

(4 October 1995 – to date)

[This is the current version and applies as from 4 October 1995, i.e. the date of commencement of the Public Holidays Act 48 of 1995 - to date]

PUBLIC HOLIDAYS ACT 36 OF 1994

Government Notice 2088 in Government Gazette 16136, dated 7 December 1994. Commencement date: 1 January 1995.

as amended by:

Public Holidays Amendment Act 48 of 1995 – Government Notice 1512 in Government Gazette 16716, dated 4 October 1995. Commencement date: 4 October 1995.

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 follows:-

1. Definitions

(1) In this Act, unless the context otherwise indicates-

"**public holidays**" means the days mentioned in Schedule 1 and any other day declared to be a public holiday under section 2A;

(Definition of "public holidays" substituted by section 1 of Act 48 of 1995)

"**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.

2. Days to be observed as public holidays

Prepared by:

In partnership with:

- (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.

2A. Declaration of public holidays

The President may by proclamation in the *Gazette* declare any day to be a public holiday throughout the Republic or any part thereof.

(Section 2A inserted by section 2 of Act 48 of 1995)

3. Non-business days for bills of exchange and promissory notes

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.

4. Amendment and repeal of laws

- (1) The laws referred to in column 2 of Schedule 2 are hereby amended or repealed to the extent as indicated in column 3 of that Schedule.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

5. Employee entitled to paid public holidays

- (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(1) 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.

6. Short title and commencement

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	Repeal of the whole.

	former Republic of South Africa	
Act No. 3 of 1983	Basic Conditions of Employment Act, 1983, of the former Republic of South Africa	Amend section 1 by the substitution for the definition of "public holiday" 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 1 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;] <u>means a public holiday as defined in the Public Holidays Act, 1994;".</u>
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 Republic 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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