

15 November 2007

ATTORNEY-GENERAL

**LEGAL ADVICE
CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:
ELECTRICITY INDUSTRY REFORM AMENDMENT BILL**

1. We have assessed whether the Electricity Industry Reform Amendment Bill (the "Bill") (PCO 7906/16) is consistent with the New Zealand Bill of Rights Act 1990 ("Bill of Rights Act"). We understand that the Bill will be considered by the Cabinet Legislation Committee at its meeting on Thursday, 22 November 2007.
2. The Bill amends the Electricity Industry Reform Act 1998 to implement three main policy changes, namely:
 - to make it easier for owners of lines businesses to sell the output of the generation they were permitted to own under the 2001 and 2004 amendments to the Electricity Industry Reform Act 1998. This change is aimed to encourage the owners of lines businesses to invest in permitted generation, especially from renewable sources;
 - to narrow the scope of ownership separation requirements to focus on the geographical areas where there is potential for the exercise of market power and anti-competitive practices (where lines and supply are co-located); and
 - to amend the definition of "renewables". Currently, the owner of a lines business may only invest without quantity limitations in "new renewables", which are defined to exclude hydro and geothermal generation using traditional technologies. The new definition includes all renewables, to reflect the Government policy of encouraging the development of renewable energy.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms contained in the Bill of Rights Act.

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