

Public Holiday fact sheet

^ Public Holiday payments

Guidance note: This section of the public holidays fact sheet applies to all Service NSW (excluding employees who are assigned to the Travel and Recreation Management Cluster, Contact Centres).

Unless directed to attend for duty by Service NSW, an employee is entitled to be absent from duty without loss of pay on a normal working day which is:

- a proclaimed public holiday under the *Public Holidays Act 2010*, and
- a day between Boxing Day and New Year's Day, determined by Service NSW as the Public Service Holiday.

Full-time and part-time employees are only entitled to be paid public holidays for the days on which they would ordinarily work, but for the holiday occurring.

If required to work on a public holiday:

Employees who are required to work on a public holiday including a local public holiday, will be paid single time and one-half (150%) loading, in addition to ordinary salary.

For example: Tony has been required to work 8 hours 15 minutes on Easter Monday public holiday. He will be paid for 8 hours 15 minutes as per his rostered schedule on a public holiday at 250% in total.

^ Rostered day off (Rest Day) on a Public Holiday

Where an employee is on a rostered day off on a public holiday being a day on which the employee ordinarily works, the employee may elect to be paid by one of the following methods, subject to mutual agreement from Service NSW:

- Payment of additional day's salary, or
- Addition of one day to employee's recreation leave, or
- An alternate day off with pay within 28 days after the public holiday falls, or during the week prior to the public holiday.

Provided that for this clause "day" is the number of hours the employee would have worked if the employee was rostered on that day.

Note: If the employee has a fluctuating roster, then they are entitled to the public holiday RDO payment or entitlement. If they have a fixed weekday off at the employee's request and this is approved in a documented flexible working arrangement, then they are not entitled to the public holiday RDO payment or entitlement.

For example: Where a team member elects to have a specific rostered off duty, for example Monday and this is documented and approved by the business in an approved documented flexible work agreement for the Monday, and the public holiday falls on the Monday, they are NOT entitled to *sub clause 17.5, of Clause 17 of the Service NSW Award* as they do not meet the requirements of a fluctuating roster.

If the employee has a fluctuating roster where RDO days change as required by business operational needs and are not a fixed day off with an approved flexible work agreement, then they are entitled to the public holiday RDO payment or entitlement.

^ No approved flexible working agreement for a set rostered day off examples

Example 1:

Pam works on a 9-day fortnight roster pattern with no set RDO (i.e., her RDO fluctuates week to week based on the rostering need of the Service Centre). The 26th of January Australia day public holiday has fallen on her rest day/RDO; therefore, Pam will be eligible for public holiday RDO payment or entitlement as per *Clause 17 of the Service NSW Award, sub clause 17.5*.

Example 2:

John works on a 9-day fortnight roster pattern and the Service Centre has set his RDO for the rostering purpose to suit the business needs to be every Thursday Off, but John would otherwise be available to work on Thursdays. The 26th of January Australia day public holiday has fallen on Thursday when he is on rest day/RDO, therefore John will be eligible for the public holiday RDO payment or entitlement as per *Clause 17 of the Service NSW Award, sub clause 17.5* as it is a preferred RDO set by the business, not the employee and he is willing to change it if required. (No set flexible work agreement in place as off day)

Example 3:

Cindy works on a 10-day fortnight roster pattern with set week 2 Monday RDO. Employee has requested to have Monday off every fortnight for personal reasons. Cindy does not have any documented flexible work agreement as week 2 Monday OFF DAY but has verbal arrangement in place with Manager to have week 2 Monday RDO. Cindy has not worked week 2 Monday for past 4 months and has not been available to work when requested to change RDO. So, in this instance it is considered as non-fluctuating but there is no documented flexible work agreement so the employee will receive entitlements in *Clause 17 of the Service NSW Award, sub clause 17.5* if a public holiday falls on the week 2 Monday.

Note: Moving forward, its best practice to document the fixed Monday off each fortnight at the employee's request with a flexible work agreement.

^ Flexible working with a set day off in an approved flexible working agreement examples

Example 4:

Rosie has an approved flexible working agreement in place, she only works Monday, Tuesday and Thursday in week 1 and Monday, Tuesday, and Saturday in week 2.

When a public holiday falls on Wednesday or Friday of week 1 or week 2, Rosie will not be entitled to the public holiday RDO payment or entitlement as she would not normally work on Wednesdays or Fridays as her normal workdays as documented in the approved flexible work agreement.

If a public holiday falls on Monday week 1 Rosie will be paid her rostered core ordinary hours.

Rosie may sometimes work additional hours on Wednesdays to assist the Service Centre's unplanned absences. In this case if a public holiday falls on the Wednesday, Rosie will not be entitled to be absent from duty without loss of pay as Wednesday is not a day that she usually works in the approved flexible work agreement.

If Rosie agrees to work additional hours and subsequently works on the Wednesday being a public holiday, she will be eligible for 250% ordinary hourly rate of pay for all hours worked on the public holiday.

Example 5:

Sam is a part time employee with a flexible working arrangement in place to work Monday, Wednesday and Friday each week, she is not available for work on Tuesdays and Thursdays due to childcare commitments. The 26th of January Australia Day public holiday has fallen on Thursday when Sam is on rest day/RDO as per her flexible work arrangement. Sam is not eligible to be paid public holiday entitlements as per *Clause 17 of the Service NSW Award, sub clause 17.5* because she has a set flexible work arrangement in place and is not available to work on Thursdays.

^ Overtime on a Public Holiday

Guidance note: This section of the public holidays fact sheet applies to all Service NSW employees.

Employees who are required to work on a public holiday including a local public holiday will be paid one-half (150%) loading in addition to ordinary salary at 250% in total.

For example:

Tina is rostered on Easter Monday public holiday from 8:30am to 4:00pm for 7 hours. She has volunteered to work at the Easter Show on Easter Monday. She will be eligible to be paid for all time worked on Easter Monday at double time and one-half rate (250% in total).

Please contact P&C hradvice@customerservice.nsw.gov.au for advice in circumstances where staff are required to perform work on public holiday.

^ RDO Public Holiday entitlement when on maternity leave

Ensure the employees Kronos schedule is updated to be Monday to Friday for the period of the maternity leave. RDO public holiday payment or entitlement is not required.

^ On leave without pay (LWOP) during a Public Holiday

Where an employee applies for more than 10 consecutive working days of leave without pay (LWOP), they are not entitled to any proclaimed public holidays during that LWOP. They will also not be entitled to any public holiday RDO payment or entitlement during that LWOP period.

Refer to Clause 34.3 of the Service NSW Award

^ On leave without pay (LWOP) during a Public Holiday examples

Example 6:

Jacob needs to take LWOP for 4 weeks starting on the 3rd of June.

Since his unpaid leave will be longer than 10 days, he will not be entitled to any public holiday entitlements for the Kings Birthday public holiday on the 10th of June.

Example 7:

Stephanie had to take unpaid leave for one week starting on the 28th of Sept due to a family emergency. Since she took less than 10 working days of LWOP, she is still entitled to the Labour Day public holiday entitlements on the 2nd of October. Her schedule usually fluctuates, and she is rostered off on the 2nd of October. Despite the unpaid leave she is still entitled to the public holiday RDO payment or entitlement and has elected to be paid the additional day's salary.

^ Public Holiday Payments whilst On Workers Compensation

Public holidays are already incorporated in the calculations of the Pre-Injury Average Weekly Earnings (PIAWE). Employees on workers compensation will only receive payment for the hours they have worked and an additional benefit, up to the appropriate PIAWE rate and no additional payment/s for public holiday if one falls during the period.

Please contact the [Recover at Work team](#) or Recover at Work Advisor if you have any further enquiries.

^ Support, escalations and document control

If you have further questions not addressed in this fact sheet, please contact P&C Contact Centre hradvice@customerservice.nsw.gov.au

Document approval

Document name	Implemented	Version	Status
Public Holiday Fact Sheet	18/09/2024	1.0	Approved, current

Document version control

Version No.	Status	Change date	Approved by	Comments
0.1	Draft	20/10/2023	Payroll Compliance and Kronos team	Prepared for ER review
1.0	Final	18/09/2024	Mark McCarthy	Implementation

Review date

This document will be reviewed in Sept 2026.
It may be reviewed earlier in response to post-implementation feedback from the business.

[Home - Service NSW pay and conditions](#)

On this page

Public holiday payments	Rostered day off (rest day) on a public holiday
Overtime on a public holiday	RDO public holiday entitlement when on maternity leave
On leave without pay during a public holiday	Public holiday payments whilst on workers compensation
Support, escalations and document control	

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 [Standard working hours fact sheet](#)

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