

5 May 2021

Attorney-General

BORA Vet: Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill

Our Ref: ATT395/335

1. We have considered the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill (as introduced) for consistency with the New Zealand Bill of Rights Act 1990. We advise that the Bill is consistent with the Bill of Rights Act and is rights-enhancing.
2. I could find no inconsistency with the New Zealand Bill of Rights Act 1990.

The Bill

3. This Bill seeks to amend the Human Rights Act 1993 by:
 - 3.1 replacing “guide dog” in s 21(h)(vi) (the prohibited grounds of discrimination) with “disability assist dog”, and
 - 3.2 including a definition of “disability assist dog” in the Human Rights Act, aligned with the definition in the Dog Control Act 1996.¹
4. The purpose of the proposed amendments is to ensure that all persons who need assistance from dogs are protected from discrimination on the basis of their disability. The Explanatory Note refers to anecdotal evidence that some people with disabilities are being denied services because their need for disability assist dogs—and the distinction between those dogs and pets—is not properly recognised in law.

Discussion

5. The Bill engages the s 19 right to be free from discrimination on prohibited grounds. The Bill does not purport to limit the protections contained in that right, but rather to broaden them. There is no need to consider justified limits.

¹ Section 2.

6. Replacing the words “guide dog” with “disability assist dog” recognises that relevantly accredited dogs provide an important service for persons with disabilities for purposes beyond “guiding” (which might be limited to people who have a sensory impairment). As the Explanatory Note observes, disability assist dogs enable New Zealanders living with a disability to participate fully in society on a daily basis. Replacing “guide dog” with “disability assist dog” in the Human Rights Act ensures all of those living with disabilities who are assisted by dogs are protected from discrimination. We consider there is no inconsistency between the Bill and the Bill of Rights Act, and that the Bill is rights-enhancing.

Review of this advice

7. In accordance with Crown Law policy, this advice has been peer reviewed by Daniel Perkins, Team Manager/Crown Counsel, Constitutional & Human rights.



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Noted / Approved /Not Approved



Encl.

Hon David Parker
Attorney-General
06 / 05 / 2021