



# Public Holidays

September 2022



## What are public holidays?

In addition to annual holidays, employees are generally entitled to 12 public holidays each year, if the public holidays fall on days the employee would normally work.

Please note, an additional one-off national public holiday will be observed on 26 September 2022 (Queen Elizabeth II Memorial Day) to mark the passing of Queen Elizabeth II.

There are two types of public holidays with slightly differing entitlements applying to each:

- Christmas and New Year: Christmas Day (25 December), Boxing Day (26 December), New Year's Day and the day after (1 and 2 January).
- All other holidays: Waitangi Day (6 February), Good Friday and Easter Monday (dates variable), ANZAC Day (25 April), Queen's Birthday (first Monday in June), Matariki (dates variable), Labour Day (fourth Monday in October), Queen Elizabeth II Memorial Day (one-off public holiday observed 26 September 2022 only) and Provincial Anniversary Day (date determined locally).

### Waitangi Day and ANZAC Day

If Waitangi Day or ANZAC Day falls on a Saturday or Sunday and that day would not otherwise be a working day for the employee, the holiday is transferred to the following Monday so that the employee still gets a paid day off if the employee would usually work on that day.

If the holiday falls on a Saturday or Sunday and that day would otherwise be a working day for the employee, the holiday remains at the traditional day and the employee is entitled to that day off on pay.

### The Christmas and New Year period

The public holidays over the Christmas and New Year period have special arrangements:

- If the holiday falls on a Saturday or Sunday and that day would not otherwise be a working day for the employee, the holiday is transferred to the following Monday or Tuesday so that the employee still gets paid if the employee would usually work on these days.
- If the holiday falls on a Saturday or Sunday and that day would otherwise be a working day for the employee, the holiday remains at the traditional day and the employee is entitled to that day off on pay.
- An employee cannot be entitled to more than four public holidays over the Christmas and New Year period, regardless of their work pattern.

## Can a public holiday be transferred?

Employers and employees are able to agree to transfer either part or the whole of the observance of public holidays to another working day to meet the needs of the business or the individual needs of the employee. An employer and employee should make the agreement in writing.

## What do I do if an employee is sick or bereaved on a public holiday?

Where the employee would have been working on a public holiday but is sick, bereaved or requires family violence leave, the day would be treated as a paid unworked public holiday. Therefore:

- The employee would be paid their relevant daily pay or average daily pay but would not be entitled to time and a half or an alternative holiday.
- No sick, bereavement or family violence leave would be deducted.

## What are alternative holidays (days in lieu)?

If an employee is required to work on a public holiday and it is a day they usually work, they get an alternative holiday — a paid day off they can take later regardless of the hours worked and includes being on-call. This is also called a day in lieu.

### When is an alternative holiday is not applicable?

Employees do not get a day in lieu if:

- The employee wouldn't usually have worked that day
- They only work on public holidays
- They were on call, but didn't have to do anything, and being on call didn't stop them doing what they wanted to do with their day

### Taking an alternative holiday

Employers can agree with the employee when they want to use their alternative holiday.

If the employee can't agree on a day, the employer can choose one for them by giving them 14 days' notice.

### Alternative holiday may be exchanged for payment

If an employee does not take their alternative holiday within 12 months of becoming entitled to the alternative holiday, the employee and employer can agree for the alternative holiday to be exchanged for payment. In this instance, the payment for the alternative holiday is to be agreed between the employer and employee and must be paid as soon as practicable once the agreement has been made.

## What you must do?

To meet the requirements, employer should follow these rules:

- Ensure all employees are entitled to a paid day off on a public holiday if it falls on a day the employee would normally work.
- Only require employees to work on a public holiday if:
  - the holiday falls on a day the employee would normally have worked, and
  - the employment agreement specifies that the employee may be required to work on the public holiday.

- Ensure that employees receive the correct pay for public holidays. The minimum payment is time and a half for the hours actually worked on the public holiday (this applies whether or not it is an otherwise working day).
- Have a clause in their employment agreements that states whether employees are required to work on public holidays and that they will be paid at least time and a half if this happens.
- If the public holiday worked would have been the employee's normal working day, ensure that the employee has a whole paid day off at another time (an alternative holiday), regardless of how many hours they actually worked on the public holiday. Alternative holidays are paid at the employee's relevant daily pay or average daily pay if applicable.
- If the employee does not work on a public holiday and it would otherwise be a working day for them, ensure they are paid their usual relevant daily pay, or average daily pay, for the public holiday.

Note that employees on call on public holidays have different entitlements depending on the nature of the call-out arrangement.

## Further Information

This guidance note provides a brief overview of the main issues. If you believe any of these may impact on your business, please contact 0800 675 697 or email [advice@employsure.co.nz](mailto:advice@employsure.co.nz) for further information.