

Version No. 024
Public Holidays Act 1993
No. 119 of 1993

Version incorporating amendments as at 1 July 2009

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
1 Purpose	1
2 Commencement	1
3 Definitions	1
4 <i>Repealed</i>	2
5 Act to bind Crown	2
6 Public holidays	2
7 Additional public holidays	3
8 Substituted public holidays	4
9 Bank holidays	5
10 Holiday entitlements	6
11 Regulations	7
12–16 <i>Repealed</i>	7
<hr/>	
SCHEDULE—Metropolitan Municipal Councils	8
<hr/> <hr/>	
ENDNOTES	9
1. General Information	9
2. Table of Amendments	10
3. Explanatory Details	12

Version No. 024
Public Holidays Act 1993
No. 119 of 1993

Version incorporating amendments as at 1 July 2009

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.

Public Holidays Act 1993
No. 119 of 1993

s. 5

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repealed by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

* * * * *

S. 4
amended by
No. 82/1994
s. 13(Sch. 2
item 6.1),
repealed by
No. 55/2008
s. 4.

* * * * *

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.

S. 6
amended by
Nos 1/2003
s. 3, 96/2003
s. 16,
substituted by
No. 55/2008
s. 5.

6 Public holidays

The following days are appointed as public holidays—

- (a) 1 January (New Year's Day);
- (b) the Monday after 1 January (New Year's Day) when New Year's Day is a Saturday or Sunday;
- (c) 26 January (Australia Day) or the Monday after Australia Day when Australia Day is a Saturday or Sunday;
- (d) the second Monday in March (Labour Day);
- (e) Good Friday;
- (f) the Saturday before Easter Sunday;
- (g) Easter Monday;
- (h) 25 April (ANZAC Day);

- (i) the second Monday in June (the day on which the anniversary of the birthday of the Sovereign is observed);
- (j) the first Tuesday in November (Melbourne Cup Day);
- (k) 25 December (Christmas Day) or the Monday after Christmas Day when Christmas Day is a Saturday or the Tuesday after Christmas Day when Christmas Day is a Sunday;
- (l) 26 December (Boxing Day);
- (m) the Monday after 26 December (Boxing Day) when Boxing Day is a Saturday or the Tuesday after Boxing Day 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;

* * * * *

S. 7(1)(b)
repealed by
No. 55/2008
s. 6.

- (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).

S. 7(3)–(5)
repealed by
No. 55/2008
s. 6.

* * * * *

S. 8
amended by
No. 100/1995
ss 47, 48,
substituted by
No. 55/2008
s. 7.

8 Substituted public holidays

- (1) Subject to this section, the Minister, by notice published in the Government Gazette, may—
 - (a) declare that a day appointed—
 - (i) as a public holiday under section 6; or
 - (ii) as a public holiday or public half-holiday under section 7(1)(a); or
 - (iii) as a public holiday or public half-holiday under this subsection—
is not in a specified year such a holiday; and
 - (b) appoint—
 - (i) in the case of a public holiday, another day or 2 half-days;
 - (ii) in the case of a public half-holiday, another half-day or day;
 - (iii) in the case of 2 public half-holidays, another day—
as a public holiday or public 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 person or body; or
 - (c) as specified in both paragraphs (a) and (b).

-
- (3) A non-metropolitan Council may request in writing that the Minister make a declaration under subsection (1)—
- (a) that the day appointed under section 6 being the first Tuesday in November (Melbourne Cup Day) is not in a specified year such a public holiday in the municipal district of that Council; and
 - (b) that another day be appointed as a public holiday in that year.
- (4) A request under subsection (3)—
- (a) may only be made at least 90 days before the Melbourne Cup Day to which the request relates; and
 - (b) may only be made for the whole of the municipal district of that Council; and
 - (c) must specify the day of the substituted public holiday.
- (5) In making a declaration on a request under subsection (3), the Minister must not appoint as the public holiday—
- (a) 2 half-days; or
 - (b) a Saturday or Sunday.
- (6) The day or half-day appointed under subsection (1) replaces the public holiday or public half-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

s. 10

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

S. 10(1AA)
inserted by
No. 55/2008
s. 8(1),
substituted by
No. 24/2009
s. 33(1).

(1AA) This section is of no effect to the extent that it is inconsistent with—

- (a) the Fair Work Act 2009 of the Commonwealth;
- (b) any instrument given effect to by the Fair Work Act 2009 of the Commonwealth;
- (c) any instrument given continuing effect to by the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 of the Commonwealth, being an instrument made under the Workplace Relations Act 1996 (as in force before the WR Act repeal day).

S. 10(1)
amended by
Nos 82/1994
s. 13(Sch. 2
item 6.2),
55/2008
s. 8(2).

(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 employed in Victoria—

- (a) is entitled to a public holiday or public half-holiday that applies to him or her without loss of pay;

S. 10(1)(b)
amended by
Nos 1/2003
s. 4, 96/2003
s. 16,
repealed by
No. 55/2008
s. 8(3).

* * * * *

-
- (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(2) amended by No. 82/1994 s. 13(Sch. 2 item 6.3).**
- (3) In this section *WR Act repeal day* has the same meaning as in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 of the Commonwealth. **S. 10(3) inserted by No. 24/2009 s. 33(2).**

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.

* * * * *

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.

Public Holidays Act 1993
No. 119 of 1993

Endnotes

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**

Public Holidays Act 1993
No. 119 of 1993

Endnotes

Public Holidays Amendment Act 2008, No. 55/2008

Assent Date: 23.9.08
Commencement Date: 24.9.08: s. 2
Current State: All of Act in operation

Fair Work (Commonwealth Powers) Act 2009, No. 24/2009

Assent Date: 17.6.09
Commencement Date: S. 33 on 1.7.09: Special Gazette (No. 227) 1.7.09 p. 1
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.