

IN THE FAIR WORK COMMISSION

Matter No.: AM2014/301 Public Holidays
Re Application by: "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)



Public Holidays

4 Yearly Review of Modern Awards

COVER SHEET

About the Australian Manufacturing Workers' Union

The Australian Manufacturing Workers' Union (AMWU) is registered as the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union". The AMWU members working across major sectors of the Australian economy, including in the manufacturing sectors of vehicle building and parts supply, engineering, printing and paper products and food manufacture. Our members are engaged in maintenance services work across all industry sectors. We cover many employees throughout the resources sector, mining, aviation, aerospace and building and construction industries. We also cover members in the technical and supervisory occupations across diverse industries including food technology and construction. The AMWU has members at all skills and classifications from entry level to Professionals holding degrees.

The AMWU's purpose is to improve member's entitlements and conditions at work, including supporting wage increases, reasonable and social hours of work and protecting minimum award standards. In its history the union has campaigned for many employee entitlements that are now a feature of Australian workplaces, including occupational health and safety protections, annual leave, long service leave, paid public holidays, parental leave, penalty and overtime rates and loadings, and superannuation.

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Introduction

"I believe Christmas Day is all about family. When my kids were young it was very difficult. We used to celebrate it early (on my rostered days off) but it was never the same." – AMWU Survey Respondent #4977758002

1. The Australian Manufacturing Workers' Union (the AMWU) makes the following submissions in support of the Fair Work Commission varying several modern awards with respect to entitlements on the Christmas Day 25 December when it falls on a weekend.¹ Those awards are the
 - *Manufacturing and Associated Industries and Occupations Award 2010* (the Manufacturing Award);
 - *Food, Beverage and Tobacco Manufacturing Award 2010* (the Food Award);
 - *Graphic Arts, Printing and Publishing Award 2010* (the Graphic Arts Award);
 - *Vehicle Manufacturing, Repair, Services and Retail Award 2010*. (The Vehicle Award).
2. The proposed variations go to providing that all employees who work on Christmas day (25 December) when the 25 December falls on a weekend and has been substituted so that another day is the public holiday instead (i.e. the following Monday or Tuesday) are paid as if 25 December was a Public Holiday at the rate of double time and a half.
3. Christmas Day 25 December is not like any other weekend and should not be treated as such by Modern Awards. Substitute days when it comes to 25 December do not result in the activities connected with 25 December

¹ The AMWU has previously lodged correspondence with the Fair Work Commission on 13 November 2014 and 13 February 2015 advising of its intention to make submissions in support of these entitlements.

moving to the substitute day. 25 December retains its self-evidently ubiquitous social significance whether or not it is recognised by Awards or Legislation.

4. The purpose of the claim is to ensure that employees in circumstances where they are forced to work on 25 December are adequately compensated owing to the obvious social disadvantage of working on 25 December. A substituted day does not sufficiently compensate employees who experience the social disadvantage of working on 25 December, given the special social, cultural and religious significance of the date.
5. Replacing Christmas Day with a substitute day of no cultural or religious significance, without any compensation or penalty for work done on the actual Christmas Day, is fundamentally unfair and does not recognise the real disadvantage felt by employees to their social lives outside of work. It should be acknowledged by the Modern Award system that Christmas Day is not a “replicable” holiday, insofar as its full significance and non-material value cannot be fully or even partially reproduced on a substitute day. It should recognise that 25 December contains inherently unsocial hours of work because of the special significant of the day for Australians.
6. The AMWU submission will address why the variations are necessary for the awards to meet the modern award objective, and to provide a fair and relevant minimum safety net of terms and conditions.²
7. The case we present argues that it is fundamentally unfair to deny a group of employees adequate compensation for working on the Christmas Day, when Christmas Day is a universally celebrated day, and valued equally across industries and occupations. There is evidence supporting the

² *Fair Work Act 2009*, cl. 138.

contention that it is the “most meaningful” public holiday in the Australian calendar. The submission will address the following:

- a) **The current NES provisions and public holiday legislation:**
Demonstrating that the proposed variation will have effect in only one state this year.

- b) **The recent Award Modernisation and Review decisions about the union’s claims:** A short history of the recent responses to the union’s claims for an additional loading for Christmas Day 25 December demonstrating that the 4 yearly review is the appropriate time for the Commission to resolve the issue.

- c) **The Public Holidays Test Case Decisions:** Analysis of the public holiday test case decisions from 1994/95 establishing that Christmas Day 25 December has been recognised legally by the Commission’s predecessors, as well as culturally, a special significant day.

- d) **Specific History of Modern awards where change is sought:** Analysis of modern awards where the AMWU seeks to include the entitlement, and their historical context further demonstrating that an entitlement for Christmas Day where it is substituted is not a novel or radical concept.

- e) **Summary of AMWU Public Holidays Survey Data:** Reviewing the results of the AMWU survey data assessing AMWU members’ attitudes towards public holidays and their significance, demonstrating that the social mores as they relate to Christmas Day have not changed since the Public Holiday Test Cases.

- f) **Significance of Christmas Day:** Reviewing other survey data and other research in assessing the significance of Christmas Day in community

mores which demonstrates no change since the Public Holiday Test Cases.

- g) [Section 114\(4\) of the Fair Work Act 2009](#): Comment on the significance of the criteria of s. 114(4) in relation to the AMWU claim, particularly in relation to the family responsibilities associated with Christmas Day.
- h) [The Modern Awards Objectives s.134 of the Fair Work Act 2009](#): Submissions about why the variation would go towards achieving the modern awards objectives.

8. In addition attached to this submission are the following Appendices:

- 1 [List of Modern Awards List of Modern Awards with separate Christmas Day public holiday provisions \(incl. Christmas Day public holiday loading clauses\)](#);
- 2 [Statistics from Tourism Research Australia about Domestic Travel for visiting family and relatives](#);
- 3 [Proposed Draft Determinations](#);
- 4 [Analysis of, links to and excerpts of State Public Holiday legislation](#);
- 5 [Survey responses to question “What makes a public holiday meaningful?”](#);
- 6 [Survey responses to question “Please describe your experience of working on Christmas Day”](#);
- 7 [Survey responses to question “What do you normally do on Christmas Day?”](#);
- 8 [Survey responses to all three open ended questions grouped by respondent ID](#).
- 9 Excel Spreadsheet with all the responses to the AMWU Survey de-identified and excluding responses from unemployed or retired people.

Current NES provisions and Public Holiday legislation

9. If the variations proposed by the AMWU were to have effect before 25 December 2016, this year, they would only have practical effect one state. The analysis of state legislation and Government gazettes at [Appendix 4](#) indicate that all state and territories, except Victoria will retain Sunday 25 December 2016 as a Public Holiday.
10. The NES provides the following:

“115 Meaning of *public holiday*

The public holidays

- (1) The following are **public holidays**:
- (a) each of these days:
- (i) 1 January (New Year’s Day);
 - (ii) 26 January (Australia Day);
 - (iii) Good Friday;
 - (iv) Easter Monday;
 - (v) 25 April (Anzac Day);
 - (vi) the Queen’s birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - (vii) 25 December (Christmas Day);
 - (viii) 26 December (Boxing Day);
- (b) any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the regulations from counting as a public holiday.

Substituted public holidays under State or Territory laws

- (2) If, under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of subsection (1), then the substituted day or part-day is the **public holiday**.

Substituted public holidays under modern awards and enterprise agreements

- (3) A modern award or enterprise agreement may include terms providing for an employer and employee to agree on the substitution of a day or part-day for a day or part-day that would otherwise be a public holiday because of subsection (1) or (2).”

11. In Victoria, because the legislation substitutes the 25 December for another day, s.115(2) has effect, removing 25 December from the list of public holidays under s.115(1)(a).³
12. However, because in New South Wales, Queensland, Western Australia, Tasmania and the Australian Capital Territory, an additional public holiday has been proclaimed by legislation in addition to 25 December, s.115(1)(b) has effect giving rise to the additional public holiday alongside 25 December which is a public holiday under s.115(1)(a). In South Australia, an additional day is proclaimed where the 25 December is on a Sunday, but not if it is on a Saturday. So for this year, s.115(1)(b). In the Northern Territory, the Minister has appointed 25 December 2016 to be a public holiday by gazette, in addition to the legislation substituted day. This means that for the Northern Territory the 25 December and the additional day arising because 25 December occurs on a weekend are public holidays because of the simultaneous effect of both s.115(1)(b) and s.115(2) of the *Fair Work Act 2009*.
13. In addition, it is also important to note that s.115(3) provides that private agreements may be reached between parties about substitution days. If Christmas Day falls on a weekend, then it may be substituted for another day, by an agreement made under a term of an Award or Agreement allowed by s. 115(3) of the *Fair Work Act 2009* (the Act) or it can be substituted by State legislation or related instruments as provided for by s.115(2) of the Act. This means that employees who work on 25 December where it falls on a weekend may not receive the public holiday penalty rate in some States where the Saturday or Sunday has been gazetted as a substitute public holiday, instead of being gazetted as an additional public holiday.

³ See Appendix 4 for legislative provisions and effect.

14. It is clear that for Victorians this year (and possibly Northern Territorians and South Australians in other years), Christmas Day 25 December, will not have the status of being public holiday in 2016. This also means, critically, that for Victorians, they will not retain the benefit of s.114 of the NES, which provides an entitlement to be absent on 25 December.
15. S.114 of the NES provides that:

“114 Entitlement to be absent from employment on public holiday

Employee entitled to be absent on public holiday

- (1) An employee is entitled to be absent from his or her employment on a day or part-day that is a public holiday in the place where the employee is based for work purposes.

Reasonable requests to work on public holidays

- (2) However, an employer may request an employee to work on a public holiday if the request is reasonable.
- (3) If an employer requests an employee to work on a public holiday, the employee may refuse the request if:
- (a) the request is not reasonable; or
 - (b) the refusal is reasonable.
- (4) In determining whether a request, or a refusal of a request, to work on a public holiday is reasonable, the following must be taken into account:
- (a) the nature of the employer’s workplace or enterprise (including its operational requirements), and the nature of the work performed by the employee;
 - (b) the employee’s personal circumstances, including family responsibilities;
 - (c) whether the employee could reasonably expect that the employer might request work on the public holiday;
 - (d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, work on the public holiday;
 - (e) the type of employment of the employee (for example, whether full-time, part-time, casual or shiftwork);
 - (f) the amount of notice in advance of the public holiday given by the employer when making the request;
 - (g) in relation to the refusal of a request—the amount of notice in advance of the public holiday given by the employee when refusing the request;
 - (h) any other relevant matter.”

Recent history of Award Modernisation and Review proceedings

16. In 2010, Fair Work Australia (as the Fair Work Commission then was) considered an application by the AMWU and other unions to introduce a Christmas Day loading (the 2010 decision).⁴ In that case, the Bench had regard to the *Public Holidays Test Case* decision of 1995, where the Full Bench of the Australian Industrial Relations Commission (the AIRC) agreed with the “underlying contention” of the ACTU that “Christmas Day should be regarded differently from other days which are subject to substitution”, while it was anticipated that the principle would “generally be implemented in the application of safety-net standards, we acknowledge the diversity of practices that have been in place and anticipate that the principles pertaining to non-standard working arrangements will be applied sensitively and flexibly, with due regard to special circumstances” (emphasis added).⁵
17. The Full Bench declined to make any determinations in relation to the Christmas Day loading due to the Bench’s view at the time about its limited capacity to vary awards outside of the four yearly review, and the finding that there was not a “prevailing standard in respect of the additional penalty rate in the relevant underlying instruments.”⁶ The “prevailing standard” principle was one utilised during the Part 10A Award Modernisation process and confirms that the Bench at the time considered its powers to be limited to the correction of errors made through the Part 10A Award modernisation process. The Bench took a more restrictive view about its powers and about what kinds of applications could be made under Division 5 Part 2-3 of the Fair Work Act 2009 than the plain words of the Act provide for without clear explanation or reason.

⁴ [Australian Nursing Federation and Others \[2010\] FWAFB 9290](#)

⁵ *Australian Nursing Federation and Others* [2010] FWAFB 9290 at [43].

⁶ *Australian Nursing Federation and Others* [2010] FWAFB 9290, at [47].

18. The matter was further raised in the context of the 2012 Review by the ACTU and other unions including the AMWU.⁷ It was noted by the Full Bench that the matter would be more appropriately considered in the 4 yearly review of modern awards.⁸ It is worth noting that the 2012 Review was confined to ensuring that modern awards (a) met the modern awards objective, and (b) were “operating effectively, without anomalies or technical problems”.⁹ The 4 yearly review of modern awards was considered to be a “more comprehensive” review by the decision in the 2012 Review.¹⁰
19. It should be noted from the outset that Christmas Day loading clauses are not uncommon in the industrial landscape as the entitlement currently appear in nine modern awards,¹¹ and in five modern enterprise awards.¹² It is therefore plain that there is no proscription against the entitlement, and that such provisions are capable of appearing in modern awards. Whilst prevailing pre-modern award standards and conditions are relevant considerations, the Four Yearly Review provides the Bench an opportunity to consider the application of the Test Case principles, without the constraints present during the 2012 review or the 2010 decision. It is in this context that the AMWU raises its claim.

The Public Holidays Test Case Decisions

20. The principles established in the four decisions of the *Public Holidays Test Case 1994* (the Test Case) are relevant considerations for present purposes,

⁷ [2013] FWCFB 2168.

⁸ [2013] FWCFB 2168, [93].

⁹ *Fair Work (Transitional and Consequential Amendments) Act 2009* Item 6(2), Sch. 5.

¹⁰ [2013] FWCFB 2168 at [93].

¹¹ *Airport Employees Award 2010* cl. 28.3(a)(i); *Animal and Veterinary Services Award 2010* cl. 29.2(h); *Hospitality General Award 2010* cl. 32.2(c); *Mannequins and Models Award 2010* cl. 27.3; *Registered and Licensed Clubs Award 2010* cl. 29.3(c); *Restaurant Industry Award 2010* cl. 34.4(d); *Road Transport and Distribution Award 2010* cl. 28.2(a); *Textile, Clothing, Footwear and Associated Industries Award 2010* cl. 43.2(b); *Timber Industry Award 2010* cl. 36.5(d); *Waste Management Award 2010* cl. 32.1.

¹² *Australian Capital Territory Public Service Enterprise Award 2010* cl. 23.6; *Australia Post Enterprise Award 2015* cl. 32.12; *Australian Public Service Enterprise Agreement 2015* cl. 21.2; *Nurses and Midwives (Victoria) State Reference Public Sector Award 2014* cl. 31.4(a); *Victoria State Government Agencies Award 2010* cl. 36.3.

as they are arbitral authority that Christmas Day is a “special” public holiday and to be treated differently from the other Public Holidays. This was recognised in the decision on 4 August 1994, where it was acknowledged that public holiday substitution may affect employees who regularly work on a Saturday “harshly.”¹³ The Commission used the example of “a person who works on Christmas Day [on a Saturday] will receive the amount normally paid for Saturday work; and if he or she does not work on the substitute day, the higher rate prescribed for work on that day will be irrelevant.”¹⁴ This was said to be a “problem that requires further attention.”¹⁵

21. The 20 March 1995 decision addressed this issue. The Full Bench agreed with the “underlying contention” of the ACTU that “Christmas Day should be regarded differently from other days which are subject to substitution” due to the “significance of Christmas Day in the lives of many members of the community mores.”¹⁶ The Bench decided on a loading of one-half of the normal day’s wages, in addition to the substituted day.
22. The Bench forecasted that the amendments would “generally be implemented in the application of safety net standards”, while acknowledging the “diversity of practices” and that “the principles pertaining to non-standard working arrangements will be applied sensitively and flexibly, with due regard to special circumstances”.¹⁷ However, it was clearly the expectation of the Bench that the principles developed in 251/1995 were to be applied to individual awards, with the Bench commenting:

“we propose in this decision to consider various types of non-standard

¹³ *Industrial Relations Commission* 1352/1994 [1994] AIRC 1208. Print L4534.

¹⁴ *Industrial Relations Commission* 1352/1994 [1994] AIRC 1208. Print L4534.

¹⁵ *Industrial Relations Commission* 1352/1994 [1994] AIRC 1208. Print L4534.

¹⁶ *Industrial Relations Commission* 251/1995 [1995] AIRC 443. Print L9178.

¹⁷ *Industrial Relations Commission* 251/1995 [1995] AIRC 443. Print L9178.

arrangements and to articulate principles which we see as being generally appropriate. Members of the Commission dealing with particular awards will be expected to apply these principles wherever possible, but may need to adapt them to specific circumstances" (emphasis added).¹⁸

23. The inclusion of the Christmas Day loading would not offend the 1995 decision that the principles are to be applied "sensitively", "flexibly" and with "due regard to special circumstances". Firstly, the requirement that the public holiday principles should be applied "sensitively" and "flexibly" across awards should not be construed as the Full Bench's concern over the Christmas Day loading entitlement in particular. At the time, the test case Full Bench was considering a raft of public holiday entitlements and the requirement that the principles apply "flexibly" applied equally to all proposed public holiday entitlements, and was not raised specifically in relation to the Christmas Day loading.¹⁹
24. The Full Bench in the 2010 decision had regard to the "caution" expressed by the public holidays Full Bench in the 1995 decision.²⁰ The AMWU respectfully submits that the Test Case Full Bench's requirements of sensitive and flexible application would be better described as a statement of general principle, rather than an expression of caution. This can be gleaned from other statements in the decision, as above, stating that other members of the Commission would be "expected" to apply the principles "wherever possible", only needing to "adapt them to specific circumstances".²¹ Further, a direction that the principles be applied "sensitively" should not mean that the Christmas Day loading is *prima facie* disregarded in awards without a history of the entitlement. That approach would render the test case redundant. Indeed, the test case decision should be read as saying that the principles should be adopted absent any

¹⁸ *Industrial Relations Commission 251/1995* [1995] AIRC 443. Print L9178.

¹⁹ *Industrial Relations Commission 251 / 1995* [1995] AIRC 443. Print L9178.

²⁰ *Australian Nursing Federation and others* [2010] FWAFB 9290, at [47].

²¹ *Industrial Relations Commission 251 / 1995* [1995] AIRC 443. Print L9178.

reasons to the contrary, as they are “generally appropriate”.

25. Secondly, the lack of an historically equivalent clause should not be a relevant factor in any assessment of the “special circumstances” of the relevant industry. The AMWU submits that the relevant “special circumstances” of the industry relate to whether the loading is appropriate for the industry with regard to the modern awards objective and whether the industry can accommodate the inclusion of the loading. The proposed determinations
26. Finally, with due regard to s. 156(5) considerations that each award is reviewed separately, it is clear that the underlying findings of the Test Case is such that Christmas Day is significant and special. This principle is consistent throughout the industrial landscape, as a Christmas Day in the retail or hospitality industry is the same Christmas Day in the manufacturing industry, and has the same social significance. Given that Christmas Day holds the same importance across industries and occupations, there seems to be little justification for not varying the manufacturing awards to give effect to this principle.
27. In this sense, the Test Case is largely “unfinished business” with respect to the Graphic Arts Award, Manufacturing Award, Food Award, and Vehicle Award. In the absence of any compelling reasons going to the “special circumstances” of the above awards, the Christmas Day loading should be part of the award safety net standards. There is nothing to suggest that the awards could not accommodate this variation.
28. The preliminary jurisdictional issues decision noted that “it is appropriate that the Commission take into account previous decisions relevant to any contested issue...previous Full Bench decisions should generally be followed

in the observance of cogent reasons for not doing so.”²² In this respect, there would need to be “cogent reasons” to depart from the contention that Christmas Day holds such “special significance.”

29. The application of Test Case decisions by Full Bench’s in the 4 yearly review of modern awards can be demonstrated by the decision in the AM2014/300 Award Flexibility matter. In that matter, the Full Bench applied the principles established in the Family Leave Test Case decisions in assessing proposals for variations to awards to include Time Off In Lieu of payment for overtime (TOIL).²³
30. In the present matter, a similar approach should be adopted in applying the principle established that Christmas Day 25 December has a special significance. Social mores have not changed since the Public Holidays Test Case decisions or resulted in any diminished standing of Christmas Day 25 December for Australians.

Specific history of modern awards where change is sought

31. The Bench declined to make determinations in the 2010 decision, largely due to the “absence of a prevailing standard in respect of the additional penalty rate in the relevant underlying instruments”.²⁴ The four yearly review provides a considerably wider scope for the Bench than the 2010 application under ss. 157-160.
32. The AMWU submits that substantive variations in the four yearly review does not require that there be a historical award precedent as a threshold before a variation can be made, only that the FWC should “have regard to the historical context applicable to each modern award”.²⁵ Therefore, the

²² *4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues* [2014] FWCFB 1788 at [27].

²³ <https://www.fwc.gov.au/documents/decisionssigned/html/2015fwcfb4466.htm>

²⁴ [2010] FWAFFB 9290, at [47].

²⁵ *4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues* [2014] FWCFB 1788 [24].

lack of a historical entitlement in the pre-modern award/s does not preclude the Bench from making the variation as a matter of course.

33. Even so, the Christmas Day loading entitlement does appear in many precursor awards to the modern awards where change is sought.

Food, Beverage and Tobacco Manufacturing Award 2010

34. In particular, many pre-modern awards making up the modern Food award contained a loading for work performed on a weekend Christmas Day.²⁶ Of the 108 premodern awards relevant to the modern Food award, 21 awards had a Christmas Day loading entitlement, or an equivalent extra payment for time worked on a weekend Christmas Day.²⁷ This includes Federal precursor awards such as the *Food Preservers Award 2000* at cl. 31.11, which indicates that the entitlement is not wholly unfamiliar to the industry. For the *Food, Beverage and Tobacco Manufacturing Award 2010*, the *Food Preservers Award 2000* was one of the primary pre-reform Awards which were superseded by the *Food, Beverage and Tobacco Manufacturing Award 2010*. The *Food Preservers Award 2000* was the primary award which the Food Division of the AMWU used to rope employers into.

Vehicle Manufacturing, Repair, Services and Retail Award 2010

35. With respect to the Vehicles Award, the *Vehicle Industry – Repair, Services and Retail Award 2002* (the RS&R 2002 Award) contained a Christmas Day loading provision for work done on the actual day. The RS&R 2002 Award played a crucial role in the development of terms and conditions for the modern vehicles award. This is evidenced through the award modernisation proceedings.²⁸

²⁶ *Award Modernisation* [2009] AIRCFB 100 – Stage 3 Industries and Occupations.

²⁷ [Appendix 1](#).

²⁸ The importance of the award can be demonstrated through award modernisation transcript evidence on Monday - 22 June 2009, where it was frequently used as a point of reference for terms and conditions for the creation of the modern award.

http://www.airc.gov.au/awardmod/databases/vehicle_rsr/Transcripts/220609AM200825.pdf.

Graphic Arts, Printing and Publishing Award 2010

36. Similarly, the Christmas Day loading entitlement was present in the *Printing Industry Award - State (QLD) 2003*, one of the precursors to the modern Graphic Arts modern award, along with the *Metropolitan Newspapers (South Australia and Tasmania) Clerical and Associated Officers Award 2003*. Further, three of the pre-reform awards which were replaced by the modern Manufacturing award contained a public holiday loading provision.²⁹
37. The historical context of the awards should not be seen as prohibiting the proposed change from being made. In fact, the historical context shows that the entitlement has appeared in vitally important precursor awards, such as the RS&R 2002 Award and the *Food Preservers Award 2000*, and in the State-wide context such as the *Printing Industry Award State 2003*. This indicates that the Christmas Day loading entitlement is not altogether alien to the awards where change is sought.

Summary of AMWU Public Holidays Survey Data

38. The AMWU Public Holidays survey sought the views and attitudes of AMWU members towards public holidays in Australia. Additionally, the survey assessed AMWU members' working patterns, religious beliefs and experience/s of working on Christmas Day. Attached to this submission is a spreadsheet with the full data for each respondent. The AMWU has removed respondents who are unemployed or retired as these respondents skipped all questions beyond the first two questions.
39. A link to the survey was sent to all members through an email. 272 members clicked through to the linked survey and provided a response.

²⁹ *Optical Employees Award; Tanning Industry Award – State 2004; UCIW Christmas Island Building and Construction Award 2004.*

40. Of those surveyed 85.29% were permanent full time employees.

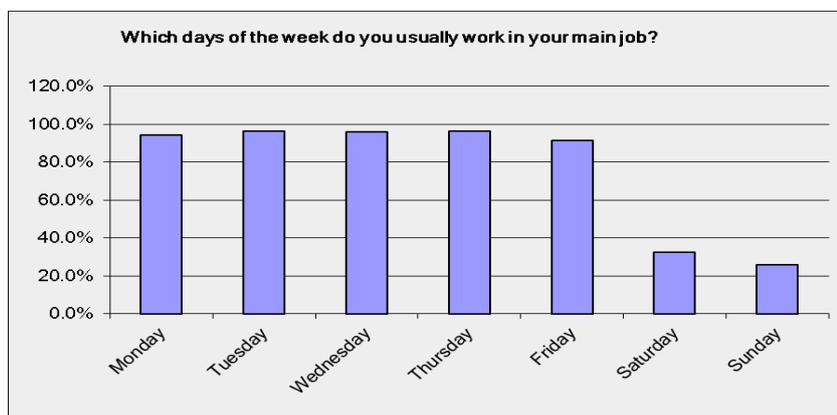
Which of the following categories best describes your employment status?		
Answer Options	Response Percent	Response Count
Permanent full-time	85.3%	232
Permanent part-time	4.4%	12
Casual full-time	7.0%	19
Casual part-time	3.3%	9
Unemployed / Retired / Not-working	0.0%	0

Which of the following best describes the industry you generally work in, in your main job?		
Answer Options	Response Percent	Response Count
Metals and Engineering	56.3%	153
Printing, Graphic Arts and Newspapers	7.4%	20
Vehicle Manufacturing, Repair, Services and Retail	15.1%	41
On-site Building and Construction	9.2%	25
Food, Beverage and Tobacco Manufacturing	12.1%	33
Other (please specify)		38

41. Roughly 68.3% of respondents worked a regular roster, with 24.6% working a rotating roster and the remainder working irregular hours.

How regular are the days that you work?		
Answer Options	Response Percent	Response Count
I work a regular roster (same days each week)	68.3%	183
I work a rotating roster (different days week to week, but a set pattern)	24.6%	66
I work irregular hours (days week to week, no pattern)	7.1%	19
<i>answered question</i>		268
<i>skipped question</i>		4

42. While most respondents usually worked on the days Monday to Friday, 32.5% worked Saturdays and 25.7% worked on Sundays.



43. When asked which public holiday is the most “meaningful”, 42.3% of respondents selected Christmas Day, with 37.8% selecting ANZAC Day. This supports the continuing relevance of the findings in the test case, identifying both Christmas Day and ANZAC Day as having “special significance in the community mores – a significance which the awards may well reflect”.³⁰
44. When asked what makes a public holiday meaningful, 121 of 201 responses related contained the word “family”. Of the 102 respondents who selected Christmas Day as the most meaningful public holiday, 57 cited “family” in answer to what makes a public holiday meaningful.
45. The most illustrative of the importance of Christmas day to people’s families are the responses to the question “what do you normally do on Christmas Day,” with 173 of the 221 respondents stating that they spend time with family or including the word “family” in their response. That is 78.28% of responses indicating family are included in what they normally do on Christmas Day.
46. Based on the findings of the survey, it is reasonable to draw the following conclusions:
- a) That the findings of the test case are still valid; that ANZAC Day and Christmas Day are the two most “meaningful” and important public holidays for employees;
 - b) That the majority of employees define a meaningful public holiday as one where time is spent with family.
 - c) While most respondents are not religious with only (36.4%) identifying as religious, this didn’t drag the importance of Christmas Day and spending time with family;

³⁰ *Industrial Relations Commission 1352/1994 [1994] AIRC 1208. Print L4534.*

- d) Despite most employees working on weekdays, 32.5% worked Saturdays and 25.7% worked on Sundays.
- e) While most employees have not been required to work on Christmas Day, 19.2 % had been required to work Christmas Day in the current job and 23% had been required to work on Christmas Day in their previous job. A total of 42.2% had worked on Christmas Day in either their current or previous job. Respondent's feedback indicated that their experience working on Christmas Day had been largely negative, with one comment being particularly telling:

"Bit of a broken day as far as family goes. But it is pleasing to help people out on the day... you would only do it for the money"

Respondent # 4976050101 (emphasis added).

47. While the scale of the issue is important and indicates the widespread nature of the disadvantage, the claim is not dependent on the above figures. Even if the disadvantage only affected a single employee on Christmas Day, it would still be a disadvantage requiring adequate and realistic compensation. In this sense, the scale of the disadvantage, while real and potentially widespread, is a tertiary concern. The primary concern is that it is fundamentally unjust for awards to ignore the importance of Christmas Day – whenever it falls. This would still be the case even if the disadvantage affected only one employee. In the present circumstances, the [State Public Holiday Legislation analysis](#) indicates that this year only Victorians are currently affected by Christmas Day not having the status of a public holiday.

Significance of Christmas Day

48. It has been acknowledged in various industrial tribunals that Christmas Day is significant when paired against other public holidays, with arbitral

decisions granting this “underlying contention”.³¹ In *The Hospitality Industry – Accommodation, Hotels, Resorts and Gaming Award 1998* the Full Bench noted in distinguishing Christmas Day from New Years Day that:

*“Christmas Day is accorded different treatment because of its significance in the lives of many members of the community. It is difficult to see why New Year’s Day should be accorded such special significance.”*³²

49. The significance of Christmas Day is also reflected in entitlements present in Modern awards. Many awards provide for the differential treatment of Christmas Day, usually involving a higher penalty for hours worked, but also providing for substitution. This can be seen through the catalogue of Modern Awards in [Appendix 1](#). There are in total 18 modern awards with specific entitlements and provisions for work performed in Christmas Day, ranging from the Christmas Day loading, to additional penalty rates, and substitution provisions.
50. Substitute days for Public Holidays can replicate the time off provided for by most of the Public Holiday being substituted where the meaning of the day is disconnected from the calendar date on which the holiday falls. However, for a day such as Christmas Day where the time off translates specifically into social time with family and extended family, having the day substituted can never replicate this important social time with family that only occurs once a year on 25 December. Working during these hours must be considered unsocial by the Fair Work Commission if the Commission is to reflect the community mores when it comes to 25 December.
51. This distinction between Christmas Day and other public holidays is also reflected in Australian public sentiment, with one recent survey available

³¹ *Industrial Relations Commission 251/1995*, L9178.

³² *The Hospitality Industry - Accommodation, Hotels, Resorts and Gaming Award 1998* at [41]. Print R3183.

publicly³³ suggesting that Christmas “is the most meaningful public holiday of the year” in Australia, with 37% of respondents indicating that it was the “most meaningful”.³⁴ 30% of respondents chose ANZAC Day as their most meaningful public holiday. This generally accords with the views of the Full Bench in the Test Case decisions, being that Christmas Day and ANZAC Day hold special significance in the community.³⁵ This also demonstrates that community expectations have not significantly shifted since the test case decision.

52. While it is trite to acknowledge that Christmas Day is celebrated and embraced amongst secular Australians, its religious significance should not be understated. The 2011 Census indicates that an overwhelming majority of Australians identify with one denomination of Christianity as their religious affiliation, with 61% of Australians identifying as “Christian”, with 25% of Australians identifying as Catholic.³⁶ These accord with survey research where 57% of respondents identify themselves as “belonging to a religion that celebrates Christmas as a religious holiday”.³⁷ The survey also found wide-reaching celebration of Christmas amongst those who belong to another faith, with 56% of those still celebrating Christmas.³⁸ These figures seem to indicate that the AMWU survey is a reliable set of responses which accords with the broader community reflected in the McCrindle Research.
53. Of course, given the extent of identification with religion, it would be interesting to find out how many non-religious people identify with

³³ [Research Summary – McCrindle Research – Christmas most meaningful to Australians, while we’re spooked by Halloween](http://mccrindle.com.au/SocialAnalysis/2012/Public-Holidays-in-Australia_McCrindle-Research_Social-Analysis.pdf) http://mccrindle.com.au/SocialAnalysis/2012/Public-Holidays-in-Australia_McCrindle-Research_Social-Analysis.pdf

³⁴ [Research Summary – McCrindle Research – Christmas most meaningful to Australians, while we’re spooked by Halloween](http://mccrindle.com.au/SocialAnalysis/2012/Public-Holidays-in-Australia_McCrindle-Research_Social-Analysis.pdf)

³⁵ *Industrial Relations Commission* 1352/1994, L4534.

³⁶ http://stat.abs.gov.au/Index.aspx?DataSetCode=ABS_CENSUS2011_B14.

³⁷ [Research Summary – McCrindle Research – Christmas in 21st Century Australia.](http://www.mccrindle.com.au/ResearchSummaries/Christmas-in-21st-Century-Australia.pdf) <http://www.mccrindle.com.au/ResearchSummaries/Christmas-in-21st-Century-Australia.pdf>

³⁸ [Research Summary – McCrindle Research – Christmas in 21st Century Australia.](http://www.mccrindle.com.au/ResearchSummaries/Christmas-in-21st-Century-Australia.pdf)

Christmas Day. The McCrindle Research indicates that 87% of those who are not religious still celebrate Christmas to some extent.

54. Those who don't celebrate Christmas at all cite commercialism, family problems or lack of family as their main reasons. This accords with the open ended responses which reflect the more negative perspectives towards Christmas in the AMWU survey. These sentiments cannot be a sound basis for demoting the status of Christmas for the large majority of Australians who perceive it to be a festive time with family and friends.

55. The Christmas period also corresponds to a higher level of Australians holidaying and visiting families and friends, not seen in other public holiday periods. Australian Bureau of Statistics (ABS) data consistently shows that the frequency of international departures substantially increases during December, especially for periods of between two weeks and two months.³⁹ Total resident departure data shows that on average 24% of resident overseas departures cite visiting friends and relatives as the main reason for departure.⁴⁰ This accords with other research suggesting that "Australians were more likely than overseas respondents to have spent Christmas away from home in the past and to consider doing so in the future."⁴¹

56. Tourism Research Australia's publicly available figures⁴² also reveal that a significant proportion of domestic travel for Australians is for the purpose of visiting family. At Appendix 2 is a table with the statistics for domestic day travel and domestic overnight travel. The table shows that from 1998 to 2014 domestic travel for the purpose of visiting family as a percentage of total travel has remained relatively stable throughout the period, ranging

³⁹ Australian Bureau of Statistics. 3401.0 - Overseas Arrivals and Departures, Australia, June 2016.

⁴⁰ [Table 10: Short-term Movement, Resident Departures - Intended Length of Stay and Main Reason for Journey: Original](#)

⁴¹ Bruce Prideaux and Petra Glover, "Santa Claus is coming to Town – Christmas Day in a Tropical Destination", *Asia Pacific Journal of Tourism Research* 20, 964.

⁴² <https://www.tra.gov.au/research/domestic-travel-by-australians.html>

between 28.95% and 30.41% for day trips and ranging between 32.36% and 36.71% for overnight trips.

57. This data reinforces the fact that Christmas Day is a time for family and that many Australians continue to also travel domestically to visit their family and relatives.

Section 114(4) of the *Fair Work Act 2009*

58. In addition to the obvious disadvantage of not retaining the right to refuse to work on 25 December, the AMWU submits that the criteria in s. 114(4) are also relevant to the review proceedings as criteria that would otherwise have applied but for the fact that 25 December fell on a weekend. This criteria can be used as a proxy measure of the disadvantage accruing to employees who work on 25 December when it falls on a weekend.
59. The criteria in s. 114(4) of the Act are used in assessing the reasonableness of an employer's request that an employee work on a public holiday. The AMWU submits that this criteria are also relevant for the purposes of assessing the reasonableness of working on the "actual" Christmas Day. Christmas celebrations are particularly relevant to that day so that they cannot be properly replicated on a substituted day. The Full Bench of the AIRC was correct to note in the Public Holidays test case that the safety net standard "goes more...to the quantum of leave than to the specification of days",⁴³ but crucially identifying Christmas Day as an obvious exception, and one having "special significance in the community mores".⁴⁴ Christmas Day is not to function as merely another public holiday making up the minimum safety net. There is Full Bench authority supporting the principle that it holds special national significance. It is in this context in which s. 114(4)

⁴³ *Industrial Relations Commission 1352/1994* [1994] AIRC 1208. Print L4534 at [20].

⁴⁴ *Industrial Relations Commission 1352/1994* [1994] AIRC 1208. Print L4534 at [20].

should be considered.

60. If Christmas Day fell on a weekday, the employer and employee would be required to consider s 114(4) factors if the employee was requested to perform work on that day. However, where it falls on a weekend and is substituted, there is no obligation to consider s. 114(4) factors, despite the employee's personal circumstances being the same as for a weekday Christmas Day. An employee's personal circumstances and family responsibilities that are usually present on Christmas Day do not simply evaporate if it falls on a weekend. The substance of the public holiday and the disadvantage for working on the day remain, yet the entitlement for working on the day disappears.
61. The following sections are of particular relevance in assessing disadvantage experienced by an employee who is forced to work on 25 December:
- a) Section 114(4)(b) "the employee's personal circumstances, including family responsibilities" (emphasis added); and
 - b) Section 114(4)(d) "whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, work on a public holiday"
62. The AMWU survey data and McCrindle Research⁴⁵ both confirm that Christmas Day is overwhelmingly associated with festivities with family and friends. It is reasonable to assume that many employees would have family responsibilities on Christmas Day within the meaning of s. 114(4)(b) that would, in any other circumstance, mean that the employee's refusal to work is reasonable. In effect, this is a recognition that employees are under a

⁴⁵ McCrindle Research – "Aussie Sentiment to the Christmas Season" 2015.

disadvantage when working on a day that they would otherwise be entitled to be absent, yet there is presently no award based penalty recognising this disadvantage.

63. While it might not be quantifiable what impact the absence of parents on Christmas Day has on families, there can be no doubt for any parent that there is an impact.
64. If the Christmas Day is substituted and 25 December is therefore not considered to be a public holiday, an employee would lose the right to be absent from work on that day, and there can be no assessment of the reasonableness of working on that day. In practice, the substance of the day has not changed insofar as the festivities will still take place on that day, and accordingly many employees will still have family responsibilities within the meaning of s. 114(4). Despite the public holiday shifting to another day, the criteria in s. 114(4) would still justify an employee being absent in circumstances that 25 December fell on a week day. This is indicative of an accrual of disadvantage to employees working on the “actual” Christmas day.

Modern Awards Objective

Section 134(1)(a) – The relative living standards and needs of the low paid

65. The minimum wages objective in s. 284(1)(c) require that the FWC take into account the “relative living standards and needs of the low paid”. In the 2014 Annual Wage Review (AWRs) decision, the Full Bench said “the relative living standards of award-reliant employees are affected by the level of wages that they earn, the hours they work, tax-transfer payments and the circumstances of the households in which they live”.⁴⁶ The hours worked by award reliant employees are therefore relevant considerations to this

⁴⁶ Annual Wage-Review 2013-2014 [2014] FWCFB 3500, at [33].

criterion.

66. The variation proposed by the AMWU would go towards assisting employees who regularly work on weekends and may be affected “harshly” by the current operation of the award.⁴⁷ A substantial portion of the Australian workforce works on weekends. In 2013, 31.8% of employees worked either exclusively on weekends or on a mixture of weekend and weekday work.⁴⁸ AMWU survey results indicate a broadly similar result, with 32.5% working on a Saturday, and 25.7% working on a Sunday. It is unjust that such a significant portion of the workforce should receive no penalty rate for work done on the actual Christmas Day, in addition to not being able to refuse to work on that day.
67. Employees in the manufacturing industry typically have little ability to negotiate start and finish times, as reflected through 2009 ABS data, where only 35.8% of respondents in the manufacturing industry were reported as having “some say in their start and finish times”.⁴⁹ Other industries had a combined average of 43.1% of respondents indicating that they had some say over their hours of work.⁵⁰ This indicates that the potential of working on the actual Christmas Day would have a particularly deleterious impact for employees engaged in the manufacturing industry.
68. Finally, in considering the needs and relative living standards of the low-paid, the Commission should consider the relative value of time spent with family for low paid employees as compared to the value of time spent with family for higher paid employees. In both circumstances the value should be the same, indicating that if it were monetised, Christmas Day would be worth many more days and hours of work for the low paid, than it might be for higher paid employees. The difference being, for higher paid employees,

⁴⁷ *Industrial Relations Commission 1352/1994* [1994] AIRC 1208. Print L4534.

⁴⁸ ABS – Forms of Employment November 2014 – 6359.0. Page 25.

⁴⁹ ABS – Working Time Arrangements – November 2009 – 6342.0. Page 16.

⁵⁰ ABS – Working Time Arrangements – November 2009 – 6342.0. Page 16.

particular at the top end, they are more likely to have the industrial power to access an entitlement to refuse to work on Christmas Day.

Section 134(1)(b) – The need to encourage enterprise bargaining

69. The AMWU considers the Christmas Day entitlement to be a neutral factor in encouraging enterprise bargaining. This is because Christmas Day falling on a weekend happens infrequently and the cost imposed on businesses in accommodating this change would be small. It is therefore unlikely to be subject to intensive enterprise bargaining negotiations. However, it is possible that the inclusion of this safety net term would work to encourage employers to enter into bargaining in order to accommodate terms better suited to their enterprise.
70. It is highly unlikely that safety-net reliant employees would collectively bargain in order to make Christmas Day a day attracting public holiday entitlements.

Section 134(1)(c) – The need to promote social inclusion through increased workforce participation

71. This is generally a neutral consideration. It is unlikely that the variation proposed would reduce workforce participation in terms of the number of individuals as it affects only one day in the year. However, the proposed variation may actually increase the number of people available to work on the day and therefore increase workforce participation in terms of hours of work.
72. Section 284(1)(b) of the Act requires the FWC to consider promoting “social inclusion through increased workforce participation”. The 2015 AWRs decision interpreted this to mean “increased employment...higher minimum wages can provide incentives to those not in the labour market to seek paid

work, which needs to be balanced against potential negative impacts on the supply of jobs for low-paid workers”.⁵¹

73. The substituted Christmas Day entitlements may provide an additional incentive for employees to attend work on Christmas Day, rather than to take annual leave or be tempted to take their personal leave when they are not unfit for work. Indeed, the current arrangements provide a perverse incentive for employees to use their personal leave inappropriately in order to spend time with their families on the actual Christmas Day. It is suggested that the inappropriate use of sick leave⁵² can result in burdensome costs to businesses,⁵² while noting that the manufacturing industry has relatively low levels of staff absence.⁵³ The inclusion of a Weekend Christmas day entitlement may assist in addressing this problem by reducing this incentive, and providing a proper compensation for working on the actual Christmas Day.

74. Weekend work is a reality of the modern workplace, with 31.8% of employees working either a mixture of weekend and weekday work, or working exclusively on the weekend.⁵⁴ This structural shift has been captured by the 2015 Productivity Commission report, stating:

*“Weekend work is now common. The traditional Monday to Friday week is not dead, but nor is it as predominant as in the past. Some 4 million employed people – around one in three in the workforce – work at least a Saturday or Sunday each week”.*⁵⁵

⁵¹ [2015] FWCFB 3500, at [51].

⁵² John-Anthony Hodgens and Tegen Tvede, ‘Abuse of sick leave: What is an employer to do?’ Employment Law Bulletin, July 2012.

⁵³ Sydney Morning Herald, ‘Entitlement Mentality: Sickies costing employers \$33b a year, survey finds’ 17 Nov. 2014. <http://www.smh.com.au/business/the-economy/entitlement-mentality-sickies-costing-employers-33b-a-year-survey-finds-20141116-11nz0o.html> (accessed 7 September 2016).

⁵⁴ ABS – Forms of Employment November 2014 – 6359.0. Page 25.

⁵⁵ Productivity Commission – Workplace Relations Framework Vol. 1, No. 76, Nov. 2015. Page 9.

75. This figure generally accords with the (somewhat limited) data from the manufacturing industry, where survey results indicate that 64.5% of respondents worked “no weekends or evening” shifts; the remainder working a combination of evening and weekend, evening only, and weekend only shifts.⁵⁶
76. This shift does not impact on the significance of the actual Christmas Day; indeed, Christmas Day retains its significance regardless of these changes. The AMWU submits that the modern award must be responsive to the changing industrial landscape for this reason. It is vital for the modern award to remain a relevant, within the meaning of s. 134(1), to the industry by recognising and accommodating this trend. The current arrangements disadvantage those employees who work on weekends at a time when a large, and increasing, number of employees work at least one day on the weekend. This would contribute to a tiered industrial framework, where access to the actual Christmas Day would only be afforded to those working on weekdays or with the luxury of not being on the safety net.
77. Workforce participation in itself is an element of social inclusion. However, social inclusion is not achieved simply through workforce participation. Some people do indeed live to work. However, it is more correct to say that most people work to live. Outside of family business, the strong and important connections that people have with family and friends generally exist outside of the workplace. The ability to attend family gatherings on Christmas Day or otherwise be compensated goes to achieving social inclusion. The negative perspectives towards Christmas and working on Christmas Day paint the picture of what it means to be socially excluded.

In response to the question “Please describe your experience of working on Christmas Day”:

⁵⁶ Centre of Work + Life University of South Australia, ‘Evenings, Nights and Weekends: Working unsocial hours and penalty rates’ Tony Daly. Table 8.

“Lonely” Respondent # 4976207861

“Very Depressing” Respondent # 4976013055

“Aweful...” Respondent # 4976011519

“Extremely Sad” Respondent # 4975968792

“quiet and lonely” Respondent # 4976117502

78. These responses indicate that workforce participation on this particular day is in direct conflict with social inclusion. The AMWU submits that without adequate compensation for those who work a substituted weekend Christmas Day, the objective of s. 134(1)(c) cannot be achieved.

Section 134(1)(d) – The need to promote flexible modern work practices and the efficient and productive performance of work

79. The AMWU’s claim can be seen as a “modern work practice” as it recognises that Monday to Friday week operates alongside weekend work, for many employees. Particularly in Manufacturing Industries where the productive use of capital has resulted in continuous shiftwork being adopted in some sites, the AMWU’s proposed variation promotes this flexible work practice through adequate compensation.
80. As previously noted, the claim may work to promote workplace productivity by reducing the incentive for employees to inappropriately use sick leave on the actual Christmas Day.
81. As noted previously, the claim would likely decrease the incentive for employees to take other, potentially inappropriate, forms of leave on Christmas Day.

Section 134(1)(da) – The need to provide additional remuneration for...employees working on weekends or public holidays

82. Relevantly, the modern awards objective was amended by the *Fair Work Amendment Act 2013*. The amendments introduced s. 134(1)(da), which requires that the FWC consider:

“The need to provide additional remuneration for:

(i) employees working overtime: or

(ii) employees working unsocial, irregular or unpredictable hours; or

(iii) employees working on weekends or public holidays; or

(iv) employees working shifts”

83. This is relevant, as the explanatory memorandum notes the amendment was aimed at recognising the need to “fairly compensate employees who work long, irregular unsocial hours or hours that could reasonably be expected to impact their work/life balance and enjoyment of life outside of work” (emphasis added).

84. In order to properly give effect to s. 134(1)(da)(ii) as encompassed by the explanatory memorandum, “Employees working on weekends or public holidays” should be read broadly so as to include substituted public holidays and the “actual day”. If that is not accepted, it is self-evident that the hours available for work on a weekend substituted Christmas Day, are much more unsocial than the hours on an ordinary weekend. It is plain that the Christmas Day entitlements falls squarely within the scope of this amendment (da). The proposed variation to provide for compensation for working the particularly unsocial hours of Christmas day must be considered carefully given the requirement of s. 134(1)(da).

85. The AMWU submits that an employee required to work on a substituted Christmas Day falling on a weekend would indeed impact their “work/life

balance and enjoyment of life outside of work”.⁵⁷ Christmas is considered the “most meaningful” public holiday for Australians⁵⁸ and is overwhelmingly considered to be a time to spend with friends and family,⁵⁹ with travelling for the purposes of holidaying and visiting family spiking throughout December.⁶⁰ This is in addition to arbitral precedent identifying Christmas Day as a holiday of special significance.

86. The AMWU survey also indicates that working on a Christmas Day could impact on the work/life balance of employees, with one respondent outlining the impact on their family:

“I believe Christmas Day is all about family. When my kids were young it was very difficult. We used to celebrate it early (on my rostered days off) but it was never the same” Respondent # 4977758002

87. Given that the operation of s. 134(1)(da) is aimed at promoting fair compensation for hours that could impact upon an employees overall work/life balance and enjoyment of life outside of work, it is clear that the current awards are not adequately compensating employees for this impost. In this respect, the AMWU submits that the relevant modern awards falls short of meeting the modern awards objective with respect to s. 134(1)(da).

Section 134(1)(e) – The principle of equal remuneration for work of equal or comparable value

⁵⁷ *Fair Work Amendment Bill 2013 – Explanatory Memorandum.*

⁵⁸ Research Summary – McCrindle Research – *Christmas most meaningful to Australians, while we’re spooked by Halloween.*

⁵⁹ McCrindle Research – *“Aussie Sentiment to the Christmas Season”* 2015.

⁶⁰ Australian Bureau of Statistics. 3401.0 - Overseas Arrivals and Departures, Australia, June 2016.

88. The AMWU considers this to be a factor of neutral consideration in our claim.

Section 134(1)(f) – The likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden

89. The financial impact of the AMWU’s claim would be minimal, and would not create any onerous administrative difficulties. It should be noted that Christmas Day only falls on a weekend roughly three times a decade. Between now and 2030, December 25 falls on a weekend only four times. It can hardly be said that this would create any significant impediments to labour costs or productivity, especially given that businesses would be equipped with sufficient time to factor in such an expense before the next weekend Christmas Day in 2021. This year, it would only impact on Victoria.
90. Further, public holiday penalty rates still apply in the A.C.T, Tasmania, N.S.W., Western Australia and South Australia, as those States have gazetted both the actual Christmas Day and the substitute day as public holidays, and public holiday rates continue to apply. Any argument suggesting that the AMWU’s claim would result in an unjustifiable cost burden on business cannot be sustained, as the cost is already met by business in most States.

Section 134(1)(g) – The need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards

91. The AMWU’s proposed clause achieves the necessary clarity as it is based on a clause already in nine modern awards. The AMWU submits that there is no ambiguity, and the clause can be readily and easily understood.

92. In the preliminary issues decision,⁶¹ the Full Bench noted:

“The need for a ‘stable’ modern award system suggests that a party seeking to vary a modern award in the context of the Review must advance a merit argument in support of the proposed variation. The extend of such an argument will depend on the circumstances...where a significant change is proposed it must be supported by a submission which address the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation”⁶²

93. The AMWU submits that we have appropriately discharged the obligation to provide probative evidence about the significance of Christmas Day in the Australian calendar in supporting our claim. The AMWU survey data presents a valuable snapshot going to the attitudes towards public holidays in the relevant industries, and demonstrates an alignment of the views of AMWU members and employees generally the ubiquitous understanding amongst Australians that Christmas Day is a special day. The survey data also showcases the prevalence of weekend work in the manufacturing industries. The submissions present extracts from other modern awards containing Christmas Day loading provisions at Appendix 1, and other entitlements reflecting the significance of Christmas Day for Australia.

94. Section 134(1)(g) also requires the Bench to ensure that a proposed change reflects a “sustainable” modern award system. A sustainable modern award system can be characterised as one which is capable of “operating perpetually”, and “avoiding adverse effects”.⁶³The introduction of the Christmas Day loading entitlement is highly unlikely to adversely impact on the modern awards system. The cost impost on employers is modest,

⁶¹ [2014] FWCFB 1788.

⁶² [2014] FWCFB 1788, at [23].

⁶³ *Macquarie Dictionary* -

https://www.macquariedictionary.com.au/features/word/search/?word=sustainable&search_word_type=Dictionary – Accessed on 23 September 2016.

infrequent, and allows time for employers to factor in the additional costs. If anything, the sustainability of the award system is likely to be benefited by an entitlement which properly recognises the current reality of weekend work, and makes the Christmas day public holiday entitlements more relevant to the 21st Century. Staff absences are also likely to reduce for work on a weekend Christmas Day. The fact that the entitlement has existed in nine other modern awards also significantly refutes any submissions about the likelihood that the claim would have any adverse effect on award sustainability.

Section 134(1)(h) – The likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy

95. Given the infrequency of Christmas Day falling on a weekend, and the fact that most States have legislated or gazetted both 25 December and the substituted day to be the public holiday, it is unlikely that the AMWU claim would have any deleterious effect on s. 134(1)(h) economic factors.

Conclusion

96. Workers in states where 25 December is not a public holiday are excluded from an entitlement to refuse to work on 25 December under the NES. Employers can issue a direction to work on 25 December, which must be complied with by the employee.
97. Christmas Day 25 December when it occurs on a weekend is not just like any other weekend and work on that day should not be compensated as if it were any other weekend. Similarly, just because it falls on a weekend and has been substituted by another day, doesn't mean that Christmas related festivities are moved to the substitute day.
98. Without the variation proposed by the AMWU, the particularly unsocial hours that are worked on 25 December cannot be refused by the employee,

and will not be adequately compensated by the Award for the work that is performed during those unsocial hours.

99. For those employees, which this year only reside in Victoria, who do not benefit from Christmas Day on a weekend having public holiday status, this is a very unfair circumstance.
100. In order to make the Awards fair and relevant safety net for employees, the Commission should make the variations as proposed by the AMWU.

End

20 October 2016

Appendix 1 – List of Modern Awards with separate Christmas Day public holiday provisions (incl. Christmas Day public holiday loading clauses)

Award	Payment of work done Christmas Day	Comment
<i>Animal Care and Veterinary Services Award 2010</i>	Cl. 29.2(h) “When Christmas day falls on a Saturday or Sunday: (i) Permanent full-time and part-time associates required to work on 25 December will receive the Saturday or Sunday rate (as appropriate) plus a loading of 50% (of the ordinary time rate) and be entitled to the benefit of a substitute day”	
<i>Hospitality Industry (General) Award 2010</i>	Cl. 32.2(c) “An employee other than a casual working on Christmas Day when it falls on a weekend, and is not prescribed as a public holiday under the NES will be paid an additional loading of 50% of their applicable ordinary hourly rate for the hours worked on that day and will also be entitled to the benefit of a substitute day”	
<i>Mannequins and Models Award 2010</i>	Cl. 27.3 “In the case of Christmas Day where substitution occurs, work on 25 December will attract an additional loading of half a normal day’s wage for a full day’s work in addition to the Saturday/Sunday rate and the	

	employee will also be entitled to the benefits of the substituted public holiday”	
<i>Registered and Licensed Clubs Award 2010</i>	Cl. 29.3(c) “An employee other than a casual working on Christmas Day when it falls on a weekend will be paid an additional loading of 50% of their ordinary time rate for the hours worked on that day and will also be entitled to the benefit of a substitute day”	
<i>Restaurant Industry Award 2010</i>	Cl. 34.4(d) “An employee other than a casual working on Christmas Day when it falls on a weekend and it is not a prescribed public holiday must be paid an additional loading of 50% of their ordinary time rate for the hours worked on that day and will also be entitled to the benefit of a substitute day.”	
<i>Road Transport and Distribution Award 2010</i>	Cl. 28.2(a) “If Christmas Day falls on a Saturday or Sunday and by force of the NES another day is observed as a public holiday, a full-time or part-time employee who is regularly rostered to work ordinary hours on a Saturday or Sunday will be paid a loading of half a normal day’s wage for a full day’s work in addition to the Saturday/Sunday rate for all ordinary hours worked on 25 December with a minimum of four hours pay. Such employee will also be entitled to the benefit	

	of the substituted public holiday”	
<i>Textile, Clothing, Footwear and Associated Industries Award 2010</i>	CL. 43.2(b) “If Christmas Day falls on a Saturday or Sunday and by force of the NES another day is observed as a public holiday, a full-time worker who is regularly rostered to work ordinary hours on a Saturday or Sunday will be paid a loading of half a normal day’s work in addition to the Saturday/Sunday rate for all ordinary hours worked on 25 December with a minimum of four hours pay. Such an employee will also be entitled to the benefit of the substituted public holiday”	
<i>Timber Industry Award 2010</i>	CL. 36.4(d) “If employees are rostered to work on a Saturday or Sunday that is a Christmas Day and are required to work, the employee will receive the normal Saturday or Sunday rate plus a loading of one-half of a normal day’s wages for the full day’s work and be entitled to the substitute day.”	
<i>Waste Management Award 2010</i>	CL. 32.1 “If Christmas Day falls on a Saturday or Sunday and by force of the NES another day is observed as a public holiday, a full-time worker who is regularly rostered to work ordinary hours on a Saturday or Sunday will be paid a loading of 50% of the relevant minimum	

	wage calculated hourly in addition to the Saturday/Sunday rate for all ordinary hours worked on 25 December with a minimum of four hours pay. Such employee will also be entitled to the benefit of the substituted public holiday”	
<i>Airport Employees Award 2010</i>	28.2(a) “The minimum rate to be paid to a shift worker for rostered work performed on Saturday must be time and a half. Provided that when the Saturday falls on 25 December the rate of double time must be paid”	
<i>Contract Call Centres Award 2010</i>	Cl. 30.2(a) “Where Christmas Day falls on a Saturday or a Sunday, 27 December will be observed as the public holiday instead of the prescribed day.”	Cl. 30.2 only provides for the substitution of Christmas Day, Boxing Day, New Years Day and Australia Day.
<i>Road Transport (Long Distance Operations) Award 2010</i>	Cl. 26.4(a) “...On Good Friday and the Christmas Day holiday – 30% of the applicable minimum weekly rate specified in cl. 13.1”	Cl. 26.4(b) provides for a 20% penalty rate for “any other holiday”.
<i>Airline Operations – Ground Staff Award 2010</i>	Cl. 30.7(a) “Shift workers must be paid the following penalty rates for work on weekends and public holidays... ... Christmas Day and Good Friday – Double time and a half”	All other public holidays are paid at the rate of double time under cl. 30.7. This is also reflected through cl. 37.2.
<i>Meat Industry Award 2010</i>	Cl. 40.2 Employees including casuals who work on: (a) Christmas Day and ANZAC Day will be paid at double the ordinary hourly rate for	In cl. 40.2(b), Good Friday is paid at time and a half for the first four hours and double time thereafter. In

	all time worked”	cl. 40.2(c), any other public holiday is paid at time and a half for the first two hours, and double time thereafter.
<i>Passenger Vehicle Transportation Award 2010</i>	Cl. 23.6(a)(v) in addition to the rates set out in clause 14-Minimum Wages employees engaged on two-driver operations will be paid the following: ... (v) ordinary time plus 25% for all hours of duty on Good Friday and Christmas Day plus an additional eight hours at ordinary time.”	The entitlement for other public holidays is “an additional eight hours at ordinary time where hours of duty are worked on any public holiday other than Good Friday and Christmas Day”
<i>Journalists Published Media Award 2010</i>	Cl. 27.3(b) “If the employee is required to work on Good Friday or Christmas Day, they are entitled to an additional day off work in the fortnight in which that public holiday occurs. An employee and employer may agree to bank that additional day off to be taken at a later time”	Cl. 27.3(a) applies to all other public holidays and provides “an employee receiving additional annual leave in accordance with clause 24.2 is required to work on public holidays at ordinary rates of pay, unless directed to take a day of annual leave in accordance with clause 24.2”
<i>Live Performances Award 2010</i>	Cl. 22.3(a) “For work on Good Friday, Christmas Day and Labour Day or its equivalent in any State or Territory, or on any day substituted for any of those holidays, the employee will be entitled to payment of an amount equivalent	Cl. 22.3(b) provides for other public holidays “For work on other public holidays the employee will be entitled to payment of an amount equivalent to 16.7% of the employee’s

	to 25% of the employee’s weekly wage in addition to the employee’s weekly wage for the week”	weekly wage in addition to the employee’s weekly wage for the week”.
<i>Marine Tourism and Chartered Vessels Award 2010</i>	Cl. 26.3(a) “Christmas Day – Non-overnight Charter Employees who required to work on Christmas Day will be paid triple time for a minimum of four hours.”	Other public holidays are provided for at cl. 26.3(b) “Non-overnight Charter Employees who are required to wok on public holidays other than Christmas Day (in respect of which the provisions in this clause apply) will be paid ordinary time and have an extra day added to their annual leave entitlement, or alternatively, be paid double time for such work”.

Appendix 2 – Tourism Research Australia Domestic Travel Data ⁶⁴

DOMESTIC TRIPS (000)	YEAR ENDING DECEMBER 1998	YEAR ENDING DECEMBER 2000	YEAR ENDING DECEMBER 2002	YEAR ENDING DECEMBER 2004	YEAR ENDING DECEMBER 2006	YEAR ENDING DECEMBER 2008	YEAR ENDING DECEMBER 2010	YEAR ENDING DECEMBER 2012	YEAR ENDING DECEMBER 2014
Total Overnight Trips	73811	73771	75339	74301	73564	72009	69297	74472	81436
Visiting Family	25050	23871	26089	26995	25902	24117	22860	26334	29362
Percentage visiting family	33.94%	32.36%	34.63%	36.33%	35.21%	33.49%	32.99%	35.36%	36.06%
Total Overnight trips	73,811	73,771	75,339	74,301	73,564	72,009	69,297	74,472	81,436
Stayed at family or relatives' property	32,197	31,887	32,960	32,899	31,238	29,231	27,505	30,475	34,182
Percentage stayed at family or relatives' place	43.62%	43.22%	43.75%	44.28%	42.46%	40.59%	39.69%	40.92%	41.97%
Total Day trips	153,130	161,464	142,133	129,568	134,464	138,745	155,942	173,905	164,361
Visiting Family	46,295	47,169	42,372	37,516	38,922	40,375	45,276	51,942	49,741
Percentage of day trips for visiting family	30.23%	29.21%	29.81%	28.95%	28.95%	29.10%	29.03%	29.87%	30.26%

⁶⁴ Calculated using the spreadsheets available <https://www.tra.gov.au/research/domestic-travel-by-australians.html>

Appendix 3 - Proposed Draft Determinations

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3 Division 4 – 4 Yearly Review of Modern Awards

s.156(2)(b)(i)

Manufacturing and Associated Industries and Occupations Award 2010 (MA000010)

Manufacturing and associated industries

AM2014/301 Public Holidays

JUSTICE ROSS
PRESIDENT

MELBOURNE, X XXX 2016

4 yearly review of modern awards – public holidays

[1] Further to the decision and reasons for decision <<decision reference>> in AM2014/301 Public Holidays, it is determined pursuant to section 156(2)(b)(i) of the Fair Work Act 2009, that the Manufacturing and Associated Industries and Occupations Award 2010 be varied as follows.

[2] Renumber clause 44.2 to 44.3.

[3] Renumber clause 44.3 to 44.4.

[4] Insert new clause 44.2:

44.2 When Christmas Day 25 December is substituted for another day

(a) Where Christmas Day 25 December falls on a weekend and is substituted for another day, an employee who works on Christmas Day 25 December will receive payment for that work as if it were a public holiday.

(b) Continuous shiftworkers will receive double time and half for work on Christmas Day 25 December where it falls on a weekend and is substituted for another day. The substitute day will continue to be treated as a public holiday.

[5] This determination will operate on and from 1 XXX 2016.

JUSTICE ROSS, PRESIDENT

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3 Division 4 – 4 Yearly Review of Modern Awards

s.156(2)(b)(i)

Food, Beverage and Tobacco Manufacturing Award 2010 (MA000073)

Manufacturing and associated industries

AM2014/301 Public Holidays

JUSTICE ROSS
PRESIDENT

MELBOURNE, X XXX 2016

4 yearly review of modern awards – public holidays

- [1] Further to the decision and reasons for decision <<decision reference>> in AM2014/301 Public Holidays, it is determined pursuant to section 156(2)(b)(i) of the Fair Work Act 2009, that the Food, Beverage and Tobacco Manufacturing Award 2010 be varied as follows.
- [2] Renumber clause 37.2 to 37.3.
- [3] Renumber clause 37.3 to 37.4.
- [4] Insert new clause 37.2:

37.2 When Christmas Day 25 December is substituted for another day

- (a) Where Christmas Day 25 December falls on a weekend and is substituted for another day, an employee who works on Christmas Day 25 December will receive payment for that work as if it were a public holiday.
 - (b) Continuous shiftworkers will receive double time and half for work on Christmas Day 25 December where it falls on a weekend and is substituted for another day. The substitute day will continue to be treated as a public holiday.
- [5] This determination will operate on and from 1 XXX 2016.

JUSTICE ROSS, PRESIDENT

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3 Division 4 – 4 Yearly Review of Modern Awards

s.156(2)(b)(i)

Graphic Arts, Printing and Publishing Award 2010

(MA000010)

Manufacturing and associated industries

AM2014/301 Public Holidays

JUSTICE ROSS
PRESIDENT

MELBOURNE, X XXX 2016

4 yearly review of modern awards – public holidays

[1] Further to the decision and reasons for decision <<decision reference>> in AM2014/301 Public Holidays, it is determined pursuant to section 156(2)(b)(i) of the Fair Work Act 2009, that the Graphic Arts, Printing and Publishing Award 2010 be varied as follows.

[2] Insert new clause 41.7:

41.7 When Christmas Day 25 December is substituted for another day

(a) Where Christmas Day 25 December falls on a weekend and is substituted for another day, an employee who works on Christmas Day 25 December will receive payment for that work as if it were a public holiday.

(b) An employee in a non-daily or regional daily newspaper office will be paid 50% in addition to the public holiday rate of pay provided for in clause 41.5.

[3] This determination will operate on and from 1 XXX 2016.

JUSTICE ROSS, PRESIDENT

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3 Division 4 – 4 Yearly Review of Modern Awards

s.156(2)(b)(i)

Vehicle Manufacturing, Repair, Services and Retail Award 2010 (MA000010)

Manufacturing and associated industries

AM2014/301 Public Holidays

JUSTICE ROSS
PRESIDENT

MELBOURNE, X XXX 2016

4 yearly review of modern awards – public holidays

[1] Further to the decision and reasons for decision <<decision reference>> in AM2014/301 Public Holidays, it is determined pursuant to section 156(2)(b)(i) of the Fair Work Act 2009, that Vehicle Manufacturing, Repair, Services and Retail Award 2010 be varied as follows.

[2] Renumber clause 32.2 to 32.3.

[3] Renumber clause 32.3 to 32.4.

[4] Insert new clause 32.2:

32.2 When Christmas Day 25 December is substituted for another day

(a) Where Christmas Day 25 December falls on a weekend and is substituted for another day, an employee who works on Christmas Day 25 December will receive payment for that work as if it were a public holiday.

[5] This determination will operate on and from 1 XXX 2016.

JUSTICE ROSS, PRESIDENT

Appendix 4- State Legislation dealing with public holidays

State	Legislation	Effect
NSW	<p>Public Holidays Act 2010⁶⁵</p> <p>“4 Standard public holidays</p> <p>The following public holidays are declared for the whole State:</p> <p>(a) New Year’s Day Public holiday on 1 January. When 1 January is a Saturday or Sunday, there is to be an additional public holiday on the following Monday.</p> <p>(b) Australia Day Public holiday on 26 January. When 26 January is a Saturday or Sunday, there is to be no public holiday on that day and instead the following Monday is to be a public holiday.</p> <p>...</p> <p>(j) Christmas Day Public holiday on 25 December. When 25 December is a Saturday, there is to be an additional public holiday on the following Monday. When 25 December is a Sunday, there is to be an</p>	<p>It is clear from the words in the Act that the Monday or Tuesday after Christmas is to be an “additional” public holiday. The comparison to Australia Day makes it clear that the intention was not to substitute the public holiday.</p>

⁶⁵ <http://www.legislation.nsw.gov.au/#/view/act/2010/115/part2/sec4>

additional public holiday on the following Tuesday.

(k) Boxing Day

Public holiday on 26 December.

When 26 December is a Saturday, there is to be an additional public holiday on the following Monday.

When 26 December is a Sunday, there is to be an additional public holiday on the following Tuesday.

Victoria

Public Holidays Act 1993⁶⁶

6 Public holidays

The following days are appointed as public holidays—

(a) 1 January (New Year's Day);

(b) the Monday after 1 January (New Year's Day) when New Year's Day is a Saturday or Sunday;

(c) 26 January (Australia Day) or the Monday after Australia Day when Australia Day is a Saturday or Sunday;

...

(k) 25 December (Christmas Day) or the Monday after Christmas Day when Christmas Day is a Saturday or the Tuesday after Christmas Day when Christmas Day is a Sunday;

(l) 26 December (Boxing Day);

(m) the Monday after 26 December (Boxing Day)

Christmas day 25 December is substituted for another day if it occurs on a Weekend.

⁶⁶[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/2734F38756506BACCA2578A80080183B/\\$FILE/93-119aa025%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/2734F38756506BACCA2578A80080183B/$FILE/93-119aa025%20authorised.pdf)

Queensland

when Boxing Day is a Saturday or the Tuesday after Boxing Day when Boxing Day is a Sunday.

Holidays Act 1983⁶⁷

2 Public holidays

(1) A public holiday is to be observed on the days set out in the schedule.

(2) Subsection (1) applies subject to section 3.

3 Minister may change public holidays

The Minister may, by Gazette notice, substitute another day for a public holiday under section 2.

...

Schedule

1 January (New Year's Day)

A public holiday is to be observed on 1 January.

2 January

A public holiday is to be observed on 2 January only if 1 January is a Sunday.

3 January

A public holiday is to be observed on 3 January only if 1 January is a Saturday.

26 January (Australia Day)

A public holiday is to be observed on—

(a) 26 January; or

(b) if 26 January is a Saturday or Sunday—the following Monday.

It is clear from the difference in drafting for Australia Day and Christmas Day that both the 25 December and the 27 December are both to be Public Holidays rather than substitute days.

⁶⁷ <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/H/HolidaysA83.pdf>

...

25 December (Christmas Day)

A public holiday is to be observed on 25 December.

26 December (Boxing Day)

A public holiday is to be observed on 26 December.

27 December

A public holiday is to be observed on 27 December only if 25 December is a Saturday or Sunday.

28 December

A public holiday is to be observed on 28 December only if 26 December is a Saturday or Sunday.

Holidays Act 1910⁶⁸

3—Days fixed as holidays

(1) The days mentioned in Schedule 2 will be public holidays and bank holidays but—

(a) when a day mentioned in Part 2 of Schedule 2 falls on a Saturday, the following Monday will be a public holiday instead of that day and that day and the following Monday will be bank holidays; and

(b) when a day mentioned in Part 2 of Schedule 2 falls on a Sunday, that day and the following Monday will be public holidays and bank holidays.

...

Schedule 2

South Australia

Where Christmas Day falls on a Saturday it is substituted by a the following Monday but both are considered bank holidays. However, when it falls on a Sunday, both the 25 December and the Monday are public holidays and bank holidays.

⁶⁸ <https://www.legislation.sa.gov.au/LZ/C/A/HOLIDAYS%20ACT%201910/CURRENT/1910.1010.UN.PDF>

Part 2

1 January.

26 January.

Christmas Day.

Western Australia

Public and Bank Holidays Act 1972⁶⁹

5. Days fixed as public and bank holidays

Subject to this Act, the several days specified, or appointed under the power, in the Second Schedule shall be public holidays and bank holidays throughout the State.

...

Second Schedule — Public and bank holidays

New Year's Day (1st January).

Australia Day (26th January or, when that day falls on a Saturday or Sunday, the first Monday following the 26th January).

Labour Day (Monday on or first Monday following the 1st March).

Good Friday.

Easter Monday.

Anzac Day (25th April).

Western Australia Day (Monday on or first Monday following the 1st June).

Celebration Day for the Anniversary of the Birthday of the Reigning Sovereign (day to be appointed for each year by proclamation published in the

It is clear from the drafting that Australia Day is substituted when it occurs on a weekend. However, Christmas Day 25 December occurring on a weekend results in an additional day also being a Public Holiday.

⁶⁹ [https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:23507H/\\$FILE/Public%20and%20Bank%20Holidays%20Act%201972%20-%20\[02-e0-05\].html?OpenElement](https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:23507H/$FILE/Public%20and%20Bank%20Holidays%20Act%201972%20-%20[02-e0-05].html?OpenElement)

Government Gazette at least 3 weeks before the day so appointed).

Christmas Day (25th December).

Boxing Day (26th December).

When New Year's Day, Anzac Day, or Christmas Day falls on a Saturday or Sunday the next following Monday is also a public holiday and bank holiday.

When Boxing Day falls on a Saturday the next following Monday is also a public holiday and bank holiday.

When Boxing Day falls on a Sunday or Monday the next following Tuesday is also a public holiday and bank holiday.

Tasmania

Statutory Holidays Act 2000⁷⁰

4. Statutory holidays

The following are statutory holidays to be observed as public holidays generally:

(a) New Year's Day (1 January), unless that day falls on a Saturday or Sunday, in which case the Monday following New Year's Day;

(b) Australia Day (26 January), unless that day falls on a Saturday or Sunday, in which case the following Monday;

The different method of drafting for Australia day and boxing day compared to 25 December clearly indicates substitution for Australia Day and Boxing Day, while Christmas Day 25 December occurring on a weekend results in an additional public holiday.

70

(c) the second Monday in March, known as Eight Hours Day or Labour Day;

(d) Good Friday;

(e) Easter Monday;

(f)

(g) Anzac Day (25 April);

(h) the second Monday in June, for the anniversary of the birthday of the Sovereign;

(i) Christmas Day (25 December);

(ia) if Christmas Day falls on a Saturday, the Monday following Christmas Day;

(ib) if Christmas Day falls on a Sunday, the Tuesday following Christmas Day;

(j) Boxing Day (26 December), unless that day falls on a Saturday or Sunday, in which case –

(i) the Monday following Boxing Day, if that day falls on a Saturday; or

(ii) the Tuesday following Boxing Day, if that day

ACT

falls on a Sunday.

Holidays Act 1958⁷¹

3 Public holidays

(1) Subject to subsections (2) and (5)—

(a) in any year each of the following days in that year is a public holiday in the ACT:

(i) 1 January (New Year's day), **and**, if that day falls on a Saturday or Sunday, the following Monday;

(ii) 26 January (Australia Day), **or, if** that day falls on a Saturday or Sunday, the following Monday;

...

(xii) 25 December (Christmas Day) **and**—

(A) if that day falls on a Saturday—the following Monday; or

(B) if that day falls on a Sunday—the following Tuesday;

NT

Public Holidays Act (NT)⁷²

5 Public holidays

Subject to section 7, the days specified in Schedule 2 shall, in each year, be observed as public holidays in the Territory.

...

Schedule 2 Public holidays

section 5

The different method of drafting for Australia day compared to 25 December clearly indicates substitution for Australia Day, while Christmas Day 25 December occurring on a weekend results in an additional public holiday.

Although the legislation does not provide for an additional public holiday when Christmas Day is on 25 December. The Northern Territory Government website advises that the additional holiday has been gazetted.⁷³

The Northern Territory Gazette s78 was published 29 July 2016 and appointed 25 December a public holiday.⁷⁴

⁷¹ <http://www.legislation.act.gov.au/a/1958-19/current/pdf/1958-19.pdf>

⁷² <http://notes.nt.gov.au/dcm/legislat/legislat.nsf/d989974724db65b1482561cf0017cbd2/876121fcec6c6ca369257ee0001f92f6?OpenDocument>

⁷³ https://ocpe.nt.gov.au/about_us/public_holidays_and_long_service_leave

⁷⁴ https://nt.gov.au/_data/assets/pdf_file/0003/362667/s78-2016.pdf

1 January (New Year's Day) or, if that day falls on a Saturday or Sunday, the following Monday

26 January (Australia Day) or, if that day falls on a Saturday or a Sunday, the following Monday

Good Friday

The Saturday following Good Friday

The Monday following Good Friday

25 April (Anzac Day) or, if that day falls on a Sunday, the following Monday

The first Monday in May (May Day)

The second Monday in June

The first Monday in August (Picnic Day)

25 December (Christmas Day) or, if that day falls on a Saturday or Sunday, the following Monday

26 December (Boxing Day) or, if that day falls on a Saturday, the following Monday or, if 26 December falls on a Sunday or Monday, the following Tuesday

Appendix 5 - What makes a Public Holiday Meaningful

Response Text
The meaning of what each day stands for and evenly spaced Long weekend especially if they tie in with school holidays
its meaning such as Labour Day, They are all meaningful to enable time with family as i am a shift worker
Spending time with family and friends
To rest and spend time with family
Family
Spiritual meaning
Celebrating Christ
Day off work
The time to spend with family.
All equally important , to celebrate what they are, but your survey wont let me put a 1 against all of them. Not just a Day Off.
What it represents & what people you celebrate it with
To be with your family and get paid
Culture and remembrance
Spending time with my family and friends
Family time
The meaning of the day.
Extra time with family and friends
Being able to spend time with my family
I think about the country when I have holiday for the country
What it is supposed to observe or celebrate.
Time with family
Its time off
Spend time with family and friends
All public holidays are meaningful
Time off with family

Time to celebrate something with family and friends
I earned it
Time with family and our community
Reason for the day
Tradition.
Family
The way family can get together in a reasonable string of days. Part of series of days like a weekend is much more useful.
a day to celebrate that particular day on the calendar
It is my time to relax & do what I want. Spend time with family & friends.
Enjoy a rest day and being with the family and sometimes go holiday
Extra days off too spend relaxing and enjoying time with family.
Time with the family and reflection of the past
A day not at work but still being paid for it. Except ANZAC day which is a day to pay your respects to those lost at war.
Be able to spend time with my family and enjoying the time off together to celebrate the holiday.
What it celebrates/comemorates
Remembrance of those who have done the country proud and quality family time
Extra time to spend with the family
Time not at work
Having our whole, grown-up family get the same day off to get together.
Represents something that is important to the nation
Getting extra days with my family and friends
Extra time with family to celebrate and reflect.
Family
I would number the above all 1 because all public holidays are meaningful. It gives some workers a chance to spend a bit more time with family and friends as when you are working there is never enough time.
Family togetherness
time to spend with friends and family
I like family orientated public holidays. Family has always been important. But in saying that, I think it also important to remember significant events in our countries history.
Time with family

Extra day off if my roster can allow it otherwise it is a bonus to my pay.
Symbolic meaning of the day, and whether family get together on it.
family
The chance to spend meaningful time with family and friends.
being with family
usually it's a long week end and it's good to have a good break
time off with the family
reason for having the holiday
remembrance of sacafices by people to make the world a safer place to live .
australian /religis's signifiance
Time with Family and friends
Religious meaning birth of Christ
Death of Christ
Anzac day is very important to pay respect to the hero who fought for there country. Australia day is a great day to relax with a bbq and a beer.
Having a family time
The meaning of the day and family time
Extra Family Time
History
time off as a community
Historical importance. National significance . Family orienteered.
Time with family and friends.
Time with family
Melbourne cup should be a public holiday as well
To be able to catch up with friends and family and celebrate the day.
Spending time with family and friends.
Sharing it with familly
Time with family. Long weekend
to me those are the most important to me.
Time off with friends and family
Time off with family
Extra time with family & friends
time with family and recognizing sacrifices of the past.

What it stands for along with friends and family
Middle of winter represents the only public day off in a dry spell of public days off.
Time with family and friends
Symbolism
Public holidays are for the nation to celebrate. Some, Anzac Day in particular define us. As a rotating shift worker I have to work public holidays if rostered on, but I refuse to work Anzac Day.
Being with family
Break
spending it with family
a day off work , penalty rates if it has to be worked
Not to lose sight of the significance of these special days and that all days are not the same. The family comes together on these days.
Spending time with family and having a holiday from work... I get paid
Family time
the fact that the union most likely had to fight for it
I'm indifferent to the reason for the day off as long we get a paid day off. Boxes are numbered in no particular order.
To be with family and friends
a day off to spent with family
Time to celebrate with loved ones
Time with family and friends.
Gives you time to catch up with family or remember a certain event
a day off to recover from the day before.
It gives me a chance to catch up with my family
all holidays are important but don't get work on holidays
Monday or Friday
The timing
To have the time off to relax and spend it with family, while still getting paid.
Getting pay staying home with my family that what my father fore four with the union
Meaning of the public holiday
If it's a religious day or a day of remembrance such as Anzac day
The ability to spend time with my family and friends.

Celebrate the meaning of the public holiday. To be with family. Keep traditional values.
Spending quality time with my family and friends.
The reason for the public holiday, ie: what the day is about!
Being with my family and friends
Personal significance
Remembrance and quality family time.
Pride for our nation.
Religious beliefs, tradition
Time to spend with family
Double time and a half if I work it or single time payment if I don't work.
Time off with my family is precious
a day to forget work and enjoy the day with family and friends,and charge up.
Time with family and friends
Being with family
Time spent with family relaxing away from work
time off with family and friends
They are something I don't get paid for as an employment agency worker but some have an importance to me and my family such as ANZAC Day Labour Day Christmas Day
A chance to celebrate with family and friends
Family
Family
Having a break.celebrate with family and friends special
time for us all to get together. Attend Community events
they are important for the Australian Community. Makes us a community
Family traditions
being able to relax away from work with family and friends celebrating the occasion
time of year
what it represents for family and community
Been with family and friends
Anything to remember the history of our country.
family reunion

Need extra break away from work once in a while. Long weekends are incredibly enjoyable and reinvigorating
The fact that we live in a country that has the forethought to have them in place for starters.
remember the way we got to were we are now. We should never forget the hard work from others to get here.
RDOs, penalty rates, overtime, and commemoration and celebration.
Family time
recognition of the day itself and the meaning to all
The significance and time to be with family & friends.
Depending on which one, a time to reflect, time with family & friends, building memories with my kids!
being able to spend time with family
a Paid Day off
When I have it off.
Take break and spend with family and friend
family time
what it stands for
It has meaning
Not religious or some old Freeloader's birthday
Religious/Historic Significance
family
The sort of public holiday
celebration of the occasion
Time spent with family & friends
Knowing I can spend time with extended family.
Family time.
if i actually get paid for the day off.
They are all meaningful. it gives you time to be with your family remembering the reasons behind the particular holiday
Being paid it. Even when not rostered on that day
Family time
Family time
The change and rest from the normal everyday patten.

Day off with family and getting paid for it
Family
Depending on what the day represents, a paid holiday.
Rest, family/friends time
Chance to get away with Family and friends
Family time, Day of work
To reflect on past and present
Family and friends
A BREAK FROM WORK FOR SPECIAL DAYS
Time off to live life and relax
Respecting those days for whatever your beliefs are.
day of
A family day. I work nights so I rarely see them.
It's something to look forward to in a bleak monotonous working life.
Usually a time to be with family, catch up with friends, go on outings, catch up on work around the home
Day off to spend time with my family
Remembering.
Time spent with family
Long weekend off work
Being able to spend more time with my family. I am not religious so don't care about the religious beliefs but will take the long breaks
spending quality time with family and friends
Time to catch up with family and friends
Time when family can come together
Having quality time to spend with the family.
Time spent with family
the occasion it is for
The particular meaning of the day
Day of rest and reflection.

Time spent with family
Time with friends and family and to reflect on the past
Time off with family
Getting the day off to spend with family and/or friends

Appendix 6 – Please describe your experience of working on Christmas Day

Please describe your experience of working on Christmas Day
Frustrating and could only celebrate with family for dinner
missed family
Terrible
If it falls on a day that I am rosterd on I work it
Shit house. This year i finish work 12pm Christmas eve then have to start 6pm Christmas day
Away from home and family. Crap
Unpleasant Christmas should be with family and love ones
Missing out on the kids opening presents and catching up with close family, you will never get that time missed back.
Was a hard time knowing that family and friends were celebrating while I was working and not been there to see my kids open there present
Hard to keep mind on job.
Shit
Triple time and still celebrate xmas
Everyone on site moped about because they were not able to be with their family and friends
My family all opened presents etc before I had to fly out so I could see everyone's joy especially my kids on the day. But I couldn't be there at the extended family Christmas lunch at my parents place with my brothers and their families.
Bored was only there incase something went wrong nobody did any work
Shit
Wrong not being with my family
sad not to be at home with family and friends
I was on 24hr breakdown roster for the two week period of Christmas & New Year 2002
long and tiring
Continuous shiftwork , The employer put on Christmas lunch which is more than what a lot of people get.
same pay, missed family time , location Saudi Arabia. not happy Jan.
it's difficult to be at work when the family and friends are at home celebrating. It is harder when you have young children as they don't understand why daddy can't be there
A total waste of time, no one wanted to be there
The whole family was celebrating without me and I missed a lot.
It was a case of being on call. I was able to be home for most of the day
Boring

We make it the best we can, but with a younger family it does give you a feeling of guilt. Missing those moments. You can never get that time back.
Working with a small crew on christmas day, we make it fun which helps in boosting moral if someone feels they are missing out on their family festivities.
My past experience has been to have christmas a day earlier or just make the best of the situation.
it has been a call out to repair refrigeration plant as everyone else has been away for the break it has happened on a few occasions
we work 4 on 4 off, the public holidays rotate around the shifts. it is good to be able to spend time off with your family.
partner and I worked shorter shift together,
due to nature of that particular job and pay structure of that job i had no issues
in defence force good experince understood we had to be there
It was hard due to being away from family.
I didn't really enjoy it as I didn't get to spend much time with my family
Feel sad as family and friends are celebrating.
Hated it. I felt like I had let my family down
Didn't care as not religious and well before I had a family
430 am until 230 pm and on call but go home if nothing is on.
very easy day at work doing the minium
Ok half day on fish farm so fish don't stop
I believe Christmas Day is all about family. When my kids were young it was very difficult. We used to celebrate it early (on my rostered days off) but it was never the same.
Depressing.
whole lot of horse shit
Unpleasent, missed out on the significant events with family members, missed ot on being there with them. To top it off, the "urgent" job that "had" to be done, did not get collected until the new year either.
is necessary psrt of shiftwork but feel sad for my kids
Depressing
Disappointed not being able enjoy the day with family
Sad
It feels weird working Christmas. While other people relax and enjoy the day, I couldn't because I knew I had to go to work.
Shit the jobs that run by off shore people no respect for Australia rights let's take chevron and Bechtel that think Australia people are lazy
Not pleasant
Fucken shit !!!

Being a shift worker, I have worked many Christmas days. Though I have only occasionally worked really hard.
Just another day.
Lonely
Just another day, a bit harder now I have kids but that's life.
I was a shift worker, before I was married. I would have preferred to spend the time with my family but being young and single I usually copped Christmas so that people with kids could have the day off.
On call
It was when I worked on the railways in NSW Pre children and would volunteer my services for that day so the comrades I worked with who had kids could spend that special day with their kids. The extra payment for working never entered the equation. It was a bit of a hassle to meet up with relatives and friends after work as you were tired after working a shift but you always made sure that you turned up
Total waste of my time and companys
It was okay once I was there but I would have preferred not to work it. I was working in a hospital at the time so it was a case of someone needing to do it and I actually worked Xmas Day a few times. From memory I worked once when it fell on a Saturday so I got paid weekend rates but people who worked on the Monday got paid more. That sucked a bit.
quiet and lonely
Didn't bother me at the time as I didn't have kids.
FIFO work standard practice if it falls in your roster cycle.
Miss the get together with family and friends. Son's birthday on Boxing day. Why we actually have Christmas
Hard , but sometimes a job requirement
Unnecessary. Short shift late start early finish
Bit of a broken day as far as family goes. But it is pleasing to help people out on the day. You only would do it for the money.
hard
Just another day only with better pay
crap
couldn't wait to get home
Very Depressing
aweful....
Another day but missed kids opening presents
Pain in the butt! Can only do bandaid repairs, then wait for the supplier to open after their Christmas break
Very boring
Shit
No problem just quiet
not good

Don't do anything just to keep the mine open
It's not fun but i was on rotating shift and it was my turn and was factored into my average shift allowance
As an atheist not bothered about xmas
Fun. Got double time and a half.
Not very nice
discusting
Extremely Sad.
Terrible experience
Wurst day of work extreamly hard being away

Appendix 7 – What do you normally do on Christmas day?

Response Text
Family gatherings lunch and dinner
family breakfast lunch and dinner get together
Family and friends having dinner and drinks
Kids opening presents
Spend with family
Spend the day with my kids
Being seperated try to spend time with my children
travel
Christmas lunch with relos and visit friends that I haven't seen that often in the year
Celebrate with family way to much food
Xmas lunch with my family
Spend time with family.
Celebrate the birth of Christ, dont you normally celebrate your birthday
Family catch up
Eat & drink with a family get together
Eat and drink and family fun
Visit my friends who celebrate Christmas.
Spending time with close family and celebrate Christmas together
Celebrate with family and friends and watch my kids open there presents
Launch sustained and vicious as assaults on grubs
Celarate the birth of Christ and family
Family time
Eat and drink with family and friends
Spend the day with my family enjoying their company
Prayer
Cook breakfast on the barbie, open presents, visit parents for lunch with them and relatives and catch up on what is going on.
See family
Spend time with family and friends

Family and friends
Family time
Missing out on family
Christmas mass and spending time with family
Work
Celebrate with family and friends
Family events
Spend with family
Spend time with family
Spend time with family members
Family gathering spend time with family and friends
a day spent with family and friends
Spend time with family. Eat & drink lots.
going long holiday and enjoy the days with family and friends
Spend the day with family
Visit the sister in-law's for a family gathering.
Have a family Christmas lunch and spend time with the family.
Family catch ups, barbecue, drinks
Celebrate with family. Some I only get to see at Christmas.
Spend time with the family
celebrate with family attend church service
Have a special breakfast, open a few presents, meet family, open rest of presents and have lunch
Spend time with family
Eat, drink, laugh.
Family and friends gathering
Have a gathering with family or friends. If I am able to get holidays I fly home and see my family. If not I stay where I am and see my friends
Celebrate with family
Visit distant relatives
Enjoy time with family
Have Christmas lunch
Visit Family.
spend time with family and friends
time with family
spend time with as many family members as possible

spend it with family
Spend it with my family
At home I presume ? Open presents with kids in the morning . Go to parents for either lunch or dinner and vis versa to my partners parents
Christmas morning watch my child open their presents.
Have the rest of the family round for Christmas lunch then enjoy the rest of the day.
Go to family's house
Spent with family
Spend time with family.
we have all the family down for a few days have xmas dinner , great time ,
be with family for get togethers (as family are away through the year) and have meals together
sometimes U have to work, other times I can celebrate with the family
relax work is very busy leading into chritmas
celebrate with family
no
Time with family
Spend time with family and friends
LUNCH WITH FAMILY AND FRIENDS
Family orentated day.
Visit our worshipping place, Temple
Catch up with family
Family Time
Family
eat better food than usual drink more than usual watch children with there presents
Family get together.
Spend quality time with friends and family.
Have a family gathering for lunch and dinner
Spent with family and friends
Spend time with the family.
BBQ, games
Go to church
Spend the day with my kids and immediate family
celabrate the meaning of birth

Eat drink sleep
Open presents
spend time with family
family day
Celabrate with my family & enjoy a good lunch
meet up with family for lunch and spend time with each other
Celebrate with friends and family
Celebrate with family from midmorning into the early evening
family lunch
Drink up and eat.
Visit family have dinner
reflect
Celebrate with family and friends if not working.
Have a family gathering.
spend with family
enjoy
Family get together
Go to church, spend the day with kids opening presents, visiting or hosting lunch for family and friends
Attend Christmas Mass and a Day eating and spending time with family here at home or overseas
Have a family feast. Gifts
celebrate with a family gathering
Go to my wife's families Christmas lunch.
Spend the day with family
Christmas lunch with family and friends
Spend time with family and friends.
Catch up with family
stay home. do household chores. have a drink after tea.
Catch up with family
spen time with family
Visit family.
Nothing
Try to sleep in, then open presents and then prepare for a nice big lunch with family.
Spent time with my great family
Visit and spend time with family

Attend Christmas Mass & spend time with family.
Celebrate with family.
Eat and visit.
Spend the day with family
Spend it with my family and friends
Family
Family get-together
Get together with family
Presents, Christmas lunch and dinner.
Family or work.
Family gathering, dinner
Chrissy lunch with family
Family gathering
BBQ with wife and kid. Very quite day at home.
Lunch with family and friends.
relax with Family and friends.
Spend the day with family
Have lunch with family and open present
Spend quality time with family and friends
celebrate with family
Celebrate with family and friends.
Celebrate with immediate family
Celebrate with family
My kids come around for breakfast. The rest of the day varies.
Eat and be merry
Allows our family and friends to get together
enjoy the day with family
family day
spend time with family
Spend with family
Spend time with family. Few beers and spoil the kids
picnic
Time with family
Family get together. Lunch or dinner.

Celebrate with family
Meet everyone, Midnight mass. Eat and help each other out and others that are less fortunate.
Welders TA usual work
Work
Celebrate with family
Go to church and have a family get together.
Celebrate with family & friends,
However the need for business to be open is ridiculous, we do not need shops open every single day to survive, everyone is entitled to have this day off doing & celebrating however they see fit!
spend time with family
Usually would have to work. Catch up with family around work hours.
Family time
Party ! 🍷
family
with family
Nothing
Commemorate the day the magi presented the gifts to Christ buy the giving of gifts to family.
Family
Day with family
celebrate with family
Celebrate with family
Spend time with extended family.
Spend time with family
Have a meal/gathering with all the extended family
spend it with family.
Spend time with family
Spend time with family
A day with fame and friends
Spend time with family
With family
Family Dinner
Family day.
Relax with family

Send time with the inlaws
Spend time with the family on holidays.
Have xmas lunch with grand kids
Spend time with family and friends
Fucking work.
FAMILY DAY
CATCH UP WITH FAMILY AND FRIENDS
Family time and catch up with friends etc.
Family lunch and Dinner.
BBQ with family
Spend time with family, play our musical instruments and sing until we're hoarse.
Be with family
Have drinks with friends
Family day.
Eat, drink and be merry with family
Watch tv
Family stuff
Spend it with my family
Family get together
spend time with family having a lunch
spend it with family
Celebrate with family
Get together with family and friends
Spend time with family and friends
lunch/dinner with family
Family gathering
Celebrate with family and friends.
Family breakfast the lunch with in laws the friends for tea
Family lunch
Spend the day with my family having lunch and dinner together.

Appendix 8 – All responses to open ended questions by respondent ID

RespondentID	What makes a public holiday meaningful to you? - Open-Ended Response	Please describe your experience of working on Christmas Day - Open-Ended Response	What do you normally do on Christmas Day? - Open-Ended Response
5035620992	The meaning of what each day stands for and evenly spaced Long weekend especially if they tie in with school holidays	Frustrating and could only celebrate with family for dinner	Family gatherings lunch and dinner
5016878228	its meaning such as Labour Day, They are all meaningful to enable time with family as i am a shift worker	missed family	family breakfast lunch and dinner get together
5014175185	Spending time with family and friends		Family and friends having dinner and drinks Kids opening presents
5011452954			Spend with family
5011452619		Terrible	Spend the day with my kids
5011430245			
5010416378	To rest and spend time with family	If it falls on a day that I am rosterd on I work it	
5010377193	Family	Shit house. This year i finish work 12pm Christmas eve then have to start 6pm Christmas day	Being seperated try to spend time with my children
5010337696			travel
5009675496	Spiritual meaning		Christmas lunch with relos and visit friends that I haven't seen that often in the year
5009546983	Celebrating Christ		Celebrate with family way to much food
5009525529	Day off work		Xmas lunch with my family
5009475973	The time to spend with family.		Spend time with family.
5009330429	All equally important , to celebrate what they are, but your survey wont let me put a 1 against all of them. Not just a Day Off.		Celebrate the birth of Christ, dont you normally celebrate your birthday

5009209036		Away from home and family. Crap	Family catch up
5007917374	What it represents & what people you celebrate it with		Eat & drink with a family get together
5007617900	To be with your family and get paid	Unpleasant Christmas should be with family and love ones	Eat and drink and family fun
5007548930	Culture and remembrance		Visit my friends who celebrate Christmas.
5007490956	Spending time with my family and friends	Missing out on the kids opening presents and catching up with close family, you will never get that time missed back.	Spending time with close family and celebrate Christmas together
5007488265		Was a hard time knowing that family and friends were celebrating while I was working and not been there to see my kids open there present	Celebrate with family and friends and watch my kids open there presents
5007456843	Family time		Launch sustained and vicious as assaults on grubs
5007398310	The meaning of the day.	Hard to keep mind on job.	Celarate the birth of Christ and family
5007359758		Shit	Family time
5007347400	Extra time with family and friends	Triple time and still celebrate xmas	Eat and drink with family and friends
5007335476	Being able to spend time with my family	Everyone on site moped about because they were not able to be with their family and friends	Spend the day with my family enjoying their company
5007333586	I think about the country when I have holiday for the country		Prayer
5007307398	Time with family	Bored was only there incase something went wrong nobody did any work	See family
5007304702	What it is supposed to observe or celebrate.	My family all opened presents etc before I had to fly out so I could see everyone's joy especially my kids on the day. But I couldn't be there at the extended family Christmas lunch at my parents place with my brothers and their families.	Cook breakfast on the barbie, open presents, visit parents for lunch with them and relatives and catch up on what is going on.

5007293752	Its time off		Spend time with family and friends
5007273582	Spend time with family and friends	Shit	Family and friends
5007271689	All public holidays are meaningful		Family time
5007267851	Time off with family		Missing out on family
5007266577	Time to celebrate something with family and friends		Celebrate with family and friends
5007261504	I earned it	Wrong not being with my family	Work
5007258897	Reason for the day		Family events
5007258617	Tradition.		Spend with family
5007258382	Time with family and our community		Christmas mass and spending time with family
5007258166			Spend time with family
5007258040	Family		Spend time with family members
5006998274	The way family can get together in a reasonable string of days. Part of series of days like a weekend is much more useful.		Family gathering spend time with family and friends
4998120337	a day to celibrate that particular day on the calender	sad not to be at home with family and friends	a day spent with family and friends
4993906577	It is my time to relax & do what I want. Spend time with family & friends.	I was on 24hr breakdown roster for the two week period of Christmas & New Year 2002	Spend time with family. Eat & drink lots.
4988625421	Enjoy a rest day and being with the family and sometimes go holiday		going long holiday and enjoy the days with family and friends
4987654105	Extra days off too spend relaxing and enjoying time with family.		Spend the day with family
4985906834	Time with the family and reflection of the past	long and tiring	
4985440267			
4985417794	Be able to spend time with my family and enjoying the time off together to celebrate the holiday.		Have a family Christmas lunch and spend time with the family.

4985057820	A day not at work but still being paid for it. Except ANZAC day which is a day to pay your respects to those lost at war.		Visit the sister in-law's for a family gathering.
4983362227			Family catch ups, barbecue, drinks
4983213101	What it celebrates/comemorates	Continuous shiftwork , The employer put on Christmas lunch which is more than what a lot of people get.	Celebrate with family. Some I only get to see at Christmas.
4983153057	Remembrance of those who have done the country proud and quality family time		Spend time with the family
4982791944		same pay, missed family time , location Saudi Arabia. not happy Jan.	celebrate with family attend church service
4982600655	Extra time to spend with the family	it's difficult to be at work when the family and friends are at home celebrating. It is harder when you have young children as they don't understand why daddy can't be there	Have a special breakfast, open a few presents, meet family, open rest of presents and have lunch
4982518992	Time not at work	A total waste of time, no one wanted to be there	Spend time with family
4982340426	Having our whole, grown-up family get the same day off to get together.	The whole family was celebrating without me and I missed a lot.	Eat, drink, laugh.
4982332891	Represents something that is important to the nation	It was a case of being on call. I was able to be home for most of the day	Family and friends gathering
4981676133			Have a gathering with family or friends. If I am able to get holidays I fly home and see my family. If not I stay where I am and see my friends
4981363155	Getting extra days with my family and friends		Celebrate with family
4980513273	Extra time with family to celebrate and reflect.		Visit distant relatives
4980507179			Enjoy time with family
4980469030	Family	Boring	Have Christmas lunch

4980456278			Visit Family.
4980354776	I would number the above all 1 because all public holidays are meaningful. It gives some workers a chance to spend a bit more time with family and friends as when you are working there is never enough time.		spend time with family and friends
4980301333			time with family
4980256520			
4980173947	Family togetherness		spend time with as many family members as possible
4980141834	time to spend with friends and family		spend it with family
4979971061	I like family orientated public holidays. Family has always been important. But in saying that, I think it also important to remember significant events in our countries history.		Spend it with my family
4979967963	Time with family	We make it the best we can, but with a younger family it does give you a feeling of guilt. Missing those moments. You can never get that time back.	At home I presume ? Open presents with kids in the morning . Go to parents for either lunch or dinner and vis versa to my partners parents
4979955026	Extra day off if my roster can allow it otherwise it is a bonus to my pay.	Working with a small crew on christmas day, we make it fun which helps in boosting moral if someone feels they are missing out on their family festivities. My past experience has been to have christmas a day earlier or just make the best of the situation.	Christmas morning watch my child open their presents. Have the rest of the family round for Christmas lunch then enjoy the rest of the day.
4979875404	Symbolic meaning of the day, and whether family get together on it.		Go to family's house
4979827672	family		Spent with family

4979813802	The chance to spend meaningful time with family and friends.		Spend time with family.
4979803691			
4979737701	being with family		we have all the family down for a few days have xmas dinner , great time ,
4979338870	usually it's a long week end and it's good to have a good break	it has been a call out to repair refrigeration plant as everyone else has been away for the break it has happened on a few occasions	be with family for get togethers (as family are away through the year) and have meals together
4979316638	time off with the family	we work 4 on 4 off, the public holidays rotate around the shifts. it is good to be able to spend time off with your family.	sometimes U have to work, other times I can celebrate with the family
4979303179	reason for having the holiday	partner and I worked shorter shift together,	relax work is very busy leading into chritmas
4979087445	remembrance of sacafices by people to make the world a safer place to live .		celebrate with family
4979071868	australian /religis's signifiante	due to nature of that particular job and pay structure of that job i had no issues	no
4979033521			Time with family
4978996048	Time with Family and friends		Spend time with family and friends
4978882934	Religious meaning birth of Christ Death of Christ		LUNCH WITH FAMILY AND FRIENDS
4978787870	Anzac day is very important to pay respect to the hero who fought for there country. Australia day is a great day to relax with a bbq and a beer.		Family orentated day.
4978460148	Having a family time		Visit our worshipping place, Temple
4978433504	The meaning of the day and family time		Catch up with family
4978425052	Extra Family Time		Family Time
4978416573	History		Family
4978316774	time off as a community	in defence force good experince understood we had to be there	eat better food than usual drink more than usual watch children with there presents

4978308394	Historical importance. National significance . Family orienteered.		Family get together.
4978300767	Time with family and friends.	It was hard due to being away from family.	Spend quality time with friends and family.
4978264846	Time with family	I didn't really enjoy it as I didn't get to spend much time with my family	Have a family gathering for lunch and dinner
4978257904	Melbourne cup should be a public holiday as well		Spent with family and friends
4978218908	To be able to catch up with friends and family and celebrate the day.		Spend time with the family.
4978201879	Spending time with family and friends.	Feel sad as family and friends are celebrating.	BBQ, games
4978200614	Sharing it with family		Go to church
4978157946	Time with family. Long weekend	Hated it. I felt like I had let my family down	Spend the day with my kids and immediate family
4978103232	to me those are the most important to me.		celebrate the meaning of birth
4978082471	Time off with friends and family	Didn't care as not religious and well before I had a family	Eat drink sleep
4978081639	Time off with family		Open presents
4978069388			
4978017425			spend time with family
4977985815			family day
4977948849	Extra time with family & friends		Celebrate with my family & enjoy a good lunch
4977947627	time with family and recognizing sacrifices of the past.	430 am until 230 pm and on call but go home if nothing is on.	meet up with family for lunch and spend time with each other
4977927566			
4977925377			
4977867168	Middle of winter represents the only public day off in a dry spell of public days off.		Celebrate with family from midmorning into the early evening

4977865458	What it stands for along with friends and family		Celebrate with friends and family
4977865073		very easy day at work doing the minium	family lunch
4977838280			Drink up and eat.
4977808123	Time with family and friends	Ok half day on fish farm so fish don't stop	Visit family have dinner
4977807854	Symbolism		reflect
4977771943			
4977758002	Public holidays are for the nation to celebrate. Some, Anzac Day in particular define us. As a rotating shift worker I have to work public holidays if rostered on, but I refuse to work Anzac Day.	I believe Christmas Day is all about family. When my kids were young it was very difficult. We used to celebrate it early (on my rostered days off) but it was never the same.	Celebrate with family and friends if not working.
4977743144	Being with family	Depressing.	Have a family gathering.
4977737060			
4977701112	Break		
4977661621	spending it with family		spend with family
4977545152	a day off work , penalty rates if it has to be worked	whole lot of horse shit	enjoy
4977162323			Family get together
4976973775	Not to lose sight of the significance of these special days and that all days are not the same. The family comes together on these days.	Unpleasant, missed out on the significant events with family members, missed ot on being there with them. To top it off, the "urgent" job that "had" to be done, did not get collected until the new year either.	Go to church, spend the day with kids opening presents, visiting or hosting lunch for family and friends
4976870248	Spending time with family and having a holiday from work... I get paid		Attend Christmas Mass and a Day eating and spending time with family here at home or overseas
4976840029	the fact that the union most likely had to fight for it		celebrate with a family gathering
4976838933	Family time	is necessary psrt of shiftwork but feel sad for my kids	Have a family feast. Gifts

4976798611	I'm indifferent to the reason for the day off as long we get a paid day off. Boxes are numbered in no particular order.		Go to my wife's families Christmas lunch.
4976668051	To be with family and friends	Depressing	Spend the day with family
4976548088	a day off to spent with family		
4976546745	Time to celebrate with loved ones	Disappointed not being able enjoy the day with family	Christmas lunch with family and friends
4976501210	Time with family and friends.		Spend time with family and friends.
4976440767	Gives you time to catch up with family or remember a certain event		Catch up with family
4976437760	It gives me a chance to catch up with my family	Sad	Catch up with family
4976436337	a day off to recover from the day before.		stay home. do household chores. have a drink after tea.
4976423696	all holidays are important but don't get work on holidays		spen time with family
4976422719	Monday or Friday		Visit family.
4976419586	The timing		Nothing
4976409231	To have the time off to relax and spend it with family, while still getting paid.	It feels weird working Christmas. While other people relax and enjoy the day, I couldn't because I knew I had to go to work.	Try to sleep in, then open presents and then prepare for a nice big lunch with family.
4976396646	Meaning of the public holiday		Visit and spend time with family
4976390700	Getting pay staying home with my family that what my father fore four with the union	Shit the jobs that run by off shore people no respect for Australia rights let's take chevron and Bechtel that think Australia people are lazy	Spent time with my great family
4976374770	The ability to spend time with my family and friends.		Eat and visit.
4976374467	If it's a religious day or a day of remembrance such as Anzac day		Attend Christmas Mass & spend time with family.

4976366535	Spending quality time with my family and friends.		Spend the day with family
4976348266	Celebrate the meaning of the public holiday. To be with family. Keep traditional values.		Celebrate with family.
4976343509		Not pleasant	Family
4976339101	The reason for the public holiday, ie: what the day is about!		Family get-together
4976338785	Being with my family and friends	Fucken shit !!!	Spend it with my family and friends
4976324943	Personal significance		Get together with family
4976324334	Remembrance and quality family time.	Being a shift worker, I have worked many Christmas days. Though I have only occasionally worked really hard.	Presents, Christmas lunch and dinner.
4976297468	Pride for our nation.	Just another day.	Family or work.
4976290252	Religious beliefs, tradition		Family gathering, dinner
4976221618	Time to spend with family		Chrissy lunch with family
4976207861		Lonely	Family gathering
4976189879	Double time and a half if I work it or single time payment if I don't work.	Just another day, a bit harder now I have kids but that's life.	BBQ with wife and kid. Very quite day at home.
4976183791	Time off with my family is precious	I was a shift worker, before I was married. I would have preferred to spend the time with my family but being young and single I usually copped Christmas so that people with kids could have the day off.	Lunch with family and friends.
4976183220	a day to forget work and enjoy the day with family and friends, and charge up.		relax with Family and friends.
4976176472	Time with family and friends	On call	Spend the day with family
4976166949	Being with family		Have lunch with family and open present
4976159836	Time spent with family relaxing away from work		Spend quality time with family and friends
4976156207	time off with family and friends		celebrate with family

4976153225			
4976140764	A chance to celebrate with family and friends		Celebrate with immediate family
4976134421	Family	Total waste of my time and companys	Cellebrate with family
4976133071	They are something I don't get paid for as an employment agency worker but some have an importance to me and my family such as ANZAC Day Labour Day Christmas Day	It was when I worked on the railways in NSW Pre children and would volunteer my services for that day so the comrades I worked with who had kids could spend that special day with their kids. The extra payment for working never entered the equation. It was a bit of a hassle to meet up with relatives and friends after work as you were tired after working a shift but you always made sure that you turned up	Celebrate with family and friends.
4976129373	Family		Eat and be merry
4976125797	Family traditions	It was okay once I was there but I would have preferred not to work it. I was working in a hospital at the time so it was a case of someone needing to do it and I actually worked Xmas Day a few times. From memory I worked once when it fell on a Saturday so I got paid weekend rates but people who worked on the Monday got paid more. That sucked a bit.	My kids come around for breakfast. The rest of the day varies.
4976125220	Having a break.celebrate with family and friends special time for us all to get together. Attend Community events they are important for the Australian Community. Makes us a community		Allows our family and friends to get together
4976122442	time of year		family day
4976119566	being able to relax away from work with family and friends celebrating the		enjoy the day with family

	ocaision		
4976119325			
4976117502	what it represents for family and community	quiet and lonely	spend time with family
4976117013	Been with family and friends		Spend with family
4976112840			
4976099939			
4976099233	Anything to remember the history of our country.	Didn't bother me at the time as I didn't have kids.	Spend time with family. Few beers and spoil the kids
4976087237	Need extra break away from work once in a while. Long weekends are incredibly enjoyable and reinvigorating		Time with family
4976086764	family reunion		picnic
4976085848			Family get together. Lunch or dinner.
4976081205	remember the way we got to were we are now. We should never forget the hard work from others to get here.	Miss the get together with family and friends. Son's birthday on Boxing day. Why we actually have Christmas	Meet everyone, Midnight mass. Eat and help each other out and others that are less fortunate.
4976071020	recognition of the day itself and the meaning to all		Celebrate with family
4976070811	Family time	Unnecessary. Short shift late start early finish	Work
4976069477	RDOs, penalty rates, overtime, and commemoration and celebration.	Hard , but sometimes a job requirement	Welders TA usual work
4976063081	The significance and time to be with family & friends.		Go to church and have a family get together.
4976059671	Depending on which one, a time to reflect, time with family & friends, building memories with my kids!		Celebrate with family & friends, However the need for business to be open is ridiculous, we do not need shops open every single day to survive, everyone is entitled to have this day off doing & celebrating

			however they see fit!
4976056089	being able to spend time with family		spend time with family
4976053054	a Paid Day off		Family time
4976050504	The fact that we live in a country that has the forethought to have them in place for starters.	FIFO work standard practice if it falls in your roster cycle.	Celebrate with family
4976050101	When I have it off.	Bit of a broken day as far as family goes. But it is pleasing to help people out on the day. You only would do it for the money.	Usually would have to work. Catch up with family around work hours.
4976049412	Take break and spend with family and friend		Party ! 🖐
4976042515	what it stands for		with family
4976039498	It has meaning Not religious or some old Freeloader's birthday	Just another day only with better pay	Nothing
4976032987	family time	hard	family
4976028370	Religious/Historic Significance		Commemorate the day the magi presented the gifts to Christ buy the giving of gifts to family.
4976025949	family	crap	Family
4976025702	The sort of public holiday		Day with family
4976022614	celebration of the occasion	couldn't wait to get home	celebrate with family
4976018230	Time spent with family & friends		Celebrate with family
4976015762	Knowing I can spend time with extended family.		Spend time with extended family.
4976013055	Family time.	Very Depressing	Spend time with family
4976011519	if i actually get paid for the day off.	aweful....	spend it with family.

4976008401	They are all meaningful. it gives you time to be with your family remembering the reasons behind the particular holiday		Have a meal/gathering with all the extended family
4976007646	Being paid it. Even when not rostered on that day		Spend time with family
4976006524	Family time	Another day but missed kids opening presents	
4976004852	Family		With family
4976004329	The change and rest from the normal everyday patten.		Spend time with family
4976003621	Family time		Spend time with family
4976003118			Family Dinner
4976003068	Day off with family and getting paid for it	Pain in the butt! Can only do bandaid repairs, then wait for the supplier to open after their Christmas break	A day with fame and friends
4976002717	Depending on what the day represents, a paid holiday.		Family day.
4976002295	Rest, family/friends time		Relax with family
4976000860	Chance to get away with Family and friends		Send time with the inlaws
4976000207	Family time, Day of work		Spend time with the family on holidays.
4975994906			Spend time with family and friends
4975992003	To refleck on past and presant	Very boring	Have xmas lunch with grand kids
4975990504	Family and friends	Shit	Fucking work.
4975989448			FAMILY DAY
4975989147	Time off to live life and relax		BBQ with family
4975987948	day of	not good	
4975987655	A BREAK FROM WORK FOR SPECIAL DAYS		CATCH UP WITH FAMILY AND FRIENDS
4975985695	Respecting those days for whatever your beliefs are.	No problem just quiet	Family time and catch up with friends etc.

4975985171	It's something to look forward to in a bleak monotonous working life.		Spend time with family, play our musical instruments and sing until we're hoarse.
4975983568	Usually a time to be with family, catch up with friends, go on outings, catch up on work around the home		Be with family
4975981840	Remembering.		Family day.
4975980572	A family day. I work nights so I rarely see them.		Family lunch and Dinner.
4975979379	Day off to spend time with my family	Don't do anything just to keep the mine open	Have drinks with friends
4975978306	Time spent with family		Family stuff
4975977742	Long weekend off work	As an atheist not bothered about xmas	Watch tv
4975976771	Being able to spend more time with my family. I am not religious so don't care about the religious beliefs but will take the long breaks	Fun. Got double time and a half.	Spend it with my family
4975976225			Family get together
4975975589		It's not fun but i was on rotating shift and it was my turn and was factored into my average shift allowance	Eat, drink and be merry with family
4975973986	spending quality time with family and friends	Not very nice	spend it with family
4975972844	Time to catch up with family and friends	discusting	spend time with family having a lunch
4975971754	Time when family can come together		Celebrate with family
4975971151	Having quality time to spend with the family.		Get together with family and friends
4975969573	the occasion it is for		lunch/dinner with family
4975969031		Terrible experience	
4975968792	Day of rest and reflection.	Extremely Sad.	Celebrate with family and friends.
4975968486	The particular meaning of the day		Family gathering
4975967781	Time spent with family		Spend time with family and friends

4975966962	Time spent with family		Family lunch
4975965210	Time with friends and family and to reflect on the past	Wurst day of work extreamly hard being away	Family breakfast the lunch with in laws the friends for tea
4975961622	Time off with family		
4975961498	Getting the day off to spend with family and/or friends		Spend the day with my family having lunch and dinner together.

[Link to Appendix 9 - spreadsheet](#)