

KEAP 2.0 Circular No. 1

Summary On Article for KEAP participants No: 1 for HR Section

Public Holidays Under Employment Act 1955

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- ✓ For the purpose of this article, we are focusing on the applicable law in Peninsular Malaysia and Labuan.
- ✓ The amendments to the Employment Act 1955 that is now in effect since 1st January 2023.
- ✓ Act in this article refers to the Employment Act 1955 which is applicable to Peninsular Malaysia and Labuan. Sabah and Sarawak have their own labour ordinance.
- ✓ Section 60D (1) of the Act states that every employee shall be entitled to a paid holiday at his ordinary rate of pay on the following days in any one calendar year:
 - (a) on eleven of the gazetted public holidays, five of which shall be -
 - (i) the National Day;
 - (ii) the Birthday of the Yang di-Pertuan Agong;
 - (iii) the Birthday of the Ruler or the Yang di-Pertua Negeri, as the case may be, of the State in which the employee wholly or mainly works under his contract of service, or the Federal Territory day, if the employee wholly or mainly works in the Federal Territory;
 - (iv) the Workers' Day; and
 - (v) Malaysia Day; and
 - (b) on any day appointed as a public holiday for that particular year under section 8 of the Holidays Act 1951 [Act 369].
- ✓ if any of the public holidays referred to in paragraph (a) and (b) falls on a rest day or any other public holidays, the working day following immediately the rest day or the other public holiday shall be a paid holiday in substitution of the first mentioned public holiday.
- ✓ Section 60 D (2) of the Act provides that any employee who absents himself from work on the working day immediately preceding or immediately succeeding a public holiday or two or more consecutive public holidays or any day or days substituted therefore under this section without the prior consent of his employer shall not be entitled to any holiday pay for such holiday or consecutive holidays unless he has a reasonable excuse for such absence.
- ✓ In the event an employee is required by his employer to work on a public holiday, in addition to the holiday pay the employee shall be paid two days' wages at the ordinary rate of pay regardless that the period of work done on that day is less than the normal hours of work.
- ✓ If a public holiday falls on a half working day, the ordinary rate of pay payable shall be that of a full working day as provided under Section 60 D (4) of the Employment Act 1955.
- ✓ As any holidays declared by the state is not under the ambit of Section 60D(1)(b) of the Employment Act 1955 as it is declared under Section 9 of the Holidays Act 1951, there is no legal requirement to observe the holidays declared by the State Government. However for employers that have collective agreements or terms of conditions of employment which provide for paid public holidays on all paid holidays as gazetted by the Federal or State Government then the employers should observed holidays that are appointed by the State Government under Section 9 of the Holidays Act 1951.

For Keap members - Please contact KCCCI for any clarifications.