

PUBLIC HOLIDAY SURCHARGES

25 March 2022

On public holidays, businesses are allowed to increase the price of their products or services to cover the extra cost of trading on a public holiday. All employees are paid time and a half when they work on a public holiday and if the public holiday falls on a usual working day for them, the employee will also gain an alternative day off under the Holidays Act 2003. Such additions to a business's expenses justifies the implementation of surcharges when trading on public holidays.

The rules and regulations around surcharge are particularly important for the Hospitality sector. In general, Businesses can apply a 15 per cent surcharge on a public holiday.

This additional charge should accurately reflect the increase in staff wages and other costs because of the public holiday. The Fair Trading Act 1986 is the governing legislation and the Commerce Commission is the body ensuring that businesses are compliant under the Act. The Commerce Commission states it is imperative that businesses are clear in their communication regarding the reason for the surcharge, for example a credit card surcharge where the transacting bank charges a specific fee or percentage for credit card usage.

It is important that businesses make sure customers are aware of the surcharge before they pay. Putting a notice on the till and having your staff inform them of the surcharge are both useful ways of managing this. Businesses may also need to implement additional measures including, but not limited to, displaying signage at the door and/or window and clearly indicating the surcharge on menus, websites, and social media platforms. This is to ensure that customers are aware that a surcharge will be payable before they decide to make a transaction or go elsewhere.

When implementing a surcharge, businesses should not recover more than the cost increase the business has incurred as a result of trading on a public holiday. Failure to do this creates the risk of businesses facing penalties under the Fair Trading Act 1986 and other laws and regulations that are in place to protect consumer rights.

Consumers may bring a complaint to the Commerce Commission if they feel they have been misled by a surcharge so compliance with the above is crucial to avoid disputes.

EASTER TRADING

It is important that businesses who trade during the Easter holiday follow the guidelines for Easter trading set out by the Commerce Commission.

Easter Sunday is not a public holiday; therefore, businesses should not implement a surcharge on menu items on this day. Easter Friday and Easter Monday are the only two days during the easter long weekend that surcharges can be applied. Businesses who charge extra on Easter Sunday may put themselves at risk for failing to comply with fair trading rules and regulations.

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