

SUBMISSION ON Employment Leave Bill

13 April 2026

To: Education and Workforce Committee

Name of Submitter: Horticulture New Zealand

Supported by: Citrus NZ, Tomatoes NZ, Summerfruit NZ

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OVERVIEW

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Our submission

Horticulture New Zealand (HortNZ) thanks the Education and Workforce Committee for the opportunity to submit on the Employment Leave Bill and welcomes any opportunity to continue to work with the Committee to discuss our submission.

HortNZ wishes to be heard in support of our submission.

The details of HortNZ's submission and decisions we are seeking are set out in our submission below.

HortNZ's Role

Background to HortNZ

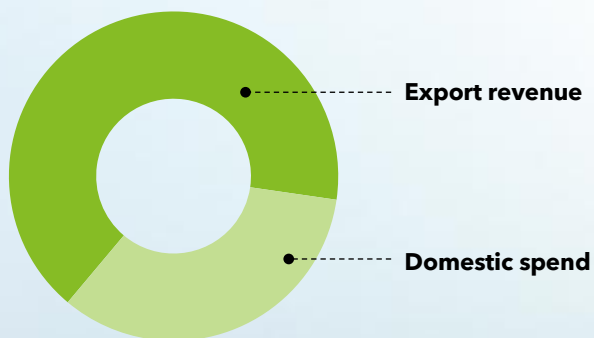
HortNZ represents the interests of approximately 4,300 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

There are approximately 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain, and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



Industry value \$7.54bn
Farmgate value \$4.89bn
Export revenue \$4.99bn
Domestic spend \$2.55bn

Source: HortNZ Annual Report 2025

Executive Summary

HortNZ supports the intent of the Employment Leave Bill to simplify and modernise New Zealand's leave system. The current framework is widely recognised as complex, difficult to interpret, and challenging to apply in practice, particularly for employers with variable and seasonal workforces.

HortNZ **supports** a number of key proposals within the Bill, including clearer definitions of working hours and the move to hourly accrual of annual and sick leave from day one. These changes better reflect modern working arrangements and will contribute to a clearer and more consistent leave system.

However, HortNZ is concerned that the Bill does not adequately distinguish between the realities of permanent employment and the realities of genuine casual work. Many of the proposed leave settings are built around assumptions of ongoing, predictable employment patterns, which do not reflect the way casual labour operates in horticulture. Seasonal workers are often engaged intermittently, for short durations, and without guaranteed hours, making it difficult to apply standard leave rules in a way that is practical or proportionate. HortNZ considers that a separate framework is needed for casual employment so that leave entitlements better reflect the nature of these work arrangements while remaining clear and workable for both employers and employees.

HortNZ **does not support** the proposed Leave Compensation Payment (LCP) for casual workers. The increase from 8% to 12.5% represents a **significant** cost increase for the horticulture sector, which relies heavily on casual labour. The proposal also does not adequately reflect the operational realities of the sector, including the widespread use of piece rate payment systems. Applying an hourly-based LCP to productivity-based earnings introduces unnecessary complexity, increases compliance costs and creates uncertainty in labour cost forecasting.

HortNZ further considers that the application of the Otherwise Working Day (OWD) test does not operate well in seasonal contexts, where limited work history can lead to outcomes that do not reflect actual work patterns. A more tailored and proportionate approach is needed for short-term and seasonal employment arrangements.

During the proposed two-year transition period, HortNZ considers that clear guidance, standardised templates, and targeted education from MBIE will be critical to support consistent implementation and reduce compliance costs, particularly for small businesses.

Overall, while HortNZ supports the direction of reform, further refinement is required to ensure the final framework is practical, proportionate, and workable for industries with highly seasonal and variable workforces.

Submission

The Bill adopts a broad, one-size-fits-all framework that attempts to apply the same leave settings across all employment arrangements, despite the fact that different types of work relationships operate in fundamentally different ways. Casual employment in particular is distinct from permanent or fixed-hour arrangements because it is characterised by irregular, non-guaranteed work, no ongoing expectation of hours, and short-term engagements that often last only days or weeks. Applying the same entitlement structure designed for regular employment to casual workers creates practical difficulties and unintended outcomes, particularly where leave accrual, bereavement leave, public holiday eligibility, and otherwise working day tests are based on assumptions of continuity and predictable work patterns. These assumptions do not reflect the reality of genuine casual work. HortNZ considers that casual contracts require a separate and tailored approach within the Bill.

Further, HortNZ is concerned that the government's assessment of the economic impact of the proposed LCP and payroll changes is not supported by a robust evidential base. The Regulatory Impact Statement¹ (RIS) itself acknowledges significant data limitations, including a lack of reliable New Zealand data on leave entitlements and usage, and confirms that comprehensive payroll testing has not been undertaken due to time constraints. Despite this, the proposals proceed on the basis that impacts to payroll systems are medium impact and that there are small increased ongoing costs for some employers in relation to the LCP. This is particularly problematic given that consultation appears to have included only a single large payroll provider, alongside limited engagement with employer representatives, and no public consultation on the full set of final proposals. In our view, this falls short of what would be expected for a reform of this scale and complexity, particularly where system-wide payroll and compliance changes are required.

Table one: Government analysis of ongoing costs for payroll and LCP from the Regulatory Impact Statement

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated group – Employers	Implementation costs for most employers to upgrade to a new payroll system and amend employment agreements and businesses processes. Increased ongoing costs for some employers due to LCP payments ³³ , the removal of the parental leave payment override, and additional compliance (e.g., pay statements).	Implementation – Medium Ongoing – Low Similar ongoing costs to the status quo for many employers. Small increased ongoing costs for some employers.	Low

¹ <https://www.mbie.govt.nz/dmsdocument/31278-regulatory-impact-statement-holidays-act-reform-proactiverelease-pdf>

The absence of detailed testing and representative consultation materially undermines confidence in the government’s conclusion that the economic impacts are low. Evidence provided to HortNZ indicates that the increase in leave compensation from 8% to 12.5% will result in significant additional labour costs for the horticulture sector, alongside upfront system changes and ongoing administrative burdens. These impacts are neither marginal nor speculative, and contrast with the uncertainty acknowledged in the RIS. Proceeding without robust modelling or sector specific testing creates a real risk that costs have been underestimated and that unintended consequences for employers, particularly those reliant on casual labour, have not been fully considered.

1. HortNZ Position on Bill

HortNZ has set out a summary of our position on key aspects of the Bill.

Table two: HortNZ position on proposed Bill

Issue	Proposed Bill Change	HortNZ Position	Change Sought
Casual worker framework	Bill applies same leave framework across all employment types	Not supported	Create a separate leave framework for casual workers that reflects irregular and short-term work patterns.
LCP	Increase casual leave payment from 8% to 12.5%	Not supported	Keep 8% leave payment and allow casual workers to accrue sick leave from day one
LCP piece rate calculation	Hourly-based calculation applies across all casual earnings	Not supported	Retain Holiday Act 8% leave entitlement calculation of gross earnings
Otherwise Working Day (OWD) test and public holiday entitlement	50% of days worked over 13-week period (or when employment started if earlier)	Not supported	Pay a 4% public holiday entitlement for casual workers
Bereavement Leave	Entitlement to bereavement leave from day one	Concerned	Review disproportionate impact that immediate entitlement may have in relation to casual workers.
Leave entitlement	Moves to an hour based accrue system from first day of employment	Supported	
Definition of casual hours	Casual hours defined in Bill	Supported	

2. Leave Compensation Payment

HortNZ **does not support** the proposed change to the LCP for casual workers. While the policy aims to simplify the system by combining annual and sick leave entitlements into a single payment, in practice it imposes a significant additional cost on employers without recognising the realities of highly seasonal industries. The proposed LCP applies uniformly to all eligible workers, regardless of whether they ever need or use sick leave, meaning it is not linked to actual instances of illness or genuine leave need. As a result, what is intended to compensate for leave entitlements operates more like a general wage increase than a targeted leave-related payment. Casual workers receive payment irrespective of illness, unlike permanent workers whose sick leave remains a needs-based entitlement linked to actual use. HortNZ is concerned that this disconnects the payment from its core purpose as a leave entitlement and instead creates a blanket uplift in wages that is unrelated to whether leave is actually required.

Table three: Monetary difference: LCP vs sick leave

Payment	
LCP (proposed increase)	4.5% LCP on a 40-hour week = \$43.11/week.
Sick leave	Accrued sick leave for a 40-hour week = 1.54 hours/week. At minimum wage, that is \$36.88 a week. 0.0385 x 40 hours = 1.54

These impacts are further compounded in horticulture where piece rate arrangements are commonly used. It is technically possible to apply the LCP to piece rate workers, but in practice it is not workable. Piece rates are a form of payment where workers are paid based on the amount of work completed (such as per bin, tray, or kilogram harvested) rather than the hours worked. Requiring employers to convert these productivity-based earnings into an hourly rate adds unnecessary complexity. Employers would need to calculate an average hourly rate, compare it to the minimum wage, and then apply the 12.5% payment to each hour worked.

This represents a fundamental shift in how piece rate systems are administered and would require substantial changes to payroll systems and processes.

2.1.1. FINANCIAL IMPLICATIONS

Data from IRD indicates there were approximately 6,900 casual workers in the horticulture industry in the 2024/25 year (excluding RSE workers)².

HortNZ commissioned the Agribusiness Group to undertake detailed economic modelling, using IRD data, to assess the likely financial impacts of the proposed changes. This provides a robust, sector-specific evidence base and shows that the impacts on

² IRD is unable to reliably distinguish between part-time and casual workers beyond tax code classifications, meaning the true scale of casual employment in the sector is difficult to quantify.

employers are **significant and the impact materially higher than suggested in the Cabinet paper.**

Table four: Weekly wage of a casual worker under the current and the proposed LCP (\$)³

Scenario	Current	Proposed	Weekly difference
Minimum wage and 40 hours per week.	1,015.20	1,057.50	42.30

When applied in practice, the proposed changes result in significant and unavoidable cost increases for both small and large operators.

Example one:

A grower with a relatively small core workforce that brings on an additional 20 casual workers over a six-week peak period would face an increased labour cost of around \$5,076.

Example two:

A large postharvest provider with 600 casual workers over the same period will see their wage bill increase by \$152,280

At an industry wide level, the cumulative impact of the proposed changes is substantial. The modelling highlights a significant increase in total labour costs across the sector, reinforcing concerns that the scale of impact has been underestimated

Table five: Annual cost over a 10-week period of the proposed change of the LCP for the horticultural industry (\$ million)

Scenario	Current	Proposed	Difference
Minimum wage and 40 hours per week across a 10-week period	70.05	72.97	2.92

The resulting increase in labour costs cannot be characterised as ‘similar ongoing costs to the status quo for many employers’ or ‘small increased ongoing costs for some employers,’ as suggested in the RIS. This statement appears to reflect the limited consultation with industries that rely heavily on casual labour, as well as the absence of robust economic modelling to properly assess the cost-benefit implications of the proposed changes.

Businesses cannot absorb ongoing increases in wage costs of this scale without consequence. Labour is one of the largest costs in horticulture, and sustained increases place immediate pressure on already tight margins. In practice, this will require businesses to make trade-offs. This may include reducing the number of workers employed, scaling back production, delaying or cancelling investment and/or exiting not

³ Note the economic modelling was assumed prior to 1 April 2026 and therefore the previous minimum wage rate has been used

only less profitable crops but also the business. The impact is not theoretical - these are real decisions that businesses will be forced to make in response to this proposed change.

2.1.2. RISING COSTS

The reality is growers are already operating in an environment of steadily increasing costs, many of which are outside their control. The ongoing conflict in Iran is contributing to higher global fuel prices, which flow directly through to increased costs for transport, machinery and day-to-day operations. While fertiliser supply in New Zealand remains relatively stable in the short term, there is growing uncertainty about both availability and pricing beyond the current season, creating further risk for growers planning ahead.

At the same time, the default KiwiSaver employer contribution rate has increased to 3.5% from 1 April 2026, adding to baseline labour costs across the entire workforce.

Taken together, these pressures leave little capacity for growers to absorb further cost increases.

3. Otherwise Working Day

HortNZ **does not support** applying the Otherwise Working Day (OWD) test for short-term, seasonal casual employment, where the standard 50% test does not operate well in practice. The Bill adopts a broad framework that seeks to apply the same OWD test across all types of employment arrangements, despite the fact that work patterns differ significantly between permanent, fixed-hour, and casual or seasonal roles. Many roles in horticulture are for defined, short periods and do not generate enough work history to support a reliable percentage-based assessment. Applying the same test designed for more regular employment relationships to short-term and seasonal work can lead to outcomes that are driven by timing rather than a genuine pattern of work

HortNZ is concerned that the 50% test can produce outcomes that do not reflect how work occurs in seasonal industries. While the test does require some work history, it can be satisfied based on a very small number of instances, meaning it relies heavily on a percentage rather than a clearly established and reliable pattern of work. For example, a worker may have only had two opportunities to work a Monday and worked one of those, meeting the 50% threshold, even though this does not represent a genuine or predictable pattern of work. This illustrates the difficulty of applying a single standardised test across fundamentally different employment models, where the assumptions underpinning regular employment do not translate well to genuinely irregular and short-duration work.

Otherwise Working Day test in the cherry industry

The cherry harvest is short and compressed (typically 6-8 weeks from late December to early February) and coincides with a high concentration of public holidays. For example, a 56-day cherry season may include five public holidays (approximately 8.9% of the period), compared to around 3% in a typical year. In late seasons, these may include:

- Christmas Day
- Boxing Day
- New Year's Day
- The Day after New Year's Day
- Waitangi Day

Under the proposed OWD test, workers can quickly qualify for paid public holidays based on a short period of regular work, even where employment is clearly temporary. For example:

- A worker starts on Monday 16 December and works Monday to Saturday
- By 25 and 26 December, they have worked 100% of those weekdays since starting
- Both days are therefore treated as OWD
- The employer must pay for both public holidays, even if the worker does not return after that period.

Growers report this is already occurring in practice, with some workers leaving immediately after public holidays while still receiving payment. A large postharvest operator employing 600 casual staff recorded 43 resignations between 2-5 January (approximately 7% of the workforce), suggesting that the timing of public holidays may be influencing worker behaviour, at a significant cost to the business.

This demonstrates that the OWD test, while simple in principle, can produce disproportionate outcomes in short-term seasonal contexts.

HortNZ recommends that a flat percentage payment in lieu of public holiday entitlements for casual workers, for example 4%⁴(this reflects the approximate annual value of public holidays spread proportionately across a standard working year.), would provide a more practical and proportionate alternative to the OWD test. Casual employment is irregular, short-term, and lacks guaranteed work patterns, making a pattern-based test inherently ill-suited to this type of arrangement. A percentage-based payment would remove the need for complex assessments of work history, reduce compliance burden, and provide greater certainty for both employers and employees. It would also reduce the current incentive for some workers to leave employment immediately after receiving payment for public holidays, which creates disruption and added cost for employers during peak harvest periods.

HortNZ does not consider this inconsistent with its concerns regarding the LCP for sick leave, as public holiday entitlements differ fundamentally from sick leave. Public holidays are fixed, predictable, and universal, making them suitable for proportionate percentage-based compensation in casual work arrangements. Sick leave, by contrast, is contingent on genuine personal need and should remain linked to actual illness rather than paid indiscriminately as a blanket uplift.

4. Leave Entitlement

4.1. Working Hours

HortNZ **supports** the introduction of clearer definitions of working hours, including the distinction between standard, additional, and casual hours, as this will improve clarity and consistency across the system. In particular, HortNZ supports the definition of casual hours, which appropriately recognises genuinely irregular and non-guaranteed work arrangements. This reflects how a significant part of the horticulture workforce operates, especially during peak seasonal periods where labour demand can change quickly. Having a clear and workable definition of casual hours will provide greater certainty for

⁴ 11 public holidays per year: 11 / 260 working days = 4.2%

both employers and employees, while still allowing the flexibility needed in a highly seasonal industry.

4.2. Annual and Sick Leave Entitlements

HortNZ **supports** the proposed approach to annual and sick leave accrual, including the move to set hourly accrual rates from the first day of employment. Accruing annual leave at a minimum rate of 0.0769 hours per standard hour worked, and sick leave at 0.0385 hours per standard hour worked (up to a cap of 160 hours), provides a clear and consistent framework that aligns leave entitlements more closely with actual hours worked. This is a practical improvement on the current system and is better suited to modern working arrangements.

HortNZ also supports the clarity provided around when leave accrues and how it is recorded and taken. In particular, the use of hours-based balances and the ability to take leave in hours reflects how work is undertaken in practice, including for employees with variable or non-standard hours. Overall, these changes represent a more transparent and workable system for both employers and employees.

5. Notional Rosters

HortNZ understands the intent of introducing notional rosters is to provide a clearer way of working out leave entitlements where hours are not clearly set. In simple terms, a notional roster is a made-up or agreed work pattern used to determine things like leave.

The provisions apply where an employment agreement provides for standard hours, but those hours cannot be clearly determined. In the horticulture context, this creates uncertainty, as many workers do not have genuine standard hours, or their hours vary significantly week to week. A large proportion of the workforce is also engaged on a casual basis, where no standard hours are provided and leave compensation applies. In these cases, notional rosters are unlikely to be relevant, but there is a risk the provisions may still capture workers whose hours are variable in practice but not clearly defined in agreements.

HortNZ is also concerned about the role of the Labour Inspectorate in determining notional rosters where agreement cannot be reached. While we understand the need for a backstop, there is a risk that decisions based on a limited period of past work may not reflect seasonal fluctuations or the true nature of the employment relationship.

HortNZ therefore considers that further refinement is needed to ensure any approach is flexible, reflects genuinely variable work patterns, and does not introduce unnecessary complexity or regulatory intervention.

6. Transition

HortNZ notes the proposed two-year transition period to the new leave system but considers that this will still impose a significant compliance burden on employers. Transitioning to the new framework will require updates to employment agreements, many of which will need to be reviewed or redrafted with legal input to ensure they align with the new legislative requirements. This creates additional cost and administrative pressure, particularly for small and medium-sized growers. Further clarity is needed on what practical support will be available during this period. It is important to understand whether MBIE will provide updated employment agreement templates, guidance

materials, and targeted education to support employers through the transition and reduce reliance on costly legal advice.

7. Other provisions

7.1. ACC and leave accrual

HortNZ **supports** that leave should not accrue if a worker is receiving ACC compensation payments. If an employee is off work and receiving ACC payments, they are not actively working, therefore annual leave should not accrue during that period.

7.2. Bereavement Leave

HortNZ is concerned that bereavement leave from day one may create disproportionate outcomes for short-term casual workers, particularly where employment lasts only days or weeks. In such cases, significant paid leave entitlements can arise before any meaningful employment relationship is established.

7.3. Record keeping

HortNZ **supports** improvements to record keeping requirements where they enhance clarity and consistency for both employers and employees. Clear and standardised record keeping can reduce disputes and improve transparency. However, it is important that any new requirements remain practical and proportionate, particularly for small and medium-sized businesses, and do not introduce unnecessary administrative burden.

7.4. Enforcement

HortNZ **supports** appropriate enforcement of employment standards to ensure a level playing field across industries. Effective enforcement is critical to maintaining confidence in the system and ensuring that compliant businesses are not disadvantaged. However, enforcement should be supported by clear guidance and education to help employers understand and meet their obligations, particularly where new requirements are introduced.

8. Conclusion

HortNZ supports the overall intent of the Bill to simplify and modernise New Zealand's leave system. A clearer, more consistent, hours-based framework has the potential to improve understanding and reduce complexity for both employers and employees.

However, as it stands, the Bill contains some fundamental issues that will have significant impacts on the horticulture sector. A number of the settings do not reflect how work actually occurs in seasonal industries, and in practice will create outcomes that are difficult to apply and increase costs and complexity for employers.

There is a real risk that, without changes, the Bill will add pressure to businesses that are already operating in a challenging cost environment, rather than delivering the intended simplification.

HortNZ encourages the Committee to revisit these issues to ensure the final Bill is practical, proportionate, and workable for seasonal industries. Clear guidance and support will be important, but it is critical that the core settings are right.