

Parliamentary Service Amendment Bill

11 April 2008

Attorney-General

LEGAL ADVICE

CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990: PARLIAMENTARY SERVICE AMENDMENT BILL

1. We have assessed whether the Parliamentary Service Amendment Bill ("the Bill") (PCO 13068/2.0) is consistent with the New Zealand Bill of Rights Act 1990 ("Bill of Rights Act"). We understand that the Bill will be considered by Cabinet at its meeting on Monday, 14 April 2008.
2. The Bill seeks to amend the Parliamentary Service Act 2000 to address the provision of services and funding for parliamentary purposes in relation to certain electoral candidates. In particular, the Bill would enable the Speaker of the House of Representatives ("the Speaker") to give directions on:
 - the extent to which administrative and support services are to be provided to certain candidates for election during the period between polling day and the recognition of candidates as Members of Parliament; and
 - the administration of the payment of funding entitlements for parliamentary purposes for certain candidates during that period.
3. The Bill would also give the Parliamentary Service the legal authority to provide these services in accordance with the Speaker's directions. The Bill would effectively regularise the practice that was in place at previous General Elections, whereby expenditure was approved from Vote Parliamentary Service appropriations (during the period between polling day and the recognition of candidates as Members of Parliament) for candidates who were Members of Parliament seeking re-election, and other candidates who appeared to be elected on the basis of election night results. Validation of unlawful expenditure at previous General Elections is not required.
4. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. Notably, we do not consider that new

section 9A(7)(a), which enables the Speaker's directions to apply differently to "people of different descriptions", will be interpreted as authorising discrimination on the prohibited grounds of discrimination in the Human Rights Act 1993, and are therefore satisfied that this clause is consistent with the right to freedom of discrimination affirmed in section 19(1) of the Bill of Rights Act.

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