Technical FAQ: What's changing with employment leave?

Version 2 3 November 2025

The information provided in this document relates to the policy proposals for new employment leave legislation agreed by Cabinet in August 2025.

It is important to note that none of the proposed changes outlined in this document are final until the Bill is passed, and the proposals are subject to change during the Parliamentary process. Once legislation has been drafted and introduced it will be considered by a Select Committee. The public and interested parties will have the opportunity to provide input at that stage.

<u>Until any changes to the Holidays Act go through the Parliamentary process and come into force</u> (after a proposed 24-month implementation period), all of the existing rules still apply. This means that employers still need to comply with the current Holidays Act, and ensure they are providing the correct entitlements and payments to employees.

FAQs about the proposed provisions to support the transition to the new legislation is in section 6 and 7 of this document.

This document is only to explain policy proposals. It should not be used as a substitute for legislation or legal advice. The Ministry of Business, Innovation and Employment is not responsible for the results of any actions taken on the basis of information in this document, or for any errors or omissions.

This document was first uploaded on 13 October 2025 and reflects frequently asked technical questions received up to this date. It will be updated on a regular basis as additional questions are received.

Version 2 was added on 3 November 2025 and includes additional FAQ on:

- How the proposed employment leave system will apply to fixed term employees (Q1.6)
- Payments for Bereavement and Family Violence leave (Q3.7)
- Tax treatment of lump sum leave payments (Q3.8)
- Public holiday payments (Q5.3)
- Alternative holiday accrual if an employee is on-call on a public holiday (Q5.4)
- The interaction between existing contractual and new statutory entitlements (Q6.2)

Version 2 also includes additional or clarifying information in Q2.3 (How national rosters will work), Q3.5 (How leave will be paid when employment ends) and Q3.6 (How cashing up will work).

Overview of this document – version 2.0 (3 November 2025)

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1. Earning annual leave and sick leave

1.1. How will hours based accrual interact with the current weeks and days -based entitlements?

Under the proposed new system, statutory annual leave and sick leave will be described purely in hours with no reference to weeks or days. Annual leave and sick leave will be earned, taken and held in hours. The concept of 'entitled' and 'non-entitled' leave will be removed.

Balances of statutory leave will reflect contracted hours worked in the past, without any scaling for increases or decreases in contracted hours. An hour of leave will retain its value regardless of changes in working hours.

Leave will continuously accrue rather than arising as a lump sum.

1.2. How will contracted and additional hours be defined and distinguished?

A key feature of the proposed employment leave system is the concept of different 'types' of hours. These will be used for the purposes of determining when annual and sick leave entitlement must accrue or when the leave compensation payment applies. These concepts are also central to the rules for taking leave.

It is proposed that the new legislation will include definitions of each type of hour which will be specific to the Employment Leave Bill. The detail of these definitions will be a focus during drafting.

The terms 'contracted', 'additional' and 'casual' hours are currently being used as working terms to describe the concepts. These terms are intended to refer to:

- 'Contracted' hours: hours specified in (or derivable from) an employee's employment agreement¹ that they are committed to work and that do not depend on an employer making available.
 - 'Contracted' hours do not include hours that fall under an Availability Provision in accordance with section 67D of the Employment Relations Act.
- 'Additional' hours: extra hours of work that an employee with 'contracted' hours works and receives additional wages for. They are hours an employer is not required to make available, and that an employee does not have to accept. This includes hours worked in addition to contracted hours on a day (whether or not they are paid at an 'overtime' rate) and hours worked during extra shifts.
 - Hours an employee is required to work under an Availability Provision and is paid additional wages for will also be considered 'additional' hours. Hours worked under an Availability Provision that are compensated by salary will not be considered 'additional' hours (so leave does not accrue and LCP is not paid in relation to those hours).
- 'Casual' hours: all hours worked by employees who have employment arrangements where the employer is not required to make any work available, and the employee does not have to accept any work offered under their employment agreement.

1.3. At what point do additional hours become contracted hours? What if it's not clear?

The intent is that contracted hours are those specified, or derivable from, an employee's employment agreement. We are aware that the boundary may not always be clear and work arrangements may change over time.

To ensure compliance with the new legislation and other legal obligations, employers will need to engage with their employees on a regular basis to ensure any changes to contracted hours of work are recorded in writing (forming part of the employment agreement).

Employers will also need to engage with payroll staff and/or providers on an ongoing basis to ensure they have the information needed (such as the employee's current number of contracted hours) to provide and pay leave entitlements correctly. Taking a 'set and forget' or a 'one size fits all' approach to payroll will continue to carry a high risk of non-compliance.

¹ 'Employment agreement' is intended to refer to the most up to date documentation of an employee's agreed hours of work including anything specified in an employment agreement itself, a letter of offer, additional terms and conditions or any other agreements or variations entered into during the course of employment.

Changes to the leave system may mean changes to both business and payroll systems, including how hours of work are recorded and tracked during the course of employment. There will be a 24-month implementation period to allow for the end-to-end implementation process to be completed.

1.4. How will leave accrue during parental leave?

It is proposed that leave will continue to accrue continuously during parental leave, based on an employee's 's contracted hours as at the point parental leave commences (if an employee has different contracted hours at different times of year, accrual would reflect contracted hours for that part of the year). The exception is where an employer and employee have agreed to a temporary change in contractual hours for a period of three months or less before parental leave commenced (for example where an employee had temporarily reduced their hours two months before commencing parental leave), in which case leave accrual would be based on the employee's contracted hours before the temporary change.

1.5. What if an employee does not return to work or resigns just after the end of parental leave?

If an employee informs their employer before the end of their period of parental leave that they have decided not to return to work, their last day of employment is deemed to have been the day on which the period of parental leave began (section 46 of the Parental Leave Employment Protection Act 1987). This means the employee will not be entitled to payment for any annual leave accrued between the start of parental leave and the date employment ends.

If an employer does not keep the employee's job open (either because it is a 'key position' or the employee is made redundant while on parental leave) the end of employment is the date of termination. The employee will be entitled to payment for the annual leave they have accrued since the start of parental leave.

If the employee returns to work for any period of time following parental leave (including 'keeping-in-touch days) and their employment ends, they will be entitled to payment for all annual leave they have accrued and not taken before, during and after the period of parental leave.

1.6. Currently fixed term (or 'temporary') employees can be paid annual leave on a pay-as-yougo basis if their contract is for 12 months or less. Will fixed term employees accrue leave or receive the leave compensation payment?

If a fixed term employee has contracted hours in their employment agreement (refer Q 1.2) they will accrue and be able to take annual leave and sick leave on those hours from the first day of employment (unless, in the case of annual leave, an employee has reasonable business grounds to refuse a request). If they do not take annual leave they have accrued during their fixed term it will be paid out at the end of employment (including if the employment is for a single pay period).

If a fixed term employee does not have any contracted hours or works additional hours, they will receive the leave compensation payment in relation to all of those casual or additional hours of work.

2. Taking leave

2.1. What hours will leave be able to be taken against?

The Bill will include parameters for when leave can be taken, and the maximum amount that can be taken on a given day.

Annual leave: Employees and employers will be able to agree that annual leave will be taken on contracted days of the week only, up to the number of contracted hours they would have worked on that day. If, at the time annual leave is requested, an employment agreement¹ or roster does not specify when contracted hours would have been worked, a notional roster would be used to identify contracted hours (see below). In a given seven-day period, the maximum number of hours of annual leave an employee could take is the number of contracted hours they would have worked in that seven-day period according to their employment agreement.

Family violence, bereavement sick leave: employees will be able to take these leave types against contracted days of the week and hours of work and against any days of the week and hours of work that an employee had accepted at the time they notify their employer of their intent to take the leave (this includes both additional hours and casual hours – refer to question 1.2 above). Similar to annual leave, if an employee notified their employer of their intent to take these leave types leave in advance (for a known medical procedure for example) and the employment agreement or a roster did not specify the days/hours an employee would have worked, a notional roster will be used to identify contracted hours (see below).

Alternative holidays: any day an employee could have worked under their employment agreement.

2.2. Can casual employees access bereavement and family violence leave?

Yes. All employees (including those with no contracted hours of work) will be entitled to ten days family violence leave (which they may take if they are affected by family violence) and to bereavement leave (which they may take if they are impacted by the death of a specified person) from the first day of employment. Casual employees will be able to take these entitlements on days of work they have been offered and accepted.

2.3. How will the notional roster work? Will there be any flexibility for employers to have another process for identifying when leave can be taken?

Where an employment agreement includes a contractual obligation to work but doesn't specify all of the information needed to determine someone's leave entitlements (such as days of the week and times contracted hours are worked or the number of hours of work for a salaried employee) the employer and employee must agree in writing to a notional leave roster at the time an employment agreement is entered into. The notional roster must include the details needed for determining leave entitlements that are not included in the employment agreement and will be used for leave purposes.

We are continuing to consider the details of the notional rosters and how they apply in different situations.

2.4. What amount of leave will an employer have to allow an employee to take?

Under the proposed system, an employer will not be able to unreasonably withhold consent to an employee taking any annual leave they have accrued (including in the first 12 months of employment). An employer may (but does not have to) also allow an employee to take leave in advance of it accruing.

Following the completion of the first 12 months of employment, within each subsequent 12-month period, an employer will have to allow an employee (if requested) to take their annual leave entitlement balance as at their 12-month employment anniversary.

For example, if an employee had a balance of 70 hours after 6 months employment and requested to take 40 hours, the employer could not refuse the request unless they had reasonable grounds to do so. If the employee had a balance of 120 hours at their 12-month employment anniversary, they would have to allow them to take 120 hours within the next 12 months.

2.5. Will employers still be able to require employees to take annual leave entitlement if they have a large leave balance?

Yes. It is proposed that rights and obligations for taking annual leave will be aligned with the general intent of the status quo but adapted for an accrual system.

If they have made reasonable attempts to reach agreement with an employee about when annual leave is to be taken and have been unable to do so, an employer will be able to require the employee to take their balance of annual leave entitlement as at their last 12-month employment anniversary in the next 12 month period. This will not apply in the first 12 months of employment. Like under the current Act, an employer will need to provide 14 days' notice in writing of a requirement to take annual leave.

For example, if an employee had a balance of 190 hours at their 12 month employment anniversary that would be the maximum amount the employer could require them to take in the next 12 months (with 14 days' notice).

2.6. How will the system work when an employee works extra hours and is provided time off in lieu (TOIL) to be taken in the future rather than being paid for the extra hours worked)?

Under the proposed system, since the extra hours are unpaid at the time and will instead be compensated by paid time off at a later date, there would be no accrual and no leave compensation would be payable on those hours. When the TOIL is taken, leave entitlements would accrue against each paid hour of TOIL (as it would have if the employee worked those contracted hours rather than taking TOIL).

2.7. Will there be any changes to the provisions for having closedowns?

Annual closedowns: Employers will continue to be able to have one closedown period when they discontinue the work of an employee and require them to take annual leave.

It is proposed the minimum period for an employer to give notice to an employee before an annual closedown period is extended from 14 days to 21 days. Notice will be required in writing and will need to include information about the dates of the closedown, any requirements to take paid or

unpaid leave, and any other leave arrangements that are available (such as leave in advance or additional paid leave). The intent is to improve transparency and certainty for employees about annual closedown periods.

Agreed closures: The Bill will also clarify the process for agreeing that an employee will discontinue their work at times that are not an annual closedown ('agreed closures'). It is proposed that employees will need to agree in writing to the closure and the leave arrangements at least 14 days before it starts.

Payments for leave taken during annual closedowns: Under the proposed accrual system, the rule that 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 (or the last annual leave entitlement date) will not be necessary.

Employees will be able to take all their accrued annual leave entitlement during a closedown and it will all be paid according to the normal leave payment rules. If they do not have sufficient entitlement, the employee will either need to take unpaid leave or the employer and employee could agree to annual leave being taken in advance or to the provision of additional paid leave.

3. Leave Payments

3.1. Will penalty/premium wages be reflected in employees' hourly leave pay?

The proposed hourly leave pay rate is the lowest wage rate specified in an employee's employment agreement that would otherwise apply on the day (being a continuous period of work from the time the employee starts work to when they finish work) leave is taken.

For example:

- Ben works Wednesday to Sunday. He is paid \$26 an hour Wednesday Friday, so this is his
 hourly leave pay rate if he takes leave on those days. He is paid \$32 an hour on Saturday and
 Sunday, which is his hourly leave pay rate if he takes leave at the weekend.
- Christine works shifts according to a 4 on 4 off roster. Under her employment agreement half of the shifts are always night shifts and half are day shifts. She receives \$32 an hour for day shifts and time and a quarter (T1.25 so \$40 an hour) for night shifts. Christine takes two shifts as leave, the first would have been a day shift and the second a night shift according to her agreed work pattern. Her hourly leave pay rate for the first day of leave is \$32, and for the second day leave is paid at T1.25 or \$40.
- Carla works 8 hour shifts under her employment agreement and her ordinary hourly rate for those hours is \$30. She also receives a T1.5 overtime rate of \$45 for hours worked in excess of 8 hours per shift. Carla is rostered to work 2 hours overtime on a particular shift (a total of 10 hours on that shift) but is sick so takes the full shift as sick leave. Her hourly leave pay rate for all 10 hours is \$30. Carla could also notify her employer that she only wants to use 8 hours of her paid sick leave entitlement, and she would then receive sick leave pay just for her contracted hours.

3.2. Will allowances be paid during leave?

Allowances are not proposed to be included in the statutory definition of hourly leave pay rate.

It is proposed, however, that 'fixed allowances' must continue to be paid in full during any period of leave, like they would be if the employee was working. Parties could also agree that an employee's leave pay will include other allowances that an employee may receive when they are working.

3.3. How will a fixed allowance be defined?

Fixed allowances will be defined as any allowances that do not vary in value and, at the time leave is taken, an employer is contractually required to pay an employee each pay period or on any other basis.

There will be an exception to this rule for any allowances that compensate an employee for expenses that they incur while they are working but that they do not incur while on leave.

Examples of payments that are intended to be considered fixed allowances:

- a fortnightly higher duties allowance for extra responsibilities
- a night shift allowance for working a night shift that is part of an agreed shift pattern
- a qualification allowance for holding a trade certificate or first aid certificate
- a fortnightly carpentry tools allowance which covers costs of investing in personal equipment, or an annual tools allowance (if it was due to be paid in the pay period leave was taken).
- an accommodation allowance to cover the costs of an employee's accommodation (e.g. rent)
- an ongoing fortnightly on call allowance for an employee who is contractually rostered on call every second weekend, or an annual availability allowance as compensation for being on call.

Some examples of things that are not intended to be considered fixed allowances:

- a travel allowance for a contractual night shift always worked (as while on leave this is not incurred)
- a meal allowance that is payable each week for contracted hours worked after 6pm (as while on leave the expense is not incurred)
- a meal of allowance for working non-contractual overtime (as it is not required to be paid in a pay period unless the overtime is worked)
- a delivery allowance for each delivery made (as it varies in value)
- an allowance payable to a teacher for attending a school camp per each day of camp (as it is
 a one-off payment and not always payable)
- an on-call allowance, paid only when an employee is asked and agrees to be on standby (employee is unable to be on standby as on leave, thus non-fixed allowance).

3.4. How will leave pay work for employees who are paid piece rates?

Piece rates are wages paid to an employee based on the quantity of work completed, rather than the hours worked. Piece rates may be in addition to an ordinary hourly rate of pay or they may be

the only component of pay (total pay per hour must be no less than the minimum wage). Examples include a payment for every bin of kiwifruit picked, for every meter of insulation installed, or for every tree pruned.

For those paid wholly or partly by piece-rates, the hourly leave pay rate will be the employee's lowest hourly wage rate that would otherwise apply on the day of leave, and it will also include an hourly average of piecework wages (in total being no less than the minimum wage). The hourly average will be calculated based on all piece wages paid in the pay periods that started in the 52 weeks before the one in which leave was taken and the total number hours worked in those pay periods (or the period the employee has been employed if it is less than 52 weeks).

3.5. How will leave be paid when employment ends?

The minimum pay rate for each hour of annual or alternative holiday leave an employee has not taken or cashed up when employment ends will be the lowest wage rate specified in an employee's employment agreement as at the date the employment ends (for any day or time of work).

The hourly rate is not the lowest rate for the day leave is taken since the payment is not related to a specific day.

For piece wages, an average will apply like if leave was taken.

Fixed allowances would not need to be paid as part of the leave pay at the end of employment, as the employee will have received these in full during their employment.

The current rule that public holidays that fall after employment ends but within a period of annual leave paid out at the end of employment, must also be paid, will be removed.

Like the current Act, untaken sick leave will not be paid out at the end of employment.

3.6. Cashing up – how will it work?

An employee will be able to request to cash up 25% of their annual leave balance, as at their last 12-month employment anniversary, in each 12-month period. The amount of leave that can be cashed up will always be based on the balance at the anniversary point and not be affected by leave accrual or use following it. An employee will not be able to cash up any annual leave in their first 12 months of employment.

Examples:

- An employee has 280 hours of accrued leave at their 12-month employment anniversary. In the next 12 months they can cash up up to 70 hours of leave.
- Another employee has 60 hours of accrued leave at their 12-month anniversary, they could cash-up up to 15 hours in the next 12 months.

The framework for agreeing to cash up annual leave remains the same as under the current system, only the amount that can be cashed up is proposed to change. Cash ups must be requested by an employee in writing, an employer cannot require an employee to cash up. The employer does not have to agree to a request, but if they do they must agree in writing.

The annual leave balance the 25% rule applies to will include existing balances converted to hours when the new Act comes into force (refer Q6.1). Transitional provisions will provide clarity about how much leave can be cashed up in the period between the new Act coming into force and an employee's next 12-month anniversary.

3.7. Bereavement leave and family violence leave will still be held in days. Will Relevant Daily Pay (RDP) and Average Daily Pay (ADP) still be used for them?

The same hourly leave pay rate will be used for all types of leave including bereavement and family violence leave – ADP and RDP will not be included in the Bill.

Unlike the current Act, it is proposed that these leave types could be taken in whole or part days in direct proportion to the number of hours an employee would have worked under their Employment Agreement or they were rostered to work. Those hours will also be used as the basis of the leave payment.

3.8. Will there be a change to how lump sum leave payments are taxed? Currently they may be taxed at a higher rate.

Inland Revenue is responsible for tax deductions including on lump sum leave payments (<u>Taxing holiday pay</u>). There will be no changes to the rules for working out tax as part of the Employment Leave Bill.

Note: Under the proposed system there are three instances where leave will be a lump sum payment: when annual leave and alternative holidays are cashed up, or these are paid out at the end of employment, or when an employer and employee agree annual leave will be paid as a lump sum before the period of leave (this flips the current rule). Lump sum annual leave payments will not be made before annual closedown periods – all employees will receive leave pay in each relevant pay period during a closedown, as part of regular pay (refer Q 2.7).

4. Leave Compensation Payment (LCP)

4.1. If an employee already receives a contractual penal/premium rate for additional hours will LCP still be payable?

Yes. Under the proposals the LCP will be paid if an employee already receives a penal/premium wage rate (for example an overtime rate or weekend rate) in relation to an additional hour. LCP is intended to serve a different purpose to contractual wage premiums. Contractual overtime, night or weekend rates recognise long or unsociable hours, whereas the purpose of the LCP is to provide compensation in lieu of accruing annual and sick leave for that hour.

LCP will be a separate component of pay to contractual wages. It will be calculated as 12.5% of an employee's ordinary hourly wage (the lowest wage rate specified in their employment agreement for an hour of work). Any other contractual wage premiums would continue to be paid in addition to the leave compensation payment.

For example, an employee's ordinary hourly wage is \$30 for their 40 contracted hours per week. They are paid an overtime rate of \$60 (T2/double time) for hours they work in addition to 40. For

each additional hour they work they will receive \$60 plus a separate LCP payment of \$3.75 (being 12.5% of their ordinary wage rate of \$30).

4.2. What is the LCP payment calculated on?

For each additional or casual hour of work, LCP will be calculated as 12.5% of an employee's ordinary hourly wage (the lowest wage rate specified in their employment agreement for an hour of work).

The 12.5% will not be applied to any other components of pay such as commission, fixed or variable allowances or penal rates. For those paid by commission, who do not have an ordinary hourly wage that is greater, LCP must be calculated on no less than the minimum wage. We are continuing to consider the details of how LCP will apply to piece rates.

The leave compensation payment will be a separate component of pay (like pay-as-you-go for annual leave is now) and must be shown separately from other parts of pay in employees' records and pay statements.

5. Public Holiday entitlements

5.1. Will there be any change to the rules for determining whether a day is an Otherwise Working Day (OWD) when it is not clear?

Yes. For the purpose of determining public holiday entitlements, under the proposals a day will be considered an OWD for an employee (including those with only casual hours) if:

• they would have worked on it according to agreed days of work or an agreed pattern of days of work set out in the employee's employment agreement;

or, if the employee does not have agreed days of work or an agreed work pattern:

• the employee has worked (for any amount of time) on the same day of the week the public holiday falls in at least half of the preceding 13 weeks (being at least seven days). If an employee has been employed for less than 13 weeks before a public holiday, the reference period will be the period since the beginning of their employment (for example, if the public holiday falls on a Friday in the employee's tenth week of work, 'at least half' will be five of the nine preceding Fridays).

A day will not be considered an OWD if it is reasonable to expect the employee would not have worked on it due to parental leave, volunteers' leave, accident compensation or unpaid leave.

5.2. How will taking and cashing up alternative holidays work?

The proposed framework for taking and cashing up alternative holiday hours is aligned with annual leave but with greater flexibility. The framework also provides for the use of alternative holiday hours by casual employees.

Alternative holiday hours will be able to be taken on any day an employee could work under their employment agreement (whether or not it is a contracted day of work). They will be able to be cashed up by agreement at any time (removing the current 12 month waiting period before that can happen). The framework for cashing up alternative holidays will align with the framework for cashing

up annual leave – employee requests and employer decisions must be in writing and employers must not require cash-ups but may decline requests.

For a casual employee, cashed up alternative holidays might provide paid time without work, or be paid out in addition to paid hours of work.

5.3. How will public holidays be paid?

If an employee does not work on a public holiday that is an Otherwise Working Day: the employee will be paid the hourly leave pay rate for the hours they would have otherwise worked on the day (as specified in their employment agreement, or if it is not specified the average number of hours they have worked per day over the in the previous 13 weeks).

If an employee works on a public holiday: they will be paid time and half for all hours worked. The additional 50% will apply to the employee's ordinary hourly wage (the lowest wage rate specified in their employment agreement for an hour of work). It will also apply to piece rates but not to any other payments the employee receives (for example commission, allowances or the leave compensation payment). Time and half will apply to no less than the minimum wage for each hour of work in any situation.

If an employment agreement specifies the number of contracted hours an employee would have worked on a public holiday, and they work some but not all of those hours, the employee will receive leave pay for the unworked hours (but will not accrue alternative holiday hours on the unworked hours).

5.4. How will alternative holiday accrual work if an employee is on-call on a public holiday?

If an employee is on call on a public holiday that is an OWD for them and they are not called into work, but there is a requirement for them to work if they were called (in accordance with a provision providing for this in their employment agreement (refer S47 of the current Act)), they will accrue alternative holiday hours.

Alternative holiday hours will accrue (on a one-to-one hour basis) on the lesser of the number of hours that they are actually on call and the number of hours the employee would have worked under their employment agreement for the day (or on average per day over the previous 13 weeks this is not specified in the employment agreement).

For example, an employee usually works 6 hours on Friday under their employment agreement. Friday is a public holiday and they are on call for 12 hours with a requirement to work if called. They are not called in and so the employee would accrue 6 alternative holiday hours.

6. Transitioning to the new leave system

6.1. What will happen to existing entitlements when the new Act comes into force?

Transitional provisions will provide clarity about what employers must do to transition to the new legislation.

In respect of the transition of leave balances:

- for employees with contracted hours, their existing annual leave, sick leave and alternative holiday balances will be converted to hours.
- for casual employees, existing annual leave balances will be cashed up, alternative holidays will be converted to hours and sick leave balances will cease.

There will also be provisions about when employers must apply the new legislation from after it comes into force to ensure practicality for payroll systems. Transitional provisions will also cover issues such as how much leave can be cashed up in the period between the new Act coming into force and an employee's next 12-month anniversary. The details will be developed during drafting.

6.2. What will happen with provisions in existing employment agreements that do not align with the new statutory entitlements?

The interaction of existing contractual entitlements and the new statutory entitlements is being considered as part of the work on the transitional provisions that will be included in the Bill. The Minister for Workplace Relations and Safety has delegated authority to make decisions on these provisions.

MBIE intends to publish guidance and resources to support employers with their preparations. This material will include guidance to assist parties in reconciling contractual and statutory entitlements.

6.3. Will employers have flexibility to implement the changes earlier?

All parts of new legislation are proposed to come into force at the same time, 24 months following the date of Royal Assent. There will not be flexibility to implement the changes earlier.

6.4. What will happen to liabilities under the Holidays Act? Will employers still have to remediate employees for historical underpayments?

Employers will still have an obligation to remediate employees for historical underpayments that have occurred due to non-compliance with the current Holidays Act.

Cabinet has, however, agreed that there will be a statutory process for estimating and resolving liabilities under the current Act. Once an employee has received the estimated amount of arrears, they would not be able to make further claims.

The Minister for Workplace Relations and Safety has delegated authority to decide the details and will seek Cabinet agreement before the Bill is introduced. The intention is to support the timely resolution of historical issues and reduce the compliance costs of doing so, which should support more employees to receive back pay.

7. Preparing for the changes

While employers and payroll providers may want to start thinking about what the changes will mean for them, it is important to note that none of the proposed changes are final until the Bill is passed.

A 24-month implementation period between when a Bill is passed and when it comes into force is proposed. This provides time for payroll providers and employers to make changes to business and payroll systems.

MBIE will ensure that information about any changes to the Holidays Act is available to employers, employees and payroll providers as soon as practical after the Bill is passed.

Until any changes to the Holidays Act go through the Parliamentary process and come into force, all of the existing rules still apply. This means that employers still need to comply with the current Holidays Act, and ensure they are providing the correct entitlements and payments to employees.

Additionally, employers still have an obligation to remediate employees for historical underpayments that have occurred due to non-compliance with the current Holidays Act.