

## Working on public holidays

Employees get paid at least their base pay rate for all hours worked on public holidays.

Awards, enterprise agreements and other [www.fairwork.gov.au/Dictionary.aspx?TermID=2034](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034) registered agreements ([www.fairwork.gov.au/Dictionary.aspx?TermID=2034](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034)) can provide entitlements for working public holidays, including:

- extra pay (eg. public holiday rates)
- an extra day off or extra annual leave
- minimum shift lengths on public holidays
- agreeing to substitute a public holiday for another day.

Find information about working on public holidays in your award by selecting from the list below.

Based on what you've told us, it looks like you're covered by the Restaurant Industry Award [MA000119].

An employee has to be paid public holiday rates for all time worked on a public holiday.

To calculate public holiday pay rates, use our [Pay Calculator \(http://calculate.fairwork.gov.au/FindYourAward\)](http://calculate.fairwork.gov.au/FindYourAward) .

### Alternative public holiday payments

Each time a full-time or part-time employee works a public holiday, they can agree with their employer to get one of the following, instead of the public holiday penalty loading:

- a 25% loading on their ordinary pay rate and
  - a day (or equivalent time) off with no loss of pay or
  - an extra day (or equivalent time) to add to their annual leave.

If they choose time off with no loss of pay, the time off is taken either:

- during the week of the public holiday, or
- within 28 days of the public holiday.

An employee being paid an annual salary must get paid time off or time added to their annual leave (that is equal to the time worked) if they work on a public holiday.

### Minimum hours on public holidays

Regardless of how long they actually work, when an employee works on a public holiday they have to be paid for a minimum of:

- 4 hours for full-time and part-time employees; and
- 2 hours for casual employees.

### Minimum hours on part-day public holidays

Minimum shifts or payments usually mean that an employee is entitled to be paid for a minimum number of hours per shift, even if they don't work the full shift.

This will usually apply for every time an employee attends work, even if a shift is spread across a public holiday and a non-public holiday.

### Substituting public holidays

An employer and an employee can agree to substitute a public holiday (or part-day public holiday) for another day.

If a public holiday is substituted, then the substitute day is regarded as the public holiday and penalty rates are only paid on the substitute day.

#### Christmas Day substitute public holiday

A full-time or part-time employee who works on Christmas Day, when Christmas Day falls on a weekend and the day is not a prescribed public holiday will get:

- the Saturday or Sunday penalty loading
- an additional 25% loading on their ordinary pay rate for the hours they work on Christmas Day
- a substitute day.

Check the Restaurant Award for other entitlements that can apply when working a public holiday.

### **Restaurant Industry Award resources**

We've made it easier for you to find information about your pay and entitlements under the Restaurant Industry Award. For more tailored information about your Award, visit our [interactive tool \(www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/restaurant-cafes-industry\)](http://www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/restaurant-cafes-industry) .

We've got new and improved templates to help people in the Restaurant Industry. Try our [interactive template tools \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/default\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/default) .

To find out more about who this award applies to, go to the [Restaurant Award summary \(www.fairwork.gov.au/awards-and-agreements/awards/award-summary/ma000119-summary\)](http://www.fairwork.gov.au/awards-and-agreements/awards/award-summary/ma000119-summary) .

Source reference: [Restaurant Industry Award \[MA000119\] clause 20.7, 24.4 and 30](http://awardviewer.fwo.gov.au/award/show/MA000119)  (<http://awardviewer.fwo.gov.au/award/show/MA000119>)

### **Requesting and refusing to work on public holidays**

Employees don't have to work on a public holiday.

However, an employer can ask an employee to work on a public holiday, if the request is reasonable. An employee may refuse a request to work if they have reasonable grounds.

The following need to be taken into account when deciding if a request is reasonable:

- the employee's personal circumstances, (eg. family responsibilities)
- whether the employee will get more pay (eg. penalty rates)
- the needs of the workplace
- the type of work the employee does
- whether the employee's salary includes work on a public holiday
- whether the employee is full-time, part-time, casual or a shiftworker
- how much notice the employee was given about working
- the amount of notice the employee gives that they refuse to work.

When requesting that an employee work on a public holiday, employers need to consider all relevant circumstances, including the ones listed above.



Source reference: [Fair Work Act 2009 s.114 -116](http://www.comlaw.gov.au/Series/C2009A00028)  (<http://www.comlaw.gov.au/Series/C2009A00028>)

## Think a mistake might have been made?

Mistakes can happen. The best way to fix them usually starts with talking.

Check out our [Fixing a workplace problem \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/default\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/default) section for practical advice on:

- figuring out if a mistake has been made
- talking to your employer or employee about fixing it
- getting help from us if you can't resolve it.

### What to do next

- Use our [Pay Calculator \(http://calculate.fairwork.gov.au/FindYourAward\)](http://calculate.fairwork.gov.au/FindYourAward) to find public holiday pay rates
- Find the [List of public holidays \(www.fairwork.gov.au/Leave/Public-holidays/List-of-public-holidays/default\)](http://www.fairwork.gov.au/Leave/Public-holidays/List-of-public-holidays/default) in your state or territory

### Help for small business

Find tools, resources and information you might need in our [Small business showcase \(www.fairwork.gov.au/small-business-showcase/default\)](http://www.fairwork.gov.au/small-business-showcase/default) .

### You might also be interested in

- [Not working on public holidays \(www.fairwork.gov.au/Leave/Public-holidays/not-working-on-public-holidays\)](http://www.fairwork.gov.au/Leave/Public-holidays/not-working-on-public-holidays)
- [Hours of work \(www.fairwork.gov.au/Employee-entitlements/hours-of-work-breaks-and-rosters/Hours-of-work/default\)](http://www.fairwork.gov.au/Employee-entitlements/hours-of-work-breaks-and-rosters/Hours-of-work/default)

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## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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