

**Kathy Kappler**

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**From:** Workwise Advisory Services [clientliaison@workwiseby.com.au]  
**Sent:** Thursday, 15 December 2011 14:52  
**To:** clientliaison@workwiseby.com.au  
**Subject:** 15th December 2011 - E - Bulletin - Public Holidays



14th December 2011

A: Wesley Business Centre, Suite 1 / 4 Stirling Street, BUNBURY WA 6230 | T: (08) 9792 4451 | F: (08) 9721 6208

Hi Kathy!

## Public Holidays



Here we are again with Public Holiday confusion!!

Let's deal with this in two ways:

### 1. State based employers (i.e. Sole Traders and partnerships)

In general terms most State Awards and many Registered Agreements allow for substitution of days where a Public

Holiday falls on a weekend day for example the Clerks (Community Social and Professional Services) Award states the following:

*'When any of the days mentioned in subclause (1) hereof falls on a Saturday or a Sunday the holiday shall be observed on the next succeeding Monday and when Boxing Day falls on a Sunday or a Monday, the holiday shall be observed on the next succeeding Tuesday. In each case the substituted day shall be a holiday without deduction of pay and the day for which it is substituted shall not be a holiday'.*

For many employers this means that the Christmas Day and New Year's Day Public Holidays will be observed on the Monday with Boxing Day on the Tuesday and staff working on these days will be paid at Public Holiday rates. Refer to your applicable Award(s) or agreement to check this. As a general rule fulltime staff are entitled to 10 Public Holidays per annum.

Get a memo out to all staff now if you haven't already done so to acquaint them of your trading days and Public Holidays. A number of businesses got terribly confused having two gazetted days for Christmas Day and actually paid some staff more than they were entitled.

## **2. Federal System Employers**

Many of the Modern Awards also allow for substitution of days where a Public Holiday falls on a weekend day by agreement with the majority of staff. Other matters to do with Public Holidays are dealt with in Division 10 of the National Employment Standards. Check your applicable Modern Award(s) or your own Registered Collective Agreement or EBA to see what this says in relation to substituted days. For example the Retail Industry Modern Award states the following:

*'An employer and a majority of employees may agree to substitute another day for a public holiday. If either the public holiday or the substitute day is worked, public holiday penalties must be paid. If both days are worked, one day at the election of the employee must be paid at public holiday rates'.*

As with the State system and as a general rule, fulltime employees are entitled to 10 Public Holidays per annum. Get a memo out to staff now to advise them of your trading days and which days are being elected/agreed as the Public Holidays.

Employees should not be out of pocket where businesses cease operations due to the fact that the day is a Public Holiday but the gazetting of two days for Christmas Day and New Year's Day contributes to confusion with a number of employees under the belief that they have an entitlement to all the gazetted days which is not the case.

Still confused?

Call us to discuss your situation.

Kind Regards for a Very Happy and Safe Festive Season

**The Workwise Team**

### **Policy and Procedures**

***Does your business have a current set of customised Policy and***

## ***Procedures which support your workplace??***

***Call us now for further information on how to obtain a current set of Foundation Policy and Procedures.***

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### **Map Where you are at on our 'Best Practice Model'.**

**By now you should have received information about the first five stages of the model.**

#### ***1. Time and Wages Compliance Audits***

Are you confident that your payroll practices are compliant and in line with the applicable Modern or State Awards??

#### ***2. Employment Documentation***

Do you have a clearly written and compliant employment agreement which stipulates your employment arrangements and provides you with protections in relation to confidentiality and restraint of trade - to name but two areas.

#### ***3. Policy and Procedures***

From a risk management perspective we encourage you to take a pro-active step and reassure yourself that there are no non compliant or discriminatory practices within your business.

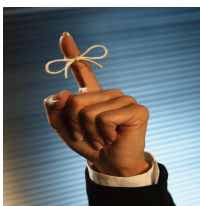
#### ***4. Job Description Forms***

A good JDF will illustrate clear performance and guidelines for that 'position' which should then eliminate issues within your workplace in regards to Performance and responsibility of any one of your employees within your business.

#### ***5. Individual Performance Appraisals***

A Well crafted IPA provides clear direction to employees on what they are expected to achieve and how that will be achieved.

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**Have you forgotten to advise us of any changes - please let us know by emailing so that we can update our records.**

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