



COVERSHEET

Minister	Hon Michael Wood	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	Holidays (Increasing Sick Leave) Amendment Bill: Approval for Introduction	Date to be published	21 January 2021

List of documents that have been proactively released

Date	Title	Author
27 November 2020	Cabinet paper: Holidays (Increasing Sick Leave) Amendment Bill: Approval for Introduction	Office of the Minister for Workplace Relations and Safety
30 November 2020	Cabinet minute: CAB-20-MIN-0492	Cabinet Office

Information redacted

NO

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In Confidence

Minister for Workplace Relations and Safety

Chair, Cabinet

Holidays (Increasing Sick Leave) Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for the introduction of the Holidays (Increasing Sick Leave) Amendment Bill.

Cabinet agreed to increase the minimum employee sick leave entitlement

- 2 On 16 November 2020, Cabinet agreed that the minimum employee sick leave entitlement be increased from five days to ten days per year [CAB-20-MIN-0474 refers].
- 3 Cabinet also confirmed several decisions on matters of detail to enable legislation to be drafted [CAB-20-MIN-0474 refers], including:
 - 3.1 that current employees would first become entitled to the enhanced (ten days) sick leave entitlement in the year that begins on their next entitlement date; and
 - 3.2 that the Bill should come into force two months after Royal assent.
- 4 The Government has stated that legislation giving effect to this policy will be introduced before the end of 2020, followed by a full Select Committee process. The Select Committee will provide an opportunity to build consensus and work through some of the more nuanced issues around the implementation of the policy.

Issue requiring further confirmation

- 5 Cabinet indicated that, when the minimum sick leave entitlement increases to ten days per year, the maximum current entitlement to sick leave should remain at 20 days. This would be in line with the current Holidays Act 2003 (the Act).
- 6 To achieve this outcome, a consequential change is required to the provision concerning the 'carry over' of unused sick leave entitlement. Currently, the Act states that up to 15 days of entitlement may be carried over into a new entitlement year (equivalent to three years' worth of the current minimum entitlement). This provision cannot be retained in its current form because if this amount were carried over, and added to the 'new' sick leave that the

employee will become entitled to (ten days), the resulting entitlement would exceed the 20 day 'maximum current entitlement' that Cabinet has agreed to.

- 7 I seek Cabinet's confirmation that the Bill should provide that employees can carry over up to ten days of unused sick leave entitlement (a reduction from the 15 days stated in the current Act), up to a maximum current sick leave entitlement of 20 days.
- 8 This change does not reduce the overall entitlement to sick leave days in the current entitlement year that employees can retain. It is also important to note that these are statutory minimum standards and do not prevent parties from agreeing to more favourable terms for the 'maximum carry-over' or 'maximum current entitlement' of sick leave.

Impact analysis

- 9 A Regulatory Impact Statement was submitted to inform Cabinet's consideration of the policy decisions reflected in the attached Bill [CAB-20-MIN-0474 refers]. MBIE's Regulatory Impact Analysis Review Panel considered that the impact statement partially met the criteria necessary for Ministers to make informed decisions on the proposals. This rating reflected the fact that less consultation occurred than would have been the case if more time was available, and a limited range of options were considered.
- 10 The upcoming Select Committee process will allow for more stakeholder consultation, and for further consideration of different implementation options.

Compliance

- 11 The Bill complies with each of the following:
 - 11.1 the principles of the Treaty of Waitangi;
 - 11.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 11.3 the disclosure statement requirements. A disclosure statement has been prepared and is attached to this paper;
 - 11.4 the principles and guidelines set out in the Privacy Act 1993 and the Privacy Act 2020 (the latter comes into force on 1 December 2020);
 - 11.5 relevant international standards and obligations;
 - 11.6 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

- 12 Prior to the relevant policy decisions being taken by Cabinet, the Treasury and the Department of Prime Minister and Cabinet were informed about the proposal implemented by this Bill. Informal feedback was provided by

Business NZ, the NZ Council of Trade Unions, and public sector payroll experts involved with the All-of-Government Payroll Programme.

Binding on the Crown

- 13 The Holidays Act 2003 binds the Crown and the attached Bill does not propose to change this.

Creating new agencies or amending law relating to existing agencies

- 14 The Bill will not create any new agencies or alter the function of existing agencies.

Allocation of decision making powers

- 15 The Bill does not involve the allocation of decision making powers between the executive, the courts, and tribunals.

Associated regulations

- 16 No regulations will be needed to bring the Bill into operation.

Other instruments

- 17 The proposed Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

- 18 The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

Commencement of legislation

- 19 As drafted, the Bill states that the relevant amendments will come into force two months after the date of Royal assent.
- 20 The Select Committee process will provide an opportunity to seek feedback on whether two months is an adequate amount of lead-in time. In informal consultation to date, Government payroll experts have stressed that even a relatively simple change (such as increasing the minimum sick leave entitlement) will take time and planning to ensure correct implementation in payroll systems.

Parliamentary stages

- 21 The Government has indicated that the Bill will be introduced before the end of 2020. This means that introduction will need to happen in the week beginning on 30 November 2020.

- 22 The Bill will then be passed through its first reading during December and referred to a Select Committee for a period of four months.

Proactive Release

- 23 I intend to proactively release this Cabinet paper on MBIE's website, subject to any appropriate withholding of information that would be justified under the Official Information Act 1982.

Recommendations

The Minister for Workplace Relations and Safety recommends that Cabinet:

- 1 **Note** that the Government has committed to introduce a Bill to increase the minimum employee sick leave entitlement before the end of 2020, to be followed by a full Select Committee process;
- 2 **Note** that the Holidays (Increasing Sick Leave) Amendment Bill will increase the minimum sick leave entitlement from five days to ten days per year for eligible employees in line with Cabinet's decision [CAB-20-MIN-0474 refers];
- 3 **Confirm** that the maximum current sick leave entitlement be set at 20 days (as per the current legislation), with a consequential reduction in the maximum amount of unused sick leave entitlement that can be carried over into a new entitlement year (this reduces to ten days, rather than the 15 days in the current legislation);
- 4 **Approve** the Holidays (Increasing Sick Leave) Amendment Bill for introduction;
- 5 **Agree** that the Bill be introduced in the week beginning on 30 November 2020;
- 6 **Agree** that the Government propose that the Bill be:
 - 6.1 referred to the Education and Workforce committee for consideration;
 - 6.2 enacted by April 2021.

Authorised for lodgement

Hon Michael Wood
Minister for Workplace Relations and Safety