

# INTRODUCTION COPY

*Mr McLean*

## STATE ASSET SALES (ETHICAL PRACTICES)

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### A BILL INTITULED

#### **An Act to establish ethical practices governing negotiations for the sale of assets of the Crown**

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

5     **1. Short Title and commencement**—(1) This Act may be cited as the State Asset Sales (Ethical Practices) Act 1988.

(2) This Act shall come into force on the day after the date on which it receives the Royal assent.

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

“Assets of the Crown” means any shares of any class owned by the Crown in any company or any other property owned by the Crown which has a value in excess of \$1 million:

15     “Director” means a Director as defined by section 2 of the Companies Act 1955 who has been appointed by the Crown:

“Minister” means a Minister of the Crown:

20     “Purchaser” means any person, persons, or company which enters into negotiations with the Crown for the acquisition of any asset of the Crown:

“State-owned Enterprise” means any State-owned Enterprise as defined by the State-Owned Enterprises

Act 1986 or any interest therein owned by the Crown and any other company in which the Crown has an interest.

**3. Application**—This Act shall apply to any negotiations for the sale and purchase of assets of the Crown. 5

**4. Minister to make statutory declaration**—No Minister shall take part in any way, directly or indirectly, in any negotiations relating to the sale of assets of the Crown unless and until such Minister has made a statutory declaration in the form set out in the Schedule to this Act with such additions as may be necessary. 10

**5. Minister to act in good faith**—In the sale of any assets of the Crown, every Minister shall at all times act in good faith and shall in no way gazump any purchaser.

**6. Power of Court to award costs where breach of good faith**—In the event that a Court of competent jurisdiction shall, on the application of any purchaser, decide that a breach of section 5 has occurred, the Court may award costs against the Crown in favour of the purchaser in such amount as the Court thinks fit. 15 20

**7. Provisions relating to person's interest in sale of assets of the Crown**—(1) Any Director of a company of which the shares or assets are offered for sale, and who at that time holds any office or is employed by or has any interest, direct or indirect, in a purchaser, shall, on entering into any negotiations for the sale of such assets,— 25

- (a) Declare such interest in writing to the company and to the Controller and Auditor-General;
- (b) Be entitled to leave of absence from the Board of such company and shall take such leave of absence accordingly and shall take no part whatsoever in any such negotiations for the sale of such assets; 30
- (c) Return to the Secretary of such company all such documents held by him or her relating to the company's affairs; and 35
- (d) Not disclose to any purchaser any confidential information relative to the sale of such assets.

**8. Management buyouts**—Any officer or employee of any State-owned Enterprise who directly or indirectly acquires any interest in such State-owned Enterprise other than on the open 40

5 market, shall, not later than one month from the date of acquisition of such interest or any agreement to acquire such interest, disclose to the Controller and Auditor-General particulars of the terms and conditions of sale including the price.

10 **9. Controller and Auditor-General to report to House of Representatives**—Upon receiving any particulars of a person's interest in the sale of assets of the Crown in accordance with section 8 of this Act, the Controller and Auditor-General shall report to the House of Representatives all such particulars.

SCHEDULE

Section 4

STATUTORY DECLARATION

I, ....., Minister of the Crown, solemnly and sincerely declare

that I have no interest directly or indirectly nor have any association with any purchaser as defined by the State Assets Sales (Ethical Practices) Act 1988 not held in common with the rest of the subjects of the Crown.

And I make this solemn declaration conscientiously believing the same to be true by virtue of the Oaths and Declarations Act 1957.

Declared at .....

this ..... day of 19.... before me.

.....  
A Solicitor of the High Court of New Zealand.