

Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No.3)

23 July 2004

Attorney-General

LEGAL ADVICE

CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:
INJURY PREVENTION, REHABILITATION, AND COMPENSATION AMENDMENT
BILL (No.3)

1. We have considered whether the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No.3) (the "Bill") (PCO 5893/6) 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 Social Development Committee at its meeting on Wednesday, 28 July 2004.
2. The key change proposed in the Bill is the amendment of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (the principal Act) to replace the current medical misadventure provisions of medical error and medical mishap with cover for personal injury caused by treatment. The aim of this new approach is to focus on treatment outcomes and how patients/claimants are affected, rather than actions of individual health practitioners and identifying fault. The Bill also includes some operational improvements and technical changes to the principal Act.
3. We have concluded that the Bill appears to be consistent with the Bill of Rights Act.
4. In accordance with your instructions, we attach a copy of this opinion for referral to the Minister of Justice. We also attach copies for referral to the Minister of Labour and Minister for ACC, if you agree.

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Cc Minister of Justice
Minister of Labour
Minister for ACC

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the minimum guarantees contained in the New Zealand Bill of Rights Act. The release of this advice should not be taken to indicate that the Attorney-General agrees with all aspects of it, nor does its release constitute a general waiver of legal professional privilege in respect of this or any other matter. Whilst care has been taken to ensure that this document is an accurate reproduction of the advice provided to the Attorney-General, neither the Ministry of Justice nor the Crown Law Office accepts any liability for any errors or omissions.