

A little bit of background information:

In early 2020, MidCentral District Health Board (MidCentral DHB) started its Holidays Act Compliance Programme. Like most NZ employers, there were areas identified where the DHB was not fully compliant with the Act.

MidCentral DHB has set up the Holidays Act Compliance Programme in accordance with the Memorandum of Understanding, ensuring each of the three key process steps were incorporated in order to achieve compliance as per the agreed baseline document and framework. These process steps are outlined below:

i) Review Process

MidCentral DHB will follow the framework document and conduct its own end-to-end system review in line with the baseline document to validate and review key payroll issues relating to compliance with the Holidays Act which may impact on the employer and its employees. **This work has been completed.**

The outcome of this review, and subsequent recommendations, will be shared with the Inspectorate and employee representatives.

ii) Rectification Process

A key outcome of this process is to ensure MidCentral DHB's payroll system and processes are compliant with the Holidays Act, and to secure compliance sign-off from the Ministry of Business, Innovation and Employment (MBIE). MidCentral DHB will rectify the breaches identified. This may include manual process changes wrapped around the electronic payroll system to ensure employees receive their minimum entitlements in the future, in compliance with the Holidays Act.

iii) Remediation Process

MidCentral DHB is to calculate arrears owed to all current and past employees from 1 May 2010 in line with the baseline document interpretations of the Holidays Act. All entitlements and payments must be calculated sequentially by date as each entitlement affects the gross earnings of the next one calculated. A list of affected employees (by name or employee number), and arrears owed to them, is to be provided to the Inspectorate. Alternatively, depending on the outcome, the unions and the DHB may agree to use the prescribed estimation approach. Any monies owed to employees (current and past) need to be paid to these employees as soon as practicable.

The questions and answers below help to make this complicated issue easier to understand. It'll give you an awareness of the process we're working through, the timelines and what it means for our people.

Who I should contact if I can't find the answer to my question?

1. Email the Holidays Act Compliance team Holidaysact@mdhb.health.nz
2. Ask your Holidays Act Compliance union rep:

Union	Contact	Email
APEX	Tony Hill	tony@apex.org.nz
ASMS	Ian Weir-Smith	iws@asms.org.nz
FIRST	Grant McRae	Grant.McRae@midcentraldhb.govt.nz
MERAS	Jill Ovens	jill.ovens@meras.co.nz
NZNO	Donna Ryan	donna.ryan@nzno.org.nz
PSA	Kevin Bunker Dianna Mancer	kevin.bunker@psa.org.nz dianna.mancer@midcentraldhb.govt.nz
RDA	Tony Hill	tony@cns.org.nz
STONZ	Kate Clapperton Rees	kate@stonz.co.nz

Quick links to FAQs:

[What's in it for me?](#)

[What does it mean for the DHB?](#)

[What's the deal with the Holidays Act anyway?](#)

[URLs of the links found in this document](#)

What's in it for me?

Who is covered by the MidCentral DHB Holidays Act Compliance Programme?

Anyone employed by MidCentral DHB from 01 May 2010, both current and former employees.

Will I be impacted?

If you're currently employed by MidCentral DHB, or have worked with us any time since 1 May 2010, we'll be looking at your leave records to work out if you've been impacted. You'll be contacted directly once we commence this process.

How will I be impacted?

This will depend on a few factors. However, it is possible that some people may have been underpaid, while others, not quite so.

What happens if I've been overpaid?

If calculations show you've been overpaid, we will not be asking for this payment to be returned, as it was made in good faith. Again, we will contact you either way.

How do I know if I'm likely to be owed money?

The likelihood of being owed money will be influenced by some key circumstances, including the length of time you've been employed and the amount of leave you have taken (and been paid for). You're more likely to have money owing to you if, since 2010;

- ✓ You've regularly received payments over and above your normal salary, e.g. allowances and/or benefits;
- ✓ You work variable hours (shifts, call backs etc) ;
- ✓ You've changed your working hours, e.g. full to part time or vice versa;
- ✓ You've held a few different roles;
- ✓ You're employed on a casual basis.

If I'm owed money when will I get it?

If calculations indicate that the DHB owes you any monies, you will be paid directly into your bank account. You will be contacted directly once we have a clear idea of the monies we owe our staff. We are hoping to be able to do this early 2022. We understand how important it is to make payments and we're working hard to do it as quickly and accurately as possible.

How much will I get?

Every case and instance of leave payment will be recalculated and it is not possible to pre-determine an indicative amount. We will have a better idea of the amounts owing in early 2022.

How do I know if calculations are correct?

The programme and calculations are being undertaken under various governance structures to ensure that calculations are accurate. All union partners are involved in decision-making to ensure that staff are not disadvantaged. MBIE and the Labour Inspectorate sign-off and approve different phases of the programme and calculation methodologies to ensure a consistent and defensible approach. A detailed breakdown and guide will also be provided to employees when we're ready to make payments.

How will getting a lump-sum payment affect my things like my tax or student loan repayments?

As we head closer to knowing who is owed what, we'll be providing a lot more information on the practical steps and impacts of receiving payments. In fact, we'll have a section of questions and answers dedicated to this topic. In the meantime, you may find it useful to read the information on lump sum payments provided by IRD: [IRD Lump Sum Payments Info](#) (The URL can be found at the end of this document if needed.)

Will payments include interest?

Interest will not be included in payments.

If I was employed by another DHB (since 1 May 2010) but no longer work for them, am I entitled to anything?

You will need to contact the DHB you worked for and update your contact details with them so that they can contact you with information about their progress on this programme.

How will I know if a DHB I used to work for owes me money?

DHBs are expected to contact their former employees using their last known contact details. In time, it will also be possible for you to register your details on a national DHB compliance website. If you do this, your up-to-date information will be automatically passed through to the correct DHB. Details of the website will be made available in 2021.

Can I claim money on behalf of a deceased person or someone I hold power of attorney for?

Yes, you can. To claim any monies on behalf of a deceased person, you will need to provide documentation to prove your identity, your relationship and that you're authorised to act on behalf of the estate or a person. More information will be made available when we're closer to making payments.

Will my MECA / SECA be updated?

There are some clauses in MECAs and SECAs which don't comply with the Holidays Act and we're working with unions to address them. More information will be available as part of the usual bargaining process.

I am a current MidCentral DHB employee, do I need to do anything now?

You do not need to do anything at this stage as we are reviewing the compliance of the payroll system. All current employees will be notified of the next steps.

I have recently resigned from MidCentral DHB, do I need to do anything now?

Please make sure all of your contact information we have on record is up to date. Contact the holidays act mail box (above) if your contact details change.

Where can I get more information?

We are in the early stages of undertaking this review and will be keeping you informed as developments eventuate. We will communicate directly with past and present employees when we have a clear idea on how they may be impacted. You do not need to take any further action at this stage – we will be in touch.

What happens after the review?

After the review, we will work towards rectification of any non-compliance with the Holiday Act that we find and give employees any leave or payments they are owed.

Can I contact the Payroll team for assistance?

No. The Payroll team has no further information other than what is on this FAQ page. You will be contacted directly once the outcome of the review is known.

What does it mean for the DHB?

Why's it taking so long?

Achieving compliance is very complicated and detailed. After reviewing how we currently do things, we know we've made 23 breaches. We're working on how we fix these and then we'll move to the most complicated part, analysing individual records. To give you a sense of what this means, we'll be examining about 500,000 timesheets for 7,000 current and former employees. If we spent 30 seconds on each timesheet that would be 520 work days for one person to get through them all.

On what basis will the review be carried out?

DHB's, relevant unions and the Labour Inspectorate have agreed a Memorandum of Understanding ([Holidays Act Remediation \(midcentraldhb.govt.nz\)](https://www.midcentraldhb.govt.nz/holidays-act-remediation)) which sets an agreed process for DHB's to identify and rectify the historic Holidays Act 2003 non-compliance. The review and remediation will be undertaken based on this MoU.

How do I know you're doing it right?

Making sure calculations are correct is crucial and we're doing everything possible to achieve this. We're running our programme in line with a national DHB programme and are meeting the timelines we're expected to achieve. Being in a national programme means we have a clear delivery framework as well as a good understanding of what compliance means. Everything we do is subject

to formal review by the Labour Inspectorate and we're working collaboratively with unions and other DHBs too.

Who is involved in the process?

MidCentral DHB is working closely with the unions who have members employed at the DHB as well as the Labour Inspectorate. An external, independent auditor has also been appointed to audit the process.

Do other DHBs have the same breaches?

Most of our breaches are either the same or like what other DHBs are finding. But because we have different systems and processes, our solutions will be similar but different.

What impact will the recent announcements around changes to the health care sector have on this programme?

We are committed to ensuring that we progress this programme at pace and believe that the sector reforms that have been announced will not affect the speed or robustness of our programme. The programme aims to identify and rectify payment made by MidCentral DHB when staff take leave to ensure that the calculations of these payments are compliant with the Act. We are well progressed with this activity and intend to continue with this work to ensure that our payroll system and processes are compliant. The second aim of this programme is to remediate any underpayments that have been made to staff who have taken leave going back to 1 May 2010.

What's the deal with the Holidays Act anyway?

What is it?

The Holidays Act describes in legal terms what employers must provide to their employees in holiday-related entitlements. In simple terms, how much leave an employee should get and how its value should be calculated.

What kind of leave does it cover?

It covers annual leave, bereavement leave, alternative (or lieu) days, public holiday arrangements, sick leave and family violence leave.

Does it apply to all employees?

The Holidays Act covers all direct employees; full time, part time, permanent, fixed term and casual. It does not apply to contractors, however.

How does it result in what I'm paid?

We translate the obligations in the Act into how we pay our people. In other words, aligning technology (payroll and time and attendance systems) and business practices (making sure information is entered accurately and at the right time) to the Act so that you're paid correctly.

Why pay from 2010 when the act was in force from 2004?

The issue was raised by the CTU in 2016. Under ordinary circumstances, there is a six year limitation but the CTU and DHBs agreed that the reference point would be May 2010, six years from when the CTU wrote to DHBs. This agreement also means all records prior to this point will not be reviewed.

Is it just the DHBs that are in breach of the Holidays Act?

A number of organisations throughout New Zealand have been found to be in breach of the Holidays Act. Because of this, the Labour Inspectorate is carrying out an audit on the Holidays Act 2003 and other relevant legislation. The Inspectorate identified the 20 District Health Boards of New Zealand and the New Zealand Blood Service as organisations to undergo this audit.

What is the Memorandum of Understanding?

A national DHB working group has worked alongside the Inspectorate and Unions to agree upon a way forward that will be consistent across all 20 DHBs. These discussions led to a Memorandum of Understanding being offered by the DHBs to the Inspectorate. It outlines what the DHBs will do to assess their compliance with the Holidays Act.

URLs of the links found in this document:

1. MBIE Holidays Act Compliance information - <https://www.employment.govt.nz/resolving-problems/steps-to-resolve/labour-inspectorate/addressing-holidays-act-non-compliance/>
2. IRD lump sum payments - <https://www.ird.govt.nz/employing-staff/payday-filing/non-standard-filing-of-employment-information/lump-sum-payments>