



Holidays (Transfer of Public Holidays) Amendment Act 2008

Public Act 2008 No 103
Date of assent 29 September 2008
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Holidays (Transfer of Public Holidays) Amendment Act 2008.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Preliminary provisions****3 Principal Act amended**

This Act amends the Holidays Act 2003.

4 Purpose

The purpose of this Act is to amend the public holidays provisions of the principal Act to provide for the transfer of public holidays in limited circumstances.

**Part 2
Amendments to principal Act****5 Interpretation**

Section 5(1) is amended by repealing the definition of **public holiday** and substituting the following definition:

“**public holiday**—

“(a) means a day specified in section 44(1); and

“(b) if there is a written agreement under section 44A,—

“(i) includes a period of 24 hours agreed to be treated as a public holiday; but

“(ii) excludes a part of a day specified in section 44(1) agreed to be treated as not part of a public holiday”.

6 Purpose of this subpart

Section 43 is amended by repealing paragraph (b) and substituting the following paragraphs:

“(b) to provide for the transfer of public holidays in limited circumstances:

“(c) to specify the entitlements of employees in relation to public holidays.”

7 Days that are public holidays

Section 44 is amended by repealing subsections (2) and (3).

8 New section 44A inserted

The following section is inserted after section 44:

“44A Transfer of public holiday

“(1) This section applies if—

“(a) an employee is to start work on a day and finish work on the following day; and

“(b) 1 or both of those days are specified in section 44(1).

“(2) The employee and his or her employer may agree in writing (whether in an employment agreement or otherwise)—

“(a) that part of 1 or both days specified in section 44(1) is to be treated as not part of a public holiday; and

“(b) that,—

“(i) if the agreement relates to only 1 day specified in section 44(1), a period of 24 hours is to be treated as a public holiday if the period—

“(A) is to start or finish during the day specified in section 44(1); and

“(B) includes the period from when the employee is to start work to when the employee is to finish work:

“(ii) if the agreement relates to 2 days specified in section 44(1), 2 separate periods of 24 hours are to be treated as public holidays if each period—

“(A) is to start or finish during the days specified in section 44(1); and

“(B) includes the period from when the employee is to start work to when the employee is to finish work.

“(3) To avoid doubt, a period of 24 hours agreed under this section to be treated as a public holiday is a public holiday whether or not the employee works during that period.

“(4) An agreement under subsection (2) must not diminish the total number of paid public holidays that would otherwise be available to the employee in any year.”

Example

An employee is to work from 10 pm on 24 April to 6 am on Anzac Day and from 10 pm on Anzac Day to 6 am on 26 April.

The employer and employee can agree to treat 10 pm to midnight on Anzac Day as not part of a public holiday in exchange for treating a period of 24 hours that finishes on Anzac Day as a public holiday. Just when the 24-hour period starts before or finishes after a work period is a matter for the parties to agree on. For instance, they could agree that it runs from midday on 24 April to midday on Anzac Day.

Legislative history

9 April 2008	Introduction (Bill 207–1)
13 May 2008	First reading and referral to Transport and Industrial Relations Committee
17 July 2008	Reported from Transport and Industrial Relations Committee (Bill 207–1)
23 September 2008	Second reading
23 September 2008	Reported from committee of the whole House
23 September 2008	Third reading
29 September 2008	Royal assent.

This Act is administered by the Department of Labour.
