

Act No. 43, 1912.

BANKS AND BANK
HOLIDAYS.

An Act to consolidate the laws relating to banks and bank holidays. [26th November, 1912.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and
division.

1. This Act may be cited as the "Banks and Bank Holidays Act, 1912," and is divided into Parts and Divisions, as follows:—

PART I.—PRELIMINARY—*ss.* 1-3.

PART II.—PUBLICATION OF STATEMENTS AND REGISTRATION OF BANKS.

DIVISION 1.—*Publication of statements—ss.* 4-6.

DIVISION 2.—*Registration—ss.* 7-10.

DIVISION 3.—*Miscellaneous provisions—ss.* 11-13.

PART III.—BANK HOLIDAYS—*ss.* 14-22.

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2. The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

Repeal of Acts.
First Schedule.

3. In Part II of this Act, the word "bank" means—

Interpretation.
No. 9, 1898, s. 3.

- (a) any company, firm, or individual engaged in New South Wales in the discounting and issuing of bills and notes, lending money on securities and cash credit accounts, and other matters relating to the ordinary business of banking; or in the ordinary business of banking by receiving deposits and issuing bills or notes payable to the bearer at sight or on demand; and
- (b) any company, firm, or association receiving money on deposit in New South Wales and trading under limited liability, although such company, firm, or association does not issue bills or notes payable to the bearer at sight or on demand.

PART II.

PUBLICATION OF STATEMENTS AND REGISTRATION OF BANKS.

DIVISION 1.—*Publication of statements.*

4. Every bank shall, at the close of business on Monday of every week, prepare and make up a full and correct account and statement in writing exhibiting—

Statements of weekly average liabilities and assets to be kept.
Ibid. s. 4.

- (a) the assets, property, credits, and securities belonging to every such bank; and
- (b) the respective debts, engagements, and liabilities of such bank, in the form set forth in the Second Schedule hereto.

Second Schedule.

5. (1) From such weekly accounts and statements every bank shall, on the last Monday of each quarter ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December in every year, prepare a general abstract in writing, showing—

Quarterly abstracts to be published
Ibid. s. 5.
Third Schedule.

- (a) the average amount during such quarter of the assets, property, credits, and securities of every such bank; and
- (b) the debts, engagements, and liabilities of such bank, in the form set forth in the Third Schedule hereto.

(2) To every such quarterly abstract shall be subjoined a statement exhibiting—

- (a) the amount of the capital stock of the bank preparing such abstract, paid up at the close of the quarter for which such abstract is prepared; and

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- (b) the rate and amount of the last dividend declared by such bank to its shareholders or proprietors; and
 (c) the amount of the reserved profit of such bank at the time of declaring such dividend.

Verification.

(3) Every such respective quarterly abstract and statement shall be verified upon the oath of the managing director, manager, chief cashier, or clerk of the bank making the same; and shall, within one month after the close of every such quarter, or so soon thereafter as may be practicable, be delivered to the Chief Secretary to be laid before the Legislative Council and Legislative Assembly, and published in the Gazette.

Penalty for neglecting to keep or make such returns.

No. 9, 1898, s. 6.

6. (1) If any such bank—

- (a) neglects to keep such weekly accounts; or
 (b) neglects to make out or to return or deliver to the Chief Secretary such quarterly abstracts as aforesaid,

it shall forfeit for every such offence the sum of five hundred pounds.

For making false returns.

(2) If any managing director, manager, chief cashier, or clerk verifying such abstract, delivers or returns to the Chief Secretary any false account or abstract of such averages, the bank making such false account or abstract shall forfeit for every such offence the sum of five hundred pounds; and the managing director, manager, chief cashier, or clerk so offending shall also forfeit for every such offence the sum of one hundred pounds.

Penalties how recoverable.

(3) Such penalties may be recovered respectively by action of debt in any court of competent jurisdiction.

DIVISION 2.—Registration.

Copy of charter or deed of settlement to be registered.

Ibid. s. 7.

7. Where any bank is now carrying on business under a charter or a deed of co-partnership and settlement, a copy of such charter or deed, attested by the managing director, manager, chief cashier, or clerk of such bank, to be a true transcript of the original shall be registered, if not already registered, in the office of the Registrar-General, by the managing director, manager, chief cashier, or clerk of such bank as soon as may be practicable, and the same shall be open for inspection at all reasonable times by any person requiring to inspect the same, on payment of a fee of one shilling for each inspection.

Copy of new charter or deed to be registered.

Ibid. s. 8.

8. (1) Whenever—

- (a) any new bank is established, having a charter or a deed of co-partnership and settlement; or
 (b) any new charter or deed of co-partnership and settlement of any bank issues or is entered into,

a copy of such charter, or of such deed of co-partnership and settlement, attested as aforesaid, shall in like manner be registered for the purposes aforesaid.

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(2) If any managing director, manager, chief cashier, or clerk omits or neglects so to register such attested copy as aforesaid, he shall be liable to a penalty of one hundred pounds, to be recovered by an action of debt in any court of competent jurisdiction by any person who sues for the same. Penalty.

9. (1) The managing director, manager, chief cashier, or clerk of every bank shall, within thirty days after the first day of January in each year, or as soon thereafter as may be practicable, cause a true and correct list of the names of all the persons who then are existing proprietors or members of such bank, with their respective places of abode and descriptions, to be recorded on oath in the office of the Registrar-General, and the same shall be open for inspection at all reasonable times by any person requiring to inspect the same on payment of a fee of one shilling for each such inspection. Names of proprietors to be also registered. No. 9, 1898, s. 9.

(2) Any such managing director, manager, chief cashier, or clerk who omits or neglects to cause such list to be recorded in manner aforesaid, or wilfully falsifies any such list, shall be liable to a penalty of one hundred pounds, to be recovered by an action of debt in any court of competent jurisdiction by any person who sues for the same. Penalty.

10. Every person whose name is so recorded as aforesaid shall be taken to be a member or proprietor of the banking company or firm in which his name is so recorded as aforesaid, and shall be liable to be sued as such until a new list of the names of the members or proprietors of such bank shall be recorded as aforesaid, or until he has given notice in the Gazette of his retirement from such bank : Liability of such proprietors to be sued. Ibid. s. 10.

Provided that nothing herein contained shall be deemed—

- (a) to absolve any person from liability on account of any debts incurred by any such bank during the time such person remained a proprietor or member thereof; or
- (b) to render any individual proprietor or member of any bank established by royal charter or letters patent liable for any debts incurred by the same, except so far as he is liable under the provisions of such charter or letters patent.

DIVISION 3.—*Miscellaneous provisions.*

11. (1) Every oath required to be taken under the provisions of this Part of this Act may be taken before and administered by any justice of the peace. Oaths may be taken before justice of the peace. Ibid. s. 11.

(2) Any managing director, manager, chief cashier, or clerk who takes any false oath as to any quarterly abstract of averages or other matter or thing under the provisions of this Part of this Act shall be deemed to be guilty of perjury. Penalty for perjury.

12. No action shall lie against any person for any offence committed against the provisions of this Part of this Act unless the same is commenced within two years from the time the offence is alleged to have been committed. Limitation of actions. Ibid. s. 12.

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Proof of inability to comply with Act in given time to lie in party.

No. 9, 1898, s. 13.

13. If in any case any matter or thing required to be done or performed under the provisions of this Part of this Act within any given period is not so done or performed, the proof that it was not practicable to do so shall lie upon the party required to do or perform the same :

Provided that no excuse shall be allowed for any such failure or neglect unless it is clearly shown that the matter or thing required to be done or performed was done or performed as soon as was practicable.

PART III.

BANK HOLIDAYS.

Cf. Commonwealth Act, No. 27, 1909.

14. Nothing in this Part shall apply to bills of exchange, cheques, or promissory notes drawn or made after the first day of February, one thousand nine hundred and ten.

Bank holidays.
No. 9, 1898, s. 14.
Fourth Schedule.

15. The several days in the Fourth Schedule hereto (and which days are in this Act hereinafter referred to as bank holidays) shall be kept as close holidays in all banks in New South Wales.

Bills due on bank holidays.
Ibid.

16. (1) All bills of exchange and promissory-notes which are due and payable on any such bank holiday shall be payable, and in case of non-payment may be noted and protested, on the next following day, and not on such bank holiday; and any such noting or protest shall be as valid as if made on the day on which the bill of exchange or promissory-note was made due and payable.

Meaning of day next following a bank holiday.

(2) For all the purposes of this Part of this Act, the day next following a bank holiday shall mean the next following day on which a bill of exchange or promissory-note may be lawfully noted or protested.

Provision as to notice of dishonour;
Ibid. s. 15.

17. (1) When the day on which any notice of dishonour of an unpaid bill of exchange or promissory-note should be given is a bank holiday, such notice of dishonour shall be given on the day next following such bank holiday.

and presentation for honour.

(2) When the day on which a bill of exchange or promissory-note should be presented or received for acceptance or payment, or accepted, or forwarded to any referee, is a bank holiday, such bill of exchange or promissory-note shall be presented or forwarded on the day next following such bank holiday.

As to payments on bank holidays.
Ibid. s. 16.

18. No person shall be compellable to make any payment or do any act upon such bank holidays which he would not be compellable to do or make on Sunday, and the obligation to make such payment
and

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and to do such act shall apply to the day following such bank holiday; and the making of such payment and doing such act on such following day shall be equivalent to payment of the money or performance of the act on the holiday.

19. The Governor may by proclamation in the Gazette, appoint a special day to be observed as a public holiday, either throughout New South Wales, or in any part thereof, or in any city, town, borough, or district therein; and any day so appointed shall be kept as a close holiday in all banks within the locality mentioned in such proclamation, and shall, as regards bills of exchange and promissory-notes payable as aforesaid, be deemed to be a bank holiday for all the purposes of this Part of this Act:

Appointment of special bank holidays.
No. 9, 1898, s. 17.
No. 15, 1906, s. 2.

Provided that such proclamation shall be published at least seven days before the public holiday so appointed.

20. Where in any special case it is made to appear to the Governor that in any year it is inexpedient that a day by this Act appointed for a bank holiday should be a bank holiday, the Governor may declare by proclamation in the Gazette, published not less than one week before the day appointed for such holiday, that such day shall not in such year be a bank holiday, and may appoint such other day as he may think fit to be a bank holiday instead of such day, and thereupon the day so appointed shall in such year be substituted for the day so appointed by this Act.

Day appointed for bank holiday may be vetoed by proclamation.
No. 9, 1898, s. 18.

21. When in any industrial agreement, or in any agreement relating to work, made either before or after the commencement of this Act, reference is made to a public or bank holiday, such reference shall be deemed to relate to the day on which such holiday is publicly observed.

Interpretation of references in certain agreements to public holidays.
No. 15, 1906, s. 4.

22. (1) Every bank on obtaining permission in writing of the Treasurer, and on giving the public notice hereinafter mentioned, may close the bank, or any branch of the bank, to business on any day after noon. The bank shall give public notice of such closing by advertisement published between the third and the fourteenth day before the day of such closing in at least two issues of some newspaper published and circulating in the neighbourhood of such bank or branch.

Half-holidays.
No. 80, 1900, s. 2.

(2) On any day on which any bank or branch may be closed under this section as aforesaid, no time after noon shall in respect of any business at such bank or branch be a reasonable hour within the meaning of the Bills of Exchange Act, 1887, or shall be within banking or business hours within any law, practice, or custom relating to banks or bankers.

Effect of closing.

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SCHEDULES.

FIRST SCHEDULE.

Section 2.

Reference to Act.	Title or Short Title.	Extent of Repeal.
Act No. 9, 1898...	Banks and Bank Holidays Act, 1898	The whole.
Act No. 30, 1899...	Banks and Bank Holidays Act (Amendment) Act, 1899.	The whole.
Act No. 80, 1900...	Banks Half-holiday Act, 1900	The whole.
Act No. 15, 1906...	Banks and Bank Holidays Further Amendment Act, 1906.	The whole.

SECOND SCHEDULE.

Section 4.
No. 9, 1898,
Second Schedule.

Weekly Statement showing the amount and nature of the Debts, Engagements, and Liabilities, and of the Assets and Property or Securities of the Bank of _____, 19 .

Liabilities.	Amount.		Totals.	Assets.	Amount.		Totals.
	£	s. d.			£	s. d.	
Notes in circulation { Not bearing interest Bearing interest				Coined gold and silver, and other coined metals.....			
Bills in circulation { Not bearing interest Bearing interest				Gold and silver, in bars or bullion			
Balance due to other Banks.....				Landed property			
Deposits... { Not bearing interest Bearing interest				Notes and bills of other Banks..			
				Balances due from other Banks...			
				Amount of all debts due to the Bank, including notes, bills of exchange, and all stock and funded debts of every descrip- tion, excepting notes, bills, and balances due to the said Bank from other Banks			
Total amount of Liabilities... £				Total amount of Assets.... £			

Place and date.

Managing Director.

Chief Cashier or Clerk,

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THIRD SCHEDULE.

Section 5.
No. 9, 1898,
Third Schedule.

General Abstract showing the average amount of the Liabilities and Assets of the Bank
of taken from the several Weekly Statements during the quarter, from
the to the , 19 .

Liabilities.	Amount.			Totals.			Assets.			Amount.			Totals.			
	£	s.	d.	£	s.	d.		£	s.	d.	£	s.	d.	£	s.	d.
Notes in circulation { Not bearing interest { Bearing interest.....							Coined gold and silver and other coined metals									
Bills in circulation { Not bearing interest { Bearing interest.....							Gold and silver, in bullion or bars									
Balances due to other Banks							Landed property									
Deposits ... { Not bearing interest { Bearing interest.....							Notes and bills of other Banks ...									
							Balances due from other Banks ...									
							Amount of all debts due to the Bank, including notes, bills of exchange, and all stock and funded debts of every descrip- tion, excepting notes, bills, and balances due to the said Bank from other Banks									
Total Amount of Liabilities...£							Total amount of Assets ..£									
Amount of the capital stock paid up at the close of the quarter ended 19 ...																
Rate of the last dividend declared to the shareholders																
Amount of the last dividend declared																
Amount of the reserved profits at the time of declaring such dividend																

Managing Director.

Place and date.

Chief Cashier or Clerk

I, A.B., make oath that to the best of my knowledge and belief the foregoing abstract is a true and faithful account of the average amount of assets and liabilities of the above Bank during the period specified, and that the same was made up from the weekly statements thereof kept in pursuance of the provisions of the Banks and Bank Holidays Act, 1912.

(Signed) A.B.

Sworn before me at **this** }
day of , 19 .

C.D., Justice of the Peace.

FOURTH

Water.

Section 15.
No. 9, 1898,
Fourth Schedule.
No. 30, 1899, s. 1.
No. 15, 1906, s. 3.

FOURTH SCHEDULE.

PART I.

The first day of January.
The twenty-sixth day of January.
Good Friday.
The day after Good Friday.
Easter Monday.
Christmas Day.
The twenty-sixth day of December.

When the first day of January or Christmas Day falls upon a Sunday, the next following Monday shall be a Bank Holiday; and whenever the twenty-sixth day of December falls upon a Monday, the day following shall be a Bank Holiday.

PART II.

The Anniversary of the Birthday of His Majesty or His Successor.
The Anniversary of the Birthday of the Prince of Wales.
The first day of August.

When any of the above days falls upon any day of the week other than Monday, that day shall not be a Bank Holiday, but the following Monday shall be a Bank Holiday in lieu thereof, unless otherwise proclaimed by notice in the Gazette.
