

PUBLIC HOLIDAYS AMENDMENT BILL 2014

SAMOA

Explanatory Memorandum

Introduction

The Bill seeks to amend the Public Holidays Act 2008 ('principal Act') and to repeal the Shops Ordinance 1961. The objectives of the amendments are:

- (a) to revise the definition of 'shops' to link it with any premises regulated under the Business Licences Act 1998 that sells goods or services;
- (b) to provide additional powers of the Head of State to declare any day during a state of emergency as an emergency holiday for the purpose of protecting employees' remuneration (those who work during state of emergency); and
- (c) to empower the Minister to declare a day required by an employer as employer's holiday for the employees of employer.

In both 'emergency holiday' and 'employer holiday' the employees who work during these holidays must restrict his or her working hours to normal working hours per day and must be paid with a special rate.

Clauses:

- Clause 1:** - provides the short title and commencement.
- Clause 2:** - amends the definition of shops in the principal Act.
- Clause 3:** - amends section 5 of the principal Act by inserting international banks and certain companies as exempted services and places of employment.

- Clause 4:** - (a) amends section 7 of the principal Act to further empower the Head of State to declare any day during a State of Emergency as an emergency holiday; and
- (b) inserts new section 7A by empowering the Minister to declare a day as an employer's holiday upon application from employers for the employees of the employers.
- Clause 5:** - repeals the Shops Ordinance 1961.



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(Hon FONOTOE Nuafesili Pierre Laufo)

**DEPUTY PRIME MINISTER AND MINISTER
FOR COMMERCE, INDUSTRY AND LABOUR**

PUBLIC HOLIDAYS AMENDMENT BILL 2014

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Arrangement of Provisions

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| 1. Short title and commencement | 4. Section 7 substituted |
| 2. Section 2 amended | 5. Repeal of Shops Ordinance 1961 |
| 3. Section 5 amended | |

2014, No.

A BILL INTITULED

AN ACT to amend the Public Holidays Act 2008 (“principal Act”) and to repeal the Shops Ordinance 1961.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement - This Act may be cited as the Public Holidays Amendment Act 2014, and commences on the date of assent by the Head of State.

2. Section 2 amended - In section 2 of the principal Act for the definition of “shop” substitute:

““shop” means any premises or part of any premises licensed under the Business Licences Act 1998 where goods or services are sold.”.

3. Section 5 amended - In section 5 of the principal Act:

- (a) for the full stop at the end of paragraph (n), substitute a semi-colon; and
- (b) after paragraph (n), insert:

- “(o) an international bank licensed under the International Banking Act 2005;
- (p) a trustee company registered under the Trustee Companies Act 1988;
- (q) an international company or foreign company incorporated or registered under the International Companies Act 1988.”.

4. Section 7 substituted - For section 7 of the principal Act substitute the following sections:

“7. Other public holidays-(1) The Head of State may, acting on the advice of Cabinet, declare any day to be a public holiday.

(2) When a state of emergency is declared or proclaimed under any enactment, the Head of State may, acting on the advice of Cabinet, declare any day within the period of state of emergency as an emergency holiday for the whole or part of Samoa.

(3) When advising the Head of State to declare an emergency holiday, Cabinet must take into account the following:

- (a) the actual effect of the emergency on the public;
- (b) the actual damages to the infrastructure; and
- (c) any other government policy relating to emergencies.

(4) When an emergency holiday is declared under subsection (2), the emergency holiday is treated as a public holiday for the purpose of this Act and any other enactment.

(5) A declaration for an emergency holiday must include:

- (a) the authority for employees to work during the emergency holiday;

- (b) the rate of pay for employees who work during the emergency holiday; and
- (c) any other requirements for the purpose of the emergency holiday.

(6) The rate of pay under subsection (5)(b) may be a special rate between the ordinary rate of wages for the day's work and the doubling of the ordinary rate if an employee is required by the employer to work on an emergency holiday.

(7) The power to declare a public holiday under subsection (2), includes the power to revoke any emergency holiday that has not been taken or to impose other requirements pursuant to subsection (5).

7A. Employer's holiday-(1) The Minister, may upon application ("application") by an employer to the Minister, declare any day as an employer's holiday in respect of the employer and employees of the employer.

(2) The employer's holiday is treated as a public holiday for the purpose of this Act and any other enactment.

(3) The application must:

- (a) be in a form approved by the Minister; and
- (b) be accompanied by the prescribed fee.

(4) An application may be made by a group of employers or the employers of an industry.

(5) The power under subsection (1) includes the following powers:

- (a) to refuse the application;
- (b) to impose conditions (including approval of employees who may be required to work during the employer's holiday and the rate of pay to be payable);
- (c) to suspend the taking of the holiday to another day;
- (d) to revoke the declaration before the holiday is taken.

(6) This section does not apply to the Government."

5. Repeal of Shops Ordinance 1961 - The Shops Ordinance 1961 is repealed.
