

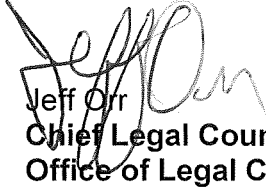
21 OCTOBER 2010

ATTORNEY-GENERAL

**LEGAL ADVICE**  
**CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:**  
**SOCIAL SECURITY AMENDMENT BILL (NO 3)**

1. We have considered whether the Social Security Amendment Bill (No 3) (PCO 14704/8.0) ("the Bill") is consistent with the New Zealand Bill of Rights Act 1990 ("Bill of Rights Act"). We understand that the Bill is likely to be considered by the Cabinet Legislation Committee at its meeting on Thursday, 28 October 2010.
2. The Social Security Act 1964 ("the Act") requires weekly compensation paid by the Accident Compensation Corporation to be deducted dollar-for-dollar from benefit payments. The Bill amends the Act to clarify that this requirement applies equally to weekly compensation paid by, or on behalf of, either the Accident Compensation Corporation or an accredited employer.
3. Clause 4(2) of the Bill amends section 61EA of the Act, which relates to the accommodation supplement, to clarify that students are ineligible for the supplement if they may receive assistance under the Student Allowance Regulations 1998 but do not in fact receive such assistance because of the level of income of their spouse or partner.
4. We have considered whether clause 4(2) infringes the right to be free from discrimination on the ground of marital status as affirmed in section 19(1) of the Bill of Rights Act. We have concluded that no issue of discrimination arises. The result of the amendment is that all students who are excluded from assistance under the Student Allowance Regulations because of income level are ineligible for the accommodation supplement. The amendment does not result in disadvantage to married or partnered students because, as the Ministry of Social Development have informed us, their non-student spouse or partner may still apply for the accommodation supplement if the couple's income level makes them eligible.

5. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. This advice has been prepared by the Public Law Group and the Office of Legal Counsel.



Jeff Orr  
Chief Legal Counsel  
Office of Legal Counsel