

Employment Standards

Employer Self-Audit Questionnaire



Employer Self-Audit Questionnaire

Purpose

This questionnaire has been created for employers so that you can measure how well you are providing for minimum employment standards in your workplace.

Failing to provide for minimum employment standards is serious. Such failures not only disadvantage and demotivate employees but also undermine fair competition between employers. Where employers are found to be in breach of employment standards then as well as corrective action being required, penalties can also be sought. Another negative consequence for employers is the loss of reputation which comes from being identified as an unfair employer.

Using this Self-Audit Questionnaire is one practical step that you can take towards ensuring that the minimum employment standards are being met by your business.

How to Use this Questionnaire

The questionnaire is reasonably thorough. For example – as well as checking public holidays are provided you also check the calculation of the amount paid. So, be prepared to devote some time to completing it.

To help you complete the questionnaire there is an Employer Self-Audit Guide which provides information in relation to each area of the self-audit. If you have general questions in relation to the employment standards the Ministry of Business, Innovation & Employment (the Ministry) also operates a contact centre on 0800 20 90 20.

The Self-Audit is carried out over your employment records, being wage, time and holiday records and employment agreements. The wage and time records you will require to complete this questionnaire will need to be detailed. For example - to manually check the annual leave calculation you will need to know which days were worked by the employees you are auditing; and to check some public holiday entitlements you will also need to know what pattern of hours and days were worked ahead of the day in question. Summary reports of amounts paid will not be sufficient to complete the self-audit thoroughly.

Please complete the questionnaire in full and keep a copy of the questionnaire, the employment records, and employment agreements that were audited. This means that if an employee asks, or a Labour Inspector visits, you will be able to explain how you arrived at your conclusions.

It is expected that where the Self-Audit reveals any failings in regard to employment standards that you will take action to correct any errors for all affected employees – including the payment of arrears, looking back 6 years. Records of any corrective action taken must also be attached and filed with the completed Self-Audit Questionnaire.

This Questionnaire is divided into the following sections:

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Getting Started

Business Details

| | | | |
|---|--|---|--|
| Legal name of the employer: | | | |
| Trading name of your business: | | | |
| Physical address of business | | | |
| Postal address of business (if different from physical) | | | |
| Name and position of person carrying out the audit ¹ | | Mobile number of person carrying out the audit: | |
| DDI of person carrying out the audit: | | | |
| e-mail address of person carrying out the audit: | | | |
| Name and type of electronic payroll system (if used): | | | |
| The name and contact details of the person who completes the function of your payroll system: | | | |
| Date audit was completed: | | | |

Note:

1. *This person must either be the employer, a director of the company that is the employer or be working closely with the employer entity so that everything they complete is with the legal employer's consent and authority.*

Scope of the Self-Audit

Apart from workplaces with a small number of staff, it is not practical to audit every single record for every employee and so it is usual to select a representative group of employees and audit their records. It is important that a diverse group is selected to get a good cross-section of the different types of employees found in your business operation. For example, think about including employees across different roles, different work sites, different methods of payment (i.e. salary/wages) and those who have different arrangements for hours of work. Making good decisions here will give you a much more accurate picture of how well you are complying with the employment standards, and result in a stronger Self-Audit.

1. Create a full employee list

Begin by creating a list of all current employees, and any that have ended their employment in the past 2 years. Use Template 1 (which follows) to create this master list. This list is referred to as the 'ull employee list'.

2. Create an audit employee list

Next, select those employees that you intend to use as the focus for much of the self-audit. It will depend on the size and type of your business as to how many of these employee records you should include in your audit employee list. Getting a good cross section of the different types of employees in your business is important and at least a couple of examples for each selected type of employee brings more assurance to the self-audit.

In order to complete parts of this self-audit there are certain types of employees that will need to be included in your audit employee list. Some holiday calculations can only be checked properly for employees who have taken leave after one year of employment and it is only possible to check if holiday pay is calculated correctly at termination if the audit list includes employees who have ended their employment. Also, holiday entitlements can become more complicated to provide for when the working hours and days are variable. Therefore, ensure that your audit employee list includes at least the following employee types:

- A mixture of employees that have worked more than a year and under a year
- A mixture of employees that are current and those that have ended their employment (including some that have worked more than a year at termination)
- If you have employees on varying arrangements for their hours and terms of work, then include a mix of these in the audit employee list including any:
 - Employees who work standard hours and days
 - Employees who work varying hours and days
 - Employees on genuine fixed-term agreements
 - Casual employees – meaning those with no expectation of on-going work beyond each short-term engagement where they choose to accept or refuse an offer of work each time

Use Template 2 (follows Template 1) to record your audit employee list.

Completing the Audit

Section 1: Employment & Individual Employment Agreements

1.1 Individual Employment Agreements (IEA)

Every employee must have a written employment agreement. If the agreements are Individual Employment Agreements there are mandatory elements that must be included in them.

Read the 'Individual Employment Agreements' section (1.1) of the Self-Audit Guide. Refer to your **full employee list** and complete the following:

| | | | |
|--|--|-------------------|----|
| 1.1.1 | Does every employee not on a union collective agreement have an IEA in writing? | Yes | No |
| If all of your employees are on union collective agreements go straight to section 1.2 | | | |
| 1.1.2 | For every employee on your full employee list, have you retained signed copies of their IEA or the current terms and conditions of employment and copies of any intended IEA and given each a copy if requested? | Yes | No |
| 1.1.3 | Do all IEAs for employees audited contain the mandatory clauses | Yes | No |
| If YES to all three questions above, attach copies of each employee's IEA and go to Question 1.2. | | | |
| 1.1.4 | If you answered NO to ANY of the above questions and you have now made corrections attach evidence to this questionnaire showing the corrections made. | evidence attached | |
| 1.1.5 | If you have not made corrections please explain why not: | | |

1.2 Rest Breaks and Meal Breaks

All employers are required to provide employees with rest and meal breaks but there are no specific rules about how long, or when, such breaks should be. The timing and length of breaks is something which should be agreed between employer and employee through good faith bargaining.

Read the 'Rest Breaks and Meal Breaks' section (1.2) of the Self-Audit Guide. Complete the following:

| | | | |
|---|--|-------------------|----|
| 1.2.1 | Do you understand your employer obligations under section 69ZD of the Employment Relations Act 2000 about rest and meal breaks for your employees? | Yes | No |
| 1.2.2 | Are you confident that all your employees either take breaks according to the legislation, or where they do not you can justify any compensation provided or restrictions on breaks due to the nature of your business? | Yes | No |
| If YES to the above two questions go to Question 1.3 | | | |
| 1.2.3 | If NO to EITHER of the above questions have you now made sure you: <ul style="list-style-type: none"> • understand your obligations, and • corrected the provision of rest and meal breaks for your employees? | Yes | No |
| 1.2.4 | If you have made corrections please provide evidence of this, for example correspondence and memos with employees. | evidence attached | |
| 1.2.5 | If you have not made necessary corrections please explain why not: | | |

1.3 Employment Status

Employment Standards apply only to employees. They do not apply to self-employed people such as contractors or genuine volunteers. If you have any contractors or volunteers it is important to be sure that you have their status correct.

Read the 'Employment Status' section (1.3) of the Self-Audit Guide and complete the following:

| | | |
|---|--|-----------|
| 1.3.1 | Do you have workers who are not on the employee list because they are classified as self-employed or volunteers? | Yes No |
| If NO go to Question 1.4 If YES continue. | | |
| 1.3.2 | If YES explain the reason these workers are defined as 'self-employed' or 'volunteers': | |

1.4 Employee Eligibility to Work in New Zealand

Under the Immigration Act 2009 employers must not employ foreign nationals who are not entitled to work in New Zealand or entitled to work for that employer.

Read the 'Employee Eligibility to Work in New Zealand' section (1.4) in the Self-Audit Guide, refer to your full employee list and complete the following:

| | | | |
|--|--|-----|----|
| 1.4.1 | Do you have a process in place to check whether a prospective employee is entitled to work in New Zealand? | Yes | No |
| 1.4.2 | If NO , Have you now registered as an employer to use the Visa View service at www.visaview.govt.nz ? | Yes | No |
| Attach evidence of your enrolment to use Visa View and a print out of two visa view searches using your audit employees as examples. | | | |
| 1.4.3 | Do you currently, or did you ever, employ temporary migrant employees? | Yes | No |
| If NO go to Question 2.1 | | | |
| 1.4.4 | Are all of your current temporary migrant employees working consistently with their visa conditions? | Yes | No |
| 1.4.5 | If NO, confirm that you have contacted Immigration New Zealand to resolve the situation: | | |

Section 2: Records

The keeping of wage, time and holiday records is a fundamental business system. As well as being a requirement of employment law, strong record keeping protects employers in the time of dispute and enables you to be more certain that you are meeting employment standards.

Read the 'Records' section (2) of the Self-Audit Guide. Refer to the wages, time and holiday records for at least two employees from your audit employee list (over the entire duration of their employment) and complete the following:

Please note: ALL wage, time and holiday records must be retained for no less than 6 years from the time they are created.

| | | | |
|---|---|-------------------|----|
| 2.1 | Do you keep a record of actual hours that your employees work each day? | Yes | No |
| 2.2 | Do you keep a record of the actual days that your employees work? | Yes | No |
| 2.3 | Do you keep a record of the wages and additional payments paid <u>each pay day</u> , including overtime, together with a method of calculation? | Yes | No |
| 2.4 | Do you keep a record of all accrued, taken, paid and cashed-up leave? | Yes | No |
| 2.5 | Do you keep a record of all hours worked on public holidays? | Yes | No |
| 2.6 | Do you keep a record of all payments to employees for unworked public holidays? | Yes | No |
| 2.7 | Do you keep a record of all accrued, taken, paid and cashed up alternative holidays? | Yes | No |
| 2.8 | Do you keep a record of all other leave accrued, taken and paid? e.g. sick, bereavement, leave without pay, parental leave. | Yes | No |
| If YES to any or all of the above attach a copy of the records checked to this Self-Audit Questionnaire. | | | |
| 2.9 | If you answered NO to any of the above questions please explain why: | evidence attached | |
| 2.10 | If you answered NO to any of the above questions and you have now made corrections, attach evidence showing how the records are now amended. | evidence attached | |
| 2.11 | If you have not made any corrections please explain why not: | | |

Section 3: Wages

3.1 Minimum Wage

All employees (16 years old or over) must be paid at least the minimum wage for their work. While it may seem very simple, take the time to carefully ensure that your business is covering this entitlement.

Refer to the 'Minimum Wage' section (3.1) in the Self-Audit Guide. Ideally check the wage and time records for 1 or 2 employees of each employee type you have identified but at the very least check 2 employees from your audit employee list. – and complete the following:

| | | | |
|--|--|-------------------|----|
| 3.1.1 | Did you pay your employees at least the minimum wage rate for every hour they have worked for the duration of their employment? | Yes | No |
| If YES, attach a copy of the wage and time records of the employees audited and go to Question 3.2 | | | |
| 3.1.2 | If NO and you have now made corrections, attach evidence to this questionnaire showing: <ul style="list-style-type: none">• all records amended, and• payments of arrears to audited employees, and• Payment of arrears to any other affected employees in the past 6 years. | evidence attached | |
| 3.1.3 | If you have not made corrections explain why not: | | |

3.2 Payment for Trials & Probation Periods

Payment of at least the minimum wage applies to all work. This includes work during a probation period or a trial period.

Read the 'Payment for Trials and Probation periods' section (3.2) in the Self-Audit Guide. Refer to your full employee list and complete the following:

| | | |
|---------------------------------|--|-------------------|
| 3.2.1 | Have you started new employees on any type of trial or training period including 90 day trial periods or probationary periods? | Yes No |
| If NO go to Question 3.3 | | |
| 3.2.2 | If YES – Have you paid these employees no less than the appropriate minimum wage rate from the time their trial or training period started? | Yes No |
| 3.2.3 | If NO to Question 3.2.2 – Have you now corrected this practice by back paying employees (on the full employee list) who have worked unpaid trial periods and amended your records accordingly? | Yes No |
| 3.2.4 | If you have corrected this practice please attach evidence in support of this, including: <ul style="list-style-type: none"> • copies of the correct calculations • records showing payments • evidence of payments made to all affected employees from the past 6 years. | evidence attached |
| 3.2.5 | If you have not corrected this practice please explain why not: | |

3.3 Deductions from Pay

The general requirement of the law is that all wages must be paid in full without deduction. There are some exceptions to this with one being that deductions can be made where the law requires deductions to be made (for example tax, court ordered fines, child support, and employee Kiwisaver contributions).

Another exception is that the law allows for deductions to be made from pay where the employer has the specific written consent or on the written request of the employee to make a deduction. However, take care to read the information in the Self-Audit Guide carefully as some deductions are simply unlawful and the written consent or request from an employee must be specific.

Read the 'Deductions from Pay' section (3.3) in the Self-Audit Guide. Use the wage, time and holiday records for your audit employee list for the whole duration of their employment and complete the following.

| | | | |
|--------------------------------------|--|-------------------|----|
| 3.3.1 | Have you deducted money from any employee's pay for things OTHER THAN those that are required by law? | Yes | No |
| If NO then go to Question 3.4 | | | |
| 3.3.2 | Have you made deductions (Other than those required by law) WITHOUT the specific written consent or written request of the worker to make the deduction? | Yes | No |
| 3.3.3 | Was specific written consent or written request for a deduction obtained WITHOUT employees being advised that they have the right to withdraw their written consent? | Yes | No |
| 3.3.4 | Have you deducted money from any employee's pay for Personal Protective Equipment? | Yes | No |
| 3.3.5 | Have you deducted money from the employee's wages for board or lodging | Yes | No |
| 3.3.6 | Have you made a deduction from any employee's wages for on-the-job training, recruitment, equipment or orientation costs? | Yes | No |
| 3.3.7 | Have you made a deduction from any employee's wages that upon review was unreasonable and went beyond a genuine estimation of cost? | Yes | No |
| 3.3.8 | If you answered YES to any of the 6 questions above and you have now made corrections, attach evidence to this questionnaire showing: <ul style="list-style-type: none"> • policies, records or agreements amended, and • payments of arrears to audited employees, and • payments of arrears to any other affected employees in the past 6 years | evidence attached | |
| 3.3.9 | If you have not made any corrections please explain why not: | | |

3.4 Premiums & Direction on Spending Wages

A premium is where an employer charges or receives a payment from an employee or from any other person to obtain or secure a job for a person. This is unlawful and a serious breach of employment standards. Overt examples of the charging of premiums are linked to exploitative behaviour but there are less obvious bonding arrangements and deductions which also amount to the charging of a premium.

There is also a prohibition on an employer requiring an employee to spend their wages at a certain place or in a certain manner.

Read the 'Premiums & Direction on Spending Wages' section (3.4) in the Self-Audit Guide. Use the wage, time and holiday records for your audit employee list for the whole duration of their employment and complete the following.

| | | | |
|--|---|-------------------|----|
| 3.4.1 | Do you have bonding or deduction arrangements with any employees relating to on-the-job training, recruitment or orientation costs? | Yes | No |
| 3.4.2 | Do you have arrangements which require employees to spend their wages in a certain way at a certain place? | Yes | No |
| 3.4.3 | Have you sought or received any premium in respect of the employment of any person? | Yes | No |
| If NO to these questions above go to Question 3.5 | | | |
| 3.4.4 | <p>If you answered YES to either of the questions above and you have now made corrections, attach evidence to this questionnaire which shows:</p> <ul style="list-style-type: none"> • policies, records or agreements amended, and • any payments of arrears to audited employees, and • payment of arrears to any other affected employees in the past 6 years | evidence attached | |
| 3.4.5 | If you have not made any corrections please explain why not: | | |

3.5 Equal Pay

Males and females performing substantially similar work should receive rates of pay in which there is no differentiation solely on the basis of their sex.

Read the 'Equal Pay' section (3.5) in the Self-Audit Guide. Use your full employee list and complete the following:

| | | |
|--|---|-------------------|
| 3.5.1 | Do your male and female employees receive rates of pay in which there is no element of differentiation based solely on gender? | Yes No |
| If you answered YES to the above question, go to Question 4.1 | | |
| 3.5.2 | If you answered NO - Have you now corrected this practice by back paying female employees from the full employee list who have received rates of pay less than males doing work that is substantially the same? | Yes No |
| 3.5.3 | <p>If you have corrected this practice please provide evidence to show this, including:</p> <ul style="list-style-type: none"> • copies of correct calculations, and • amended records, and • evidence of back payments to all affected employees. | Evidence attached |
| 3.5.4 | If you have not corrected this practice please explain why not: | |

Section 4: Holidays

4.1 Definitions & Formulae

There are some core calculations and definitions that are applied in relation to holiday entitlements. Before we get to the provision of the holiday entitlements themselves you first need to make sure these core basics are being calculated and approached correctly.

Read the 'Definitions and Formulae' section (4.1) of the Self-Audit Guide. On the following page you will find Template 3 being a Calculation Sheet to help you work through this section. Use one of these calculation sheets for each employee you audit in relation to this section. It is recommended that you audit at least one or two employees of each type you have identified in your audit summary list.

| | | | |
|---|--|-------------------|----|
| 4.1.1 | Does your system correctly work out what "4 weeks' annual holidays" is in actual time off work? | Yes | No |
| 4.1.2 | Does your system correctly work out the formula for 'Ordinary Weekly Pay'? | Yes | No |
| 4.1.3 | Does your system correctly work out the formula for 'Average Weekly Earnings'? | Yes | No |
| 4.1.4 | Does your system correctly pay the greater of 'Ordinary Weekly Pay' or 'Average Weekly Earnings' for each period of annual leave taken? | Yes | No |
| 4.1.5 | Have you correctly set up your system to pay either 'Relevant Daily Pay' or 'Average Daily Pay'? | Yes | No |
| 4.1.6 | Does your system correctly work out whether a day is an 'otherwise working day' for an employee? | Yes | No |
| 4.1.7 | Have you correctly set up your system to include all earnings identified in section 4.1 of the Self-Audit Guide in order to correctly calculate 'Gross Earnings'? | Yes | No |
| If you answered YES to any of the above questions, attach a copy of the records audited and a detailed record of the calculation sheets (template 3) you completed to ensure compliance. | | | |
| 4.1.8 | If you answered NO to any of the above questions and you have now made corrections please attach: <ul style="list-style-type: none"> • evidence showing records amended, and • payments of arrears to audited employees, and • payment of arrears to any other affected employees in the past 6 years | evidence attached | |
| 4.1.9 | If you have not made corrections, please explain why not: | | |

4.2 Annual Holidays – Payment for Holidays Taken

From working through the previous section of the Self-Audit Questionnaire you will be familiar with the terms of Average Weekly Earnings and Ordinary Weekly Pay and paying the higher of the two.

Read the ‘Payment for Holidays Taken’ section (4.2) of the Self-Audit Guide. Use the wage, time and holiday records for at least two employees from your audit employee list for the whole duration of their employment and complete the following:

| | | |
|---|---|-------------------|
| 4.2.1 | Have you paid your audit employees correctly each time they have taken paid annual holidays? | Yes No |
| If YES attach a copy of the employees records audited and a detailed record of the calculations you performed to ensure compliance | | |
| 4.2.2 | If you answered NO to the question above and you have made corrections attach evidence showing: <ul style="list-style-type: none"> • All records amended, and • Payment of arrears to audited employees, and • Payment of arrears to any other affected employees in the past 6 years. | Evidence attached |
| 4.2.3 | If you have not made corrections explain why not: | |

4.3 Annual Holidays – Pay at Termination

The other time that employees generally get paid for their annual holidays is when they end their employment.

Read the ‘Annual Holidays – Pay at Termination’ section (4.3) in the Self-Audit Guide. Use the wage, time and holiday records for employees on your audit employee list who have left your employment and complete the following:

| Did you correctly pay the following two types of audit employees the correct holiday pay entitlements at termination? | | |
|---|---|-------------------|
| 4.3.1 | For those who worked less than 12 months before ending their employment - Did you: <ul style="list-style-type: none"> • Pay them at least 8% of their total gross earnings since commencement less any annual holidays paid in advance? AND <ul style="list-style-type: none"> • Include in the gross earnings figure any alternative holiday’s untaken and paid out at termination? | Yes No |
| 4.3.2 | For those that have worked more than 12 months before finishing – Did you: <ul style="list-style-type: none"> • Pay them any untaken annual holidays at termination? AND <ul style="list-style-type: none"> • Pay them at least 8% of their total gross earnings for any part year from their last anniversary date to termination? AND <ul style="list-style-type: none"> • Include in the total gross earnings figure the payments for the: <ul style="list-style-type: none"> ○ untaken annual holidays paid at termination ○ alternative holidays paid out at termination ○ payments for any public holidays due at termination for public holidays which would have fallen on otherwise working days if the employment had been notionally extended by the amount of untaken annual leave. | Yes No |
| If YES to any of the above attach copies of the employees records audited and a detailed record of the calculations you performed to ensure compliance. | | |
| 4.3.3 | If you answered NO to any of the above questions and you have now made corrections, attach the following to this Self-Audit: <ul style="list-style-type: none"> • evidence showing all records amended, and • payment of arrears to any affected audited employees, and • payment of arrears to any other affected employees from the past 6 years | evidence attached |
| 4.3.4 | If you have not made corrections please explain why not: | |

4.4 Annual Holidays - Closedowns

Some employers operate a regular annual closedown for all (or part) of their business. Employers are able to direct employees to discontinue their work and use holiday pay during a regular annual closedown but the holidays legislation has rules about how this is done and how the holiday pay is calculated for the closedown – especially for employees who have worked for less than one year at the date of the closedown.

Read the ‘Closedowns’ section (4.4) of the Self-Audit Guide. Use the wage, time and leave records for all employees on your audit employee list for the duration of their employment and complete the following:

| | | | |
|--|--|-------------------|----|
| 4.4.1 | Do you operate a regular annual closedown each year? | Yes | No |
| If NO go to section 4.5 | | | |
| 4.4.2 | When you operate the regular annual closedown – Do you give at least 14 days’ notice to employees that you will do this? | Yes | No |
| 4.4.3 | For the audit employees who had worked less than 12 months before their first close down did you: <ul style="list-style-type: none"> • Realign their annual holidays anniversary date to a date near the beginning of the closedown <p>AND</p> <ul style="list-style-type: none"> • Pay them 8% of their gross earnings to date as ‘holiday pay’ <p>AND IF AGREED</p> <ul style="list-style-type: none"> • Also allow them to use some annual holidays in advance | Yes | No |
| 4.4.5 | If public holidays fell during the regular annual closedown period – Were employees paid for these days as public holidays when they fell on their otherwise working days? | Yes | No |
| If YES to any of the above attach a copy of the employees records audited and a detailed record of the calculations you performed to ensure compliance. | | | |
| 4.4.6 | If you answered NO to any of the above questions and you have now made corrections please provide: <ul style="list-style-type: none"> • evidence showing all records amended, and • payment of arrears to any affected audited employees, and • payment of arrears to any other affected employees from the past 6 years | evidence attached | |
| 4.4.7 | If you have not made corrections explain why not: | | |

4.5 Pay-As-You-Go Holiday Pay (PAYG)

In limited and specific circumstances employers and employees can agree to pay annual holiday pay with wages each pay day. Even when these specific circumstances apply there are requirements around how it is set up. Such arrangements for annual holiday pay might seem attractive but you need to be sure you have everything correct and that you fit the circumstances where it is allowed. If you get this wrong you could end up having to pay all the annual leave over again.

Read the 'Pay-As-You-Go Holiday Pay' section (4.5) in the Self-Audit Guide and complete the following:

| | | | |
|--|--|-------------------|----|
| 4.5.1 | Did any of your employees on your full employee list receive their holiday pay paid with their wages each pay period? | Yes | No |
| If NO, go to Question 4.6 | | | |
| 4.5.2 | <p>If YES, have you met your obligation to allow this practice only when:</p> <ul style="list-style-type: none"> • The employees work so intermittently or irregularly that it is impractical to provide for 4 weeks annual leave in the standard way <p>OR</p> <ul style="list-style-type: none"> • The employees are on genuine fixed-term agreements for less than 12 months (or a series of subsequent fixed term agreements for less than 12 months) | Yes | No |
| 4.5.3 | The agreement for a PAYG arrangement is clearly recorded in the signed employment agreement. | Yes | No |
| 4.5.4 | Records (and any payslips) identify the 8% holiday pay rate as a separate component from the wages. | Yes | No |
| If YES to all of the above attach a copy of the records of the employees audited to show consistency with the law on PAYG holiday pay. | | | |
| 4.5.5 | If you answered NO to any of the three questions above and have now made corrections please attach evidence showing the records amended and the reinstatement of annual leave entitlements. This may involve changing how you pay some employees and you may need to seek advice how best to manage the process. | evidence attached | |
| 4.5.6 | If you have not made corrections please explain why not: | | |

4.6 Cashing Up Annual Holidays

In general annual holiday pay should only be paid when annual leave is taken or employment comes to an end. However, employees are able to request to cash up to 1 week of their holidays each year.

Read the 'Cashing Up Annual Holidays' section (4.6) in the Self-Audit Guide and complete the following:

| | | |
|---|--|--|
| 4.6.1 | Do you have a policy that employee requests for cashing up annual holidays will not be considered | Yes No |
| If YES go to Question 4.7 | | |
| 4.6.2 | <p>If employees requested to cash up their annual holidays and you approved this have you:</p> <ul style="list-style-type: none"> • Cashed up the correct proportion allowed? <p>AND</p> <ul style="list-style-type: none"> • Have you recorded it? <p>Attach evidence of the amount cashed up and to what period of annual holidays it related to.</p> | <p>Yes No</p> <p>None occurred</p> <p>Evidence attached</p> |
| If no cash ups occurred go to Question 4.7 | | |
| 4.6.3 | <p>If you answered NO to the above question and you have now corrections please attach evidence showing:</p> <ul style="list-style-type: none"> • All records amended, and • Payments of arrears to any affected employees in the past 6 years | Evidence attached |
| 4.6.4 | If you have not made corrections explain why not: | |

4.7 Public Holidays

When a public holiday falls on an otherwise working day employees are entitled to have that day off on pay. Should an employee work a public holiday then they are entitled to receive no less than time-and-a-half for their work and if it happens to be an otherwise normal working day then they also earn an alternative holiday.

Read the 'Public Holidays' section (4.7) of the Self-Audit Guide. Use the wage, time and holiday records for your audit employee list for the whole duration of their employment and complete the following:

| | | | |
|--|---|-------------------|----------------------|
| 4.7.1 | Did you correctly pay employees for un-worked public holidays that fell on their otherwise working days? | Yes | No |
| 4.7.2 | Did you pay at least time-and-a-half for each hour worked on a public holiday? | Yes | No not applicable |
| 4.7.3 | Did employees who worked a public holiday on an otherwise working day receive alternative holidays? | Yes | No not applicable |
| 4.7.4 | If an employee was 'on call' on a public holiday, they did not get called out but the nature of the restriction was such that they could not enjoy the holiday – Did they receive an alternative day? | Yes | No not applicable |
| 4.7.5 | Are all public holidays and alternative holidays paid at the employee's relevant Daily Pay (or Average Daily Pay where applicable)? | Yes | No |
| 4.7.6 | When a public holiday fell during a period of annual or sick leave for an employee – Was the day treated as a public holiday, not as annual or sick leave? | Yes | No |
| 4.7.7 | When any of the 11 public holidays fall on a weekend for your employees – Have you applied the transfer rules correctly to make sure that they received the correct pay for the days in question? | Yes | No |
| If YES to any of the above questions attach the employees records audited and a detailed record of the calculations you performed to ensure compliance. | | | |
| 4.7.8 | If you answered NO to any of the above questions and you have now made corrections please provide evidence showing: <ul style="list-style-type: none"> • records amended, and • payment of arrears to audited employees, and • payment of arrears to all other affected employees from the past 6 years. | evidence attached | |
| 4.7.9 | If you have not made corrections please explain why not: | | |

4.8 Other Leave

Beyond Annual holidays and public holidays there are also minimum entitlements that must be provided for sick leave and bereavement leave. Employers also have obligations in relation to parental leave where employees are having or adopting children.

Read the 'Other Leave' section (4.8) in the Self-Audit Guide. Using the wage, time and holiday records for your audit employee list for the whole duration of their employment and complete the following:

| | | | |
|--|--|-------------------|----------------------|
| 4.8.1 | Once employees complete 6 months of continuous work does your system allot them at least 5 days sick leave for each ensuing year which is allowed to accrue to at least 20 days? | Yes | No |
| 4.8.2 | If you have any employees who are not continuous employees - Have they also been entitled to sick leave when they have completed the following hours in a 6 month period: <ul style="list-style-type: none"> • At least an average of 10 hours a week AND <ul style="list-style-type: none"> • No less than 1 hour in every week or no less than 40 hours in every month | Yes | No not applicable |
| 4.8.3 | Were employees who took sick leave paid at the correct rate of pay? | Yes | No not applicable |
| 4.8.4 | Did you pay sick leave correctly to employees receiving ACC? | Yes | No not applicable |
| 4.8.5 | Did you pay employees for bereavement leave taken at the correct rate of pay? | Yes | No not applicable |
| 4.8.6 | Did you pay any employees returning from parental leave correctly when they took annual leave after their return to work? | Yes | No not applicable |
| IF YES to any of the above questions attach the employees records audited and a detailed record of the calculations you performed to ensure compliance. | | | |
| 4.8.7 | If you answered NO to any of the above questions and you have now made corrections please provide evidence showing: <ul style="list-style-type: none"> • records amended, and • payment of arrears to audited employees, and • payment of arrears to any other affected employees in the past 6 years. | evidence attached | |
| 4.8.8 | If you have not made corrections please explain why not: | | |

Summary & Declaration

Summary of Self-Audit Results

Complete the table below to summarise the outcome of the self-audit.

For each criterion audited tick the relevant outcome.

| self-audit section | | not applicable | compliant | not compliant - corrected | not compliant - not corrected |
|--------------------|--|----------------|-----------|---------------------------|-------------------------------|
| 1.1 | individual employment agreements | | | | |
| 1.2 | rest & meal breaks | | | | |
| 1.3 | employment status | | | | |
| 1.4 | eligibility to work in NZ | | | | |
| 2 | records | | | | |
| 3.1 | minimum wage | | | | |
| 3.2 | trials & probation periods | | | | |
| 3.3 | deductions from pay | | | | |
| 3.4 | premiums & direction on spending wages | | | | |
| 3.5 | equal pay | | | | |
| 4.1 | holidays - definitions & formulae | | | | |
| 4.2 | Annual holidays - payment for holidays taken | | | | |
| 4.3 | annual holidays - pay at termination | | | | |
| 4.4 | annual holidays - closedowns | | | | |
| 4.5 | pay-as-you-go holiday pay | | | | |
| 4.6 | cashing up annual holidays | | | | |
| 4.7 | public holidays | | | | |
| 4.8 | other leave | | | | |

Completion checklist

Once you have completed this self-audit (including acting upon any corrections required) make sure you safely store all the related documentation with this questionnaire. This record will provide a point of reference should you, your staff or any employee need to re-visit what was done and how conclusions were reached. It may also be that a Labour Inspector will want to see what was performed as part of the self-audit.

Check that you have **attached** all the following information to this questionnaire:

| | |
|---|--|
| the full employee list | |
| the audit employee list | |
| copies of all written employment agreements used and intended agreements or current terms and conditions of employment | |
| copies of all wage, time and holiday records used | |
| calculation sheets used for the holidays definition & formulae section | |
| calculation and working sheets you used for all sections of the self-audit | |
| copies of all documentation showing any corrections made including: <ul style="list-style-type: none">• calculations• evidence of amended records• confirmation of any arrears payments | |

Declaration

I,[on behalf of]
declare that the information I have provided in this self-audit is accurate. I understand that a
Labour Inspector from the Ministry of Business Innovation and Employment may take further
action to check my results or enforce any compliance failure.

.....
signature of employer (or director of employer)

.....
date

Template 3: Holidays Definitions & Formulae Calculation Sheet

Employee name:

1. 4 Weeks Annual Holiday (in time off)

| working | notes |
|---------|---|
| | Check what time off was allotted to this employee for annual holidays – Is it a genuine working week for this employee? |

2. Ordinary Weekly Pay (OWP) and Average Weekly Earnings (AWE)

| working | notes |
|---|--|
| date annual holiday taken : amount of annual holiday taken : amount paid: | <ol style="list-style-type: none"> Find an instance where this employee has taken annual holidays. Work out the OWP at the time they took the holiday. Calculate the AWE manually on the basis of the total gross earnings for the year prior to the holiday divided by 52. If the employee worked for <u>less</u> than a year and so took annual holidays in advance the AWE is the total gross earnings for part year worked divided by the number of weeks or part weeks worked in that period. Identify the higher weekly figure between the OWP and AWE Work out the proportion of a week's holiday that was taken. Apply the higher of the OWP or AWE rate to the proportion of a week that was taken. Ensure that the figure paid by you was at least as high as the figure calculated. |
| OWP figure at the time the holiday was taken: | |
| AWE figure - working: | |
| Higher of AWE & OWP | |
| Proportion of a week taken | |
| Amount payable for period of leave taken | |

3. Total Gross Earnings

| working | notes |
|---|---|
| Total Gross Earnings for year to Total Gross Earnings used: \$ Does it include all the payment listed to the right? | Return to the calculation you performed for Average Weekly Earnings above and find the figure you used for the Total Gross Earnings. Double check that the figure you used for Total Gross Earnings included: <ul style="list-style-type: none"> all wages, salary, commission, bonuses & piece rates allowances (but not reimbursing allowances) overtime all types of holiday pay cash value of board & lodging compulsory payments by employer under ACC (i.e. first week compensation) |

4. Relevant Daily Pay (RDP) & Average Daily Pay (ADP)

| working | notes |
|---------|-------|
|---------|-------|

| | |
|--|--|
| date holiday occurred: type of holiday: amount paid: date holiday occurred: type of holiday: amount paid: | <p>1. Find a time (ideally more than one instance) when this employee has been paid for either a sick day, bereavement day, alternative holiday or unworked public holiday.</p> <p>2. Calculate RDP by asking yourself - What would the employee have received on this day had they worked? This includes any productivity or incentive payments, commission, piece rates or overtime that would have been earned.</p> <p>An employer can only use the ADP calculation instead of the RDP calculation if:</p> <ul style="list-style-type: none"> it is not possible/practical to work out the RDP, OR the employee's daily pay varies within the pay period in question <p>If using the ADP calculation - manually work this out taking the total gross earnings for the 12 months prior to the pay period in question and divide by the number of days worked (including part days and days on paid leave)</p> <p>Ensure that the amount you have paid is at least the RDP (or the ADP if this is an option for this employee)</p> |
| Relevant Daily Pay (RDP) working: | |
| If applicable - Average Daily Pay(ADP) 1. Reason the ADP calculation can be used: 2. Working: | |
| Amount calculated as payable | |

5. Otherwise Working Day (OWD)

| working | notes |
|---|--|
| Public Holiday: Date of Pub Hol:..... Day of the week it fell: Was it treated as an OWD? YES or NO Review: Was it an OWD? YES or NO Reason why: | <p>1. Look for 3 public holidays that have fallen during this employee's service. Ideally - find some that were treated as OWD and some which were not considered to be OWD.</p> <p><i>Note:</i> If there were few public holidays during the employee's period of employment then alternative holidays and sick & bereavement leave days must also be on OWDs so they can be used as a back-up if need be.</p> <p>2. Check to see whether they were originally treated as OWDs or not.</p> <p><i>Note:</i> If treated as an OWD then the employee would have either had the day off on pay or worked and received an alternative holiday (as well as time-and-a-half).</p> <p>3. Review whether it really was an OWD by asking yourself the key question – if it hadn't been a public holiday would the day have been worked?</p> <p>factors that can be part of your thinking include:</p> <ul style="list-style-type: none"> patterns of work rosters or similar systems the employment agreement the expectation that the employee would work the day in question the employee works only when work is available |
| Public Holiday: Date of Pub Hol:..... Day of the week it fell: Was it treated as an OWD? YES or NO Review: Was it an OWD? YES or NO Reason why: | |
| Public Holiday: Date of Pub Hol:..... Day of the week it fell: Was it treated as an OWD? YES or NO Review: Was it an OWD? YES or NO Reason why: | |