



BERMUDA

PUBLIC HOLIDAYS ACT 1947

1947 : 35

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SCHEDULE
Public Holidays

[preamble and words of enactment omitted]

Interpretation

1 In this Act—

“business day” means any day which is neither a public holiday, nor kept as a public holiday under this Act;

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“Heroes” includes “Heroines”

“public holiday” means a day which by virtue of this Act is a public holiday or which is declared to be a public holiday;

“retail floor space” means the area where items are on display for sale to the public, together with the walkways and open spaces associated with such display.

“shop” includes any premises where goods or merchandise are sold or offered for sale.

[section 1 amended by 2008:24 s.2 effective 1 July 2008; amended by 2009:7 s.2 effective 25 March 2009]

Savings

2 (1) Nothing in this Act shall affect or derogate from—

- (a) any provision in any other Act or law, being a provision relating to the days, hours or times during which any public office is to be open for the transaction of business generally or of any particular business; or
- (b) any provision in any other Act or law or any agreement, being a provision relating to the days, or to the hours or times (whether regular or occasional), during which the officers or employees, or certain officers or employees, of any department, service or undertaking of the Government are required, authorized or allowed to carry on their duties.

(2) Nothing in this Act shall be construed so as to absolve or preclude any officer or employee of any department, service or undertaking of the Government from carrying out any duties on a public holiday where it is necessary in the public interest that he should do so; and if any question arises in connection with the operation of this subsection, that question shall be referred to the Governor, whose decision thereon shall be final and conclusive.

Days set out in Schedule are public holidays

3 Subject to this Act, the days mentioned in the Schedule shall be public holidays and shall be kept as such in all public offices, banks and shops.

Governor may declare a public holiday

4 (1) The Governor by proclamation may declare any day to be a public holiday, and any day so declared to be a public holiday shall be a public holiday as if it were a day mentioned in the Schedule, and this Act shall apply accordingly.

(2) Proclamations made under subsection (1) shall be subject to the negative resolution procedure.

[Section 4 subsection (2) inserted by 2023 : 6 s. 2 effective 27 March 2023]

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Overlapping public holidays

5 (1) Where any public holiday coincides with another public holiday, then the next succeeding day that is not itself a public holiday shall be kept as a public holiday in all public offices, banks and shops.

(2) Any reference in the succeeding sections of this Act to a public holiday shall be deemed to include a reference to any day which, by virtue of this section, is kept as a public holiday.

Change of dates of certain public holidays in public interest

6 (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor, if it appears to him to be necessary or expedient in the public interest to do so, may declare by proclamation that any of the days to which this section applies shall not be kept as public holidays:

Provided that where the Governor makes a declaration with respect to any such day as aforesaid the Governor shall declare that another day, to be specified in the declaration, shall be kept as a public holiday in lieu of the day which is not to be kept as a public holiday; and thereupon that other day shall be kept as a public holiday in all public offices, banks and shops.

(2) The days to which this section applies are—

- (a) New Year's Day, Bermuda Day, Emancipation Day and Mary Prince Day which last two days shall together be known as "Cup Match";
- (b) any day kept as a public holiday in accordance with section 5.

(3) Proclamations made under subsection (1) shall be subject to the negative resolution procedure.

[Section 6(2)(a) amended by 1999:44 s.2 effective 22 December 1999; Section 6 subsection (2)(a) amended by 2020 : 6 s. 2 effective 10 March 2020; Section 6 subsection (3) inserted by 2023 : 6 s. 3 effective 27 March 2023]

Acts due to be done before public officers on days that are public holidays may be done on next business day

7 Where any act is required by law to be done before a public officer on any day and that day is a public holiday, then the act may be lawfully done on the next succeeding day that is a business day.

Government holidays

7A (1) Public offices shall not be open for the transaction of business on any day which—

- (a) next succeeds a Government holiday; and
- (b) is not itself a public holiday.

(2) "Government holiday" in subsection (1) means a Saturday which is a public holiday.

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(3) Where an act is required or permitted by law to be done before a public officer on a day and that day is one to which subsection (1) applies, then that act may be lawfully done on the next succeeding day that is a business day.

[section 7A inserted by 1993:34 effective 31 December 1993]

Opening shops on public holidays prohibited unless exempted under this Act

8 (1) Subject to the exceptions hereinafter in this Act provided, any person who, on a public holiday—

- (a) sells or exposes or offers for sale to the public any goods or merchandise; or
- (b) keeps open any shop; or
- (c) admits any customer into any shop,

commits an offence against this Act:

Punishment on summary conviction: in the case of a first offence to a fine of \$168 and in the case of a second or subsequent offence a fine of \$336.

[Section 8 amended by 2009:7 s.3 effective 25 March 2009]

Rights and duties of employees and employers in respect of public holiday working

8A (1) An employer shall give an employee who—

- (a) is or may be required to work on a public holiday; and
- (b) is not employed to work or has not contracted to work on a public holiday,

at least seven days notice in writing of his intention to open the shop on a public holiday or a number of public holidays.

(2) The notice under subsection (1) shall contain a provision notifying the employee of his right to decline to work on any public holiday.

(3) An employee who—

- (a) is or may be required to work on a public holiday; and
- (b) is not employed to work or has not contracted to work on a public holiday,

shall within seven days of receiving the notice under subsection (1) notify his employer in writing stating whether he will work on the given public holidays or not.

(4) The notice given by an employee under subsection (3) shall be in writing and shall be signed and dated.

(5) No employer or person acting on behalf of an employer shall subject an employee to any disciplinary action or dismissal; or select an employee for redundancy where the sole or predominant ground for the disciplinary action, dismissal or selection

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for redundancy arises from the fact that the employee has given or proposes to give notice under subsection (3) that he does not agree to work on a public holiday.

(6) The rights and duties conferred by this section are in addition to, and not in derogation of any other rights and duties under any Act, law, collective agreement or other agreement.

(7) In this section—

“collective agreement” has the meaning assigned to that expression in section 3 of the Employment Act 2000;

“employee” has the meaning assigned to that expression in section 4 of the Employment Act 2000;

“employer” has the meaning assigned to that expression in section 3 of the Employment Act 2000.

[section 8A inserted by 2005:5 s.2 effective 24 March 2005]

Exceptions to section 8; sales of food and drink in hotels and restaurants

9 Section 8 shall not apply—

- (a) in relation to any person who on a public holiday sells or exposes or offers for sale food or liquid refreshment at any hotel, lodging house, bar, tavern, eating house, restaurant, cafe or club to any resident, customer or member thereof, as the case may be:

Provided that nothing in this paragraph shall be construed so as to derogate from any of the provisions of the Liquor Licence Act 1936 [*title 10 item 6*];

- (b) in relation to any person who on a public holiday sells any victuals, stores or other necessaries—
 - (i) required for the use of Her Majesty’s naval, military or air forces or required for any of Her Majesty’s ships or naval, military or air establishments; or
 - (ii) required for any ocean-going ship on her arrival at or departure from Bermuda,

and who, if the sale involves the opening of any shop, keeps the shop open only for such time as may be necessary for the purpose of the sale.

Exceptions to section 8; pharmacists and persons selling in emergency

10 Section 8 shall not preclude—

- (a) any pharmacist from selling on a public holiday any drugs or medicines or surgical appliances which he has reasonable grounds for believing to be urgently required for the treatment or relief of any sick or injured person or animal, or from opening a shop on a public holiday for the purpose of any such sale or for the purpose of compounding or preparing

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any drugs, medicines or surgical appliances which he has reasonable grounds for believing to be urgently required as aforesaid;

- (b) any person from selling on a public holiday any article urgently required for the burial of a dead body, or urgently required in case of injury to or illness of any person or animal, or urgently required in any other emergency, or from opening a shop on a public holiday for the purpose of any such sale, where the person making the sale or opening the shop has reasonable grounds for believing the article to be so required:

Provided that where in any proceedings under this Act a question arises whether a person had reasonable grounds for believing that any article referred to in this section was urgently required as aforesaid the burden of proof that he had such reasonable grounds for belief shall lie upon him.

[Section 10 amended by 2009:7 s.4 effective 25 March 2009]

Exemptions to section 8: specified categories of retail shops

11 Section 8 shall not apply to—

- (a) a person who operates a shop on any public holiday except Christmas Day, Good Friday and Easter Sunday;
- (b) *[deleted by 2013 : 49]*
- (c) a person who operates a gasoline service station, a cycle livery, a minicar livery, a guided tour vehicle livery, a hotel shop, a beach shop, a shop at L. Frederick Wade International Airport, a shop selling alcoholic beverages at a cruise ship terminal or a temporary refreshment stand.

[Section 11 inserted by 2009:7 s.5 effective 25 March 2009; amended by 2009:53 s.2 effective 22 December 2009; paragraphs (a) and (b) deleted and substituted by 2013 : 49 s. 2 effective 24 December 2013; paragraph (c) amended by 2016 : 50 s. 6 effective 16 December 2016; Section 11 paragraph (c) amended by 2018 : 43 s. 6 effective 30 July 2018; Section 11(c) amended by 2022 : 17 s. 13 effective 17 June 2022]

Exemptions to section 8: circumstances of national interest

12 (1) This section applies if, in relation to a particular public holiday other than Christmas Day, the Minister considers it to be necessary in the national interest of Bermuda to provide full or partial exemptions from the prohibition in section 8.

(2) The Minister may, by order subject to the negative resolution procedure, specify the exemptions which will apply on the specified date, and any conditions to which the exemptions are subject.

(3) Without prejudice to the generality of subsection (2), an order under this section may specify that the exemptions apply only—

- (a) to shops of a specified type; or
- (b) to shops in a specified location.

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(4) In this section, "Minister" means the Minister responsible for the Registrar of Companies.

[Section 12 inserted by 2012 : 8 s. 3 effective 27 March 2012]

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SCHEDULE PUBLIC HOLIDAYS

Sunday in every week.

New Year's Day.

Good Friday.

Bermuda Day, the Friday before the last Monday in May.

National Heroes Day, the third Monday in June.

Emancipation Day, the Thursday before the first Monday in August.

Mary Prince Day, the Friday before the first Monday in August.

Labour Day, the first Monday in September.

Remembrance Day, 11th November.

Christmas Day.

Boxing Day, 26th December.

[Schedule amended by 1999:44 s.3 effective 22 December 1999; amended by 2008:24 s.3 effective 1 July 2008; amended by 2009:21 s.2 effective 3 June 2009; amended by 2017 : 42 s. 2 effective 13 December 2017; amended by 2020 : 6 s. 3 effective 10 March 2020; amended by 2020 : 6 s. 3 effective 1 January 2021]

[Assent Date: 30 May 1947]

[Amended by

1951 78
1951 95
1952 11
1961 1
1961 150
1962 120
1968 157
1976 7
1978 56
1979 9
1982 7
1986 40
1988 50
1993 34
1999 44
2005 5
2008 24

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2009 7
2009 21
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2012 8
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