



APEC Public Holiday Act 2007

No. 139, 2007

An Act relating to the public holiday appointed in metropolitan Sydney to facilitate the holding of an APEC meeting on 7 September 2007, and for other purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

| | | |
|---|--|---|
| 1 | Short title | 1 |
| 2 | Commencement | 2 |
| 3 | Object of Act | 2 |
| 4 | Definitions | 2 |
| 5 | APEC public holiday | 3 |
| 6 | Concurrent operation of New South Wales laws | 4 |
| 7 | Regulations concerning APEC public holiday | 4 |
| 8 | Regulations | 5 |



APEC Public Holiday Act 2007

No. 139, 2007

An Act relating to the public holiday appointed in metropolitan Sydney to facilitate the holding of an APEC meeting on 7 September 2007, and for other purposes

[Assented to 3 September 2007]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *APEC Public Holiday Act 2007*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Object of Act

The object of this Act is to provide that 7 September 2007 is a public holiday for the purposes of federal industrial instruments, but only in respect of employment in the local government areas in which the public holiday is to be observed.

4 Definitions

In this Act:

employee means the following:

- (a) an employee within the meaning of subsection 5(1) of the *Workplace Relations Act 1996*;
- (b) an employee within the meaning of subclause 2(1) of Schedule 6 to the *Workplace Relations Act 1996*.

employment, in relation to an industrial instrument, means the following:

- (a) employment by an employer, within the meaning of subsection 6(1) of the *Workplace Relations Act 1996*, who is bound by the industrial instrument;
- (b) employment by an excluded employer who is bound by the industrial instrument.

excluded employer has the same meaning as in Schedule 6 to the *Workplace Relations Act 1996*.

industrial instrument means any of the following:

- (a) an award within the meaning of section 4 of the *Workplace Relations Act 1996*;
- (b) a workplace agreement within the meaning of section 4 of the *Workplace Relations Act 1996*;
- (c) a workplace determination within the meaning of section 4 of the *Workplace Relations Act 1996*;

- (d) a transitional award within the meaning of subclause 2(1) of Schedule 6 to the *Workplace Relations Act 1996*;
- (e) a pre-reform AWA within the meaning of clause 1 of Schedule 7 to the *Workplace Relations Act 1996*;
- (f) a pre-reform certified agreement within the meaning of clause 1 of Schedule 7 to the *Workplace Relations Act 1996*;
- (g) a section 170MX award within the meaning of clause 1 of Schedule 7 to the *Workplace Relations Act 1996*;
- (h) an old IR agreement within the meaning of clause 1 of Schedule 7 to the *Workplace Relations Act 1996*;
- (i) a notional agreement preserving State awards within the meaning of clause 1 of Schedule 8 to the *Workplace Relations Act 1996*;
- (j) a preserved State agreement within the meaning of clause 1 of Schedule 8 to the *Workplace Relations Act 1996*;
- (k) an instrument prescribed by the regulations for the purposes of this paragraph.

New South Wales Gazette notice means the notice published under subsection 19(3) of the *Banks and Bank Holidays Act 1912* of New South Wales in Gazette No 36 of 2 March 2007 appointing 7 September 2007 as a day to be observed as a public holiday in the local government areas specified in the Schedule to the notice.

the APEC public holiday means 7 September 2007.

5 APEC public holiday

- (1) A reference in any industrial instrument to a public holiday (whether described as a “holiday”, “public holiday”, “proclaimed”, “gazetted”, “for the State”, “for a special purpose” or otherwise) is taken to include a reference to the APEC public holiday, but only in respect of employment in a local government area specified in the Schedule to the New South Wales Gazette notice as an area in which that holiday is to be observed.
- (2) This section has effect in relation to an employee whose employment is subject to an industrial instrument only if the employee is not otherwise entitled to a holiday on the APEC public holiday under the *Industrial Relations Act 1996* of New South

Section 6

Wales, or an instrument made under that Act, so far as the instrument is of a legislative character.

6 Concurrent operation of New South Wales laws

It is the intention of the Parliament that this Act is not to apply to the exclusion of a law of New South Wales to the extent that that law is capable of operating concurrently with this Act.

7 Regulations concerning APEC public holiday

- (1) The regulations may make provision for matters of a transitional, saving or application nature arising out of, or relating to, the provisions of this Act.
- (2) Without limiting subsection (1), the regulations may provide that, for the purposes of a specified law of the Commonwealth or an instrument made under such a law, the APEC public holiday:
 - (a) is taken to be a public holiday; or
 - (b) is taken not to be a public holiday.
- (3) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made for the purpose of subsection (1):
 - (a) may be expressed to take effect from a date before the regulations are registered under that Act; and
 - (b) even if the regulations are made after 7 September 2007, may provide that, for the purposes of the law or instrument concerned, the APEC public holiday is taken always to have been, or not to have been, a public holiday.
- (4) Subsection (3) does not apply to regulations that create, modify or otherwise affect a provision that makes a person liable to an offence or civil penalty.
- (5) In this section:

law of the Commonwealth includes a provision of a law of the Commonwealth.

8 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
-

*[Minister's second reading speech made in—
House of Representatives on 8 August 2007
Senate on 15 August 2007]*

(146/07)
