RDA
Resident Doctors' Association

Key changes to leave entitlements under the Employment Leave Act 2026

The Employment Leave Act 2026 has now passed into law and will replace the Holidays Act 2003. Although not due to take effect until August 2028, with an additional year to update leave clauses in employment agreements, the following is a summary of some of the main changes.

Categories of working hours

The Employment Leave Act introduces the definitions of 'standard hours', 'additional hours' and 'casual hours'.

Standard hours are what we'd usually call your **'contracted hours'**.

Additional hours are what we'd usually call **overtime** or **hours or shifts over and above your contracted hours.**

Casual hours are any **hours worked by an employee where their employment agreement does not require the employer to offer work or the employee to accept work offered.** Which is kind of a definition of 'casual employee' which has never previously existed in any legislation.

Annual leave

Annual leave hours **will accrue from an employee's first day of employment** at **a rate of 0.0769 an hour** per standard hour of work (as defined above). For example, an employee who works 40 hours per week would accrue 3.076 hours of leave for each week of work.

Annual leave hours which have been accrued are not adjusted if an employee changes their days or hours of work.

Annual leave will be taken in hours against an employee's standard hours. Currently, if you always work more than your contracted hours (for example, you are contracted to work three days per week, but you always work four days), the employer is required to consider the number of days of annual leave that you can have based on what 'genuinely' constitutes a week of work for you. Not any more though. Under the Employment Leave Act, you do not accrue annual leave for any additional hours worked (e.g., overtime) – instead a Leave Compensation Payment applies (see below).

Sick leave

Sick leave **will accrue from an employee's first day of employment** at a **rate of 0.0385 an hour** per standard hour of work (as defined above) **up to a maximum of 160 hours** and can be taken on an hourly basis.

Bereavement and family violence leave

The number of days available to an employee remains the same (i.e., three days' bereavement leave on the death of a close family member, one day in other eligible cases, and up to 10 days' family violence leave per year) **but employees are entitled to bereavement and family violence leave from their first day of employment.** The new Act also explicitly allows for both types of leave to be taken in whole or part days.

Public Holidays

Where days of work are not specified in an employee's employment agreement or they work additional days to those specified, **an employee will be entitled to a public holiday** if the employee worked (or was on paid or unpaid leave) on **50% or more of the days of the week that the public holiday falls on over the last 13 weeks** (or the period of time they have been employed for if fewer than 13 weeks). Currently, in our Te Whatu Ora collective agreements, we have the same formula but with a lower threshold of 40% or five out of 13 weeks.

Alternative Holidays

Where an employee works (or is on call) on a public holiday that **falls on their otherwise working day, they will accrue alternative leave at a rate of one hour for every hour worked.** This leave can then be taken in hours or cashed up.

This changes the current requirement that an employee is entitled to a whole paid alternative holiday if they work on any part of a public holiday. For example, if you work the night shift on a public holiday, and commence the shift at 2300, you work for one hour of the public holiday (2300 – 0000). Currently, you are entitled to one whole day's alternative holiday. That's fair when you think about it. Under the new legislation, you will be entitled to just one hour of alternative leave.

Leave payments

All leave types will be paid at the employee's base hourly rate for the shift the leave is taken. Fixed allowances will be paid in full during periods of leave, but other components of pay will be excluded. In other words, leave payments will no longer take overtime, extra shifts, and weekend or night penal rates into account to ensure you are not disadvantaged in pay when you go on holiday. Your leave pay will be the base rate of pay for your contracted hours only.

Annual leave taken following parental leave will not be paid at a lower rate.

Leave compensation payments

A leave compensation payment (LCP) of 12.5% of an employee's ordinary hourly rate, **will apply to all 'casual' and 'additional' hours of work** (as defined above). This is instead of annual or sick leave being accrued on these hours. This leave compensation payment will be paid in your regular pay (so like "pay for the holiday as you go") and is required to be an identifiable and separate item on your payslip. We guess the government expects employees to squirrel away the 12.5% LCP as you receive it to save up for your holiday.

Multiple roles with the same employer

The Employment Leave Act specifically addresses the situation of an employee having more than one role with their employer.

Where an employer has two or more roles with standard hours with the same employer, **the parties may agree how leave entitlements and payments under the Act will be treated for each role. If the parties do not agree,** however, **the Act will apply to each role separately.**

Some of our members at Te Whatu Ora have already experienced the challenges of being classified as a so-called "multi-jobber". Consequently, before accepting a second or subsequent role with the same employer (whether at Te Whatu Ora or elsewhere), we encourage members to get in touch with the **RDA office**.