

# **Fair Work Amendment (Protecting Christmas) Bill 2019**

**No. , 2019**

Written by Bsharri MP

**A Bill for an Act to amend the *Fair Work Act 2009*, and for related purposes.**

## **Explanatory Memorandum**

This Bill amends the Fair Work Act 2009 to insert protections guaranteeing that our public holidays, particularly Christmas, are periods of rest and relaxation for Australian workers, ensuring that those who do choose or are forced to work on those days will have a guaranteed full rate of pay appropriate for a public holiday.

## **Second Reading Speech**

Mr Speaker,

There is a war against Christmas. No, it is not waged by the secular left against Christianity or religious institutions, but by Australian bosses who exploit young Australian workers by not paying them penalty rates on Christmas, and the state and territory governments who have allowed them to get away with this.

When Christmas falls on a weekend, the states and territories are empowered to substitute the public holiday for another day. All states and territories do this by making the next available weekday a public holiday, while also maintaining Christmas itself as a public holiday. This means that people who end up working on Christmas itself receive the proper full rate of pay for a public holiday instead of regular weekend rates.

However, in the past some states have taken the extraordinary and outrageous step of refusing to also make Christmas itself a public holiday. The Victorian Labour government did this in 2016, resulting in Victorian workers not receiving any Christmas day public holiday penalty rates that year.

We need to put this to a stop once and for all and make sure it never happens again via this federal legislation that makes sure Christmas and our other national holidays are actually respected by all state and territory governments.

**The Parliament of AustraliaSim enacts the following**

## **PART 1 - PRELIMINARY**

### **1. Short Title**

This Act may be cited as the *Fair Work Amendment (Protecting Christmas) Act 2019*.

### **2. Commencement**

This Act is to commence on the day it receives Royal assent.

### **3. Objects of this Act**

- 1) The objects of this act are to
  - a) Protect the sanctity of Christmas, the holiday season, and our national public holidays as periods of relaxation and rest.
  - b) Ensure that workers who do work on Christmas and other public holidays are always paid the full rate of pay for a public holiday regardless of what state or territory they live in.

# **PART 2 - APPLICATION**

## **Schedule 1 - Amendments of the Fair Work Act 2009**

### **1. At the end of Division 10 of Part 2-2**

Add:

#### **116A Application of this Division to Christmas Day and New Year's Day**

- 1) This Division applies in relation to all public holidays listed in subsection 115(1) as if those days were public holidays, even if another day is substituted for those days as a public holiday, as mentioned in subsection 115(2), (3) and (4).

#### **116B Rates of pay for work on Christmas Day and New Year's Day**

- 1) If an employee performs work at his or her employment on a public holiday listed in subsection 115(1), the employer must pay the employee for that work at the employee's full rate of pay for a public holiday.
- 2) Subsection (1) applies even if another day is substituted for the public holidays listed in subsection 115(1), as mentioned in subsection 115(2), (3) and (4).