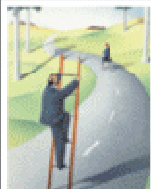




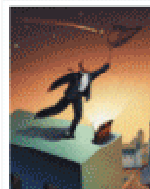
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HR NEWSLETTER:

Public Holidays – What is required?

Welcome to the March edition of the Gold Seal Newsletter.

Many of you have been busy implementing your new employment agreements with staff and ensuring that your policies and procedures reflect the Fair Work laws introduced Jan 1 this year.

So with so much work completed, why don't you have a holiday....well at least a public holiday!

In this month's newsletter we will cover Public Holidays. The first 6 months of the year contain the majority of public holidays so it is necessary to understand your obligations.

We will look at what are the public holidays as outlined in the NES, what is the entitlement for part time employees, whether an employee must work on a public holiday and what do they receive.

We hope you enjoy the read and can take away some tips for managing public holidays in your business.

Public Holidays

Public holidays are now a minimum employment condition under the National Employment Standards (NES) for all employees covered by the National System. Any term in an Award, agreement or contract that provides for less than what is in the NES will have no effect. In addition Modern Awards may contain provisions regarding the public holiday entitlement.

In Victoria this week, many employees in the insurance industry were called in to work to assist with the 1000's of claims as a result of severe storm damage. Having a clear understanding of the employee's entitlements is important so as not to create problems of underpayment etc during a very busy and stressful period.

Let's look at some of the basics.

What days are public holidays under the National Employment Standards (NES)?

The NES Public Holidays are:

- 1 January - New Years Day
- 26 January - Australia Day
- Good Friday
- Easter Monday
- 25 April - ANZAC Day
- Queen's Birthday (celebrated on different days in each state/territory)
- 25 December - Christmas Day
- 26 December - Boxing Day

- Any other day declared a State/Territory Public Holiday

There is a comprehensive table on the Fair Work Australia website which outlines the public holidays across the States and Territories.

Visit

<http://www.fairwork.gov.au/Pay-leave-and-conditions/Leave-and-public-holidays/Pages/Public-holidays.aspx?role=employees#2010%20public%20holidays>

What is the entitlement?

Employees are entitled to be absent from work on a day or part-day that is a public holiday and are entitled to receive payment for that day. Employees will not receive payment for that day if they do not have ordinary hours of work on the public holiday.

For example, Monday 8th March was a public holiday in Victoria and some other states. If you have an employee that is part time and their regular hours are Wednesday to Friday, then the employee will not receive payment for the public holiday in question as it does not fall on one of the employee's normal rostered days.

How much does the employee receive?

Where an employee (other than a casual employee) is absent from work on a public holiday, they will receive the base rate of pay for the ordinary hours of work on that day. Excluded from payment are bonuses and incentives, allowances, loadings, overtime and penalty rates.

Can an employee refuse to work on a public holiday?

There are a number of matters that must be taken into account in determining whether an employee's refusal to work is reasonable:

- The employee's personal circumstances including family responsibilities
- The nature of the workplace and the employee's role (ie is the business generally open on public holidays?)
- Whether the employee knew they would be expected to work
- Whether the employee will receive overtime payment or compensation that reflects an expectation of working on public holidays
- The type of employment (full time, part time, casual, shift work)
- The amount of notice given by the employer of the requirement to work
- The amount of notice given by the employee of the refusal to work
- Any other relevant matter

Working on a Public Holiday and Substituting Days

The employee and employer can agree to substitute another day off for the public holiday if the employee is required to work. Under the Banking Finance & Insurance Award, an employee who works a public holiday is entitled to be paid at double time and a half and must receive a minimum 4 hours pay provided the employee is available to work 4 hours.

If the employee works on both the public holiday and a substituted day, they will receive the public holiday penalty rates for 1 day only.

Furthermore, employers should check their contracts to see if they are paying a salary at a level that includes adequate compensation for overtime, penalty rates etc.

For Further Assistance

For assistance or guidance on any HR/IR matter, contact Gold Seal on 03 9510 5100 or email hrrservices@goldseal.com.au or education@goldseal.com.au

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GOLD COAST

PO Box 544 Robina DC Robina QLD 4226
t: 07 5580 8499 f: 07 5580 8496

SYDNEY

PO Box 433 Potts Point NSW 1335
t: 02 8353 6600 f: 02 8353 6699

MELBOURNE

PO Box 3072 Ripponlea VIC 3185
t: 03 9510 5100 f: 03 9525 0254