



Christmas/New Year Closedown

A commentary Christmas/New Year closedowns by Tony McKone – 10 October 2014

A recent article in the Sydney Morning Herald (2 Oct 2014) reported on staff being forced to take their annual leave when business is quiet after Christmas. The article went on to report that this makes keeping leave for school holidays, a winter break, or just having some leave up their sleeve much harder for employees.

The article questions the impact on employees if they have to take all their leave in one period. In particular does this lead to increased absenteeism later in the year? Do stress levels increase when jaded staff don't have leave to take a break mid-year? What effect is there on families for school holidays during the year?

These are all good questions for employers to ponder as we head towards our summer.

Now is a good time, if you haven't already done so, to turn your mind to what your organisation is planning on doing over the Christmas / New Year period. This is a time when organisations consider close down periods, and also when staff start thinking about their summer holiday.

If you are considering a close down period over Christmas / New Year, you will need to be aware of what your Employment Agreements say and what the Holidays Act 2003 allows you to do.

Under the Holidays Act (s.30 (1)) you may have only one closedown period in any 12-month period. However even if you have already had a close-down within the 12-month period, the Act does also allow you and your employees to agree to have another closedown (s.30 (2)). The important thing here is that there is agreement between you and your employees and not just the employer imposing the second closedown.

It is common for a number of organisations to close down between Christmas and New Year and this is generally provided for in the organisations Employment Agreements. This year Christmas falls on a Thursday. Some organisations may be tempted to close down for the other three days of the week to give their employees a full two week period of leave. If you already have an agreement for a closedown between Christmas and New Year in your Employment Agreement(s) and you wish to extend the closedown to include the 22 to 24 December, you will need to reach agreement from your employees and possibly their union if they are covered by a Collective Employment Agreement. If your Employment Agreement(s) are silent on a closedown and you wish to have one, again you should start engaging now with your employees and their union.

You must give at least 14 days' notice of the requirement to take annual leave or to discontinue work for the closedown period. It is recommended that you start discussing any extended closedown with your employees and their union now rather than leave it until the last minute.

If you have employees who have insufficient leave to cover them during the closedown period, then you should look to exercise your discretion under s.33 (3) of the Holidays Act 2003 and allow the employee to anticipate their annual leave. This will ensure the employee is not financially disadvantaged by not being paid for the closedown.

If you need any assistance with sorting out your Christmas/New Year's arrangements contact us at McKone Consultancy Ltd.