



EMPLOYEE LEAVE & HOLIDAY MANAGEMENT: EMPLOYER'S RIGHT TO TEMPORARY SHUT DOWN

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Legal Framework Governing Leave & Holidays

- Employment Act 1955
- Public Holidays Act 1951
- Industrial Relations Act 1967
- Contract of Employment
- Company Policies & Handbooks
- Collective Agreement (if any)



Public Holidays - Employer Obligations

- Minimum 11 gazetted public holidays
- 5 compulsory public holidays
- National Day
- Birthday of the Yang Di Pertuan Agong
- Birthday of the Ruler or the Yang Di Pertua Negeri or Federal Territory Day
- Labour Day/Workers Day
- Malaysia Day



Only 3 Types of Public Holidays

Non-Replaceable PH

Section 60D – The 5 Compulsory Holidays (National Day, YDPA Birthday, Ruler's Birthday, Labour Day, Malaysia Day).

These usually must be observed on the actual day.

Replaceable PH

By Mutual Agreement

An employer can substitute any of the other holidays under Section 60D (except the 5 compulsory ones) provided there is mutual consent with the employee.

Suddenly Declared PH

Section 8 (Public Holidays Act): Compulsory to recognize.

Section 9: Employer permitted to substitute without consent.

Rule: If any public holiday falls on a rest day, the working day immediately following shall be the holiday.

Calculating Work on a Public Holiday

Work within
Normal Hours = **2 x ORP**

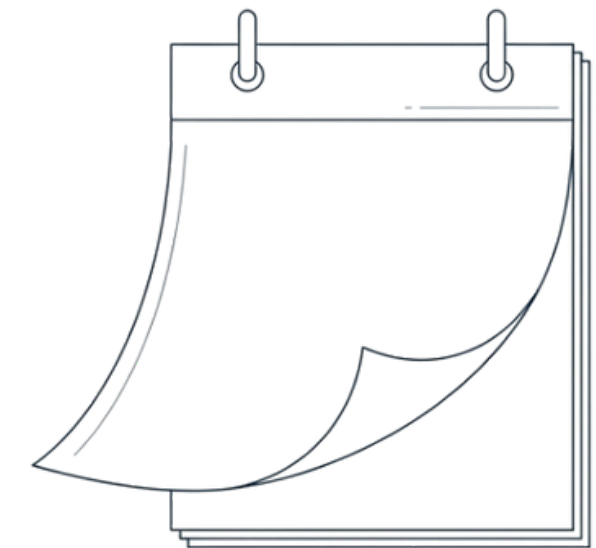
Work as
Overtime = **3 x HRP**

ORP = Ordinary Rate of Pay.
HRP = Hourly Rate of Pay.



Common Mistakes Employers Make During Public Holidays

1. Assuming the Company can replace all public holidays to another day or provide an additional day off in lieu
2. Forcing Unpaid Leave or Annual Leave to be taken during Festive Shutdowns.
3. Incorrect payment when employee works on a public holiday.
4. No Clarity for Shift Workers
5. Letting Business operational needs and company culture override legal entitlements.




Scenario 1: Public Holiday falls on a rest day

Michael's working hours are from Monday to Friday, 9.00am - 6.00pm. Saturday and Sunday are off days. The Company observes all public holidays in the state of Selangor.

Hari Raya Puasa [Day 2] falls on 22 March 2026, which is a Sunday.

- i) What is Michael's entitlement in this situation?
- ii) Can the Company substitute the public holiday to another day?

March 2026						
Mon	Tue	Wed	Thu	Fri	Sat	Sun
	1	2	3	4	5	6
7	8	9	10	11	12	13
15	16	17	18	19	20	Hari Raya Puasa (Day 2) + Rest Day
Substituted Public Holiday		24	25	26	27	
29	30	31				



Scenario 1: Public Holiday falls on a rest day

i) What is Michael's entitlement?

Proviso to Section 60D (1) of the Employment Act 1955

When a public holiday falls on a rest day (Sunday), the rest day takes precedence. In such cases, the public holiday will be substituted to the next working day (Monday, 23 March 2026).

Therefore, Michael would be off on 21 March 2026 (Hari Raya Puasa 1), 22 March 2026 (Rest day) and 23 March 2026 (Hari Raya Puasa 2)

Scenario 1: Public Holiday falls on a rest day

ii) Can the Company substitute the public holiday to another day?

Proviso to Section 60D(1A) of the Employment Act 1955

The Company can substitute any of the holidays under Section 60D by way of mutual consent (except the 5 mandatory public holidays).

Since Hari Raya Puasa (Day 2) is not a mandatory public holiday, the Company can replace the public holiday to another day with Michael's consent.

Scenario 2: The Double Overlap

When Thaipusam and Federal Territory Day collide on A Sunday

i) For Companies that observe both Federal Territory Day and Thaipusam

Date	Status
Sunday, 1st February 2026	Rest day
Monday, 2nd February 2026	Replacement for Federal Territory Day
Tuesday, 3rd February 2026	Replacement for Thaipusam



Scenario 2: The Double Overlap

When Thaipusam and Federal Territory Day collide on A Sunday

ii) For Companies that observe Federal Territory Only

Date	Status
Sunday, 1st February 2026	Rest day
Monday, 2nd February 2026	Replacement for Federal Territory Day

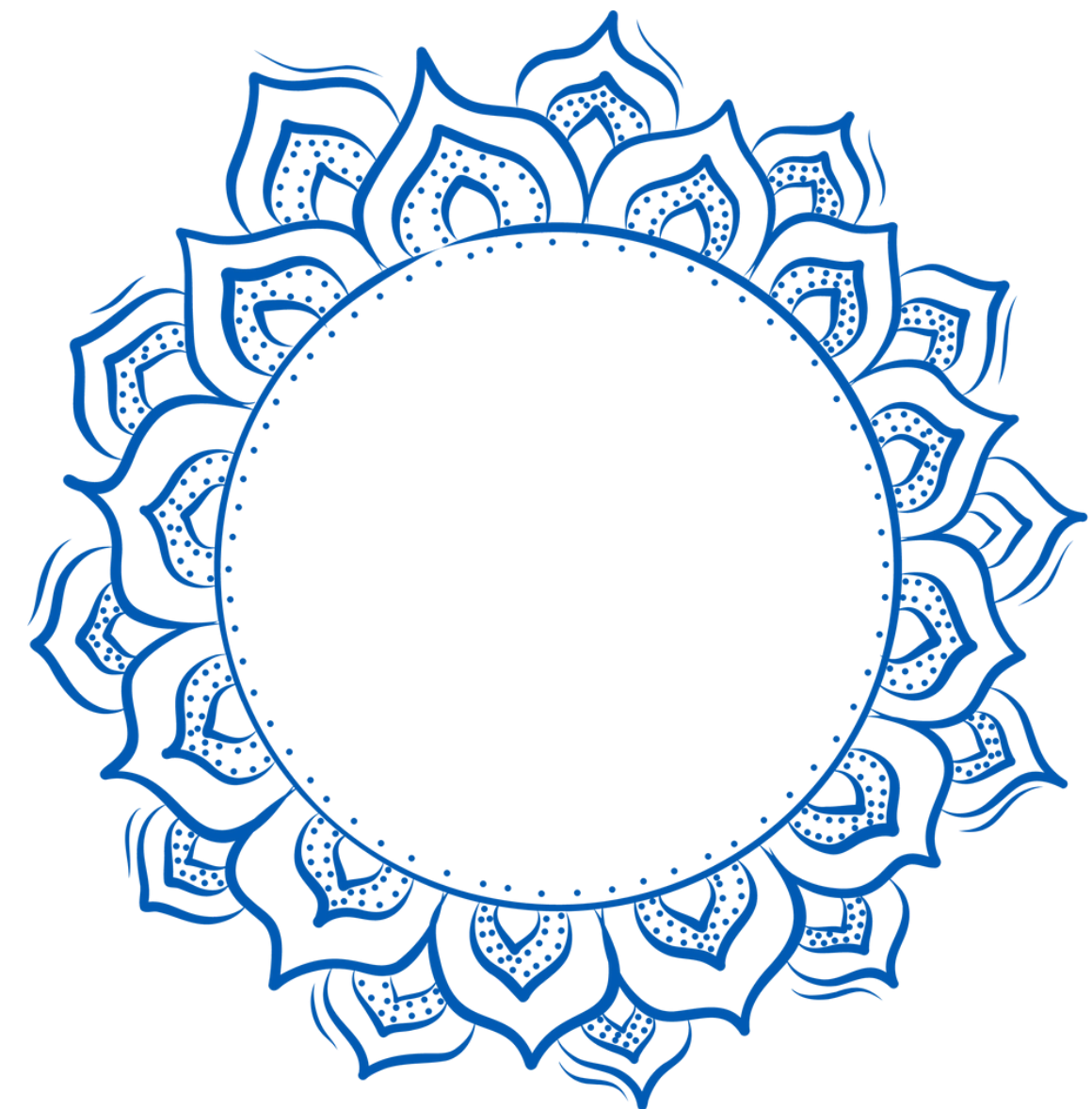


Scenario 2: The Double Overlap

When Thaipusam and Federal Territory Day collide on A Sunday

ii) For Companies that observe Thaipusam only

Date	Status
Sunday, 1st February 2026	Rest day
Tuesday, 2nd February 2026	Replacement for Thaipusam



Scenario 2: Two public holidays fall on the same day or overlap

Wesak Day falls on Sunday, 31st May 2026.
The Yang Di Pertuan Agong’s birthday is on Monday, 1st June 2026.

Date	Status
Sunday, 31st May 2026	Rest day
Monday, 1 June 2026	Yang Di Pertuan Agong’s Birthday
Tuesday, 2 June 2026	Replacement Public Holiday for Wesak



Scenario 3: Suddenly Declared Public Holidays

Declared under Section 8 (Bank or Public Holidays) of the Public Holidays Act 1951 = compulsory to recognise (e.g. National Voting Day, additional Malaysia Day (15 September 2025)).

Declared under Section 9 (Federal and State Government) of the Public Holidays Act 1951 = not compulsory, but strongly advisable to observe. (e.g. Johor state declares public holiday when JDT FC wins the Malaysia Cup)

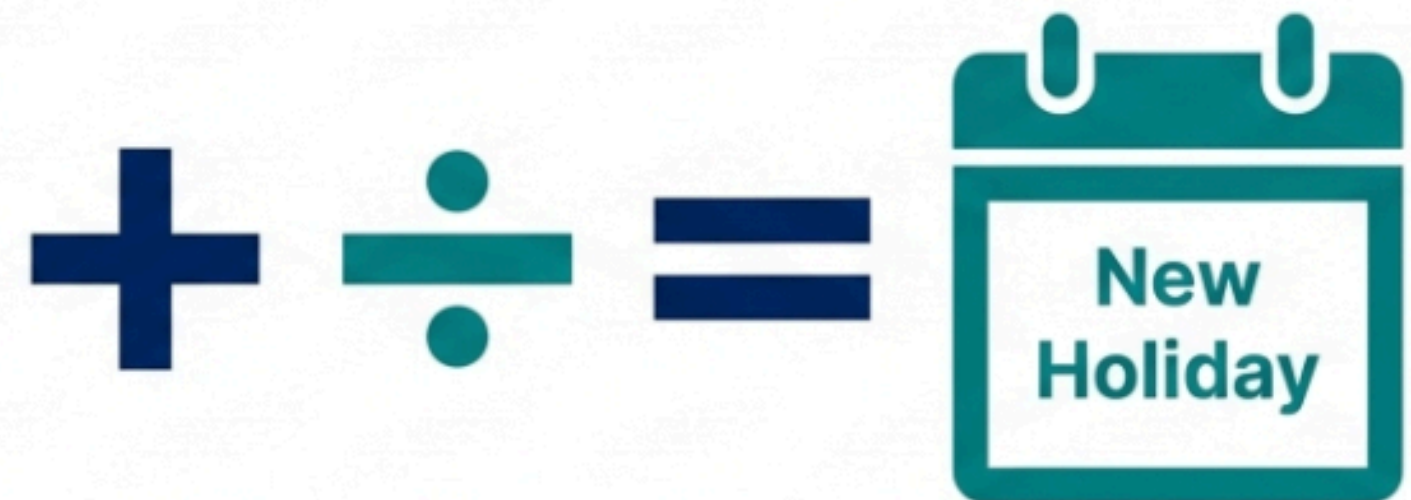
- If the clause states recognition of all public holidays → includes suddenly announced holidays.
- If the clause specifies a fixed number of public holidays → any additional declared holidays under Section 9 are at the company's discretion.
- If no clause exists → reference will be made to Section 60D(1) of the Employment Act 1955 where employers must provide at least eleven (11) paid gazetted public holidays, five (5) of which are compulsory.



Scenario 4: Employee on Sick Leave

The Company observes both Chinese New Year holiday on 17th February and 18th February 2026. On 19th February 2026, she informs the Company that she is on sick leave. On 20th February 2026, she returns to work and submits a medical certificate for 18th and 19th February 2026.

What does the Company do?

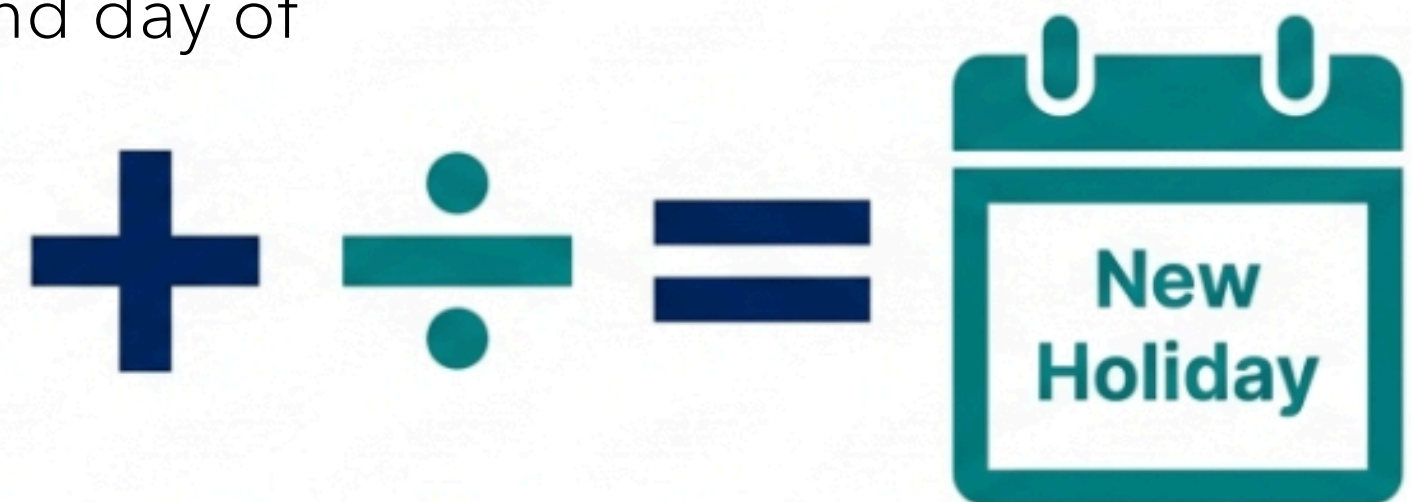


The Public Holiday entitlement is preserved and substituted to a future date.

Scenario 4: Employee on Sick Leave

Section 60D (1B) of the Employment Act 1955
If a public holiday falls when an employee is on sick leave or annual leave, the employer should grant another day as a holiday in substitution.

Therefore, the Company would have to substitute the 2nd day of Chinese New Year (18th February 2026) to another day.



The Public Holiday entitlement is preserved and substituted to a future date.

Scenario 5: Festive Shutdown

Company XYZ decides to shut down the Company from 16th February 2026 until 20th February 2026 in conjunction with Chinese New Year. The Company announces that all employees are required to take annual leave on 16th, 19th and 20th February 2026. Any employee who has exhausted their annual leave entitlement will be on unpaid leave.



Scenario 5: Festive Shutdown

Is the Company entitled to shut down the Company?

Yes, it is the Company's prerogative to shut down the Company. It is a common practice especially during festive seasons.



Scenario 5: Festive Shutdown

Can the Company instruct the employees to take annual leave on the 16th, 19th and 20th February 2026?

No, the Company cannot instruct or demand that employees take annual leave during shut down. Annual leave is a statutory entitlement. Employees choose when to use their annual leave.

Company shut down during festive seasons is the decision of the company (employer) not by the employee. Unless the employee consents and applies for annual leave, the Company cannot unilaterally deduct the employee's annual leave.



Scenario 5: Festive Shutdown

Can the Company put employees on unpaid leave if they refuse to take annual leave?

No, the Company cannot put employees on unpaid leave during a festive shutdown.

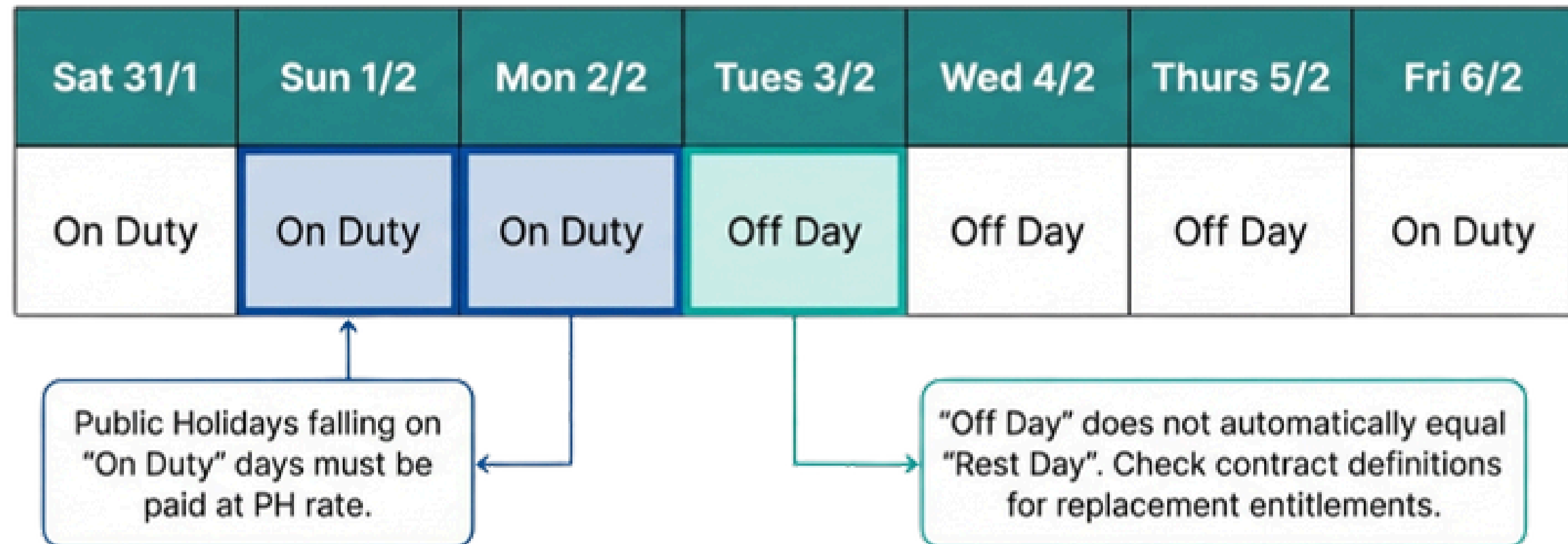
Wages must still be paid and salary cannot be withheld during a festive shutdown.

Employees can make a complaint to the Labour Department if the Company puts them on unpaid leave or unilaterally deduct their annual leave without their consent.



What about shift workers?

Managing Shift Workers



Non-Payment for Absence Surrounding a Holiday



Kelly

5th Sept (Tues)	6th Sept (Wed)	7th Sept (Thurs)	8th Sept (Fri)
Worked	Public Holiday	Public Holiday	AWOL (Absent Without Leave)

Entitlement Forfeited






$$\frac{\text{Monthly Wages}}{\text{Days in Month}} \times (\text{Total Days} - \text{Forfeited Holiday})$$

$$\frac{\text{RM } 3500}{30 \text{ days}} \times 27 \text{ days} = \text{RM } 3149.99$$

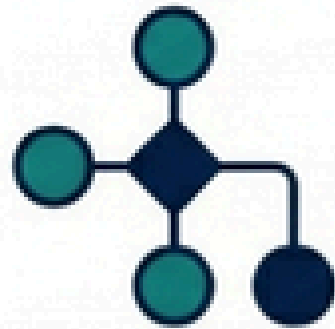
The Public Holiday Do's and Don'ts

- ✓ **DO** Treat Public Holidays, Rest Days, and Festive Shutdowns as three separate legal concepts.
- ✓ **DO** Apply PH rules universally, regardless of whether the employee celebrates the specific festival.
- ✓ **DO** Communicate festive shutdown plans early.
- ✓ **DO** Record calculations for work done on PH clearly on pay slips.
- ✓ **DO** Ensure contracts explicitly cover “unexpected” holidays and shift definitions.

The Public Holiday Do's and Don'ts

-  **DON'T** Ignore state-specific holidays for remote employees working outside HQ.
-  **DON'T** Force annual leave usage during shutdowns without mutual agreement.
-  **DON'T** Rely on verbal instructions—get leave arrangements in writing.
-  **DON'T** Allow 'informal' work during shutdowns without recording it.
-  **DON'T** Overlook how PH affects sick leave entitlements.

Summary: The 3 Pillars of Holiday Management



Classification

Know the difference between the 5 Compulsory Holidays and the Replaceable ones.



Consent

You cannot force substitutions or annual leave usage during shutdowns without mutual consent.



Calculation

Ensure accuracy in payroll (2x ORP / 3x HRP) and adhere to the Absenteeism Clause.

"Compliance is not just about following the law; it is about clear communication and fair execution."

SAVE THE DATE

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