Illegal Contracts (Unlawful Limitation on Regulators’ Powers) Amendment Bill

7 May 2012

ATTORNEY-GENERAL

LEGAL ADVICE

CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:
ILLEGAL CONTRACTS (UNLAWFUL LIMITATION ON REGULATORS’ POWERS) AMENDMENT BILL

1. We have considered whether the Illegal Contracts (Unlawful Limitation on Regulators’ Powers) Amendment 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’). The Bill was introduced into the House of Representatives on 5 April 2012 and is awaiting its first reading. It is a Member’s Bill in the name of Hon Lianne Dalziel. We understand that the next Members’ Day is 9 May 2012.

2. The Bill seeks to amend the Illegal Contracts Act 1970 to prohibit any attempt to limit the power of a regulator to award any remedy or distribute the proceeds of any settlement or court order to any individual. The Bill defines “regulator” as the Commerce Commission, the Securities Commission, an approved dispute resolution service within the meaning of the Financial Service Providers (Registration and Dispute Resolution) Act 2008, or similar schemes including the Insurance and Savings Ombudsman and the Banking Ombudsman.

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.

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Office of Legal Counsel

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than assess whether the Bill complies with the minimum guarantees contained in the New Zealand Bill of Rights Act. The release of this advice should not be taken to indicate that the Attorney-General agrees with all aspects of it, nor does its release constitute a general waiver of legal professional privilege in respect of this or any other matter. Whilst care has been taken to ensure that this document is an accurate reproduction of the advice provided to the Attorney-General, neither the Ministry of Justice nor the Crown Law Office accepts any liability for any errors or omissions.