



Cabinet Legislation Committee

LEG Min (02) 18/6

Minute of Decision

Copy No:

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Construction Contracts Bill: Supplementary Order Paper

On 7 November 2002 the Cabinet Legislation Committee, having Power to Act [CAB Min (02) 29/9]:

- 1 **noted** that the Construction Contracts Bill (the Bill) has been reported back to Parliament and is awaiting its second reading;
- 2 **noted** that in October 2002, the Cabinet Business Committee agreed to give priority to the drafting of a Supplementary Order Paper (SOP) to the Bill to establish the Weathertight Homes Resolution Service, and invited the Leader of the House to decide on the timing and management of the SOP in consultation with the group of Ministers with weathertightness responsibilities, and other Parliamentary parties [CBC Min (02) 10/9];
- 3 **noted** that an SOP to the Bill has been prepared that contains the provisions necessary to establish a disputes resolution service for homeowners of buildings affected by weathertightness problems;
- 4 **agreed** to the definition of dwellinghouse as currently drafted in the SOP, as “any building that has or is intended to have, as its principal use, occupation as a private residence... and to not include a hospital, hostel, hotel, motel, rest home, or other institution”;
- 5 **noted** that the Cabinet Business Committee previously agreed that for the purpose of enforcement “all mediated agreements and adjudications include a monetary order as an alternative to an order for rectification or specific performance or remedial work” [CBC Min (02) 10/9, paragraph 3.19];
- 6 **rescinded** the decision in paragraph 5 above; and
- 7 **agreed** to the provision on the requirement for a money order as currently drafted in the SOP, that for the purpose of enforcement, only adjudications include a requirement for a monetary order as an alternative to an order for rectification or specific performance or remedial work;
- 8 **directed** officials to provide further advice to Ministers with responsibility for weathertightness issues on the implications of arbitration clauses of existing contracts for owners of leaky buildings to take claims before the Weathertight Homes Resolution Service;

- 9 **noted** the following features of the draft SOP:
- 9.1 *Leaky building* – has been defined to mean “a dwellinghouse into which water has entered from outside the dwellinghouse behind the external wall cladding systems as a result of any aspect of the design, construction, or alteration of the dwellinghouse, or materials used in its construction or alteration”;
- 9.2 *Claims by persons other than dwellinghouse owners*- the resolution service has been designed primarily as a mechanism for resolving the claims of owners of leaky buildings and does not allow parties other than owners to bring claims before the service;
- 9.3 *Appointment of adjudicators*- the SOP provides for each adjudicator to be appointed by the Governor-General on the recommendation of the Minister;
- 10 **agreed** that the provisions of the SOP bind the Crown;
- 11 **approved** for release the draft SOP to the Bill [PCO 4999a/4], for the purposes of informal examination by the Government Administration Committee, and public scrutiny;
- 12 **directed** the Department of Internal Affairs to post the draft SOP on its weathertightness website for a period of ten days;
- 13 **noted** that the Leader of the House is to invite the Government Administration Committee to examine the draft SOP;
- 14 **authorised** the Leader of the House, in consultation with other Ministers with responsibility for weathertightness issues, to have Power to Act to make any necessary amendments to the draft SOP before it is introduced to Parliament
- 15 **agreed** that the final SOP be introduced on or after Tuesday, 19 November 2002;
- 16 **noted** that the final SOP will be the subject of consultation with government caucuses, and with the other parties represented in Parliament, prior to its introduction to Parliament;
- 17 **agreed** that the Government propose that:
- 17.1 the provisions of the Bill relating to weathertightness come into force one day after receiving the Royal assent; and
- 17.2 the substantive provisions in Parts 1-5 of the Bill be amended to come into force on 1 April 2003, instead of 3 months after receiving the Royal assent.

Murray Newth
Secretary

Reference: LEG (02) 139

Copies to: (See over)

Present:

Hon Dr Michael Cullen (Chair)
Hon Steve Maharey
Hon Jim Sutton
Hon Margaret Wilson
Hon Parekura Horomia
Hon Lianne Dalziel
Hon Ruth Dyson
Hon John Tamihere
Hon Rick Barker
Mr David Benson-Pope

Copies to:

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State Services Commissioner
Solicitor-General
Chief Executive, Department for Courts
Secretary of Labour
Minister of Maori Affairs
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Chief Executive, Ministry of Economic Development [Commerce]
Minister of Internal Affairs
Secretary for Internal Affairs
Minister for the Environment
Secretary for the Environment
Minister of Housing
Chief Executive, Housing New Zealand Corporation
Chief Executive, Ministry of Housing
Chief Executive, Ministry of Pacific Island Affairs
Minister of Local Government
Secretary for Internal Affairs [Local Government]
Minister of Consumer Affairs
Head, Ministry of Consumer Affairs
Chief Parliamentary Counsel
Clerk of the House of Representatives