



EMPLOYMENT LAW UPDATE

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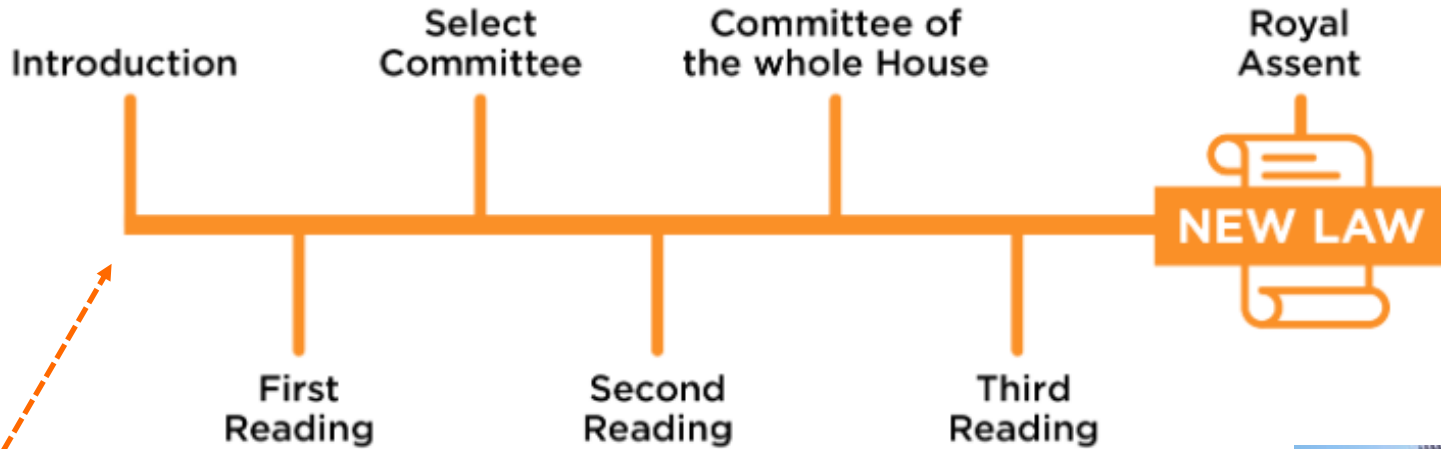


Overview

- Employment Law Update
- Risks of Non-compliance
- Resources available



The Legislative process



Government Bills
Members Bills
Local Bills
Private Bills



Employment Law Update – Enacted

- Equal Pay Amendment Act
- Crimes (Theft by Employer) Amendment Act
- Taxation (Annual Rates for 2023-24, Multinational Tax, and Remedial Matters) Act
- Employment Relations (Pay Deductions for Partial Strikes) Amendment Act
- Regulatory Systems (Immigration and Workforce) Amendment Act
- Education and Training Amendment Act



Employment Law Update – Legislative Process

- Employment Relations Amendment Bill
- Regulatory Systems (Courts) Amendment Bill
- Human Rights (Prohibition of Discrimination on Grounds of Gender Identity or Expression, and Variations of Sex Characteristics) Amendment Bill
- Employment Relations (Employee Remuneration Disclosure) Amendment Bill
- Employment Relations (Termination of Employment by Agreement) Amendment Bill



Employment Law Update – Policy stage

Holidays Act Reform

- Change in direction of the initial reform – shift from the Taskforce recommendations of October 2019
- Focus on simplification and reduced compliance costs
- Hours based accrual for annual leave
- Consideration of pro-rata sick leave

“I hope to make an announcement in the coming months”

- Hon Brooke van Velden, June 2025



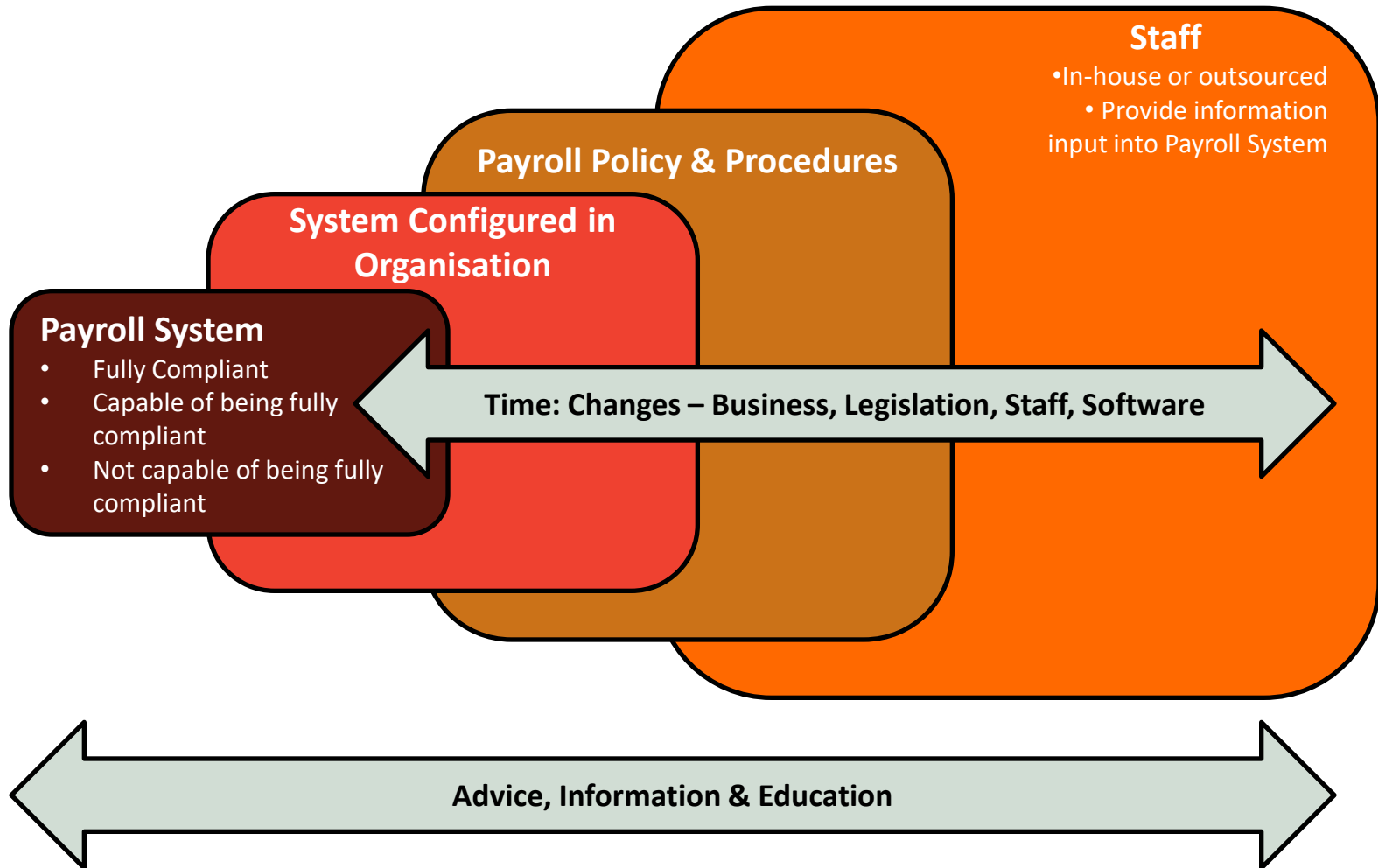
While we wait for change....

Until any changes to the Holidays Act go through the Parliamentary process and come into force, all of the existing rules still apply. This means that **employers still need to comply with the current Holidays Act**, and ensure they are providing the correct entitlements and payments to employees.

Additionally, employers retain an obligation to remediate employees for historical underpayments that have occurred due to non-compliance with the current Holidays Act.



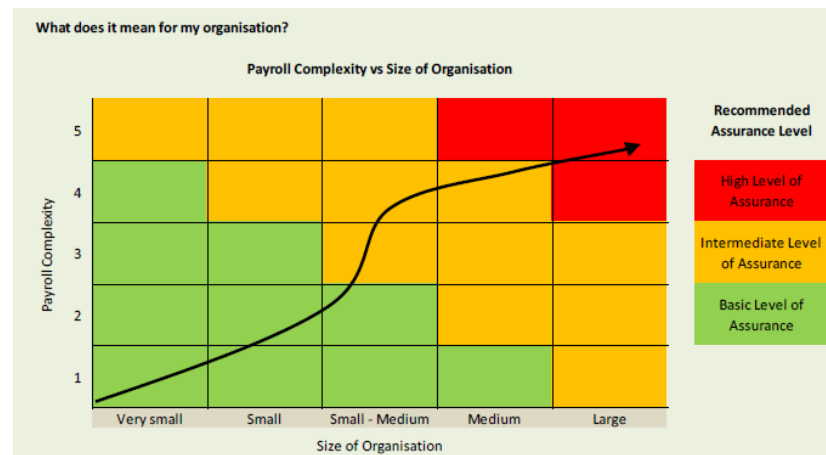
Risk of Non-compliance traverse the payroll function



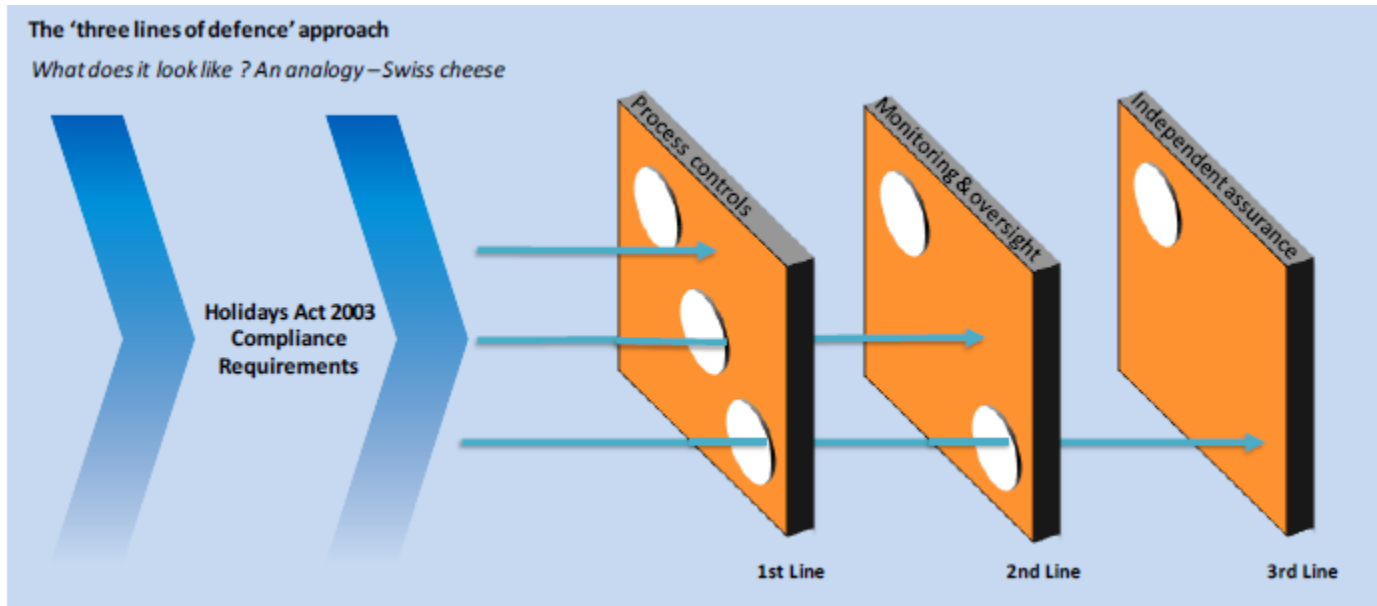
What is the right level of assurance?

Consider the following:

- **the size of your organisation** - Small, medium and large will require different lines of defence
- **the complexity of working arrangements** you have with employees
 - Flexible working arrangements
 - Shift work
 - Additional pay – bonuses, allowances, commission
- **the number of manual intervention** required for payroll



Assurance Framework



Your three lines of defence

1. **Process controls** – keep accurate records and get the right information to payroll
2. **Monitoring and oversight** – perform checks
3. **Independent assurance** – external checks



Standard hour employees

- Employment Agreements
 - Ambiguity in the employment contract is interpreted *against* the party that drafted the agreement
- Record keeping requirements
- Gross earnings
 - Inclusions, exclusions and errors
- Your end-to-end payroll system
 - Calculations
 - Processes



Variable hour employees

- Standard hour employees plus
- Otherwise working days
 - Employment agreement, work pattern, rosters, expectations of the employee they would work
- Providing annual holiday entitlements
 - Determining a week (including a portion)
- Calculations
 - RDP or ADP
 - OWP or OWP2 vs. AWE



“Casual” Employees

- Not defined in the Act
- Holidays Act - Section 28:
 - Fixed term for less than 12 months
 - “intermittent or irregular”
 - Impracticable vs. practical
 - Hours test
- What the Courts have considered
- Consequence of being incorrect
 - *Section 28(4): “...despite those payments, the employee becomes entitled to annual holidays in accordance with section 16”*
- Set reminders for testing and retesting



What should I do if I find Holidays Act non-compliance?

- **Assessment of the non-compliance**
 - End-to-end payroll system
 - Payroll (including time and attendance)
- **Remediation**
 - Line-by-line
 - Estimation approach
- **Good faith obligations**
- **Rectification**
- **Other tools and resources**



Reducing the risk of non-compliance

- ✓ Engage with employees
- ✓ Educate employees on their entitlements
- ✓ Keep **accurate** and **compliant** records
- ✓ Respond to changes in employees' work arrangements
- ✓ Ensure necessary information provided to payroll
- ✓ Keep up to date with changes to legislation and case law
- ✓ Regularly test payroll system for compliance with the Act



Useful Links

Addressing Holidays Act non-compliance – <https://www.employment.govt.nz/resolving-problems/addressing-holidays-act-non-compliance#scroll-to-3>

- *Holidays Act 2003: Guidance on annual holidays, domestic violence leave, bereavement leave, alternative holidays, public holidays and sick leave.*
- Assessing whether your payroll system can comply with the *Holidays Act 2003*
- Holidays Act remediation:
 - *Estimating the Value of Holidays Act 2003 Underpayments*
 - *Accounting for Overpayments through Holidays Act Re-calculations*
 - *Remediation calculations checklist*
 - *FAQs for employers completing Holidays Act remediation calculations*

Employment Services

<https://www.employment.govt.nz/>



Online tools and resources

Popular tools and resources

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A guide to employment
in New Zealand



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Holidays Act 2003

Guidance on annual holidays, family violence leave, bereavement leave, alternative holidays, public holidays and sick leave



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Minimum employment rights and responsibilities



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Questions

