

14 April 2026

Committee Secretariat  
Education and Workforce Committee  
Parliament Buildings  
Wellington  
[ew@parliament.govt.nz](mailto:ew@parliament.govt.nz)

## Retail NZ submission: Employment Leave Bill

### Overview

1. Retail NZ is the peak body representing New Zealand’s retail sector. Our membership spans approximately 30,000 retail businesses across Aotearoa, employing around 222,000 New Zealanders. Retail NZ members range from small, owner-operated stores to large national chains and collectively account for the majority of domestic retail turnover.
2. Retail NZ consulted extensively with members in preparing this submission.
3. Retail NZ members strongly agree that the current Holidays Act 2003 is overly complex, difficult to administer, and a persistent source of non-compliance despite good-faith efforts by employers. There is broad agreement that reform is overdue.
4. Overall, Retail NZ supports the intent of the Employment Leave Bill to simplify leave entitlements, improve clarity, and enable more accurate payroll systemisation. However, members have identified several areas where the Bill, as currently drafted, risks imposing unnecessary cost, operational complexity, or unintended consequences for retailers—particularly small and medium-sized businesses.

### Annual leave and sick leave accruing in hours from day one

5. Retail NZ generally supports the introduction of pro-rated, hours-based accrual of annual leave and sick leave from the start of employment. Members consider an hours-based approach to be fairer for part-time and variable-hours employees and more closely aligned with actual working patterns in the retail sector. Members also noted that this approach improves the visibility of leave liabilities, reduces the risk of unexpected costs on termination, and simplifies the management of leave by removing the need to distinguish between entitled leave, accrued leave, and holiday pay.
6. However, a small number of members raised concerns about early tenure use of leave, behavioural incentives, and cost impacts, particularly for small and medium-sized businesses. Members emphasised that consistent attendance is especially critical in the early stages of employment, when employees are being inducted, trained, and embedded into workplace culture, processes and systems. Immediate access to paid leave during this period can create operational disruption and, in some cases, may affect longer term outcomes for both the business and the employee.

7. Retail NZ encourages the Committee to consider whether additional safeguards or guidelines for SMEs are appropriate to address early-tenure risks, without undermining the overall policy objective.

## Leave and holiday payment rates

8. Retail NZ strongly supports the proposal to pay leave and public holidays at an employee's lowest hourly rate, removing the current Relevant Daily Pay, Average Daily Pay, Ordinary Weekly Earnings and Average Weekly Earnings calculations, and excluding bonuses, commissions and variable allowances from base rate calculations.
9. Our members regard this as one of the most important improvements in the Bill, significantly reducing payroll complexity, error risk, and the need for costly remediation.

## Leave Compensation Payment (LCP) for additional hours

10. Retail NZ members support the introduction of a Leave Compensation Payment (LCP) framework for additional hours worked by non-casual employees. Retailers recognise LCP as a simpler and more transparent alternative to the current averaging rules under the Holidays Act. Many members noted that the LCP framework reduces ambiguity, improves cost predictability, and can discourage artificial under-contracting of guaranteed hours.
11. However, retailers expressed significant concern about the LCP rate of 12.5% being too high. Feedback indicates that:
  - a. The impact is particularly acute in retail environments where additional hours are commonly worked.
  - b. Members are concerned that a 12.5% LCP results in significantly higher labour costs. Although the actual cost will vary between retailers and workers, there is a fear amongst retailers that they won't be able to afford a 12.5% LCP on additional hours.
  - c. Members also noted that employers who currently offer penal or overtime rates for additional hours may be incentivised to withdraw or avoid offering those benefits in the future if an LCP is implemented at the proposed rate. This would undermine flexible rostering arrangements and reduce higher-paid overtime opportunities for employees.
  - d. Additionally, the intention of the LCP is to take into account the absence of both annual and sick leave for casual workers. However, permanent employees would be entitled to receive that same LCP rate for additional hours worked. Our members have questioned why the LCP is set at 12.5% for a permanent employee when they already have a sick leave entitlement.
  - e. We would like to request further information on how this rate was determined, including, if possible, the modelling to reach the 12.5%.
12. Retail NZ recommends that the Committee reconsider the proposed LCP rate and undertake further modelling to ensure it aligns with the Bill's stated objective of improving compliance, without imposing disproportionate cost burdens. Alternative options for consideration include:
  1. Implementing an 8% rate instead of 12.5%,
  2. Allowing employers to offer reasonable penal rates for overtime hours in lieu of a LCP,
    - a. Phasing in any increases over time to allow businesses to prepare for increasing costs, similar to the phased increases for KiwiSaver.

13. While Section 5 of the Technical FAQ confirms that the LCP does not generally apply to additional hours compensated by salary, members remain concerned that the distinction between salary-covered flexibility and additional hours triggering LCP is not always clear in practice, particularly given the structure of many salaried employment agreements, including part-time salaried roles. Retail NZ recommends clearer statutory guidance to ensure salaried roles are not inadvertently captured by the LCP framework.

## Leave Compensation Payment (LCP) for casual hours

14. Retail NZ strongly opposes replacing the current 8% holiday pay rate for casual workers with a 12.5% Leave Compensation Payment (LCP). While members support the concept of an upfront payment in lieu of accrued leave for genuinely casual work, feedback consistently identified the proposed rate as excessive and not reflective of the actual value of annual and sick leave that would accrue under an hours-based system.
15. Increasing the rate from 8% to 12.5% represents a material and immediate labour cost increase, particularly for retailers that rely on casual engagement to manage seasonal demand and roster variability. Members noted that the cost impact of the higher LCP, when combined with other labour cost pressures such as KiwiSaver contributions and wage increases, could significantly affect margins and, for some small retailers, threaten business viability.
16. Retail NZ recommends that casual workers should continue to receive an 8% payment added to gross earnings, rather than increasing the rate to 12.5%. Retaining the current rate would better support employment flexibility while avoiding unintended consequences for business sustainability, particularly for SMEs.

## Casual working pattern clarification

17. Retail NZ members noted a missed opportunity for the new Bill to address the lack of clear, objective thresholds for identifying when a casual employee's hours have, in practice, begun to form a regular and ongoing pattern. Many employers currently struggle to determine when a casual arrangement should be converted to a permanent one. This ongoing challenge frequently results in disputes or inconsistent assessments and requires continuous monitoring and reassessment of casual arrangements.
18. Retail NZ recommends that the Bill, or supporting regulations, include clearer and more objective thresholds, similar to the otherwise working day test, that could be applied to casual working patterns. We believe this would be an opportunity to improve certainty, support good-faith compliance, and reduce disputes arising from ambiguous or subjective assessments of work patterns.

## Public holidays and the “otherwise working day” test

19. Retail NZ supports the introduction of a clearer, formula-based approach to determining otherwise working days for employees with variable schedules. Members welcome greater certainty compared to the subjective, and often contested, tests under the current Act.
20. We also strongly support removing the requirement to pay public holidays that fall after an employee's last day of work when annual leave is paid out on termination. Members consider this a fair and proportionate change, noting that under the current Act, employees may receive payment for public holidays that occur after employment has ended even though their accrued leave is already being paid out in cash (often at a higher hourly rate). Members

further noted that this outcome can arise regardless of whether an employee has worked through their full notice period, a matter over which employers often have limited practical control. Removing this requirement better reflects the reality that the employment relationship has ended and eliminates a source of perceived unfairness and unexpected cost under the current legislation.

## Alternative holidays

21. Retail NZ members support the move to hour-for-hour accrual of alternative holidays. They consider this a fairer approach that improves proportionality, particularly for employees who work shorter or variable shifts on public holidays and better aligns alternative holiday entitlements with modern retail working patterns.
22. However, members raised practical administrative concerns about the ability for alternative holidays to be cashed up immediately. Members advised that this could create record-keeping and payroll system challenges if leave accrual and cash-up occur simultaneously within a single pay run.
23. Retail NZ recommends that the Bill include a practical timing safeguard, or the ability for employers to include such a safeguard in their policies, such as stipulating that alternative holidays cannot be cashed out in the same pay period in which they are accrued. This would preserve the policy intent of flexibility for employees, while reducing unnecessary administrative complexity and compliance risk for employers.

## Employees returning from parental leave

24. Retail NZ supports improving outcomes for employees returning from parental leave and recognises the importance of maintaining strong workforce attachment. We support workers returning from parental leave having full access to paid sick leave, bereavement and family violence leave. However, member views are divided on the cost implications for employers, particularly small and medium-sized businesses that have limited capacity to absorb additional leave-related liabilities.
25. Many members highlighted that parental leave already gives rise to significant operational and financial impacts for employers, including the cost of recruiting and back-filling the role during the employee's absence, and the lost productivity associated with training and inducting replacement staff.
26. Members also expressed concern about scenarios described in section 2.3 of the Technical FAQ, where an employee could return from parental leave for a short period before resigning and, as a result, become entitled to payment for all annual leave accrued during the parental leave period. Members consider this outcome to be particularly unfair where the employee has not returned to substantive work and may have worked only briefly before resigning, yet the employer is required to fund a full leave payout for a period during which no work was performed for their business.
27. Retail NZ encourages further consideration of how these provisions can better balance fairness for employees with sustainability for employers. Several members suggested that, given the Government already provides income support during parental leave, there may be scope to consider whether additional government support or alternative mechanisms could help offset leave-related costs for employers when employees return from parental leave, particularly for small businesses with limited financial resilience.

## Transition and implementation

28. Retail NZ has concerns about the current drafted transition framework in the Bill. While the Bill provides for a two-year transition period following Royal Assent, it includes a provision that where employment agreements (including collective agreements) are not updated within that period, employers will have a third year to continue negotiations while being required to comply with both the existing agreement and the new Act.
29. Section 9.9 of the Technical FAQ states that *“the purpose of this approach is not to reduce employee entitlements but to ensure that employers are not required to run two incompatible and costly systems indefinitely”* and to support *“a consistent and orderly shift to the new framework”*. We consider that the proposed transition design risks creating precisely the outcome the Government is seeking to avoid. The Bill contemplates multiple transition triggers with different operative dates (including commencement, the first pay period after commencement, and a separate contract transition period), as well as different treatment for new and existing employees. In practice, this could require employers to operate two or even three parallel payroll and compliance configurations, significantly increasing costs, administrative workload and non-compliance risk.
30. Concerns are further amplified in relation to collective agreement renegotiations, where prolonged bargaining under overlapping frameworks could result in business disruption, industrial uncertainty, and substantial payroll complexity.
31. Retail NZ strongly recommends that a single, definitive transition deadline be established for all employers, so that employment agreements align with the new framework by one operative date. This would better reflect the stated policy intent and support a genuinely consistent and orderly transition for employers and employees alike.

## Conclusion

32. Retail NZ members are largely supportive of the intent of the Employment Leave Bill and enthusiastically welcome the comprehensive reform of the Holidays Act. Retailers were encouraged to see that the Bill is, in many respects, well-balanced, with a range of practical and sensible solutions that are expected to benefit both employers and employees.
33. In particular, retailers support the Bill’s emphasis on simplification and clarity, with many of the proposed changes being far more practical to administer, lowering the risk of inadvertent non-compliance. Over time, these improvements have the potential to reduce costs and compliance risk, which is of clear benefit to both businesses and workers.
34. However, members have also identified several areas where further refinement is needed to ensure the Bill fully achieves its objectives without creating unintended consequences. Retail NZ is particularly concerned that certain provisions, as currently drafted, may impose disproportionate cost impacts on segments of the retail sector for whom additional labour cost increases may be difficult to absorb.
35. In summary,
  - a. We support most core structural changes in the Bill, including hours-based accrual, simplified leave payment calculations and clearer public holiday rules.
  - b. We support the Leave Compensation Payment (LCP) framework in principle but strongly oppose the proposed 12.5% rate.
  - c. We seek greater clarity, refinement, and safeguards in relation to labour cost impacts and transition arrangements.
36. Thank you for the opportunity to make a submission. We welcome the opportunity to discuss this submission at select committee.
37. No part of this submission should be withheld under the OIA.

Sincerely,



Carolyn Young  
**CHIEF EXECUTIVE**  
[carolyn.young@retail.kiwi](mailto:carolyn.young@retail.kiwi)