

Banks and Bank Holidays Act 1912 No 43

[1912-43]



New South Wales

Status Information

Currency of version

Historical version for 7 July 1999 to 23 January 2003 (accessed 30 December 2024 at 4:59)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Banks Holidays Legislation Amendment Act 2002 No 132](#) (not commenced)

Authorisation

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File last modified 18 December 2002

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Banks and Bank Holidays Act 1912 No 43



New South Wales

An Act to consolidate the laws relating to banks and bank holidays.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Banks and Bank Holidays Act 1912*.

2 Repeal of Acts, First Schedule

The Acts mentioned in the First Schedule are to the extent therein expressed hereby repealed.

3 Definition

In Part 2, the word **bank** means:

- (a) any company, firm, or individual engaged in New South Wales in the discounting and issuing of bills and notes, lending money on securities and cash credit accounts, and other matters relating to the ordinary business of banking; or in the ordinary business of banking by receiving deposits and issuing bills or notes payable to the bearer at sight or on demand, and
- (b) any company, firm, or association receiving money on deposit in New South Wales and trading under limited liability, although such company, firm, or association does not issue bills or notes payable to the bearer at sight or on demand.

Part 2 Publication of statements and registration of banks

Division 1 Publication of statements

Editorial note—

See also (Commonwealth) *Banking Act 1959*, Part VI.

4 Statements of weekly average liabilities and assets to be kept

Every bank shall, at the close of business on Monday of every week, prepare and make up a full and correct account and statement in writing exhibiting:

- (a) the assets, property, credits, and securities belonging to every such bank, and
- (b) the respective debts, engagements, and liabilities of such bank, in the form set forth in the Second Schedule.

5 Quarterly abstracts to be published

- (1) From such weekly accounts and statements every bank shall, on the last Monday of each quarter ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December in every year, prepare a general abstract in writing, showing:
 - (a) the average amount during such quarter of the assets, property, credits, and securities of every such bank, and
 - (b) the debts, engagements, and liabilities of such bank,in the form set forth in the Third Schedule.
- (2) To every such quarterly abstract shall be subjoined a statement exhibiting:
 - (a) the amount of the capital stock of the bank preparing such abstract, paid up at the close of the quarter for which such abstract is prepared, and
 - (b) the rate and amount of the last dividend declared by such bank to its shareholders or proprietors, and
 - (c) the amount of the reserved profit of such bank at the time of declaring such dividend.
- (3) Every such respective quarterly abstract and statement shall be verified upon the oath of the managing director, manager, chief cashier, or clerk of the bank making the same; and shall, within one month after the close of every such quarter, or so soon thereafter as may be practicable, be delivered to the Chief Secretary to be laid before the Legislative Council and Legislative Assembly, and published in the Gazette.

6 Penalty for neglecting to keep or make such returns

- (1) If any such bank:
 - (a) neglects to keep such weekly accounts, or
 - (b) neglects to make out or to return or deliver to the Chief Secretary such quarterly abstracts as aforesaid,it shall forfeit for every such offence the sum of one thousand dollars.
- (2) If any managing director, manager, chief cashier, or clerk verifying such abstract, delivers or returns to the Chief Secretary any false account or abstract of such

averages, the bank making such false account or abstract shall forfeit for every such offence the sum of one thousand dollars; and the managing director, manager, chief cashier, or clerk so offending shall also forfeit for every such offence the sum of two hundred dollars.

- (3) Such penalties may be recovered respectively by action of debt in any court of competent jurisdiction.

Division 2 Registration

Editorial note—

See also (Commonwealth) [Banking Act 1959](#), Part II.

7 Copy of charter or deed of settlement to be registered

Where any bank is now carrying on business under a charter or a deed of co-partnership and settlement, a copy of such charter or deed, attested by the managing director, manager, chief cashier, or clerk of such bank, to be a true transcript of the original shall be registered, if not already registered, in the office of the Registrar-General, by the managing director, manager, chief cashier, or clerk of such bank as soon as may be practicable, and the same shall be open for inspection at all reasonable times by any person requiring to inspect the same, on payment of a fee of ten cents for each inspection.

8 Copy of new charter or deed to be registered

(1) Whenever:

- (a) any new bank is established, having a charter or a deed of co-partnership and settlement, or
- (b) any new charter or deed of co-partnership and settlement of any bank issues or is entered into,

a copy of such charter, or of such deed of co-partnership and settlement, attested as aforesaid, shall in like manner be registered for the purposes aforesaid.

- (2) If any managing director, manager, chief cashier, or clerk omits or neglects so to register such attested copy as aforesaid, that person shall be liable to a penalty of two hundred dollars, to be recovered by an action of debt in any court of competent jurisdiction by any person who sues for the same.

9 Names of proprietors to be also registered

- (1) The managing director, manager, chief cashier, or clerk of every bank shall, within thirty days after the first day of January in each year, or as soon thereafter as may be practicable, cause a true and correct list of the names of all the persons who then are existing proprietors or members of such bank, with their respective places of abode

and descriptions, to be recorded on oath in the office of the Registrar-General, and the same shall be open for inspection at all reasonable times by any person requiring to inspect the same on payment of a fee of ten cents for each such inspection.

- (2) Any such managing director, manager, chief cashier, or clerk who omits or neglects to cause such list to be recorded in manner aforesaid, or wilfully falsifies any such list, shall be liable to a penalty of two hundred dollars, to be recovered by an action of debt in any court of competent jurisdiction by any person who sues for the same.

10 Liability of such proprietors to be sued

Every person whose name is so recorded as aforesaid shall be taken to be a member or proprietor of the banking company or firm in which the person's name is so recorded as aforesaid, and shall be liable to be sued as such until a new list of the names of the members or proprietors of such bank shall be recorded as aforesaid, or until the person has given notice in the Gazette of the person's retirement from such bank:

Provided that nothing herein contained shall be deemed:

- (a) to absolve any person from liability on account of any debts incurred by any such bank during the time such person remained a proprietor or member thereof, or
- (b) to render any individual proprietor or member of any bank established by royal charter or letters patent liable for any debts incurred by the same, except so far as the proprietor or member is liable under the provisions of such charter or letters patent.

10A Last four sections not to apply to certain banks

The last four preceding sections shall not apply to any bank which is incorporated, and has a capital divided into shares.

Division 3 Miscellaneous provisions

11 Oaths may be taken before justice of the peace

- (1) Every oath required to be taken under the provisions of this Part may be taken before and administered by any justice of the peace.
- (2) Any managing director, manager, chief cashier, or clerk who takes any false oath as to any quarterly abstract of averages or other matter or thing under the provisions of this Part shall be deemed to be guilty of perjury.

12 Limitation of actions

No action shall lie against any person for any offence committed against the provisions of this Part unless the same is commenced within two years from the time the offence is alleged to have been committed.

13 Proof of inability to comply with Act in given time to lie in party

If in any case any matter or thing required to be done or performed under the provisions of this Part within any given period is not so done or performed, the proof that it was not practicable to do so shall lie upon the party required to do or perform the same:

Provided that no excuse shall be allowed for any such failure or neglect unless it is clearly shown that the matter or thing required to be done or performed was done or performed as soon as was practicable.

13A Power to lend money on certain securities

Any bank notwithstanding anything to the contrary contained in any Act in force in New South Wales relating or applicable to such bank or in the charter or deed of settlement of such bank shall be and shall be deemed to have at all times been empowered to advance or lend money on the security of lands, houses, ships, or pledges of merchandise.

Part 3 Bank holidays

14 Application of Part 3

Nothing in this Part shall apply to bills of exchange, cheques, or promissory notes drawn or made after the first day of February, one thousand nine hundred and ten.

15 Bank holidays

The several days in the Fourth Schedule (and which days are in this Act hereinafter referred to as bank holidays) shall be kept as close holidays in all banks in New South Wales.

15A Saturdays to be bank holidays

- (1) As on and from a day to be appointed by the Governor and notified by proclamation published in the Gazette, Saturdays that are not bank holidays under any other provisions of this Act shall be bank holidays and shall be kept as close holidays in all banks in New South Wales.

Editorial note—

Day appointed for the purposes of this subsection: 20.1.1962—see Gazette No 2 of 5.1.1962, p 3.

- (2) The proclamation mentioned in subsection (1) shall not be made and published in the Gazette until the Governor is satisfied that arrangements which will operate generally throughout New South Wales have been made and will be carried out for keeping banks open until five o'clock in the afternoon of every Friday which is not a day:
 - (a) which has been appointed for a bank holiday by or under this Act,
 - (b) which, or part of which, after noon, has been appointed pursuant to section 19 as a public holiday or public half-holiday, as the case may be, to be observed

generally throughout New South Wales,

(c) on which, after noon, banks generally throughout New South Wales may pursuant to section 22 be closed.

(3) If after the proclamation mentioned in subsection (1) has been made and published in the Gazette, arrangements as mentioned in subsection (2) cease to operate, the Governor may, by proclamation published in the Gazette, declare that, as on and from the day specified in such proclamation, Saturdays that are not bank holidays under any other provisions of this Act shall cease to be bank holidays and the provisions of subsection (1) shall on and from that day cease to have effect.

(4) This section does not apply to agencies of savings banks.

In this subsection **savings bank** has the meaning given to that expression by the definition of **savings bank** in section 5 (1) of the *Banking Act 1959* of the Commonwealth (as in force immediately before its repeal).

16 Bills due on bank holidays

(1) All bills of exchange and promissory-notes which are due and payable on any such bank holiday shall be payable, and in case of non-payment may be noted and protested, on the next following day, and not on such bank holiday; and any such noting or protest shall be as valid as if made on the day on which the bill of exchange or promissory-note was made due and payable.

(2) For all the purposes of this Part, the day next following a bank holiday shall mean the next following day on which a bill of exchange or promissory-note may be lawfully noted or protested.

Editorial note—

But see (Commonwealth) *Bills of Exchange Act 1909*, s 7 and First Schedule.

17 Provision as to notice of dishonour

(1) When the day on which any notice of dishonour of an unpaid bill of exchange or promissory-note should be given is a bank holiday, such notice of dishonour shall be given on the day next following such bank holiday.

(2) When the day on which a bill of exchange or promissory-note should be presented or received for acceptance or payment, or accepted, or forwarded to any referee, is a bank holiday, such bill of exchange or promissory-note shall be presented or forwarded on the day next following such bank holiday.

Editorial note—

But see (Commonwealth) *Bills of Exchange Act 1909*, s 7 and First Schedule.

18 As to payments on bank holidays

No person shall be compellable to make any payment or do any act upon such bank holidays which the person would not be compellable to do or make on Sunday and the obligation to make such payment and to do such act shall apply to the day following such bank holiday; and the making of such payment and doing such act on such following day shall be equivalent to payment of the money or performance of the act on the holiday.

Editorial note—

But see (Commonwealth) *Bills of Exchange Act 1909*, s 7 and First Schedule. See also (Commonwealth) *Banking Act 1959*, s 68.

19 Appointment of special bank holidays

- (1) The Governor may, by proclamation published in the Gazette, appoint a special day or part of a special day to be observed as a public holiday or half-holiday throughout New South Wales.
- (2) The proclamation is to be published at least 7 days before the public holiday or half-holiday is to be observed.
- (3) The Minister may, by notice published in the Gazette, appoint a special day or part of a special day to be observed as a public holiday or half-holiday in any local government area, part of a local government area or other part of New South Wales.
- (4) The notice is to be published at least 7 days before the public holiday or half-holiday is to be observed.
- (5) If it appears to the Minister that circumstances have arisen making it impractical or inconvenient for a special day or part of a special day appointed by the Minister to be observed as a public holiday or half-holiday, the Minister may, by notice published in the Gazette or in a newspaper circulating in the part of New South Wales in which the holiday is to be observed, cancel the appointment and may, if it is appropriate, appoint instead another special day or part of a special day to be observed as a public holiday or half-holiday in the area concerned.
- (6) A notice published under subsection (5) is to give as much notice as is practicable in the circumstances.
- (7) Any special day or part of a special day appointed to be observed as a public holiday or half-holiday is to be kept as a close holiday or half-holiday in all banks within the area mentioned in the proclamation or notice and, in relation to bills of exchange and promissory-notes payable on the special day or part of a special day so appointed, is to be regarded as a bank holiday or half-holiday in the area.

20 Day appointed for bank holiday may be vetoed by proclamation

Where in any special case it is made to appear to the Governor that in any year it is

inexpedient that a day by this Act appointed for a bank holiday should be a bank holiday, the Governor may declare by proclamation in the Gazette, published not less than one week before the day appointed for such holiday, that such day shall not in such year be a bank holiday, and may appoint such other day as the Governor may think fit to be a bank holiday instead of such day, and thereupon the day so appointed shall in such year be substituted for the day so appointed by this Act.

21 Interpretation of references in certain agreements to public holidays

When in any industrial agreement, or in any agreement relating to work, made either before or after the commencement of this Act, reference is made to a public or bank holiday, such reference shall be deemed to relate to the day on which such holiday is publicly observed.

22 Half-holidays

- (1) Every bank on obtaining permission in writing of the Treasurer, and on giving the public notice hereinafter mentioned, may close the bank, or any branch of the bank, to business on any day after noon. The bank shall give public notice of such closing by advertisement published between the third and the fourteenth day before the day of such closing in at least two issues of some newspapers published and circulating in the neighbourhood of such bank or branch.
- (2) On any day on which any bank or branch may be closed under this section as aforesaid, no time after noon shall in respect of any business at such bank or branch be a reasonable hour within the meaning of the *Bills of Exchange Act 1887*, or shall be within banking or business hours within any law, practice, or custom relating to banks or bankers.

Editorial note—

But see (Commonwealth) *Bills of Exchange Act 1909*, s 7 and First Schedule.

First Schedule

(Section 2)

| Reference to Act | Title or Short Title | Extent of Repeal |
|------------------|---|------------------|
| Act No 9, 1898 | <i>Banks and Bank Holidays Act 1898</i> | The whole |
| Act No 30, 1899 | <i>Banks and Bank Holidays Act (Amendment) Act 1899</i> | The whole |
| Act No 80, 1900 | <i>Banks Half-Holiday Act 1900</i> | The whole |
| Act No 15, 1906 | <i>Banks and Bank Holidays Further Amendment Act 1906</i> | The whole |

Second Schedule

(Section 4)

Weekly Statement showing the amount and nature of the Debts, Engagements, and Liabilities, and of the Assets and Property or Securities of the Bank of _____ from the _____ to the _____ 19 .

| Liabilities | | Amount Totals | | Assets | | Amount Totals | |
|-----------------------------|---|----------------------|------|--|----|---------------|------|
| | | \$ c | \$ c | | | \$ c | \$ c |
| Notes in circulation | } | Not bearing interest | | Coined gold and silver, and other coined metals | | | |
| | | Bearing interest | | | | | |
| Bills in circulation | } | Not bearing interest | | Gold and silver, in bars or bullion | | | |
| | | Bearing interest | | | | | |
| | | | | Landed property | | | |
| Balance due to other banks | | | | Notes and bill of other Banks | | | |
| Deposits | } | Not bearing interest | | Balances due from other Banks | | | |
| | | Bearing interest | | | | | |
| | | | | Amount of all debts due to the Bank, including notes, bills of exchange, and all stock and funded debts of every description, excepting notes, bills, and balances due to the said Bank from other Banks | | | |
| Total amount of Liabilities | | \$ | | Total amount of Assets | \$ | | |

Managing Director.

Place and date.

Chief Cashier or Clerk.

Third Schedule

(Section 5)

General Abstract showing the average amount of the Liabilities and Assets of the Bank of _____

taken from the several Weekly Statements during the quarter, from the 19 . to the ,

| Liabilities | Amount Totals | | Assets | Amount Totals | |
|--|--|------|---|-----------------|--|
| | \$ c | \$ c | | \$ c | \$ c |
| Notes in circulation | { Not bearing interest Bearing interest | | Coined gold and silver, and other coined metals | | |
| Bills in circulation | | | { Not bearing interest Bearing interest | | |
| Balances due to other Banks | { Not bearing interest Bearing interest | | | Landed property | |
| Deposits | | | | | |
| | | | | | Balances due from other Banks |
| | | | | | Amount of all debts due to the Bank, including notes, bills of exchange, and all stock and funded debts of every description, excepting notes, bills, and balances due to the said Bank from other Banks |
| Total amount of Liabilities | \$ | | | | Total amount of Assets |
| Amount of the capital stock paid up at the close of the quarter ended 19 | | | | | |
| Rate of the last dividend declared to the shareholders | | | | | |
| Amount of the last dividend declared | | | | | |
| Amount of the reserved profits at the time of declaring such dividend | | | | | |

Managing Director.

Place and date.

Chief Cashier or Clerk.

I, A.B., make oath that to the best of my knowledge and belief the foregoing abstract is a true and

faithful account of the average amount of assets and liabilities of the above Bank during the period specified, and that the same was made up from the weekly statements thereof kept in pursuance of the provisions of the *Banks and Bank Holidays Act 1912*.

(Signed) A.B.

Sworn before me at
, 19 .

this

day of

}

C.D., Justice of the Peace.

Fourth Schedule

(Section 15)

Part 1

The first day of January.

The twenty-sixth day of January.

Good Friday.

The day after Good Friday.

Easter Monday.

The twenty-fifth day of April (Anzac Day).

Christmas Day.

The twenty-sixth day of December.

When the first day of January, or the twenty-sixth day of January, or the twenty-fifth day of April (Anzac Day), or Christmas Day, or the twenty-sixth day of December falls upon a Sunday, the next following Monday shall be a Bank Holiday; and whenever the twenty-sixth day of December falls upon a Monday, the day following shall be a Bank Holiday.

Part 2

The Anniversary of the Birthday of the Sovereign.

The first day of August.

When any of the above days falls upon any day of the week other than Monday, that day shall not be a Bank Holiday, but the following Monday shall be a Bank Holiday in lieu thereof, unless otherwise proclaimed by notice in the Gazette.