

*Your answers suggest that you may be entitled to be absent on public holidays, but your employer may require you to work.*

(Fair Work Act 2009)

## **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.