

Entitlements over the Christmas and New Year holidays

29 November 2019

Around this time each year we get lots of questions about employee entitlements for working through the holiday period.

We know you're busy, so we've answered 5 of the most common questions below:

- [Can an employee be asked to work longer hours?](#)
- [What happens if an employee isn't given a break?](#)
- [Does an employee have to work a public holiday?](#)
- [How should an employee be paid if they don't work a public holiday?](#)
- [Do public holidays count as annual leave?](#)

And don't forget the dates . . .

- [Public holidays over Christmas and New Year's](#)

Can an employee be asked to work longer hours?

An employer can ask an employee to work reasonable overtime hours. Whether extra hours are reasonable depends on a number of things including:

- the needs of the business
- the employee's personal commitments like family or caring arrangements
- how much notice the employee was given
- what the employee's contract says.

If an employee works extra hours, they could be entitled to overtime rates. These are set by an award or agreement and can be checked on our [When overtime applies page \(https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/hours-of-work/when-overtime-applies\)](https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/hours-of-work/when-overtime-applies) .

[Back to top](#)

What happens if an employee isn't given a break during their shift?

An employee may be entitled to overtime rates if they're not given a break. Again, the rules about this come from an award or agreement so it's important to know which one applies.

To check if your workplace has an agreement, start by searching the business name on the [Fair Work Commission's website](https://www.fwc.gov.au/search/document/agreement) [↗](#) (<https://www.fwc.gov.au/search/document/agreement>) .

If there's no agreement, an award will most likely apply. Use our [Find my award tool \(https://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/\)](https://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/) to work out which award applies to your workplace.

Does an employee have to work on a public holiday?

An employee can be asked to work on a public holiday if the request is reasonable. An employee can also refuse the request if they themselves have reasonable grounds not to work.

If an employee does work on a public holiday, they may get penalty rates or alternate days off. This depends on the rules set out in their award or agreement.

[Back to top](#)

How should an employee be paid if they don't work on a public holiday?

When a public holiday falls on a day an employee usually works, they should be paid their base rate for their usual hours. The base rate doesn't include any loadings, overtime or penalty rates that they'd usually get for working that day.

Some awards give employees public holiday entitlements when a public holiday falls on their rostered day off. You can check the

rules for your award on our [Not working on public holidays page \(https://www.fairwork.gov.au/leave/public-holidays/not-working-on-public-holidays\)](https://www.fairwork.gov.au/leave/public-holidays/not-working-on-public-holidays) .

Do public holidays count as annual leave?

No. If an employee has taken annual leave over the Christmas and New Year period, the public holidays don't come off their leave balance.

Find out more on our [Not working on public holidays page \(https://www.fairwork.gov.au/leave/public-holidays/not-working-on-public-holidays\)](https://www.fairwork.gov.au/leave/public-holidays/not-working-on-public-holidays) .

[Back to top](#)

Public holidays over Christmas and New Year's

The public holidays over the holiday season this year are:

- Christmas Day – Wednesday 25 December 2019
- Boxing Day – Thursday 26 December 2019
- New Year's Day – Wednesday 1 January 2020.

The Northern Territory and South Australia have part-day public holidays from 7pm to midnight on:

- Christmas Eve – Tuesday 24 December 2019
- New Year's Eve – Tuesday 31 December 2019.

Queensland also has a part-day public holiday from 6pm to midnight on Christmas Eve – Tuesday 24 December 2019.

Employees working part-day public holidays get their public holiday entitlements from their award or agreement. Visit our [Working on public holidays page \(https://www.fairwork.gov.au/leave/public-holidays/working-on-public-holidays\)](https://www.fairwork.gov.au/leave/public-holidays/working-on-public-holidays) for more information.

Read our article [Shutting down over Christmas and New Year? \(https://www.fairwork.gov.au/about-us/news-and-media-releases/web-site-news/shutting-down-over-christmas-and-new-year\)](https://www.fairwork.gov.au/about-us/news-and-media-releases/web-site-news/shutting-down-over-christmas-and-new-year) to find out what happens if your workplace shuts down over the holiday period.

[Back to top](#)

Page reference No: 9305

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