

WE KNOW

HUMAN RESOURCES

CLOSEDOWN PERIODS

QUICK GUIDE

This Quick Guide provides summarised information on the operation of closedown periods. For further information on holiday and leave entitlements please refer to our quick guides on annual holidays, public holidays, sick leave and bereavement leave, or our complete guide to the Holidays Act 2003.

CLOSEDOWN PERIODS

This guide applies when an employer has only one close down period in each 12-month period. An employer may agree with employees to have more than one close down but in that case the terms under which each close down is observed must be agreed.

As the name suggests, a closedown is when an employer customarily closes his or her operations or discontinues the work of one or more employees. Employees who have an annual holiday entitlement may be required to take all or part of their holidays, and employees who are not entitled to annual holidays at the commencement of the closedown can be directed to stop work for the duration of the closedown.

An employer must give employees *at least 14 days' notice of a closedown*. Different parts of a business may have different closedown periods.

EMPLOYEES WITH ANNUAL HOLIDAY ENTITLEMENT

Where the employer operates a closedown, an employee who has annual holiday entitlement at the date of the closedown is required to take those holidays. Annual holidays are calculated and paid in the normal manner (see our quick guide to Holiday and Leave Calculations). The closedown does not alter the employee's annual holiday anniversary date.

EMPLOYEES WITHOUT ANNUAL HOLIDAY ENTITLEMENT

If, at the date of the closedown, an employee does not have any entitlement to annual holidays, the employer can still require the employee to discontinue work during the closedown period.

Default Provisions

In this situation the employer pays the employee holiday pay at the rate of 8% of the employee's gross earnings for the period between the date his or her employment commenced (or his/her last anniversary date), and the first day of the closedown, less any holiday pay paid to the employee in advance of entitlement (e.g. holidays allowed in advance).

In addition, the employee will receive payment for any public holiday that falls within the closedown period, provided that the public holiday falls on a day on which the employee would otherwise have worked (if it wasn't a public holiday and there wasn't a closedown).

The employee's anniversary date for the purposes of annual holidays is then reset to become the date of the *first day of the closedown*. To avoid having a variable date for employees, the employer may nominate a day which is 'reasonably proximate' to the date of closedown as a common anniversary date.

For example:

Employment commences	3 June
Closedown:	24 December – 3 weeks
Employee’s anniversary date reset to:	24 December or reasonably proximate date

OTHER OPTIONS

As an alternative to paying 8% of gross earnings, the employer and the employee may agree to treat the closedown period as annual holidays taken in advance of entitlement or as a period of unpaid leave, or a combination of both. Taking any of these options will mean that the employee’s annual holiday anniversary date is not affected by the closedown.

For further information regarding KiwiSaver or other aspects of Employment Relations, please contact the Canterbury Employers’ Chamber of Commerce, email Keith Woodroof; keithw@cecc.org.nz or phone 03 366 5096.