

❖ NOTICE ❖



25 Stoney Creek Rd Bexley 2207 NSW
Ph: (02) 9554 9399 Fax: (02) 9554 9644
Email: alaea@alaea.asn.au
Web: www.alaea.asn.au
ABN: 84 234 747 620

TO: ALL MEMBERS

RE: Public Holiday Decision Notice

Dear ALAEA Members,

With Easter only days away, Qantas and Virgin Group employees received a generic communication from their respective HR departments which gave some direction with regard to employee rights regarding Public Holidays. The ALAEA suggests these communications were misleading when considered in light of this week's Full Federal Court Decision regarding Public Holidays [CFMMEU v OS MCAP Pty Ltd \[2023\] FCAFC 51](#) (**CFMMEU Decision**).

The ALAEA has written to employers Wednesday afternoon detailing the statements that we believe are misleading and requested employers amend their respective notices to more accurately reflect the CFMMEU Decision.

It is important to note that this decision is NOT a licence to simply not turn up to work on public holidays.

The decision concerns the employers 'request' to work a public holiday and the employees right to refuse to work a public holiday on 'reasonable' grounds.

We expect this decision will be appealed by employers and members should be aware that a challenge to their employer's approach will be defended very aggressively and will likely end up in a court room.

The Court effectively stated the following:

1. Every employee has the right to have a day off on a public holiday and be paid for the this time off.
2. However, employers can **request** employees to work public holidays if the request is reasonable;
3. Nevertheless, employees can reasonably refuse an employer's request.

There are two areas of concern in the PH Notices;

1 - Both groups have suggested that a roster is a request for you to work a public holiday.

"Guardians of Air Safety"

It is the position of the ALAEA that this does not meet the threshold required by the CFMMEU Decision (with my emphasis in **bold**):

*“... An employer is able to have a roster which includes public holidays. All that is required is that an employer ensures **that employees understand either that the roster is in draft** requesting those employees who have been allocated to the holiday work that they indicate whether they accept or refuse that allocation, or where a request is made before the roster is finalised...”*

2 - The statement that employees (with my emphasis in **bold**):

*May refuse to work on a public holiday, but you must have a **really good reason** as to why, for example **extenuating personal circumstances, or exceptional circumstances.***

The ALAEA believes these statements are factually incorrect and misleading and at odds with the CFMMEU Decision, which says that an employee’s refusal to work a public holiday must be **reasonable**. For clarity, to refuse to work a public holiday you do need to have a reason.

For example, the *Explanatory Memorandum to the Fair Work Bill 2008* at [454] provides the following in relation to public holidays:

“... a refusal by an employee of a request to work on a public holiday maybe reasonable where, e.g., the employee has notified the employer in advance that she or he will not be able to work on the public holiday because of family commitments.”

Any members who require more information please contact the ALAEA office or myself.

In Unity,



Peter Gill

Acting Federal Secretary

Australian Licenced Aircraft Engineers Association (ALAEA)

Email: peterg@alaea.asn.au

Ph: +61 419 494437