

Clause 23

23.0 Public Holidays

23.1 Pursuant to section 44(2) of the Holidays Act 2003 and notwithstanding the content of clause 4 of this agreement, the parties agree that the following days shall be observed as public holidays.

- The calendar day 1 January
- The calendar day 2 January
- Waitangi Day
- ANZAC Day
- Good Friday
- Easter Monday
- Sovereign's Birthday
- Labour Day
- Anniversary Day as applicable
- The calendar day 25 December
- The calendar day 26 December

23.2 In order to maintain essential services, the employer may require an employee to work on a public holiday.

When the employee is required to work on a public holiday as part of the normal roster, he/she shall be granted equivalent time off 'in lieu' at a later day convenient to the employer.

An employee required to be on call on a Public Holiday shall receive a day in lieu. No employee shall receive more than one day in lieu for a public holiday worked.

23.3 Additional payment for working on a public holiday

The calculation of T1/2 and relevant daily pay shall be made as follows:

The employee's annual salary as set out in clause 12.2 will be divided by 52.14 and then the lowest number of hours per week to which the salary category relates (for example, a B category shall be divided by 60 hours). The resulting figure is then halved and this becomes the additional payment to be made per hour worked over and above relevant daily pay. An RMO who is called back on a public holiday shall be paid T1/2 of their call back rate of pay.

23.4 Public holidays falling during leave or time off

23.4.1 Leave on pay

When a public holiday falls during a period of annual leave, sick leave on pay or special leave on pay an employee is entitled to that holiday which is not to be debited against such leave.

23.4.2 Leave without pay

An employee shall not be entitled to payment for a public holiday falling during a period of leave without pay (including sick leave and military leave without pay) unless the employee has worked during the fortnight ending on the day on which the holiday is observed.

23.4.3 Leave on reduced pay

An employee shall, during a period on reduced pay, be paid at the same reduced rate for public holidays falling during the period of such leave.

23.4.4 Off duty day

Except where the provisions of 23.4.1 above apply, if a public holiday, other than Waitangi Day and ANZAC Day, falls on a rostered employee's off duty day (such off duty day not being a Saturday or a Sunday) the employee shall be granted an additional day's leave at a later date convenient to the employer. For clarity, a rostered employee is an RMO who is working a full rotating shift pattern where the salary category is determined in accordance with the clause 12.1.2(a).

Overview - Application

Overview

Public Holiday

When a public holiday falls during a period of leave on pay the RMO will not be deducted leave for that day. An RMO will not be entitled to payment for a public holiday falling during a period of leave without pay (including sick leave and military leave without pay) unless they have worked during the fortnight ending on the day on which the holiday is observed.

When an RMO is required to work on a public holiday as part of the normal roster, they will be granted a day off in lieu (alternative holiday) in accordance with clause 24.0. This will also apply to;

- An RMO who is required to be on call on a public holiday will receive a day in lieu.
- An RMO who is a current employee of the DHB who undertakes an additional duty on a public holiday will receive a day in lieu.

If a public holiday, other than Waitangi Day and ANZAC Day, falls on a rostered RMO's (RMO working a shift roster) off duty day (and the off duty day is not a Saturday or Sunday), the RMO will be granted an additional day's leave.

NB: the above is in addition to the requirements of the Holidays Act. The "Mondayising provisions" (see below) apply in respect of the entitlement to a public holiday on pay, but not to the additional leave granted where a public holiday falls on an off duty day during the ordinary week

Additional Payment for Working on a Public Holiday

An RMO who is required to work on a public holiday as part of the normal roster will be paid at T1/2 and relevant daily pay for the hours worked. The calculation of T1/2 and relevant daily pay is set out at clause 23.3 (see [FAQ number 7](#)).

Payments for additional duties, on call allowance, call back and locum shifts (locum employed on a casual basis) on a public holiday will be paid as follows;

- An RMO who is called back on a public holiday will be paid at the applicable additional duty rate calculated at T1.5 for the call back hours paid.
- If an RMO is on call but not called back to work, the on call allowance is \$10 per hour for any on call hours that fall on the public holiday (refer to Clause 18.1).
- An RMO who is a current employee of the DHB who undertakes an additional duty on a public holiday will be paid at the applicable additional duty rate calculated at T1.5 for the hours worked.
- Locums (RMOs who are employed on a casual basis) will be paid the applicable additional duty rate calculated at T1.5.

Transfer of Public Holidays (or "Mondayisation" of Public Holidays)

The Holidays Act 2003 at sections 45 and 45A set out that an employee is not entitled to any more than 1 public holiday for each of the days considered to be a public holiday.

Mondayisation happens when a public holiday which falls on a Saturday or Sunday is moved to the following Monday (or in some cases Tuesday). Mondayisation only happens if the employee doesn't normally work on the calendar date of the public holiday.

This happens on Public Holidays that are attached to a particular date rather than day of the week. These are:

- New Year's Day (1 January)
- the day after New Year's Day (2 January)
- Waitangi Day (6 February)
- ANZAC Day (25 April)
- Christmas Day (25 December), and
- Boxing Day (26 December).

If an employee normally works on the day of the public holiday's calendar date then there is no Mondayisation for them and their public holiday benefits apply to the calendar date.

If an employee would normally work on both the calendar date of the public holiday and the possible mondayisation date, their public holiday is on the calendar date. They don't get two public holidays.

Frequently Asked Questions (FAQs)

1. If I work a public holiday am I entitled to an alternative day off?
 - Yes, if you are required to work on a public holiday you are entitled to an alternative holiday (see Clause 24).
2. Do I receive additional pay for working on a public holiday?
 - You are entitled to be paid time and a half (T1.5) for the hours you worked on the public holiday based on the agreed formula set out in the MECA.
3. What am I entitled to if I am on call on a public holiday?
 - An alternative day off.
 - To be paid at time and a half (T1.5) the applicable additional duty rate for the hours worked during a call back. Note: this does not relate to the full minimum payment, only the hours worked will be paid at T1.5, any unworked hours as part of the minimum call back period do not get paid at public holiday rates)
4. Am I entitled to an alternative day off and / or additional pay if the public holiday falls on my sleep day?
 - No, if the sleep day is free of duty then you do not get an alternative day.
 - The reason is that payment for this day is included in the run category calculation and you are not required to work.
5. If I am a shift worker and the public holiday falls on my off duty day what are my entitlements?
 - If the public holiday falls on an off duty day you will be granted an additional day's leave. See clause 23.4.4 for details. NB there are different rules for Waitangi and ANZAC Days.
 - Clause 23.4.4 clarifies that a shift worker is a rostered RMO who is working a full rotating shift pattern where the salary category is determined in accordance with the clause 12.1.2(a).
6. If I am rostered to work on a public holiday but take leave what happens?
 - If you're on paid leave (sick or annual) there will be no deduction from your leave balance for this. No alternative holiday will apply as you did not work.
 - If you are taking unpaid leave you will not receive payment for the public holiday, unless you have worked during the fortnight ending on the day in which the holiday is observed.
7. I am a Senior House Officer on Year 3 of the Non ED/ICU Rosters Non Urban Scales effective 10 December 2018, working a relief roster which is paid at an A category. I work night shift so the first 2 hours of my shift fall on the public holiday between 2200 – 2400. How will these 2 hours be calculated?
 - The payment for working on the public holiday would be relevant daily pay plus the additional payment of \$41.04 calculated as follows;
 - Annual salary is \$139,100
 - \$139,100 divided by 52.14 = \$2,667.81
 - Lowest number of hours per week in salary category is 65 for an A category
 - \$2,667.81 divided by 65 = \$41.04
 - \$41.04 halved = \$20.52 (additional payment per hour for hours worked)
 - 2 hours worked multiplied by \$20.52 = \$41.04

Scenarios

Scenario # 1

An RMO working a non-shift roster works a 1:7 weekends roster frequency and is rostered to work the Waitangi Day public holiday which falls on a Saturday.

- For both the Waitangi Day and Anzac Day public holidays where they fall on a Saturday or Sunday and the day would otherwise be a working day for the employee, the public holiday must be treated as falling on that day. If the Saturday or Sunday would not otherwise be a working day for the employee, the public holiday must be treated as falling on the following Monday.
- The RMO does not work a large frequency of weekends and therefore the Saturday is not treated as an otherwise working day. The Waitangi Day public holiday is treated as falling on the Monday.

Scenario # 2

An RMO working a shift roster is rostered to both Sunday 25 April and Monday 26 April. As a shift worker the RMO would normally be rostered to a large portion of Sundays.

- For both the Waitangi Day and Anzac Day public holidays where they fall on a Saturday or Sunday and the day would otherwise be a working day for the employee, the public holiday must be treated as falling on that day. If the Saturday or Sunday would not otherwise be a working day for the employee, the public holiday must be treated as falling on the following Monday.
- The RMO is normally rostered to a large portion of Sundays and therefore the Sunday is an otherwise working day. The ANZAC Day public holiday is treated as falling on the Sunday.

Scenario # 3

Registrar A is working a non-shift roster and is rostered to work Saturday 25 December through to Tuesday 28 December.

	Sat	Sun	Mon	Tue	Legend	
	25-Dec	26-Dec	27-Dec	28-Dec	LD	Long Day
Registrar A	8	8	8	LD	8	Short Day 0800 - 1600

The following days are paid as public holidays over the four days;

- The MECA sets out that the calendar days 25 December and 26 December are observed as public holidays. The RMO is rostered to work both the calendar date of the public holidays and the mondayisation dates (includes the Tuesday).
- Their public holidays are the calendar dates 25 and 26 December. You can't get more than 1 public holiday for Christmas Day and Boxing Day.
- Registrar A will be paid as follows;
 - T1/2 and relevant daily pay as per clause 23.3 for the hours worked on the 25 and 26 December public holidays
 - Two alternative holidays (STIL) for the public holidays worked on 25 and 26 December

Scenario # 4

Registrar B is working a non-shift roster and is rostered to work Saturday 1 January through to Tuesday 4 January.

	Sat	Sun	Mon	Tue	Legend	
	01-Jan	02-Jan	03-Jan	04-Jan	LD	Long Day
Registrar B	8	8	8	LD	8	Short Day 0800 - 1600

The Registrar asks if they can choose to observe Tuesday 4 January as the public holiday for 2 January because they are rostered to a long day that day.

- No, you do not get to choose which days are observed as the public holiday. The MECA sets out that the calendar days 1 January and 2 January are observed as public holidays.
- The Registrar will work these days and the mondayisation dates which includes the Monday and Tuesday do not apply.

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 23	NZRDA MECA Clause 18
Public Holidays Off Duty Day	<p>Where a public holiday, other than Waitangi Day and ANZAC Day, falls on a rostered employee's off duty day (such off duty day not being a Saturday or a Sunday) the employee shall be granted an additional day's leave at a later date convenient to the employer.</p> <p>Provides additional clarity that a rostered employee for the purposes of this clause is an RMO who is working a full rotating shift pattern where the salary category is determined in accordance with the clause 12.1.2(a).</p>	<p>Where a public holiday, other than Waitangi Day and ANZAC Day, falls on a rostered employee's off duty day (such off duty day not being a Saturday or a Sunday) the employee shall be granted an additional day's leave at a later date convenient to the employer.</p>