

19 November 2020

Hon David Parker, Attorney-General

**Consistency with the New Zealand Bill of Rights Act 1990: Holidays (Increasing Sick Leave) Amendment Bill**

1. We have considered whether the Holidays (Increasing Sick Leave) 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. The Bill amends s 65(2) of the Holidays Act 2003 ('the Act') to increase the minimum sick leave entitlement of employees from 5 to 10 days.
3. Section 66(2) of the Act currently provides that an employee may carry over up to 15 days sick leave to a maximum of 20 days' current entitlement in any year. Logically, an employee cannot carry over 15 days of unused sick leave to a maximum of 20 days sick leave if the minimum annual entitlement is increased to 10 days. As a consequence of the amendment to s 65(2), the Bill reduces the amount of sick leave that may be carried over in s 66(2) from 15 days to 10 days. The maximum current entitlement, after carrying over any unused leave from the previous year, remains unchanged at 20 days. The Bill does not change the ability of the employer and the employee to agree to carry over an enhanced or additional sick leave entitlement than is otherwise provided for under the Act.
4. A transitional provision in the Bill will apply to existing employees as to when they next become entitled to sick leave and may carry over sick leave.
5. 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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