

No. 47 of 1973

AN ORDINANCE

To amend the *Annual Holidays Ordinance 1973*.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1972*.

Dated this fourth day of December, 1973.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT
Minister of State for the Capital Territory.

ANNUAL HOLIDAYS ORDINANCE (No. 2) 1973

1. (1) This Ordinance may be cited as the *Annual Holidays Ordinance (No. 2) 1973*.*

Short title
and citation.

(2) The *Annual Holidays Ordinance 1973*† is in this Ordinance referred to as the Principal Ordinance.

(3) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Annual Holidays Ordinances 1973*.

2. Section 2 of the Principal Ordinance is amended—

Interpretation.

(a) by adding at the end of the definition of "award" the words "or a determination";

(b) by inserting in sub-section (1) after the definition of "award holiday" the following definition:—

" 'determination' has the same meaning as in the *Industrial Board Ordinance 1936-1966*;"

(c) by omitting from sub-section (1) the definition of "shift-worker" and substituting the following definition:—

" 'shift-worker' means —

(a) a person who is a shift-worker within the meaning of an award;

* Notified in the *Australian Government Gazette* on 5 December 1973.
† Ordinance No. 46, 1973.

- (b) a person who is a shift-worker within the meaning of an industrial agreement made in pursuance of the *Conciliation and Arbitration Act 1904-1972*;
- (c) a person (not being a person to whom an award or an industrial agreement referred to in paragraph (b) applies) who—
 - (i) is rostered or required to commence work after eight o'clock in the evening and before half-past six o'clock in the morning; or
 - (ii) having commenced work before eight o'clock in the evening, is required, for the purpose of completing his ordinary hours of work, to continue work until after that time.”; and
- (d) by omitting from sub-section (2) the words “or payment by the piece”.

Annual holiday.

3. Section 4 of the Principal Ordinance is amended by inserting in sub-paragraph (a) of sub-section (2), after the word “shall”, the words “, except to the extent to which the period exceeds three months,”.

Holiday pay.

4. Section 6 of the Principal Ordinance is amended—

(a) by inserting after sub-section (1) the following sub-section:—

“ (1A) Where, by virtue of an award or agreement—

(a) an employee is entitled to an annual holiday of shorter duration than the annual holiday to which he is entitled under this Ordinance; and

(b) under that award or agreement, there is payable to the employee an amount (not being salary or wages) in respect of the taking by him of that annual holiday,

there is payable to that employee, in addition to the amount payable under sub-section (1), an amount that bears to the amount referred to in paragraph (b) the same proportion as the duration of the annual holiday to which the employee is entitled under this Ordinance bears to the duration of the annual holiday to which the employee is entitled under the award or agreement.”; and

(b) by omitting paragraph (c) of sub-section (3) and substituting the following paragraph:—

“ (c) allowances which, by virtue of an award or agreement, are not to be taken into account in determining a rate of remuneration in respect of overtime.”.

5. Section 11 of the Principal Ordinance is amended by omitting from sub-section (5) the words "before the date on which his employment is terminated".

No payment in lieu of holidays.

6. Section 12 of the Principal Ordinance is amended—

Close-down.

(a) by omitting from paragraph (a) of sub-section (5) the word "and";

(b) by omitting from paragraph (b) of sub-section (5) the words "in paragraph (a)" (where last occurring) and substituting the words "in paragraph (a); and"; and

(c) by adding at the end of sub-section (5) the following paragraph:—

"(c) the employee is entitled to receive from his employer an amount that bears to the amount that would have been payable to the employee under sub-section 6(1A) if the employee had been entitled to an annual holiday the same proportion as the period equal to the sum of the periods referred to in subparagraphs (b)(i) and (b)(ii) bears to the period of the annual holiday to which the employee would have been entitled if, immediately before the date specified in the notice, he had completed a year of employment."

7. The amendments of the Principal Ordinance effected by this Ordinance apply as if this Ordinance had come into operation on 29 November 1973.

Application.