

This Factsheet is a guide to the main obligations an Employer has for the provision and payment of *Sick Leave* as provided for by the Holidays Act, along with additional links to further reference material.

If there is any question or argument relating to an Employee's entitlement, or the amount that should be paid, you should contact the *Department of Labour* and ask for a determination by a *Labour Inspector*.

SmoothPay encourages employers to use compliant leave methods.

Sick Leave Entitlement

Non-permanent (Casual) Employees

Casual Employees and Contractors or Agents do not usually accrue Sick Leave. You may establish an accrual and pay Sick Leave for these classes of Employee if you wish, however by default SmoothPay will not establish an entitlement for you.

Casual Employees **may** be entitled to normal accrual and payment for Sick Leave if the leave is taken on a day they would normally work and their payment history qualifies them for leave.

Eligibility occurs if the Employee has been paid any of the following in the immediate 6 months prior:

- an average of 10 hours per week,
- and a minimum of 1 hour per week,
- and a minimum of 40 hours per month

Before committing to payment (or not), you should check with the Department of Labour as to your obligations and the Employee's entitlement.

If the employee is entitled to accrue sick leave then proceed as if they were a permanent employee and set up their sick leave entitlement the same way - you should also consider if the employee should be permanent.

Permanent Employees

Full and Part-time Employees are entitled to 5 days Sick Leave accrual after 6 months service from their start date, and a further accrual of 5 days every 12 months thereafter. You may cap the accrual to no less than 20 days.

SmoothPay automatically establishes these settings when a *Permanent* Employee is added.

Important Concepts

- *Relevant Daily Pay (RDP)* must be used for the payment of Sick Leave.
- **RDP** is the amount an Employee would have received had they been at work (taking into consideration any opportunity for overtime or additional allowances), and failing that, then their *Average Daily Pay (ADP)* over the last 12 months (*prior to 1 April 2011, the formula uses the last 4 weeks*).
- Leave is valued **at the time it is taken**, and you must be certain you are paying the correct amount.
- You can enter whole or part days (if you enter hours then it will convert automatically to the proportion of a day those hours would represent).
- The day/s consumed will be deducted from the employee's sick leave balance when the pay is processed, and a transaction added to their permanent leave record.
- Additional sick leave accruals will occur every 12 months in the pay period ending on or after the employee's sick leave anniversary date, and a transaction will be added to their permanent leave record. If the accrual causes the employee's leave balance to exceed [20 days usually] then an additional transaction will be generated reducing the balance to the maximum accrual permitted.

Payment for Sick Leave

- When you add a Sick Leave transaction to the employee's pay input, SmoothPay will ask if you "know what

the employee would be paid".

- If you **know** what the Employee would have earned had they been at work that day (instead of being absent), then edit the entries to suit (hours, rate and number of Leave Days being taken - defaults to 1), otherwise (this is similar to unlocking a leave taken transaction in pay input)
- If you **don't know** what the Employee would have earned, then you must use *Average Daily Pay (ADP)*. **SmoothPay's RDP Assistant** will display:
 - 1) their *Average Daily Pay value* (e.g. total earnings for last 12 months divided by the number of days paid in that period).
 - You can, and should, change the divisor if they were paid for more/less days in the period being used for the average calculation.
 - Permanent corrections to days paid can, and should, be made in *Edit Employee...Pay History*. Days being paid each *Pay Period* should be entered correctly in *Pay Input*.
 - 2) an *agreed daily rate*

By default, **SmoothPay** will choose the most valuable daily rate from 1 and 2, however you are at liberty to select a different value, or make your own entries. You must be certain that the value paid is not less than their entitlement per the Holidays Act.

Common errors

If a *Permanent* (Part or Full time) Employee works fewer than 5 days per week, it is **NOT** correct to reduce their Sick Leave accrual to match. The Act stipulates a minimum of 5 days. **Nor may you** cap Sick Leave accrual to less than 20 days (in SmoothPay, a zero cap means unlimited accrual).

It is **NOT** correct to accrue or consume Sick Leave in hours. The Act stipulates *Days*. It could be argued that using hours where it is demonstrably better than the provisions of the Act is OK, however you're making life tough for yourself and you must still adhere to the **RDP** rules, so, with respect, you should use days.

It is **NOT** correct to simply pay an Employee their *ordinary hours* and *rate of pay* for Sick Leave, unless you know that is exactly what they would have earned that day. You must also consider, had they not been sick, if they might have earned overtime, productivity allowances or any other earnings. For these reasons it is generally correct to use *Average Daily Pay (ADP)*, unless it would result in a value less than your anticipated daily value. Exceptions may be **Salaried Employees**, or those who work exactly the same every day, however the Act does not exempt these types of Employees from **RDP** and **ADP** calculations.

If you have elected to *override* or *unlock the leave entry* you must be certain that the number of days entered is representative of the amount being paid for leave. A common error is to unlock the entries and forget to change the number of days. **If you unlock an entry or know what the employee should be paid, it becomes your responsibility to get it right.**

NOTE: Most payroll systems available in New Zealand persist in using non-compliant leave methods, despite the Holidays Act 2003 being the law by which employers must abide.

Smoothpay encourages employers to use compliant leave methods and will provide any assistance required to help you understand your obligations.

Further reference

Department of Labour website	http://www.dol.govt.nz/
SmoothPay documentation and forms	http://www.smoothpay.co.nz/tutorials/
Department of Labour Contact Centre	0800 20 90 20

SmoothPay HelpDesk	(06) 353 6462
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