

# **ANZAC DAY BILL 1994**

## **EXPLANATORY NOTES**

The objectives of this Bill are to provide for—

- the recognition and commemoration of Anzac Day
- the establishment of the Anzac Day Trust Fund and the Anzac Day Trust with a Board of Trustees which is to determine payments made from the Fund
- minor amendments to the *Holidays Act 1983* and *Racing and Betting Act 1980*
- amendments to the *Trading (Allowable Hours) Act 1990* to allow Banks to open on Saturdays, with exceptions and to require employees to be given a holiday on Anzac Day with nominated exceptions

### **Reasons for enacting the Act**

The preamble gives the background in respect of the reasons for the establishment of the Anzac Day legislation.

## **PART 1—PRELIMINARY**

*Clause 1* Short Title. Provides a short title for the legislation.

*Clause 2* Definitions. Provides the meaning of terms referred to in the legislation and accords with current drafting practice.

## **PART 2—COMMEMORATION OF ANZAC DAY**

*Clause 3* Anzac Day to be commemorated etc. Provides for 25 April each year to be the specific day for the commemoration of Anzac Day.

## **PART 3—ANZAC DAY TRUST**

### *Division 1—Continuation, functions and powers of Trust*

*Clause 4* Continuation of Trust. Provides that the existing Anzac Day Trust established under the current legislation will continue in existence.

*Clause 5* Trust is a body corporate etc. Provides that the Anzac Day Trust is a body corporate with related characteristics and a statutory body within the meaning of appropriate governing legislation.

The section accords with current drafting practice.

*Clause 6* Status of Trust. Clarifies that the Anzac Day Trust—

- does not represent the State
- is a separate entity from Government
- is an exempt public authority thereby exempting the Trust from provisions of the Corporations Law which otherwise would apply to a body corporate.

This exemption commonly is provided in respect of Trusts in line with current drafting practice.

*Clause 7* Trust's functions. Provides for the Trust to administer the Trust Fund.

*Clause 8* The Fund. Provides for the establishment of the Trust Fund.

*Clause 9* Payments by Trust. Provides for the Trust to consider and determine applications for payment out of the Fund only after administration costs incurred by the Trust are paid.

The proposed section provides for what purpose payments may be made.

*Clause 10* Trust's powers. Provides that the Anzac Day Trust has the powers that are conferred on it by the legislation and the additional power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

*Clause 11* Investments by Trust. Provides for the power of investment of money held in the Trust Fund.

*Clause 12* Gifts to Trust. Provides that the Trust may accept any gift and convert it into money. In addition, it may receive money from any person.

### ***Division 2—Anzac Day Trust Fund***

*Clause 13* Definition. Provides the meaning of Anzac Day specifically referred to in the Division relating to the funding of the Trust.

*Clause 14* Words and expressions used in *Racing and Betting Act 1980* and this Division. Provides for definitions of words used only in this Division which relate to the *Racing and Betting Act 1980*.

*Clause 15* Payments to Fund. Provides for the continued funding by way of payments made into the Fund—

- from the Consolidated Fund
- by the Commissioner of Stamp Duties

In respect of existing funding provisions the following amendments which are of an administrative nature only, have been made—

- the term 'licensed victuallers' has been replaced by 'general licences' in line with changes introduced in the *Liquor Act 1992*
- the stated percentage rates regarding payments from the Consolidated Fund in relation to race meetings held on Anzac Day have been removed and replaced by reference to the appropriate taxes levied under the *Racing and Betting Act 1980*

### ***Division 3—Board of trustees***

*Clause 16* The Board. Provides for the establishment of a Board of Trustees of the Anzac Day Trust.

This is a new provision and accords with current drafting practice relating to legislation pertaining to Trusts whereby Trusts necessarily are managed by a Board of Trustees.

*Clause 17* Role of Board. Outlines the role of the proposed Board of Trustees which reflects the role of the Anzac Day Trust under current legislation.

*Clause 18* Composition of Board. Provides that the Board of Trustees is to consist of 4 trustees being a chairperson and 3 other trustees.

*Clause 19* Secretary to the Trust. Provides for the appointment of a secretary to the Trust.

#### ***Division 4—Provisions about trustees***

*Clause 20* Appointment. Provides for the trustees to be appointed by the Governor in Council and how trustees are to be chosen.

*Clause 21* Term of appointment. Provides that a trustee is to be appointed for a term of not longer than 3 years.

*Clause 22* Terms of appointment. Further to the appointment of a trustee for a period of not longer than 3 years, the Governor in Council may stipulate additional conditions in respect of the appointment.

This new provision has been included to facilitate any administrative arrangements that may be necessary such as a temporary appointment made when a trustee resigns.

Provides also that trustees are not entitled to any payment for work performed for the Trust.

*Clause 23* Resignation. Provides how a trustee may resign.

*Clause 24* Termination of appointment. Provides the circumstances in which the appointment of a trustee may be terminated.

#### ***Division 5—Business of Board***

*Clause 25* Quorum. Provides a quorum is to be formed by a minimum of 3 trustees—

- current legislation requires 3 trustees, including the chairperson to form a quorum
- difficulties have occurred in the past when due to the death of a previous chairperson it was not possible to convene a Trust meeting.

*Clause 26* Conduct of Business. Provides that general business including meetings may be conducted in a way considered appropriate by the Board.

*Clause 27* Disclosure of interests by trustees. This provision is a standard provision and is essential to the proper administration of any Trust that disburses money.

### ***Division 6—General***

*Clause 28* The Trust's seal. Reflects the current requirement for the Anzac Day Trust as a body corporate to have a common seal.

Additional provisions relating to the seal are outlined to accord with current drafting practice.

*Clause 29* Judicial notice of certain signatures. This is a standard provision relating to the administration of Trust functions.

*Clause 30* Authentication of documents. This is a standard provision relating to the administration of Trust functions.

## **PART 4—MISCELLANEOUS**

*Clause 31* Regulations. Provides for regulations to be made for the purposes of the Act.

## **PART 5—REPEAL OF ANZAC DAY ACT 1921**

*Clause 32* Repeal of Anzac Day Act. Provides for the repeal of the current Act.

## **PART 6—MINOR AMENDMENTS**

*Clause 33* Minor Amendments. Provides for the *Holidays Act 1983*, the *Racing and Betting Act 1980* and the *Trading (Allowable Hours) Act 1990* to be amended as indicated in the Schedule to the Bill.

### **SCHEDULE**

#### **MINOR AMENDMENTS**

##### **HOLIDAYS ACT 1983**

*Clause 1* Section 3. Omits the meaning of the term ‘Minister’ as it is contained in the *Acts Interpretation Act 1954*.

*Clause 2* Section 5. Recasts the current Section to accord with current drafting practice.

*Clause 3* Section 6[4][c]. Recasts the current Section to accord with current drafting practice.

*Clause 4* Section 6[5]. Recasts the current Section to accord with current drafting practice.

*Clause 5* Sections 7 and 8. Omits section 7 as section 24AA of the *Acts Interpretation Act 1954* provides that authorisation under an Act to make an instrument or decision includes a power to amend or repeal the instrument or decision.

Omits Section 8 as the industrial provisions relating to work performed on holidays are contained in the *Industrial Relations Act 1990* and industrial instruments.

*Clause 6* Section 10[3]. Recasts the current Section to accord with current drafting practice.

*Clause 7* Section 11. Replaces the current Section relating to offences with a power to make regulations. It is necessary to provide for this power as the term “order in council” has been replaced with the term “regulation” in the legislation to accord with the provisions of the *Statutory Instruments Act 1992* for uniformity in subordinate legislation.

Existing Section 11 is unnecessary in view of the fact that offence prescriptions which related to trading on bank holidays [provided in the Act in years past] are no longer contained in the Act.

*Clause 8* After Section 11. Provides new Sections for—

- interpretation purposes to capture instances where the *Holidays Act 1912* is mentioned in other legislation.
- future updating of the legislation.

## **RACING AND BETTING ACT 1980**

*Clause 1* Section 203[2A], ‘section 8[2][d] of the *Anzac Day Act 1921*’. Updates the reference to the *Anzac Day Act 1994* with respect to monies paid to the Trust from the unpaid fractions account under the *Racing and Betting Act 1980*.

## **TRADING [ALLOWABLE HOURS] ACT 1990**

*Clause 1* Section 3[b]. Amends the objects of the legislation to reflect the new provisions being inserted to require employees to be given a holiday on Anzac Day.

*Clause 2* Section 20. Recasts current subsection (1) to accord with current drafting practice.

*Clause 3* Section 20[3] and [4]. Amends the legislation to allow banks to open on Saturdays (bank holidays) except in the following instances—

- where the Saturday is a public holiday
- where 1 January (New Years Day), 26 January (Australia Day), 25 December (Christmas Day) or 26 December (Boxing Day) fall on a Saturday and a substitute public holiday is observed.

In the last mentioned case both days will be closed days.

Saturdays will remain as bank holidays for the purposes of the *Commonwealth Bills of Exchange Act 1909* (see footnote to the section in the Bill).

*Clause 4* Section 33. This proposed section requires employees in factories and shops to be given a holiday on Anzac Day with exceptions. These provisions have been transferred from the Anzac Day Act.

*Clause 5* Section 36. This proposed section amalgamates existing sections 33 and 36. Such amalgamation has been brought about to accommodate new section 33. New section 36 requires factories and shops to close on Anzac Day with exceptions.