

Fisheries Amendment Bill (No.2) 2003

10 October 2003

Attorney-General

LEGAL ADVICE

COMPLIANCE WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990: FISHERIES AMENDMENT BILL (No 2) 2003

1. We have considered whether the above Bill (PCO 5490/3) is consistent with the New Zealand Bill of Rights Act 1990 (the "Bill of Rights Act"). We consider that the provisions of the Bill appear to be consistent with the Bill of Rights Act. We understand that this Bill is to be considered by the Cabinet Legislation Committee on Thursday, 16 October 2003.
2. This Bill confirms and validates past cost recovery levy orders and cost recovery rules made between 1995 and 2002. The Bill also gives effect to a settlement reached between the seafood industry and the Crown relating to the over and under recovery of costs of fisheries services and conservation services between 1994 and 2002. The Bill inserts a new formula that is to be used to calculate future levies in order to give effect to that settlement.
3. Those participants in the fishing industry who were affected by the under and over recovery of costs, but who have since left the industry will not benefit from the settlement.
4. The Bill also amends section 233 of the Fisheries Act 1996 to clarify what is meant by "obtaining a material benefit" for the purposes of the Act following unsuccessful litigation.
5. We consider that the Bill is consistent with the Bill of Rights Act. In reaching this view, we have considered, in particular, its consistency with section 27(3) of the Bill of Rights Act and have concluded that no issue arises.
6. In accordance with your instructions, a copy of this opinion is attached for referral to the Minister of Justice. A copy is also attached for referral to the Minister of Fisheries, if you agree.

Val Sim
Chief Legal Counsel
Bill of Rights/Human Rights Team

Boris van Beusekom
Senior Legal Adviser
Bill of Rights/Human Rights Team

cc Minister of Justice
Minister of Fisheries Copy for your information

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