

31 July 2015

Hon Christopher Finlayson QC, Attorney-General

**Consistency with the New Zealand Bill of Rights Act 1990: Parental Leave and Employment Protection (Six Months' Paid Leave and Work Contact Hours) Amendment Bill**

1. We have considered whether the Parental Leave and Employment Protection (Six Months' Paid Leave and Work Contact Hours) 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 would amend the Parental Leave and Employment Protection Act 1987 to extend the maximum duration of paid parental leave from 16 to 22 weeks from 1 April 2016 and from 22 to 26 weeks from 1 April 2018. The Bill also introduces "work contact hours" for those on both paid and unpaid parental leave. Employees may work for up to 42 hours during the (22 or 26 week) paid parental leave period, and 156 hours in the 52 week period which includes unpaid parental leave and maintain their full entitlement to parental leave payments and unpaid leave.
3. In December 2001, in relation to the Parental Leave and Employment Protection Amendment Bill ('the PPL Bill'), we considered whether the paid parental leave scheme proposed by the PPL Bill gave rise to an issue of discrimination on the grounds of sex and marital status under section 19(1) of the Bill of Rights Act. We concluded that, having regard to the degree of deference that is appropriate when dealing with complex social policy issues,<sup>1</sup> the discrimination could be justified in terms of section 5 of the Bill of Rights Act.
4. Given that the current Bill increases the maximum duration of paid parental leave from 16 weeks to 26 weeks we do not consider that the changes proposed in the Bill materially alter that conclusion. We also consider the provisions of work contact hours to provide no further discrimination issues beyond that raised above.
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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<sup>1</sup> See, for example, *Canada (A-G) v JTI-McDonald Corp* [2007] 2 SCR 610 at [41 – 43].