

12 September 2018

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Education (Strengthening Second Language Learning in Primary and Intermediate Schools) Amendment Bill

1. We have considered whether the Education (Strengthening Second Language Learning in Primary and Intermediate Schools) Amendment Bill ('the Bill'), a Member's Bill in the name of Hon Nikki Kaye 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 purpose of the Bill is to strengthen primary and intermediate schools' access to language learning through additional resources provided by the government to fund professional development, language specialists and online resources for 'priority languages'.
3. The Bill amends the Education Act 1989 ('the principal Act') to provide for at least 10 languages, including Te Reo Māori and New Zealand Sign Language, to be prescribed as national priority languages by regulation. It requires every primary and intermediate school to have a priority language programme that must identify at least one national priority language as the school's priority language. Grants will be made available for schools to deliver priority language programmes. The priority languages do not prevent schools from offering other languages in addition to the school priority language.
4. In setting the priority languages, the Bill provides that the responsible Minister must first consult persons and organisations that the Minister deems appropriate, having regard to the subject matter of the proposed regulations.
5. Selection of priority languages may potentially distinguish between comparable groups based on race, ethnic or national origins, and thereby engage s 19 (freedom from discrimination) of the Bill of Rights Act. However, even if it does, we consider the limit is justified in terms of s 5 of the Act as it is in due proportion to the importance of the objective.
6. The Bill serves the important objective of broadening language learning across the New Zealand education system, through the provision of additional government resources. The identification of priority languages is rationally connected to that objective because the allocation of limited government resources in the context of social policy requires some bright-lines to be drawn. As priority languages will be chosen after community consultation, we consider that the right to freedom from discrimination is impaired no more than necessary.
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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