

Problems with the Holidays Amendment Bill

Relevant daily pay is blowing out wage costs

- The Holidays Amendment Bill does not fix the problem of *relevant daily pay*.
- *Relevant daily pay* is the new concept that appeared for the first time in the ill-considered Holidays Act that came into force on 1 April this year.
- It is the rate of pay that must be used as the basis for calculating payment for public holidays, alternative holidays (lieu days) and sick or bereavement leave.
- Before 1 April and for the last 50 years, *ordinary pay* was the basis for such calculations.
- *Ordinary pay* is the base rate of pay without overtime, productivity incentives, attendance incentives, conditions allowances and other extra payments.
- *Relevant daily pay* is the base rate of pay plus overtime, productivity incentives, attendance incentives, conditions allowances and other extra payments.
- By requiring *relevant daily pay* to be used to calculate holidays, sick leave etc, the Government is blowing out wage costs.

Relevant daily pay is not appropriate for calculating holiday and sick pay

- By definition, an employee on holiday or sick leave is not working overtime or meeting productivity incentives or attendance incentives and is not suffering from the conditions that necessitate a conditions allowance – these only apply when the employee is actually at the workplace.
- Therefore *ordinary pay* is the appropriate rate for calculating holiday and sick pay. It also gives certainty for budgeting, unlike *relevant daily pay*.

Using relevant daily pay creates wrong incentives

- Using *relevant daily pay* to calculate payment on non-working days means you can't pay an employee more for working than for not working.
- Using *relevant daily pay* to calculate payment for non-working days creates an incentive to take a sickie on public holidays or other days that pay more.

Mondayisation concerns

- The Bill increases costs for 7-day a week operations. The new Act doubles the number of holiday days for which a 7-day a week employer must pay, from four to eight, multiplied by the number of people employed, and this will hit particularly hard this holiday season because Christmas Day, Boxing Day, New Year's Day and 2 January all fall on Saturday and Sunday. It's a double whammy likely to see many businesses close over this period rather than face the increased expense of opening. For employees it could mean lost job opportunities.

Things that have been improved in the Holidays Amendment Bill:

- Removing the requirement to pay penal rates on top of penal rates – this is an improvement, though employers will still need to make extra calculations.
- Ensuring employees who call in sick on a public holiday are not paid as if they had actually worked on the public holiday – this is also an improvement.
- Allowing employers to request a medical certificate before three days' absence if they have reasonable cause to suspect the sick leave is not genuine – also an improvement, although requiring employers to pay medical costs will make it uneconomic to address the problem of repeated absences by employees determined to take advantage of the legislation.