

2 November 2018

Dear Colleagues,

Advice on Christmas Closedowns

Springtime is upon us once again, and along with its sunnier days we are witnessing the usual seasonal influx of employers writing to APEX members about their intention to enforce a Christmas closedown period and require employees to take annual leave.

Here is what you need to know about your rights and obligations around leave:

- Employers **cannot** enforce a Christmas closedown and require you to take paid annual leave unless they have done so ‘customarily’ i.e. they have done so in the past – this is set out in section 29 of the Holidays Act 2003. For most of our members working in DHBs, there is no “customary closedown”, so if confronted with this, get hold of us to check it out!
- If your Employer does have a customary Christmas closedown period, then they must give you at least 14 days’ notice of the intended closedown. They can then require you to discontinue work and take paid annual leave. If you don’t have any accumulated leave, then you won’t work and will not be paid.
- Employers **must** consent to reasonable requests for annual leave, including to take 2 weeks of annual leave in one go, and they **cannot** decline a request simply because they would prefer it if you took leave at another time. Factors that will go to the reasonableness of a request to permit leave include:
 - How much annual leave you have owing;
 - How long it’s been since you’ve had a holiday;
 - Special reasons for wanting to take leave during a particular period;
 - How many people are already planning to go on leave at the time; and
 - Any other circumstances relevant to your case.
- Employers **cannot** require you to take annual leave until they have tried and failed to reach mutual agreement with you on when your leave should be taken. If you can’t reach agreement, they must give you 14 days’ notice to take leave.

As always, we strongly encourage you to take a look at your entitlements to annual leave under your respective collective agreements and ensure that you are clear as to what you’re entitled to (you can do so on our website: <http://www.apex.org.nz/>).

If you have any further questions or concerns around Christmas closedowns or are having trouble applying for annual leave at your workplace, please get in touch with us or speak to your local APEX delegate.

Best wishes and happy holidays. And for those that are working through – we hope it is a quiet holiday season for you!

Your APEX Team