

Version No. 022
Public Holidays Act 1993
No. 119 of 1993

Version incorporating amendments as at 27 July 2007

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The Parliament of Victoria enacts as follows:

1 Purpose

The purpose of this Act is to make new provision with respect to public holidays in Victoria.

2 Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3 Definitions

(1) In this Act—

Council has the same meaning as in the **Local Government Act 1989**;

metropolitan municipal district means the municipal district of a Council specified in the Schedule or a municipal district declared by the Governor in Council under subsection (2) to be a metropolitan municipal district for the purposes of this Act;

non-metropolitan Council means a Council that does not have a metropolitan municipal district.

(2) The Governor in Council may, by Order published in the Government Gazette, declare the municipal district of a specified Council to be a metropolitan municipal district for the purposes of this Act.

S. 3(3)
inserted by
No. 86/1998
s. 24,
amended by
No. 59/2003
s. 123,
repealed by
No. 74/2006
s. 28.

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4 Application

This Act applies to—

S. 4(a)
amended by
No. 82/1994
s. 13(Sch. 2
item 6.1).

- (a) all persons in Victoria not covered by a federal award who are employed under an Act or a contract of employment or other agreement or arrangement relating to employment or who are bound by an employment agreement within the meaning of the **Employee Relations Act 1992**; and
- (b) every person or body employing a person referred to in paragraph (a).

5 Act to bind Crown

This Act binds the Crown, not only in right of the State of Victoria, but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

6 Public holidays

The following days are appointed as public holidays—

- (a) New Year's Day or the day after New Year's Day when New Year's Day is a Sunday;
- (b) 26 January (Australia Day);
- (c) the second Monday in March (Labour Day);
- (d) Good Friday;

(da) Easter Saturday;

S. 6(da)
inserted by
No. 1/2003
s. 3.

(e) Easter Monday;

(f) 25 April (ANZAC Day);

S. 6(f)
amended by
No. 96/2003
s. 16.

(g) the second Monday in June (the day on which the anniversary of the birthday of the Sovereign is observed);

(h) the first Tuesday in November (Melbourne Cup Day) but only in metropolitan municipal districts;

(i) Christmas Day;

(j) The day after Christmas Day (Boxing Day) or the following Monday when Boxing Day is a Sunday.

7 Additional public holidays

(1) In addition to the days specified in section 6—

(a) the Minister may, by notice published in the Government Gazette, appoint another one or more days or half-days as public holidays or public half-holidays;

(b) a non-metropolitan Council may, by notice published in the Government Gazette, in each year either appoint another day as a public holiday in its municipal district or in a specified part of its municipal district or appoint no more than another 2 half-days as public half-holidays in its municipal district or in a specified part of its municipal district.

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- (2) A notice under subsection (1)(a) may be expressed so as to apply—
- (a) throughout the whole of the State or in a specified part of the State; or
 - (b) to all persons to whom and bodies to which this Act applies or to a specified class of persons or bodies; or
 - (c) as specified in both paragraphs (a) and (b).
- (3) A notice under subsection (1)(b) published on or after 1 July 1994 must be published not less than 6 months before the day or half-day appointed or within any shorter period before that day that the Minister, on the application of the Council, approves.
- (4) The Minister must not approve a shorter period of notice under subsection (3) unless satisfied that special circumstances exist.
- (5) No more than one day or 2 half-days may be appointed in any year as a public holiday or public half-holidays under subsection (1)(b) in any part of the municipal district of a non-metropolitan Council.

8 Substituted public holidays

- (1) The Minister may, by notice published in the Government Gazette, declare that a day appointed as a public holiday or public half-holiday under section 6, 7(1)(a) or this subsection shall not in a specified year be such a holiday and—
- (a) in the case of a public holiday, appoint another day or 2 half-days; or
 - (b) in the case of a public half-holiday, appoint another half-day; or

S. 8(1)
substituted by
No. 100/1995
s. 47.

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- (c) in the case of 2 public half-holidays, appoint another day—
as a public holiday or half-holiday in that year.
- (2) A notice under subsection (1) may be expressed so as to apply—
- (a) throughout the whole of the State or in a specified part of the State; or
 - (b) to all persons to whom and bodies to which this Act applies or to a specified class of persons or bodies; or
 - (c) as specified in both paragraphs (a) and (b).
- (3) A non-metropolitan Council may, by notice published in the Government Gazette, declare that a day appointed as a public holiday or public half-holiday under section 7(1)(b) or this subsection in the whole or any part of its municipal district shall not in a specified year be such a holiday and appoint another day or half-day (as the case requires) as a public holiday in that year in that place.
- (4) A notice under subsection (3) must be published—
- (a) not less than one month before the day or half-day previously appointed for the holiday or the day or half-day appointed in substitution for the holiday, whichever occurs first; or
 - (b) within any shorter period before that day that the Minister, on the application of the Council, approves.
- (5) The Minister must not approve a shorter period of notice under subsection (4) unless satisfied that special circumstances exist.

S. 8(4)
substituted by
No. 100/1995
s. 48.

- (6) The day or half-day appointed under subsection (1) or (3) replaces the public holiday for which it was substituted.

9 Bank holidays

For the purposes of the Bills of Exchange Act 1909 of the Commonwealth—

- (a) a day or half-day appointed under this Act as a public holiday or public half-holiday in any place must also be taken to be declared as a bank holiday or bank half-holiday (as the case requires) in that place; and
- (b) the Saturday in each week must be taken to be declared as a bank holiday throughout the whole of the State.

10 Holiday entitlements

- (1) Despite any provision to the contrary made by or under any other Act or by any contract of employment or other agreement or arrangement relating to employment or by any employment agreement within the meaning of the **Employee Relations Act 1992**, a person referred to in section 4(a)—
- (a) is entitled to a public holiday or public half-holiday that applies to him or her without loss of pay;
- (b) is not entitled to a holiday without loss of pay on any of the following days—
- (i) a day instead of New Year's Day when New Year's Day is a Saturday;
- (ii) a day instead of 26 January (Australia Day) when Australia Day is not a Monday;

S. 10(1)
amended by
No. 82/1994
s. 13(Sch. 2
item 6.2).

S. 10(1)(b)(iii)
repealed by
No. 1/2003
s. 4.

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- (iv) Easter Tuesday;
 - (v) a day instead of 25 April (ANZAC Day) when ANZAC Day is a Saturday or Sunday;
 - (vi) the fourth Thursday in September in metropolitan municipal districts;
 - (vii) a day instead of Christmas Day when Christmas Day is a Saturday or Sunday;
 - (viii) a day instead of the day after Christmas Day (Boxing Day) when Boxing Day is a Saturday;
- (c) who ordinarily works from Monday to Friday only is not entitled to any payment in respect of, or time off in lieu of, a public holiday or public half-holiday that falls on a Saturday or Sunday unless he or she works on that day.
- (2) Nothing in subsection (1) affects a provision made by or under any Act, contract, agreement or arrangement referred to in that subsection requiring a person who is entitled to a particular public holiday or public half-holiday to work on that day or half-day on any terms and conditions specified in the provision.

S. 10(1)(b)(v)
amended by
No. 96/2003
s. 16.

S. 10(2)
amended by
No. 82/1994
s. 13(Sch. 2
item 6.3).

11 Regulations

The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

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Ss 12–16
repealed by
No. 100/1995
s. 49.

Sch.

Sch.
substituted by
No. 100/1995
s. 50.

SCHEDULE

METROPOLITAN MUNICIPAL COUNCILS

Banyule	Maribyrnong
Bayside	Maroondah
Boroondara	Melbourne
Brimbank	Melton
Cardinia	Monash
Casey	Moonee Valley
Darebin	Moreland
Frankston	Mornington Peninsula
Glen Eira	Nillumbik
Greater Dandenong	Port Phillip
Hobsons Bay	Stonnington
Hume	Whitehorse
Kingston	Whittlesea
Knox	Wyndham
Manningham	Yarra

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 28 October 1993

Legislative Council: 11 November 1993

The long title for the Bill for this Act was "A Bill to make new provision with respect to public holidays in Victoria, to repeal the **Bank Holidays Act 1958**, to amend the **Public Sector Management Act 1992**, the **Teaching Service Act 1981** and the **Shop Trading Act 1987**, to make consequential amendments to certain other Acts and for other purposes."

The **Public Holidays Act 1993** was assented to on 7 December 1993 and came into operation on 7 December 1993: section 2.

2. Table of Amendments

This Version incorporates amendments made to the **Public Holidays Act 1993** by Acts and subordinate instruments.

Employee Relations (Amendment) Act 1994, No. 82/1994

Assent Date: 29.11.94
Commencement Date: S. 13(Sch. 2 items 6.1–6.3) on 11.5.95: Government Gazette 11.5.95 p. 1093
Current State: This information relates only to the provision/s amending the **Public Holidays Act 1993**

Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995

Assent Date: 5.12.95
Commencement Date: Pt 18 (ss 47–50) on 5.12.95: s. 2(1)
Current State: This information relates only to the provision/s amending the **Public Holidays Act 1993**

Local Government (Governance and Melton) Act 1998, No. 86/1998

Assent Date: 17.11.98
Commencement Date: S. 24 on 1.7.99: Government Gazette 17.6.99 p. 1406
Current State: This information relates only to the provision/s amending the **Public Holidays Act 1993**

Public Holidays and Shop Trading Reform Acts (Amendment) Act 2003, No. 1/2003

Assent Date: 2.4.03
Commencement Date: Ss 3, 4 on 3.4.03: s. 2
Current State: This information relates only to the provision/s amending the **Public Holidays Act 1993**

Victorian Urban Development Authority Act 2003, No. 59/2003

Assent Date: 16.6.03
Commencement Date: S. 123 on 1.8.03: Government Gazette 31.7.03 p. 2125
Current State: This information relates only to the provision/s amending the **Public Holidays Act 1993**

ANZAC Day (Amendment) Act 2003, No. 96/2003

Assent Date: 2.12.03
Commencement Date: S. 16 on 3.12.03: s. 2
Current State: This information relates only to the provision/s amending the **Public Holidays Act 1993**

City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006

Assent Date: 10.10.06
Commencement Date: S. 28 on 1.7.07: Government Gazette 28.6.07 p. 1303
Current State: This information relates only to the provision/s amending the **Public Holidays Act 1993**

3. Explanatory Details

No entries at date of publication.