

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *APEC Meeting (Police Powers) Bill 2007*.

### Overview of Bill

Friday, 7 September 2007 has been appointed as a public holiday in certain local government areas of metropolitan Sydney to facilitate the holding of an Asia-Pacific Economic CooperatioThe objects of this Bill are:

- (a) to provide that 7 September 2007 is to be a public holiday for the purposes of State industrial instruments and laws, but only in respect of employment in the local government areas in which the holiday is to be observed, and
  - (b) to permit the clarification of the way in which various other references to “public holidays” are to be interpreted in respect of that holiday, and
  - (c) to provide that the State is not liable to pay compensation for economic loss in respect of anything done or omitted to be done in good faith in connection with an APEC-related matter.
- n (**APEC**) meeting in Sydney on that day.

### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act (except for section 4 and Schedule 2) on the date of assent to the Act. Section 4 and Schedule 2 are to commence on a day to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendment to the *Industrial Relations Act 1996* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendment to the *Shops and Industries Act 1962* set out in Schedule 2.

**Clause 5** is a formal provision that gives effect to the amendment to the *Long Service Leave Act 1955* set out in Schedule 3.

**Clause 6** is a formal provision that gives effect to the amendment to the *Banks and Bank Holidays Act 1912* set out in Schedule 4.

**Clause 7** provides for the repeal of the proposed Act at the beginning of 13 September 2007 (**the APEC period** ends at the end of 12 September 2007). Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

### **Schedule 1 Amendment of Industrial Relations Act 1996**

**Schedule 1** inserts proposed Part 10 (clauses 49 and 50) in the Schedule of savings, transitional and other provisions to the *Industrial Relations Act 1996* (**the Act**).

Proposed clause 49 inserts a definition of **the APEC public holiday** for the purposes of the proposed Part.

Proposed clause 50 makes it clear that a reference in any **industrial instrument** (within the meaning of the Act) to a public holiday is taken to include a reference to the APEC public holiday, but only in respect of the local government areas in which that holiday is to be observed. This is so regardless of the way in which the public holiday is described in the instrument concerned (for example, “day gazetted as a public holiday for the State”).

### **Schedule 2 Amendment of Shops and Industries Act 1962**

**Schedule 2** inserts proposed Part 4 (clauses 8–10) in the Schedule of savings, transitional and other provisions to the *Shops and Industries Act 1962* (**the Act**).

Proposed clause 8 inserts a definition of **the APEC public holiday** for the purposes of the proposed Part.

Proposed clause 9 provides that the APEC public holiday is taken to be a public holiday for the purposes of the Act, but only in respect of the local government areas

in which that holiday is to be observed.

Section 85 (1) of the Act requires certain shops to be kept closed on public holidays. Section 85 (2) and (3) permit the Minister, by order published in the Gazette, to suspend the operation of section 85 (1) in certain circumstances. Other provisions of the Act also provide for various exemptions from the operation of the Act or parts of the Act (for example, section 78A).

Proposed clause 10 provides that any such exemption is of no effect on the APEC public holiday in respect of shops in the local government areas in which that holiday is to be observed. However, the proposed clause makes it clear that the clause does not operate to nullify any suspension under section 85 (2) of the operation of section 85 (1) in relation to the APEC public holiday.

### **Schedule 3 Amendment of Long Service Leave Act 1955**

**Schedule 3** inserts proposed clause 3 in the Schedule of savings and transitional provisions to the *Long Service Leave Act 1955* (***the Act***).

The effect of the proposed clause is that any person who is on long service leave on the APEC public holiday is entitled to have their period of long service leave extended by one day.

### **Schedule 4 Amendment of Banks and Bank Holidays Act 1912**

**Schedule 4** inserts proposed Part 3 (clauses 4–6) in the Schedule of savings, transitional and other provisions to the *Banks and Bank Holidays Act 1912* (***the Act***). Proposed clause 4 inserts a definition of ***the APEC public holiday*** for the purposes of the proposed Part.

Various legislative provisions refer to, or define, “business day” and “working day” in terms of “a day that is not a Saturday, Sunday or public holiday”. Even “public holiday” is variously explained (for example, section 78 of the *Shops and Industries Act 1962* defines that term, for the purposes of certain provisions of that Act, as “any day on which the following [listed] days are publicly observed”).

To clarify the operation of these disparate references in relation to the APEC public holiday, proposed clause 5 enables the regulations to provide that the APEC public holiday is, or is not, to be taken to be (or to have been) a business day, a public holiday or a working day (in respect of the local government areas in which the holiday is to be observed), for the purposes of any Act or any statutory instrument (or any provision of any Act or any statutory instrument) specified in the regulations.

Proposed clause 6 makes it clear that no compensation in respect of things done or omitted to be done in good faith in connection with an ***APEC-related matter*** (as defined in the proposed clause) is payable by the State, an authority of the State or a local council or an officer, employee or agent of any of those persons.