



Changes to state employment laws in WA

Easter Sunday public holiday entitlements for state system employees

Easter Sunday will be established as a public holiday in Western Australia, and new provisions are being implemented in the state industrial relations system for the Easter Sunday public holiday entitlements.

These changes have been introduced by the *Industrial Relations Legislation Amendment Act 2021* and will commence early in 2022. In 2022, Easter Sunday falls on 17 April.

The *Public and Bank Holidays Act 1972*, which specifies public holidays for Western Australia, will be amended to make Easter Sunday a public holiday. This will bring Western Australia into alignment with Victoria, New South Wales, Queensland and the Australian Capital Territory, which all observe Easter Sunday as a public holiday.

For employers and employees in the state industrial relations system, the *Minimum Conditions of Employment Act 1993* will be amended to recognise Easter Sunday as a public holiday. This will ensure that full time and part time employees who are not required to work on Easter Sunday, solely because that day is a public holiday, will be entitled to their usual pay.

Implementation arrangements will also be introduced for state system employees covered by WA awards and industrial agreements, which are detailed on page 2 of this fact sheet.

For employers and employees in the national industrial relations system, the *Fair Work Act 2009* and national modern awards will automatically recognise the new Easter Sunday public holiday.

State employment laws are changing

This fact sheet is part of a suite of information on the changes to state employment laws that will commence early in 2022. For details on the changes visit www.dmirs.wa.gov.au/new-employment-laws.

Implementation arrangements for state system employees

Implementation arrangements concerning Easter Sunday will be introduced in the *Public and Bank Holidays Act* to ensure that WA awards, industrial agreements and other state industrial instruments¹ that deal with public holidays immediately recognise the new Easter Sunday public holiday.

Employees who will be required to work on Easter Sunday will therefore be entitled to receive any public holiday penalty rates on this day, rather than normal Sunday pay rates.

The Easter Sunday public holiday will be observed on Easter Sunday itself, rather than some alternative day. Any provision in a WA award, industrial agreement or other state industrial instrument that would substitute the Easter Sunday public holiday to another day solely because the public holiday falls on a weekend will be of no effect (substitution of weekend public holidays to the following Monday is common in WA awards). However, provisions that would substitute the Easter Sunday public holiday to another day for some other reason, for example, because it falls on an employee's rostered day off, will continue to operate as set out in the WA award, industrial agreement or other state industrial instrument.

Example 1

Clause 14(1)(a) of the *Shop and Warehouse (Wholesale and Retail Establishments) Award* lists certain days that are to be paid public holidays, while clause 13(6) provides that work performed on a public holiday must be paid for at the rate of double time and a half. Under the implementation arrangements, full time and part time employees who would normally work on Easter Sunday will be entitled to a paid public holiday, or if they are required to work, they will be entitled to be paid double time and a half.

Clause 14(1)(b) of the *Shop and Warehouse (Wholesale and Retail Establishments) Award* substitutes public holidays to the 'next succeeding Monday' where they fall on a Saturday or Sunday. Under the implementation arrangements, this will not apply in the case of Easter Sunday.

Example 2

Clause 17(1)(b) of the *Restaurant, Tearoom and Catering Workers Award* provides that where a public holiday falls on an employee's rostered day off, the holiday is 'observed on the next rostered working day'. The implementation provisions will not affect substitution in this instance, as the reason for the substitution is not because Easter Sunday falls on a weekend, but because it falls on a rostered day off. The Easter Sunday public holiday would therefore be observed on the employee's next rostered working day.

Public holiday dates

The dates for the Easter Sunday public holiday in 2022 and 2023, and all Western Australian public holidays, are available at www.dmirs.wa.gov.au/publicolidays.

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¹ A state industrial instrument includes a WA award, order, industrial agreement or employer-employee agreement made under the *Industrial Relations Act 1979*.