

HOLIDAYS ACT REPEAL: ANALYSIS OF NEW BILL

In our email on 10 March 2026 we summarised the main changes proposed by the new Employment Leave Bill. On 12 March 2026 the Bill was referred to the Education and Workforce Committee. Public submissions on the Bill can now be made up until 11.59pm on **14 April 2026**.

The key changes have been well publicised, and can be found on MBIE's website: [Holidays Act reform: Employment Leave Bill | Ministry of Business, Innovation & Employment](#)

Whilst there is a lot of “good news” for our employer clients in the Bill, our team has undertaken a careful analysis and identified some potential issues. If your business would like to make a submission to the Select Committee on any of these or other issues, please feel free to contact us for assistance.

DESCRIPTION OF CHANGE	POTENTIAL ISSUES
Annual leave	
<p>Accrues at 0.0769 per hour worked (except for casual hours and additional hours).</p> <p>Leave hours are “banked” with no balance adjustment if contracted hours change.</p>	<p>The new banking of accrued hours will advantage employees who move from full-time to part-time, and could disincentivise employees from moving from part-time to full-time.</p> <p>For example, if an employee banks 160 hours from working fulltime for a year, and then shifts to parttime working 20 hours a week, their banked annual leave will in effect increase from 4 weeks’ to 8 weeks’ annual leave.</p> <p>By comparison, if an employee banks 80 hours from working 20 hours per week for a year, and then shifts to fulltime, their banked annual leave will in effect decrease from 4 weeks’ to 2 weeks’ annual leave.</p>
Sick leave	
<p>Accrues at 0.0385 hours per standard hour worked (except for casual hours and additional hours) from day one of employment up to a maximum of 160 hours.</p> <p>Part-timers will have a pro-rated entitlement as a result of the new hours-based accrual system.</p>	<p>The availability of paid sick leave from day one increases employer costs and may impact productivity, particularly in high turnover industries such as hospitality and retail where sick leave is more likely to be accessed early in the employment relationship.</p>
Leave compensation payment	
<p>A leave compensation payment (“LCP”) will be payable at 12.5% on:</p> <ul style="list-style-type: none"> ❖ each “casual hour” worked; and ❖ each hour of paid overtime worked, or time worked under an availability provision which is separately paid (“additional hours”). <p>The 12.5% rate was formulated based on the current 8% pay-as-you-go annual holiday rate for casuals, plus 3.85% to represent the current entitlement to 10 days’ sick leave (and assumes it would be used in full), and “a small addition to recognise other factors (e.g. the relative insecurity of these types of work hours)”¹.</p>	<p>Use of casuals, and non-casuals performing paid overtime, will become more costly due to the new 12.5% LCP loading rate.</p>

¹ [Reforming employment leave legislation](#)

Casual workers	
<p>“Casual hours” means hours that, under the employee’s employment agreement, the employer is not required to offer and the employee is not required to accept.</p>	<p>MBIE anticipates that whether hours are “casual hours” may evolve over time and not be clear, and a “set and forget” approach to payroll will continue to carry a high risk of compliance.²</p>
Notional rosters	
<p>Notional rosters are required when it is not possible to determine one or all of the following:</p> <ul style="list-style-type: none"> ❖ the number of the employee’s standard hours; ❖ the days they will be worked; and ❖ the hours in each day they are to be worked. <p>The roster will be used to determine annual and sick leave accrual and when annual leave, sick leave, bereavement leave and family violence leave can be taken.</p>	<p>New requirement for employers to agree a notional roster with employees at the time the employment agreement is entered into, and to ensure it is kept up to date.</p>
Double-dip	
<p>If an employer incorrectly allows a cash up of an employee’s accrued annual leave or alternative leave, the employee is entitled to both keep the cash up and have their leave reinstated.</p>	<p>If an employer makes a mistake in cashing up annual leave or alternative holidays, it will not be able to recover the overpayment from the employee.</p>
Public holidays – otherwise working day	
<p>A public holiday will be treated as an otherwise working day (“OWD”) if the employee worked on the day in at least 7 of the preceding 13 weeks (if the employee does not have specific contracted days or a regular pattern of work).</p>	<p>New administrative requirement for employers to notify these employees about whether a public holiday is an OWD and, if so, the number of hours the employee would have worked.</p>
Public holidays – on call	
<p>If an employee is on call on a public holiday on an OWD, but they do not work, they:</p> <ul style="list-style-type: none"> ❖ receive a leave payment; and 	<p>No definition in the Bill of what “on call” means. Uncertainty may arise over whether an employee is on call or not, or whether the on call restrictions are so onerous that the entire period effectively constitutes work.</p>

² [Technical FAQ: What is changing with employment leave?](#)

<ul style="list-style-type: none"> ❖ accrue alternative leave for the number of hours they would have worked if it was not a public holiday. <p>If an employee is on call on a public holiday on an OWD, and does work, they:</p> <ul style="list-style-type: none"> ❖ are paid T1.0 for any hours that they did not work, but would otherwise have worked if it was not a public holiday; ❖ are paid T1.5 for each hour (or part hour) they do work on the public holiday; ❖ accrue alternative leave for each hour (or part hour) they are on call but do not work (capped at the number of hours they would have worked if it was not a public holiday); and ❖ accrue alternative leave for each hour (or part hour) they worked (no cap). <p>Employers must keep a record of the dates and hours employees spend on call on a public holiday.</p>	<p>Employees on call on a public holiday can in effect accrue more than a day's alternative leave.</p> <p>For example, if an employee normally works 8 hours on Mondays, but they are on call for 12 hours on a public holiday that falls on a Monday, and they only work 4 hours, they will:</p> <ul style="list-style-type: none"> ❖ be paid T1.5 for 4 hours worked; ❖ be paid T1.0 for 4 hours unworked; and ❖ accrue 12 hours of alternative leave. <p>New record-keeping requirement for employers in relation to employees on call on public holidays.</p>
Alternative leave	
<p>Employees are entitled to accrue alternative leave for each hour, or part of an hour, that they work on a public holiday that is an OWD.</p>	<p>No definition in the Bill of what “part of an hour” means. Employers might arguably be required to accrue alternative leave in small fractions of an hour.</p>
Transfer of public holidays	
<p>Parties can agree to transfer a whole public holiday to another day upon an employee's request, or part of a public holiday on either the employer's or employee's request.</p>	<p>An employer will no longer be able initiate an agreement with an employee to transfer a whole public holiday to another day, it must come from the employee.</p>
Bereavement leave and family violence leave	
<p>Employees will accrue both forms of leave from the start of employment.</p>	<p>Currently, employees are required to complete 6 months' continuous service before accessing these entitlements. Under the proposed changes, entitlement arises from day one, increasing</p>

<p>The entitlements will remain days-based, but employees will be able to take the leave in part days.</p>	<p>employer exposure to leave being taken at the outset of employment.</p> <p>The ability to take leave in part days may introduce additional administrative complexity.</p>
<p>Remediation process</p>	
<p>Employers can elect to follow a legislative process to provide reasonable compensation to employees as a way to resolve outstanding liabilities under the Holidays Act 2003. The aim is to provide an efficient way to resolve historical underpayment issues using a process that is easy for employees and employers to understand and use. Regulations setting out the detailed mechanisms for calculations will follow after the Bill is passed.</p>	<p>There may be a lag between the Bill coming into force (expected to be 2028) and the Regulations being made. Employers will not be able to use the new remediation process until after the Regulations are in force.</p>
<p>KiwiSaver</p>	
<p>The current exclusion in the automatic enrolment rules for employees who have “intermittent or irregular” work patterns will be repealed.</p>	<p>New administrative requirement to automatically enrol employees who have intermittent or irregular work patterns (such as casual employees), unless the employment is under a “contract of service that is for a period of 28 continuous days or less” or a “casual agricultural worker”.</p>

Make a submission here: [Employment Leave Bill - New Zealand Parliament](#)