

## ANNUAL HOLIDAYS (AMENDMENT) ACT.

### Act No. 31, 1964.

An Act to make further provisions with respect to annual holidays for workers; for this purpose to amend the Annual Holidays Act, 1944-1958; and for purposes connected therewith. [Assented to, 29th September, 1964.] Elizabeth II,  
No. 31, 1964

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Annual Holidays (Amendment) Act, 1964". Short title  
and  
citation.

(2) The Annual Holidays Act, 1944, as amended by subsequent Acts and by this Act, may be cited as the Annual Holidays Act, 1944-1964.

2. The Annual Holidays Act, 1944-1958, is amended— Amendment  
of Act No.  
31, 1944.

(a) (i) by omitting paragraph (a) of subsection two of section two and by inserting in lieu thereof the following paragraphs:— Sec. 2.  
(Interpre-  
tation.)

(a) the term "ordinary time rate of pay" in the case of a worker who is remunerated in relation to an ordinary time rate of pay fixed by the terms of his employment means the time rate of pay so fixed for the worker's work under the terms of his employment, but does not include any amount payable to him in respect of shift work, overtime or other penalty rates, and where two or more time rates of pay are so fixed means the higher or highest of those rates;

(a1)

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- (a1) where a worker is remunerated otherwise than in relation to an ordinary time rate of pay so fixed, or partly in relation to an ordinary time rate of pay so fixed and partly in relation to any other manner, or where no ordinary time rate of pay is so fixed for a worker's work under the terms of his employment, the worker's ordinary pay shall be deemed to be the average weekly wage earned by him during the period actually worked by him during the period in respect of which the right to the annual holiday, or payment under section four of this Act, as the case may be, accrues.

For the purposes of this paragraph the average weekly wage earned by a worker shall be the average of the amounts received by him each week under the terms of his employment after excluding any amount payable to him in respect of shift work, overtime or other penalty rates;

- (a2) where during the period in respect of which the right to the annual holiday, or payment under section four of this Act, as the case may be, accrues, the worker has received under the terms of his employment, any amount under any bonus, incentive or other similar scheme (other than any amount taken into consideration in assessing an average weekly wage in terms of paragraph (a1) of this subsection) his ordinary pay shall be increased by a further sum namely the sum which the worker would have received each week in respect of such bonus, incentive or other similar scheme had such amount been paid by equal weekly payments throughout that period.

(ii)

- (ii) (a) by omitting from paragraph (c) of the same subsection the words "fifteen shillings" and by inserting in lieu thereof the words "thirty shillings, or such greater sum as may be prescribed in lieu thereof,"; No. 31, 1964
- (b) by omitting from the same paragraph the words "five shillings" and by inserting in lieu thereof the words "ten shillings, or such greater sum as may be prescribed in lieu thereof,";
- (b) by omitting from paragraph (a) of subsection six of section three the words "seven days" and by inserting in lieu thereof the words "one month's"; Sec. 3.  
(Annual holidays with pay.)
- (c) by omitting from section twelve the words "or police" wherever occurring; Sec. 12.  
(Proceedings for recovery of penalties.)
- (d) by omitting from subsection one of section thirteen the words "or police". Sec. 13.  
(Recovery of holiday pay.)
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