



New South Wales

# Industrial Relations Leave Legislation Amendment (Bonuses) Bill 2000

## Explanatory note

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

### Overview of Bill

The object of this Bill is to amend the *Annual Holidays Act 1944*, the *Long Service Leave Act 1955* and the *Long Service Leave (Metalliferous Mining Industry) Act 1963* with respect to the bonuses that may be taken into account for the purpose of calculating the ordinary pay of an employee for payment during annual or long service leave or for payment of untaken leave on termination of employment. Under the Bill, bonuses are not to be taken into account if the ordinary annual pay of the employee (excluding bonuses) exceeds an amount prescribed by the regulations under those Acts. The Bill authorises the first such regulation made under each Act after the commencement of the proposed Act to have retrospective effect (including with effect before the commencement of the proposed Act). However, any such regulation will not affect any payment for untaken leave that was made before the publication of the regulation or that is the subject of pending proceedings for recovery on the commencement of the proposed Act.

## 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 on the date of assent.

**Clause 3** is a formal provision giving effect to the amendments to the *Annual Holidays Act 1944*, the *Long Service Leave Act 1955* and the *Long Service Leave (Metalliferous Mining Industry) Act 1963* set out in Schedules 1–3.

**Clause 4** contains the special commencement provision outlined above relating to the making of the first regulation authorised by the proposed Act with respect to bonuses.

**Schedules 1–3** contain the amendments to the relevant Acts that will exclude bonuses as outlined above.



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New South Wales

# Industrial Relations Leave Legislation Amendment (Bonuses) Bill 2000

No. , 2000

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## **A Bill for**

An Act to amend the *Annual Holidays Act 1944*, the *Long Service Leave Act 1955* and the *Long Service Leave (Metalliferous Mining Industry) Act 1963* with respect to bonuses; and for related purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Industrial Relations Leave Legislation Amendment (Bonuses) Act 2000</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent.	6
<b>3 Amendment of Acts</b>	7
Each Act specified in Schedules 1–3 is amended as set out in those Schedules.	8 9
<b>4 Special provision with respect to regulations under amended Acts</b>	10
(1) In this section:	11
<i>relevant regulation</i> means a regulation made under section 2 (6) of the <i>Annual Holidays Act 1944</i> , section 3 (2C) of the <i>Long Service Leave Act 1955</i> or section 3 (2C) of the <i>Long Service Leave (Metalliferous Mining Industry) Act 1963</i> , being the first regulation made under each such provision after the commencement of this Act.	12 13 14 15 16
(2) A relevant regulation may be made with effect on and from a date that is earlier than the date of its publication in the Gazette (including a date that is earlier than the commencement of this Act).	17 18 19
(3) Any such regulation has effect with respect to any payment to which a person is entitled under an Act amended by this Act even though the entitlement arose before the publication of the regulation or the commencement of this Act.	20 21 22 23
(4) However, any such regulation does not affect:	24
(a) any payment that was made before the publication of the regulation, or	25 26
(b) any entitlement to payment arising before the publication of the regulation that was the subject of proceedings instituted in a court before the commencement of this Act under the industrial relations legislation (within the meaning of the <i>Industrial Relations Act 1996</i> ).	27 28 29 30 31

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(5) Regulations may be made under an Act amended by this Act containing provisions of a savings or transitional nature consequent on the enactment of this Act.

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<b>Schedule 1</b>	<b>Amendment of Annual Holidays Act 1944</b>	1
	(Section 3)	2
<b>Section 2 Interpretation</b>		3
Insert after section 2 (5):		4
(6)	Despite anything to the contrary in this section, the ordinary pay of a worker is not to include or be increased by the amounts paid under any bonus, incentive or other similar scheme if the annual amount of the worker's ordinary pay (excluding any amounts so paid) exceeds the amount prescribed by the regulations for the purposes of this subsection.	5 6 7 8 9 10 11

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**Schedule 2 Amendment of Long Service Leave Act  
1955**

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(Section 3)

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**Section 3 Definitions**

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Insert after section 3 (2B):

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- (2C) Despite anything to the contrary in this section, the ordinary pay of a worker is not to include or be increased by the amounts paid under any bonus, incentive or other similar scheme if the annual amount of the worker's ordinary pay (excluding any amounts so paid) exceeds the amount prescribed by the regulations for the purposes of this subsection.

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Schedule 3      Amendment of Long Service Leave (Metalliferous Mining Industry) Act  
1963

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<b>Schedule 3</b>	<b>Amendment of Long Service Leave</b>	1
	<b>(Metalliferous Mining Industry) Act 1963</b>	2
	(Section 3)	3
<b>Section 3 Definitions</b>		4
Insert after section 3 (2B):		5
(2C)	Despite anything to the contrary in this section, the ordinary	6
	pay of a worker is not to include or be increased by the	7
	amounts paid under any bonus, incentive or other similar	8
	scheme if the annual amount of the worker's ordinary pay	9
	(excluding any amounts so paid) exceeds the amount	10
	prescribed by the regulations for the purposes of this	11
	subsection.	12