service with the employer.**

**An employee has an entitlement to 3 days bereavement leave for a close relative (the employee's spouse or partner, parent, child, brother, sister, grandparent, grandchild and/or spouse's or partner's parent) and 1 days bereavement leave for other people where the employer accepts the employee has suffered a bereavement.**

*Note: the 3 days do not have to be taken consecutively. For example a person might take 2 days leave at the time of the funeral/tangihanga and 1 day for the unveiling.*

**If the employee takes bereavement leave (on a day they would otherwise have worked) then they are entitled to receive payment of not less than the relevant daily pay for that day.**

**The definition of relevant daily pay is the same as that defined above for public holidays.**

## ***Principles Continued***

### **1.4 Holiday and Leave Record**

**For payroll software to constitute a holiday and leave record it must include the following information:**

- Name of the employee
- Date on which the employee's employment commenced
- Days on which the employee actually works, if the information is relevant to the calculation of entitlements or payment for entitlements under this Act
- Employee's current entitlement to annual leave
- Date on which the employee last became entitled to annual leave
- Employee's current entitlement to sick leave
- Dates on which any annual leave, sick leave or bereavement leave has been taken
- Amount of payment for any annual leave, sick leave or bereavement leave that has been taken
- The dates of, and payment for, any public holiday on which the employee worked
- The number of hours that the employee worked on any public holiday
- The date on which the employee became entitled to any alternative holiday
- The details of the dates of, and payments for, any public holiday or alternative holiday on which the employee did not work, but for which the employee had an entitlement to holiday pay
- The cash value of any board or lodgings
- The details of any payment in exchange for an alternative holiday
- Date of termination of the employee's employment (if applicable)
- The amount paid to the employee as holiday pay upon the termination of the employee's employment (if applicable).

## APPENDIX 1: ANNUAL LEAVE EXAMPLES

### Annual leave Example 1

#### (Agreement based on accrued hours)

Entitlement is:

- recorded in hours
- agreed in the employment agreement to be based on 4/52 of the **ordinary hours (i.e. excluding overtime hours) worked in the year when entitlement arose**
- reduced in hours when the leave is taken

#### **No change to method of calculation when work patterns changed.**

Payment is:

- an hourly rate based on greater of ordinary weekly pay and average weekly earnings.

This kind of agreement would be based on the principle that everyone should get 8% of the ordinary hours they worked in the year the entitlement arose with payment being made at an hourly rate.

Each employee would accrue 4/52 of an hour's annual leave for each ordinary hour worked in the period when the entitlement arose. When they take leave their entitlement will be reduced by the number of hours of leave that was taken.

In the below examples, the figures in the column entitled "Annual leave entitlement in hours" relate to each employee's actual leave entitlement rather than their accrued leave. All examples relate to situations where the employee has not taken any annual leave in advance.

#### **Employee A works:**

MONTH	DAYS PER WEEK	ORDINARY HOURS PER WEEK	ORDINARY WEEKLY PAY	ANNUAL LEAVE ENTITLEMENT IN HOURS
1 – 12	4	32	\$480	-
13	4	32	\$480	128
14-24	5	40	\$640	128

Employee A above takes 8 hours (one 8 hour day) leave in the 21<sup>st</sup> week after they start working 40 hours per week (i.e. in their 18<sup>th</sup> month). Their leave entitlement would be reduced to 120 hours.

Employee A had a pay rise from \$15.00 to \$16.00 an hour when they went full-time.

Their payment will be 8 hours multiplied by the greater of:

(a) Ordinary hourly rate in their employment agreement of \$16 or

(b) Average hourly pay (over previous 12 months) =

Gross earnings in previous 12 months pay periods  
 Total ordinary hours in previous 12 months pay periods

$$\frac{(20 * 640) + (32 * 480)}{(20 * 40) + (32 * 32)} = \frac{\$28,160}{1,824} = \$15.43$$

Which is  $8 * \$16 = \$128$ .

**Employee B works:**

MONTH	DAYS PER WEEK	ORDINARY HOURS PER WEEK	WEEKLY PAY	ANNUAL LEAVE ENTITLEMENT IN HOURS
1-12	5	40	\$600	-
13	5	40	\$600	160
14-24	3	21	\$294	160

Employee B takes 7 hours (one 7 hour day) leave in the 21<sup>st</sup> week after they start working 21 hours per week (i.e. in their 18<sup>th</sup> month). Their leave entitlement would be reduced to 153 hours.

Employee B's weekly pay has been reduced from \$15.00 to \$14.00 an hour since they went part time as they no longer qualify for an allowance.

Their payment will be 7 hours multiplied by the greater of:

(a) Ordinary hourly rate in their employment agreement of \$14 or

(b) Average hourly pay (over previous 12 months) =

Gross earnings in previous 12 months pay periods  
 Total ordinary hours in previous 12 months pay periods

$$\frac{(20 * 294) + (32 * 600)}{(20 * 21) + (32 * 40)} = \frac{\$25,080}{1,700} = \$14.75$$

Which is  $7 * \$14.75 = \$103.25$ .

**Employee C has worked:**

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	TOTAL
Hours	8	8	8	5	5	34
Average Overtime	-	-	2	-	-	2
Pay	\$120	\$120	\$150	\$75	\$75	\$540

for their entire 25 months of employment. Their leave entitlement at the end of one year will be based on their ordinary hours (34 hours per week) which will be 136 hours.

Employee C takes Friday off which as the work pattern is considered in hours will be 5 hours and their leave entitlement would be reduced to 131 hours.

Their payment will be 5 hours multiplied by the greater of:

(a) Ordinary hourly rate in their employment agreement of \$15 or

(b) Average hourly pay (over previous 12 months) =

$$\frac{\text{Gross earnings in previous 12 months pay periods}}{\text{Total ordinary hours in previous 12 months pay periods}}$$

$$\frac{(540 * 52)}{(36 * 52)} = \frac{\$ 28,080}{1,872} = \$15.00$$

Which is 5 \* \$15.00 = \$75.00.

## **Annual leave Example 2 (Agreement based on weeks)**

Entitlement is:

- based on **weeks**
- reduced based on the work pattern **at the time the leave is taken**
- reduced in proportions of weeks based on the work pattern in **hours** not days

**No change to method of calculation when work patterns changed.**

This kind of agreement would be based on the principle that everyone should get an entitlement to annual leave of exactly 4 weeks a year (no less and no more).

Each employee would accrue exactly 4 weeks annual leave for each year of continuous service. When they take leave their leave entitlement will be reduced by the:

$$\frac{\text{number of hours of leave}}{\text{total ordinary hours in  
'current' week}}$$

In the below examples, the figures in the column entitled "Annual leave entitlement in weeks" relate to each employee's actual leave entitlement rather than their accrued leave. All examples relate to situations where the employee has not taken any annual leave in advance.

**Employee A works:**

MONTH	ORDINARY WEEKLY PAY	ANNUAL LEAVE ENTITLEMENT IN WEEKS
1 – 12	\$450	-
13	\$450	4
14+	\$600	4

Employee A above takes 8 hours (one 8 hour day) leave in the 21<sup>st</sup> week after they start working 40 hours per week (i.e. in their 18<sup>th</sup> month). The proportion of a week taken will be 8/40 (i.e. 20%) of a week and their leave entitlement would be reduced to 3.8 weeks.

Their payment will be 0.20 multiplied by the greater of:

(a) Ordinary weekly pay of \$600 and

(b) Average weekly pay calculated as  $((20 * 600) + (32 * 450))/52 = \$507.69$

Which is  $0.2 * \$600 = \$120$ .

**Employee B works:**

MONTH	ORDINARY WEEKLY PAY	ANNUAL LEAVE ENTITLEMENT IN WEEKS
1-12	\$660	-
13	\$660	4
14+	\$315	4

Employee B takes 7 hours (one 7 hour day) leave in the 21<sup>st</sup> week after they start working 21 hours per week (i.e. in their 18<sup>th</sup> month). The proportion of a week taken will be 7/21 (i.e. 33%) of a week and their leave entitlement would be reduced to 3.67 weeks.

Their payment will be 0.33 multiplied by the greater of:

(a) Ordinary weekly pay of \$315 and

(b) Average weekly pay calculated as  $((20 * 315) + (32 * 660))/52 * 1 = \$527.30$

Which is  $0.33 * \$527.30 = \$174.00$

**Employee C has worked:**

	<b>MONDAY</b>	<b>TUESDAY</b>	<b>WEDNESDAY</b>	<b>THURSDAY</b>	<b>FRIDAY</b>	<b>TOTAL</b>
<b>Hours</b>	8	8	8	5	5	34
<b>Ord Pay</b>	\$120	\$120	\$120	\$75	\$75	\$510

for their entire 25 months of employment.

Employee C takes Friday off which as the work pattern is considered in hours will be 5 hours out of a total of 34 hours. The proportion of a week taken will be 5/34 (i.e. 14.7%) of a week and their leave entitlement would be reduced to 3.85 weeks.

Their payment will be 0.147 multiplied by the greater of:

- (a) Ordinary weekly pay of \$510 and
- (b) Average weekly pay calculated as  $(52 * \$510)/52 = \$510$

Which is  $0.147 * \$510 = \$75.00$

NB: Either rounding or not rounding to decimal places is acceptable as long as the proportion deducted from annual leave and the proportion of the payment is the same.

### **Annual leave Example 3 (Agreement based on accrued days with negotiation when working patterns change)**

Entitlement is:

- recorded in days
- based on 4/52 of an agreed working week expressed in days
- reduced based on the work pattern **at the time the leave is taken**
- reduced based on the work pattern in **days**

**Change to method of entitlement including conversion of accrued entitlement when** work patterns changed.

Payment is:

- based on greater of ordinary daily rate and average daily rate

Note this agreement is dependent on there being a clear definition of a daily rate.

This kind of agreement would be based on the principle that everyone should get 8% of the days they worked in the year the entitlement arose with payment being made at a daily rate.

In the below examples, the figures in the column entitled "Annual leave entitlement in days" relate to each employee's actual leave entitlement rather than their accrued leave. All examples relate to situations where the employee has not taken any annual leave in advance.

#### **Employee A works:**

<b>MONTH</b>	<b>DAYS PER WEEK</b>	<b>HOURS PER WEEK</b>	<b>ORDINARY WEEKLY PAY</b>	<b>ANNUAL LEAVE ENTITLEMENT IN DAYS</b>
1 – 12	4	32	\$480	-
13	4	32	\$480	16
14-24	5	40	\$640	16
25	5	40	\$640	20

The agreement is that accrual will be 4/52 of every day worked.

#### **Employee A: Renegotiation Agreement**

When the employee changed their hours of work the employer and employee agreed that the leave entitlement would remain at 16 days and when the employee took a week off their leave entitlement would be reduced by 5 days. Payment would stay the same i.e. that the employee would be paid the appropriate daily rate for each day they took.

Employee A above takes 1 days leave in the 21<sup>st</sup> week after they start working 40 hours per week (i.e. in their 18<sup>th</sup> month). Their leave entitlement would be reduced to 15 days.

Their payment will be 1 day multiplied by the greater of:

(a) Ordinary daily pay of \$128 or

(b) Average daily pay (over previous 12 months) =

$$\frac{\text{Gross earnings in previous 12 months pay periods}}{\text{Total days in previous 12 months pay periods}} = \frac{(20 * 640) + (32 * 480)}{(20 * 5) + (32 * 4)} = \frac{\$ 28,160.00}{228} = \$123.50$$

Which is 1 \* \$128 = \$128

**Employee B works:**

MONTH	DAYS PER WEEK	HOURS PER WEEK	ORDINARY WEEKLY PAY	ANNUAL LEAVE ENTITLEMENT
1-12	5	40	\$600	-
13	5	40	\$600	20 days
14-24	variable	21	\$294	160 hours

The initial agreement was that accrual will be 4/52 of 5 days a week.

**Employee B: Renegotiation Agreement**

When the employee changed their hours of work the employer and employee agreed that the leave entitlement would be changed so that it is now accrued on the basis of hours worked as it is no longer easily calculated in days. The existing entitlement was converted from days to hours based on the 8 hour day the employee was working when the entitlement arose. The employer and employee agreed that over the next year that one days leave would be considered to be 8 hours leave.

Employee B takes one day’s leave in the 21<sup>st</sup> week after they start working variable days/hours (i.e. in their 18<sup>th</sup> month). Their leave entitlement would be reduced to 152 hours.

Employee B’s pay has been reduced from \$15.00 to \$14.00 since Employee B started working 21 hours.

Their payment will be 8 multiplied by the greater of:

(a) Ordinary hourly rate in their employment agreement of \$14 or

(b) Average hourly pay (over previous 12 months) =

$$\frac{\text{Gross earnings in previous 12 months pay periods}}{\text{Total ordinary hours in previous 12 months pay periods}}$$

$$\frac{(20 * 294) + (32 * 600)}{(20 * 21) + (32 * 40)} = \frac{\$ 25,080.00}{1,700} = \$14.75$$

Which is  $8 * \$14.75 = \$118.02$

**Employee C has worked:**

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	TOTAL
Hours	8	8	8	5	5	34
Ord Pay	\$120	\$120	\$120	\$75	\$75	\$510

for their entire 25 months of employment. The agreement is that accrual will be 4/52 of 5 days a week.

The leave entitlement at the end of one year will be 20 days.

Employee C takes Friday off which as the work pattern is considered in days will be 1 day out of a total of 5 days. Their leave entitlement would be reduced to 19 days.

Their payment will be 1 multiplied by:

$$\text{Ordinary daily pay} = \frac{\$510}{5} = \$102.00$$

NB As the employee’s daily rate has been constant for the entire period there is no need to make the comparison but otherwise it would have been the greater of average and ordinary as per the examples above

## APPENDIX 2: PAYMENT TYPES

There are four different types of payments defined in the Act. Of those the following three are used in various formulae (and the 4th is used in the determination of relevant daily pay):

- those included in the definition of gross earnings (Gross Earnings) under Section 14 (a);
- those included in the definition of “ordinary weekly pay” under Section 8(1)(a) and (b) (referred to as Gross Earnings(Ordinary));
- those not included in “ordinary weekly pay” under Section 8(1) - these payments are defined in Section 8(1)(c)(i) to (iii) (referred to as Gross Earnings(Conditional));
- those excluded from the definition of gross earnings (referred to as Excluded Earnings) under Section 14(b) and 14(c).

Payroll software must be able to distinguish between each type of payment and enable the total of each type to be calculated for single pay periods or consecutive multiple pay periods.

### Relevant Daily Pay

There is an additional type of payment which will need to be considered for the purposes of determining (rather than calculating) relevant daily pay only.

Where “relevant daily pay” is able to be determined then productivity or incentive-based payments (including commission) and overtime that would have otherwise been received on the day concerned should be included<sup>6</sup>.

However where “relevant daily pay” is not clear or can not be determined then the calculation is based on the formula in Section 9(3) which includes all Gross Earnings.

The following table elaborates on what is included in each payment type:

PAYMENT	PAYMENT TYPE
Salary or wages	Gross Earnings(Ordinary)
Allowances	Gross Earnings(Ordinary)
Payment for leave (annual, public holiday, alternative holiday, sick or bereavement)	Gross Earnings(Ordinary)
Productivity or incentive-based payments (including Commission) - regular	Gross Earnings(Ordinary)
Cash value of any board or lodgings provided by the employer <sup>7</sup>	Gross Earnings(Ordinary)

<sup>6</sup> For example if an employee is in a team that is paid commission then they will be entitled to their share of commission for that day or if everyone in their work group did two hours overtime that day then they are entitled to two hours of overtime for that day.

<b>PAYMENT</b>	<b>PAYMENT TYPE</b>
Payments for overtime - regular	Gross Earnings(Ordinary)
First week compensation payable by the employer under section 97 of the Injury Prevention, Rehabilitation, and Compensation Act 2001 or former Act.	Gross Earnings(Ordinary)
Any one-off or exceptional payments	Gross Earnings(Conditional)
Productivity or incentive-based payments (including Commission)- irregular	Gross Earnings(Conditional)
Payments for overtime - irregular	Gross Earnings(Conditional)
Any discretionary payments	Excluded Earnings
Any weekly compensation payable by the ACC under the Injury Prevention, Rehabilitation, and Compensation Act 2001 or former Act.	Excluded Earnings
Any payment for absence from work while the employee is undertaking voluntary service or training within the meaning of the Volunteers Employment Protection Act 1973.	Excluded Earnings
Any Payments to reimburse the employee for any actual or reasonable cost incurred by the employee related to his or her employment.	Excluded Earnings
Any Payments of a reasonably assessed amount to reimburse the employee for any costs incurred by the employee related to his or her employment.	Excluded Earnings
Any payment of any employer contribution to a superannuation scheme for the benefit of the employee	Excluded Earnings

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<sup>7</sup> These can be excluded when the work done by the employee requires the employee to stay overnight in a residence other than the employee's usual place of residence or if the board or lodgings are provided because of special circumstances.