MYOB Exo Payroll

Managing Periods of Leave without Pay

June 2020

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Introduction

The complexity of the Holidays Act 2003 is universally acknowledged, and issues of implementation are an ongoing challenge for businesses across New Zealand.

MYOB Exo Payroll is committed to helping employers meet their obligations under the Holidays Act 2003. The latest release of MYOB Exo Payroll includes an update which requires a review of your payroll system process, and/or employee set up and evaluation of your compliance with the Holidays Act. This document provides an overview of the software updates to the system and what you should consider before implementing any changes.

Please note this information will apply to you if any of your employees take unpaid leave i.e. Leave Without Pay (LWOP) in excess of one week in any 12-month period. It is important to note that if you don't manage LWOP as outlined in this document, you risk underpayment for Holiday pay for your employees.

Disclaimer: This document provides guidance on how to manage leave entitlements within our product. We recommend that you read the MBIE document "*Holidays Act 2003: Guidance on annual holidays, domestic violence, leave, bereavement leave, alternative holidays, public holidays and sick leave*" to understand how to meet your obligations as an employer under the Holidays Act 2003. If you have further questions or are in doubt, it is best to seek legal advice to ensure you are meeting your obligations.

MBIE Website: [Leave without pay](#)

Background

Section 16 of the Holidays Act 2003 provides all employees an entitlement to 4 weeks of Annual Leave after each "12 months of continuous employment". The Act states that periods of unpaid leave (commonly known as Leave without Pay (LWOP)) greater than one week **do not** count towards the period of continuous employment. What this means is that you need to decide how you will treat unpaid leave for more than one week for your employees as it will have an impact on the rate of payment for Annual Holidays. You should ensure that this is agreed with your employee and it is recommended that their employment agreement includes what you have agreed.

The 2 options you have for managing situations where an employee takes more than one week's unpaid leave during the year are:

1. The default option is that the employee's anniversary date for the employee's entitlement to annual holidays (the point at which they receive their four weeks of Annual Holidays) moves by the period of unpaid leave in excess of one week. That is, if an employee takes two weeks unpaid leave, they would become entitled to Annual Leave one week later each year.
2. You can instead agree with your employee that the period (or periods) of unpaid leave in excess of one week **do count** towards the period of continuous employment. If you come to this agreement, your employee's average weekly earnings (AWE) calculation must be modified to reflect the number of whole or part weeks greater than one week that the employee was on unpaid leave. For example, if an employee takes two weeks unpaid leave during the year, and you have agreed that the second week of unpaid leave **will** count towards their

continuous employment, AWE must be calculated on a 51-week basis, instead of 52. Note: you will still need to compare the employee's AWE against their ordinary weekly pay (OWP) when determining their pay for any period of Annual Holidays.

What is changing

There is no change to MYOB Exo Payroll to extend your employee's anniversary for any period of unpaid leave in excess of one week. If you have chosen option 1 you can continue to manually adjust the **Holiday Anniversary Date** of any employee taking more than one week of LWOP. (This date can be edited on the Holiday Pay tab of the Employee Maintenance window.)

There is however an enhancement to the workflow to automatically update anniversary dates as detailed below.

Prior to this change for option 2 you would have needed to manage the divisor by not tracking "Days/Hours paid for holiday pay" for the period of LWOP and this had the effect of reducing the divisor.

If you agree with your employee to option 2, the changes in this release provide a new configuration window that lets you enter the number of LWOP in excess of one week. The system will then reduce the weeks divisor automatically for correct calculation of AWE.

Preparing for the change

You should ensure that the treatment of unpaid leave is agreed with your employees (i.e. by adjusting their anniversary date (Option 1), or by adjusting the Average Weekly Earnings rate (Option 2)), and it is recommended that their employment agreement includes what you have agreed.

After the change

You should review previous holiday payments for employees that have taken LWOP in excess of one week and you haven't completed one of the options above. In the case of option 1 your employee may have become entitled to Annual Holidays earlier than required by the Act however there would be no impact on the Annual Holiday payments you have made to them. It is important to seek guidance from MBIE or your employment relations advisor prior to deciding to retrospectively adjust leave entitlements for your employees.

In the case of option 2 the AWE rate could be incorrect (i.e. lower than it should be) and you may not have paid the greater of AWE or OWP. Reviewing this is complex and we recommend you engage your accountant or your employment relations advisor prior to conducting this review if you think you have employees who may be affected.

Software Changes

MYOB Exo Payroll (version 2020.06) has made the following updates to the product for managing the reduction of the divisor for AWE in option 2. This can be enabled when an employer is ready to use them by ticking the **Calculate Holiday Pay in Weeks** option on the Leave Management Setup window.

When weekly Holiday Pay is activated, a **Leave Without Pay** button becomes available on the Holiday Pay tab of the Employee Maintenance window. Clicking this button opens the new *Leave Without Pay* window, which lets you enter the start and end dates of the employee's Leave Without Pay and select whether you want to adjust the employee's anniversary date (Option 1) or adjust their AWE divisor (Option 2).

The remaining fields on the window differ depending on which of these options you select.

Adjusting the Employee's Anniversary Date

When adjusting the employee's anniversary date, the *Leave Without Pay* window displays the employee's current anniversary date. Entering start and end days for the employee's LWOP automatically fills in the **New Anniversary Date** field, moving it forward by the required number of weeks. The new date is editable, so you can enter a different date if before saving if needed.

Adjusting the Employee's AWE Divisor

When adjusting the employee's AWE divisor, the *Leave Without Pay* window automatically fills in the amount to adjust the AWE divisor by as you enter start and end dates for the employee's LWOP. The field is editable, so you can enter a different amount before saving if needed.

Notes indicating that the AWE divisor has been adjusted appear on the Holiday Pay tab of the Employee Maintenance window, next to the Leave Without Pay button, and on the side panel of the Current Pay window, under Leave Status.