

Clause 24

24.0 Time Off In Lieu of Public Holidays (Alternative Holiday)

24.1 All employees are entitled to an alternative paid holiday when they have worked or been on call on a public holiday. The alternative paid holiday:

- (a) must be taken within 12 months of the employee's entitlement to an alternative paid holiday having arisen, and
- (b) the employee must give 14 days' notice of taking the alternative paid holiday, except that if the lieu day is proposed to be taken on a day where the RMO is rostered on a long day, a night duty, or a weekend duty, 28 days' notice must be provided, and
- (c) shall be taken on a day either agreed with the employer, or if this is not possible at a time determined by the employee taking into account the employer's view as to when is convenient.

Overview

Clause 24 Time off in lieu of public holiday (Alternative Holiday) should be read in conjunction with Clause 23 Public Holidays.

When reading the FAQs and scenarios below it is also recommended that you review the FAQs and scenarios set out at Clause 23 of the National Manual. These also contain examples and information related to Alternative Holidays (STIL).

Frequently Asked Questions (FAQs)

1. When I work a public holiday am I entitled to another day off?
 - Yes, if you work a public holiday you are entitled to a day off at another time, this is called an alternative holiday.
2. What if I am a shift worker and it is my off duty day? Am I entitled to another day off?
 - Yes, you are entitled to a day off except where the public holiday falls on Waitangi Day or Anzac Day. However this will be an additional day of leave not an alternative holiday. This means it is not subject to the rules of clause 24.1.
3. What is the difference between an alternative holiday and receiving an additional day of leave?
 - An additional day of leave is time off in lieu.
 - An alternative holiday is what used to be called statutory time in lieu and is subject to rules around taking leave in clause 24.1.
4. Do I have to take alternative holidays within a certain time period?
 - The MECA specifies that alternative holidays must be taken within 12 months of you having worked the public holiday.
 - However the Holidays Act will apply in the circumstance where an alternative holiday has not been taken within 12 months of you having worked the public holiday. The Holidays Act allows that where 12 months have passed since an employee became entitled to an alternative holiday and the employee and employer cannot agree when the employee is to take the alternative holiday, then if the employee requests and the employer agrees to that request, the alternative holiday may be cashed up. You will need to refer to DHB policy to see whether this allows cashing up of alternative holidays.
5. I worked Christmas Day and have an alternative holiday accrued. I am changing employer in February. What happens if I haven't taken the alternative holiday when I change employer?
 - Any alternative holidays owing to you upon resignation will be paid out. These are not a transferable provision between DHBs.

6. Do I need to give notice to the RMO Unit of when I wish to take the alternative holiday?
 - Yes, you need to provide 14 days' notice if you wish to take the leave on an ordinary day. Note you are unable to take an alternative holiday on a public holiday.
 - If you want your alternative holiday on a date where you have been rostered to a long day, a night duty or a weekend shift then you must provide 28 days' notice.
 - Alternative holidays shall be taken on a day either agreed with the DHB, or if this is not possible at a time determined by the RMO, taking into account the DHB's view as to when is convenient (clause 24.1(c)).

7. Does the leave abutting weekend provision apply to alternate holidays?
 - No, leave abutting weekends does not apply.

8. Do I have to apply to take an alternate holiday for having worked or been on call on a public holiday?
 - Yes. You still need to apply to take the leave through the usual process. You need to provide a minimum of 14 or 28 days' notice depending on the duty you were rostered on for the date of the proposed leave.
 - In applying to take the alternate holiday you should have discussed the date with your service and considered any issues that might be raised about the convenience of taking leave on that date (i.e. issues with cover, scheduled training, particular procedures booked, etc.). It is ultimately up to you when the alternate holiday is taken.

Scenarios

The following roster shows RMOs over Christmas Day and Boxing Day and what they are entitled to. This is not a full rotating shift roster and clause 23.4.4 Off Duty Day does not apply.

	Sa	Su	M	T	W		Legend	
	22/12	23/12	24/12	25/12	26/12		X	Day Off
Registrar One	X	X		LD	8		LD	Long Day
Registrar Two	X	N	N	N	N		N	Night Duty 2200 - 0800
Registrar Three	N	N	Z	Z	PH		8	Day 0800 - 1600
Registrar Four	LD	LD	8	RDO	RDO		Z	Sleep Day
Registrar Five	LD	LD	8	8	RDO		RDO	Rostered Day Off
							PH	Off on public holiday

Registrar One

Will receive the following for working 25th and 26th December

- T1/2 and relevant daily pay as per clause 23.3 for the hours worked on both days
- Two alternative holidays

Registrar Two

Will receive the following for working the 25th and 26th December

- T1/2 and relevant daily pay as per clause 23.3 for the hours worked on both days. This will be paid as follows;
 - from 00:00 to 08:00 25th December
 - from 22:00 to 24:00 25th December
 - from 22:00 to 24:00 on 26th December
 - Two alternative holidays for both days worked

Registrar Three

Registrar three is on a sleep day on 25th of December and has been rostered off for the public holiday that falls on 26th of December. Under the set roster pattern this would have normally been a day that would have been worked but Registrar three has been rostered off on the public holiday. The salary section of the run description does not have any ordinary hours discounted from the run category calculation.

Public holiday entitlements for Registrar three will apply as follows

- There is no additional payment for the public holidays on 25th and 26th December because the RMO did not work and have received their ordinary pay for those days.
- There is no entitlement to any additional days of leave because both days are completely free from duty and payment for these days is included in the ordinary hours of the run category calculation. These days are paid as part of the remuneration model (clause 12.1.2(b)) and therefore the public holidays have been observed on full pay.

Registrar Four

Registrar four is working a Schedule 10 roster and is observing the week day RDOs that are part of the set roster. The public holidays on 25th and 26th December fall on these week day RDOs.

Registrar four will not receive any additional payment because they did not work the public holidays.

Registrar Five

Registrar five is not working a Schedule 10 roster however the roster has a mid week rostered day off completely free from duty as part of the set roster.

Registrar Five will receive the following

- T1/2 and relevant daily pay as per clause 23.3 for the hours worked on the 25th of December public holiday.
- No additional payment for the 26th of December public holiday because they did not work on this day (they will receive ordinary salary)
- One alternative holiday for the public holiday worked on 25th December.

Comparison STONZ and NZRDA MECAs

The following table sets out where there are differences between the STONZ MECA and NZRDA MECA. Where there is no difference between clauses no detail has been provided in the comparison table.

	STONZ MECA Clause 24	NZRDA MECA Clause 19
Notice periods when taking time off in lieu of public holidays (Alternate Holidays)	Where the alternate holiday will fall on a day where the RMO is rostered to a long day, night or weekend duty the RMO must provide 28 days' notice when applying for the leave. In all other cases the notice period is 14 days. (Clause 24.1(b))	The notice period when applying for an alternative holiday is 14 days. Except that if the alternative paid holiday is proposed to be taken on a day where the RMO is rostered on a night or weekend duty, 28 days' notice must be provided (Clause 19.0(b))
Public Holidays that fall on week days free from duty (Monday to Friday)	Where an RMO is not working a 24/7 full rotating shift roster, week days (Mon-Fri) completely free from duty, which are not sleep recovery days, are discounted from the ordinary hours calculation of the run category (clause 12.1.2). Where no ordinary hours have been discounted from the run category	Where an RMO is not working a 24/7 full rotating shift roster, week days (Mon-Fri) completely free from duty are paid as part of the ordinary hours calculation of the run category (clause 8.1.2). When a public holiday falls on one of these off duty days the RMO is not entitled to an additional days leave (not

calculation (in accordance with clause 12.1.2(b)), and the public holiday would have been a day that the RMO would normally have worked, but they have been rostered off on the public holiday, there is no entitlement to an additional day of leave. The public holiday has been observed on full.

An additional day of leave where an RMO is rostered off duty on a public holiday only applies to an RMO working a 24/7 full rotating shift roster as set out in clause 23.4.4 – Off Duty Day.

an alternative holiday), because the public holiday has been observed on full pay.

Where the off duty day is a rostered day off (RDO) provided under Schedule 10 of the RDA MECA, and there is no corresponding RDO deduction, then the same applies because the public holiday has been observed on full pay.

An additional day of leave where an RMO is rostered off duty on a public holiday only applies to a rostered employee as set out in clause 18.4.4 – Off Duty Day. For the purposes of this clause a “rostered employee” is determined by the DHBs to be one who is working a 24/7 full rotating shift roster, however this specific wording is not in the RDA MECA.