



## Member News



LIVE  
PERFORMANCE  
AUSTRALIA

January 2023



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### PUBLIC HOLIDAY: Australia Day

- LPA Office closed for the Australia Day Public Holiday
- Australia Day: Substituting the public holiday to a different day

#### LPA Office Closed for the Australia Day Public Holiday

The LPA office will be closed on Thursday 26 January 2023 due to the Australia Day Public Holiday.

#### AUSTRALIA DAY: SUBSTITUTING THE PUBLIC HOLIDAY

Some employees may request to work on Australia Day and swap their public holiday entitlement to a different day.

If an **employer and employee agree**, employees can swap another day for any day that would be a public holiday, including the Australia Day public holiday on 26 January.

#### DO PENALTY RATES APPLY IF AN EMPLOYEE CHOOSES TO SWAP THE DAY AND WORK ON AUSTRALIA DAY?

**In general, public holiday penalty rates apply** when Award and Enterprise Agreement covered employees work on public holidays.

However, if the **employer and employee agree that the employee can swap the Australia Day public holiday to another day**, the employee will not receive penalty rates for working on 26 January. Instead, they will receive a different day off in lieu.

This is because the **substitution of a public holiday** for another day is permitted for all employees, in accordance with:

- The National Employment Standards in the *Fair Work Act 2009* (section 115(3) and (4));
- *Live Performance Award 2020* (clause 21.6);
- *Broadcasting, Recorded Entertainment and Cinema Award 2020* (clause 23.2 (b)); and
- *Clerks - Private Sector Award 2020* (clause 37.3(a)).

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If no agreement is made to substitute the Australia Day public holiday for another day, then Australia Day will be treated like any other public holiday. The following will apply:

- **All employees** (including Award free employees such as Managers, and casual and part time employees, or any employees who are ordinarily rostered to work on a public holiday) **are entitled to be absent from work and receive their ordinary pay on public holidays.**
- Employers may reasonably request that employees work on a public holiday, but employees may also reasonably refuse.
- Work undertaken by employees on public holidays will usually attract penalty rates. Please ensure you check your Award/Enterprise Agreement for appropriate penalties or contact LPA.

### For more information please contact



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