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Holidays Act 2003 Review  
Department of Labour  
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NEW ZEALAND MANUFACTURERS AND EXPORTERS ASSOCIATION  
RESPONSES TO THE  
DEPARTMENT OF LABOUR  
ON THE  
**REVIEW OF THE HOLIDAYS ACT 2003**

**New Zealand Manufacturers and Exporters Association  
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The New Zealand Manufacturers and Exporters Association are pleased to have this opportunity to provide feedback from our members.

## BACKGROUND

The New Zealand Manufacturers and Exporters Association (NZMEA) represents the interests of manufacturers and exporters throughout New Zealand.

The Association is New Zealand's only focused, independent voice for manufacturers and exporters, with members making over \$2.0 billion in sales, with an export value of around \$1.0 billion. The Association can trace its beginning to the early history of New Zealand. The Association represent the interests of manufacturers and exporters throughout New Zealand.

The Association also includes in its membership affiliates organisations such as the Wood Processors Association, Plastics New Zealand, the Engineering Printing & Manufacturing Union Inc, HERA (Heavy Engineering Research Association), The Engineering Taranaki Consortium and Capenz (Centre of Applied Engineering New Zealand).

Elaborately transformed manufactures comprise over 18% and basic manufacturers over 12% of New Zealand tradeable exports. New Zealand manufacturers face the ever increasing onslaught of the cost of local regulation, and global competition from low cost countries without any significant support and protection.

The historical reliance that New Zealand has placed in the primary sector and basic manufactured goods has seen the position that New Zealand has in the rankings of the Organisation of Economic Co-operation and Development (OECD) fall from 5<sup>th</sup> in 1950 to 23<sup>rd</sup> (down from 21<sup>st</sup> in 2004) in 2007; between Korea and the Czech Republic, and well into the lower middle bracket of global income per capita. New Zealand has grown more slowly than other countries due to our mix of export type. Until recently the manufactured goods sector of the internationally traded economy has shown the highest growth rates.

Economic development based on elaborate transformation, that commands high prices from global customers, ultimately funds our lifestyle. Generating that cash, from exports based on ever increasing skill levels will return the lifestyles we anticipate. A failure to do so will see an ever poorer New Zealand and a widening gap between what the world has to offer and what we can afford in health, infrastructure and general consumption.

For the past several years the world has not been a friendly place for our exporters and manufacturers. Of late the economic pain has started to spread throughout the economy and intensify further. For a time a lower New Zealand dollar helped somewhat but as global markets fall away, margin problems are being replaced by sales volume problems.

Minimising further cost pressures has never been more important than right now.

## SUBMISSION

- ***Complexities and costs associated with calculating Relevant Daily Pay (RDP).***

The complexities of the calculations can be captured in some payroll software, if not, members report it a nightmare to calculate.

Of more importance is the approach and philosophy behind the idea of RDP, for example, commission payments, penal rates, and profit shares all get captured in the calculation of RDP. Our members take exception to these being paid when staff are not at work as these payment elements are generally taken to be self funding, in that they relate to variable activity in the business. Commissions and penal rates apply to greater activities than that imagined by the base pay.

When staff are not at work, only payment for a standard working week, absent commissions, penal rates or other results related payments, should be in the calculation. The ordinary pay calculation under the Holidays Act 1981 is preferred.

In addition to the calculation difficulties mentioned above, another problem has been reported in regard to the current RDP rules where there are fluctuations in the dollar amount of holiday pay month to month which means the employer is unable to know in advance the holiday pay liability. For example, a commission payment in November results in a higher holiday payout or liability in December. There is the potential for manipulation by the employee (delaying claims for commission etc) and this can make the timing of holidays far more of an issue to the employer.

Holiday pay should be based on agreed basic pay rates, absent commission, penal rates, production bonuses and any other "earned" special rates. Returning to Ordinary Pay Calculation (OPC) is preferred.

- ***Trading the fourth week of annual leave for cash at the employee's request.***

It should be possible for the employee and employer to agree to trade the employee's fourth week of annual leave (or some other part of the employee's minimum annual leave entitlement) for cash.

Benefits accrue to flexibility for the business and to the staff member. On occasion it might suit both to take the full holidays but is easy to imagine circumstances where it would suit both to trade the holiday period.

If trading the fourth week is optional, it is not a requirement. To do so clearly requires the agreement of the employee and the employer, it is hard to imagine the circumstances where this would disadvantage the employee.

- ***Transfer of public holidays to another day.***

Again, allowing this sort of flexibility, by negotiation, will better suit employees and employers, it is easy to imagine circumstances where this would be advantageous.

Where this has been done we have not heard of any issues, it should be a matter for open negotiation to suit both sides of the employment relationship.

It is hard to see how entitlements could be reduced by the simple transfers from one day to another, transfers that require the agreement of both parties.

- ***The accumulation of alternative holidays (days in lieu).***

At all times, flexible responses to market change are desirable. Any change that encourages flexibility would be welcome. There is countervailing need for employers to manage the accumulation of holidays so that significant contingent liabilities do not build up for the employer.

- ***The treatment and entitlements of casual employees in relation to holidays and leave.***

A matter of contract between the employer and employee under casual conditions, typically all entitlements are rolled up into the hourly rate of contract fee.

Holiday and leave entitlement are generally absent from casual employment agreements, they tend to be dealt with in the fee or basic hourly and any associated penal rates.

We have not heard of any examples of casual employees being advantaged or disadvantaged by the application of the Act.

- ***Treatment of Public Holidays.***

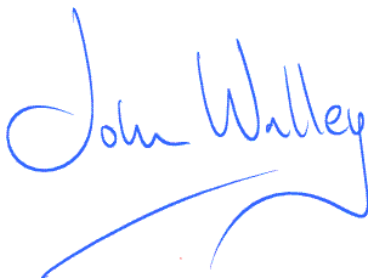
Whatever a particular third party view might be on the importance of one or all of our public holidays, that view is not really relevant to a discussion between a particular employer and employee. There is a presumption that public holidays are important and that presumption is covered off by allowing the employee to determine whether or not these holidays can be substituted and transferred to other (to them) more important days. This is a matter between the employer and employee. Using the public holiday list as the “normal” benchmark is sufficient support and alignment in the public holiday system. Changes from that reference should be a matter for negotiation between the parties concerned.

- ***Easter Sunday.***

Easter Sunday should not be recognised as a public holiday.

If Easter Sunday were recognised a holiday it should not be Mondayised, the suggestion lacks logic, obviously Easter Sunday falls on a Sunday every year and does not precess through the week as holidays attached to a particular date.

No change is necessary in this regard.



**John Walley**  
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