employment hero

FACTSHEET

WHAT'S COMING NEXT FOR THE HOLIDAYS ACT

Introduction

For many New Zealand employers, understanding the Holidays Act (2003) has been a challenge. Commonly perceived as lacking crucial clarity, some employers have found themselves in hot water after misinterpreting regulations.

To tackle the ambiguity issues, the Government created the Employment Leave Bill, which proposes **repealing the Holidays Act completely and replacing it with a new Employment Leave Act.** This Bill includes new guidelines around leave and pay, and has just passed in Parliament.

While the Act won't come into force until around 2028, New Zealand employers need to know what's coming. That's where our factsheet can help – we'll break down all the new rules set out in the Employment Leave Bill.

The proposed changes in full

ANNUAL LEAVE ENTITLEMENTS

	The Holidays Act	The Employment Leave Act
How annual leave is calculated	All employees are entitled to 4 weeks of annual leave after twelve months of continuous employment.	Employees earn annual leave from day one in direct proportion to contracted hours of work. Annual leave accrues at a rate of 0.0769 hours (4/52) per "contracted" hour (providing the equivalent of four weeks' leave for workers whose contracted hours do not change).
Accrual of annual leave when absent	Annual leave is earned during paid leave, unpaid sick, bereavement and family violence leave, parental and volunteer leave, when receiving accident compensation and during the first week of any other unpaid leave.	Annual leave and sick leave accrue when an employee is on paid leave under any legislation and when on parental, jury and volunteers leave. It does not accrue when an employee is receiving accident compensation and not working or on any unpaid leave.
Changes in work hours	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 a worker increases their weekly hours, they receive an effective increase in their leave balance. If they reduce their hours, they receive an effective reduction.	Accrued annual leave hours will be 'banked', meaning balances will reflect hours actuallyworked in the past rather than scaling when work pattern changes.
Using annual leave	An employee can take portions of weeks of annual leave. Employers and employees must agree on the portion of a week being taken based on what 'genuinely constitutes a working week' at the timeleave is taken.	Employees can use accrued leave hours to take any part of a day off work. Annual leave is taken in hours against contracted hours. If an employee doesn't have days of work in their employment agreement, they must agree to a notional roster for leave purposes that would be used if a roster had not been created when leave is requested.
Cashing up leave	An employee can request to cash up one week of annual leave in each 12 month period.	An employee can request to cash up 25% of their annual leave as at their last 12 month employment anniversary in each 12 month period. This means that where an employee has a large annual leave balance, there will be more flexibility to cash it up. Employers who agree to cashing up will benefit from reduced leave liability.
Leave records	Employers must keep records of leave in days or weeks.	Leave records should be kept in hours. That includes specific tracking of standard hours, additional hours, casual hours and leave taken in hours.

ENTITLEMENTS FOR OTHER LEAVE TYPES

	The Holidays Act	The Employment Leave Act
Sick leave entitlements	After 6 months, eligible workers are entitled to a lump sum entitlement of 10 days of sick leave. A new entitlement arises after every subsequent 12 months, regardless of the number of days they work per week.	Employees earn sick leave from day one, in direct proportion to contracted hours of work. Sick leave accrues at a rate of 0.0385 hours (2/52) of sick leave per "contracted" hour (providing the equivalent of 10 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.
Using sick leave	Sick leave can only be taken as a full day.	For every hour an employee takes off work, they will use an hour of accrued leave. Employees can use accrued sick leave hours to take any part of a day off work. Sick leave can be taken on days and against any hours that an employee would have worked under their employment agreement or that they had accepted at the time of the leave request. Like annual leave, a notional roster will be used where an employment agreement doesn't have specific days and/or hours of work and leave is notified in advance.
Parental leave	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).	Employees will continue to earn leave during parental leave. When annual leave is taken after return to work, it will be paid like leave taken at any other time would be.
Bereavement and family violence leave	Like sick leave, eligible employees are able to access bereavement or family violence leave entitlements after 6 months. Bereavement and family violence leave can only be taken as a full day.	All employees will be able to access bereavement and family violence leave from day one. They will remain days-based entitlements but employees will be able to take part days of leave.

The proposed changes in full

CALCULATING ANNUAL LEAVE PAY

	The Holidays Act	The Employment Leave Act
Working additional hours (waged employees)	Waged employees who work extra hours have the pay for those hours reflected in higher leave pay at the time leave is taken. Employers and employees must agree what genuinely constitutes a working week at the time leave is taken.	Any extra hours worked by a waged employee on top of contracted hours will not accrue annual or sick leave, but a leave compensation payment will be paid at the time the hours are worked. The rate will be 12.5% of an employee's ordinary hourly wage rate.
Working additional hours (salaried employees)	In some cases, salaried employees are compensated for some extra hours by their salary. In these situations, if the employee works extra hours, they will not receive extra pay. However, sometimes salaried employees may receive additional pay for extra hours. In that case, the pay for the extra hours is reflected in leave pay.	In the situation where the agreement specifies salary will compensate the employee for some additional hours, there is no leave accrual or leave compensation payment payable. If a salaried employee receives additional wages for those hours, the leave compensation payment will be payable at a rate of 12.5% of the ordinary hourly salary rate.
Leave pay for casual employees	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. For sick leave, many casuals do become entitled to sick leave, although they are unlikely to use it due to impracticality.	All casuals with no contracted hours will receive a separate leave compensation payment instead of accruing annual and sick leave for every hour they work. The rate will be set at 12.5% of an employee's ordinary hourly wage rate and paid in every pay period.

The proposed changes in full

CALCULATING ANNUAL LEAVE PAY

	The Holidays Act	The Employment Leave Act
Leave pay for fixed-term employees	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 if the work is intermittent. If the fixed term is for less than 6 months, the worker does not receive any sick leave entitlements.	All fixed-term employees will accrue and be able to take annual and sick leave from the first day of employment on their contracted hours. They will also have access to bereavement and family violence leave.
Payment by leave type	There are different calculations for different leave types.	The same hourly leave pay rate will be used for all types of leave. It will be based on an employee's base wage for the day of leave.
Pay statements	There is no legal requirement for employers to provide pay statements to employees, or to provide information about their past pay and leave.	Employers will be required to provide clear pay statements each pay period, itemising pay and leave. These pay statements will need to include enough information that the employee can determine whether their pay and leave have been calculated correctly. They can be provided in physical or digital form. Note: Family violence leave information must not be included, for safety and confidentiality.

The proposed changes in full

PUBLIC HOLIDAYS

	The Holidays Act	The Employment Leave Act
Otherwise working days	Entitlements to paid leave and alternative holidays on public holidays depend on whether it is an otherwise working day. When this is not clear, employers and employees must decide together what qualifies an otherwise working day for the employee.	There will be a test for determining an otherwise working day, based on whether the employee has worked 50% or more of the relevant days (e.g. Mondays) in the preceding 13 weeks.
Entitlements for working on a public holiday	Employees receive a whole alternative holiday when they work on a public holiday that is an otherwise working day. They get paid time and a half for hours actually worked on the day, but they don't get paid for any hours they would normally have worked but didn't due to the public holiday.	Employees will accrue alternative holiday hours at a rate of one hour for every hour the employee works or is on call on a public holiday, that is an otherwise working day. If they only work some of their contracted hours on a public holiday, they'll receive time and half for the hours they worked and leave pay for the unworked hours.

COMPENSATION

	The Holidays Act	The Employment Leave Act
Remediation process	Currently employers have to precisely recalculate history leave payments over at least six years to identify any shortfall between actual pay and statutory entitlements. Compensation is delivered as back pay.	There will be a remediation process that allows employers to elect to follow a specific framework to provide reasonable compensation to employees who have not received their correct entitlements under the current Holidays Act.

When will these changes happen?

The Employment Leave Bill recieved royal assent on 6 August 2026.

Workplace Relations and Safety Minister, Brooke Van Velden, has said that there will now be a 24-month implementation period. **With that in mind, we can expect to see the Employment Leave Act come into force in August 2028.**

The only exceptions to this implementation period will be the changes relating to parental leave, which will come into force on 1 July 2027. The primary and secondary education sector will also not be covered by the Employment Leave Act until 6 August 2036.

This 24-month gap may seem like a long time but these changes are complex. Employer and payroll providers will need to make significant changes to their process and payroll systems.

The impact on your payroll

Change may seem far away but there's work that employers can do right now to prepare. Employment Hero's Employment Counsel, **Sanam Ahmadzadeh Salmani**, had this advice:

> **The Holidays Act being repealed will definitely have a lot of employers breathing a sigh of relief. But the Act is only half the battle when running payroll. Knowing the nuances of leave and payroll is critical to any workplace.**

> **With still plenty of time to go, now would be the time to review your payroll. Employers should take the time to see if workers have been classified correctly, all their entitlements have been paid in accordance with the Holidays Act and any pay issues are addressed quickly.**

And when these changes arrive, it won't be a small overhaul. As an employer, many of the fundamentals of how you calculate and allocated leave will have to change. Depending on the types of employees you have, there will also be additional considerations around how they are paid with every pay run.

And that's not including that surprise change around payslips. Giving your employees payslips with every pay run will be a legal requirement, so you'll need to ensure that you can easily and clearly share details of all their pay and leave entitlements.

This is where your choice of payroll software is really important. The team behind Employment Hero Payroll are constantly updating the system to match legislation. When the Employment Leave Act finally comes into effect, our payroll platform will make calculations that match the new legislation. You'll still get a final review of everything that gets paid out to employees, but you can trust that the software is up to date in how it makes decisions.

And it'll be super easy to send out those payslips with every pay run. All payslips are sent out digitally through Employment Hero and records are stored in the platform, so employees can easily refer to payslips past and present.

HAVE COMPLIANCE CONFIDENCE WITH EMPLOYMENT HERO

We know that these changes are going to be huge for New Zealand employers. That's why we're right along with you, monitoring the current proposals and preparing our platform in the background to adapt with the new legislation. Let's tackle these changes together.

Employment Hero Payroll isn't just there to help you with compliance either. Our payroll software automates over 150 steps in the payroll process and makes it easy to complete payday filing in just a few clicks. Employees can easily complete and submit timesheets which are automatically factored into their pay, along with leave, PAYE, Kiwisaver and other deductions.

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