



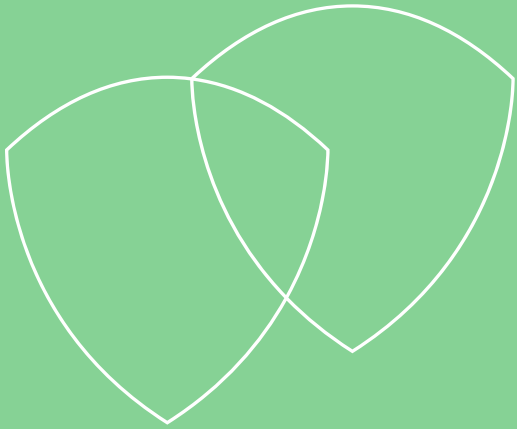
2026

# Overview of NZ Employment Law Changes (Effective 21 February 2026)

# What we will cover

A summary of employment legislation which has taken effect from 21 February 2026 and other upcoming changes, including:

- High-income threshold for unjustified dismissal claims
- Contractor gateway test
- Personal Grievances remedy changes
- Removal of the 30-day rule
- Minimum Wage and KiwiSaver
- Holidays Act Replacement (Employment Leave Act)





# High income Threshold for Dismissal Claims

- The Government has amended the Employment Relations Act 2000 to introduce a high-income threshold, above which employees cannot bring a personal grievance for unjustified dismissal unless they have expressly contracted back into that protection in their employment agreement.
- This change was a part of the Employment Relations Amendment Bill 2026, which was passed on the 20 February 2026, and is effective from 21 February 2025.
- The proposed threshold is \$200,000.00 per year, calculated on total remuneration rather than just base salary.
- Employees earning above the threshold will no longer be able to raise a personal grievance for:
  - Unjustified dismissal
  - Unjustified disadvantage, where it relates directly to dismissal
- High income employees would still be able to bring a claim for
  - Discrimination, sexual or racial harassment, bullying, union related grievances, breach of contract, claims under the Human Rights Act or Privacy Act.
- For New Employees, this change will be covered immediately, for existing employees there will be a 12 month transition period in which they can negotiate this with their employer.

# Contractor Gateway Test

- Where parties have a written contractor agreement, courts may later decide the person is reclassified as an employee, based on how the relationship operates in practice.
- The contractor gateway test is a change to the Employment Relations Act 2000. It creates a preliminary legal test (a “gateway”) to determine whether a worker is a contractor rather than an employee.
- If the gateway test is met, the worker will be treated as a “specified contractor” and cannot challenge their status in the Employment Relations Authority or Employment Court.
- If all criteria of the gateway test are satisfied, the worker is deemed a contractor by law, and the relationship cannot be reclassified as employment. If any one criterion is not met, the gateway test fails and the existing legal test applies (“the real nature of the relationship” test)
- The gateway test is particularly relevant for businesses using contractor-heavy models, such as general practice, who often have their GP’s employed as contractors.
- The bill passed on 20 February 2026 and came into effect on the 21 February 2026.



# Contractor Gateway Test

As refined by the Select Committee, the gateway test requires the following:

1. **Written Agreement:** There must be a written agreement that states the worker is an “independent contractor”, or states that the worker is “not an employee”.
2. **Freedom to work for others:** The business must not restrict the worker from working for other businesses, including competitors. *Working the equivalent of full-time hours, does not, by itself, amount to a restriction on working for others.*
3. **Control over hours or ability to subcontract:** The worker is not required to work at specific times, days, minimum hours, **or** the worker has the right to subcontract the work. *Businesses may vet subcontractors (e.g. qualifications, criminal record checks) if justified by the nature of the work.*
4. **No penalty for refusing work:** The business must not terminate the contract solely because the worker refuses to accept additional tasks or engagements beyond what has been agreed.
5. **Opportunity to seek advice:** The worker must have had a reasonable opportunity to seek independent advice before entering into the contracting arrangement.



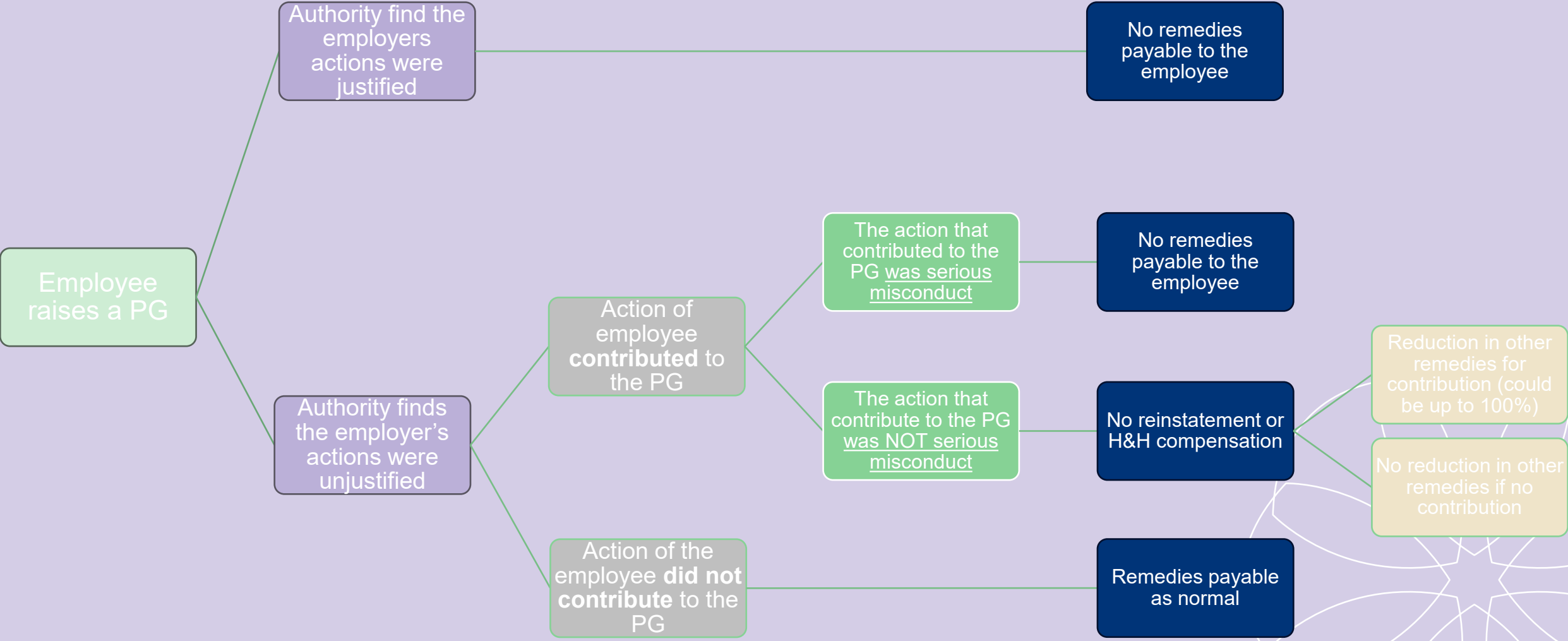
# Personal Grievance (PG) remedy changes

- The Employment Relations Amendment Bill 2025 introduced a significant recalibration of the personal grievance remedies framework, with a strong emphasis on employee conduct and accountability when remedies are considered.
- These reforms do not remove the right to raise a PG, remove protections against discrimination, harassment, or retaliation, or remove good-faith obligations generally, or automatically excuse poor employer process.

# Key changes to PG remedies

- 1. No remedies for serious misconduct:** Employees whose behavior amounts to serious misconduct will be ineligible for *any* PG remedies, even if a grievance is established. *The intent is to prevent outcomes where employees dismissed for serious conduct such as theft, violence, or fraud still receive financial compensation.*
- 2. Loss of key remedies where the employee contributed to the situation:** Where an employee's behaviours contributed to the situation that led to the personal grievance (*but does not amount to serious misconduct*): The employee will be ineligible for reinstatement, hurt and humiliation, or loss of any benefit compensation.
- 3. Remedy reductions of up to 100%:** The ERA and Employment court may reduce remedies by up to 100% where employee conduct contributed to the grievance.
- 4. Mandatory consideration of obstructive employee behaviour:** It will be required to consider whether the employee's behaviour obstructed the employers ability to meet its obligation to act as a fair and reasonable employer. *For example: the employee refuses to engage in a process, withholds information, or acts in ways that make a fair process difficult.* Remedies may be reduced or denied if obstruction is found.
- 5. Higher thresholds for procedural errors:** The bill shifts the focus away from technical or minor procedural defects. The changes will mean that procedural errors will only be relevant where they result in the employee being treated unfairly, and a dismissal will not be unjustified simply because of minor process flaws, so long as the outcome was fair.

# How this works in practice



# Removal of the 30-day rule

The 30-day rule, contained in section 62 of the Employment Relations Act 2000, applies where workplace is covered by a collective employment agreement.

- **Under the old rule:**
  - A new employee who is not a union member must still be employed on terms and conditions consistent with the collective agreement for their first 30 days or employment.
  - During this period, the employee is covered by the collective terms whether or not they join the union.
  - After 30 days, if the employee has not joined the union, the parties can move to an individual employment agreement (IEA) on different terms.

**The Employment Relations Amendment Bill which came into effect on the 21 February 2026 has removed the 30-day rule entirely.**

- Employers and employees will be able to negotiate an IEA from day one, even where a collective is in place.
- New employees will no longer default onto collective terms unless they choose to join the union.
- Collective agreement coverage will only apply if the employee is a union member or becomes one.





# Minimum Wage and KiwiSaver

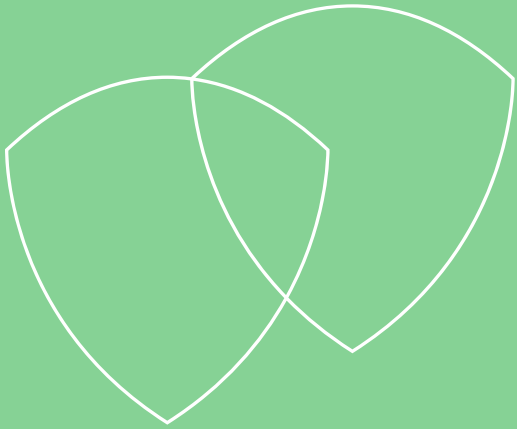
## Minimum Wage:

- The Government has confirmed that the adult minimum wage will increase to \$23.95 per hour from 1 April 2026, an increase of \$0.45 cents from the current rate.
- The starting out and training minimum wages will also increase to \$19.16 per hour, remaining at 80% of the adult minimum wage.

## KiwiSaver:

- As of 1 April 2026, the rate has increased for both employers and employees from 3% to 3.5%.
- Employees can apply to IRD for a temporary reduction if they would like. If an employee's application is accepted, they will receive a letter from IRD to give their employer as evidence of the applicable rate. Temporary reductions can apply for a period of 3-12 months.

# Proposed Holidays Act Replacement (Employment Leave Act)



- The Employment Leave Bill 2026 proposes to repeal and replace the Holidays Act 2003, introducing a simpler, hours-based leave system aimed at improving clarity and compliance. The Bill would fundamentally change how leave is earned, taken, and paid, particularly for employees with variable or irregular hours.
- Under the proposal, annual and sick leave would accrue in hours from day one of employment, rather than as annual entitlements after 12 months.
- All leave would be taken and paid in hours, using a single, consistent hourly rate, replacing the current complex payment formulas.
- Public and alternative holidays would also move to an hours-based approach.
- The Bill is currently before a select committee and, if passed, is expected to come into force in 2028, allowing time for transition to the new proposed leave accrual system.

# Navigating Employment Legislation Changes – How HealthyPractice can help



- Provide clear, practical guidance on what the changes mean in real-world settings, translating complex legal updates into plain-English insights.
- Offering tailored advice for general practice and contractor-heavy models.
- Supporting contract and policy updates.
- Access to timely education, tools, and expert support so practices remain compliant while minimising legal and operational risk.
- Provide up to date templates in line with new legislation.
- One-on-one advisory support while your business navigates these changes.

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Thank you