

# **Holidays (Bereavement Leave for Miscarriage) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

Currently the bereavement provisions of the Holidays Act 2003 are ambiguous in their application to miscarriage. Employees are entitled to 3 days' bereavement leave on the death of a child under section 69(2)(a)(iii), but it is unclear whether a foetus is covered by the word "child".

This ambiguity may lead to disputes between employees and employers regarding entitlement to bereavement leave. In many instances, employees are forced to use sick or annual holiday leave.

This Bill would remove this ambiguity by making it clear that the unplanned death of a foetus constitutes grounds for bereavement leave for the mother and her partner or spouse and that the duration of the bereavement leave should be up to 3 days (in line with other deaths in the immediate family).

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Bill amends the Holidays Act 2003 (the **principal Act**).

*Clause 4* amends section 69 of the principal Act.

*Clause 5* amends section 70 of the principal Act.



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### **Contents**

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
4 Section 69 amended (Bereavement leave)	1
5 Section 70 amended (Duration of bereavement leave)	2

### **The Parliament of New Zealand enacts as follows:**

- 1 Title**

This Act is the Holidays (Bereavement Leave for Miscarriage) Amendment Act **2018**.
- 2 Commencement** 5

This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**

This Act amends the Holidays Act 2003 (the **principal Act**).
- 4 Section 69 amended (Bereavement leave)** 10
  - (1) In section 69(2)(b), replace “result of the death.”, with “result of the death; or”.
  - (2) In section 69, after paragraph (b), insert:
    - (c) on the unplanned end of an employee’s confirmed pregnancy by way of the death of the foetus; or

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(d) on the unplanned end of an employee's spouse or partner's confirmed pregnancy by way of the death of the foetus.

**5 Section 70 amended (Duration of bereavement leave)**

In section 70(1), replace paragraph (a) with:

(a) 3 days' bereavement leave for each type of bereavement described in section 69(2)(a), **(c), and (d)**; and 5