



TEU

TE HAUTŪ KAHURANGI
TERTIARY EDUCATION UNION

Submission of

**Te Hautū Kahurangi | Tertiary Education
Union**

to the

Education and Workforce Committee

on the

Employment Leave Bill

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1. INTRODUCTION

- 1.1. Te Hautū Kahurangi | Tertiary Education Union (TEU) welcomes this opportunity to respond to the Employment Leave Bill.
- 1.2. TEU represents 12,000 workers across Aotearoa New Zealand's tertiary education sector, including polytechnics, wānanga, universities, and private training establishments.
- 1.3. Our membership spans the full spectrum of roles, from continuing full-time appointments to the highly precarious semester-by-semester casual engagements that have become structurally embedded in how tertiary education is delivered – research demonstrates that, as of 2023, 59% of university academics in Aotearoa New Zealand are in either fixed-term or casual employment.¹

2. TEU POSITION

- 2.1. We submit in strong opposition to the Employment Leave Bill (the Bill).
- 2.2. The provisions we oppose strike at the foundations of what leave entitlements exist to do:
 - 2.2.1. The pro-rata reduction in sick leave tells part-time workers – disproportionately women – that their health is worth less protection because they work fewer hours;
 - 2.2.2. the removal of variable pay from leave calculations means workers who rely on overtime to make ends meet will be paid less when they take leave they have earned;
 - 2.2.3. the removal of leave accrual during ACC shifts part of the cost of workplace injury onto injured workers themselves;
 - 2.2.4. the Leave Compensation Payment framework offers casual workers the appearance of sick leave protection while delivering something that will function, in practice, as no protection at all; and,

¹ See <https://ojs.victoria.ac.nz/nzsr/article/view/9469>, accessed 9 April 2026.

- 2.2.5. the Bill's treatment of public holidays and alternative leave will disentitle workers from entitlements they currently hold.
- 2.3. These reductions do not fall evenly across the workforce. The tertiary education sector is built on structural precarity, with Māori and Pasifika workers concentrated in the most junior and insecure roles,²³ and women carrying a disproportionate share of the part-time and variable hours work which the Bill targets most directly.
- 2.4. The cumulative impact on these workers is not incidental – it is the predictable consequence of changes that the Government's own data (see below) shows will fall hardest on those already holding the most precarious footing.
- 2.5. Beyond the Bill's direct reductions in leave entitlements, we have serious concerns about the quality of the legislation itself:
- 2.5.1. The Bill is poorly drafted, rushed, and longer than the Act it replaces, thereby creating real risks of non-compliance, dispute, and litigation;
- 2.5.2. the Bill does not account for the fact that many of the problems it is premised on have been addressed through advances in technology and compliance systems;
- 2.5.3. the Bill's treatment of casual employment is particularly troubling: by codifying and effectively incentivising casualisation, it risks entrenching the very precarity it should be addressing;
- 2.5.4. the transitional provisions are so complex as to be unworkable for many employers and workers, and carry the risk of significant economic disruption at the point of commencement; and,
- 2.5.5. the remediation framework – designed to resolve historical underpayment – will, without adequate safeguards, deny workers the right to justice that the New Zealand Bill of Rights Act guarantees.
- 2.6. Taken together, these factors illustrate a Bill that is in no way ready to become law.

² See <https://www.journal.mai.ac.nz/content/why-isn%E2%80%99t-my-professor-m%C4%81ori-snapshot-academic-workforce-new-zealand-universities>, accessed 9 April 2026.

³ See <https://www.journal.mai.ac.nz/content/why-isn%E2%80%99t-my-professor-pasifika-snapshot-academic-workforce-new-zealand-universities>, accessed 9 April 2026.

2.7. We support the submission of the New Zealand Council of Trade Unions Te Kauae Kaimahi.

3. TEU RECOMMENDATIONS

3.1. For the reasons outlined in our submission, we recommend the Bill is withdrawn.

4. PRO-RATA SICK LEAVE

4.1. The Bill replaces the current flat entitlement of 10 days' sick leave for all eligible workers with a pro-rata system accruing at 0.0385 hours per standard hour worked. For a full-time worker on 40 hours per week, the annual accrual equals 10 days. For a part-time worker on 20 hours, it equals 5 days. The reduction is linear – i.e., the fewer contracted hours, the less sick leave.

4.2. Given illness does not occur in proportion to contracted hours, this aspect of the Bill is unacceptable.

4.3. A part-time tutor working 20 hours a week faces exactly the same risk of influenza, injury, or serious illness as her full-time colleagues. The entitlement was designed as a personal health protection, not a reward for hours worked. The Bill's pro-rata approach removes that protection from those who can least afford to lose it.

4.4. The equity dimension of this change is stark. According to MBIE's own data in the Bill's explanatory materials, 29% of women with contracted hours work part-time, compared with 12% of men.⁴ The Ministry for Women's most recent labour market data (June 2025 quarter) reinforces this picture: the underutilisation rate for women is 14.7%, compared with 11% for men.⁵ Additionally, women bear a disproportionate share of the caring responsibilities that drive part-time employment. As such, they will bear a disproportionate share of the Bill's cut to sick leave provisions.

4.5. In the tertiary education sector, part-time work is common among workers managing caring responsibilities, completing postgraduate qualifications, or navigating the volatile, precarious employment patterns of casual academic life. These workers are in no way less susceptible to illness just because they work

⁴ See <https://www.mbie.govt.nz/dmsdocument/31197-explainer-whats-changing-with-employment-leave>, p.12, accessed 8 April 2026.

⁵ See <https://www.women.govt.nz/women-and-work/labour-market-participation>, accessed 8 April 2026.

fewer hours, and there is no principled basis for treating them as though they are.

5. LEAVE AT BASE RATE ONLY

- 5.1. The Bill proposes that all leave be paid at a worker's base hourly rate, excluding overtime, commission, bonuses, and variable allowances. The MBIE explainer acknowledges openly that this will mean a reduction for workers who regularly earn above their base rate. The Ministry's own illustrative scenario – a sales consultant who receives commission – describes the result as “a slight reduction in leave pay, due to variable pay not being reflected in leave pay.”⁶
- 5.2. This change has serious implications for staff throughout the tertiary education sector, particularly professional and administrative staff who regularly work overtime. They will find their leave pay no longer reflects what they actually earn.
- 5.3. More fundamentally, this change establishes a damaging principle: that employer convenience in payroll calculation is a legitimate reason to reduce what workers receive when they take leave they have earned. That principle, once established, will not remain confined to the workers it affects today.
- 5.4. The workers most underutilised and likely to depend on overtime and additional duties to make ends meet are in lower-paid roles. In the broader labour market, those roles are disproportionately held by Māori and Pasifika workers.⁷⁸ Compared to underutilisation figures as a whole,⁹ these figures reflect a concentration of Māori and Pasifika workers in lower-wage, variable hours employment where any reduction in leave pay compounds existing economic disadvantage.

6. CASUAL WORKERS AND THE LEAVE COMPENSATION PAYMENT

- 6.1. The Bill replaces the 8% 'holiday loading' with a 12.5% 'leave compensation payment.' However, the Leave Compensation Payment framework contains a

⁶ See <https://www.mbie.govt.nz/dmsdocument/31197-explainer-whats-changing-with-employment-leave>, p.11, accessed 8 April 2026.

⁷ See <https://www.mbie.govt.nz/dmsdocument/31747-maori-labour-market-statistics-snapshot-december-2025>, accessed 8 April 2026.

⁸ See <https://www.mbie.govt.nz/dmsdocument/31748-pacific-peoples-labour-market-statistics-snapshot-december-2025>, accessed 8 April 2026.

⁹ See <https://www.mbie.govt.nz/dmsdocument/31746-labour-market-statistics-snapshot-december-2025>, accessed 8 April 2026.

structural flaw that no rate increase can fix: the compensation is paid during work, not when it is needed.

- 6.2. A casual tutor who works intensively across a ten-week semester would receive their 12.5% loading as part of each pay packet during that period. When the semester ends, the engagement ends, and the loading stops. If that worker falls ill three months later – during, for example, a semester break – there is no leave pay to draw on. The Leave Compensation Payment has already been paid and, for workers managing living expenses on a modest casual income, long since spent. The protection does not function as sick leave, regardless of what it is called.
- 6.3. This is not a problem that financial discipline on the part of workers can solve. The Leave Compensation Payment arrives as ordinary wages. Asking casual workers – who are by definition in insecure, variable employment – to set aside a portion of each pay packet against the possibility of future illness is to ask them to privately self-assure against a risk that formal employment entitlements exist precisely to cover collectively. It is not acceptable to expect a permanent employee to save a portion of their wages instead of receiving sick leave. There is no principled reason the same logic should apply differently to casual workers.

7. LEAVE ACCRUAL DURING ACC

- 7.1. The Bill removes the current entitlement to annual leave accrual during periods of accident compensation. A worker injured at work and on ACC for an extended period will return to find their leave balance has not grown during their absence. This is a blatant reduction in entitlement for workers injured through the circumstances of their employment.
- 7.2. The logic of this removal cannot be defended. ACC exists precisely to protect workers from the financial consequences of workplace injury. Removing leave accrual during ACC shifts part of the cost of that injury from the compensation system onto the injured worker's own leave balance.
- 7.3. In the tertiary education context, the workers most exposed to occupational injury risk are laboratory, workshop, and trades staff at polytechnics. Under the Bill's proposals, a polytechnic trades instructor or laboratory technician injured on the job will recover under ACC only to return to work with a depleted leave entitlement.

8. THE OTHERWISE WORKING DAY TEST AND ALTERNATIVE LEAVE

- 8.1. The new Otherwise Working Day test introduces some clarity, but the framework it sits within will strip workers of public holiday and alternative leave entitlements in ways that are neither obvious nor justified. A worker whose employment agreement specifies only certain contracted days will miss out on public holidays falling on any other day, regardless of how often they actually work those days.
- 8.2. The Bill thus creates a direct tension between job security and public holiday entitlements. Furthermore, it creates an incentive for employers to structure agreements narrowly precisely in order to minimise their public holiday obligations.
- 8.3. The shift from whole-day alternative holidays to hour-for-hour accrual reflects a fundamental misunderstanding of what alternative holidays are for and a cut to worker's rights. Public holidays are days of national, religious, or cultural significance. The disruption a worker suffers when required to work on such a day is not measured in hours. Whether someone works a short shift or a full one, they may be unable to travel, unable to participate in special occasions, or unable to share the day with family or community. It is the disruption to their life that alternative holidays compensate, not the hours clocked.

9. POORLY CONCEIVED LEGISLATION

- 9.1. The Bill bears the hallmarks of legislation released before it was ready: typographical errors, repeated paragraphs, and incorrect cross-references throughout. These are symptoms of a process that has been fundamentally rushed.
- 9.2. Reform of the Holidays Act has been in train since 2018, producing a tripartite report with genuine consensus across business, government, and unions. The current Government abandoned that groundwork from December 2024, pressing ahead without sufficient consultation or options analysis (as noted in the Regulatory Impact Statement). As a result, the Bill is not simpler or clearer than that Act it replaces. It is fifty pages longer, poorly organised, and inconsistent. Employers will struggle to implement it, workers will have no reliable means of verifying their entitlements, and litigation risk will multiply, not diminish.
- 9.3. What makes this especially hard to accept is that the problem the Bill purports to solve has largely already been addressed. Compliance features under the Holidays Act became widely known over twelve years ago. Since then, many employers have remediated affected workers, payroll providers have built compliance systems, and some employers have worked with unions to resolve ambiguities through collective agreements. These employers and providers did

the right thing. They are now being asked to absorb the considerable cost of implementing an entirely new framework, while their workers simultaneously lose entitlements. This is not simplification; it is unnecessary disruption imposed on those least able to bear it.

10. THE BILL INCENTIVISES PRECARIOUS WORK

10.1. The Bill introduces, for the first time in Aotearoa New Zealand employment statute, a definition of casual employment – framing it in section 8 as an arrangement where the employer is not required to offer work and the employee is not required to accept it. The full implications of codifying this definition are unclear, but one consequence is potentially significant: the Bill explicitly contemplates casual workers appearing on a roster. Under common law, appearing on a roster has traditionally weighed in favour of a worker being classified as permanent rather than casual. By incorporating rostered arrangements into the casual framework, the Bill will arguably shift the legal test for casual employment in ways that benefit employers at workers' expense.

10.2. More broadly, the Bill creates structural incentives for employers to casualise their workforces. Despite its stated aims of simplicity, the Bill is complex legislation with no case law behind it. For an employer seeking to minimise compliance risk and litigation exposure, the path of least resistance is to engage workers casually and pay the Leave Compensation Payment. This approach carries additional commercial advantages: workers with no accumulating leave balance are available to work for more weeks of the year, and paying the Leave Compensation Payment weekly prevents leave liabilities from building up on the employer's books. The Bill, intended to protect workers, inadvertently makes casualisation the rational business choice.

10.3. Compounding this, the Bill removes a safeguard that currently deters casual misclassification. Under the Holidays Act, an employer who incorrectly pays the 8% casual loading to a worker who should be permanent faces a significant liability in that they must also provide that worker with full annual leave entitlements, potentially backdated across several years. That risk has motivated employers to ensure their casual classifications are correct. The Bill eliminates this consequence. As such, employers who misclassify permanent workers as casual face no meaningful penalty for doing so. The incentive to get it right is gone.

11. TRANSITIONAL PROVISIONS

- 11.1. The transitional provisions for converting existing leave balances from weeks and days into hours are complex and poorly drafted. The current Holidays Act was designed so that required calculations could, if necessary, be performed with pen and paper. That is no longer a realistic prospect under this Bill. Small business owners who are less technologically sophisticated will struggle to comply without professional assistance, at their own cost. Many workers will be unable to follow the calculations or be assured that their balances have been converted correctly. The risk of widespread non-compliance, remediation costs, and litigation is real and foreseeable. These factors are a direct result of drafting legislation that did not prioritise the people who must actually use it.
- 11.2. Even where leave balances are converted correctly, two further problems emerge. First, workers will broadly understand that on the commencement date their leave balances are changing, and that the value of that leave, the amount they will actually be paid when they take it, will in many cases be significantly reduced. The predictable consequence is a run on leave: workers scrambling to use their balances before they lose value. The economic effects of this are difficult to predict but potentially significant: a spike in simultaneous leave requests, workplace disharmony as employers and staff compete over limited availability, and increased litigation from workers whose requests are declined. Second, for large employers carrying employee leave liabilities of millions of dollars on their balance sheets, the inability to accurately calculate the new value of those liabilities before commencement creates serious reporting problems, including audit validity and the ability to service debt.
- 11.3. We also oppose the egregious Part 2, Section 6 Transitional Measures that, if employment agreements do not specify leave entitlements in the 'manner' of the Bill, then the statutory minimum shall apply. This is comparable to legislating that if an employment agreement specified an annual salary, as opposed to an hourly wage rate, then an employee would only be paid the minimum wage. The measures contradict the longstanding principle of employment legislation setting a floor that parties can agree to improve upon, and unnecessarily creates further administrative burden for all parties to the employment relationship.
- 11.4. One further transitional injustice deserves specific mention. Casual workers who have accumulated a sick leave balance under the current Act will have that balance zeroed on commencement. No clear rationale is provided for this. A defined group of workers – among the most vulnerable in the labour market – will simply have their existing paid leave entitlement removed. If the justification is simplicity, it is an extraordinarily poor trade: taking earned entitlements from

casual workers to tidy up a balance sheet. This is yet another wholly unacceptable aspect of the Bill.

12. REMEDIATION

12.1. The alternative remediation process for outstanding holiday pay owed to workers cannot be properly assessed because the detail will sit in regulations that have not yet been written. What can be assessed is the framework those regulations are proposed to operate within. The proposed process will process without requiring the worker's consent, will extinguish some workers' ability to claim what they are owed, and will permanently suspend claims already before the Employment Relations Authority. These are not minor procedural matters. They represent a framework in which workers who have been underpaid may have their ability to seek redress removed without their agreement and without any guarantee of adequate replacement.

12.2. This combination of effects raises serious concerns about the right to justice under the New Zealand Bill of Rights Act. The Ministry of Justice's report to the Attorney-General states explicitly that the remediation process could limit section 27(1) of the Bill of Rights Act unless the prescribed process also allows for the observance of the principles of natural justice. No such process has been confirmed. Workers are being asked to accept that regulations not yet written will protect rights that the framework as currently designed places at risk. Given the recent experience of pay equity claims being extinguished by executive action, that acceptance is not warranted. We are concerned that a significant number of Aotearoa New Zealand workers will have their right to justice severely limited.

13. CONCLUSION

13.1. The Employment Leave Bill is not fit for purpose. It is longer and more complex than the Act it replaces, rushed through without adequate consultation, and riddled with drafting problems that will generate confusion, non-compliance, and litigation.

13.2. More fundamentally, it intentionally reduces the real entitlements of workers who were already among the least protected in the labour market – cutting sick leave for part-time workers, stripping variable pay from leave calculations, removing leave accrual for injured workers, and offering casual workers a compensation payment that provides no meaningful protection when they actually need it.

- 13.3. These are not simplifications. They are cuts, each of which fall disproportionately on women, Māori, and Pasifika workers.
- 13.4. For the tertiary education workforce, the harm is acute and compounding. Ours is a sector built on structural precarity, in which Māori and Pasifika academics are concentrated in the most insecure roles, and in which casual workers deliver core teaching while being denied the protections permanent employees take for granted. This Bill only deepens such precarity.
- 13.5. Simplification was achievable without taking entitlements from working people. As drafted, the Bill will leave Aotearoa New Zealand's most vulnerable workers materially worse off and set damaging precedents for the future.
- 13.6. For the reasons outlined in this submission, TEU strongly argues that the Bill be withdrawn.