

# COVID-19

## Payroll FAQ's

Please note any information or advice provided in respect of COVID-19 issues does not constitute formal legal advice and should be used only for guidance purposes. If you require further assistance or formal legal advice please contact EMA at 0800 300 362.

The EMA has prepared a document with common questions and answers we have received regarding payroll, employee leave, managing wages and more during New Zealand's COVID-19 response. Many questions included are in relation with the government's wage subsidy scheme. This document is very general and for guidance purposes only. Do not hesitate to call the EMA AdviceLine on 0800 300 362 to discuss the specifics of your business's particular circumstances. Employment law has not changed due to the pandemic.

More information on government support, including the wage subsidy and how to pay your staff is [here](#).

Some other useful information can be found below:

- The EMA has a COVID-19 website with up-to-date information [here](#).
- The BusinessNZ network has an active business-focused discussion group on Facebook called 'NZ Coronavirus Discussion Group' that you can refer businesses to for peer-to-peer support, link [here](#).
- The BusinessNZ network has a manufacturers-specific LinkedIn page (not just for Coronavirus discussion), link [here](#).
- The EMA has a NZ Payroll Discussion Group on LinkedIn [here](#).
- The EMA are running webinars with experts on how to manage your business during COVID-19. For recordings and more information, please see the [EMA website](#).

### Employee Leave

#### **I am a business receiving the wage subsidy. For paying leave, what is this annual leave worth when they apply for it?**

Leave is still calculated as per usual, when it is taken in the future.

#### **How does annual leave accrue if employees are not working during the lockdown, but being paid the wage subsidy?**

It accrues as normal, in line with normal employment law.

#### **My employees pay is being reduced to 80%. If someone wants to cash up a week's leave, is it calculated at the new lower value?**

Leave values are based on the wages an employee is receiving at the time they cash up. The rules are the same as before.

#### **How do I calculate Holiday pay where employment terms may have changed due to COVID-19?**

The Holidays Act provisions still apply and annual leave payments should be calculated as per the Act. Annual holiday pay is at a rate that is based on the greater of the employee's ordinary weekly pay as at the beginning

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of the annual holiday or the employee's average weekly earnings for the 12 months immediately before the end of the last pay period before the annual holiday.

**To maintain the 80% of normal pay, can we ask staff to take annual leave, but for less than a full day i.e 80% of 8hrs - 6.4hrs?**

Annual Leave can be taken in such a manner by agreement of both parties.

**If I don't qualify for the wage subsidy, how do I manage staff not working due to underlying illness etc?**

As per usual, an employer will consider sick leave, annual leave and any other leave before considering other options.

### Employee Wages

**We are claiming the wage subsidy. Do we need to consult them that they are getting a pay cut to 80%?**

Yes. Employers need employees to agree to any changes to their employment agreements in writing.

**Paying 80% of wages - does this mean 80% of employment agreement terms, or 80% of usual pay (eg. avg of last 8 weeks)?**

Usual pay is the expected amount based on how you calculated full time vs part time hours.

**We have applied for the subsidy for business. Can we pay the subsidy amount and then use sick/ annual leave to top up or not?**

Yes, by agreement with the employee.

**Can the subsidy be used to help pay for employee leave? For the purpose trying to afford to pay up to 80% for all staff?**

Yes, by agreement with the employee.

**If I'm only paying the wage subsidy to an employee, is the Relevant Daily Pay now based on \$585.80?**

Relevant Daily Pay is calculated as a proportion of \$585.80.

**Do we have to ensure staff receive \$585.50 in hand after PAYE and KiwiSaver deductions?**

\$585.50 is gross. PAYE, KiwiSaver etc will be deducted from an employee's gross pay.

### Employment Relations

**What do I do if an Employee does NOT agree to use any leave or reduce salary?**

When annual holidays are taken it is by agreement however where agreement cannot be reached the employer may give the employee at least 14 days' notice to take annual leave entitlement. Leave in advance

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is only by agreement. Any change to hours of work or pay needs to be by agreement. Employees should be given the opportunity to get advice on any proposed changes. Seek legal advice on how to manage this.

### **We changed employee's hours of work very quickly when moved to Level 4. Do we follow up with consultation and documents now?**

Yes.

### **A few staff are at home unable to work because they are at risk. Can I use accrued leave for them?**

Yes, by agreement with the employee.

### **If an employer applied for wage subsidy are they still required to keep employees for 12 weeks minimum or can they be made redundant during 12 weeks?**

Employers will be in breach of their obligations should they terminate within the 12 week period.

### **Do we have to give 14 days notice to get employees to take Annual Leave when they do not have work to do?**

Yes.

### **How do I manage some staff have enough Annual Leave to top up and others not?**

At any given time each employee will have different leave balances. The choice to top up is only reached by agreement between the employer and employee.

### **How much notice do we have to give to make staff redundant? Do we have to wait until after 12 week subsidy?**

Check the employment agreement for the notice period specified. Seek legal advice on the redundancy process. An employer is obligated to retain the employee for 12 weeks if claiming the subsidy. Employers will be in breach of their obligations should they terminate within the 12 week period.

### **Can an employer cancel all annual leave that was approved pre Covid-19?**

Good faith obligations apply. No, the employer must reach agreement with the employee.

### **Is there any provision for employees who work in essential services but are juggling childcare due to schools/daycares being closed?**

Talk to employees about how they can manage their various responsibilities using Annual Leave / Sick Leave. It is better to have more staff some of the time, than not to have them not work at all. There are childcare options on the essential services page on the government's COVID-19 website [covid19.govt.nz](https://covid19.govt.nz).

### **We don't qualify for the wage subsidy. How should we manage staff who are not able to work due to age/increased risk/children to care for etc?**

This is essentially business as usual and normal rules (leave, LWOP etc apply).

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This payment used to be called 'COVID-19 Essential Workers Leave Support' because it was only available to essential businesses. It's now called 'COVID-19 Leave Support Scheme' because it's available for all employers who meet the criteria.

Visit: [workandincome.govt.nz](http://workandincome.govt.nz)

**We are an essential business. Essential worker opts out of work when work is available, would we still need to pass on the wage subsidy?**

The subsidy is aimed at keeping the employment relationship going, however you need to discuss with the employee their reasons for not working as this can still be regarded as a performance issue.

### Public Holidays

**We are topping our staff up to 80% with subsidy. How do we pay the public holidays?**

So they would get time-and-a-half of their Relevant Daily Pay or average daily pay (s50 Holidays Act) plus a day in lieu. In this instance Relevant Daily Pay and average daily pay will be based on the 80% amount.

**Now that businesses are in complete lock down and employees are not working, how should public holidays be paid?**

Relevant Daily Pay - should have prior agreement to pay rate already.

**With companies receiving the subsidy to pass on to employees and trying to top up, what are the rules on the Public Holidays rate of pay to be applied? Do they still have to pay full hours at RDP, or is 80% of standard hours at base ok?**

Employment law has not changed. All holiday pay is calculated on the wages the employee is receiving (subsidy plus any top up).

**What are the legal obligations for staff working on public holidays and their payment with the wage subsidy? I am just passing the subsidy value on. Normally they would get time and a half and a day in lieu.**

So they would get time-and-a-half of their Relevant Daily Pay or average daily pay (s50 Holidays Act) plus a day in lieu. In this instance RDP and average daily pay will be based on the subsidy amount.

### Wage Subsidy

**Do we need to separate wage subsidy and top-up for each employee in payroll/ on employee payslips?**

No, there is no requirement for this – however you may wish to code these appropriately for your own records.

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**We have employees who have annual leave days. We have provided 14 days written notice they must take their annual leave. Can we apply for wage subsidy to pay their Annual Leave?**

Yes.

**Due to the definition/use of the term "ordinary wages" in the wage subsidy declaration, can employers use the wage subsidy toward annual leave payments?**

Yes – Subsidy can be used for when employee is on annual leave.

**How do I pay out the subsidy to staff? One payment for the full amount, or should it be week by week?**

As per normal payroll i.e. the employees normal pay cycle (e.g. weekly, fortnightly or monthly).

**If I am paying staff 80% and 80% is less than the \$585.80 - is the minimum you have to pay \$585.80?**

The [Work and Income site](#) has information on this.

**I had applied for a couple of part-time employees as well as full-time but now the part-timers are working more hours. Can I change the subsidy claim?**

MSD has advised that changes to the subsidy application cannot be made, however it is best to ask them about your specific situation.

**I have claimed the wage subsidy for a few part-timers who I think are also getting subsidy from their other employers, is that ok?**

Yes – employee's wages can be subsidised by multiple employers.

**We are closed during the lockdown and staff can't work remotely. Do I still need to top up the wage to 80% if I apply for the wage subsidy?**

You must reasonably attempt to meet the 80% wage requirement. At the minimum staff should receive the full amount of the wage subsidy.

**Do we have to record the wage subsidy on employee's payslip?**

The subsidy is only a subsidy in the hands of the employer (i.e. it boosts the employer's payroll budget). In the hands of the employee it is simply wages so there is no requirement for a separate record on the payslip.

**What information has MBIE given about record keeping and auditing the wage subsidies?**

This is in the application process which sets out the criteria for applying. See also the government's Covid19 website.