



New South Wales

Public Holidays Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Shop Trading Amendment Bill 2010*.

Overview of Bill

The object of this Bill is to replace the *Banks and Bank Holidays Act 1912* with an Act that provides for the following:

- (a) the public holidays that apply in the State (including provision for additional and substituted public holidays to be declared in any year for the whole or part of the State),
- (b) employee entitlements on public holidays,
- (c) the declaring of local event days to signify days of special significance to the local community.

For 2011, the declared standard public holidays will be the same as currently apply under the *Banks and Bank Holidays Act 1912* except that there will be a substitute day on the following Monday when Australia Day falls on a weekend (not just on a Sunday as at present) and Easter Sunday will be a public holiday.

From 1 January 2012, a revised list of standard public holidays will apply that incorporates the following changes:

- (a) an additional day for Christmas Day, Boxing Day and New Year's Day when they fall on a weekend,
- (b) Anzac Day is to be observed on 25 April no matter which day of the week it falls on.

The existing provisions of the *Banks and Bank Holidays Act 1912* dealing with bank trading days will be transferred to the *Shop Trading Act 2008* (to be renamed the *Retail Trading Act 2008* by the *Shop Trading Amendment Bill 2010*) and the Bank Holiday will be extended to certain other financial institutions.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act.

Part 2 Public holidays

Clause 4 declares the standard public holidays that apply throughout the State. For 2011, the declared public holidays will be the same as currently apply under the *Banks and Bank Holidays Act 1912* except that Easter Sunday will be a public holiday and there will be a substituted day when Australia Day falls on a Saturday. From 1 January 2012, a revised list of standard public holidays will apply that incorporates the changes referred to in the Overview.

Clause 5 authorises the Minister to declare additional public holidays in a particular year for the whole or a specified part of the State.

Clause 6 authorises the Minister to change the date of a public holiday in a particular year by substituting another day for a public holiday.

Clause 7 applies as laws of New South Wales provisions of the *Fair Work Act 2009* of the Commonwealth that entitle an employee to be absent from employment on a public holiday and to be paid while absent on a public holiday.

Part 3 Miscellaneous

Clause 8 provides for the Minister to declare a local event day in a local government area at the request of the local council on the basis that the day is and will be observed as a day of special significance to the local community.

Clause 9 provides for the delegation of functions of the Minister under the proposed Act.

Clause 10 is a general regulation-making power.

Clause 11 repeals the *Banks and Bank Holidays Act 1912*.

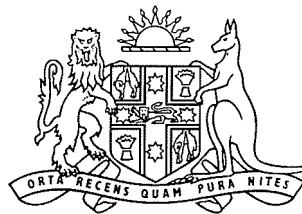
Clause 12 provides for a review of the proposed Act 5 years after the date of assent to the proposed Act.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Acts

Schedule 2 amends the Acts specified in the Schedule. The amendment of the *Public Holidays Act 2010* commences on 31 December 2011 and changes the standard public holidays as referred to in the Overview above.



New South Wales

Public Holidays Bill 2010

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New South Wales

Public Holidays Bill 2010

No. , 2010

A Bill for

An Act to provide for the public holidays to be observed in the State; and for other purposes.

Clause 1 Public Holidays Bill 2010

Part 1 Preliminary

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Public Holidays Act 2010</i> .	4
2 Commencement	5
(1) This Act commences on 31 December 2010, except as provided by subsection (2).	6 7
(2) Schedule 2.2 commences on 31 December 2011.	8
3 Definitions	9
(1) In this Act:	10
<i>Director-General</i> means the Director-General of the Department of Services, Technology and Administration.	11 12
<i>public holiday</i> means a day or part-day declared to be a public holiday by or under this Act.	13 14
(2) Notes included in this Act do not form part of this Act.	15

Part 2	Public holidays	1
4	Standard public holidays	2
	The following public holidays are declared for the whole State:	3
(a)	<i>New Year's Day</i>	4
	Public holiday on 1 January.	5
	When 1 January is a Sunday, there is to be no public holiday on that day and instead the following day (Monday) is to be a public holiday.	6 7 8
(b)	<i>Australia Day</i>	9
	Public holiday on 26 January.	10
	When 26 January is a Saturday or Sunday, there is to be no public holiday on that day and instead the following Monday is to be a public holiday.	11 12 13
(c)	<i>Good Friday</i>	14
	Public holiday on the Friday publicly observed as Good Friday.	15
(d)	<i>Easter Saturday</i>	16
	Public holiday on the day after Good Friday.	17
(e)	<i>Easter Sunday</i>	18
	Public holiday on the Sunday following Good Friday.	19
(f)	<i>Easter Monday</i>	20
	Public holiday on the Monday following Good Friday.	21
(g)	<i>Anzac Day</i>	22
	Public holiday on 25 April.	23
	When 25 April is a Sunday, there is to be no public holiday on that day and instead the following day (Monday) is to be a public holiday.	24 25 26
(h)	<i>Queen's Birthday</i>	27
	Public holiday on the second Monday in June.	28
(i)	<i>Labour Day</i>	29
	Public holiday on the first Monday in October.	30
(j)	<i>Christmas Day</i>	31
	Public holiday on 25 December.	32
	When 25 December is a Sunday, there is to be no public holiday on that day and instead the following day (Monday) is to be a public holiday.	33 34 35

- (k) **Boxing Day** 1
Public holiday on 26 December. 2
When 26 December is a Sunday, there is to be no public holiday 3
on that day and instead the following day (Monday) is to be a 4
public holiday. 5
When 26 December is a Monday, there is to be no public holiday 6
on that day for Boxing Day and instead the following day 7
(Tuesday) is to be a public holiday for Boxing Day. 8
Note. When 26 December is a Monday, that day is a public holiday for 9
Christmas Day under paragraph (j). 10

5 Additional public holidays 11

- (1) The Minister may by order published on the NSW legislation website 12
declare a specified day or part-day in a particular year to be a public 13
holiday. The order must be published at least 7 days before the public 14
holiday. 15
(2) The order can declare a public holiday for the whole State or for a 16
specified part of the State. 17
(3) The Minister may by order published on the NSW legislation website 18
cancel a public holiday declared under this section. The order must be 19
published at least 7 days before the public holiday. 20
Note. Instead of cancelling an additional public holiday declared under this 21
section, the Minister can decide to substitute a different day for the holiday 22
under section 6. 23

6 Substituted public holidays 24

- (1) The Minister may by order published on the NSW legislation website 25
declare that a specified day or part-day in a particular year (the 26
substituted day) is to be a public holiday in substitution for a specified 27
day or part-day in that year (the **original day**) that would otherwise be 28
a public holiday in a particular year. 29
(2) The substituted day is then a public holiday and the original day is not 30
a public holiday. 31
(3) The order must be published at least 7 days before the earlier of the 32
original day and the substituted day for the public holiday. 33

7 Employee entitlements on public holidays	1
(1) The following provisions of the <i>Fair Work Act 2009</i> of the Commonwealth apply as laws of New South Wales to and in respect of employees and employers in the State:	2
section 114 (Entitlement to be absent from employment on public holiday)	3
section 116 (Payment for absence on public holiday)	4
(2) This section (and the provisions applying under this section as laws of New South Wales) are deemed to be industrial instruments for the purposes of Parts 1 (Breach of industrial instruments) and 2 (Recovery of remuneration and other amounts) of Chapter 7 of the <i>Industrial Relations Act 1996</i> .	5
	6
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	12

Part 3	Miscellaneous	1
8	Local event days	2
(1)	The Minister may by order made at the request of the council of a local government area declare a specified day or part-day to be a local event day in the local government area or in a specified part of the local government area.	3 4 5 6
(2)	The Minister is not to declare a local event day unless satisfied that the day or part-day is, and will be observed as, a day of special significance to the community in the area concerned.	7 8 9
(3)	The order declaring a local event day must be published on the NSW legislation website at least 7 days before the local event day.	10 11
(4)	The declaration of a local event day does not make the local event day a public holiday.	12 13
9	Delegations	14
	The Minister may delegate the exercise of any function of the Minister under this Act (other than this power of delegation) to:	15 16
(a)	the Director-General, or	17
(b)	the holder of any position in the Director-General's Department that is prescribed by the regulations.	18 19
10	Regulations	20
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	21 22 23 24
11	Repeal of Banks and Bank Holidays Act 1912 No 43	25
	The <i>Banks and Bank Holidays Act 1912</i> is repealed.	26
12	Review of Act	27
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	28 29 30
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	31 32
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	33 34

Schedule 1	Savings, transitional and other provisions	1
		2
Part 1	General	3
1	Regulations	4
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	5
	this Act	6
		7
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	8
		9
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	10
		11
		12
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	13
		14
		15
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	16
		17
		18
Part 2	Provisions consequent on enactment of this Act	19
		20
2	Anzac Day and Easter Monday 2011	21
	Monday 25 April 2011 is a public holiday for Anzac Day but not for Easter Monday. Tuesday 26 April 2011 is declared to be a public holiday for the whole State for Easter Monday.	22
		23
		24
3	Saving of local public holidays declared under former Act	25
(1)	A day, or part of a day, appointed under section 19 (3) of the former Act to be observed after the repeal of the former Act as a public holiday or half-holiday in a part of the State is taken to have been declared as a public holiday in that part of the State under section 5 of this Act.	26
		27
		28
		29
(2)	In this clause, <i>former Act</i> means the <i>Banks and Bank Holidays Act 1912</i> .	30
		31

Schedule 2	Amendment of Acts	1
2.1	Gaming Machines Act 2001 No 127	2
	Section 42 General provisions	3
	Omit the definition of <i>public holiday</i> from section 42 (4). Insert instead:	4
	<i>public holiday</i> means a public holiday under the <i>Public Holidays Act 2010</i> .	5
		6
2.2	Public Holidays Act 2010	7
	Section 4	8
	Omit the section. Insert instead:	9
	4 Standard public holidays	10
	The following public holidays are declared for the whole State:	11
	(a) <i>New Year's Day</i>	12
	Public holiday on 1 January.	13
	When 1 January is a Saturday or Sunday, there is to be an additional public holiday on the following Monday.	14
		15
	(b) <i>Australia Day</i>	16
	Public holiday on 26 January.	17
	When 26 January is a Saturday or Sunday, there is to be no public holiday on that day and instead the following Monday is to be a public holiday.	18
		19
		20
	(c) <i>Good Friday</i>	21
	Public holiday on the Friday publicly observed as Good Friday.	22
		23
	(d) <i>Easter Saturday</i>	24
	Public holiday on the day after Good Friday.	25
	(e) <i>Easter Sunday</i>	26
	Public holiday on the Sunday following Good Friday.	27
	(f) <i>Easter Monday</i>	28
	Public holiday on the Monday following Good Friday.	29
	(g) <i>Anzac Day</i>	30
	Public holiday on 25 April.	31

(h)	<i>Queen's Birthday</i>	1
	Public holiday on the second Monday in June.	2
(i)	<i>Labour Day</i>	3
	Public holiday on the first Monday in October.	4
(j)	<i>Christmas Day</i>	5
	Public holiday on 25 December.	6
	When 25 December is a Saturday, there is to be an additional public holiday on the following Monday.	7
		8
	When 25 December is a Sunday, there is to be an additional public holiday on the following Tuesday.	9
		10
(k)	<i>Boxing Day</i>	11
	Public holiday on 26 December.	12
	When 26 December is a Saturday, there is to be an additional public holiday on the following Monday.	13
		14
	When 26 December is a Sunday, there is to be an additional public holiday on the following Tuesday.	15
		16