

2003 Holidays Act Review

[ref: <http://dol.govt.nz/consultation/holidays-act-review/>]

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PART ONE: TREATMENT OF PUBLIC HOLIDAYS

(Q13 in "Request for written submissions")

- What are your views on the significance of the 11 public holidays listed in the Act? (These are: Christmas Day; Boxing Day; New Year's Day; 2 January; Waitangi Day; Good Friday; Easter Monday; ANZAC Day; Queen's Birthday; Labour Day; and Provincial Anniversary Day.)

A. SIGNIFICANCE AND TIMING OF PUBLIC HOLIDAYS

New Zealand has 11 Statutory Public Holidays each year, including provincial anniversary holidays. There have been 11 holidays for over 35 years now. *There is no reason to change the number of public holidays.*

Historically, New Zealanders have shown a commitment to these holidays by providing 'statutory holidays in lieu' for the Christmas and New Year holidays when the actual holidays fall on a weekend, and by "Mondayising" most of the others (2 exceptions), ensuring that when holidays fall on weekends, they are not lost. Thus the periodic "long weekend" has become an integral part of the Kiwi lifestyle; an integral part of what it means to be a New Zealander. New Zealanders, while having a deserved international reputation as diligent workers, have had a longstanding commitment to worklife balance that is reflected in the incorporation of our holidays into our culture as long weekends. See the entry in the 1966 Encyclopaedia of New Zealand [<http://www.teara.govt.nz/en/1966/holidays-public/1>].

The reasons for the specific holidays themselves are not as important in New Zealand as the worklife balance that these holidays contribute to. Indeed the two principal exceptions – Waitangi Day and ANZAC Day are the only two that are not either Mondayised or replaced by alternative holidays when they fall on weekends.

Public holidays generally reflect tradition (typically commemorations of season, commonly with a Christian overlay: Easter, Christmas and New Year, 6 days), or national/provincial history (5 days).

While the latter represent an eclectic and to some degree arbitrary representation of our history, the seasonal days have structure based around the rhythms of the calendar. The problem here is that dates relate to northern hemisphere festivals. They represent winter and spring festivals in the northern hemisphere, which of course fall in the summer and autumn in New Zealand. Not only do we have no holidays to represent winter and spring in New Zealand, we also have a period of 24 weeks between the only two holidays (Queens Birthday and Labour Day) that actually fall in these seasons.

New Zealand principally needs holidays to mark the winter solstice and the spring equinox, southern (and secular) equivalents of Christmas and Easter. Fortunately we have two dates perfectly placed to achieve this. One is an indigenous tradition for mid-winter and New Year (Matariki), and the other is a date of important historical symbolism (September 26, Dominion Day) in which New Zealand formally ceased to be a British colony.

The proposal is to create two new holidays, and to remove two others.

B. SUGGESTED NEW STATUTORY PUBLIC HOLIDAYS:

1. Formal Name: *Matariki*, to be held on the *fourth Monday in June* (rather than by the moon, as per Maori tradition), and replacing the present Queens Birthday holiday.
 - a. New Zealand needs to have at least one holiday that formally recognises an indigenous rather than an imported tradition. In addition to its Maori references, a Matariki holiday on that date recognises mid-winter (as Christmas does in the northern hemisphere), and the half-way point in the year.
 - b. Some of the traditions relating to Queens birthday can be transferred to the new date; in particular the release of the New Zealand Honours List, and a general recognition of the constitutional role of the Queen (and her successors) in New Zealand life.
 - c. Although only one day would be a public holiday, "Matariki Week" can be celebrated as a winter festival, with events held, especially in the schools, during that week.
 - d. Matariki Week, as suggested, would be the week prior to the July school holidays. Thus it would represent the half-year winding down period. Further, that week is a "down-week" in our tertiary education calendar; a part of the inter-semester break.
 - e. Only New Zealand celebrates the monarch's birthday on the first Monday of June. The United Kingdom does not hold a public holiday at all for this purpose, preferring instead a "bank holiday" at the end of May. Those of us who wish to may continue to commemorate the monarchy may continue to use the new June holiday for this purpose.
2. *Dominion Day*, 26 September. I favour the retention of the name, which symbolises both New Zealand's national independence and its commonwealth relationships.
 - a. Dominion Day should replace the January 2 statutory holiday.
 - b. The kowhai is an obvious New Zealand symbol for this *spring festival* holiday, just as the pohutukawa tree symbolises Christmas in New Zealand.
 - c. In many northern hemisphere traditions, the spring equinox is the new year, the end of winter, the arrival of new life in the fields and forests.
 - d. Dominion Day would be celebrated on the first Monday of the spring school holidays, which happens to be on or close to 26 September. This, among other things, would reduce any disruptions caused, and would require parents to make fewer childcare arrangements for their children, and would facilitate parents to take annual leave in late January, early February, for example.
 - e. Dominion Day could be a day that celebrates modern multicultural, multiethnic New Zealand; the diversity of life in New Zealand.
 - f. While Dominion Day rightly commemorates New Zealand's British heritage, in the event that New Zealand becomes a republic in the future, September 26 could be the chosen date. It could then be renamed Republic Day.

3. ***Deletion of January 2.*** This day is not widely celebrated in other countries as a public holiday.

- a. The effect of the January 2 holiday is to create the perception of a two-week shut-down period. Effectively the January 2 holiday conflates in our minds the notion that the Christmas holiday period and the summer vacation period are one and the same. For families, especially mothers, this conflation creates a double period of stress, and it doesn't coincide with the best summer weather for most of New Zealand's population.
- b. To remove January 2 as a public holiday would be to give families more options over their summer holidays. Workers would be encouraged to return to work on January 2, and work for 3 or 4 weeks before taking a summer vacation. Summer schools, school holiday programmes, and working life in general would be facilitated if the three weeks period from January 3 were treated as normal working weeks (albeit within the school holidays) rather than as a part of the "great kiwi shutdown".
- c. About three-quarter's of New Zealand's population enjoy a provincial holiday in late January or early February. A holiday on September 26 (Dominion Day) would free up a day's annual leave for many parents; a day that could be taken on January 2, but more commonly would be taken closer to Waitangi Day in early February. The last two weeks of the summer school holidays will increasingly be seen as the more natural time for a family vacation.
- d. New Zealand's productivity as a nation would be enhanced by our having a shorter enforced lay-off in January, as well as in having public holidays that are better spaced through the year. Christmas would be free to be celebrated as a *whanau*-oriented holiday, with summer vacations increasingly held one month later.

4. ***Other Holidays***

- a. Christmas (3 stat holidays including New Year's Day) and Easter (2 stat holidays) are important traditional holidays that should be minimally tampered with. (See *Part Four* below in relation to Easter Sunday.)
- b. Likewise Waitangi Day (February 6) and Anzac Day (April 25) commemorate important parts of our history, and should continue to be recognised. (However, especially given its place in the summer and at the end of the school holidays, a statutory holiday in lieu should be granted on February 5 in the event of Waitangi Day falling on a Saturday, or on February 7 in the event of Waitangi Day falling on a Sunday.) Waitangi Day should not be a day most associated in the public mind with end-of-school-holiday traffic congestion.
- c. Labour Day (4th Monday of October) plays an important role both in raising issues around work-life balance, and in providing work-life balance (in the form of a public holiday) in the 7-month May-November period in which currently only two of our 11 holidays fall.
- d. There is an argument for replacing Anzac Day (25 April) with 8 August (the New Zealand assault of Chunuk Bair, Gallipoli), the day of greatest military poignancy for New Zealand in World War 1. Such a day, as well as being more appropriate for New Zealand, would also improve the spacing through the year of the 11 holidays. However, 93 years of tradition probably favours the retention of the April 25 date.

C. CONCLUSION FOR THIS SECTION.

The principle theme of my argument is the role that public holidays play in helping us to achieve work-life balance while also achieving productivity gains. Well spaced holidays that reflect the traditional themes of the changing seasons, and that for the most part fall during school holidays, constitute the best possible structure of public holidays for both employees and employers.

PART TWO: TRADING THE FOURTH WEEK OF ANNUAL LEAVE FOR CASH

(Q3-5 in "Request for written submissions")

- What are your views on an employee and employer agreeing to trade the employee's fourth week of annual leave (or some other part of the employee's minimum annual leave entitlement) for cash?
- Are there any specific issues, for example, criteria or costs and benefits that the Group should take into consideration?
- If you think an employer and an employee should be able to agree to trade the fourth week's leave for cash, what protections do you see would be necessary to ensure entitlements are not reduced and employees' choice to trade the fourth week is genuine?

A country that is enjoying labour productivity growth should be enjoying both increased life-time earnings and decreased life-time working hours. One important way that life-time working hours are reduced is through periodically raising annual leave entitlements. The most recent (and arguably overdue) increase, in 2007, raised minimum annual leave entitlements for fulltime workers from 3 weeks to 4 weeks per year.

The issue arises that the average balance between income gains and leisure gains arising from economic growth may not be ideal for all workers. For some, the marginal benefit of a week's additional earnings may exceed the marginal benefit of an additional five days of leave. For others, the marginal benefit of five additional days of leave may exceed the marginal benefit of a week's additional earnings. If we choose to grant the right of persons in the former category to exchange a week of annual leave for a week of wages, we must also grant the right of those in the second category to gain an extra week of leave at the expense of a week of wages. Indeed this latter right would probably be very attractive to many parents of schoolchildren, given that school holidays are longer than most workers' annual leave entitlements.

For those exercising the right to exchange a week's leave for wages, it is imperative that the law requires that they are fully informed about their effective marginal tax rates before making the decision. This is particularly relevant for persons receiving Working for Families Tax Credits or housing Accommodation Supplements. It is also particularly relevant for persons paying Child Support in lieu of a benefit their former partner may be receiving.

Persons receiving these income related payments (Family Tax Credits; Accommodation Supplements) will find not only that they pay tax at the marginal rate on their extra weeks' earnings (21% or 33% in most cases), but will also incur 25% of their extra earnings to reimburse Work and Income because their Accommodation Supplement entitlement will have been reduced. And they will be obliged to repay 20% of their extra earnings (in addition to income tax) to Inland Revenue as they will find that some of their Family Tax Credits also have to be reimbursed.

A worker with children earning \$52,000 per year stands to gain \$1,000 gross by trading his or her 4th week of leave for extra wages. After income tax, reduced Accommodation Supplement, and reduced Family Tax Credits are accounted for, that worker stands to gain only \$220 in exchange for 40 hours extra labour.

A worker with the above profile who is also paying Child Support on two children will find himself \$20 worse off if he gives up a week of his annual leave.

PART THREE: TRANSFERRING THE OBSERVANCE OF A LISTED PUBLIC HOLIDAY

(Q6-8 in "Request for written submissions")

- What are your views on employees being able to transfer public holidays to another day, for example, observing Ramadan instead of Good Friday?
- If you have done this previously have there been any issues with transferring?
- What protections do you see would be necessary to ensure entitlements are not reduced and employees' choice to transfer the public holiday is genuine?

There should be a limited provision for workers and firms to observe alternative holidays. This should apply only to businesses that operate 7-days per week, or to small businesses whose employees principally belong to a non-Christian culture.

1. In the case of 7-day businesses, workers who are granted an alternative public holiday should lose rights to penal wage rates and/or holidays in lieu if they work on the Statutory Holiday. And they would be expected to take the alternative holiday off, rather than work and receive penal rates for that day.
 - a. Shift workers who are rostered off on their nominated alternative holiday would receive the same entitlements as shift workers who are rostered off on any of the usual public holidays.
 - b. Workers rostered to work on statutory holidays – eg hospital workers, airport/airline workers, hotel workers – should always be able to accumulate alternative days off in lieu.
2. In the case of "non-Christian" businesses, if firms close for business on the nominated alternative date, and open for business on the statutory holiday, then workers in those firms who do not share the dominant culture of that business should have the right to observe the statutory holiday as an additional paid holiday.

PART FOUR: EASTER SUNDAY

(Q14-15 in "Request for written submissions")

- Do you consider that Easter Sunday should be recognised as a public holiday?
- If so should it be "Mondayised" in the same way as, for example, Christmas Day is under the Act and replace Easter Monday as a public holiday?

Easter Sunday should be recognised formally as a Public Holiday, with Easter Monday being the "Mondayised" holiday in lieu of Easter Sunday, holding the same status as say December 27 does whenever Christmas Day or Boxing Day fall on a weekend.

In practice, this would only affect persons employed in businesses that open 7-days per week. For affected employees, penal wage rates and/or days in lieu would apply to Easter Sunday rather than to Easter Monday.