



tourism
INDUSTRY

ASSOCIATION NEW ZEALAND

**Employment Relations (Probationary Employment)
Amendment Bill – Submission to Parliament’s Transport
and Industrial Relations Select Committee**

19 May 2006

Introduction

1. This submission is from the Tourism Industry Association New Zealand (TIA), located at level 4, Travel and Tourism House, 79 Boulcott Street, Wellington.
2. Attached as Appendix 1 are details about our organisation and who we represent.
3. If you wish to contact us regarding this submission, in the first instance, please telephone Simon Wallace, Policy Manager on 04 494 1842 or e-mail him at simon.wallace@tianza.org.nz
4. The TIA submission comments on the Employment Relations (Probationary Employment) Amendment Bill currently being considered by Parliament's Transport and Industrial Relations Select Committee.

Comment

5. TIA broadly supports this Bill since it will:
 - encourage more employers to take on young and disenfranchised people and those re-entering the workforce;
 - balance the risks in the employment relationship between employers and employees; and
 - ensure New Zealand has employment laws consistent with like-minded countries in the OECD.
6. New Zealand is currently experiencing a labour shortage with an overall unemployment rate of 3.9%.¹ However, amongst 15-19 year olds, the unemployment rate is currently 14%.² Every incentive is needed for employers to take on young workers who come without any formal work record. This Bill provides that incentive by allowing employers to take a "leap of faith" with not only young employees, but the sometimes disenfranchised people or those re-entering the workforce who are not "work ready".
7. Most employers believe they can usually reach an opinion about a new employee's suitability for a job within the first few weeks of their employment. Provided adequate training and support is given, three months is regarded as a realistic timeframe for certain conclusions to be reached on an employee's ability to do the job. As well as giving employers some alternatives should an employment relationship not work, this Bill provides advantages for employees in allowing them to exit an arrangement without a blemish on their employment

¹ Household Labour Force Survey, March 2006, Statistics NZ website.

² *ibid.*

record. Neither party would then face protracted employment proceedings should a resignation or parting of the ways be appropriate.

8. The tourism industry in New Zealand is highly labour-intensive consisting of more than 8000 small and medium sized businesses. As one TIA member puts it, “tourism in NZ is small business territory” and the majority of businesses employ five or less people. Any employee not performing to a required level can threaten the viability of a business. While tourism operators take the greatest care in the recruitment of staff and on the whole are successful, very occasionally businesses need a mechanism for the exit of non-performers. This legislation allows that to happen without the threat of legal action hanging over businesses.
9. TIA stresses that a probationary or trial period is not a reason to dismiss an employee and we do not believe this Bill is “a licence to sack people”. In fact, a “revolving door” of employees is both costly and time consuming for businesses. Investment in training and resources as well as lost efficiency from ever changing staff is untenable for tourism businesses, just as it is for any other business.
10. As stated, the vast majority of employment relationships work because of a sound recruitment process, appropriate training and a clear statement of expectations from both an employee and employer perspective. The assessment of suitability for a position must ensure the probationary employee has received all the necessary on the job training to perform in the role and we believe sound criteria is needed to guide this process.
11. Last year, the government itself identified a need to make it easier for employers to hire so-called disenfranchised New Zealanders, including those without qualifications, but with the potential to work. The Ministry of Social Development launched an initiative to encourage employers to “give these people a go”, but did not provide the necessary tools and incentives for employers to “take the plunge”. This Bill does that and reduces the risk for businesses, and employees, if a wrong decision is made.
12. Finally, New Zealand is just one of one of a handful of OECD countries that does not have probationary or trial periods built into employment law. Most European jurisdictions as well as those in the United States and Australia contain such provisions and “the sky hasn’t fallen in” as a result of these laws. In these countries the probationary period is built on solid principles of natural justice and fair process. Our lawmakers would do well to draw on these international comparisons as this legislation is progressed.

Conclusion

13. TIA supports this Bill and believes it should proceed. It provides the right incentives in helping more New Zealanders into jobs without the threat of legal action hanging over either the employer or employee if an employment relationship should fail. We believe the vast majority of employers in the tourism industry are fair and reasonable and will take all possible steps to make an arrangement work. Provided there is a clear set of guidelines governing the

probationary process, as is the case in overseas jurisdictions, and a balance is struck between the rights of employees and employers, then this legislation creates an opportunity for many young and disenfranchised New Zealanders to feel empowered and ‘have a go’ in the job market.

Appendix 1

Background Information on the Tourism Industry Association of New Zealand (TIA)

1. The Tourism Industry Association New Zealand (TIA) advocates for the interests of the tourism industry in New Zealand. The businesses we represent generate more than 85% of New Zealand’s tourism-related revenue.
2. Tourism is a \$17.2 billion industry (\$7.4b from international and \$9.8 from domestic tourism) with international tourist expenditure accounting for 18.5% of New Zealand’s total export earnings.³ The industry, directly and indirectly, employs 1 in 10 New Zealanders in a diverse range of businesses – the majority of which are small and medium sized enterprises. Not only is tourism important because of its size, representing 9.4% of New Zealand’s GDP, it is:
 - Highly employment intensive;
 - Regionally disparate; and
 - Very diverse - ranging from large stock exchange listed companies to small cottage industries.
3. These businesses cover a range of tourism-related activities – hospitality, transport, adventure and activities, attractions and retail and related tourism services. In many cases, regional tourism businesses have developed around regional assets divested by other industries and have revitalised those assets and the communities that depend on them.
4. The tourism industry in New Zealand consists of more than 8,000 small and medium sized businesses. Of these businesses, most employ less than five people.
5. New Zealand welcomes more than two million overseas visitors to its shores every year. The domestic tourism industry is also important in helping to sustain a vibrant tourism industry. TIA estimates that over 75 million visitor nights are spent by New Zealanders every year.

³ “Key Tourism Statistics – March 2006”, Ministry of Tourism website