



**Tourism
Industry
Association
New Zealand**

Tourism Industry Association New Zealand

**Submission of the Holidays Amendment
Bill**

**To the Transport and Industrial Relations
Select Committee**

September 2004

About Our Association and Industry

The Tourism Industry Association New Zealand (TIANZ) represents the interests of over 3,500 businesses in the tourism industry.

Tourism is a \$16.5 billion industry and generates 17.3% of New Zealand's exports. The tourism industry employs 1 in 10 New Zealanders in a diverse range of businesses – the majority of which are small and medium sized enterprises. Not only is tourism important because of its size. It is also:

- Highly employment intensive;
- Regionally dispersed;
- Has the flexibility to change its target markets quickly as conditions change.

The tourism industry in New Zealand consists of more than 15,000 small and medium sized businesses. Of these businesses, most employ less than five people.

New Zealand welcomes over two million overseas visitors to its shores every year. The domestic tourism industry is also important in helping to sustain a vibrant tourism industry. TIANZ estimates that over 75 million visitor nights are spent by New Zealanders every year.

These businesses are diverse in their activity and the sectors we represent include accommodation providers, surface and air transport, attractions, and adventure tourism.

This submission consists of the following sections:

- General outlook on the Tourism Industry
- General concerns and areas of support our industry has about the contents of this Amendment Bill (hereafter referred to as the Bill)
- Suggested amendments that should be made to the Bill.

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Tourism facing a challenging environment

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Based on a 2003 TIANZ survey of our members, tourism businesses were concerned prior to the passing of the Holidays Act 2003 that this new legislation would lead to higher wage bills, a re-evaluation of staffing and services on public holidays, and reduced profitability.

TIANZ has received reports that since the passing of this legislation some tourism businesses have introduced surcharges to compensate for the increased costs of higher

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wage bills. Such charges are invariably imposed reluctantly as businesses do not wish to ‘punish’ customers for increased costs brought about by new central government legislation. We are also aware of businesses that have reviewed their rosters for public holidays, and have sought to employ limited staff on public holidays. We are concerned that such behaviour in the long-term will reduce employment opportunities available to those who wish to work in the tourism and hospitality industries.

These overall changes come at a time when tourism is facing a number of competitive pressures.

Tourism has been relied upon as a growth industry over the last half decade, and has a history of a 50 year compound annual growth rate of 5%.¹ Over the past five years, visitor volume growth has also averaged 5% per annum but visitor spend growth has risen at a much faster rate at over 7% per annum.² In general, the visitor arrivals data produced by the Tourism Research Council New Zealand (TRCNZ) shows that tourism has shown atypical resilience through international events such as the post-September 2001 acts of terrorism, the SARS virus, and the general world economic downturn in the share market experienced at the start of this decade. Our global competitors have not fared so well, and our growth rate over 2003 is now well below average at 3%.

Our export growth cannot be taken for granted in these uncertain times and TIANZ is concerned that a narrow approach to public policy will adversely impact on the future competitiveness of the industry.

Specifically:

- The growing weight of compliance activities on small businesses such as the proposed Employment Law Reform Bill, increased ACC levies, higher local government rates and charges do not add to productivity but raise costs that reduce competitiveness.
- The increasing cross-rate value between the \$Kiwi and those of our major tourism supplier nations (\$, £, €, ¥). This is an important issue in our industry as the \$US is the international currency for travel products. It is clear that this increase will erode demand for international travel over the near future and experience shows that below average growth significantly increases business stress as they strive to satisfy not only their customers but also their shareholders and staff.

Given the wider context we are working within, TIANZ is particularly concerned at the introduction of new compliance costs such as the Holidays Act which hinders rather than supports the tourism industry.

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^N=Government Statistician

^O=Tourism Satellite Accounts 2000-2003

Overview of the Amendment Bill

TIANZ acknowledges central government's attempts to fix aspects of the Holidays Act that are causing problems for businesses and are unfair and unequitable. At the same time, we believe that these so-called "unintended consequences" are the result of poorly thought through legislation that was not supported by the business community in the first place. While in 2002 our industry welcomed the review of the Holidays legislation with view to making it simpler to work with, the outcome has been to make holidays legislation even more complicated and expensive for employers.

What we support in the Amendment Bill

Overall, we support some of the changes proposed in the Amendment Bill and we believe they will reduce some of our concerns.

These areas we support include:

- The proposal to remove the requirement to pay penal rates on top of penal rates. This is an improvement on the current provisions even though employers would still need to make complex calculations based on *relevant daily pay*.
- Providing that employees that call in sick on a public holiday are not paid as if they had worked on a public holiday. This change is also positive.
- Provisions enabling employers to request a medical certificate before three days' absence if they have reasonable cause to suspect the sick leave is not genuine. We consider this also to be an improvement, although it will require employers to pay medical expenses.

Amendment Bill does not go far enough

At the same time, the Bill does not go far enough and could be 'too little too late'.

We believe that there is still opportunity for the Select Committee to introduce further changes to the Holidays legislation, that recognise the impacts on business of this legislation. Accordingly, as well as commenting on proposed amendments, we also suggest further changes that should be made that are not currently in the amendment.

Relevant daily pay calculation is inflating wage costs

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While we recognise central government's attempts to reduce the impact of *relevant daily pay* calculations on employers, the proposals in the Bill do not fix the problem of *relevant daily pay* from an employers perspective. *Relevant daily pay* is a concept that first appeared in the 2003 Act and replaced the concept of *ordinary pay* that has been used since the 1950s. The use of *relevant daily pay* (incorporating overtime, productivity incentives, attendance incentives and allowances) inflates wage costs as it forms the basis for calculating holiday and sick pay.

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TIANZ suggest that the use of *relevant daily pay* for the calculation of holiday and sick pay is completely inappropriate given that an employee on holiday or sick leave is not working and therefore not justifying allowances. Clearly, conditions only justify allowances where an employee is actually on the job.

The *ordinary pay* concept should be restored as the manner by which holiday and sick pay are calculated in the interests of fairness and reasonableness. A further benefit that would be derived from a return to the use of *ordinary pay* is that it is easier for employees to calculate and budget for these payments.

Relevant daily pay creates poor incentives to work

The use of the *relevant daily pay* mechanism also creates further problems.

This method of calculation for non-working days leads to employers not being able to pay employees more for working days than non-working days. This is clearly not an incentive to encourage work. Further to this, the use of *relevant daily pay* creates an incentive for employees to take a sick day off on days such as public holidays that pay more.

These examples reveal further downsides of *relevant daily pay* that do little to encourage productivity and high participation at work. Unfortunately, it is employers that have to carry the financial burdens of this.

TIANZ urges the Committee to reconsider the use of *relevant daily pay* as the basis for calculating holidays and sick pay, and to reintroduce *ordinary pay*. We believe that this would be within the spirit of central government's commitment to support business, and to reduce the compliance costs that businesses face.

Mondayising of holidays

The Bill dramatically increases costs for 24hour a day/seven days a week businesses which predominate in the tourism industry. The new Act doubles the number of holiday days for which a 7 day a week employer must pay from four to eight. This will have a particularly significant impact over the 2004/2005 Christmas holiday season since Christmas Day, Boxing Day, New Year's Day and 2 January 2005 all fall on Saturday and Sunday . Depending on the rosters that businesses run, and the staff they employ that usually work on these days, we are concerned that the 'mondayising' of this year's holidays will lead to businesses closing over this period rather facing the increased costs of opening.

Recommendations

TIANZ urges the government to reaffirm its commitment to reducing compliance costs on small businesses and to amend the Bill in the following ways:

- Reintroduce *ordinary pay* as the basis for calculating holidays and sick pay.
- Repeal mandatory penal rates and instead encourage employers to pay wages and provide conditions that attract quality staff and minimise turnover.

TIANZ supports current inclusions in the Bill including:

- Removing the requirement to pay penal rates where such payments are also provided for in contracts (to require employers to make a 'top up' where these fall below statutory minimum levels), as is provided for in the amendment.
- Introducing provisions to enable an employer to request a medical certificate from employees where it is suspected sick leave being taken may not be genuine, as is provided for in the Bill.
- Providing that employees that call in sick on a public holiday are not paid as if they had worked on a public holiday.

*Tourism Industry Association New Zealand (TIANZ)
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