

## **DEFENCE CO-OPERATION CONTROL BILL**

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### **EXPLANATORY NOTE**

THIS bill prohibits defence co-operation between the New Zealand Armed Forces and the armed forces of any State which uses its armed forces to suppress basic human rights proclaimed in the Universal Declaration of Human Rights and formulated in the International Covenant on Civil and Political Rights.

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## DEFENCE CO-OPERATION CONTROL

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### A BILL INTITULED

**An Act to prohibit defence co-operation between the New Zealand Armed Forces and the armed forces of any State which uses its armed forces to suppress basic human rights**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title**—This Act may be cited as the Defence Co-operation Control Act 1997.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Armed Forces” has the same meaning as in section 2 of the Defence Act 1990:

“Basic human rights” means those rights proclaimed in the Universal Declaration of Human Rights and formulated in the International Covenant on Civil and Political Rights:

“Chief of Defence Force” means the Chief of Defence Force appointed under section 8 of the Defence Act 1990; and includes any person for the time being acting in that capacity:

“Chief of Staff” means each Chief of Staff appointed under section 28 of the Defence Act 1990; and

includes any person for the time being acting in that capacity:

“Defence co-operation” means any exercise or training carried out by the Armed Forces in association with the armed forces of any other State; and includes any secondment or exchange of personnel: 5

“Government” means the Executive Government of New Zealand; and includes the New Zealand Defence Force constituted by section 11 (1) of the Defence Act 1990: 10

“Minister” means the Minister of Foreign Affairs and Trade:

“Ministry” means the Ministry of Foreign Affairs and Trade.

**3. Act to bind the Crown**—This Act binds the Crown. 15

**4. Defence co-operation to comply with this Act**—Notwithstanding anything in the Defence Act 1990 or any other Act, upon the commencement of this Act, the Government must not enter into or continue any defence co-operation with any other State except in accordance with this Act. 20

**5. Inquiry as to basic human rights**—(1) The Government must not enter into or continue any defence co-operation unless the following provisions are complied with:

(a) The Minister must ascertain whether the Government of the State with which it is proposed to enter, or has entered, defence co-operation as a matter of deliberate policy, is using its armed forces to deny basic human rights to the people of that State or any other State: 25 30

(b) In carrying out the provisions of **paragraph (a)**, the Minister must obtain advice in writing from the Ministry:

(c) Having carried out the provisions of **paragraph (a)**, the Minister must—

(i) If, and only if, satisfied that the Government of the State concerned is not using its armed forces to deny basic human rights to the people of that State or any other State, give a certificate under the Minister’s hand according to that tenor; or 35

(ii) If not so satisfied, decline to give such a certificate. 40

(2) Where the Minister gives a certificate under **subparagraph (i) of subsection (1) (a)**, the Minister must—

- (a) Provide forthwith a copy of that certificate to—
- 5 (i) The Prime Minister:
  - (ii) The Minister of Defence:
  - (iii) The Chief of Defence Force:
  - (iv) Each Chief of Staff:
- (b) Present to the House of Representatives not later than 6 sitting days after the Minister has given the certificate—
- 10 (i) A copy of the certificate; and
  - (ii) A copy of the advice that the Minister obtained from the Ministry:
- (c) Publish the certificate as soon as reasonably practicable by
- 15 notice in the *Gazette*.

**6. Change of circumstances**—Where it comes to the notice of the Minister that, since giving a certificate under **section 5 (1) (c) (i)**, the Government of any State with which the Government of New Zealand has entered into any armed

20 forces co-operation is as a matter of deliberate policy using its armed forces to deny basic human rights to the people of that State or any other State, the Minister must revoke the certificate, and must—

- (a) Forthwith notify in writing accordingly—
- 25 (i) The Prime Minister:
  - (ii) The Minister of Defence:
  - (iii) The Chief of Defence Force:
  - (iv) Each Chief of Staff:
- (b) Present to the House of Representatives not later than 6 sitting days after the Minister has revoked the certificate—
- 30 (i) A copy of the notification of that revocation; and
  - (ii) A copy of the advice that the Minister obtained from the Ministry:
- (c) Publish that revocation as soon as reasonably practicable
- 35 by notice in the *Gazette*.

**7. Monitoring**—For the purposes of this Act, the Minister must monitor the position relating to basic human rights for the people of any State with which the Government of New Zealand has entered into defence co-operation, and for the

40 people of any other State by that State.

**8. Duty of Chiefs of Staff**—(1) Neither the Chief of Defence Force nor any Chief of Staff may take, or cause to be taken, any action that will facilitate defence co-operation unless that person has received a copy of the certificate referred to in **section 5 (1) (c) (i)**.

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(2) Upon being notified that any such certificate has been revoked, the Chief of Defence Force and each Chief of Staff must cease, or cause to cease, any action facilitating or implementing defence co-operation with the State concerned.

**9. Contribution to peacekeeping forces not affected**— 10  
Nothing in this Act limits or affects the ability of the Government to contribute armed forces to, or for any of the purposes of, the United Nations, or in association with other organisations or States in accordance with the principles of the Charter of the United Nations. 15