

Daisy Lutyens [TSY]

From: Callum Finn Reason [TSY]
Sent: Friday, 15 May 2026 3:22 pm
To: ^Parliament: Carl Harris
Cc: Claire Howard [TSY]; Jean Le Roux [TSY]; Stacey Wymer [TSY]; Mohan Singh [TSY]
Subject: RE: Ministerial Consultation: Cabinet Paper (SOU): s 9(2)(j)
[REDACTED]
[REDACTED]
Attachments: s 9(2)(j) [REDACTED].pdf; Appendix 1 - Solicitor-General confirmation letter dated 7 May 2026 .pdf; Appendix 2 - Simpson Grierson advice.pdf; Appendix 3 - Simpson Grierson memorandum.pdf

[SEEMAIL][SENSITIVE]

Kia ora Carl,

Thanks for sending this on. Please see some brief advice below. Note that this paper does not breach the Budget moratorium due to timing and because relevant appropriations are already established.

Just reiterating this disclaimer from Hon Upstons's office ahead of our advice: **Given the sensitivity of the proposal (as it contains Legally Privileged advice, and relates specifically to the circumstances of three named individuals), we recommend limiting distribution of and access to the paper.**

We don't intend to provide a Min consult briefing on this paper because we don't recommend any feedback. Flagging for your awareness some of the detail of the paper, though (noting this draws on **legally privileged advice**):

- The paper responds to the *Fleming & Humphreys v Attorney* Supreme Court judgment, which found (among other things) that two carers of their disabled relatives are employees of MSD. The Supreme Court referred determination of remedies back to the Employment Court, scheduled for September 2026. Hon Upston has already taken a separate paper proposing legislation that in part responds to the judgment [CAB-26-MIN-0115 refers].
- The paper seeks s 9(2)(j) [REDACTED]
[REDACTED] s 9(2)(h)
 - s 9(2)(h) [REDACTED]
 - [REDACTED]
 - [REDACTED]
- s 9(2)(j) [REDACTED] Cabinet approval is sought per the criteria s 9(2)(h) [REDACTED] The acting Solicitor-General has reviewed Simpson Grierson's advice and confirmed his agreement with the advice for Cabinet consideration.
- s 9(2)(h) [REDACTED]
[REDACTED]
- We'll provide a short precab briefing next week (likely as a separate Aide Mem, due to legal sensitivities). Subject to sign-out, our advice will support MSD's approach.

Ngā mihi

Callum

Callum Finn Reason (he/him) | Analyst, **Social Sector, Communities and Learning Team** | Te Tai
Ōhanga **The Treasury**

tau waea phone: **s 9(2)(a)** | Īmēra email: callum.finnreason@treasury.govt.nz

From: Carl Harris <Carl.Harris@parliament.govt.nz>

Sent: Wednesday, 13 May 2026 9:21 am

To: Callum Finn Reason [TSY] <Callum.FinnReason@treasury.govt.nz>; Claire Howard [TSY]
<Claire.Howard@treasury.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>

Subject: FW: Ministerial Consultation: Cabinet Paper (SOU): **s 9(2)(j)**

Hi

Please see attached Cabinet paper. Could you please provide any feedback by **COP Friday 15 May**?

Happy to discuss
Carl



Carl Harris

Private Secretary (Revenue) | Office of Hon. Nicola Willis

Minister of Finance | Minister for Economic Growth | Minister for Social Investment

M: **s 9(2)(a)**

E: carl.harris@parliament.govt.nz

Parliament Buildings, Wellington 6160, New Zealand

s 9(2)(a)

Subject: Ministerial Consultation: **s 9(2)(j)**

Good evening,

On behalf of the Minister for Disability Issues, please find attached a draft Cabinet paper for Ministerial consultation.

Cabinet paper: s 9(2)(j)

Committee: Social Outcomes Committee (SOU), Wednesday 27 May

Feedback requested by: COP Monday 18 May

Summary of proposal:

- On 9 December 2025, the Supreme Court released its decision concerning the employment status of Ms Christine Fleming and Mr Peter Humphreys as paid family carers. The Supreme Court found that both are employees of the Ministry of Social Development (MSD).
- With this judgment, the employees are entitled to seek remedies for other benefits and costs in the employment context. s 9(2)(a)
- The DSS Bill [CAB-26-MIN-0115 refers], as currently drafted, saves their claims due to the success in the Supreme Court

Given the sensitivity of the proposal (as it contains Legally Privileged advice, and relates specifically to the circumstances of three named individuals), we recommend limiting distribution of and access to the paper.

s 9(2)(a)

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