

21 July 2008

ATTORNEY-GENERAL

**LEGAL ADVICE  
CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:  
EMISSIONS UNITS BILL**

1. We have considered whether the Emissions Units Bill (the 'Bill') (PCO 13237/2.0) is consistent with the New Zealand Bill of Rights Act 1990 (the 'Bill of Rights Act'). We understand that the Bill will be considered by the Cabinet LEG committee on 31 July 2008.
2. The Bill seeks to clarify the regulatory treatment of emissions units for market operators and market participants to support the trading of emissions units and the development of the market for emissions units.
3. The amendments are technical amendments that will clarify how emissions units will be traded when traded within New Zealand's existing regulatory environment. The Bill seeks to amend the:
  - Personal Property Securities Act 1999, to include emissions units in the definition of investment security, which enables emissions units to be traded easily on an exchange;
  - Securities Act 1978, to explicitly exclude emissions units from the definition of security, which ensures that emissions units do not need to meet the requirements of the regulatory regime for securities trading; and
  - Securities Markets Act 1988, to include emissions units in the definition of commodity, which provides for futures contracts in emissions units.
4. We have concluded that the Bill does not appear to be inconsistent with the rights and freedoms affirmed by the Bill of Rights Act.

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