

114 Entitlement to be absent from employment on public holiday

Employee entitled to be absent on public holiday

- (1) An employee is entitled to be absent from his or her employment on a day or part-day that is a public holiday in the place where the employee is based for work purposes.

Reasonable requests to work on public holidays

- (2) However, an employer may request an employee to work on a public holiday if the request is reasonable.
- (3) If an employer requests an employee to work on a public holiday, the employee may refuse the request if:
 - (a) the request is not reasonable; or
 - (b) the refusal is reasonable.
- (4) In determining whether a request, or a refusal of a request, to work on a public holiday is reasonable, the following must be taken into account:
 - (a) the nature of the employer's workplace or enterprise (including its operational requirements), and the nature of the work performed by the employee;
 - (b) the employee's personal circumstances, including family responsibilities;
 - (c) whether the employee could reasonably expect that the employer might request work on the public holiday;
 - (d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, work on the public holiday;
 - (e) the type of employment of the employee (for example, whether full-time, part-time, casual or shiftwork);
 - (f) the amount of notice in advance of the public holiday given by the employer when making the request;
 - (g) in relation to the refusal of a request—the amount of notice in advance of the public holiday given by the employee when refusing the request;
 - (h) any other relevant matter.

139 Terms that may be included in modern awards—general

- (1) A modern award may include terms about any of the following matters:
 - (a) minimum wages (including wage rates for junior employees, employees with a disability and employees to whom training arrangements apply), and:
 - (i) skill-based classifications and career structures; and
 - (ii) incentive-based payments, piece rates and bonuses;
 - (b) type of employment, such as full-time employment, casual employment, regular part-time employment and shift work, and the facilitation of flexible working arrangements, particularly for employees with family responsibilities;

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| | <ul style="list-style-type: none">(c) arrangements for when work is performed, including hours of work, rostering, notice periods, rest breaks and variations to working hours;(d) overtime rates;(e) penalty rates, including for any of the following:<ul style="list-style-type: none">(i) employees working unsocial, irregular or unpredictable hours;(ii) employees working on weekends or public holidays;(iii) shift workers;(f) annualised wage arrangements that:<ul style="list-style-type: none">(i) have regard to the patterns of work in an occupation, industry or enterprise; and(ii) provide an alternative to the separate payment of wages and other monetary entitlements; and(iii) include appropriate safeguards to ensure that individual employees are not disadvantaged;(g) allowances, including for any of the following:<ul style="list-style-type: none">(i) expenses incurred in the course of employment;(ii) responsibilities or skills that are not taken into account in rates of pay;(iii) disabilities associated with the performance of particular tasks or work in particular conditions or locations;(h) leave, leave loadings and arrangements for taking leave;(i) superannuation;(j) procedures for consultation, representation and dispute settlement. <p>(2) Any allowance included in a modern award must be separately and clearly identified in the award.</p> |
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