

**1992**

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**HOLIDAYS (AMENDMENT) BILL 1992**

**EXPLANATORY MEMORANDUM**

**Circulated by Authority of the Deputy Chief Minister**

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## HOLIDAYS (AMENDMENT) BILL 1992

### EXPLANATORY MEMORANDUM

#### Outline

This is an amending Bill. It amends the *Holidays Act 1958*, referred to in the amending Bill as the Principal Act. The Principal Act deals with the days and dates which are to be observed as public holidays and bank holidays in the Territory. Section 3, in particular, lists the public holidays in the Territory each year, such as New Year's Day, Australia Day, Easter, Anzac Day, Christmas and Boxing Day. Section 3 also provides for alternative holidays to be taken when certain public holidays fall on a Sunday or a Monday, but not when they fall on a Saturday.

Most ACT awards, however, provide that where Christmas Day, New Year's Day or Boxing Day falls on a Saturday the public holiday automatically transfers to a Monday or Tuesday in the following week and in past years reliance has been placed on these awards. However, these arrangements disadvantage those workers who either are not covered by an award, or who work under an award which does not provide for automatic transfer of the public holiday.

The amending Bill amends the Principal Act by providing for alternative holidays when New Year's Day, Christmas Day or Boxing Day falls on a Saturday. Basically, the Bill provides that:

- (i) when New Year's Day falls on a Saturday, the following Monday is to be a public holiday;
- (ii) when Christmas Day and Boxing Day fall on a Saturday and Sunday respectively, the following Monday and Tuesday are to be public holidays; and
- (iii) when Boxing Day falls on a Saturday, the following Monday is to be a public holiday.

Further, the Bill provides that the alternative holidays apply only to workers who are not already covered by an award providing for similar arrangements.

#### Financial Considerations

There are no direct costs associated with the amending Bill.

Details of the Bill are included in the Attachment.

## ATTACHMENT

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Clauses 1 and 2 are formal requirements referring to the short title of the Bill and the definition of the Principal Act. The Bill will commence on gazettal.

Clause 3 amends section 3 of the Principal Act.

Paragraph 3 (a) makes a technical amendment to subsection (1) for ease of reading.

Paragraph 3 (b) amends subparagraph (1) (a) (i) so that when New Years Day falls on a Saturday the following Monday is a public holiday.

Paragraph 3 (c) amends subparagraph (1) (a) (viii) so that when Christmas Day falls on a Saturday the following Monday is a public holiday.

Paragraph 3 (d) inserts a new subparagraph (1) (a) (ix) which provides that where Boxing day falls on a Saturday the following Monday is a public holiday, or where it falls on a Sunday or Monday the following Tuesday is a public holiday.

Paragraph 3 (e) makes a technical amendment to subsection (2) for ease of reading.

Paragraph 3 (f) inserts new subsections (3) and (4) into the Principal Act.

The effect of new subsection (3) is to ensure that "substitution" holidays apply only to those workers who do not receive those holidays under an award providing for similar arrangements. For example, some awards state that where Boxing Day falls on a Saturday the "next available working day" should be taken in lieu. If subsection (3) was not inserted these workers would gain an advantage by obtaining an extra holiday.

Subsection (4) defines the terms "award" and "substituted public holiday" for the purposes of subsection (3). "Award" means an award or order of the Australian Industrial Relations Commission made under the *Industrial Relations Act 1988* of the Commonwealth and also includes a certified agreement under that Act. "Substituted public holiday" refers to the alternative day being observed as a public holiday where the actual holiday falls on a weekend.

Clause 4 makes technical amendments to section 4 of the Principal Act for ease of reading.