



Get workplace advice 24/7
1300 651 415

A central photograph of a woman with long brown hair, wearing a light blue shirt and a black apron, smiling warmly with her arms crossed. The background is a blurred cafe interior. A yellow dashed line with a solid yellow circle and a white circle with a yellow 'x' inside are overlaid on the image.

Your guide to Public Holidays

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Introduction

Public Holidays: An Overview

The issue of employee entitlements on public holidays is often considered to be a complex area for many small business owners.



Did you know that if a permanent employee does not work on a public holiday, they may still be entitled to payment if they would normally work on that day?

It may be difficult to manage and understand the various entitlements that may or may not apply on public holidays. In this guide we explain the fundamentals behind managing, paying and rostering your staff on public holidays.

Overview of public holidays

Public holidays form part of the National Employment Standards (NES). The NES provide an entitlement for employees to be absent from work on a day or part-day that is a public holiday.

The NES protect an employee's workplace right to reasonably refuse to work on a public holiday, and will guarantee payment to a permanent employee where that employee is absent from work because of a public holiday.

Part 1

Public Holiday Payment

The rules around Public Holidays can be confusing. Let's take a closer look.

When your permanent employees are absent because of a public holiday, in most cases you must pay them their base rate of pay for the ordinary hours they usually would have worked on that day unless an award, registered agreement or contract of employment says otherwise.

You do not ordinarily need to pay anything to an employee who does not usually work on the day the public holiday falls (unless an award, registered agreement or contract of employment says otherwise), but you cannot temporarily alter rosters to try and avoid paying public holiday pay.

There may also be restrictions on retail trading hours on Christmas Day, Boxing Day and over the Easter Long Weekend, for example. More information can be obtained through the relevant State and Territory Government websites.

Can I ask an employee to work on Public Holidays?

If your request is reasonable, you can ask an employee to work on a public holiday. The employee can only refuse if the refusal is reasonable or if your request is unreasonable in the given circumstances.

To determine what is reasonable, you need to consider:

- ✓ The employee's personal circumstances, eg, family responsibilities
- ✓ Whether they will get more pay, eg, penalty rates
- ✓ The needs of the business
- ✓ The type of work they do
- ✓ Whether their salary includes public holiday work
- ✓ Whether they are full-time, part-time, casual or shift worker
- ✓ The amount of notice you gave them about working
- ✓ The amount of notice they gave you about not working

Given the variety of different considerations, it may be appropriate to seek advice prior to directing an employee to work on a public holiday.



Get on Top of Your Leave Management with BrightHR

Managing staff holiday leave the old-fashioned way—by hand—is a pain. It's hard, takes ages, and you'll certainly agree... it's boring. So we fixed it for you with BrightHR.

This award-winning HR software makes your holiday management faster, easier and much more convenient, freeing you from working out holiday leave.

Because you don't want to waste time figuring out full-time, part-time or

variable hour annual leave entitlements. But you must get them right. It's a big responsibility.

And that's where BrightHR steps in. BrightHR gives you the following features;

- ✓ Holiday calendar and annual leave planner
- ✓ Lateness and sickness log
- ✓ Rota planner
- ✓ TOIL tracker
- ✓ Unlimited document storage.

Part 2

Employee Entitlements

It might be a Public Holiday, but employee entitlements still apply.
Here's what they mean for you.



The Modern awards, enterprise or other registered agreements applicable to your business and the employee will set out the employee's entitlements when they work a public holiday.

Generally, employees covered by a modern award, enterprise agreement or other registered agreement are entitled to be paid penalty rates for the hours worked on a public holiday.

Awards and agreements can also provide additional entitlements or requirements when employees work on public holidays, such as:

- ✓ An extra day off or an an extra day of annual leave
- ✓ The ability to agree to substitute the public holiday for a different day
- ✓ A minimum number of hours of employment on the public holiday
- ✓ Provisions for rostered days off which fall on Public Holidays

An employee's contract of employment may also provide for additional entitlements or higher pay rates on a public holiday, but they cannot remove or reduce the entitlements under the Fair Work Act, award or enterprise or other registered agreement.

Part 3

Public Holidays

Paid Leave and Public Holidays explained.



If a public holiday falls on a paid leave day, eg leave or personal leave, then you must pay the employee for the public holiday. They do not use their accrued annual leave on the public holiday.

In some circumstances when a public holiday falls during unpaid leave, you may not have to pay the employee for it.

Annual Shutdowns

If you are planning a shutdown or operate with skeleton staff over the Holiday period and have not already provided notice to your employees, you should do so as soon as possible.

Most awards and agreements allow you to direct employees to take paid or unpaid leave during a Christmas shutdown, but normally require you to provide a minimum amount of notice in advance.

Please ensure you check the provisions of the awards or registered agreements which apply to your business and employees, along with their contracts of employment for any terms relevant to a public holiday. If you have any questions, Employsure can help you.

Need help understanding employee entitlements? Employsure can help.

Call Employsure's Advice Line.

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