

8 December 2016

Hon Christopher Finlayson QC, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Domestic Violence—Victims’ Protection Bill

1. We have considered whether the Domestic Violence—Victims’ Protection Bill (‘the Bill’), a member’s Bill in the name of Jan Logie 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 Bill aims to enhance legal protections for victims of domestic violence, primarily in the workplace. It amends the:
 - a. Domestic Violence Act 1995 (‘the DVA’)
 - b. Employment Relations Act 2000 (‘the HRA’)
 - c. Health and Safety at Work Act 2015 (‘the HSWA’)
 - d. Holidays Act 2003 (‘the HA’), and
 - e. Human Rights Act 1993 (‘the HRA’).
3. The Bill introduces new definitions to the DVA of ‘victim of domestic violence’ and ‘domestic violence document’. A person able to produce a domestic violence document, defined as one of a list of documents indicating the occurrence of domestic violence, is included in the definition of victim of domestic violence.
4. The amendments to employment legislation (the HRA, HSWA and HA) include:
 - a. allowing victims of domestic violence who have been employed for the preceding six months to request flexible working arrangements where they consider it will enable them to deal with the effects of being a victim of domestic violence
 - b. providing that an employer who receives a request for flexible working arrangements must deal with it as soon as practicable and within three months, but may refuse a request in particular circumstances if it cannot be accommodated
 - c. requiring persons who manage or control workplaces to have a policy for dealing with potentially harmful behaviour stemming from being a victim or perpetrator of domestic violence, and
 - d. requiring employers to approve requests for ‘domestic violence leave’ of up to 10 days per year.

5. Requests for variations in working arrangements and domestic violence leave must provide information supporting the request, including a copy of a domestic violence document. The Bill's general policy statement indicates the use of this information will be subject to the Privacy Act 1993.
6. The Bill amends the HRA by adding 'being a victim of domestic violence' as a prohibited ground of discrimination. In effect, this extends the right to be free from discrimination affirmed in s 19(1) of the Bill of Rights Act to those victims.
7. 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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