



New South Wales

# **Industrial and Other Legislation Amendment (APEC Public Holiday) Bill 2007**

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.  
This Bill is cognate with the *APEC Meeting (Police Powers) Bill 2007*.

## **Overview of Bill**

Friday, 7 September 2007 has been appointed as a public holiday in certain local government areas of metropolitan Sydney to facilitate the holding of an Asia-Pacific Economic Cooperation (*APEC*) meeting in Sydney on that day.

The objects of this Bill are:

- (a) to provide that 7 September 2007 is to be a public holiday for the purposes of State industrial instruments and laws, but only in respect of employment in the local government areas in which the holiday is to be observed, and
- (b) to permit the clarification of the way in which various other references to “public holidays” are to be interpreted in respect of that holiday, and
- (c) to provide that the State is not liable to pay compensation for economic loss in respect of anything done or omitted to be done in good faith in connection with an APEC-related matter.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act (except for section 4 and Schedule 2) on the date of assent to the Act. Section 4 and Schedule 2 are to commence on a day to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendment to the *Industrial Relations Act 1996* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendment to the *Shops and Industries Act 1962* set out in Schedule 2.

**Clause 5** is a formal provision that gives effect to the amendment to the *Long Service Leave Act 1955* set out in Schedule 3.

**Clause 6** is a formal provision that gives effect to the amendment to the *Banks and Bank Holidays Act 1912* set out in Schedule 4.

**Clause 7** provides for the repeal of the proposed Act at the beginning of 13 September 2007 (**the APEC period** ends at the end of 12 September 2007). Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## Schedule 1      Amendment of Industrial Relations Act 1996

**Schedule 1** inserts proposed Part 10 (clauses 49 and 50) in the Schedule of savings, transitional and other provisions to the *Industrial Relations Act 1996* (**the Act**).

Proposed clause 49 inserts a definition of **the APEC public holiday** for the purposes of the proposed Part.

Proposed clause 50 makes it clear that a reference in any **industrial instrument** (within the meaning of the Act) to a public holiday is taken to include a reference to the APEC public holiday, but only in respect of the local government areas in which that holiday is to be observed. This is so regardless of the way in which the public holiday is described in the instrument concerned (for example, “day gazetted as a public holiday for the State”).

## Schedule 2      Amendment of Shops and Industries Act 1962

**Schedule 2** inserts proposed Part 4 (clauses 8–10) in the Schedule of savings, transitional and other provisions to the *Shops and Industries Act 1962* (**the Act**).

Proposed clause 8 inserts a definition of **the APEC public holiday** for the purposes of the proposed Part.

Proposed clause 9 provides that the APEC public holiday is taken to be a public holiday for the purposes of the Act, but only in respect of the local government areas in which that holiday is to be observed.

Section 85 (1) of the Act requires certain shops to be kept closed on public holidays. Section 85 (2) and (3) permit the Minister, by order published in the Gazette, to suspend the operation of section 85 (1) in certain circumstances. Other provisions of the Act also provide for various exemptions from the operation of the Act or parts of the Act (for example, section 78A).

Proposed clause 10 provides that any such exemption is of no effect on the APEC public holiday in respect of shops in the local government areas in which that holiday is to be observed. However, the proposed clause makes it clear that the clause does not operate to nullify any suspension under section 85 (2) of the operation of section 85 (1) in relation to the APEC public holiday.

### **Schedule 3      Amendment of Long Service Leave Act 1955**

**Schedule 3** inserts proposed clause 3 in the Schedule of savings and transitional provisions to the *Long Service Leave Act 1955 (the Act)*.

The effect of the proposed clause is that any person who is on long service leave on the APEC public holiday is entitled to have their period of long service leave extended by one day.

### **Schedule 4      Amendment of Banks and Bank Holidays Act 1912**

**Schedule 4** inserts proposed Part 3 (clauses 4–6) in the Schedule of savings, transitional and other provisions to the *Banks and Bank Holidays Act 1912 (the Act)*.

Proposed clause 4 inserts a definition of *the APEC public holiday* for the purposes of the proposed Part.

Various legislative provisions refer to, or define, “business day” and “working day” in terms of “a day that is not a Saturday, Sunday or public holiday”. Even “public holiday” is variously explained (for example, section 78 of the *Shops and Industries Act 1962* defines that term, for the purposes of certain provisions of that Act, as “any day on which the following [listed] days are publicly observed”).

To clarify the operation of these disparate references in relation to the APEC public holiday, proposed clause 5 enables the regulations to provide that the APEC public holiday is, or is not, to be taken to be (or to have been) a business day, a public holiday or a working day (in respect of the local government areas in which the holiday is to be observed), for the purposes of any Act or any statutory instrument (or any provision of any Act or any statutory instrument) specified in the regulations.

Industrial and Other Legislation Amendment (APEC Public Holiday) Bill 2007

Explanatory note

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Proposed clause 6 makes it clear that no compensation in respect of things done or omitted to be done in good faith in connection with an *APEC-related matter* (as defined in the proposed clause) is payable by the State, an authority of the State or a local council or an officer, employee or agent of any of those persons.



New South Wales

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New South Wales

# **Industrial and Other Legislation Amendment (APEC Public Holiday) Bill 2007**

No , 2007

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## **A Bill for**

An Act to amend certain Acts to clarify the way in which various references to public holidays are to be interpreted in respect of the public holiday appointed on 7 September 2007 in metropolitan Sydney to facilitate the holding of an APEC meeting on that day; and for other purposes.

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	<b>The Legislature of New South Wales enacts:</b>	
<b>1</b>	<b>Name of Act</b>	1
	This Act is the <i>Industrial and Other Legislation Amendment (APEC Public Holiday) Act 2007</i> .	2
<b>2</b>	<b>Commencement</b>	3
(1)	This Act commences on the date of assent to this Act, except as provided by subsection (2).	4
(2)	Section 4 and Schedule 2 commence on a day to be appointed by proclamation.	5
<b>3</b>	<b>Amendment of Industrial Relations Act 1996 No 17</b>	6
	The <i>Industrial Relations Act 1996</i> is amended as set out in Schedule 1.	7
<b>4</b>	<b>Amendment of Shops and Industries Act 1962 No 43</b>	8
	The <i>Shops and Industries Act 1962</i> is amended as set out in Schedule 2.	9
<b>5</b>	<b>Amendment of Long Service Leave Act 1955 No 38</b>	10
	The <i>Long Service Leave Act 1955</i> is amended as set out in Schedule 3.	11
<b>6</b>	<b>Amendment of Banks and Bank Holidays Act 1912 No 43</b>	12
	The <i>Banks and Bank Holidays Act 1912</i> is amended as set out in Schedule 4.	13
<b>7</b>	<b>Repeal of Act</b>	14
(1)	This Act is repealed at the beginning of 13 September 2007.	15
(2)	The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16
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Industrial and Other Legislation Amendment (APEC Public Holiday)  
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Amendment of Industrial Relations Act 1996

Schedule 1

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<b>Schedule 1</b>	<b>Amendment of Industrial Relations Act 1996</b>	1
		2
	(Section 3)	3
	<b>Schedule 4 Savings, transitional and other provisions</b>	4
	Insert at the end of the Schedule:	5
	<b>Part 10 Provisions consequent on appointment of APEC public holiday</b>	6
		7
<b>49</b>	<b>Definition</b>	8
	In this Part, <b><i>the APEC public holiday</i></b> means 7 September 2007, being the day appointed by the notice published under section 19 (3) of the <i>Banks and Bank Holidays Act 1912</i> in Gazette No 36 of 2 March 2007 as a day to be observed as a public holiday in the local government areas specified in the Schedule to the notice.	9
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<b>50</b>	<b>APEC public holiday</b>	14
	A reference in any industrial instrument to a public holiday (whether described as a “holiday”, “public holiday”, “proclaimed”, “gazetted”, “for the State”, “for a special purpose” or otherwise) is taken to include a reference to the APEC public holiday, but only in respect of employment in the local government areas in which that holiday is to be observed.	15
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Industrial and Other Legislation Amendment (APEC Public Holiday)  
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Schedule 2      Amendment of Shops and Industries Act 1962

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<b>Schedule 2</b>	<b>Amendment of Shops and Industries Act 1962</b>	1
		2
	(Section 4)	3
<b>Schedule 2 Savings, transitional and other provisions</b>		4
Insert after clause 7:		5
<b>Part 4</b>	<b>Provisions consequent on appointment of APEC public holiday</b>	6
		7
<b>8</b>	<b>Definition</b>	8
In this Part, <i>the APEC public holiday</i> means 7 September 2007, being the day appointed by the notice published under section 19 (3) of the <i>Banks and Bank Holidays Act 1912</i> in Gazette No 36 of 2 March 2007 as a day to be observed as a public holiday in the local government areas specified in the Schedule to the notice.	9	
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<b>9</b>	<b>APEC public holiday and this Act</b>	14
The APEC public holiday is taken to be a public holiday for the purposes of this Act, but only in respect of the local government areas in which that holiday is to be observed.		15
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<b>10</b>	<b>Certain exemptions of no effect on APEC public holiday</b>	18
(1)	Subject to subclause (2), any exemption from the operation of section 85 (1), in respect of a shop in a local government area in which the APEC public holiday is to be observed, whether granted before or after the commencement of this clause, is of no effect on the APEC public holiday.	19
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(2)	However, subclause (1) does not apply to any suspension, under section 85 (2), of the operation of section 85 (1) in relation to the APEC public holiday.	24
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<b>Schedule 3</b>	<b>Amendment of Long Service Leave Act</b>	1
	<b>1955</b>	2
	(Section 5)	3
<b>Schedule 1 Savings and transitional provisions</b>		4
Insert after clause 2:		5
<b>3 Provision consequent on appointment of APEC public holiday</b>		6
(1)	Section 4 (4A) applies in relation to the APEC public holiday as if that holiday were appointed under section 4 (4A) (a), but only in respect of employment in the local government areas in which the APEC public holiday is to be observed.	7 8 9 10
(2)	In this clause, <i>the APEC public holiday</i> means 7 September 2007, being the day appointed by the notice published under section 19 (3) of the <i>Banks and Bank Holidays Act 1912</i> in Gazette No 36 of 2 March 2007 as the day to be observed as a public holiday in the local government areas specified in the Schedule to the notice.	11 12 13 14 15 16

## Industrial and Other Legislation Amendment (APEC Public Holiday) Bill 2007

## Schedule 4      Amendment of Banks and Bank Holidays Act 1912

Schedule 4	Amendment of Banks and Bank Holidays Act 1912
	(Section 6)
1	<b>Schedule 5 Savings, transitional and other provisions</b>
2	Insert after clause 3:
3	<b>Part 3 Provisions consequent on appointment of APEC public holiday</b>
4	<b>4 Definition</b>
5	In this Part, <i>the APEC public holiday</i> means 7 September 2007, being the day appointed by the notice published under section 19 (3) in Gazette No 36 of 2 March 2007 as a day to be observed as a public holiday in the local government areas specified in the Schedule to the notice.
6	<b>5 Regulations concerning APEC public holiday</b>
7	<p>(1) The regulations may contain provisions of a savings or transitional nature consequent on the appointment of the APEC public holiday.</p> <p>(2) Without limiting subclause (1), the regulations may provide that, for the purposes of any Act or any statutory instrument (or any provision of any Act or any statutory instrument) specified in the regulations, the APEC public holiday:</p> <ul style="list-style-type: none"><li>(a) is taken to be a business day, or</li><li>(b) is taken not to be a business day, or</li><li>(c) is taken to be a public holiday, or</li><li>(d) is taken not to be a public holiday, or</li><li>(e) is taken to be a working day, or</li><li>(f) is taken not to be a working day.</li></ul> <p>(3) Any such regulation may, if made after 7 September 2007, provide that, for the purposes of the Act, instrument or provision concerned, the APEC public holiday is taken always to have been, or not to have been, a business day, public holiday or working day (as the case may require).</p>
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<b>6 Compensation not payable in respect of APEC-related matters</b>	1
(1) Compensation is not payable by or on behalf of:	2
(a) the State or an authority of the State, or	3
(b) a local council, or	4
(c) an officer, employee or agent of the State, an authority of the State or a local council,	5
for an act or omission that is an APEC-related matter or that arises (directly or indirectly) from an APEC-related matter.	6
(2) Subclause (1):	7
(a) applies only in respect of acts done or omitted to be done in good faith, and	8
(b) does not apply to acts or omissions that cause personal injury to a person or the death of a person.	9
(3) In this clause:	10
<i>APEC-related matter</i> means the following:	11
(a) the appointment of the APEC public holiday,	12
(b) the holding of any Asia-Pacific Economic Cooperation meeting during the period commencing at the beginning of 30 August 2007 and ending at the end of 12 September 2007,	13
(c) the exercise of functions under the <i>APEC Meeting (Police Powers) Act 2007</i> .	14
<i>compensation</i> includes damages and any other form of monetary compensation.	15