

From: Mark Neeson
To: ONEILB
Date: 20 January 1999 11:38am
Subject: AWINZ and N Wells

Further to our discussion this morning.

1 Have spoken with Lin da. Her initial reaction is that we could not advertise an application before the Act comes into effect. If we do so beforehand we could be open to a challenge that we acted ultra vires. Even though the act would have had the royal assent it would not be in force. For example we couldn't take a prosecution under it.

The win/win is bringing forward the commencement date.

2 Lin da also advises that we do not need a delegation power in the Bill. The State sector Act allows the Minister to delegate to the DG who, in turn, can delegate (with the Minister's written approval) to another person in the ministry.

3 Our team is meeting Neil on Tuesday before you meet with him. His proposal may well figure in the discussions on clauses 105 and 106. I would like to advise the rest of our team beforehand (say Tuesday morning) so they are aware of the background should Neil raise it; no doubt he will as Lin da feels that his proposal may not meet at least one criterion. In fact, I can't see how he can avoid not raising it. For our team, to be forewarned is to be forearmed.

I would expect Neil to declare a conflict of interest on these clauses both to us and the Cttee.

Mark

CC: BAYVELD

RELEASED UNDER THE ACT
OFFICIAL INFORMATION ACT