

# Remediation calculations checklist

This is a guide for employers when providing evidence to a Labour Inspector. A Labour Inspector may request further information if they require it. A Labour Inspector needs to see the following, but not limited to:

## Gross earnings

- List of payment codes (and names) included and excluded from gross earnings for each of the calculations:
    - › Average Weekly Earnings (AWE)
    - › Ordinary Weekly Pay (OWP)
    - › Average Daily Pay (ADP)
  - Original gross earnings
  - Adjusted gross earnings
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## Annual holidays

- Dates annual holidays taken
  - What is a week (and how a week was determined if it is unclear)
  - Portion of week taken
  - OWP rate
  - AWE rate
  - Greater of OWP versus AWE selected
  - What was paid
  - What should have been paid
  - Difference
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## Termination pay

- Annual holiday anniversary date
- Termination date
- Entitlement remaining as a portion of a week (if applicable)
- OWP rate
- AWE rate
- Greater of OWP versus AWE selected
- Public holidays on termination
- Alternative holidays paid on termination
- Gross earnings since last anniversary date used

- 8% Holiday pay value
  - Leave taken in advance amount
  - What should have been paid
  - Difference
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**Family violence leave, bereavement leave, alternative holidays, public holidays & sick leave (FBAPS leave)**

- Dates FBAPS leave taken
  - Type of FBAPS leave taken
  - Number of days taken
  - Method of calculation – state if RDP or ADP
  - Rate
  - What was paid
  - What should have been paid
  - Difference
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**Public holiday worked**

- Dates of public holiday and hours worked on each day
  - RDP for the day (or ADP, if applicable)
  - Factor of at least time and a half
  - What was paid
  - What should have been paid
  - Difference
  - The date an alternative holiday was provided (where eligible)
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**Entitlements**

- Recalculated annual holiday entitlement balances and methodology
  - Recalculated sick leave entitlement balances and methodology
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**Other**

- Pay period end dates
  - Pay frequency
  - Provincial anniversary (for public holidays)
  - Days per week worked or on paid holiday/leave
  - Hours per week worked
  - Hours worked per day
  - Dates for leave without pay and amount of leave without pay taken
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## Calculations checklist

This is a guide for Employers when performing remediation calculations and may be subject to change.

### AWE

- Have the correct gross earnings period been identified?
    - › 12 months of gross earnings from the pay period ending immediately **before the annual holidays were taken**
  - Note:** If pay frequency is weekly or fortnightly, using the last 52 weeks as 12 months of gross earnings is accepted.
  - Has '52' been used as the divisor?
  - Has the divisor been reduced when the following occurs:
    - › more than one week of unpaid leave has been taken and it is deemed as part of continuous employment
    - › the employee has been employed for less than 12 months (i.e. leave taken in advance)?
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### OWP

- Has an assessment of OWP been done as at the beginning of the annual holidays?
  - Has an assessment of any regular payments been done and considered to be included in OWP?
  - Where OWP as per section 8(2) applies, has '4' been used as the divisor?
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### Timing of calculations for annual holidays

- Have the OWP and AWE rates been calculated only in relation to when the annual holidays begin?
  - › If annual holidays span across multiple pay periods, the calculations of the rates should only be done once (i.e. not in accordance with the pay period the holiday falls in, but in relation to the beginning of the annual holidays taken).
  - › The payment amount should be allocated to each pay period in which the annual holidays relate to, so that gross earnings are not distorted.

**Note:** continuous periods of annual holidays are not broken by public holidays taken that fall in the annual holiday period.

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### Termination pay

- Has the calculation of 8% since the last anniversary date been calculated on the adjusted gross earnings (i.e. included all underpayments identified)?
  - Has the total value of annual holidays taken in advance for the part year been recalculated based on the adjusted values for annual holidays taken in advance during that same period (i.e. included all underpayments identified)?
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### ADP (where applicable)

- Have days where the employee did not actually work been excluded (e.g. leave without pay days for any reason)?
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### Gross earnings

- For any identified underpayments, have gross earnings been adjusted upwards to include the underpayment for sequential calculations?
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