

# Sale of Liquor Amendment Bill (No. 2)

29 October 2003

Attorney-General

**Sale of Liquor Amendment Bill (No. 2) PCO 5311/7**  
**Our Ref: ATT114/1197(14)**

1. I have considered the above Bill for consistency with the New Zealand Bill of Rights Act 1990 ("BORA"). I am pleased to advise that no provision appears to be inconsistent with BORA.
2. The Bill amends the Sale of Liquor Act 1989 in order to provide existing licensing trusts with the option of reconstituting as community trusts with charitable, philanthropic, and related purposes. It also enables local licensing trusts to carry out business outside their area without the need to hold an expansion poll; requires licensing trusts to disclose the remuneration paid to trustees and senior managers; and requires licensing trusts to hold annual meetings to account to electors on the effectiveness of their performance. The Bill also provides an exception from the Sale of Liquor offence provisions in respect of under 18 year olds who purchase liquor on or enter licensed premises at the request of a police officer acting in the course of his or her duties. In addition, a number of other minor amendments to the Sale of Liquor Act 1989 and the Sale of Liquor Amendment Act 1999 are proposed.
3. The only provisions of any note in terms of BORA consistency were proposed new ss 219W(e) and (f). Under these provisions a "patient" within the meaning of paragraph (b) or paragraph (c) of the definition of "patient" in the Mental Health (Compulsory Assessment and Treatment) Act 1992, and any person who is the subject of an order under the Protection of Personal and Property Rights Act 1988 ("PPPRA"), are not capable of being elected, or of holding office, as a trustee of a community trust. While the effect of these disabling provisions is to treat mental health patients (as defined) and persons subject to a PPPRA order differently from those who are not such persons, I considered that such a disqualification was clearly justified in terms of s 5 BORA, bearing in mind the responsibilities and liabilities attached to the office of trustee. I note that the statute book contains a number of similar disabling provisions (see eg Companies Act 1993, s 280(1); Energy Companies Act 1992, s 6(1); Mutual Insurance Act 1955, s 30(10)(d); Motor Vehicles Sales Act 2003, s 24(l), (m); Receivership Act 1993, s 5(l)(f), (g); Auckland War Memorial Museum Act 1996, s 6(l)(f), (g); Museum of Transport and Technology Act 2000, s 7(l)(f), (g)).

Yours sincerely

Andrew Butler

## Crown Counsel

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