

IN THE COURT OF APPEAL OF NEW ZEALAND

CA232/2012
[2012] NZCA 319

BETWEEN CHILD POVERTY ACTION GROUP
INCORPORATED (CPAG)
Applicant

AND THE ATTORNEY-GENERAL
Respondent

Hearing: 17 July 2012

Court: Glazebrook, Stevens and White JJ

Counsel: F M Joychild and J M Ryan for Applicant
J Foster and C I J Fleming for Respondent

Judgment: 20 July 2012 at 2.30pm

JUDGMENT OF THE COURT

- A Special leave to appeal is granted.**
- B The approved questions of law are whether the High Court correctly stated and applied:**
- (i) **the test for a breach of s 19 of the New Zealand Bill of Rights Act 1990; and**
 - (ii) **the test for s 5 of the New Zealand Bill of Rights Act 1990.**
- C The first question is to include the questions raised by the respondent by way of cross-appeal, namely whether the High Court erred in applying s 19 in holding that:**
- (i) **those who are ineligible for the in-work tax credit on the basis of only s MD 8(a) of the Income Tax Act 2004 are the subject of *prima facie* discrimination; and**

(ii) those who are ineligible for the in-work tax credit on the basis of both s MD 8(a) and s MD 9 of the Income Tax Act 2004 are not the subject of *prima facie* discrimination.

D Costs are reserved.

Solicitors:

Davenport City Law, Auckland for Applicant

Crown Law Office, Wellington for Respondent