

Holidays (Increasing Sick Leave) Amendment Bill

Government Bill

Explanatory note

General policy statement

The main purpose of this Bill is to increase the availability of employer-funded sick leave for employees. The Bill aims to better enable New Zealand employees to access sick leave when they are sick or injured, or when their spouse or partner or someone who depends on them for care is sick or injured. This will ensure that New Zealand's minimum employment entitlements continue to reflect broadly agreed societal expectations about work and just treatment. The status quo is out of step with those expectations.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=1>

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment on 13 November 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <https://www.mbie.govt.nz/increasing-sick-leave>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 provides for the Title of the Bill.

Clause 2 provides that the Bill will come into force 2 months after enactment. This means that the Bill's changes do not take effect until that time.

Clause 3 provides that the Bill amends the Holidays Act 2003 (the **Act**).

Employees qualify for sick leave if they meet certain criteria in section 63 of the Act (**qualifying employees**). These criteria are not changed.

Clause 4 amends section 65 of the Act. The amendment increases a qualifying employee's entitlement from 5 to 10 days' sick leave per 12-month period.

Clause 5 amends section 66 of the Act. Section 66 is about carrying over unused sick leave to any subsequent 12-month period of employment.

Currently, a qualifying employee may carry over up to 15 days' of unused sick leave to a maximum of 20 days' current entitlement in any year. *Clause 5* keeps the maximum current entitlement as 20 days. The number of unused sick leave days that may be carried over is amended from 15 to 10 days' sick leave.

Transitional arrangements

Clause 6 provides for transitional arrangements. These are set out in the Bill's amendments to the Act's transitional schedule. These transitional arrangements are about how the changes in the Bill affect employees who are employed on and from the day the Bill comes into force.

Qualifying employees will be entitled to 10 days' sick leave when they next become entitled to sick leave for a 12-month period (*new clause 5* of Schedule 1AA).

Section 63 of the Act provides that qualifying employees become entitled to sick leave for each 12-month period of employment beginning at the end of their first qualifying 6 months.

The effect of *new clause 5* means, for example, that an employee who has worked for less than 6 months will become entitled to 10 days' sick leave for the next 12 months once the employee qualifies under section 63. For employees who have already worked for at least 6 months, when they reach the anniversary of the first time they completed 6 months, they will be entitled to 10 days' sick leave.

New clause 5 of Schedule 1AA clarifies how much unused sick leave a qualifying employee may carry over. Their maximum current entitlement to sick leave per 12-month period is kept by the Bill as 20 days, meaning that they may carry over up to 10 days of unused sick leave from a previous 12-month period.

Hon Michael Wood

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Schedule

New Part 3 inserted into Schedule 1AA

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Holidays (Increasing Sick Leave) Amendment Act **2020**.

2 Commencement

This Act comes into force on the day that is 2 months after the date on which this Act receives the Royal assent. 5

3 Principal Act

This Act amends the Holidays Act 2003 (the **principal Act**).

4 Section 65 amended (Sick leave)

In section 65(2), replace “5” with “10”. 10

5 Section 66 amended (Sick leave may be carried over)

In section 66(2), replace “15” with “10”.

6 Schedule 1AA amended

In **Schedule 1AA**,—

- (a) insert the Part set out in the **Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Schedule
New Part 3 inserted into Schedule 1AA

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| Part 3 | |
| Provisions relating to Holidays (Increasing Sick Leave) Amendment Act 2020 | 5 |
| 5 Transitional provision for existing employees | |
| (1) The amendments to sections 65 and 66 in the Holidays (Increasing Sick Leave) Amendment Act 2020 apply to existing employees as provided in this clause. | |
| (2) On and from the commencement date, when an existing employee next becomes entitled to sick leave for a 12-month period specified in section 63(2), the employee's entitlement under section 65(2) for that period is 10 days' sick leave. | 10 |
| (3) On and from the commencement date, when an existing employee next may carry over sick leave under section 66(1),— | 15 |
| (a) the employee may carry over up to 10 days' sick leave; and | |
| (b) the employee's maximum current entitlement under section 66(2) is 20 days. | |
| (4) In this clause,— | |
| commencement date means the date on which the Holidays (Increasing Sick Leave) Amendment Act 2020 comes into force | 20 |
| existing employee means an employee who is employed by the relevant employer on and from the commencement date. | |