

NORTHERN TERRITORY OF AUSTRALIA
Public Sector Employment and Management Act

DETERMINATION NUMBER 8 OF 2016

PART DAY PUBLIC HOLIDAYS - CHRISTMAS EVE AND NEW YEAR'S EVE

I, CRAIG JOHN ALLEN, the Commissioner for Public Employment, pursuant to section 14(2) of the *Public Sector Employment and Management Act* (the Act) and with reference to section 13(a) of that Act, determine that:

1. Where part of a day is declared a public holiday under the *Public Holidays Act*, the following conditions shall apply to an employee whose public holiday entitlements are governed by:
 - (a) an enterprise agreement approved by the Fair Work Commission and operative at the date of this Determination;
 - (b) a Determination issued by the Commissioner for Public Employment under section 14 of the Act; and/or
 - (c) the Public Sector Employment and Management By-laws.
2. This Determination will operate in conjunction with the public holiday provisions contained in an instrument listed in clause (1)(a) to (c) above and will override any provision in those instruments relating to public holidays to the extent of any inconsistency.
3. Where a part-day public holiday is declared between 7.00pm and midnight on Christmas Eve (24 December) or New Year's Eve (31 December), the following will apply:
 - (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the Fair Work National Employment Standards (NES).
 - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00pm and midnight but as a result of exercising their right under clause 3(a) does not work, they will be paid their ordinary rate of pay for such hours not worked.
 - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00pm and midnight but as a result of being on recreation leave does not work, they will be taken not to be on recreation leave between those hours of 7.00pm and midnight that they would have usually

- been rostered to work and will be paid their ordinary rate of pay for such hours.
- (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00pm and midnight, but as a result of having a rostered day off (RDO) provided under the relevant instrument in clause (1)(a) to (c) above, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
 - (e) An employee not rostered to work between 7.00pm and midnight on the part-day public holiday, other than an employee who has exercised their right in accordance with clause (3)(a), will not be entitled to another day off, another day's pay or another day of recreation leave as a result of the part-day public holiday.
 - (f) Where an employee works any hours between 7.00pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in accordance with the relevant instrument in clause (1)(a) to (c) above for those hours worked. Annualised salaried employees or employees in receipt of a consolidated allowance that includes payment for public holidays are excluded from this provision.
 - (g) Where an employee is paid an annualised salary or consolidated allowance that includes payment for public holidays and also an entitlement to time off in lieu or additional recreation leave for work on a public holiday, the employee will be entitled to time off in lieu or pro-rata recreation leave equivalent to the time worked between 7.00pm and midnight on the part-day public holiday.

4. This Determination shall have effect on and from the date of signing.

Dated 1 Dec 2016



CRAIG ALLEN

Commissioner for Public Employment