



New South Wales

Annual Holidays Regulation 2016

under the

Annual Holidays Act 1944

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Annual Holidays Act 1944*.

GLADYS BEREJIKLIAN, MP
Minister for Industrial Relations

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Annual Holidays Regulation 2011*, which is repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The *Annual Holidays Act 1944* provides that bonuses form part of the ordinary pay of a worker for the purposes of payment for annual leave unless the ordinary annual pay of the worker (excluding bonuses) exceeds an amount prescribed by the regulations. This Regulation prescribes the annual amount as either \$144,000 or the amount calculated in accordance with regulation 2.13 of Chapter 2 of the *Fair Work Regulations 2009* of the Commonwealth, whichever is the greater.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made under the *Annual Holidays Act 1944*, including sections 2 (6) and 15 (the general regulation-making power).

Annual Holidays Regulation 2016

under the

Annual Holidays Act 1944

1 Name of Regulation

This Regulation is the *Annual Holidays Regulation 2016*.

2 Commencement

This Regulation commences on 1 September 2016 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Annual Holidays Regulation 2011*, which is repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

- (1) In this Regulation, *the Act* means the *Annual Holidays Act 1944*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) Notes included in this Regulation do not form part of this Regulation.

4 Calculation of ordinary pay for payment of leave: bonuses

For the purposes of section 2 (6) of the Act, the prescribed annual amount of a worker's ordinary pay is the greater of the following:

- (a) \$144,000,
- (b) the amount calculated in accordance with regulation 2.13 of Chapter 2 of the *Fair Work Regulations 2009* of the Commonwealth from time to time.

Note. The Act provides that bonuses paid to workers are to form part of the ordinary pay of a worker for the purposes of payment for annual leave. Section 2 (6) of the Act provides that bonuses received by a worker are not to be taken into account if the ordinary annual pay of the worker (excluding bonuses) exceeds the amount prescribed by the regulations. This clause prescribes that amount.

5 Savings

Any act, matter or thing that, immediately before the repeal of the *Annual Holidays Regulation 2011*, had effect under that Regulation continues to have effect under this Regulation.