

21 May 2018

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Farm Debt Mediation Bill

1. We have considered whether the Farm Debt Mediation Bill ('the Bill'), a member's Bill in the name of Darroch Ball MP, is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. The purpose of the Bill is to introduce an "Agricultural Debt Mediation" process, which is inserted as new Part 2 into the Receiverships Act 1993 ('the principal Act'). The process will be a mandatory step before the appointment of a receiver under the principal Act, in respect of "agricultural debt" owed by farmers to registered banks and non-bank lending institutions.
3. We note that the mediation sessions mandated under the Bill are closed to the public, and that any information obtained in mediation sessions is confidential and must not be disclosed unless certain circumstances are met. To the extent these provisions give rise to a prima facie limitation on the right to the freedom of expression under s 14 of the Bill of Rights Act, we consider that limitation to be justified. The confidentiality of mediation proceedings facilitates open discussion of parties' interests, and in turn the successful resolution of disputes, without the involvement of third parties. Indeed, in most contexts it is usual for mediation processes to be confidential.
4. 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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