
Updated advice on an employer's liability for public holiday pay for a worker on ACC

The Ministry of Business, Innovation and Employment (MBIE) has reversed its advice that employers legally have to pay a worker who is on ACC for a public holiday, now advising that this is generally not the case.

In April 2022, MBIE admitted guidance from it and ACC had been unclear as to who pays an employee on a public holiday when they otherwise would have worked, but are on ACC. MBIE had said that the employer was liable to pay for the public holiday while the employee is on ACC, if the employee would otherwise have worked.

MBIE has since reversed that guidance and has provided new advice [here](#), that an employer generally will not have to pay an employee for a public holiday while they are on ACC because these days are not 'otherwise working days' for the employee. This is because while an employee is injured, there is usually no reasonable expectation that they will be at work.

MBIE notes that there may be some exceptions to this, so it is important to make decisions about whether a day is an 'otherwise working day' on a case by case basis.

Payroll Practitioners Association chief executive David Jenkins has criticised the new advice saying "they do not answer the actual question, and leave it vague and open, yet again"

See our article [here](#), for more discussion on what the Holidays Act does require when an employee is sick on a public holiday.

Want to know more?

As the Holidays Act is long overdue and difficult to interpret correctly if you have any questions about payments to employees on ACC, please contact our specialist [Employment Team](#).