

Question on Notice

No. 629

Asked on 18 April 2007

MR HINCHLIFFE ASKED THE MINISTER FOR STATE DEVELOPMENT, EMPLOYMENT AND INDUSTRIAL RELATIONS (MR MICKEL)—

QUESTION:

With reference to residents of the electorate of Stafford who over the recent Easter public holidays were charged a public holiday loading on restaurant bills and subsequently discovered staff were not being paid a penalty rate—

Will he recommend a course of action to complain or seek recompense?

ANSWER:

Customer surcharges on public holidays have traditionally been made to assist in the payment of employees' penalty rates entitlements. I am concerned that hospitality businesses may not be paying penalty rates to their employees on public holidays whilst at the same time charging customers a surcharge on their bills. This practice of cutting costs by reducing employees' earnings and entitlements appears to be in response to the Howard government's unfair Work Choices legislation. It is repugnant that some of these same businesses may then maximise profits on public holidays by charging their customers an additional loading, under the guise that they have additional wages costs to meet.

I recommend that people concerned about paying a surcharge contact the Fair Go Advisory Service Queensland Hotline on Ph 1300 737 841 to report the matter. An operator will obtain the relevant details from them for follow up.

I am advised an investigation of the business will be conducted to determine whether penalty rates were in fact paid to employees for any relevant public holidays. This will be undertaken by the Department of Employment and Industrial Relations wherever possible, or if necessary, referred to the Office of Workplace Services (OWS) for investigation of businesses operated by companies in the Federal jurisdiction.

If public holiday penalty rates were still an entitlement for those employees and were not paid, recovery action could be taken to ensure those employees received their lawful entitlements and consideration could be given to prosecuting and seeking fines against the offending employers under the *Industrial Relations Act 1999*. Similar action can be taken under the Federal legislation by the OWS.

If it were found that public holiday penalty rates had been removed as an entitlement for those employees because of workplace agreements under the Federal Government's Work Choices legislation, the matter will be referred to the Department of Tourism, Fair

Trading and Wine Industry Development for their investigation to seek to recover for the customer the surcharge inappropriately charged and also to consider any penalty action which may be available under the *Fair Trading Act 1989*.