



**TEU**

**TERTIARY EDUCATION UNION**  
**TE HAUTŪ KAHURANGI**

Submission of

Te Hautū Kahurangi | Tertiary Education Union

to the

Ministry of Business, Innovation, and Employment

on the

**Holidays (Bereavement Leave for Miscarriage)**

**Amendment Bill**

14 February 2020

CONTACTS

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## 1. Introduction

- 1.1. Te Hautū Kahurangi | Tertiary Education Union (TEU) welcomes this opportunity to respond to the Holidays (Bereavement Leave for Miscarriage) Amendment Bill.
- 1.2. The TEU is the largest union and professional association representing nearly 10,000 academic and general/allied staff in the tertiary education sector (in universities, institutes of technology/polytechnics, wānanga, private training establishments, and REAPs).
- 1.3. The TEU actively acknowledges Te Tiriti o Waitangi as the foundation for the relationship between Māori and the Crown. We recognise the significance of specific reference to Te Tiriti o Waitangi in the Education Act and the emergent discourse resulting from this. We also accept the responsibilities and actions that result from our nation's signing of the UN Declaration on the Rights of Indigenous Peoples.
- 1.4. The TEU expresses its commitment to Te Tiriti o Waitangi by working to apply the four whāinga (values) from our *Te Koeke Tiriti* framework as a means to advance our TEU Tiriti relationship in all our work and decision-making – with members and when engaging on broader issues within the tertiary sector and beyond – such as our response to this Bill:

*Tū kotahi, tū kaha:* We are strong and unified; we are committed to actions which will leave no-one behind; we create spaces where all people can fully participate, are fairly represented, and that foster good relationships between people.

*Ngā piki, ngā heke:* We endure through good times and bad; we work to minimise our impact on the environment; we foster ahikā – the interrelationship of people and the land, including supporting tūrangawaewae – a place where each has the right to stand and belong.

*Awhi atu, awhi mai:* We take actions that seek to improve the lives of the most vulnerable; we give and receive, acknowledging that reciprocity is fundamental to strong and equitable relationships; and we work to advance approaches that ensure quality public tertiary education for all.

*Tātou, tātou e:* We reach our goals through our collective strength and shared sense of purpose, which are supported through participatory democratic decision-making processes and structures.

- 1.5. Our response to the Holidays (Bereavement Leave for Miscarriage) Amendment Bill stems from our commitment to the whāinga expressed above and our wish to see these enacted in the tertiary education sector and in our society and communities.

Whāinga 3, “Awhi atu, awhi mai,” underpins the following section. Specifically, the employee (mother and partner) are the “vulnerable” ones, and when the employer extends their support – “awhi atu” – it will be well-received and reciprocated – “awhi mai.”

- 1.6. The TEU supports the Holidays (Bereavement Leave for Miscarriage) Amendment Bill. We submit that, where the unplanned end to a pregnancy occurs due to a miscarriage or still-birth, entitlements to tangihanga/bereavement leave will reduce the stress and vulnerability that employees, their partners, and whānau/families inevitably face during such difficult circumstances.
- 1.7. In Māori society, tangihanga/bereavement have their own unique tikanga – correct customs, procedures, and protocols – that vary from hapū to hapū according to geographical location and iwi conventions. Tikanga are a customary system of values and practices that have developed over time by hapū and iwi and are deeply embedded in their social fabric and political frameworks. For example, a standard tangihanga/bereavement can occur over three to four days, and in some instances five to seven days if the deceased is a rangatira within the iwi, and/or well-known in Māoridom generally. The proposed Bill amendments would mean that employees, their partners, and whānau/families would be able to confer the miscarried or still-born the appropriate tangihanga/bereavement consistent with tikanga including, yet not limited to, tangi/grieve, poroporoaki/farewell, and nehu/inter.
- 1.8. Also, amendments proposed in the Bill would mean that employees would not have to face entering in to disputes with employers during an already difficult

time, nor would they have to resort to using the sick leave or annual leave provisions available to them.

## 2. Background

Whāinga 1, “Tū kotahi, tū kaha,” acknowledges Kathryn van Beek who, through her own misfortune, committed to and successfully lobbied for – with the strength, “tū kaha,” and unity, “tū kotahi,” of others – amendments to the Holidays Act 2003.

- 2.1. Amendments to the Holidays Act 2003 were initiated by van Beek – a TEU member – after suffering a miscarriage. Due to her campaigning on this issue, ambiguity in the legislation surrounding miscarriages, still-births, and tangihanga/bereavement leave was recognised.
- 2.2. In collective agreement negotiations with van Beek’s employer, Otago Polytechnic, during 2019, the TEU made a claim that sought to recognise the impact of pregnancy loss for employees by extending the wording of the tangihanga/bereavement clause.
- 2.3. The following wording was agreed with the employer:

*Following pregnancy loss, the employee is entitled to three days bereavement leave to be paid in accordance with the Holidays Act 2003.*

*In addition to the clause above, managers have discretion to grant up to three days further bereavement leave.*

- 2.4. The above wording was based on an example, provided by van Beek, which had been used elsewhere in similar cases.
- 2.5. When the TEU presented this claim, the employer had no hesitation at all in agreeing, and stated that they saw it as a “no brainer.”
- 2.6. Until this time, employees had been required to use sick leave to cover periods of tangihanga/bereavement caused by pregnancy loss. This is an unreasonable requirement in circumstances where tangihanga/bereavement has clearly occurred.
- 2.7. Furthermore, such a provision is dependent on staff having sick leave available to them. In many parts of the tertiary education sector, good sick leave

provisions – greater than those included in the Holidays Act – are available. However, there are parts of the tertiary education sector where workers only have access to minimum leave entitlements. This is also the case for many workers throughout Aotearoa New Zealand.

### 3. TEU policy

Whāinga 4, “Tātou, tātou e,” recognises that we reach our goal of amending the Bill through collective strength and shared purpose; amendments that will benefit and be for the good of all – “tātou, tātou e.”

- 3.1. We support Clause 4 of the Bill which amends section 69 of the principle Act so that entitlements to tangihanga/bereavement leave are available to employees (and their partners) who suffer an unplanned end to a pregnancy by way of a miscarriage or still-birth.
- 3.2. We support Clause 5 of the Bill which amends section 70 of the principle Act so that employers must allow employees who have suffered an unplanned end to a pregnancy by way of a miscarriage or still-birth to take three days’ tangihanga/bereavement leave.

### 4. Conclusion

Whāinga 2, “Ngā piki, ngā heke,” supports the notion that we endure through good times, “ngā piki,” and bad, “ngā heke,” and thus minimise the impact on both the life of employees and the work environment of the employer.

- 4.1. We submit that the proposed changes to legislation will provide dignity, respect, and reprieve – through much needed tangihanga/bereavement leave – to employees experiencing an overwhelming loss – a loss which is no different to any other death of a whānau/family member or person who is close to the employee.
- 4.2. It is essential that these provisions are available to all, regardless of whether they are covered by a collective agreement or not. This is significant, as having to negotiate tangihanga/bereavement leave at such a time is unnecessarily stressful and only serves to add to the sense of loss.