

This factsheet will help you to:

- Understand how annual leave affects other types of leave
- Understand the interaction between parental leave and other types of leave
- Calculate payment for public holidays where the employee is sick or bereaved or during a closedown period

The interaction between different types of leave

Annual leave, sick leave, bereavement leave, parental leave, public holidays and unpaid leave can all affect each other in various ways. As an employer, you are responsible for making sure that your employees always receive their correct entitlements – this is just part of good business. You don't need to know the in's and out's of every leave combination however you do need to be generally aware of these different interactions. When something comes up, you can go away and check what to do in that particular situation. If in doubt, please contact the Department of Labour or your employers' association for assistance.

Annual leave and unpaid leave:

Unpaid leave of more than one week can affect entitlement to annual leave. This can be managed in three ways:

- The employer can choose to adjust the date of annual leave entitlement by the period of unpaid leave in excess of one week. For example, if the employee takes three weeks unpaid leave, they become entitled to annual leave two weeks after the anniversary date.
- The employer and employee agree that the employee's average weekly earnings calculation is modified to reflect the number of weeks the employee was away on unpaid leave in excess of one week. For example, if an employee takes two weeks' unpaid leave during the year, the annual holiday pay is calculated on the basis of a 51 week year, not on the basis of 52 weeks.
- The employer and employee can agree that the unpaid leave will not affect the employee's annual holiday entitlement.

Time off on ACC, parental leave or leave for voluntary military service does not affect the annual leave entitlement date.

Annual leave and public holidays:

If a public holiday falls during a period of annual leave, the employee should be paid for that public holiday if they would have normally worked that day (if not for the annual leave). For instance, an employee takes the week after Easter weekend off as annual leave. Monday and Friday are otherwise

working days for them. In this case, Good Friday and Easter Monday are paid as public holidays and the remaining time off is classed as annual leave.

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Parental leave and other types of leave:

Time off on parental leave is counted as continuous service. The employee is still entitled to receive their four weeks annual leave on their anniversary date. However, the payments for the annual leave are affected. If the employee becomes entitled to annual leave during the period of parental leave or in the year after they return, the annual leave payment is based on the average weekly earnings for the last 12 months.

Similarly, the employee is still entitled to their yearly allocation of sick leave on the same date they would have normally received it.

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Public holidays and closedown periods:

If a business has a closedown period that includes public holidays then the employee is entitled to be paid for that public holiday if they would normally have worked that day (if not for the closedown). In other words, if the public holiday is an “otherwise working day” for the employee, they should be paid.

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Sick leave and annual leave:

If an employee falls sick before the annual leave has started, the employee is entitled to take any scheduled annual holidays as sick leave. If an employee falls sick when they are away on annual leave, they can ask their employer if they can change these days to sick leave. Approval is at the discretion of the employer. The employer is allowed to ask for proof of illness or place other reasonable conditions around the granting of this leave.

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Bereavement leave and annual leave:

If an employee suffers a bereavement during a period of annual leave, they are entitled to take bereavement leave instead.

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Sick leave and unpaid leave:

An employer can only take sick leave on a day they would normally have worked. If the employee is away on unpaid leave and falls sick, they are not entitled to take paid sick leave for that day as it's not an otherwise working day for them.

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Sick leave, bereavement leave and public holidays:

If an employee was meant to work on a public holiday but called in sick or bereaved, the day should be treated as a paid unworked public holiday. They should be paid their relevant daily pay or average daily pay, and no sick or bereavement leave is to be deducted.

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ACC and unpaid sick leave:

The time an employee is on either unpaid sick leave or on ACC still counts as part of an employee's continuous service. The employee still becomes entitled to annual leave and sick leave on their respective entitlement dates.