

Calculation of Termination Pays

Definitions

- Outstanding leave – leave that an employee has become entitled to having passed their 12 months service with the employer, and have not yet taken
- Accrued leave – leave that the employee is accruing during the 12 month period since their last leave anniversary

The Holidays Act provides two ways to calculate payments on resignation or termination of employment. These are:

1. where the employment ends within 12 months (ie, before the employee is entitled to annual holidays); and
2. where the employment ends after 12 months (ie, where an entitlement to take annual holidays has occurred for the first and any subsequent years' employment).

Calculation for employment ending within 12 months

The employee is entitled to a payment for accrued leave at a minimum of 8% of gross earnings during the employment. This entitlement is reduced by any payment for leave taken in advance during the employment.

Calculation for employment ending after 12 months or more service

In this case the first amount to be calculated is the greater of ordinary pay or average earnings for the outstanding leave that the employee is entitled to during employment.

Ordinary pay represents everything an employee is normally paid under the employment agreement.

The 12 months prior to the end of employment are used to establish average earnings. **Average earnings” are determined by calculating gross earnings over the 12 months prior to the end of employment and dividing that figure by 52 (for weekly pay), 26 (for fortnightly pay) or 12 (for monthly pay).**

The second amount to be added is for the period since the employee last became entitled to leave and is calculated at a minimum of 8% of gross earnings since the entitlement arose. This % will also be calculated on the gross earnings included in the termination pay (including the payment for outstanding leave).

Public holidays

On resignation or termination of employment, the employee's final date of work is notionally extended by any annual holiday entitlements not taken (outstanding leave only), and any public holidays falling during that period must be dealt with in accordance with the Holidays Act. For example, if an employee is to finish work four days before a public holiday and annual holiday entitlement owed on termination of employment equals four days or more, the employee is entitled to a day's payment at the relevant daily pay for the public holiday if it is a day on which she or he would normally have worked.

Alternative holidays

If an employee has alternative holidays that have not yet been taken or paid out, the days are paid on resignation at the same rate as the relevant daily pay for the last day of the employee's work, regardless of the rate of pay at the time they accrued. Accrued alternative holidays do not extend the period of employment for the calculation of annual holiday pay.

Further Information

Further information and examples of calculation of final pays is available from Ezipay