

19 April 2018

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Companies (Clarification of Dividend Rules in Companies) Amendment Bill

1. We have considered whether the Companies (Clarification of Dividend Rules in Companies) Amendment Bill ('the Bill'), a member's Bill in the name of Todd Muller MP, is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. The Bill amends the Companies Act 1993 ('the Act') to clarify dividend rules. Currently, s 53(2) of the principal Act prevents the board of a company from authorising "dry shares", which are shares that do not carry dividend rights in prescribed circumstances. However, there is uncertainty about the ability of a company constitution to provide for dry shares. The Bill aims to remove this doubt by providing that nothing in s 53(2) of the Act prevents the constitution of a company from containing a rule that some shares in a class do not confer a right to receive dividends in specified circumstances.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Jeff Orr
Chief Legal Counsel
Office of Legal Counsel