

## ANNUAL HOLIDAYS (AMENDMENT) ACT.

### Act No. 28, 1958.

An Act to make provision for increasing the annual holidays provided by the Annual Holidays Act, 1944; for this and other purposes to amend the said Act; and for purposes connected therewith. [Assented to, 24th November, 1958.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Annual Holidays (Amendment) Act, 1958".
- (2) Short title and citation.

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No. 28, 1958.            (2) The Annual Holidays Act, 1944, as amended by  
— this Act, may be cited as the Annual Holidays Act,  
1944-1958.

Amendment  
of Act  
No. 31, 1944.

2. The Annual Holidays Act, 1944, is amended—

Sec. 3.  
(Annual  
holidays  
with pay.)

- (a) (i) by omitting from subsection one of section three  
the words “of two weeks”;
- (ii) by inserting at the end of the same subsection  
the following new paragraph :—

Such annual holiday shall—

- (a) where any such year of employment  
ends upon or before the thirty-first  
day of December, one thousand nine  
hundred and fifty-eight, be of two  
weeks;
- (b) where any such year of employment  
ends after the said date and before  
the thirty-first day of December, one  
thousand nine hundred and fifty-nine,  
be of two weeks together with a period  
which bears the same proportion to  
one week as that part of such year  
of employment which is after the  
thirty-first day of December, one  
thousand nine hundred and fifty-  
eight, bears to one year;
- (c) where any such year of employment  
commences after the thirty-first day  
of December, one thousand nine  
hundred and fifty-eight, be of three  
weeks.
- (iii) by omitting subsection two of the same section  
and by inserting in lieu thereof the following  
subsection :—

(2) An annual holiday of two weeks shall  
be given and taken in one consecutive period or,  
if the worker and the employer so agree, in two  
separate periods and not otherwise.

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An annual holiday of more than two weeks shall be given and taken in one consecutive period or, if the worker and the employer so agree, in either two or three separate periods and not otherwise. No. 28, 1958.

- (iv) by omitting from subsection three of the same section the word "either" and by inserting in lieu thereof the word "any";
  
- (b) by omitting from paragraph (b) of subsection three of section four the words "an amount equal to one twenty-fifth of his ordinary pay for that period of employment" and by inserting in lieu thereof the following words :—  
Sec. 4.  
(Holiday pay where holiday is not taken.)  
"an amount—
  - (i) where that period of employment ends upon or before the thirty-first day of December, one thousand nine hundred and fifty-eight, equal to one twenty-fifth of his ordinary pay for that period of employment;
  - (ii) where that period of employment having commenced before or upon ends after the said date, equal to—
    - (a) one twenty-fifth of his ordinary pay for so much of that period of employment as is before or upon the said date; and
    - (b) three forty-ninths of his ordinary pay for so much of that period of employment as is after the said date;
  - (iii) where that period of employment commences after the said date, equal to three forty-ninths of his ordinary pay for that period of employment";

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Sec. 5.

(Special provisions—  
Annual holidays  
otherwise  
than under  
this Act.)

(c) (i) by omitting from subsection one of section five the words “by or under any Act, other than this Act, or”;

(ii) by inserting next after the same subsection the following new subsection :—

(1A) Where provision is made by or under any Act, other than this Act or the Industrial Arbitration Act, 1940, as amended by subsequent Acts, for annual holidays or annual leave for any worker, sections three and four of this Act shall not apply to such worker.

Transitory provisions.

**3. (1) This section shall apply to and in respect of workers who :—**

(a) by the operation of this Act cease to be entitled to the benefits under any provision made by an award, agreement or contract of employment for annual holidays or annual leave and become entitled to the benefits provided by any provision made by section three or four of the Annual Holidays Act, 1944-1958;

(b) by the operation of this Act cease to be entitled to the benefits provided by any provision made by section three or four of the Annual Holidays Act, 1944-1958, and become entitled to annual holidays or annual leave under any provision made by or under any other Act (the Industrial Arbitration Act, 1940, as amended by subsequent Acts, excepted);

(c) by virtue of paragraph (a) of subsection one of section five of the Annual Holidays Act, 1944-1958, cease to be entitled to the benefits provided by any provision made by section three or four of the said Act, and become entitled to the benefits under any provision made by an award, agreement or contract of employment for annual holidays or annual leave.

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The benefits to which a worker ceases to be entitled as aforesaid are hereinafter referred to as the old benefits and the benefits to which a worker becomes entitled as aforesaid are hereinafter referred to as the new benefits.

(2) Where a worker to whom this section applies has not, at the time he ceases to be entitled to the old benefits, completed the qualifying period of employment which would have entitled him to an annual holiday or annual leave under the old benefits had he not so ceased to be entitled, he shall upon the expiration of such qualifying period, or in any case where his employment is terminated before such expiration upon such termination, be entitled to receive an annual holiday :—

- (a) of a period which bears the same proportion to the annual holiday or annual leave to which he would have been entitled under the old benefits had he not so ceased to be entitled as the portion of such qualifying period during which he has been employed before such time bears to the whole of such qualifying period; and
- (b) of a period which bears the same proportion to the annual holiday or annual leave provided by or under the new benefits as the portion of such qualifying period during which he has been employed since such time bears to the whole of such qualifying period,

less any part thereof which he has taken under the old benefits or new benefits.

(3) The right of a worker to whom this section applies to any annual holiday or annual leave to which he has become entitled under the old benefits but has not taken before he ceases to be entitled as aforesaid shall not be affected by anything contained in this Act.