EMPLOYMENT NEW ZEALAND

Using relevant daily pay and average daily pay

For time off work on public holidays, alternative holidays, sick leave and bereavement leave an employee must be paid at least:

- relevant daily pay (RDP), or
- average daily pay (ADP) (in limited circumstances),

if the day falls on an otherwise working day for the employee.

Annual holidays are paid differently. To find out about payment for annual holidays, visit www.employment.govt.nz.

Relevant daily pay

Relevant daily pay is the amount the employee would have earned on the day if they had worked, and it includes:

- 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.

Relevant daily pay does not include any employer contribution to a superannuation scheme for the benefit of the employee.

An employment agreement may specify a special rate of relevant daily pay for the purpose of calculating payment for a public holiday, an alternative holiday, sick leave or bereavement leave. This can only be used if the rate is equal to, or greater than the actual relevant daily pay.

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.

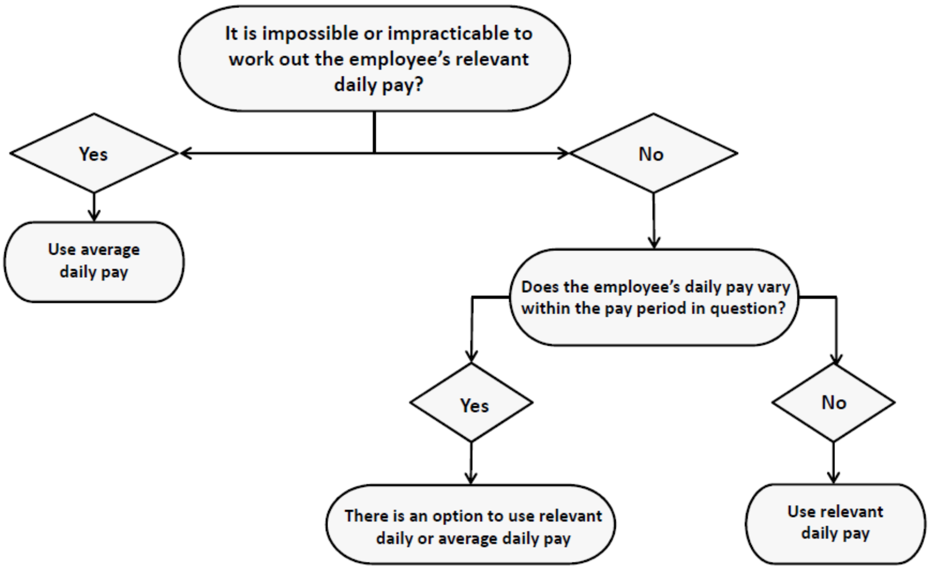
Relevant daily pay or average daily pay

Average daily pay may only be used where it is not possible or practicable to determine relevant daily pay, or where the employee's daily pay varies within the pay period when the holiday or leave falls.

There will be situations when it is possible and practical to determine relevant daily pay, but an employee's daily pay varies within the relevant pay period so average daily pay may be used. For example, where the employee's pay varies because they work different but set hours each day (and their work pattern doesn't change from week to week). In this situation it is easy to calculate relevant daily pay but the employer still has a choice to use average daily pay.

In general, if relevant daily pay can be calculated it should be used. This is because relevant daily pay is usually the amount the employee would expect to receive. Whichever option the employer uses, they should take a consistent approach. Switching between relevant daily pay and average daily pay to avoid cost would not be consistent with good faith obligations.

When to use relevant daily pay (RDP) or average daily pay (ADP)



Payment for working on a public holiday

If an employee works on a public holiday, they must be paid at least time and a half for the time they actually worked on the public holiday. An employee must be paid at least the greater of:

- the employee's pay for the time actually worked on the day (not including any penal rates), multiplied by 1.5, or
- the employee's pay for the time worked on the day (this includes any relevant penal rates).

For the purposes of calculating payment for working on a public holiday, penal rates means payments made under the employee's employment agreement to compensate them for working on a particular day of the week (eg Sunday) or a public holiday, (but not eg payments for working a sixth or seventh day).

If the public holiday the employee works on is an otherwise working day for them (and they are not employed only to work on public holidays) they will also get an alternative holiday (regardless of the number of hours they worked on the public holiday).

For more information visit www.employment.govt.nz.