



Report of the

ATTORNEY-GENERAL

under the New Zealand Bill of Rights Act 1990
on the Valuers Bill

Presented to the House of Representatives pursuant to
Section 7 of the New Zealand Bill of Rights Act 1990 and
Standing Order 269 of the Standing Orders of the House of
Representatives

1. I have considered whether the Valuers 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. I have concluded the Bill limits s19, the right to freedom from discrimination, and that the limit cannot be justified under s 5 of the Bill of Rights Act.
3. As required by s 7 of the Bill of Rights Act and Standing Order 269, I draw this to the attention of the House of Representatives.

The Bill

4. The Bill is a revision Bill. It is part of the Government's revision programme 2024 to 2026. It revises and re-enacts, in an up-to-date and more accessible form, the Valuers Act 1948 (the principal Act).
5. The principal Act provides for the occupational regulation of land valuers and the establishment of the Valuers Registration Board and New Zealand Institute of Valuers.
6. The Legislation Act 2019 sets out the requirements for revision Bills. The purpose is to re-enact older or heavily amended Acts in modern language and drafting style to make the law more accessible. Revision Bills can only make minor amendments including to clarify Parliament's intent, to resolve ambiguity, or to reconcile inconsistencies between provisions or to update certain monetary amounts. They generally cannot make substantive changes to the law.
7. The Bill updates the language and format of the principal Act, removes inconsistencies in terminology and updates references to relevant offences.
8. An Amendment Paper is proposed to be released alongside the introduction of the Bill. The Amendment paper contains amendments to the Bill that change the effect of the old law.

Consistency of the Bill with the Bill of Rights Act

Section 19 – Freedom from discrimination

9. Section 19 of the Bill of Rights Act affirms the right to freedom from discrimination on the grounds set out in the Human Rights Act 1993 (the Human Rights Act), which includes 'age'. Under s 21 of the Human Rights Act, age means any age commencing with the age of 16 years.
10. Two factors must be met for discrimination to be identified under s 19(1) of the Bill of Rights Act:

- a) there is a differential treatment or effect as between persons or groups in analogous or comparable situations on the basis of a prohibited ground of discrimination; and
 - b) that treatment has a discriminatory impact (i.e., it imposes a material disadvantage on the person or group differentiated against).
11. Clause 16(a) of the Bill prevents a person from being entitled to be registered under the Act until they have attained the age of 23 years. This limitation is brought forward in the Bill from s19(1) of the principal Act.
12. Limiting registration to those aged 23 years or older could unfairly disadvantage individuals aged 16 to 22 who may otherwise be qualified for registration.

Is the limitation justified and proportionate under s 5 of the Bill of Rights Act?

13. Where a provision appears to limit a particular right or freedom, it may nevertheless be consistent with the Bill of Rights Act if it can be considered a reasonable limit that is demonstrably justified in a free and democratic society under s 5 of the Bill of Rights Act. The s 5 inquiry may be approached as follows:¹
- a) does the provision serve an objective sufficiently important to justify some limitation of the right or freedom?
 - b) if so, then:
 - i. is the limit rationally connected with the objective?
 - ii. does the limit impair the right or freedom no more than is reasonably necessary for sufficient achievement of the objective?
 - iii. is the limit in due proportion to the importance of the objective?
14. The justification for the requirement to be at least 23 is unclear. Age limits are generally used as a proxy for maturity. However, where, as here, there are experience and qualification requirements, the utility of an age limit is questionable.
15. The age requirement does not appear to be reasonably necessary to achieve the assumed objective, for valuers to be appropriately qualified.

¹ *Hansen v R* [2007] NZSC 7 at [123].

Conclusion

16. For the above reasons, I have concluded the Bill appears to limit section 19 (freedom from discrimination) of the Bill of Rights Act and cannot be justified under s 5 of that Act.
17. I note that the limits on changes that can be made by a revision Bill mean that the Bill brings forward the discriminatory age qualification. However, this will be addressed by the Amendment Paper if adopted. The Amendment Paper omits the age qualification, deleting cl 16(a) of the Bill.

A handwritten signature in black ink that reads "Paul Goldsmith". The signature is written in a cursive, slightly slanted style.

Hon Paul Goldsmith

Acting Attorney-General

April 2025