

Getting payroll right at Christmas

05 December 2018

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Nearly everybody gets to have some time off over the Christmas period. For employers, there is the challenge of correctly interpreting and applying the Holidays Act 2003. It is critical to understand exactly what your legal obligations are.

The points made below may help you through what can be a bit of a minefield.

Public Holidays during this Christmas Period this year fall on Tuesday & Wednesday:

- Christmas Day
- Boxing Day
- New Year's Day
- the day after New Year's Day

For Monday to Friday workers:

- those public holidays that fall on a Tuesday and Wednesday are observed on the days that they fall.
- employees who would normally work on these days should receive a paid day off work on each of these days and be paid at the rate of their relevant daily pay.
- For roster or shift workers these workers will also observe those public holidays on the days they fall.

Required to work

Employees can only be required to work on a public holiday if they agree to do so, unless that has already been agreed to by way of a provision in their signed employment agreement. Where that is not the case, the employer may ask if the employee will agree to work on that day, but cannot force them to.

Request to work

Where an employee does agree to work on a public holiday, then any hours worked on that day are to be paid at a minimum of their relevant daily pay plus half that rate again.

Relevant daily pay

It must be noted that relevant daily pay:

- can often be more than just base wages or salary for that day;
- it includes the full amount of remuneration the employee would have received had they worked on the day concerned, including overtime, commissions and some allowances.

Alternative holiday

If the public holiday falls on a day the employee would normally have worked, and the employee agrees to work on that public holiday, then the employee is entitled to receive an alternative holiday. The employee must receive a whole day off as their alternative holiday, regardless as to how many hours were actually worked. The entitlement to an alternative holiday is in addition to the payment for hours actually worked.

Casual employees

Casual employees could also be entitled to some recognition for public holidays, but this will be dependent on the expectation of available work (maybe by way of a casual roster).

On-call

Should employees be deemed to be on-call over the Christmas period, then the Act provides that they may be entitled to an alternative holiday, regardless if they were required to report to work or not.

It must be determined whether the employee had restrictions placed on them while they were on-call to respond to potential work responsibilities. If, for example, the employee must remain free from alcohol and remain in a certain distance to the work site, then, it could be argued as to whether the employee has received a full day's holiday on that day.

Annual leave during this period

It is also common for some annual leave to be taken around the Christmas period. Employers must be aware that the recording of annual leave may be affected should the employee become sick or suffer a bereavement while on annual leave. There may be a requirement to convert that annual leave accordingly.

The Holidays Act is complex and non-compliance is common, often resulting from the employer's lack of awareness of these and other requirements.

If in any doubt, please contact your usual Staples Rodway advisor. After all, we do want you to have a happy and trouble-free Christmas period.