Applying relevant daily pay for payment for working a public holiday

Use of relevant daily pay ('RDP')

The Holidays Act 2003 ('the Act') refers to average daily pay as well as RDP in relation to payment for an employee working on a public holiday. If the employee does work on the public holiday:

- it will always be possible and practicable to determine RDP

- it will always be compliant with the Act to apply RDP

- it is likely that the employee will expect that RDP will be used to calculate payment

therefore it is recommended that RDP be used to calculate payment in all situations where an employee works on a public holiday. This diagram assumes that RDP will be used.
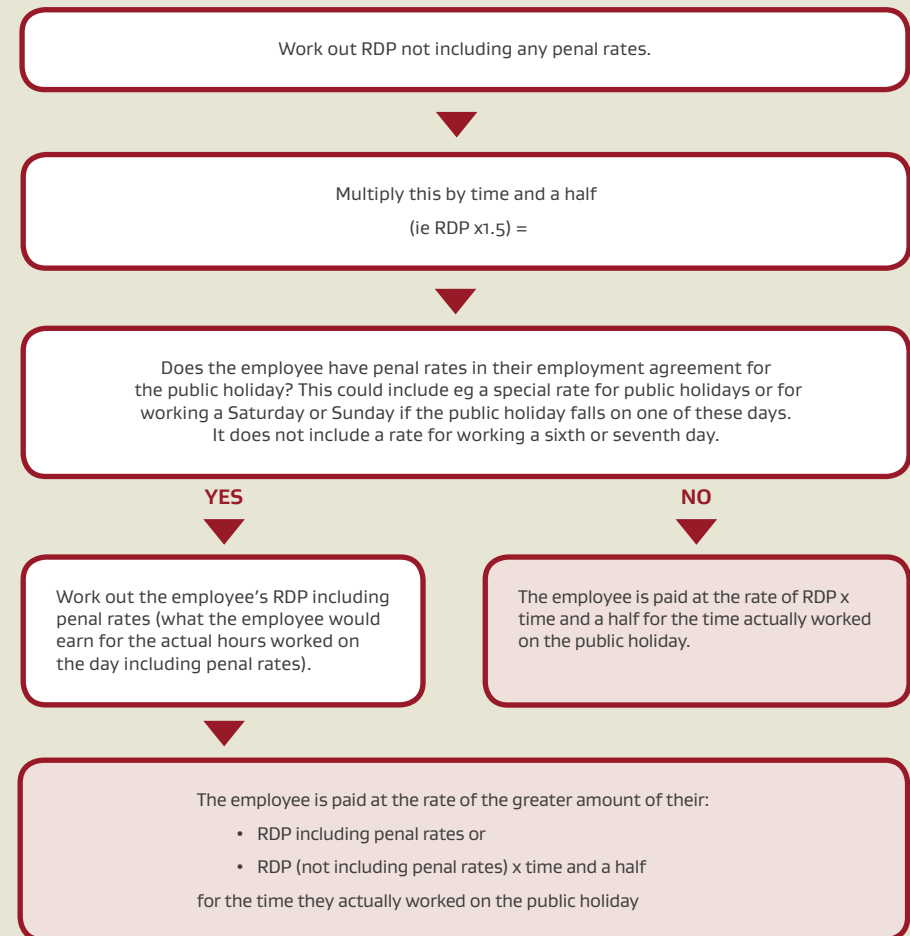
Penal rates

For the purposes of calculating payment for working on a public holiday, a 'penal rate' is an additional amount that the employer and employee agree will be paid to the employee for working on a particular day or type of day. For example an employment agreement specifies a special amount for working on a Saturday or Sunday, or a public holiday rate.

Allowances such as shift allowances, night rates, overtime rates and special rates for working a sixth or seventh day are not included in 'penal rates'.

Determining RDP

RDP is the amount that the employee would be paid for their actual hours worked on the day. When the employee actually works on the public holiday this is easy to determine. The employee's pay for the day is calculated in accordance with their employment agreement and this is their RDP.

If the employee receives penal rates for the day, then the penal rate amount must be excluded from the RDP amount in order to calculate the time and a half payment. This is then compared to RDP including the penal rates and the employee is paid the greater amount.

Work out RDP not including any penal rates.

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Multiply this by time and a half
(ie RDP x1.5) =

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Does the employee have penal rates in their employment agreement for the public holiday? This could include eg a special rate for public holidays or for working a Saturday or Sunday if the public holiday falls on one of these days. It does not include a rate for working a sixth or seventh day.

YES ▼ | **NO** ▼

Work out the employee's RDP including penal rates (what the employee would earn for the actual hours worked on the day including penal rates).

The employee is paid at the rate of RDP x time and a half for the time actually worked on the public holiday.

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The employee is paid at the rate of the greater amount of their:

- RDP including penal rates or

- RDP (not including penal rates) x time and a half

for the time they actually worked on the public holiday