

ANNUAL HOLIDAYS (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 97, 1974.

An Act to make provision for increasing the annual holiday provided by the Annual Holidays Act, 1944; for this and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 13th December, 1974.]

BE

Annual Holidays (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 97, 1974 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. This Act may be cited as the "Annual Holidays Short title.
(Amendment) Act, 1974".

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

(a) (i) by omitting from section 2 (2) (a) the words Sec. 2.
(Interpre-
tation.) "but does not include any amount payable to him in respect of shift work, overtime or other penalty rates" and by inserting instead the words "including shift allowances relating to ordinary time and weekend penalties relating to ordinary time the worker would have worked on days other than public holidays if he had not been on annual holiday, but does not include any other amount payable to him in respect of shift work, overtime or penalty rates";

(ii) by omitting from section 2 (2) (a1) the words "after excluding any amount payable to him in respect of shift work, overtime or other penalty rates" and by inserting instead the words "including shift allowances relating to ordinary time and weekend penalties relating to ordinary time the worker would have worked on days other than public holidays if he had not been on annual holiday, and excluding any other amount payable to him in respect of shift work, overtime or penalty rates";

(iii)

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(iii) by omitting from section 2 (3) (a) the word "and";

(iv) by omitting from section 2 (3) the following words :—

“as the case may be,

after excluding any amounts paid to him in respect of shift work, overtime or other penalty rates”

and by inserting instead the following words :—

“as the case may be; and

(c) shift allowances relating to ordinary time and weekend penalties relating to ordinary time the worker would have worked on days other than public holidays if he had not been on annual holiday,

but excluding any other amounts paid to him in respect of shift work, overtime or penalty rates”;

(v) by inserting after section 2 (4) the following subsection :—

(5) Notwithstanding the provisions of subsection (2) (a), (2) (a1) or (3), where by any award or agreement a worker is entitled to shift allowances relating to ordinary time or weekend penalties relating to ordinary time the worker would have worked on days other than public holidays if he had not been on annual holiday or to an annual holiday loading, whichever is the greater, the ordinary time rate of pay or the ordinary pay, as the case may be, of that worker shall not, in respect of any annual holiday to which he is entitled under this Act, include those allowances and penalties.

(b)

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- (b) (i) by omitting from section 3 (1) the following words :—

Sec. 3.
(Annual
holidays
with pay.)

“Such annual holiday shall—

- (a) where any such year of employment ends upon or before the thirty-first day of December, one thousand nine hundred and fifty-eight, be of two weeks ;
- (b) where any such year of employment ends after the said date and before the thirty-first day of December, one thousand nine hundred and fifty-nine, be of two weeks together with a period which bears the same proportion to one week as that part of such year of employment which is after the thirty-first day of December, one thousand nine hundred and fifty-eight, bears to one year ;
- (c) where any such year of employment commences after the thirty-first day of December, one thousand nine hundred and fifty-eight, be of three weeks.”

and by inserting instead the following words :—

“Such annual holiday shall—

- (a) where any such year of employment ends upon or before 30th November, 1974, be of three weeks ;

(b)

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(b) where any such year of employment ends after 30th November, 1974, be of four weeks.”

(ii) by omitting section 3 (2) and by inserting instead the following subsection :—

(2) An annual holiday shall be given and taken either in one consecutive period or two periods which shall be of three weeks and one week respectively, or if the worker and the employer so agree, in either two, three or four separate periods and not otherwise.

Sec. 4.
(Holiday pay where holiday is not taken.)

(c) by omitting section 4 (3) (b) (i), (ii) and (iii) and by inserting instead the following subparagraphs :—

(i) where that period of employment ends upon or before 30th November, 1974, equal to three forty-ninths of his ordinary pay for that period of employment;

(ii) where that period of employment ends after 30th November, 1974, equal to one twelfth of his ordinary pay for that period of employment.

Sec. 4A.
(Annual close-down.)

(d) by omitting section 4A (4) (b) (i) and by inserting instead the following subparagraph :—

(i) three forty-ninths of his ordinary pay for his period of employment where the specified period commences upon or before 30th November, 1974, and one twelfth of his ordinary pay where the specified period commences after that date; and;

(e)

Annual Holidays (Amendment).

- (e) by omitting section 5 (2) and by inserting instead No. 97, 1974 the following subsection :—

(2) Where, under any award or agreement, provision is made for the granting to a worker who is a seven-day shift worker and is required to work regularly on Sundays and public holidays of a holiday in addition to that granted to other workers under such award or agreement or where, under any award or agreement, provision is made for the payment of a sum of money as an annual holiday loading—

Sec. 5.
(Special provisions
—Annual holidays
otherwise than under
this Act.)

- (a) such additional holiday or such payment, as the case may be, shall not be regarded as a benefit under that award or agreement for the purposes of subsection (1); and
- (b) the right of the worker to such additional holiday or such payment, as the case may be, shall not be affected by anything contained in this Act.