



**Community and Public Sector Union - PSU Group  
(CPSU)**

**Submission**

**Senate Economics Legislation Committee  
Inquiry into the Provisions of the Tourism  
Australia Bill 2004**

**Recommendation:**

The CPSU urges the Committee to consider amending the Tourism Australia Bill 2004 to allow Tourism Australia the ability to employ staff under the Public Service Act 1999 and the Tourism Australia Act 2004.

This amendment is in the interests of Tourism Australia as it provides support and flexibility in the creation of Tourism Australia and would protect existing entitlements and rights for BTR and TFC staff.

**Introduction**

The Community and Public Sector Union (CPSU) welcomes the opportunity to make a submission on the Tourism Australia Bill 2004. This submission is made as a result of extensive consultation with CPSU members and non-members in the Bureau of Tourism Research (BTR) and the Tourism Forecasting Council (TFC).

Staff at the BTR and the TFC welcome the broad intent of the Tourism Australia Bill, particularly the Commonwealth's expanded commitment to tourism research. However, a significant number of BTR and TFC staff have serious concerns about the loss of employment rights currently afforded under the Public Service Act 1999 and the ongoing uncertainty surrounding transitional arrangements.

**Background**

The Bureau is recognised as a world leader in providing tourism research for policy makers and industry. Its role is to provide independent, accurate, timely and strategically relevant statistics and analysis to the tourism industry, government and the public in order to enhance the contribution of tourism to the wellbeing of the Australian community. The BTR is currently funded jointly by the Commonwealth and State and Territory governments and employs twenty-three staff. The Tourism Forecasting Council has one employee who provides forecasts to the Council.

**Employee Issues**

BTR and TFC employees are currently employed under the Public Service Act 1999. Under the arrangements proposed in the Tourism Australia Bill 2004 staff are to be employed under the Tourism Australia Act 2004 at Tourism Australia. This will necessarily require that their employment status within the Commonwealth Public Service is changed.

Moving from employment under the Public Service Act 1999 to the Tourism Australia Act will mean the loss of public service rights which are important to many BTR staff. (please see the attached document with overview of Public Service Act 1999 rights)

A significant number of BTR and TFC staff strongly believe that leaving their employment under the Public Service Act 1999 will adversely impact on their capacity for job mobility within the public service. Their ability to transfer between positions across the network of public service agencies will be significantly reduced and future promotion opportunities within the public service will be compromised by being employed outside the public service.

In addition, if any employee did return to the public service at a later date, then their accrued entitlements may not be transferable unless expressly recognised by the employing agency's certified agreement. It is also likely that some of the leave entitlements that have been accrued while working in the public service (for example, sick leave) would no longer be recognised.

Staff morale at BTR and TFC is being severely affected by the proposed changes. In particular the prospect of losing existing public service rights and continuing uncertainty about proposed working arrangements under the Tourism Australia Act is severely affecting morale and may well lead to significant staff losses.

This would impact significantly on Tourism Australia's ability to undertake the expansion in research activity it plans to address growing industry needs. This would not be a desirable outcome for a new agency being labelled as a big step forward for the tourism industry.

### Transitional arrangements

BTR and TFC staff are aware that Tourism Australia operations are intended to start on 1 July 2004 so long as royal assent to this Bill and an accompanying Transitional Issues Bill have been received by this date.

Critically however, staff were only advised of the change to their employment under the new body, Tourism Australia, on 29 March 2004. CPSU believes this has been an inadequate period of notice to staff given the important changes that are proposed.

Staff are concerned that should they wish not to transfer their employment to the new body, their opportunity for finding alternate employment within the public service prior to Tourism Australia commencing operations has been adversely affected by the lack of adequate notice.

### Lack of information

This situation has been compounded by a lack of critical information to staff surrounding the proposed changes. The lack of notice for BTR and TFC employees has also left them with a very narrow window for assessing the merits of working for Tourism Australia. To date this has been compounded by inadequate provision of information, particularly on pay, that will assist them in making an informed assessment.

BTR and TFC employees have been assured that the Public Service Act 1999 ensures they will be "no worse off" when they move from employment under this Act to the Tourism Australia Act 2004. However, they are not confident that this term is adequately defined (particularly in taking account of non-pay factors) and to date has not been effectively guaranteed for all staff.

### Terms and conditions of employment uncertainty

Under the current Department of Industry, Tourism and Resources (DITR) Certified Agreement, BTR staff know the full terms and conditions under which they are employed, including the pay rates they can expect up to September 2005. However, to date it remains unclear what remuneration they would receive and what other terms and conditions would apply to them when working under the Tourism Australia Act.

### CPSU recommendation

The CPSU recommends that this Committee considers amending the Tourism Australia Bill 2004 to allow Tourism Australia to be able to employ staff under the Public Service Act 1999 and the Tourism Australia Act 2004 as is currently the case with other statutory authorities.

This amendment is in the interests of Tourism Australia as it provides support and flexibility in the creation of Tourism Australia and would protect existing entitlements and rights for BTR and TFC staff.

### Precedents

The CPSU notes a similar situation occurred with the amalgamation of ScreenSound Australia (SSA) and the Australian Film Commission (AFC) in 2002. In that case the Australian Film Commission Act 1975 was amended to allow the AFC (a statutory authority) to employ staff under the Australian Film Commission Act 1975 and the Public Service Act 1999. This meant ScreenSound Australia employees were able to retain their existing rights afforded under the Public Service Act 1999 following the merger with AFC. Please see section 29 of the Australian Film Commission Act 1975:

#### **AUSTRALIAN FILM COMMISSION ACT 1975, s 29 Staff of Commission**

- (1) *The Commission may appoint such officers and engage such employees as it thinks necessary for the performance of its functions.*
- (2) *The terms and conditions of service or employment of persons so appointed or engaged (in respect of matters not provided for by this Act) shall be such as are determined by the Commission.*
- (3) *The Commission's staff may also include persons engaged under the Public Service Act 1999*
- (4) *For the purposes of the Public Service Act 1999 :*
  - (a) *the CEO and the APS employees assisting the CEO together constitute a Statutory Agency; and*
  - (b) *the CEO is the Head of the Statutory Agency.*

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Similarly, the Australian National Training Authority (a statutory authority) also has the ability to employ staff under the Australian National Training Authority Act 1992 and the Public Service Act 1999:

***AUSTRALIAN NATIONAL TRAINING AUTHORITY ACT 1992, s 45 Staff of the Authority***

*(1)The Authority is to be assisted by a staff in accordance with this Division.*

*(2)The Authority may employ under a written agreement or written agreements such persons as the Authority thinks necessary for the performance or exercise of its powers or functions.*

*(3)The terms and conditions of an agreement made for the purposes of subsection (2) are to be consistent with such guidelines (if any) as the Ministerial Council determines from time to time.*

*(4)The Authority's staff may also include persons engaged under the Public Service Act 1999.*

*(5)For the purposes of the Public Service Act 1999:*

*(a)the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute Statutory Agency; and*

*(b)the Chief Executive Officer is the Head of that Statutory Agency.*

**Conclusion**

CPSU believes that a similar provision to those contained in the Australian Film Commission Act and Australian National Training Authority Act should be inserted into the Tourism Australia Bill 2004 to ensure staff at BTR and TFC are not unnecessarily disadvantaged under the new administration.