

21 June 2023

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Employment Relations (Protection for Kiwisaver Members) Amendment Bill

Purpose

1. We have considered whether the Employment Relations (Protection for Kiwisaver Members) Amendment Bill (the Bill), a member's Bill in the name of Dr Tracey McLellan MP, is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act).
2. Currently, under the Employment Relations Act 2000 (the principal Act), employers are not legally obliged to offer workers enrolled in KiwiSaver the same terms of employment, salary or wages, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer, as a worker not enrolled in the KiwiSaver scheme. The Bill will restore the protections provided for by the principal Act before it was amended in 2008, to ensure that workers cannot be differentiated between on the basis that they are members of a Kiwisaver scheme or a complying superannuation fund.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.



Jeff Orr
Chief Legal Counsel
Office of Legal Counsel