

Christmas and New Year Public Holidays 2019/2020

Key Dates

- Christmas Day – Wednesday 25 December 2019
- Boxing Day – Thursday 26 December 2019
- New Year's Day – Wednesday 1 January 2020
- New Year Holiday – Thursday 2 January 2020

Public holidays

All employees for whom the day would otherwise be a working day will be entitled to a paid public holiday, or an alternative holiday, if they work on the days above.

Employers therefore need to consider whether the day on which the public holiday falls is otherwise a working day for each employee in order to determine public holiday entitlements. The otherwise working day test applies to all employees regardless of whether they are permanent, fixed term or casual employees, or have just commenced employment.

Otherwise working day

In most situations it will be clear whether the day on which the public holiday falls is otherwise a working day for an employee.

However, if it not clear whether a day would otherwise be a working day for your employee, you must consider the following factors with a view to reaching agreement on the matter.

- The employee's employment agreement
- The employee's work patterns
- Any other relevant factors, including
 - Whether the employee works for the employer only when work is available
 - The employer's rosters or other similar systems
 - The reasonable expectations of the employer and the employee that the employee would work on the day concerned
- Whether, but for the day being a public holiday, the employee would have worked on the day concerned.

Christmas closedowns and public holidays

If a public holiday falls during a closedown period the factors listed above in relation to what would otherwise be a working day must be considered as if the closedown were not in effect. This means employees may be entitled to paid public holidays during closedown periods.

Annual holidays, Public holidays, Termination of employment

A public holiday that occurs during an employee's annual holidays is treated as a public holiday and not an annual holiday.

An employee who has an entitlement to annual holidays at the time that their employment ends will be entitled to be paid for a public holiday if the holiday would have:

- Otherwise been a working day for the employee; and
- Occurred during the employee's annual holidays had they taken their remaining holidays entitlement immediately after the date on which their employment came to an end

When applying the provision you are only required to count the annual holiday's entitlement an employee has when their employment ends. Employees become entitled to 4 weeks annual holidays at the end of each completed 12 months of continuous employment.

Public holiday transfer

The Holidays Act allows an employer and employee to agree in writing to transfer a public holiday to any 24 hour period.

This means with agreement a public holiday may be transferred:

- By a few hours to match shift arrangements
- To a completely different day

In the absence of a written agreement, a public holiday is observed midnight to midnight.

Pay day and public holidays 2019/2020

The Christmas and New Year public holidays fall during the week which may impact your ability to pay employees on their regular pay day. Some employment agreements cover the issue and provide for payment on the next working day, however, in the absence of agreement it is recommended you process pays early in order to meet obligations.

This is only a guide. It should not be used as a substitute for professional advice.