

ALERT

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Public holiday Alert: What you need to know about the upcoming Easter and ANZAC Day holiday period

The upcoming public holidays may be a welcome break for some, but whether you require your employees to work the public holiday period or not, there are some things you should know.

Can I require my employees to work on a public holiday?

Generally, in accordance with the National Employment Standards (NES) a permanent employee (ie, full time or part time employee) is entitled to be absent from work without loss of pay for a public holiday (if the employee usually works their ordinary hours on a day of the week that there is a public holiday). Despite this, an employer can require the employee to work on a public holiday if the request to work is 'reasonable'. An employee can, however, refuse to work if the request is not reasonable or if their refusal is reasonable.

Whether a request or a refusal is 'reasonable' depends on various factors, such as the nature of the business, operational requirements or the employee's personal circumstances (including family

responsibilities).

However, if the employee does not usually work on the public holiday, generally speaking they will not be entitled to be paid for the day off. For example, if a part-time employee works Mondays and Wednesdays only, they will not usually be entitled to be paid for a public holiday that falls on a Friday.

What are employees who work on a public holiday entitled to?

Employee entitlements for working on the various public holidays will vary depending on the applicable award, enterprise agreement or employment contract. It is important for employers to check the applicable instrument(s) to ensure employees are paid correctly. Further, some instruments prescribe that an employee is entitled to take time off during ordinary hours instead of payment for working on a public holiday.



We recommend that employers who are unsure of their employees' entitlements for working on a public holiday seek advice. Failing to pay an employee the appropriate entitlement may constitute a breach of the applicable award, enterprise agreement or contract and could result in, among other things, underpayment claims.

Public holidays in Australia

Businesses that operate across the various jurisdictions should note that the upcoming public holidays may be different in each state and territory, as set out in the table below.

Date	Day	State or territory public holiday
Friday 18 April 2014	Good Friday	All states and territories
Saturday 19 April	Easter Saturday	Victoria, NSW, NT, SA and QLD
Sunday 20 April	Easter Sunday	NSW
Monday 21 April	Easter Monday	All states and territories
Tuesday 22 April	Easter Tuesday	Tasmania (applicable under certain awards and agreements only)
Friday 25 April	ANZAC Day	All states and territories

Trading restrictions

Further, state legislation creates trading restrictions in certain states and territories. Such legislation may prevent a business from opening over the public holiday period, except with a special permit and businesses should seek advice if uncertain about whether they are permitted to operate.

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