

Holidays Act Review

On 3 June 2009, Labour Minister Kate Wilkinson announced the appointment of a working group to review the Holidays Act 2003. The working group is made up of five members, including two nominations each from the Council of Trade Unions and Business New Zealand. Its chairman is Peter Kiely and the other four members are Helen Kelly, James Ritchie, Paul Mackay and Philip Doak.

In her statement, Ms Wilkinson set out the reasons for the review and its aims, saying:

“The Holidays Act has been widely criticised for its complexity and generic approach, resulting in significant compliance costs.

This review is aimed at making the Act easier for businesses and employees to understand and apply, while maintaining fairness in the employment relationship”.

In the draft terms of reference for the review, three main problem areas were identified in the Act:

1. Some areas of the Act being overly complex for business and employees to understand and apply, particularly the calculation of relevant daily pay;
2. Reported increased compliance and direct costs for businesses; and
3. That the Act is not easily applied to all business, employment or industry types such as 24-hours-a-day, 7-days-a-week businesses.

The Government is not proposing any wholesale changes. Rather, it is looking at making a few tweaks here and there. This is reflected in the relatively narrow range of issues the working group will consider. The terms of reference for the review include:

- The calculation of relevant daily pay;
- Trading annual leave for cash at the employee’s request;
- Transferring the observance of public holidays;
- The treatment and entitlements of “casual” employees;

- The accumulation of alternative holidays; and
- The treatment of public holidays.

The review has been welcomed by business and employer groups, who have said that the legislation is too complex and adds significant compliance costs for businesses. In particular, the definition of “relevant daily pay” is especially difficult to apply and can no doubt be improved.

However, the Labour Party has said that workers should be “very, very afraid” of the review. Its particular concern is the proposal to allow employees to cash in their annual leave. While the National Party has said that any such “cashing up” would be at the employee’s request, the Labour Party believes that employees on low pay or under pressure from employers will struggle to say “no” to their managers.

The working group is to submit its report by December 2009.

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