Holidays Amendment Bill

9 August 2010

ATTORNEY-GENERAL

LEGAL ADVICE
CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:
HOLIDAYS AMENDMENT BILL

1. We have considered whether the Holidays Amendment Bill (14568/3.0) (‘the Bill’) is consistent with the New Zealand Bill of Rights Act 1990 (‘Bill of Rights Act’). We understand that the Bill is likely to be considered by Cabinet on Monday, 16 August 2010.

2. The Bill amends the Holidays Act 2003 with the aim of improving the overall operation and efficiency of that Act. The amendments include:

- allowing employees and employers to agree to pay out one week of an employee’s minimum entitlement to annual holidays, at the employee’s request;
- allowing employers and employees to agree to transfer the observance of public holidays to another working day; and
- allowing employers to request proof of sickness or injury within the first three consecutive calendar days of an employee taking sick leave without first having reasonable grounds to suspect that the grounds for taking sick leave are not genuine.

All amendments seek to provide greater choice for employers and employees, make it easier for employers and employees to understand and comply with the holidays legislation, or improve the balance of fairness between employees and employers.

We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed by 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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Chief Legal Counsel
Office of Legal Counsel

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