

Legislative Council

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South Australia

Public Holidays Bill 2023

A BILL FOR

An Act to provide for public holidays in the State, to make related amendments to various Acts and for other purposes.

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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Public Holidays Act 2023*.

2—Commencement

This Act comes into operation on 1 January 2024.

3—Days fixed as public holidays

- (1) Subject to this section, the following days will be public holidays in each year:
 - (a) 1 January;
 - (b) 26 January;
 - (c) the second Monday in March;
 - (d) Good Friday;
 - (e) Easter Saturday;
 - (f) Easter Sunday;
 - (g) Easter Monday;
 - (h) 25 April;
 - (i) the second Monday in June;
 - (j) the first Monday in October;
 - (k) 25 December;
 - (l) 26 December.
- (2) If 25 December or 1 January falls on a Saturday or a Sunday, the following Monday will be a public holiday in addition to that day.
- (3) If 26 December falls on a Saturday, Sunday or Monday, the following rules apply:
 - (a) where it falls on a Saturday, the following Monday will be a public holiday in addition to that day;
 - (b) where it falls on a Sunday or a Monday, the following Tuesday will be a public holiday in addition to that day.
- (4) If 26 January falls on a Saturday or a Sunday, the following Monday will be a public holiday instead of that day.

- (5) The Governor may, by proclamation, declare some other day to be a public holiday in a year instead of a day appointed by this section as a public holiday (and in that case that other day will in that year be substituted as a public holiday for the day appointed by this section).

4—Part-day public holidays

The part of the day from 7pm to 12 o'clock midnight on the following days will be a public holiday (a *part-day public holiday*):

- (a) 24 December;
- (b) 31 December.

5—Additional special public holidays may be proclaimed

- (1) The Governor may, by proclamation—
- (a) appoint a day to be an additional public holiday in any year; or
 - (b) appoint a part of a day to be an additional part-day public holiday in any year.
- (2) A proclamation under this section may apply—
- (a) throughout the State; or
 - (b) within a district or locality specified in the proclamation.

6—Public offices to be closed on public holidays

All offices of the Public Service will be closed on public holidays but nothing in this Act—

- (a) authorises the closing on a public holiday of an office of the Public Service that is specially required by law to be kept open on the public holiday; or
- (b) prevents the responsible Minister in charge of an administrative unit from requiring the services of any or all of the officers of the unit during a public holiday in case of an emergency.

7—Bank holidays

- (1) All Sundays and public holidays are taken to be bank holidays.
- (2) The Governor may, by proclamation—
- (a) declare some other day to be a bank holiday in a year instead of a day referred to in subsection (1) (and in that case that other day will in that year be substituted as a bank holiday for the day appointed by subsection (1)); or
 - (b) appoint a day to be an additional bank holiday in any year; or
 - (c) appoint a part of a day to be a bank half holiday in any year.
- (3) A proclamation under this section may apply—
- (a) throughout the State; or
 - (b) within a district or locality specified in the proclamation.
- (4) Subject to subsection (5), all ADIs must be closed on bank holidays and during any bank half holiday.

- (5) The Governor may, by proclamation, authorise the opening of ADIs within a specified area on a bank holiday or bank half holiday specified in the proclamation.

8—Payments and other acts on public holidays etc

- (1) No person is compellable to make a payment or do an act on a public holiday, bank holiday or Saturday that the person would not be compellable to make or do on a Sunday before the commencement of this Act.
- (2) When, except for the provisions of this section, a person would be obliged to make a payment or do an act on a public holiday, bank holiday or Saturday, the obligation applies to the next day following that is not a public holiday, bank holiday or Saturday, and payment or performance on that day will be due payment of the money or performance of the act, but nothing in this Act exempts a person from making a payment or doing an act on a public holiday, bank holiday or Saturday that the person is by law specially required to make or do on that day.
- (3) A reference in this section to a public holiday does not include a part-day public holiday.
- (4) If a bank half holiday is proclaimed under section 7(2)(c), this section applies in relation to the day on which that half holiday occurs as if the whole of that day had been proclaimed a bank holiday.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1—Amendment of *Adelaide Cemeteries Authority Act 2001*

1—Amendment of section 20—Plans of management for Authority cemeteries

Section 20(9)—delete subsection (9)

Part 2—Amendment of *Bail Act 1985*

2—Amendment of section 3—Interpretation

Section 3(1), definition of *working day*—delete "or a Sunday or other public holiday" and substitute:

Sunday or public holiday

Part 3—Amendment of *Bills of Sale Act 1886*

3—Amendment of section 2—Interpretation

Section 2(1), definition of *business day*—delete the definition

Part 4—Amendment of *Botanic Gardens and State Herbarium Act 1978*

4—Amendment of section 27—Regulations

Section 27(3)—delete "or other" and substitute:

or a

Part 5—Amendment of *Building Work Contractors Act 1995*

5—Amendment of section 36—Right to terminate certain domestic building work contracts

Section 36(5), definition of *business day*—delete the definition

Part 6—Amendment of *Children and Young People (Safety) Act 2017*

6—Amendment of section 16—Interpretation

Section 16(1), definition of *business day*—delete the definition

Part 7—Amendment of *Classification (Publications, Films and Computer Games) Act 1995*

7—Amendment of section 4—Interpretation

Section 4, definition of *business day*—delete the definition

Part 8—Amendment of *Fair Trading Act 1987*

8—Amendment of section 43—Unlawful actions and representations

Section 43(1)(d)(i)—after "on a" insert:

Sunday or

Part 9—Amendment of *Fire and Emergency Services Act 2005*

9—Amendment of section 3—Interpretation

Section 3(1), definition of *business day*—delete the definition

Part 10—Amendment of *Land and Business (Sale and Conveyancing) Act 1994*

10—Amendment of section 3—Interpretation

Section 3, definition of *business day*—delete the definition

Part 11—Amendment of *Legislation Interpretation Act 2021*

11—Amendment of section 4—Standard definitions

- (1) Section 4, definition of *bank holiday*—delete "*Holidays Act 1910*" and substitute:

Public Holidays Act 2023

- (2) Section 4, definition of *part-day public holiday*—delete "section 3B of the *Holidays Act 1910*" and substitute:

section 4 or 5(1)(b) of the *Public Holidays Act 2023*

- (3) Section 4, definition of *public holiday*, (a)—delete "*Holidays Act 1910*" and substitute:

Public Holidays Act 2023

Part 12—Amendment of *Magistrates Act 1983***12—Amendment of section 15—Recreation leave**

Section 15(6)—after "Saturday" insert:

, a Sunday

Part 13—Amendment of *Marine Parks Act 2007***13—Amendment of section 3—Interpretation**

Section 3(1), definition of *business day*—delete the definition

Part 14—Amendment of *Mental Health Act 2009***14—Amendment of section 3—Interpretation**

Section 3(1), definition of *business day*—delete the definition

Part 15—Amendment of *Mining Act 1971***15—Amendment of section 9AA—Waiver of exemption (including cooling-off)**

Section 9AA(15), definition of *business day*—delete "or a Sunday or other public holiday" and substitute:

, Sunday or public holiday

Part 16—Amendment of *Parliament (Joint Services) Act 1985***16—Amendment of section 18—Recreation leave**

Section 18(5)—after "Saturday" insert:

, Sunday

Part 17—Amendment of *Public Trustee Act 1995***17—Amendment of section 3—Interpretation**

Section 3, definition of *business day*—delete the definition

Part 18—Amendment of *Residential Parks Act 2007***18—Amendment of section 3—Interpretation**

Section 3(1), definition of *business day*—delete the definition

Part 19—Amendment of *Retail and Commercial Leases Act 1995***19—Amendment of section 20E—Implementation of preferential right**

Section 20E(3)(a)—delete "other"

Part 20—Amendment of *Second-hand Vehicle Dealers Act 1995***20—Amendment of section 3—Interpretation**

Section 3, definition of *business day*—delete "other public holiday" and substitute:

public holiday

Part 21—Amendment of *Shop Trading Hours Act 1977*

21—Amendment of section 4—Interpretation

Section 4(1), definition of *public holiday*—delete the definition

22—Amendment of section 5—Exemptions

Section 5—after subsection (8) insert:

- (8a) Subsections (5) to (8) (inclusive) do not apply to an exemption granted or declared in relation to a day that has been appointed as an additional public holiday by proclamation under section 5(1)(a) of the *Public Holidays Act 2023*.

23—Amendment of section 13—Hours during which shops may be open

- (1) Section 13(1)—delete "1 January, Easter Sunday, 25 December or any other" and substitute:
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- (2) Section 13(2)(a)—delete "the day after Good Friday" and substitute:
- Easter Saturday
- (3) Section 13(4)—delete "1 January, Easter Sunday, 25 December, 26 December or any other" and substitute:
- a
- (4) Section 13(6), definition of *additional public holiday*—delete the definition and substitute:

additional public holiday means a Monday or Tuesday that is a public holiday by virtue of section 3(2) or (3) of the *Public Holidays Act 2023*.

Part 22—Amendment of *Stock Mortgages and Wool Liens Act 1924*

24—Amendment of section 4—Interpretation

Section 4, definition of *business day*—delete the definition

Part 23—Repeal of *Holidays Act 1910*

25—Repeal of Act

The *Holidays Act 1910* is repealed.

Part 24—Transitional provision

26—References to public holidays

If a provision of an Act that was enacted, or of an instrument that was made, before the commencement of this Act refers to a public holiday within the meaning of the *Holidays Act 1910*, that reference will be taken to include a Sunday unless the contrary intention appears.