

7 December 2023

Hon Judith Collins, Attorney-General

### **Consistency with the New Zealand Bill of Rights Act 1990: Fair Pay Agreements Act Repeal Bill**

1. We have considered whether the Fair Pay Agreements Act Repeal 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. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 25950/4.0). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. In 2022, the previous Government introduced legislation creating a framework for collective bargaining of Fair Pay Agreements and setting out the general principles and obligations to guide parties through the bargaining process of Fair Pay Agreements. The Fair Pay Agreements Act and Fair Pay Agreements Regulations 2022 came into force on 1 December 2022.
4. Fair Pay Agreements aim to enable employers and employees to collectively bargain minimum employment terms and conditions for covered employees that would be binding on an industry or occupation.
5. The Bill will repeal the Fair Pay Agreements Act 2022 and revoke associated secondary legislation.
6. Since December 2022, the bargaining for six Fair Pay Agreements has been initiated but all are only in the early stages; and one further application is being assessed by the Ministry of Business, Innovation and Employment. No agreements have been finalised, which means that once the Fair Pay Agreements legislation is repealed, bargaining for initiated Fair Pay Agreements will cease as there will be no legislative mechanism to bring any agreements into force.

7. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. In reaching this conclusion we have considered the rights of those groups who have initiated, but have not completed, the bargaining process for Fair Pay Agreements. The Fair Pay Agreements legislation simply provides the mechanism by which Fair Pay Agreements would be entered into, and there is no guarantee that a Fair Pay Agreement would be agreed to, and then approved, following the bargaining process.



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