



# Taking leave – Compassionate Leave, Community Service, Public Holidays and Ceremonial Leave

## Compassionate leave for Sorry Business

All employees, including casuals, are entitled to two days of compassionate leave to spend time with an immediate family member who has a life-threatening illness or injury or when someone dies. An employee can also take compassionate leave for Sorry Business.

### Compassionate leave for each occasion can be taken as:

- a single continuous two day period
- two separate periods of one day each
- any separate periods that the employer and the worker agree to.

Employees (except casual employees) must be paid at the base rate of pay for the ordinary hours they would have worked during the period.

It's best for a worker to let an employer know as soon as possible about taking leave and how long the employee expects to be away from work. An employee cannot be absent from work and to then expect the employer to understand.

Employees who have taken compassionate leave may also need to be able to provide evidence, if asked by the employer – this is usually a medical certificate or a death certificate – check your modern award or agreement.

## Community service leave

Employees (including casual employees) can take community service leave if they are involved with community activities such as voluntary emergency service duties and jury service. There is no set limit on how much community service leave an employee is able to take, however the reason for the absence must fit into the terms covered by the *Fair Work Act 2009* and the worker must:

- give their employer notice of the absence as soon as possible
- state how long they expect to be away for
- provide evidence of why the community service leave was taken if asked by their employer.

### Is community service leave paid?

Community service leave is unpaid, except when it comes to jury service.

Employees (although not casual workers) serving on a jury are entitled to **make-up pay** for the first 10 days that they are away. Please check your modern award to make sure of your obligations and responsibilities regarding community service leave. Make-up pay is the difference between any jury service payments (excluding expenses and allowances) and the workers base rate of pay for the ordinary hours they would have worked.

**For more information call Chris and Rae on 1300 361 968 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au).**



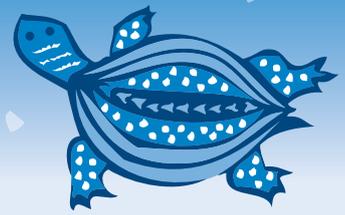
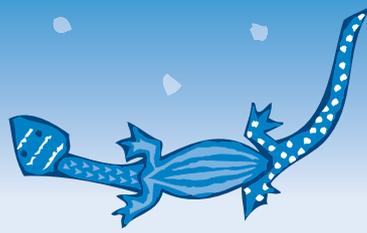
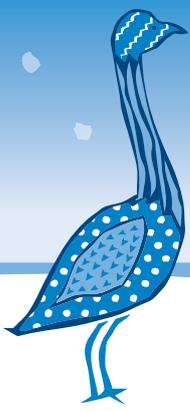
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## Public holidays

Under the NES, the following days are public holidays:

- 1 January (New Year's Day)
- 26 January (Australia Day)
- Good Friday
- Easter Monday
- 25 April (Anzac Day)
- Queen's Birthday holiday (on the day on which it is celebrated in a State or Territory)
- 25 December (Christmas Day)
- 26 December (Boxing Day)
- Any other day gazetted by a State or Territory

There may be other public holiday days declared by states and territories. NSW public holidays are listed on [www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au)

An award or an agreement may allow an employer and an employee to agree to swap another day for a public holiday.

It is an employees workplace right to be away from work on these days and be paid (except casual employees) for any ordinary hours they would have worked. Call Chris and Rae on 1300 361 968 to check what an employer needs to weigh up if they ask a worker to work on a public holiday.

An employee is not entitled to payment for a public holiday if they would not have ordinarily worked on that day. For example – a part-time worker is not entitled to be paid for a public holiday if the public holiday falls on a day of the week which they would not have normally worked.

## Suzie's story

Suzie works as a casual shop assistant on Mondays and Tuesdays most weeks. Last month Suzie's boss told her that she didn't need to come to work on Tuesday 26 January because it was Australia Day – a public holiday – and the shop would be closed.

Suzie asked if she would get paid for that day. The boss said no, she would not be paid because she would not be working on that day. Casual workers only get paid when they work.

If Suzie was a full-time or part-time worker and the shop closed for the public holiday, she would be paid for her normal shift because she normally works on a Tuesday.

## Ceremonial leave

Ceremonial leave falls under a specific award or agreement so not everybody is entitled to it. Ceremonial leave generally allows employees to take unpaid leave to participate in a range of ceremonial or cultural activities, such as NAIDOC week. Employees need to talk to their employer about taking time off for these events. An employer may also require proof of attendance at these events. Call Chris and Rae on 1300 361 968 for more information.



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