

2 November 2017

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Parental Leave and Employment Protection Amendment Bill

1. We have considered whether Parental Leave and Employment Protection Amendment Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have not yet received a final version of the Bill. This advice has been prepared with the latest version of the Bill (PCO 20771/1.9). We will provide you with further advice if the final version of the Bill includes amendments that affect the conclusions in this advice.
3. The Bill amends the Parental Leave and Employment Protection Act 1987 to extend the duration of paid parental leave from 18 to 22 weeks from 1 July 2018 and from 22 to 26 weeks from 1 July 2020.
4. In December 2001, in relation to the Parental Leave and Employment Protection Amendment Bill, and in July 2015, in relation to the Parental Leave and Employment Protection (Six Months' Paid Leave and Work Contact Hours) Amendment Bill, we considered whether the paid parental leave scheme gave rise to an issue of discrimination on the grounds of sex and marital status under section 19(1) of the Bill of Rights Act. We concluded that, having regard to the degree of deference that is appropriate when dealing with complex social policy issues,¹ the discrimination could be justified in terms of section 5 of the Bill of Rights Act.
5. Given that the current proposal under the Bill is to progressively increase the maximum duration of paid parental leave from 18 to 26 weeks, we do not consider that the changes proposed in the Bill materially alter that conclusion.
6. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

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¹ See, for example, *Attorney General of Canada v JTI-MacDonald Corp* [2007] 2 SCR 610 at [41 – 43].