

### A little bit of background information:

In early 2020, Te Whatu ora – Te Pae Haurora o Ruahine or Tararua MidCentral, formerly MidCentral District Health Board (MidCentral DHB) started its Holidays Act Compliance Programme. Like most NZ employers, there were areas identified where the Te Whatu Ora districts were not fully compliant with the Act.

Te Whatu Ora - MidCentral 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**

Te Whatu Ora - MidCentral 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.

#### **ii) Rectification Process**

The outcome of the review process will inform us of what changes and updates our payroll system needs. These changes and updates need to be compliant with the Holidays Act and MoU. They will also require sign off from the Ministry of Business, Innovation and Employment (MBIE). We are well progressed with making the changes required to our payroll system and expect to complete this by early 2023.

#### **iii) Remediation Process**

Te Whatu Ora - MidCentral will calculate arrears owed to all current and past employees from 1 May 2010 in line with agreed 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 Labour Inspectorate. Alternatively, depending on the outcome, the unions and the Te Whatu Ora 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 should I contact if I can't find the answer to my question?

1. Email the Holidays Act Compliance team [Holidaysact@mdhb.health.nz](mailto:Holidaysact@mdhb.health.nz)
2. Ask your Holidays Act Compliance union rep:

Union	Contact	Email
APEX	Tony Hill	<a href="mailto:tony@apex.org.nz">tony@apex.org.nz</a>
ASMS	David Kettley	<a href="mailto:david.kettley@asms.org.nz">david.kettley@asms.org.nz</a>
FIRST	Grant McRae	<a href="mailto:Grant.McRae@midcentraldhub.govt.nz">Grant.McRae@midcentraldhub.govt.nz</a>
MERAS	Jill Ovens	<a href="mailto:jill.ovens@meras.co.nz">jill.ovens@meras.co.nz</a>
NZNO	Donna Ryan	<a href="mailto:donna.ryan@nzno.org.nz">donna.ryan@nzno.org.nz</a>
PSA	Kevin Bunker Dianna Mancer	<a href="mailto:kevin.bunker@psa.org.nz">kevin.bunker@psa.org.nz</a> <a href="mailto:dianna.mancer@midcentraldhub.govt.nz">dianna.mancer@midcentraldhub.govt.nz</a>
RDA	Tony Hill	<a href="mailto:tony@cns.org.nz">tony@cns.org.nz</a>
STONZ	Kate Clapperton Rees	<a href="mailto:kate@stonz.co.nz">kate@stonz.co.nz</a>

## Quick links to FAQs:

What's in it for me?

What does it mean for Te Whatu Ora?

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 Te Whatu Ora - MidCentral Holidays Act Compliance Programme?**

Anyone employed by Te Whatu Ora - MidCentral from 01 May 2010, both current and former employees.

***Will I be impacted?***

If you're currently employed by Te Whatu Ora - MidCentral, or have worked with us any time since 1 May 2010, we'll be reviewing 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 not have been paid correctly.

***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.

***What happens if I've been underpaid?***

If calculations show you've been underpaid, you will be contacted and receive a remediation payment.

***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 are or have been employed on a casual basis.

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

If calculations indicate that Te Whatu Ora - MidCentral 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 mid-2023. 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.

***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?***

Remediation payments will be taxed in accordance with IRD legislation. As they are lump sum payments, they will be taxed as such. The following link will take you to the correct IRD page for more information. IRD Lump Sum Payments Info (The URL can be found at the end of this document if needed.)

***Will payments include interest?***

Te Whatu Ora – MidCentral will not be including interest on payments.

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

You will need to contact the respective health district/s 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 health district I used to work for owes me money?***

The individual health districts 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 health compliance website. If you do this, your up-to-date information will be automatically passed through to the correct health district.

***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 employment contract be updated?***

There are some clauses in collective agreements (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 Te Whatu Ora - MidCentral 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 Te Whatu Ora - MidCentral, 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 mailbox (above) if your contact details change.

***Where can I get more information?***

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.

***Can I contact the Payroll team for assistance?***

Please contact your union delegate or email Holidays Act email above if you require more information or assistance.

## What does it mean for the Te Whatu ora- MidCentral?

***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.

***On what basis will the review be carried out?***

The health districts, relevant unions and the Labour Inspectorate have agreed a Memorandum of Understanding (Holidays Act Remediation ([midcentraldhb.govt.nz](http://midcentraldhb.govt.nz))) which sets an agreed process for

the health districts 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 health district 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 health districts too.

***Who is involved in the process?***

Te Whatu Ora - MidCentral 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 health districts have the same breaches?***

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

## What's the deal with the Holidays Act anyway?

***What is it?***

The Holidays Act is a government act which provides the minimum leave entitlements for employees. 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?***

The act includes the minimum rates of payment for various types of leave. 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 Council Trade Unions (CTU) in 2016. Under NZ legislation, there is a six year limitation but the CTU and health districts agreed that the reference point would be May 2010, six years from when the CTU wrote to the original DHBs. This agreement also means all records prior to this point will not be reviewed.

***Is it just Te Whatu Ora that is 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 Labour 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 group has worked alongside the Labour Inspectorate and Unions to agree upon a way forward that will be consistent across all 20 health districts. These discussions led to a Memorandum of Understanding being offered by the health districts to the Labour Inspectorate. It outlines what the health districts 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/resolvingproblems/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-standardfiling-of-employment-information/lump-sum-payments>