

Taking sick leave

Eligible employees are entitled to 10 days of paid sick leave each year, to care for themselves, their partners and children, or other dependants.

The current Holidays Act remains in force

The employment leave bill has been announced. The existing Holidays Act 2003 still applies until the new legislation is passed and comes into effect.

For updates, see:

Holidays Act reform - Ministry of Business, Innovation and Employment (<https://www.mbie.govt.nz/business-and-employment/employment-and-skills/employment-legislation-reviews/holidays-act-reform>)

What you're entitled to

Whether you are full-time, part-time or casual, you are entitled to 10 days of sick leave per year if:

- you have been working for the same employer continuously for 6 months, or
- you have worked for the same employer for a period of 6 months for:
 - an average of 10 hours per week, and
 - at least 1 hour in every week or 40 hours in every month.

You can accumulate up to 20 days of sick leave, which means you can carry over 10 days of unused sick leave into the next year.

Your employer:

- cannot give you less sick leave than this, but can offer you more
- can, unless agreed otherwise, deduct a full day of sick leave entitlement even if you were only off for part of the day
- can ask for a medical certificate or other proof that you are sick or injured and cannot work
- is not legally required to give you additional time off work to visit the doctor or dentist for routine appointments unless your employment agreement says so.

If, in any year, you do not meet the criteria:

- you do not get any new sick leave entitlement
- you can still use any sick leave balance that has been carried over from the previous

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You should tell your employer as soon as possible if you need to take sick leave.

[Chart for Employees to work out if they qualify for sick leave and bereavement leave \(PDF, 600 KB\)](https://www.employment.govt.nz/assets/uploads/documents/leave-and-holidays/Sick-and-Bereavement-leave.pdf) (<https://www.employment.govt.nz/assets/uploads/documents/leave-and-holidays/Sick-and-Bereavement-leave.pdf>)

[Pay for sick, bereavement and family violence leave](https://www.employment.govt.nz/pay-and-hours/pay-and-wages/leave-and-holiday-pay/pay-for-sick-bereavement-and-family-violence-leave) (<https://www.employment.govt.nz/pay-and-hours/pay-and-wages/leave-and-holiday-pay/pay-for-sick-bereavement-and-family-violence-leave>)

[If you get sick before or during your annual holiday](https://www.employment.govt.nz/leave-and-holidays/annual-holidays/managing-annual-holidays#e1534) (<https://www.employment.govt.nz/leave-and-holidays/annual-holidays/managing-annual-holidays#e1534>)

Stress leave

Stress leave is not an entitlement under the law, but some employers offer it in their workplace policies or employment agreements. Stress leave can help manage the impact of work-related stress on your health.

If stress is making you mentally or physically unwell, you can use sick leave just like you would for any illness or injury.

Workplace stress is a health and safety issue. For more information about dealing with stress at work visit:

[Work-related stress - WorkSafe](https://www.worksafe.govt.nz/topic-and-industry/work-related-health/mental-health/work-related-stress/) (<https://www.worksafe.govt.nz/topic-and-industry/work-related-health/mental-health/work-related-stress/>)

i NOTE

Sick leave entitlements are not pro-rated (assessed proportionately). Even if a part-time employee only works 3 days a week, they still get 10 days' sick leave a year and can accumulate up to 20 sick days a year.

Carrying over unused sick leave

If you have unused sick leave at the end of a 12-month period, it will be carried over and added to next year's entitlement – up to a maximum of 20 days of sick leave.

You and your employer can agree that sick leave can accumulate to more than 20 days – either in your employment agreement or through your workplace policies.

Unused sick leave cannot be cashed up or be part of any final payment when you leave your job.

Taking sick leave for appointments

Your employer is not legally required to give you time off work to visit the doctor or dentist for routine appointments, unless your employment agreement says so.

If there is nothing specified in the employment agreement, you and your employer can negotiate. If you cannot agree, you can schedule these appointments for a time outside of work hours.

Taking part-days sick

The Holidays Act 2003 describes sick leave entitlement in days and does not divide it into part-days or hours. This means that if you work for part of the day and then go home sick, this can be counted as using a whole day of sick leave – no matter how much of the day you worked before going home.

However, your employer can agree to describe your entitlement in hours or part-days if they want to. For example, if you worked a half day and then went home sick, your employer could deduct only a half day of sick leave.

If you have no sick leave left

Coming to work when you're sick can endanger the health or safety of other workers. If you have used up all your sick leave, you can ask to take:

- sick leave in advance
- annual holidays, or
- unpaid leave
- paid special leave, either as provided for in your employment agreement or workplace policies or by agreement between the employer and you.

Your employer does not have to agree to the request unless your employment agreement says they do.

Providing proof of illness or injury

Your employer can ask you for proof of sickness or injury – usually a medical certificate from a doctor saying that you (or your spouse, partner, child, or other dependant) are sick or injured and cannot work. Your employer cannot tell you which doctor to go to.

If you have been away for:

- less than 3 days, your employer must ask for proof as soon as possible and pay you back for any costs – for example, the cost of your GP visit
- 3 or more days in a row, even if they are not all days that you would otherwise have worked, then you must meet the cost yourself.

If your employer has good reason to believe that you are impaired (either unwell or harmed) for any reason, they can request that you have a medical examination. They cannot force you

to get the medical examination, but they can suspend you if you refuse, in certain circumstances.

Example: Employee is sick 3 days in a row, including a scheduled break

Jennifer works on Monday, takes a day's sick leave on Tuesday, has a one-day scheduled break on Wednesday (during which she is still sick), and takes another day's sick leave on Thursday. Her employer can ask for proof at Jennifer's expense as she has been sick for 3 days in a row.

Example: Employee is sick up to 3 days in a row

Holly works Monday to Friday, is sick on Monday and Tuesday, and on Wednesday she phones her employer to tell them that she will be off sick again. Holly's employer tells her that:

- she will need to bring a medical certificate to work on her return to prove that she was genuinely ill
- she will need to pay for the costs of getting the medical certificate herself, as she will have been sick for 3 days.

If Holly's employer had asked for the certificate when she phoned in sick on Tuesday, her employer would have had to cover the cost. Holly's workplace policies state that sick leave is recorded and deducted in half-days. If Holly had come to work at lunchtime on Wednesday (and taken only a half day's sick leave) as she was feeling much better, she would have been sick for less than 3 days, and her employer would have had to cover the cost of the medical certificate.

Getting paid for sick leave

You must be paid for sick leave:

- in the payment that relates to the period in which the leave is taken
- what you would have been paid if you had worked that day – either your relevant daily pay or average daily pay.

You only get paid sick leave for days you would have worked if you had not been sick, known as otherwise working day.

If you are sick on a day that is not an otherwise working day, you are not entitled to paid sick leave – for example, if you were already on unpaid leave or you fell sick on a day you were not rostered to work.

If your employer has asked you for proof of sickness or injury and you do not provide it and do not have a reasonable excuse for not providing it, they do not have to pay you for the sick leave until you do so.

[Pay for sick, bereavement and family violence leave \(https://www.employment.govt.nz/pay-and-hours/pay-and-wages/leave-and-holiday-pay/pay-for-sick-bereavement-and-family-violence-leave\)](https://www.employment.govt.nz/pay-and-hours/pay-and-wages/leave-and-holiday-pay/pay-for-sick-bereavement-and-family-violence-leave)

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If you are injured in an accident and it is covered by ACC, you may be eligible for income support.

[Weekly compensation - ACC \(https://www.acc.co.nz/im-injured/financial-support/weekly-compensation\)](https://www.acc.co.nz/im-injured/financial-support/weekly-compensation)

When you are on ACC

If you are receiving weekly ACC compensation, your employer:

- cannot make you take time off in the form of sick leave or annual holidays
- does not have to pay you while you're being paid by ACC.

If the period of leave on ACC is more than 5 days, you and your employer can agree that your ACC payment is topped up from 80 to 100% by using one day of your sick leave for every 5 days' leave taken.

If it was a work-related accident

If you have had a work-related accident, your employer must pay you 'first week compensation', equivalent to 80% of your usual earnings.

They cannot make you take this time as sick leave or annual leave – but you can agree that your pay is topped up for that week from 80 to 100%, using one day of your sick leave.

If it was not a work-related accident

When you are taking leave for the first week following a non-work-related accident, you can use sick leave or annual holidays, if you have any.

Ending your job after a period of ACC

When you end a job after an extended period of being on ACC, you need to be paid any outstanding annual holidays in your final pay, based on your gross earnings.

[Final pay \(https://www.employment.govt.nz/pay-and-hours/pay-and-wages/final-pay\)](https://www.employment.govt.nz/pay-and-hours/pay-and-wages/final-pay)

[Annual holiday pay \(https://www.employment.govt.nz/pay-and-hours/pay-and-wages/leave-and-holiday-pay/annual-holiday-pay#Leaving-job-ACC\)](https://www.employment.govt.nz/pay-and-hours/pay-and-wages/leave-and-holiday-pay/annual-holiday-pay#Leaving-job-ACC)

If you are unsure about your rights or responsibilities or need advice, call us on 0800 20 90 20 or email us your query.

[Contact us \(https://www.employment.govt.nz/employment-new-zealand/contact-us\)](https://www.employment.govt.nz/employment-new-zealand/contact-us)

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