

# **OFFICE OF THE PRESIDENT**

**No. 2088 7 December 1994**

## **NO. 36 OF 1994: PUBLIC HOLIDAYS ACT, 1994.**

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

### **ACT**

To make provision for a new calendar of public holidays; to provide that the public holidays be paid holidays; and for matters incidental thereto.

(Afrikaans text signed by the President.) (Assented to 23 November 1994.)

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as B follows-

#### **Definitions**

1. (1) In this Act, unless the context otherwise indicates, "public holidays" means the days mentioned in Schedule 1; and "this Act" includes the Schedules.

(2) Any reference in any law to public holidays, shall be deemed to be a reference to the public holidays as defined in this Act.-

#### **Days to be observed as public holidays**

2. (1) The days mentioned in Schedule 1 shall be public holidays, and whenever any public holiday falls on a Sunday, the following Monday shall be a public holiday.

(2) Notwithstanding the provisions of subsection (1), any public holiday shall be exchangeable for any other day which is fixed by agreement or agreed to between an employer and employee.

#### **Non-business days for bills of exchange and promissory notes**

3. Sunday or any public holiday shall be deemed to be a non-business day within the meaning of any law relating to bills of exchange or promissory notes.

#### **Amendment and repeal of laws**

4. (1) The laws referred to in column 2 of Schedule 2 are hereby amended or repealed to the extent as indicated in column 3 of that Schedule.

(2) The references to the former Republic of South Africa in Schedule 2 shall be construed as references to the territory of the Republic of South Africa as it was immediately before the commencement of the Constitution, 1993.

## **Employee entitled to paid public holidays**

5. (1) Subject to the provisions of subsection (2), every employee shall be entitled to -

(a) at least the number of public holidays as provided for in this Act;

(b) payment for every public holiday, which payment shall be at least as favourable as the payment provided for by section 11 of the Basic Conditions of Employment Act, 1983 (Act No. 3 of 1983).

(2) Where an employee, in terms of any wage regulating measure referred to in section 1(l) of the Labour Relations Act, 1956 (Act No. 28 of 1956), agreement or contract of employment, is entitled to more than the number of public holidays as provided for in this Act, such regulating measure, agreement or contract of employment shall, insofar as it relates to the number of public holidays, not be affected by the provisions of this Act.

(3) Notwithstanding the proviso to section 3 of the Agricultural Labour Act, 1993 (Act No. 147 of 1993), the amendment to the Basic Conditions of Employment Act, 1983, as contained in Schedule 2, shall apply to farming activities and employers and employees engaged therein.

## **Short title and commencement**

6. This Act shall be called the *Public Holidays Act, 1994*, and shall come into operation on 1 January 1995.

## **SCHEDULE 1**

### **(SECTION 2)**

#### ***Calendar of public holidays***

New Year's Day 1 January

Human Rights Day 21 March

Good Friday Friday before Easter Sunday

Family Day Monday after Easter Sunday

Freedom Day 27 April

Workers' Day 1 May

Youth Day 16 June

National Women's Day 9 August

Heritage Day 24 September

Day of Reconciliation 16 December

Christmas Day 25 December

Day of Goodwill 26 December

## **SCHEDULE 2**

### **(SECTION 4(1))**

**Number And Year Of Law - Short Title - Extent Of Amendment Or Repeal**

**Act No. 5 of 1952** *Public Holidays Act, 1952, of the former Republic of South Africa* Repeal of the whole.

**Act No. 27 of 1956** *Mines and Works Act, 1956* Repeal of the whole, in so far as any provision thereof deals with any day other than a Sunday.

**Act No. 68 of 1961** *Public Holidays Amendment Act, 1961, of the former Republic of South Africa* Repeal of the whole.

**Act No. 39 of 1973** *Public Holidays Amendment Act, 1973, of the former Republic of South Africa* Repeal of the whole.

**Act No. 72 of 1980** *Public Holidays Amendment Act, 1980, of the former Republic of South Africa* Repeal of the whole.

**Act No. 3 of 1983** *Basic Conditions of Employment Act, 1983, of the former Republic of South Africa* Amend section I by the substitution for the definition of "public holiday" by the following definition:

" 'public holiday' -

(a) when it is used in relation to an employee who is employed in or in connection with a shop or an office, or in so far as a provision in which it is used is applied with respect to any such employee, means a day which is a public holiday in terms of section I or declared as such under section 2 of the Public Holidays Act, 1952 (Act No. 5 of 1952);

(b) when it is used in relation to an employee who is not so employed, or in so far as a provision in which it is used is applied with respect to an employee who is not so employed, means New Year's Day, Good Friday, Ascension Day, Workers' Day, Republic Day, Day of the Vow or Christmas Day; means a public holiday as defined in the Public Holidays Act, 1994;".

**Act No. 29 of 1976** *Public Holidays Act, 1976, of the former Republic of Transkei* Repeal of the whole.

**Act No. 3 of 1978** *Public Holidays Act, 1978, of the former Republic of Bophuthatswana* Repeal of the whole.

**Act No.28 of 1979** *Public Holidays Amendment Act, 1979, of the former Republic of Bophuthatswana* Repeal of the whole.

**Act No. 5 of 1980** *Public Holidays Act, 1980, of the Republic of Venda* Repeal of the whole,

**Act No. 4 of 1982** *Public Holidays Amendment Act, 1982, of the former Rep of Venda* Repeal of the whole.

**Act No.3 of 1981** *Public Holidays Act, 1981, of the former Republic of Ciskei* Repeal of the whole.

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