1. We have considered whether the State Sector and Public Finance Reform Bill (PCO 16448/3.7) (‘the Bill’) is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (‘the Bill of Rights Act’). We understand that the Bill is likely to be considered by the Cabinet Legislation Committee at its meeting on 16 August 2012.

2. This Bill is an omnibus Bill that amends the main statutes governing the management of the State sector and public finances in New Zealand. The Bill has been informed by a review of the public management system for the purpose of delivering better public services.

3. This Bill aims to strengthen State services by providing a range of tools to support and encourage:
   
   3.1. government agencies working more closely together
   3.2. government agencies sharing functions and services, purchasing goods and services jointly, and developing systems together
   3.3. greater financial and reporting flexibility to support agencies working together and providing more meaningful performance information to Parliament and
   3.4. stronger leadership at system, sector, and departmental level to achieve the desired change in the performance of the State services.

4. Clause 58 of the Bill provides immunity from civil proceedings for Public Service chief executives and employees for good faith actions or omissions in pursuance of their duties. A further amendment in clause 61 will amend the Crown Proceedings Act 1950 to clarify that despite this immunity, the conduct of State sector chief executives and employees can still give rise to proceedings against the Crown. As such, the right in s 27(3) is not engaged.

5. 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.

Melanie Webb
Acting Chief Legal Counsel
Office of Legal Counsel

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This advice was prepared to assist the Attorney-General to determine whether a report should be made to Parliament under s 7 of the New Zealand Bill of Rights Act 1990 in relation to the State Sector and Public Finance Reform Bill. It should not be used or acted upon for any other purpose. The advice does no more 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
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