ATTORNEY-GENERAL

LEGAL ADVICE
CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:
EMPLOYMENT RELATIONS (PROBATIONARY PERIOD REPEAL) AMENDMENT BILL

1. We have considered whether the Employment Relations (Probationary Period Repeal) Amendment Bill (“the Bill”), a Members’ Bill in the name of Carmel Sepuloni MP, is consistent with the New Zealand Bill of Rights Act 1990 (“Bill of Rights Act”). The Bill was introduced into the House of Representatives on 17 June 2010 and is currently awaiting its first reading. We understand that the next Members’ Day is scheduled for 30 June 2010.

2. The purpose of the Bill is to repeal the changes made to the Employment Relations Act 2000 (“the Act”) by the Employment Relations Amendment Act 2008. The Bill would repeal sections 67A and 67B of the Act. Section 67A permits some employment contracts to contain a trial provision of 90 days or less. Section 67B provides that an employee whose employment agreement is terminated under a trial provision may not bring a personal grievance or legal proceedings against the employer in respect of the dismissal. The Bill would also amend section 67 of the Act by inserting "or trial" after "probation" in each place where it appears.

3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. This advice has been prepared by the Public Law Group and the Office of Legal Counsel.

Jeff Orr
Chief Legal Counsel
Office of Legal Counsel

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