

Passed by both Houses



New South Wales

Public Holidays Bill 2010

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2010*



New South Wales

Public Holidays Bill 2010

Act No , 2010

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

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

Clause 1 Public Holidays Bill 2010

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Public Holidays Act 2010*.

2 Commencement

- (1) This Act commences on 31 December 2010, except as provided by subsection (2).
- (2) Schedule 2.2 commences on 31 December 2011.

3 Definitions

- (1) In this Act:
 - Director-General*** means the Director-General of the Department of Services, Technology and Administration.
 - public holiday*** means a day or part-day declared to be a public holiday by or under this Act.
- (2) Notes included in this Act do not form part of this Act.

Part 2 Public holidays

4 Standard public holidays

The following public holidays are declared for the whole State:

- (a) ***New Year's Day***
Public holiday on 1 January.
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.
- (b) ***Australia Day***
Public holiday on 26 January.
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.
- (c) ***Good Friday***
Public holiday on the Friday publicly observed as Good Friday.
- (d) ***Easter Saturday***
Public holiday on the day after Good Friday.
- (e) ***Easter Sunday***
Public holiday on the Sunday following Good Friday.
- (f) ***Easter Monday***
Public holiday on the Monday following Good Friday.
- (g) ***Anzac Day***
Public holiday on 25 April.
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.
- (h) ***Queen's Birthday***
Public holiday on the second Monday in June.
- (i) ***Labour Day***
Public holiday on the first Monday in October.
- (j) ***Christmas Day***
Public holiday on 25 December.
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.

(k) **Boxing Day**

Public holiday on 26 December.

When 26 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.

When 26 December is a Monday, there is to be no public holiday on that day for Boxing Day and instead the following day (Tuesday) is to be a public holiday for Boxing Day.

Note. When 26 December is a Monday, that day is a public holiday for Christmas Day under paragraph (j).

5 Additional public holidays

- (1) The Minister may by order published on the NSW legislation website declare a specified day or part-day in a particular year to be a public holiday. The order must be published at least 7 days before the public holiday.
- (2) The order can declare a public holiday for the whole State or for a specified part of the State.
- (3) The Minister may by order published on the NSW legislation website cancel a public holiday declared under this section. The order must be published at least 7 days before the public holiday.

Note. Instead of cancelling an additional public holiday declared under this section, the Minister can decide to substitute a different day for the holiday under section 6.

6 Substituted public holidays

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

7 Employee entitlements on public holidays

- (1) The following provisions of the *Fair Work Act 2009* of the Commonwealth apply as laws of New South Wales to and in respect of employees and employers in the State:
 - section 114 (Entitlement to be absent from employment on public holiday)
 - section 116 (Payment for absence on public holiday)
- (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 *Industrial Relations Act 1996*.

Part 3 Miscellaneous

8 Local event days

- (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.
- (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.
- (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.
- (4) The declaration of a local event day does not make the local event day a public holiday.

9 Delegations

The Minister may delegate the exercise of any function of the Minister under this Act (other than this power of delegation) to:

- (a) the Director-General, or
- (b) the holder of any position in the Director-General's Department that is prescribed by the regulations.

10 Regulations

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.

11 Repeal of Banks and Bank Holidays Act 1912 No 43

The *Banks and Bank Holidays Act 1912* is repealed.

12 Review of Act

- (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.
- (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.
- (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.

Schedule 1 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (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.
- (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:
 - (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
 - (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.

Part 2 Provisions consequent on enactment of this Act

2 Additional public holiday for New Year's Day 2011

Monday 3 January 2011 is declared to be a public holiday for the whole State (in addition to the public holiday on 1 January 2011).

3 Anzac Day and Easter Monday 2011

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.

4 Saving of local public holidays declared under former Act

- (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.
- (2) In this clause, *former Act* means the *Banks and Bank Holidays Act 1912*.

Schedule 2 Amendment of Acts

2.1 Gaming Machines Act 2001 No 127

Section 42 General provisions

Omit the definition of *public holiday* from section 42 (4). Insert instead:

public holiday means a public holiday under the *Public Holidays Act 2010*.

2.2 Public Holidays Act 2010

Section 4

Omit the section. Insert instead:

4 Standard public holidays

The following public holidays are declared for the whole State:

(a) *New Year's Day*

Public holiday on 1 January.

When 1 January is a Saturday or Sunday, there is to be an additional public holiday on the following Monday.

(b) *Australia Day*

Public holiday on 26 January.

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.

(c) *Good Friday*

Public holiday on the Friday publicly observed as Good Friday.

(d) *Easter Saturday*

Public holiday on the day after Good Friday.

(e) *Easter Sunday*

Public holiday on the Sunday following Good Friday.

(f) *Easter Monday*

Public holiday on the Monday following Good Friday.

(g) *Anzac Day*

Public holiday on 25 April.

- (h) ***Queen's Birthday***
Public holiday on the second Monday in June.
- (i) ***Labour Day***
Public holiday on the first Monday in October.
- (j) ***Christmas Day***
Public holiday on 25 December.
When 25 December is a Saturday, there is to be an additional public holiday on the following Monday.
When 25 December is a Sunday, there is to be an additional public holiday on the following Tuesday.
- (k) ***Boxing Day***
Public holiday on 26 December.
When 26 December is a Saturday, there is to be an additional public holiday on the following Monday.
When 26 December is a Sunday, there is to be an additional public holiday on the following Tuesday.