



## Supreme Court of New Zealand

14 November 2007

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**The New Zealand Airline Pilots' Association Industrial Union of Workers  
Incorporated v Air New Zealand Limited  
SC 91/2006  
[2007] NZSC 89**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The ultimate issue on this appeal and cross-appeal was whether an employment agreement between Air New Zealand and its pilots complies with the Holidays Act 2003. The Supreme Court has held unanimously that it does not, but has differed as to the extent of the non-compliance. Section 44(2) allows an employer and an employee to agree that the employee will observe a public holiday on another day. The principal question which required resolution was whether such an agreement transfers the status of a public holiday from the day defined as the public holiday to the other day so that the requirement to pay time and a half for work on a public holiday no longer applies to an employee who works on the public holiday pursuant to a section 44(2) agreement.

The Court of Appeal was of the view, by a majority, that an agreement of the kind in issue did transfer the status of a public holiday to the other day. Hence time and a half was not payable to an employee who agreed to work on the public holiday in exchange for another day. This Court, by a majority of three to two, has differed from that view, holding that time and a half is payable on the defined public holiday despite an agreement to observe the holiday on another day.

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