

A-Z Guide

Easter Sunday



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Easter Sunday

Easter Sunday commemorates the resurrection of Christ and is a Christian celebration which can be traced from the Jewish celebration of Passover. Its celebration coincides with the Spring Equinox each year.

Retail trading restrictions

In New Zealand the special nature of the day is recognised by the Shop Trading Hours Act. It is not a public holiday but on that day retail shop trading is restricted. On 30 August 2016 an amendment was passed to allow territorial authorities to determine whether the shops are permitted to open on Easter Sunday. On Easter Sunday all shops must close except for:

- Dairies and service stations selling food, drink, household items, personal items and automotive fuel, lubricant, parts or accessories
- Souvenir shops
- Takeaway bars and restaurants/cafes (selling prepared or cooked food ready to be eaten immediately) Bookstalls, duty free shops and takeaway bars at public passenger transport terminals
- Pharmacies
- Shops at genuine exhibitions and shows
- Garden centres

A shop is considered to be closed if the shop's entrance is closed and locked or otherwise secured against entry by members of the public, and if no person in the shop is selling goods, canvassing for orders of goods, or delivering goods. A business that is not closed in accordance with the restrictions may be fined up to \$1,000.

Local Shop Trading Policies

From 30 August 2016, territorial authorities (i.e. city or district councils) may have a local Easter Sunday shop trading policy covering all or parts of its district.

The policy must include a map of the area or a clear description of the boundaries of the area. The policy cannot permit only some types of shops to open, or specify times at which shops may open, or permit only some shops to open for some purposes.

Options for Employees

Where the employee is not required to work

If Easter Sunday falls on a day that is usually a working day for your employee, but your organisation is unable to trade because of the restrictions on trading under the Shop Trading Hours Act, there remains an obligation to provide that employee with work.

Depending on the circumstances you may have a number of options available to you in respect of that obligation:

- If the employment agreement allows it, you could require your employee to perform duties other than those associated with retail trade –for example, stocktaking, sorting, assembling or cleaning.
- If you both agree, the employee could perform the work on another day of the week –for example, work Monday to Thursday that week rather than Sunday to Wednesday.
- If an employee has an entitlement to annual holidays you may agree with the employee to take a day of annual leave on Easter Sunday.



- If an employee does not have an entitlement to annual holidays but you and the employee agree, the employee could take a holiday in advance of entitlement.
- If the employee agrees, they could take leave without pay.
- If an employee does not agree to take holidays in advance of entitlement, or leave without pay, and either you do not wish to or are unable to provide work on the restricted day, the employee will be entitled to full pay for the day (unless otherwise provided for in their employment agreement).

Requiring an employee to work

Any provision in a shop employee's employment agreement (including an availability provision) that requires the employee to work or to be available for work on Easter Sunday, is unenforceable.

The law also provides that a shop employee may refuse to work on Easter Sunday, and does not have to provide a reason to their employer for refusing.

If you want your employee to work on an Easter Sunday, you must give notice to them of their right to refuse work. The notice must be:

- in writing; and
- given at least 4 weeks before the relevant Easter Sunday, but no earlier than 8 weeks before the day;
 - **or** if the employee started employment 4 weeks or less before the relevant Easter Sunday, given as soon as is reasonably practicable after the employment starts; and delivered in person to the employee;
 - **or** sent by email to the employee;
 - **or** if the employment agreement dictates how notices can be given, in the manner specified in that agreement.

Employee's refusal to work

If your employee intends to refuse to work on Easter Sunday, they must give you notice of that intention.

The notice must be:

- in writing; and
- given to the employer no later than 14 days after they receive the employer's notice of their right to refuse work on Easter Sunday;
 - **or** if the employee started employment 14 days or less before the relevant Easter Sunday, as soon as is reasonably practicable after they receive the employer's notice; and delivered in person to the employer;
 - **or** sent by email to the employer;
 - **or** if the employment agreement dictates how notices can be given, in the manner specified in that agreement. An employer cannot compel an employee to work on Easter Sunday or treat them adversely because they refuse to work on the day –otherwise this could be the substance of a personal grievance.

For Your Business

Making arrangements for Easter Sunday can involve striking a balance between the restrictions or opportunities for the business on one hand, and the freedoms of employees on the other. If you are in any doubt about your obligations or rights on this issue you can contact one of our employer advisors for telephone advice and assistance: 0800 300 362 if calling in New Zealand or 1800 300 362 if calling from Australia; or email the EMA AdviceLine atadvice@ema.co.nz



Remember

- Always call AdviceLine to check you have the latest guide
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your fact situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business.

This guide is not comprehensive and should not be used as a substitute for professional advice.

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