

Year-end Public holidays 2022

Public holidays are observed on the actual day when they fall on a weekday. When they fall on a Saturday or Sunday:

- the public holiday is observed on the Saturday or Sunday if the employee would normally have worked on the Saturday or Sunday.
- the public holiday is observed on the following Monday (or in some cases Tuesday) if the employee would not normally have worked on the Saturday or Sunday. This is called “Mondayising”.

The four public holidays at the end of this year are –

Public holiday	Actual date	Observed date
Christmas day	25 December	Sunday 25 December or Tuesday 27 December
Boxing Day	26 December	Monday 26 December
New Year’s Day	1 January	Sunday 1 January or Tuesday 3 January
Day after New Year’s Day	2 January	Monday 2 January

So, Christmas Day and New Year’s Day are Mondayised this year, but Boxing Day and the day after New Year’s Day are not.

A few things to remember

Each employee can get a maximum of 12 public holidays a year, for example:

- if a public holiday is Mondayised, they can’t claim two public holidays (ie one for the actual date and one for the Mondayised date)
- an employee can’t be entitled to more than four public holidays over the Christmas and New Year period, regardless of their work pattern.

An employee can only be made to work on a public holiday if:

- it falls on a day that they would have otherwise worked on, and
- their employment agreement says they have to work on the public holiday.

If an employee is required to be available to work on a public holiday that doesn’t fall within their agreed and guaranteed hours, this must be covered by an availability clause in their employment agreement. The employer will have to pay reasonable compensation for this unless there is agreement that reasonable compensation is provided through their salary.

If there is a “customary closedown” over the days between Christmas and New Year where all or some employees are required to take paid or unpaid holidays, special rules will apply to this, including 8% payouts for employees who commenced less than 12 months before the closedown. We recommend you take advice from the WGANZ Adviceline.

Fair Pay Agreements Act

- FPAA came into effect on 1 December.

- Bus drivers, hospitality and supermarkets first.
- Not clear whether these will be on the basis of industry or occupations.

MBIE has created an online [FPA dashboard](#) to show the progress of FPAs in real time. The dashboard lists the sequence of processes prescribed by the Act and it is highly recommended that members bookmark and visit the site regularly to keep up to date.

The key milestones are –

1. Applications assessed
 - 1a. Public submissions, if required
2. Decision
3. Bargaining side formation
4. Bargaining
5. Compliance
6. Coverage overlap check
7. Ratification
8. Finalisation & publication

Employment.govt.nz has published a simplified [guide for employers](#). We've extracted two portions, which follow.

Who represents who during bargaining

Employer bargaining side: Eligible employer associations, including industry associations, bargain for all employers covered by a proposed FPA. This includes employers that are not members of an employer association or industry association.

Employee bargaining side: Eligible union(s) bargain for an FPA for all employees covered by a proposed FPA. This includes employees that are not members of a union.

The bargaining sides must use their best efforts to represent Māori in the bargaining process. This includes getting and considering feedback from representatives of Māori employees/employers and whether Māori representatives should be involved in bargaining.

What your responsibilities to your employees are:

INITIATION: when a union applies/approval

- If notified that an application to initiate bargaining for a FPA has been approved, you need to inform all other unions your covered employees are members of
- You need to directly pass on a statement to covered employees which will be provided by the initiating union, which includes the name of the initiating union and how to contact them
- Provide an opt out form to employees, collect form, keep a record
- Provide contact details of employees who have not opted out to the initiating union.

BARGAINING: employees represented at the bargaining table

- You need to pass on information to employees from the employee bargaining side throughout the bargaining process

- You need to allow your employees to attend 2 x 2 hour paid meetings arranged by the employee bargaining side
- Allow a representative from an employee bargaining side access to the workplace
- If employee(s) want to opt out/opt in at any time, you should notify the initiating union of updated contact details for the employee bargaining side.

VOTE: once bargaining sides agree

- Your eligible employees may vote on the terms of the Fair Pay Agreement. This includes employees that may have opted out of receiving information about the proposed FPA earlier.

MBIE is providing more information daily, and we will keep members up to date.

This article is brought to you by AdviceWise People, who provide WGANZ's free employment helpline 0800 692 384. If you have any questions or would like to discuss the article, please call Philip or Anthony.