

# **Submission**

by

**Business|NZ**

to the

## **Transport and Industrial Relations Select Committee**

on the

## **Holidays (Four Weeks' Annual Leave) Amendment Bill**

**May 2003**

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## **HOLIDAYS (FOUR WEEKS' ANNUAL LEAVE) AMENDMENT BILL**

### **1. INTRODUCTION**

- 1.1 Encompassing five regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, Canterbury Manufacturers' Association, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 50-member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations, Business New Zealand is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.
- 1.2 Business New Zealand's key goal is the implementation of policies that would see New Zealand retain a first world national income and regain a place in the top ten of the OECD.
- 1.3 The reason for the focus on a "top ten" position is that a high comparative OECD growth ranking is the most robust indicator of a country's ability to deliver quality health, education, superannuation and other social services such as increased statutory minimum holiday entitlements. Currently New Zealand is number 21 out of the 30 OECD countries and, as such, Business New Zealand submits, simply not in a position to so substantially increase the liability of employers by requiring an additional week's annual leave on pay to be provided for in legislation.
- 1.4 It is widely acknowledged that consistent, sustainable growth well in excess of 4% per capita per year would be required to achieve the goal of attaining a place in the top third of the OECD in the medium term. To achieve sustainable growth, the Government must promote policies that take into account New Zealand's unique business demographic structure. At latest count, 92.5% of New Zealand businesses employed fewer than 10 full time

equivalent (FTE) workers and 86% employed fewer than 6 FTEs. Any Government policy that has the potential to affect business to the extent that this Private Member's Bill will, needs to consider the consequences affecting New Zealand's largest group of similar sized enterprises.

## **2. RECOMMENDATIONS**

- 2.1 Business New Zealand recommends that this Bill not proceed.

## **DISCUSSION**

### **3. GOVERNMENT POLICY**

- 3.1 The Government has announced that it will not increase the entitlement to annual holidays in this parliamentary term and, accordingly, there was no such amendment to the existing Act's three-week statutory minimum in the Government Bill introduced to the House on 18 February this year. If that stated policy intention is to be accepted as the Government's clear position, and of course there is no reason to suggest otherwise, then this Select Committee must reject this Bill and support our submission that it not proceed.
- 3.2 The question remains, however, whether by its reference to "this term" the Government's intention is to indicate that while there will be no immediate increase in the annual holiday entitlement, this might well occur in the next Parliamentary term. In other words, the Bill will be passed now to have prospective effect.
- 3.3 It is Business New Zealand's submission that such an approach must not be countenanced. Just as retrospective legislation is completely unacceptable, so too must the passing of legislation that has an implementation date sufficiently far in the future as to bind a Parliament as yet unelected and whose constituent make-up is therefore not known.

## 4. COST

4.1 Business New Zealand has quantified the cost of this measure to be up to \$908.5 million each year, or 0.7% of GDP<sup>1</sup>.

4.2 This calculation is arrived at by adding 1.917% (the relationship that one week has to the 52 weeks in a year) to the annual wage and salary bill. The latest figure available from the Annual Enterprise Survey for 2001 was \$47,391 million.

4.3 Any argument that the anticipated cost increase is inflated because only those currently receiving three weeks' annual leave will be affected by an increase to four weeks defies practical reality. Those already receiving four weeks' leave will inevitably look to retain their current relative advantaged by seeking a further week's leave.

4.4 There are traditionally three groups in New Zealand who receive additional leave entitlements:

- Shift workers in continuous processing operations – in recognition of the fact that rosters will have them working on weekends, evenings or early mornings and thus not provide the same opportunities to spend time with family as “ordinary weekly” workers have;
- Salaried employees – in recognition of the fact that such employees are expected to work on weekends, evenings or early morning to get the particular job done without quantifying such “extra” time and being paid specifically for it;
- Longer serving employees – in recognition of the fact that employees have had a period (often five or seven years) of current continuous service with the same employer an extra week's leave is granted.

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<sup>1</sup> For 12 months ended December 2002 \$126.1 billion, Statistics New Zealand.

- 4.5 There are no comprehensive statistics on how many within the work force actually receive three weeks' annual leave or more. The Department of Labour's analysis of agreements (which cover 266,000 employees and finds that some 90% receive three weeks' annual leave) applies only to collective agreements negotiated by a union and not to individual agreements including both waged and salaried employees. However, based on the very real prospect that shift, salaried and long-serving employees will exert pressure to retain their relative positions, an extra week's annual holiday across the board could well be the very real outcome of this Bill's enactment.
- 4.6 Assuming a base-line 4% GDP per capita growth rate is required to increase New Zealand's OECD ranking to the level desired, accommodating such an increase on the bottom line of *all* enterprises in New Zealand equivalent to 0.7% of GDP and still work towards a movement of at least 11 places up the OECD rankings would require, at minimum, ongoing continuous annual growth of 4.7%.
- 4.7 Business New Zealand's strong recommendation is not to implement a change that will hinder New Zealand's ability to meet the Government's growth target. The Government should wait until New Zealand has arrived in the top 10 of the OECD, before making a move of this kind. It should not be tempted to do something now that will put the growth target out of reach.

## **5. STATUS OF MINIMUM STATUTORY PROTECTIONS**

- 5.1 Obviously there is a real need for statutory minima underpinning freely negotiated employment agreements. However, equally obviously, if those statutory minima become too high, then adverse impacts will occur.
- 5.2 For example, since 2000 the statutory minimum wage for young people has increased, cumulatively, by 69.1%. Youth unemployment is currently more

than three times higher than the average unemployment rate.<sup>2</sup> Since December 1999 the 15-19 age group unemployment has remained about the same rate (16%) whereas the overall rate has fallen from 6.1% to 4.9%.

- 5.3 If the entitlement to annual holidays is increased to a minimum considered to be very high by employers, then not only will the businesses suffer but also the flexibility to negotiate arrangements that suit individuals will be removed. In a recent article *Gender and Enterprise Bargaining in New Zealand: Revisiting the Equity Issue* in Volume 28 of the New Zealand Journal of Industrial Relations, February 2003, Raymond Harbridge and Glen Thickett analysed some 3,372 settlements covering an estimated 380,900 employees. The data demonstrates that employees covered by “mainly female” settlements (30%) are more likely than those covered by “mainly male” settlements (17%) to attract a fourth week’s leave after a single year of service with the employer. Further, employees covered by “mainly female” settlements were more likely to receive more generous sick leave entitlements, separate domestic leave arrangements and better bereavement leave arrangements than were employees covered by the “mainly male” settlements.
- 5.4 The report states “as early as the mid-1980s, women union officials in female dominated sectors pushed for better and more generous leave arrangements for members, possibly at the cost of larger wage increases. That was the priority of the working women, and was reflected in the settlements reached. That priority has not changed, and the benefits won in the 1980s have been bettered and maintained through to the early 2000s.”
- 5.5 The report concludes that in light of the comparative success that female dominated settlements have had in achieving better leave conditions than the male dominated settlements, focusing on the gender pay gap alone is but part of the total mix of employment conditions that attracts and retains women in the paid workforce. Better and more flexible leave to allow for the

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<sup>2</sup> HLFS – December 2002 15-19 unemployment 16.0%; total unemployment 4.9%  
– December 1999 15-19 unemployment 15.7%; total unemployment 6.1%

accommodation of family responsibilities is an important component of that mix.

- 5.6 The fact that there is flexibility to meet the requirements of one group compared with another is to be encouraged. Increasing standard minima to the extent that increases to meet the wishes of a particular group can simply not be accommodated is counter-productive to good employment practice.

## **6. INTERNATIONAL COMPARISONS**

- 6.1 The rationale of the Private Member's Bill as enunciated in the Explanatory Note is that "the Bill provides New Zealand workers with the same minimum leave entitlement that is legally mandated by the European Union", a statement which could have some relevance were New Zealand part of the European Union. But New Zealand is not part of the EU. In terms of distance from markets, competition for foreign investment and economic circumstances generally, it is as far away from the EU as it is possible to be. Therefore such a rationale is completely and totally irrelevant.
- 6.2 Choosing the EU as the benchmark clearly demonstrates the blinkered approach of too many New Zealanders. New Zealand simply does not have the standing in the economic league to provide the social benefits that flow from a strong economy – the position of most EU group countries.
- 6.3 Other countries (as relevant or not as the EU might be considered to be) could be used as comparators. The United States, for example, has two weeks' annual leave. Japan, Hong Kong and other Asian countries tend to have a sliding scale of entitlement based on service. Japan, for example, provides for 10 days after six months of continuous employment. Thereafter, one additional day per year of service for persons employed up to two years and six months, after that, two additional days per year up to a maximum of 20 days. Interestingly the figures from Japan show that in 2001 the days granted per worker were 18 but the days actually taken per worker were 8.9.

- 6.4 Rather than looking at a wide variety of countries – all of which have different arrangements best suited to their national circumstances – we repeat our primary submission that New Zealand would be better placed concentrating on improving our placing within the OECD so that as a country we would be able to provide a range of increased benefits in the important areas of health, education and social services. Until that occurs, however, this Bill and others like it, which increase the costs of business, must be rejected.