MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
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Explainer: What's changing with employment leave?

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New Zealand's employment leave legislation is changing in 2028 to make the system simpler and easier to understand

The Employment Leave Act 2026 has passed into law and will come into force on 6 August 2028 (the new rules will apply from the beginning of an employee's first pay period starting on or after that date). It will replace the Holidays Act 2003 and make major changes to how minimum leave entitlements are earned, taken and paid.

Employers struggle to understand and apply the Holidays Act 2003 correctly, which has led to widespread non-compliance across both the public and private sectors. This has meant many employees have not received the leave entitlements and pay they were entitled to and errors have been costly for employers to fix.

The Employment Leave Act will establish a new framework for leave that is intended to be simple, clear and provide certainty to employees and employers about their entitlements and obligations.

Purpose of this document

This document provides a summary of the key changes the Employment Leave Act will make to how leave works from 6 August 2028. It is important to note that the Employment Leave Act sets out the minimum leave entitlements – employers can offer employees more generous entitlements and leave pay.

MBIE will provide comprehensive guidance to support employers, employees and payroll providers transition over to the new rules on its Employment New Zealand website: Employment New Zealand: Changes to leave coming in 2028. Initial guidance has been published along with a timeline when further guidance and resources will be available.

Background information about the Act's development can be found on the MBIE website: Holidays Act reform | Ministry of Business, Innovation & Employment.

Changes to the legislation

A distinction between different types of working hours

The Employment Leave Act introduces a distinction between different types of working hours, which underpins how leave is accrued and paid. The new Act defines the following 3 categories of hours:

- **Standard hours** are hours an employee is required to work under their employment agreement (excluding any hours under an availability provision) and that an employer must pay them for. Paid breaks are also considered standard hours.

  A mutual agreement to offer and accept hours of work beyond what is in a written employment agreement may exist or develop overtime. Those hours may also be considered to meet the standard hours definition in the Act. The best way for employers to ensure leave is correctly accrued and compliant with the new legislation will be to ensure employees' work arrangements and hours of work are accurately reflected in their employment agreements.

- **Additional hours** are hours that an employee works beyond their standard hours, attracting additional payment, that an employer is not required to make available to an employee, and that the employee has the right to refuse. Additional hours also include hours worked under an availability provision included in their employment agreement where an additional payment applies.

  Additional hours do not include hours that a salaried employee works beyond their standard hours under an availability provision that they are compensated for by their salary (so they do not receive additional pay). The Employment Leave Act includes a new provision clarifying that, during a period of annual leave, an employer must not require an employee to work under an availability provision.

- **Casual hours** are hours worked by an employee whose employment agreement does not require their employer to offer any work and does not require them to accept any work offered. An employee cannot have standard hours and casual hours for the same role.

The core leave system

Annual leave based on standard hours worked

- **Current system:** All employees are entitled to four weeks' annual leave after twelve months' continuous employment.
- **New system:** Employees earn annual leave from day one in direct proportion to **standard hours** of work. Annual leave accrues at a rate of not less than 0.0769 hours per standard hour worked (providing the equivalent of four weeks' leave for employees whose standard hours do not change during a year).

Sick leave based on standard hours worked

- **Current system:** After six months of work, eligible employees are entitled to a lump sum entitlement of 10 days' sick leave, and a new entitlement arises after every subsequent 12 months, regardless of the number of days they work per week.
- **New system:** Employees earn sick leave from day one, in direct proportion to **standard hours** of work. Sick leave accrues at a rate of not less than 0.0385 hours per standard hour worked (providing the equivalent of ten days per year for an employee who works five days a week and the same hours every day). There will be a cap of 160 hours. Once hit, the cap will stop new accrual until an employee has used some of their stored entitlement.

Provision of leave entitlements during unworked periods

- **Current system:** Annual leave is earned during paid leave; unpaid sick, bereavement and family violence leave; parental and volunteers leave; when receiving accident compensation; and during the first week of any other unpaid leave.
- **New system:**
  - Annual leave and sick leave accrue when an employee is on paid leave or an unpaid absence under any legislation (including when on parental, jury and volunteers leave), with the exception that it does not accrue during a period an employee receives accident compensation.
  - Leave does not accrue on any hours of unpaid leave not provided by legislation.
  - If an employee is on paid leave that is not provided for under any legislation, leave will accrue by default, but employees and employers may agree that the employee does not accrue annual and/or sick leave.

The impact of changes in work hours on annual leave balances

- **Current system:** An employee's annual leave balance is held in weeks and automatically scales to match their working week when they reduce or increase their hours. For example, if an employee increases their weekly hours of work, they receive an effective increase in their leave balance. If they reduce their hours, they receive an effective reduction.
- **New system:** Accrued annual leave hours will be 'banked', meaning balances will reflect hours actually worked in the past rather than scaling when a work pattern changes.

Taking annual leave

- **Current system:** Annual leave is taken in 'portions' of weeks. Employers and employees must agree on the portion of a week being taken based on what 'genuinely constitutes a working week' at the time leave is taken. Employers must not unreasonably withhold consent to an employee taking annual leave to which they have become entitled (meaning employees may have to wait 12 months before they can take any annual leave).
- **New system:**
  - Employees take accrued annual leave in hours and can use annual leave to take any part of a day off work.
  - As under the current Act, in the first instance, employees and employers must make all reasonable efforts to agree when annual leave will be taken (and can have upfront, negotiated practices that structure when leave is taken).
  - From the start of employment an employer cannot unreasonably withhold consent to an employee's request to take any accrued annual leave and, in each 12-month period, must allow them to take the amount of annual leave in their annual leave balance as at their most recent start date anniversary. They may also allow employees to take annual leave in advance.
  - Annual leave may be taken against **standard hours** only. If an employment agreement or work roster[1] (that has been created at the time an employee requests leave) specifies when an employee works their standard hours, annual leave can be taken against the specified standard hours.
  - If a employee's employment agreement doesn't specify when they work their standard hours, the employee and their employer must agree (when entering the employment agreement) to a notional roster that sets out the days and the hours on those days that will be considered standard hours for leave purposes. Alternatively, employers and employees may agree to a notional roster that sets out a methodology for determining standard hours for leave purposes each time an employee takes leave. The notional roster would be used if a work roster had not been created at the time leave was requested.

Annual closedowns and agreed closures

- **Current system:**
  - Employers can have one annual closedown per year during which they require an employee to take annual leave. Employers must provide employees with 14 days' notice of an annual closedown.
  - An employer must pay an employee who is not yet entitled to annual leave at the start of an annual closedown 8% of their gross earnings since the start of employment and reset their annual holiday anniversary date (or the last annual leave entitlement date).
  - An employer and employee may also agree that an employee's work will be discontinued at times that are not an annual closedown.
- **New system:**
  - Employers must provide employees with 21 days' notice of an annual closedown, and the notice must be in writing and include information about the dates of the annual closedown, any

[1] A **work roster** is defined as one that specifies the days and the hours in each day (in writing or otherwise) the employee works that is agreed by an employer and employee or set by an employer.

requirements for employees to take paid or unpaid leave, and any other leave arrangements that are available.
  - Annual leave entitlement will accrue from the start of employment, and it will all be taken and paid according to the normal rules (the current annual leave payment rule for those not entitled to annual leave at the start of an annual closedown is unnecessary).
  - Agreements between employers and employees to discontinue work at times outside of an annual closedown are referred to as “agreed closures”. The agreement must be made in writing at least 14 days before the closure starts and include information about the leave arrangements that will apply.

Cashing-up annual leave

- **Current system:** At the employee’s request, they and their employer can agree to cash-up a maximum of one week of annual leave in each 12 months of continuous employment.
- **New system:** In each 12-month period (not including the first 12 months of employment), at an employee’s request, they and their employer can agree to cash-up a maximum of 25% of the amount of annual leave in their annual leave balance as at the end of the day before their most recent start date anniversary. This means that, where an employee has a large annual leave balance, there will be more flexibility to cash-up. Employers who agree to cashing up will benefit from reduced leave liability.

Taking sick leave

- **Current system:** The Act only provides for sick leave to be taken as a full day. If an employee works for part of a day and then takes sick leave, it can be counted as a whole day of sick leave. Many employers do allow employees to use part days of sick leave, but there is no framework to support this practice.
- **New system:**
  - For every hour an employee takes off work, they will use an hour of accrued sick leave. Employees can use accrued sick leave hours to take any part of a day off work.
  - As well as being taken against **standard hours** like annual leave, sick leave can also be taken against any **additional hours** specified in a work roster at the time an employee notifies their employer of the intent to take sick leave (including when the hours in the work roster are ones an employee would have been required to work under an availability provision in their employment agreement). Like annual leave, if an employee’s employment agreement does not specify when they work standard hours and sick leave is notified in advance of a work roster being set, the employee will be able to take standard hours set out in a notional roster as sick leave.

Bereavement and family violence leave

- **Current system:** As for sick leave, eligible employees can access bereavement and family violence leave entitlements after six months. The Act only provides for bereavement and family violence leave to be taken as full days. If an employee works for part of the day and then takes leave, it can be counted as a whole day.
- **New system:**
  - All employees (including those who work casual hours) will be able to access bereavement leave and 10 days’ family violence leave from day one.
  - These entitlements will remain days-based, but employees will be able to take part days of leave.

  - Employees with standard hours will be able to take bereavement and family violence leave against the same days and hours as sick leave. Employees with casual hours will be able to take these leave types against any casual hours specified in a work roster.

Public holidays: Determining when a day is an Otherwise Working Day

Under both the current and new systems, entitlements to paid leave and alternative holidays on public holidays depend on whether the day on which the public holiday in question falls is an Otherwise Working Day (OWD).

- **Current system:** When it is not clear if a day is an OWD for an employee, employers and employees must consider a range of factors with a view to agreeing on whether or not the employee would otherwise have worked.
- **New system:**
  - A day is an OWD for an employee if it is a day they would have worked, but for it being a public holiday, according to days of work or a pattern of days of work specified in their employment agreement.
  - If days of work are not specified in a employees' employment agreement, or the employee works on days in addition to those specified, a new test will apply.
  - The test will be satisfied if the employee has worked (or was on paid or unpaid leave) for 50% or more of the days of the week that correspond to the public holiday (e.g., Mondays) in the previous 13 weeks (or in the period they have been employed if it is fewer than 13 weeks).

Alternative leave entitlements for working on public holidays

- **Current system:** Employees receive a whole alternative holiday when they work on a public holiday that is an Otherwise Working Day (OWD), regardless of the time actually worked on that day. Alternative holidays can be taken on another day that is an OWD and can be cashed up 12 months after the entitlement arises.
- **New system:**
  - Employees will accrue alternative leave in hours at a rate of one hour for every hour worked on a public holiday that is an OWD. Employees will also accrue alternative leave on any hours they are on call on a public holiday that is an OWD where their employment agreement provides, they may be required to work (up to the number of hours the employee would otherwise have worked on the public holiday).
  - Alternative leave can be taken on any day, or part of a day, that an employee could have worked under their employment agreement. An employee can request to cash-up accrued alternative leave at any time.

Payments

Payment for leave and non-worked public holidays

- **Current system:** There are different calculations for different leave types and complex calculations to reflect variable components of pay such as overtime, commission and allowances.
- **New system:** The same hourly leave pay rate will be used for all types of leave (including annual leave, sick leave, bereavement leave, family violence leave, non-worked public holidays and alternative leave):
  - For a waged employee, this rate will be based on the lowest hourly rate payable for the shift[2] leave is taken from.
  - For a salaried employee (other than an averaged salary employee (ASE)[3]), this rate will be based on the salary (including any compensation payable under an availability provision that is included in their salary) attributable to one standard hour of work.
  - For an ASE, this rate is calculated by dividing the salary paid in a pay period by the standard hours in that period. This means an ASE's hourly leave pay rate will vary between pay periods, but the salary the employee receives will not.
  - Employees paid wholly or partly by piece rates (where an employer is paid for the number of pieces produced, e.g. for the number of bins of apples picked) will also be paid an hourly average of piece wages for each hour of leave.
  - Employees paid wholly or partly by piece work or commission, who do not have a leave hourly rate that is greater, must be paid no less than the minimum wage for each hour of leave.
  - Fixed allowances[4] will be paid in full during leave, like normal.
  - Other components of pay, like bonuses, commissions and variable allowances (such as for ad hoc special duties) will not be included in the hourly leave pay rate.

  The Employment Leave Act sets out the minimum leave pay entitlements – employers will still be able to offer employees more generous leave pay.

Payment for annual leave following parental leave

- **Current system:** An 'override' applies to the normal annual leave payment rules for leave an employee becomes entitled to during, or in the 12 months after, parental leave. When an employee takes that leave, they are only entitled to leave pay at the rate of their average weekly earnings for the preceding 12 months (without the usual comparison to ordinary pay). If an employee takes annual leave soon after returning to work, the average earnings calculation is likely to be very low since the employee has not been working.

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[2] A **shift** is defined as a continuous period of work from when an employment starts work (or would start work if they were not on leave) to when the employee ends work (or would end work if they were not on leave). For example, 10pm - 6am.

[3] An **averaged salary employee (ASE)** is defined as an employee who does not work the same standard hours each pay period, has a pattern of work set out in their employment agreement (for example they work 4 days on, 4 days off) and are paid the same portion of their salary each pay period.

[4] A **fixed allowance** is an amount payable to an employee under their employment agreement if that amount is fixed and must be paid in relation to a specified period or certain circumstances whether the employee is on leave or not. A fixed allowance is not one which is payable only if certain circumstances (such as working in the rain) occur when the employee is at work or one that reimburses an employee for expenses they do not incur when they take leave.

- **New system:** When annual leave is taken after an employee returns to work following parental leave, it will be paid like leave taken at any other time (and employees will continue to accrue leave during parental leave).

Payment for working on public holidays

- **Current system:** Employees are paid 1.5 times their Relevant Daily Pay (RDP), or Average Daily Pay (ADP) where applicable, for all hours actually worked on a public holiday. If, however, an employee receives any additional contractual amount for working on a particular day of the week or a public holiday and that amount is greater than 1.5 times RDP (as calculated without including that extra amount), they will receive their contractual amount instead. If an employee works a part day, they are not entitled to payment for any hours they would normally have worked on the day but didn't due to the public holiday.
- **New system:**
    - Employees will receive all payments the employer is required to pay them for working on the day under their employment agreement, not including any amount payable in addition to their ordinary hourly rate (refer to the definition on page 6 for LCP) for working on a particular day of the week or on a public holiday (an 'identifiable amount').
    - Employees will also receive the greater of 50% of their ordinary hourly rate or any identifiable amount (for example double time for working on Sunday or public holiday).
    - Employees who, on a public holiday, are required or agree to work only some of the hours they would normally work on that day will receive public holiday pay for the hours they actually work and leave pay for the hours unworked.

The Leave Compensation Payment

Working additional hours – employees with standard hours

- **Current system:** When an employee takes leave, employers and employees must agree what 'genuinely constitutes a working week', taking into account the extra hours. Employees who work extra hours for which they receive extra pay have the pay for those hours reflected in higher leave pay at the time leave is taken.
- **New system:**
    - For each **additional hour** an employee works, instead of accruing annual leave and sick leave, a leave compensation payment (LCP) will be paid in the pay period the hours are worked instead of accruing annual or sick leave. The rate will be 12.5% of an employee's '**ordinary hourly rate'**. LCP must be paid in each pay period as a separate component of pay and must be shown separately in employees' records and pay statements.
    - LCP is payable in addition to the hourly wages (including any higher rates such as for overtime) and any other amount (such as commission) an employee receives for working those hours.

        - The **ordinary hourly rate** (for the purpose of LCP and payments for working on a public holiday) is the lowest wage rate for any hour of work (or salary attributable to one standard hour of work). For an employee who receives piece rates, it also includes an hourly average of piece rates. The minimum amount on which LCP is payable for any employee is the minimum wage.

Work casual hours – employees with no standard hours

- **Current system:** Employers and employees can agree to use "Pay as you go" (8% of gross earnings each pay period) instead of paid annual leave if work is intermittent or irregular, but use of "Pay as you go" is not required. For sick leave, many casual employees do, technically, become entitled to sick leave – although they are unlikely to benefit from this entitlement in practice due to impracticality and compliance issues.
- **New system:** As in the case of additional hours, a leave compensation payment (LCP) (set at a rate of 12.5% of an employee's ordinary hourly rate) will be paid for each **casual hour** of work in every pay period, instead of that work accruing annual and sick leave.

Specific Employment situations

Fixed-term work

- **Current system:** If an employee is employed on a fixed-term basis for less than 12 months, the employee and employer can agree to use "Pay as you go" for annual leave on the same basis as casual employees. If the fixed term is for less than 6 months, the employee does not receive any sick leave entitlements.
- **New system:** All fixed-term employees who have standard hours will accrue annual and sick leave from the first day of employment. They will be able to take any accrued sick leave, and an employer must not unreasonably withhold consent to their request to take accrued annual leave. Fixed term employees who work casual hours will receive LCP instead of accruing annual leave and sick leave. All fixed term employees will also have access to bereavement and family violence leave from the first day of employment.

Employees who have multiple roles with the same employer

- **Current system:** the Holidays Act does not provide clarity about how its provisions apply in situations where an employee has more than one role with the same employer.
- **New system:** If an employee has two or more roles with an employer which each have standard hours (under one or separate employment agreements) the employee and employer may agree in writing how the roles be treated for the purposes of leave entitlements and payments. There is a backstop for situations where agreement has not been reached providing that leave entitlements and payments will apply to each role separately.

Pay statements

- **Current system:** There is no legal requirement for employers to provide pay statements to their employees. Unless an employee raises a request for information about their pay and leave from their records, their employer does not have to provide the information.
- **New system:** Employers will be required under the Employment Relations Act to provide a pay statement to an employee for each pay period. The Employment Leave Act sets out a subset of information from employees' records that a pay statement must specify. This includes information about payments and deductions made, employer contributions and leave entitlements. The new Act provides flexibility regarding how a payment statement is provided; it could be provided directly in a physical or digital form or made accessible to employees via an online portal. It specifies that information related to family violence leave must not be included in a pay statement.

Treatment of leave entitlements in restructuring situations

- **Current system:** For most employees, if their employer changes due to restructuring (for example, when the business they work for is sold to a new employer), their original employer is required to pay them out for any untaken annual leave and alternative holidays because their employment with their original employer has ended. Their new employer may reset their leave entitlements because they are technically starting a new employment.
  In practice, as it may be beneficial to all parties, many employers do transfer employees' leave entitlements to their new employment. As there is no clear framework for doing this there is a risk that employees' leave entitlements may be transferred incorrectly.
- **New system:**
  - For most employees, their employer will be required to include the treatment of leave entitlements as a matter in the Employee Protection Provisions (provided for under the Employment Relations Act) that they will negotiate with any new employer in restructuring situations.
  - The employee's original employer may negotiate with their new employer for their untaken annual leave and alternative holidays to be transferred to their new employment, instead of being paid out.
  - If the employers negotiate to transfer employees' untaken annual leave and alternative holidays, they must also negotiate how liability for these will be apportioned, and the original employer must provide the new employer with the employee information required to determine employees' transferred leave entitlements and payments

Transition to the new legislation

Two year implementation period

- The Employment Leave Act will come into force and replace the Holidays Act on 6 August 2028. This provides a two-year period to make changes to business and payroll systems and processes.
- The new rules will apply from the beginning of an employee's first pay period starting on or after 6 August 2028.
- The current rules in the Holidays Act continue to apply until the Employment Leave Act applies.
- Employers cannot start following the new Act early, even if they are ready. However, employers, employees and payroll providers can start thinking about what they need to do to get ready now. Preparing early will help to make a smoother transition to the new law in 2028.

Guidance and resources to support implementation

- MBIE is publishing guidance and resources to help employers, employees and payroll providers get ready for the changes on its Employment New Zealand website.
- Initial guidance has been published and there will be a phased roll out of further guidance and resources over the two-year transition period. It will include technical guidance for payroll software providers, guidance to support employers to update employment agreements, workplace policies and systems and information for employees explaining what the changes will mean for them.
- A timeline for when guidance and resources for employers, payroll providers and employees will be produced is also available on the Employment New Zealand website.

Three year period to update employment agreements

- There will be an additional year after the Act comes into force for parties to agree to contractual terms that are consistent with the framework of the new legislation (for example, by providing a compliant accrual rate for annual leave). In that year (until 6 August 2029), if terms have not been updated, employers must comply with any provisions in the employment agreement that are more favorable than those in the Act.
- If employment agreements are not updated by 6 August 2029, the new minimum statutory terms will override any conflicting provisions in employment agreements.
- This approach is intended to incentivise both employers and employees to negotiate updated employment agreements in a timely way.

Technical transitional provisions

- The Employment Leave Act includes transitional provisions with detailed formulas to convert existing leave balances held in weeks and days into hours, on the date the new legislation comes into force.
  - For employees with standard hours, annual holiday, sick leave and alternative holiday entitlements will be converted from weeks to hours. The converted leave will be paid as if it were leave accrued under the new Act from the date the new Act comes into force.
  - For employees who work casual hours, existing entitlements to annual holidays will be paid out on commencement. Sick leave will not be converted or cashed up. Alternative holidays will be converted.

Remediation

- Employers retain an obligation to correct historical underpayments that have occurred due to non-compliance with the current Holidays Act.
- The new legislation provides for the creation of a statutory remediation process, which will provide a new option (alongside the other options that already exist) for employers to address historical underpayments under the Holidays Act. Some important details of the remediation process are yet to be determined and will be specified in regulations. Once it is in force, employers who elect to use the new methodology will be required to provide reasonable compensation to current and past employees, relating to underpayments in the six-year period immediately before the new legislation takes effect.

Special arrangements for State schools

- The new Employment Leave Act will be brought into force for the schooling sector by Order in Council no later than 10 years after Royal assent. Until then, the Holidays Act 2003 will continue to apply.

  Holidays Act remediation – Education Workforce

Scenario examples

Tama – Full-time warehouse employee

Works: 40 standard hours a week, 8 hours per day, 5 days per week
Current leave: 4 weeks of annual leave (provided as a lump sum after every 12 months of continuous employment), 10 sick days a year (first provided as a lump sum after 6 months and then after every 12 months).

Under the new system:

- Tama accrues leave from the first day of employment based on hours worked:
  - **Annual leave:** 0.0769 hours accrued per standard hour worked → 160 hours/year (equivalent to 4 weeks)
  - **Sick leave:** 0.0385 hours accrued per standard hour worked → 80 hours/year (equivalent to 10 days or 2 weeks)
- When Tama takes leave, it is paid at his lowest hourly rate for the shift leave is taken from, and his fixed acting manager allowance continues to be paid in full.

What it means:

✅ Tama's employer will only need to make one calculation to work out his leave pay and won't need to calculate any averages. His allowance will be paid in full like normal.

✅ Tama's employer won't need to calculate portions of weeks when Tama takes leave; the number of hours Tama takes as leave will be the number paid and deducted from his leave balance.

✅ Tama will receive the equivalent amount of annual and sick leave but now has access to some leave from day one.

✅ He can use sick leave to take any part days off work – he no longer needs to use a full entitlement day to take a few hours off work.

Maia – Part-time retail assistant

Works: 20 standard hours a week, two 8-hour days and one 4-hour day a week

Current leave: 4 weeks of annual leave and 10 sick days a year (same as full-time employees)

Under the new system:

- Maia will accrue both annual leave and sick leave hours from the first day of employment, in proportion to her standard hours worked:
    - **Annual leave:** 0.0769 hours accrued per standard hour worked → working 20 hours a week means she will accrue 80 hours a year (equivalent to what she is entitled to currently)

Sick leave: 0.0385 hours accrued per standard hour worked → working 20 hours a week means she will accrue 40 hours of sick leave a year (the number of days this is equivalent to depends on when she takes leave.).

What it means:

✅ Maia will receive the equivalent amount of annual leave to now. She will be able to take the equivalent of 2 weeks sick leave based on her average standard hours.

✅ Maia's employer will only need to provide her sick leave proportionate to her standard hours, rather than providing her the same amount as a full-time employee like under the current Act. They may see a reduction in leave costs as a result (depending how much sick leave Maia currently uses).

✅ Maia will have access to some sick leave and annual leave from day one.

Niamh – Food service employee who can pick up additional hours

Works: 24 standard hours a week over three 8-hour days – but often picks up an additional shift a week, working an average 30 hours a week.

Current leave: It is unclear what a 'week' of annual leave entitlement is for Niamh – variable hours and days. Niamh and her employer must come to an agreement to determine how much entitlement she needs to use for time off work. She receives 10 days of sick leave. Niamh is compensated for leave on her additional hours in her leave pay. She is paid her average weekly earnings (which is greater than her ordinary weekly pay).

Under the new system:

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    - **Annual leave:** 0.0769 hours accrued per standard hour worked → working 24 hours a week means she will accrue 96 hours a year (equivalent to what she is entitled to currently).
    - **Sick leave:** 0.0385 hours accrued per standard hour worked → working 24 hours a week means she will accrue 48 hours of sick leave a year (equivalent to six days).
- Niamh's hourly leave pay is based on the lowest hourly rate of pay for the shift she takes leave from.
- She will also receive a **Leave Compensation Payment** of 12.5% on each of the additional hours she works in every pay period. This replaces both annual and sick leave entitlements on those hours.

What it means:

✅ There is no need for Niamh's employer to follow complex rules to calculate leave entitlements on her variable hours. Niamh's employer is not required to make multiple complex leave pay calculations.

✅ Leave pay is easier for Niamh to understand.

✅ Leave compensation is paid up front for additional hours rather than reflected in leave pay.

Alice – Casual café employee and student

Works: Irregular and intermittent shifts, no standard hours. Can turn down work that her employer offers her. She doesn't work during university breaks so has gaps between periods of work of more than a month.

Current leave: Alice and her employer have agreed she will receive PAYG for annual leave at 8% of gross earnings instead of receiving annual leave entitlement. They must regularly review her work pattern to ensure she remains eligible to receive PAYG instead of being provided annual leave. Because she has not worked continuously for 6 months (or for an average of 10 hours per week over that period with at least one hour per week or 40 hours per month), she is not entitled to sick leave, bereavement or family violence leave.

Under the new system:

- Alice won't accrue sick leave or annual leave that she can take as paid time off, but she receives a **Leave Compensation Payment (LCP)** set at 12.5% of her ordinary hourly wage rate for every hour worked. She is paid the LCP in the pay period the hours are worked. This payment is made in lieu of both annual and sick leave entitlements.
- Alice also has access to bereavement and family violence leave from her first day of employment.

What it means:

✅ There is no need for Alice's employer to regularly assess whether her work pattern still meets the criteria for using PAYG for annual leave. As she only works casual hours, she must be paid the LCP for every hour worked.

✅ Alice is not entitled to sick leave but does receive upfront financial compensation for days unworked due to sickness. This is an immediate financial benefit rather than receiving leave payments in a non-worked period.

✅ Alice can take her bereavement and family violence leave entitlements against hours specified in a work roster at the time she notifies her employer she intends to take the leave.

Divya – Store manager returning from parental leave

Works: 25 standard hours a week (has just returned to work after 12 months away on parental leave).

Current leave: Divya becomes entitled to four weeks' annual leave and sick leave at the same time she would if she were working. If she takes that annual leave when she returns to work, her leave pay is very low. She is paid only at her average weekly earnings over the last 12 months (which includes time she was not earning) because of an 'override' to the normal leave pay rules.

Under the new system:

- While on parental leave, Divya accrued leave as normal → a roster of 25 hours a week means she accrued 100 hours (equivalent to four weeks).
- On her return, Divya is paid for any annual leave she takes at the same rate any other leave would be.

What it means:

✅ Parents returning to work, who take leave soon afterwards, receive their normal leave pay.

✅ Removes complexity and confusion of the current annual leave payment rules after parental leave.

John – Sales consultant

Works: 40 standard hours a week, earns salary + commission on each sale paid in each pay period.

Current leave pay: John is paid the greater of two rates when he takes annual leave: average weekly earnings and ordinary weekly pay, both of which reflect his commission. To calculate his ordinary weekly pay, John's employer needs to determine what his 'regular' commission payment is. If that is not possible, he needs to use a four-week average calculation.

Under the new system:

- For each hour of leave taken, John is paid the lowest hourly wage rate for the shift he takes leave from.
- Commission payments are not reflected in leave payments.
- If John received commission only, the minimum hourly leave pay rate would be the minimum wage.
- John will see a slight reduction in leave pay, due to variable pay not being reflected in leave pay.

What it means:

✅ John's employer will see a slight reduction in leave pay and cost respectively, due to variable pay not being reflected in leave pay.

✅ No complex calculations; easier for John's employer to manage.

✅ Simple and consistent leave payments.

George – Bank employee

Works: For the first year, George works 40 standard hours each week. He then decreases his hours to 20 standard hours each week as he begins a course of study.

Current leave: George is entitled to four weeks of annual leave each year. What a week means for George adjusts based on his work pattern at the time he takes annual leave. If he takes four weeks of annual leave in advance in his first year of employment, it will be equivalent to 160 hours. If he does not take it in the first year, instead taking it after he has started working 20 standard hours each week, his four weeks of annual leave will have become equivalent to 80 hours.

Under the new system:

- George will accrue 0.0769 hours of annual leave for every standard hour he works. The number of hours in his annual leave balance will not adjust when his work pattern changes.
- Over his first year of employment (when he is working 40 standard hours each week), he will accrue 160 hours of annual leave.
- Once he starts working 20 standard hours each week, his annual leave balance (assuming he has taken no leave) will remain at 160 hours (and he will continue to accrue annual leave for every standard hour he works from then on).
- In the 12 months that follow each employment anniversary, George can request to cash up a maximum of 25% of his leave balance. He can request to cash up 40 hours of annual leave (the equivalent of 2 weeks) in the 12 months after his hours reduce. If he doesn't take or cash up any leave in that year, his balance will be 240 hours at his next anniversary. He will be able to cash up 60 hours in the next year (the equivalent of 3 weeks).

What it means:

✅ George's annual leave balance reflects hours actually worked in the past rather than scaling when work pattern changes.

✅ George's employer will not need to monitor and re-calculate balances when staff hours change.

✅ Given George has a high leave balance, he can request to cash up more than the equivalent of a week of annual leave in each year, and if his employer agrees, George will get his leave paid out and the employer will reduce their leave liability.

Employment leave key stats

In its 2023 pre-election survey, Simpson Grierson found that 63% of employers selected Holidays Act simplification as their top priority for an incoming government to address – for the fourth election in a row.

Problems with the Act's complexity are well-known, and large-scale remediation payments, running into billions of dollars, have been made across both the public and private sectors.

For example: as of December 2024, Health New Zealand / Te Whatu Ora had paid over $308.2 million in Holidays Act remediation payments to 41,929 current employees. For the health sector alone, the total financial liability is estimated to be over $2 billion.

Types of work

- **Employees with standard hours**

  The change to hours-based accrual will affect all **employees with standard hours (permanent employees and fixed term employees) – approximately 95% or 2,223,500 employees.**[5] This includes the **584,200 part-time employees (20% of those with standard hours)**. A higher proportion of women work part time, 29% compared to 12% of men).[6]

- **Employees who earn variable pay such as commission, bonuses and variable allowances**

  Data is not available on the number of employees who earn these types of variable payments. However, we know commission is common in the sales workforce. There are approximately 203,499 sales employees, a number that makes up about 8% of the total workforce.[7]

- **Employees who work additional hours on top of standard hours**

  The shift to a leave compensation payment for additional hours of work (rather than these being reflected in leave pay) affects all employees who have standard hours but also work additional hours (while there is no definitive source of data on this, MBIE estimated approximately 9–12%, or 210,000–285,000, based on information about employees working more or fewer hours than normal in the Household Labour Force Survey).

- **Employees with casual hours**

  By definition, employees with casual hours do not have to accept any work offered under their employment agreement, and employers are not required to make any work available to them. The change to a 12.5% Leave Compensation Payment affects all employees who work only casual hours (approximately 5%, or 107,300 employees).[8] It means they get higher take home pay instead of accruing paid leave.

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[5] Based on the number of permanent employees according to December 2024 quarter Household Labour Force Survey data.
[6] According to Statistics New Zealand Labour market statistics for the March 2025 quarter.
[7] According to the 2023 Census.
[8] Based on December 2024 quarter Household Labour Force Survey data.

- **Employees who take parental leave**

  Parents returning from parental leave will be better supported, with their annual leave paid out at the same rate regardless of when they take it. In the year from April 2024 - March 2025, around 37,000 employees took time off to begin paid parental leave (around 1% of all employees).[9] Note this is likely to be an undercount, as it does not include anyone who takes parental leave, but is not eligible for parental leave payments.

Brief timeline of employment leave reform changes

- **2001 and 2009:** Significant reviews of holiday legislation were undertaken in 2001 and 2009. The 2001 review resulted in the 2003 Act, replacing the Holidays Act 1981, and the 2009 review resulted in a series of amendments in 2010. In recent years, it became apparent that there is a high level of non-compliance with the Act.
- **2018:** Holidays Act Taskforce established.
- **2020:** Government announced it had accepted the Taskforce's recommendations.
- **2021 – 2022:** Policy design work required to implement the 2020 Cabinet decisions in legislation.
- **2022 – 2023:** Drafting of a Bill began. Work was put on hold before the 2023 General Election.
- **May 2024:** Cabinet agreed to targeted consultation on an Exposure Draft Bill. Cabinet agreed to some changes and additions to the previous Government's decisions to simplify the design and reduce implementation costs.
- **September 2024:** Targeted consultation on the Exposure Draft Bill with employers, employees and technical experts.
- **December 2024:** Report back to Cabinet on the consultation feedback. The Minister of Workplace Relations and Safety announced she was directing officials to take a new approach to reforming the Act.
- **January - August 2025:** Policy design work completed. Cabinet agreed to major policy decisions for the new employment leave legislation (August 18, 2025).
- **September 2025 – March 2026:** Employment Leave Bill drafted.
- **March 2026:** Employment Leave Bill was introduced, had its first reading and is referred to Select Committee.
- **July 2026:** Select Committee reported back to the House, the Bill had its second reading, was considered by the Committee of the Whole House and passed its third reading.
- **6 August 2026:** Royal assent received and the Employment Leave Act 2026 was signed into law.

[9] Based on data from 1 April 2024 to 31 March 2025. This figure does not include employees who took parental leave but were ineligible for parental leave payments.