



Crown Entities Act 2004

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Commencement see section 2

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<p>197 Continuation of pre-1 April 2005 securities, borrowing, guarantees, indemnities, and derivative transactions</p> <p>198 Reporting obligations in respect of financial years ending before 1 July 2006</p> <p>199 Regulations for transitional, savings, and general purposes</p> <p><i>Amendments to other enactments</i></p> <p>200 Amendments to other enactments</p> <p>201 Amendment to Gas Amendment Act 2004</p>	<p style="text-align: center;">Schedule 2 Crown entity companies</p> <p style="text-align: center;">Schedule 3 Application of Crown Entities Act 2004 to School Boards of Trustees</p> <p style="text-align: center;">Schedule 4 Application of Crown Entities Act 2004 to Tertiary Education Institutions</p> <p style="text-align: center;">Schedule 5 Board procedure for statutory entities (other than corporations sole)</p> <p style="text-align: center;">Schedule 6 Amendments to other Acts arising from Crown entity reforms</p>
<hr style="width: 10%; margin: 0 auto;"/> <p style="text-align: center;">Schedule 1 Statutory entities</p>	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crown Entities Act 2004.

2 Commencement

- (1) Section 201 comes into force on the day on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on 25 January 2005.

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to reform the law relating to Crown entities to provide a consistent framework for the establishment, governance, and operation of Crown entities and to clarify accountability relationships between Crown entities, their board members, their responsible Ministers on behalf of the Crown, and the House of Representatives, and, to that end,—

- (a) to provide for different categories of Crown entities and for each category to have its own framework for governance (including the degree to which the Crown entity is required to give effect to, or be independent of, government policy):

- (b) to clarify the powers and duties of board members in respect of the governance and operation of Crown entities, including their duty to ensure the financial responsibility of the Crown entity:
- (c) to set out reporting and accountability requirements.

4 Application of Acts to Crown entities

- (1) The rules for the establishment, governance, operation, and accountability of Crown entities are set out in various Acts of Parliament as follows:
 - (a) this Act applies generally to Crown entities:
 - (b) a statutory entity is established by or under the entity's Act, and the entity's Act may supplement, or expressly modify or negate, the provisions of this Act for that entity and its Crown entity subsidiaries:
 - (c) a Crown entity company is incorporated under the Companies Act 1993 and may also have an entity's Act, and the entity's Act (if any) may supplement, or expressly modify or negate, the provisions of this Act for that company and its Crown entity subsidiaries:
 - (d) other Acts (for example, some provisions of the State Sector Act 1988) also apply.
- (2) This Act applies to a Crown entity, and prevails over the entity's Act, except to the extent that the entity's Act expressly provides otherwise.
- (3) Subsection (2) is subject to sections 5 and 6.

5 Application of this Act to school boards of trustees

- (1) The provisions set out in Schedule 3 of this Act and Schedule 5A of the Education Act 1989 apply to school boards of trustees and their Crown entity subsidiaries.
- (2) Otherwise this Act does not apply to school boards of trustees and their Crown entity subsidiaries.

6 Application of this Act to tertiary education institutions

- (1) The provisions set out in Schedule 4 of this Act and Schedule 13A of the Education Act 1989 apply to tertiary education institutions and their Crown entity subsidiaries.
- (2) Otherwise this Act does not apply to tertiary education institutions and their Crown entity subsidiaries.

7 Meaning of Crown entity and categories of Crown entities

(1) In this Act, **Crown entity** means an entity within 1 of the following 5 categories:

(a) Statutory entities:

What are they?	Definition	Different types
These are bodies corporate that are established by or under an Act	An entity or office named in Schedule 1	<p>Crown agents (which must give effect to government policy when directed by the responsible Minister). These are named in Part 1 of Schedule 1</p> <p>Autonomous Crown entities (which must have regard to government policy when directed by the responsible Minister). These are named in Part 2 of Schedule 1</p> <p>Independent Crown entities (which are generally independent of government policy). These are named in Part 3 of Schedule 1</p>

(b) Crown entity companies:

What are they?	Definition
These are companies incorporated under the Companies Act 1993 that are wholly owned by the Crown	A company named in Schedule 2

(c) Crown entity subsidiaries:

What are they?	Definition
These are companies incorporated under the Companies Act 1993 that are controlled by Crown entities	<p>A company that, under sections 5 to 8 (except section 5(3) of the Companies Act 1993),—</p> <p>(a) is a subsidiary of another Crown entity; or</p> <p>(b) would be a subsidiary of other Crown entities if those Crown entities were treated as 1 entity (with their rights, entitlements, and interests in relation to the company taken together) for the purposes of those sections</p>

(d) School boards of trustees:

What are they?

These are boards that are bodies corporate constituted under the Education Act 1989 (including correspondence schools)

Definition

A body that is a board of trustees constituted under Part IX of the Education Act 1989 and includes a board of a school designated as a correspondence school by the Minister of Education under section 152 of the Education Act 1989

(e) Tertiary education institutions:

What are they?

These are tertiary institutions (for example, colleges of education, polytechnics, specialist colleges, universities, or wananga) that are bodies corporate established under the Education Act 1989

Definition

An institution established under Part XIV of the Education Act 1989

- (2) The words in brackets in subsection (1) about the effect of the different types of statutory entities are intended only as a guide.

8 Meaning of parent Crown entity and Crown entity subsidiary

- (1) A Crown entity (**A**) is a **parent Crown entity** or **parent** of another Crown entity (**B**) if—
- A is a statutory entity or Crown entity company or school board of trustees or tertiary education institution; and
 - B is a subsidiary of A under the definition of Crown entity subsidiaries in column 2 of section 7(1)(c).
- (2) A Crown entity (**B**) is a **Crown entity subsidiary** of another Crown entity (**A**) if B is a subsidiary of A under the definition of Crown entity subsidiaries in column 2 of section 7(1)(c).

9 Power to amend Schedules 1 and 2

- (1) The Governor-General may, by Order in Council, amend Schedule 1 or Schedule 2 to—
- add to Schedule 1 the name of an entity established by or under an Act of Parliament;
 - add to Schedule 2 the name of a Crown entity company;
 - omit the name of a Crown agent from Part 1 of Schedule 1 and add that name to another Part of that schedule:

- (d) omit the name of an autonomous Crown entity from Part 2 of Schedule 1 and add that name to Part 3 of that schedule:
 - (e) omit the name of an entity or company and substitute another name in recognition of a change in the entity's or company's name:
 - (f) omit the name of an entity or company in recognition of the entity's dissolution or the company's removal from the register under the Companies Act 1993.
- (2) An Order in Council cannot be made under this section in relation to a school board of trustees or a tertiary education institution.
- (3) An Order in Council cannot be made under this section to add a Crown entity subsidiary to Schedule 1 or Schedule 2.

10 Interpretation

- (1) In this Act, unless the context otherwise requires,—

appoint includes,—

- (a) in relation to a member, appointment of the member in accordance with the method in section 28 or, in relation to a chairperson or deputy chairperson, appointment in accordance with Schedule 5; or
- (b) appointment by any other person, by election, by designation, by co-option, or by any other method in or under the entity's Act or constitution

autonomous Crown entity means a statutory entity named in Part 2 of Schedule 1

board—

- (a) means, in relation to a statutory entity that has a board or other governing body under the entity's Act (by whatever name called), members of the entity's board who number not less than the required quorum acting together as a board; and
- (b) means, in relation to a statutory entity that does not have a board or other governing body under the entity's Act, persons who constitute the entity and who number not less than the required quorum acting together; and
- (c) means, in relation to a corporation sole, the person who is the sole member of that entity; and

- (d) in relation to a Crown entity company and Crown entity subsidiary, has the same meaning as in section 127 of the Companies Act 1993; and
- (e) means, in relation to a school board of trustees, the persons who comprise that board and who number not less than the required quorum acting together; and
- (f) means, in relation to a tertiary education institution, the members of its Council who number not less than the required quorum acting together

borrow has the meaning set out in section 136

class of outputs or **class** has the meaning set out in section 136

committee means a committee appointed under clause 14 of Schedule 5

committee member means a member of a committee

Crown agent means a statutory entity named in Part 1 of Schedule 1

Crown entity has the meaning set out in section 7(1)

Crown entity company has the meaning set out in column 2 of section 7(1)(b)

Crown entity group has the meaning set out in section 136

Crown entity subsidiary has the meaning set out in section 8(2)

direction means a direction given by a Minister under this Act or the entity's Act to an entity or to a member or employee or office holder of an entity (for example, a direction on government policy, a direction to perform an additional function, or a direction relating to the entity's statement of intent)

employee—

- (a) includes the chief executive of a Crown entity (by whatever name called) other than for the process of determining terms and conditions in sections 97(i) and 116; and
- (b) has, for the purposes of sections 120 to 125, the meaning set out in section 126

entity's Act means,—

- (a) in relation to a statutory entity,—
 - (i) the Act by or under which the statutory entity is established; and

- (ii) if relevant, any other Act that expressly provides for the functions, powers, or duties of the entity (other than this Act); and
- (b) in relation to a Crown entity company, the Act (if any) that specifically provides for the formation or shareholding of the Crown entity company by Ministers or for its governance, operation, or accountability (but does not include a generic Act, like the Companies Act 1993 or this Act); and
- (c) in relation to a Crown entity subsidiary, the entity's Act of its parent Crown entity; and
- (d) in relation to a school board of trustees or a tertiary education institution, the Education Act 1989 or the Education Act 1964

excluded act or omission, for the purposes of sections 120 to 126, has the meaning set out in section 126

fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest, including statutory entities and their subsidiaries and tertiary education institutions

financial year has the meaning set out in section 136

function,—

- (a) in relation to a statutory entity, has the meaning set out in section 14:
- (b) in relation to any other Crown entity—
 - (i) means a function (by whatever name called) to be performed by the Crown entity under the entity's Act or another Act; and
 - (ii) includes any additional function given to the entity by a Minister under another Act in accordance with section 112 of this Act; and
 - (iii) includes, in relation to a Crown entity company or a Crown entity subsidiary, its rights, powers, duties, and obligations under its constitution and the Companies Act 1993 or any functions given to it by a Minister under its constitution in accordance with section 112 of this Act; and
 - (iv) includes, in relation to a Crown entity that does not have an entity's Act, any functions provided for in its statement of intent; and

- (v) includes any functions that are incidental and related to, or consequential on, its functions in subparagraphs (i) to (iv)

generally accepted accounting practice has the meaning set out in section 136

independent Crown entity means a statutory entity named in Part 3 of Schedule 1

interested or **interests** has the meaning set out in section 62
member—

- (a) means, in relation to a statutory entity that has a board or other governing body under the entity's Act, a person who occupies the position of member of the board of the entity (by whatever name called); and
- (b) means, in relation to a statutory entity that does not have a board or other governing body under the entity's Act, a person who is one of the persons who constitute that entity; and
- (c) means, in relation to a corporation sole, the person who is the sole member of that entity; and
- (d) means, in relation to a Crown entity company and Crown entity subsidiary, a director within the meaning of section 126(1)(a) of the Companies Act 1993; and
- (e) means, in relation to a school board of trustees, a trustee; and
- (f) means, in relation to a tertiary education institution, a member of its Council; and
- (g) has, for the purposes of sections 120 to 125, the meaning set out in section 126; and
- (h) except to the extent that the entity's Act otherwise provides, includes any person appointed or elected under another Act as an alternate member, a deputy member, a co-opted member, a designate for a member, or an acting member

Minister means a Minister of the Crown

multi-parent subsidiary means a Crown entity that is a Crown entity subsidiary only because 2 or more Crown entities are treated as 1 entity under paragraph (b) of the definition of the term **Crown entity subsidiaries** in column 2 of section 7(1)(c)

natural person act has the meaning set out in section 24

output agreement means an agreement referred to in section 170

outputs has the meaning set out in section 136

parent Crown entity or **parent** has the meaning set out in section 8(1)

responsible Minister means,—

- (a) in relation to a Crown entity company, the Minister of Finance and the other shareholding Minister or Ministers; and
- (b) in relation to any other Crown entity (other than a Crown entity subsidiary or a tertiary education institution),—
 - (i) a Minister who is expressly specified, in an Act or a warrant or with the authority of the Prime Minister, to be a Minister who is for the time being responsible for the exercise and performance of the functions, powers, and duties of a responsible Minister in relation to the entity; or
 - (ii) if subparagraph (i) does not apply, a Minister who is for the time being responsible, under the authority of an Act or a warrant or with the authority of the Prime Minister, for the administration of the Act, or Part of the Act, by or under which the entity is established; and
- (c) in relation to a Crown entity subsidiary, a responsible Minister of the parent Crown entity of that Crown entity subsidiary

school board of trustees has the meaning set out in section 7(1)(d)

shareholding Ministers means the Ministers who hold shares in a Crown entity company under section 79

statutorily independent function means, in relation to a Crown entity or a member, employee, or office holder of a Crown entity, any matter in respect of which the entity's Act provides that—

- (a) the function must be carried out independently; or
- (b) Ministers of the Crown may not give directions

statutory entity has the meaning set out in column 2 of section 7(1)(a)

tertiary education institution has the meaning set out in section 7(1)(e).

- (2) In this Act, unless the context otherwise requires, references to a person performing functions and exercising powers, or carrying out responsibilities, includes carrying out duties.

11 Act binds the Crown

This Act binds the Crown.

12 Outline of main Crown entity provisions

- (1) Part 2 deals with the establishment and governance of statutory entities (subpart 1), Crown entity companies (subpart 2), and Crown entity subsidiaries (subpart 3), and covers matters such as status, powers, members, duties, delegations, and conflicts of interests, to the extent that those matters are applicable to each of those categories of Crown entity.
- (2) Part 3 deals with the operation of Crown entities and with matters such as—
- (a) what directions the Government can give to Crown entities:
 - (b) to what extent members, employees, committee members, and office holders are immune from liability in legal proceedings or may be reimbursed for costs incurred in settling claims or in proceedings:
 - (c) employees and compliance with the requirements of being a good employer and providing equal employment opportunities:
 - (d) how Crown entities deal with third parties.
- (3) Part 4 deals with the accountability of Crown entities to Parliament and the Crown, and sets out rules on planning, financial statements, reporting, acquisition of securities, borrowing, derivatives, payment of net surpluses to the Crown, capital charges, and taxation.
- (4) Part 5 contains miscellaneous, transitional, and savings provisions.
- (5) Schedules 1 and 2 list the Crown entities in the various categories.
- (6) Schedules 3 and 4 list the provisions that apply to school boards of trustees and tertiary education institutions and their Crown entity subsidiaries.

- (7) Schedule 5 sets out the board procedure for statutory entities (other than corporations sole).
- (8) Subsections (1) to (7) are only a guide to the general scheme and effect of this Act.

Part 2

Establishment and governance of Crown entities

Subpart 1—Statutory entities

Establishment of statutory entity

13 Establishment of statutory entity

A statutory entity is established by or under an Act other than this Act.

14 Functions

- (1) The functions of a statutory entity are—
 - (a) the functions set out in the entity’s Act; and
 - (b) if the entity’s Act gives the responsible Minister power to add functions, any other functions that the responsible Minister may direct the entity to perform in accordance with that Act and section 112 of this Act; and
 - (c) any functions that are incidental and related to, or consequential on, its functions set out in paragraphs (a) and (b).
- (2) In performing its functions, a statutory entity must act consistently with its objectives.

15 Status of statutory entity

A statutory entity—

- (a) is a body corporate; and
- (b) is accordingly a legal entity separate from its members, office holders, employees, and the Crown; and
- (c) continues in existence until it is dissolved by an Act.

16 Core things statutory entities can do

A statutory entity may do anything authorised by this Act or the entity’s Act.

17 Other things statutory entities can do

- (1) A statutory entity may do anything that a natural person of full age and capacity may do.
- (2) Subsection (1) applies except as provided in this Act or another Act or rule of law.

18 Acts must be for purpose of functions

A statutory entity may do an act under section 16 or section 17 only for the purpose of performing its functions.

*Validity of acts***19 Acts in breach of statute are invalid**

- (1) An act of a statutory entity is invalid, unless section 20 applies, if it is—
 - (a) an act that is contrary to, or outside the authority of, an Act; or
 - (b) an act that is done otherwise than for the purpose of performing its functions.
- (2) Subsection (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

20 Some natural person acts protected

- (1) Section 19, or any rule of law to similar effect, does not prevent a person dealing with a statutory entity from enforcing a transaction that is a natural person act unless the person dealing with the entity had, or ought reasonably to have had, knowledge—
 - (a) of an express restriction in an Act that makes the act contrary to, or outside the authority of, the Act; or
 - (b) that the act is done otherwise than for the purpose of performing the entity's functions.
- (2) A person who relies on subsection (1) has the onus of proving that that person did not have, and ought not reasonably to have had, the knowledge referred to in that subsection.
- (3) A statutory entity must report, in its annual report, each transaction that the entity has performed in the year to which the report relates that was invalid under section 19 but enforced in reliance on this section.

- (4) For the avoidance of doubt, this section does not affect any person's other remedies (for example, remedies in contract) under the general law.

21 Limits on protection of natural person acts

Section 20 does not limit—

- (a) section 60 (which provides for injunctions to require or restrain acts); or
- (b) the board of the statutory entity bringing an action against a member who voted for or otherwise authorised the act for breach of his or her individual duties as a member; or
- (c) a member who voted for or otherwise authorised the act being removed from office for breach of the individual duties of members or the collective duties of the board; or
- (d) an application, in accordance with the law, for judicial review; or
- (e) section 69.

22 Acts that are not in best interests of statutory entity

It is irrelevant to the validity of an act that the act is not, or would not be, in the best interests of a statutory entity.

Compare: 1993 No 105 s 17(3)

23 Dealings between statutory entities and other persons

- (1) A statutory entity may not assert against a person dealing with the entity that—
- (a) a person held out by the statutory entity to be a member, office holder, chief executive, employee, or agent of the statutory entity (as the case may be)—
 - (i) has not been duly appointed in that capacity or has ceased to be appointed in that capacity; or
 - (ii) does not have the authority to exercise a power which, given the nature of the statutory entity, a person appointed to that capacity customarily has authority to exercise; or
 - (iii) does not have the authority to exercise a power that the statutory entity holds him or her out as having; or

- (b) a document issued on behalf of the entity by a member, office holder, chief executive, employee, or agent of the entity with actual or usual authority to issue the document is not valid or genuine.
- (2) However, a statutory entity may assert any of those matters if the person dealing with the statutory entity had, or ought reasonably to have had, knowledge of the matter.
- (3) Nothing in this section affects a person's right to apply, in accordance with the law, for judicial review.

Compare: 1993 No 105 s 18

24 Interpretation

In sections 15 to 23, unless the context otherwise requires,—
act includes a transfer of property, rights, or interests to or by a statutory entity

do includes—

- (a) to do an act; and
- (b) to have a capacity; and
- (c) to have or exercise a power, right, or privilege

natural person act—

- (a) means an act that a natural person of full age and capacity can do (whether or not the act is something that is also authorised by an Act); and
- (b) includes entry into a contract for, or relating to,—
 - (i) acquisition of securities or borrowing;
 - (ii) a derivative transaction;
 - (iii) the purchase, leasing, or sale of, or other dealings with, property;
 - (iv) the employment, or engagement of the services, of a person

person dealing—

- (a) means the other party to the transaction, if the act of the statutory entity is a transaction; and
- (b) includes a person who has acquired property, rights, or interests from a statutory entity.

*Role and accountability of members***25 Board's role**

- (1) The board is the governing body of a statutory entity, with the authority, in the entity's name, to exercise the powers and perform the functions of the entity.
- (2) All decisions relating to the operation of a statutory entity must be made by, or under the authority of, the board in accordance with this Act and the entity's Act.

26 Accountability of members to responsible Minister

- (1) Members of a statutory entity must comply with—
 - (a) the board's collective duties (in sections 49 to 52); and
 - (b) their individual duties as members (in sections 53 to 57); and
 - (c) any directions applicable to the entity under subpart 1 of Part 3.
- (2) Members are accountable to the responsible Minister for performing their duties as members.

*Responsible Minister's role***27 Responsible Minister's role**

- (1) The role of the responsible Minister is to oversee and manage the Crown's interests in, and relationship with, a statutory entity and to exercise any statutory responsibilities given to the Minister, including functions, and powers—
 - (a) in relation to the appointment and removal of members under this subpart:
 - (b) to determine the remuneration of some members under this Part:
 - (c) in relation to the giving of directions to the entity under subpart 1 of Part 3:
 - (d) to review the operations and performance of the entity under subpart 3 of Part 3:
 - (e) to request information from the entity under subpart 3 of Part 3, whether for a review or otherwise:
 - (f) to participate in the process of setting and monitoring the entity's strategic direction and targets under Part 4:
 - (g) in relation to other matters in this Act or another Act.
- (2) This section does not limit another Minister's relationship with the statutory entity under any other authority.

Appointment, removal, and conditions of members

28 Method of appointment of members

- (1) A member of a statutory entity is appointed by—
 - (a) the responsible Minister, in the case of a member of a Crown agent or autonomous Crown entity; or
 - (b) the Governor-General, on the recommendation of the responsible Minister, in the case of a member of an independent Crown entity.
- (2) The appointment must be made by written notice to the member (with a copy to the entity).
- (3) The notice must—
 - (a) state the date on which the appointment takes effect which must not be earlier than the date on which the notice is received; and
 - (b) state the term of the appointment; and
 - (c) be published by the responsible Minister in the *Gazette* as soon as practicable after being given.

29 Criteria for appointments or recommendations by responsible Minister

- (1) A responsible Minister of a statutory entity must appoint, or recommend the appointment of, members under section 28 in accordance with any criteria for members and any process for appointment under this or another Act.
- (2) A responsible Minister—
 - (a) may only appoint or recommend a person who, in the responsible Minister's opinion, has the appropriate knowledge, skills, and experience to assist the statutory entity to achieve its objectives and perform its functions; and
 - (b) subject to subsection (1), in appointing or recommending an appointment, must take into account the desirability of promoting diversity in the membership of Crown entities.

30 Qualifications of members

- (1) A natural person who is not disqualified by this section may be a member of a statutory entity.
- (2) The following persons are disqualified from being members:
 - (a) a person who is an undischarged bankrupt:

- (b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under section 382, section 383, or section 385 of the Companies Act 1993:
 - (c) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:
 - (d) a person in respect of whom a personal order has been made under that Act that reflects adversely on the person's—
 - (i) competence to manage his or her own affairs in relation to his or her property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of his or her personal care and welfare:
 - (e) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person:
 - (f) a member of Parliament:
 - (g) a person who is disqualified under another Act.
- (3) However, subsection (2)(f) does not disqualify a person who is elected (rather than appointed) to office as a member under any other Act.

31 Requirements before appointment

- (1) Before a person is appointed as a member of a statutory entity, the person must—
 - (a) consent in writing to being a member; and
 - (b) certify that he or she is not disqualified from being a member; and
 - (c) disclose to the responsible Minister the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the statutory entity.
- (2) The board of the entity must notify the responsible Minister of a failure to comply with subsection (1)(c) as soon as practicable after becoming aware of the failure.

32 Term of office of members

- (1) A member of a statutory entity holds office for—
 - (a) 3 years or any shorter period stated in the notice of appointment, in the case of a member of a Crown agent or autonomous Crown entity; or
 - (b) 5 years or any shorter period stated in the notice of appointment, in the case of a member of an independent Crown entity.
- (2) A member may be reappointed.
- (3) A member continues in office despite the expiry of his or her term of office until—
 - (a) the member is reappointed; or
 - (b) the member's successor is appointed; or
 - (c) the appointor informs the member by written notice (with a copy to the entity) that the member is not to be reappointed and no successor is to be appointed at that time.
- (4) This section is subject to section 45.

33 Elected, co-opted, etc, members

- (1) Sections 28, 29, 31(1)(a) and (b), and 32 do not apply to a member of a statutory entity who is appointed under the entity's Act by election, co-option, or designation, or by any method other than appointment by a Minister or the Governor-General.
- (2) Section 31(1)(c) does not apply to a member of a statutory entity who is appointed (whether or not by nomination) by any method other than appointment by a Minister or the Governor-General if, under another Act, the member is required to disclose interests in matters relating to the statutory entity before being appointed as a member.

34 Validity of members' acts

The acts of a person as a member, chairperson, or deputy chairperson of a statutory entity are valid even though—

- (a) a defect existed in the appointment of the person; or
- (b) the person is or was disqualified from being a member; or
- (c) the occasion for the person acting, or for his or her appointment, had not arisen or had ended.

35 Validity of appointments

- (1) The appointment of a person as a member, chairperson, or deputy chairperson of a statutory entity is not invalid only because a defect existed in the appointment of the person.
- (2) This section does not apply to—
 - (a) a defect in the qualifications for appointment of a member, chairperson, or deputy chairperson; or
 - (b) a member of a statutory entity who is appointed under the entity's Act by election.

36 Removal of members of Crown agents

- (1) The responsible Minister may, at any time and entirely at his or her discretion, remove a member of a Crown agent from office.
- (2) The removal must be made by written notice to the member (with a copy to the entity).
- (3) The notice must state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received.
- (4) The responsible Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.
- (5) This section does not apply to a member appointed by election under the entity's Act.

37 Removal of members of autonomous Crown entities

- (1) The responsible Minister may, at any time and for any reason that in the Minister's opinion justifies the removal, remove a member of an autonomous Crown entity from office.
- (2) The removal must be made by written notice to the member (with a copy to the entity).
- (3) The notice must—
 - (a) state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) state the reasons for the removal.
- (4) The responsible Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.
- (5) This section does not apply to a member appointed by election under the entity's Act.

38 Removal of elected members of Crown agents and autonomous Crown entities

- (1) The responsible Minister may, at any time for just cause, remove a member appointed by election to a Crown agent or autonomous Crown entity from office.
- (2) The removal must be made by written notice to the member (with a copy to the entity).
- (3) The notice must—
 - (a) state the date on which the removal takes effect which must not be earlier than the date on which the notice is received; and
 - (b) state the reasons for the removal.
- (4) The responsible Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.

39 Removal of members of independent Crown entities

- (1) The Governor-General may, at any time for just cause, on the advice of the responsible Minister given after consultation with the Attorney-General, remove a member of an independent Crown entity from office.
- (2) The removal must be made by written notice to the member (with a copy to the entity).
- (3) The notice must—
 - (a) state the date on which the removal takes effect which must not be earlier than the date on which the notice is received; and
 - (b) state the reasons for the removal.
- (4) The responsible Minister must notify the removal in the *Gazette* as soon as practicable after the notice is given.

40 Just cause

In sections 38 and 39, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the board or the individual duties of members (depending on the seriousness of the breach).

41 Process for removal

A responsible Minister may remove, or advise the removal of, a member, as the case may be, with as little formality and technicality, and as much expedition, as is permitted by—

- (a) the principles of natural justice; and
- (b) a proper consideration of the matter; and
- (c) the different requirements of this Act in relation to the different types of statutory entity.

42 Judges serving as members

- (1) This section applies to a Judge who is a member of a statutory entity, except as otherwise provided in the entity's Act.
- (2) The Judge may be removed as a member in accordance with the removal provisions of this Act for a breach of the board's collective duties, but only if all of the other members are being removed for the same breach at the same time.
- (3) That removal does not affect his or her tenure as a Judge.
- (4) The Judge may not be removed as a member in accordance with any other removal provisions of this Act.
- (5) The Judge may be removed as a member at any time under the general law that applies to removal from office as a Judge.

43 No compensation for loss of office

A member of a statutory entity is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member.

44 Resignation of members

- (1) A member of a statutory entity may resign from office by written notice to the responsible Minister (with a copy to the entity) signed by the member.
- (2) The resignation is effective on receipt by the responsible Minister of the notice or at any later time specified in the notice.

45 Members ceasing to hold office

A member of a statutory entity ceases to hold office if he or she—

- (a) resigns in accordance with section 44; or

- (b) is removed from office in accordance with sections 36 to 39 or any other enactment; or
- (c) becomes disqualified from being a member under any of paragraphs (a) to (g) of section 30(2); or
- (d) otherwise ceases to hold office in accordance with any enactment.

46 Member of corporation sole not to hold concurrent office

The member of a corporation sole must not, without the prior approval of the responsible Minister, hold any office of trust or profit or engage in any occupation for reward outside his or her responsibilities as a member of the corporation sole.

Remuneration and expenses

47 Remuneration of members

- (1) A member of a statutory entity is entitled to receive, from the funds of the entity, remuneration not within section 48 for services as a member at a rate and of a kind determined by—
 - (a) the responsible Minister, in the case of a member of a Crown agent or autonomous Crown entity, in accordance with the fees framework; or
 - (b) the Remuneration Authority in accordance with the Remuneration Authority Act 1977, in the case of—
 - (i) a member of an independent Crown entity; or
 - (ii) a member of a Crown agent or autonomous Crown entity that is a corporation sole.
- (2) The following office holders are not entitled to any remuneration for services as a member of the statutory entity in addition to his or her remuneration in respect of that office:
 - (a) a Judge;
 - (b) a member of Parliament;
 - (c) an employee (including a chief executive) within any part of the State services who is acting as a member of the statutory entity as a representative of all or any part of the State services.

48 Expenses of members

A member of a statutory entity is entitled, in accordance with the fees framework, to be reimbursed, out of the funds of the

entity, for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

Collective duties of board

- 49 Entity must act consistently with objectives, functions, statement of intent, and output agreement**
The board of a statutory entity must ensure that the entity acts in a manner consistent with its objectives, functions, current statement of intent, and output agreement (if any) under Part 4.
- 50 Functions must be performed efficiently, effectively, and consistently with spirit of service to public**
The board of a statutory entity must ensure that the statutory entity performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public.
- 51 Entity must operate in financially responsible manner**
The board of a statutory entity must ensure that the entity operates in a financially responsible manner and, for this purpose, that it—
- (a) prudently manages its assets and liabilities; and
 - (b) endeavours to ensure—
 - (i) its long-term financial viability; and
 - (ii) that it acts as a successful going concern.
- 52 Subsidiaries and other interests**
The board of a statutory entity must ensure that the entity complies with sections 96 to 101.

Individual duties of members

- 53 Duty to comply with this Act and entity's Act**
A member of a statutory entity must not contravene, or cause the contravention of, or agree to the entity contravening, this Act or the entity's Act.
- 54 Duty to act with honesty and integrity**
A member of a statutory entity must, when acting as a member, act with honesty and integrity.

55 Duty to act in good faith and not at expense of entity's interests

A member of a statutory entity must, when acting as a member, act in good faith and not pursue his or her own interests at the expense of the entity's interests.

56 Duty to act with reasonable care, diligence, and skill

A member of a statutory entity must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—

- (a) the nature of the statutory entity; and
- (b) the nature of the action; and
- (c) the position of the member and the nature of the responsibilities undertaken by him or her.

57 Duty not to disclose information

- (1) A member of a statutory entity who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of, or act on, that information, except—
 - (a) in the performance of the entity's functions; or
 - (b) as required or permitted by law; or
 - (c) in accordance with subsection (2); or
 - (d) in complying with the requirements for members to disclose interests.
- (2) A member may disclose, make use of, or act on the information if—
 - (a) the member is first authorised to do so by the board or, in the case of a corporation sole, by the responsible Minister; and
 - (b) the disclosure, use, or act in question will not, or will be unlikely to, prejudice the entity.

Effect of non-compliance with duties

58 Accountability for collective board duties

- (1) The duties of the board and members of a statutory entity under sections 49 to 52 (**collective duties**) are duties owed to the responsible Minister.
- (2) If a board does not comply with any of its collective duties, all or any of the members may be removed from office (subject to

- any requirements in sections 36 to 42, or in the entity's Act, that are applicable to the member).
- (3) However, subsection (2) does not apply to a member (other than the member of a corporation sole) if—
 - (a) he or she did not know and could not reasonably be expected to know that the duty was to be or was being breached; or
 - (b) he or she took all reasonable steps in the circumstances to prevent the duty being breached.
 - (4) The taking of reasonable steps does not require a member to apply to a court for an order under section 60.
 - (5) A member is not liable for a breach of a collective duty under this Act.
 - (6) However, subsection (5) does not limit subsection (2).
 - (7) This section does not affect any other ground for removing a member from office.
 - (8) Subsection (5) does not affect—
 - (a) anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach; or
 - (b) the right to apply for a court order under section 60.

59 Accountability for individual duties

- (1) The duties of the members of a statutory entity under sections 53 to 57 (**individual duties**) are duties owed to the responsible Minister and the statutory entity.
- (2) If a member does not comply with his or her individual duties, that member may be removed from office (subject to any requirements in sections 36 to 42, or in the entity's Act, that are applicable to the member).
- (3) A statutory entity may bring an action against a member for breach of any individual duty.
- (4) Except as provided in subsections (2) and (3), a member is not liable for a breach of an individual duty under this Act.
- (5) This section does not affect any other ground for removing a member from office.
- (6) Subsection (4) does not affect—

- (a) anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach; or
- (b) the right to apply for a court order under section 60.

60 Court actions requiring or restraining board or members

- (1) A responsible Minister or a member of a statutory entity may apply to a court for an order—
 - (a) restraining the board or a member of the board from engaging in conduct that would contravene any requirement under this Act or the entity's Act; and
 - (b) granting any consequential relief.
- (2) A responsible Minister may apply to a court for an order—
 - (a) requiring the board or a member to take any action that is required to be taken under this Act or the entity's Act;
 - (b) granting any consequential relief.
- (3) The court may make an order on the application subject to the following rules:
 - (a) an order may be made only if it is just and equitable to do so;
 - (b) no order may be made in respect of conduct that has been completed.
- (4) The court may, at any time before the final determination of an application under this section, make as an interim order any order that it is empowered to make as a final order.
- (5) This section is subject to section 113.

Reliance on information and advice

61 When members may rely on certain information and advice

- (1) A member, when acting as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - (a) an employee of the statutory entity whom the member believes on reasonable grounds to be reliable and competent in relation to the matters concerned:

- (b) a professional adviser or expert in relation to matters that the member believes on reasonable grounds to be within the person's professional or expert competence;
 - (c) any other member or a committee on which the member did not serve in relation to matters within the member's or committee's designated authority.
- (2) A member, when acting as a member, may rely on reports, statements, financial data, and other information supplied by the Crown.
- (3) This section applies to a member only if the member—
- (a) acts in good faith; and
 - (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
 - (c) has no knowledge that the reliance is unwarranted.

Conflict of interest disclosure rules

62 When interests must be disclosed

- (1) In this section, **matter** means—
- (a) a statutory entity's performance of its functions or exercise of its powers; or
 - (b) an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the entity.
- (2) A person is **interested** in a matter if he or she—
- (a) may derive a financial benefit from the matter; or
 - (b) is the spouse, de facto partner (whether of the same or different sex), child, or parent of a person who may derive a financial benefit from the matter; or
 - (c) may have a financial interest in a person to whom the matter relates; or
 - (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - (e) may be interested in the matter because the entity's Act so provides; or
 - (f) is otherwise directly or indirectly interested in the matter.
- (3) However, a person is not interested in a matter—
- (a) only because he or she is a member or an officer of a wholly-owned subsidiary of the entity or of a subsidiary

- that is owned by the entity together with another parent Crown entity or entities; or
- (b) because he or she receives an indemnity, insurance cover, remuneration, or other benefits authorised under this Act or another Act; or
 - (c) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under this Act or another Act; or
 - (d) if an entity's Act provides that he or she is not interested, despite this section.

63 Obligation to disclose interest

- (1) A member who is interested in a matter relating to the statutory entity must disclose details of the interest in accordance with section 64 as soon as practicable after the member becomes aware that he or she is interested.
- (2) A general notice of an interest in a matter relating to the statutory entity, or in a matter that may in future relate to the entity, that is disclosed in accordance with section 64 is a standing disclosure of that interest for the purposes of this section.
- (3) A standing disclosure ceases to have effect if the nature of the interest materially alters or the extent of the interest materially increases.

64 Who disclosure of interests must be made to

The member must disclose details of the interest in an interests register kept by the statutory entity and to—

- (a) the chairperson or, if there is no chairperson or if the chairperson is unavailable or interested, the deputy or temporary chairperson; or
- (b) the responsible Minister, if there is neither a chairperson nor a deputy or temporary chairperson, or if both the chairperson and the deputy or temporary chairperson are unavailable or interested.

65 What must be disclosed

The details that must be disclosed under section 64 are—

- (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or

- (b) the nature and extent of the interest (if the monetary value cannot be quantified).

66 Consequences of being interested in matter

A member who is interested in a matter relating to a statutory entity—

- (a) must not vote or take part in any discussion or decision of the board or any committee relating to the matter, or otherwise participate in any activity of the entity that relates to the matter; and
- (b) must not sign any document relating to the entry into a transaction or the initiation of the matter; and
- (c) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the board or committee during which a discussion or decision relating to the matter occurs or is made.

67 Consequences of failing to disclose interest

- (1) The board must notify the responsible Minister of a failure to comply with section 63 or section 66, and of the acts affected, as soon as practicable after becoming aware of the failure.
- (2) A failure to comply with section 63 or section 66 does not affect the validity of an act or matter.
- (3) However, subsection (2) does not limit the right of any person to apply, in accordance with law, for judicial review.

68 Permission to act despite being interested in matter

- (1) The chairperson of a statutory entity may, by prior written notice to the board, permit 1 or more members, or members with a specified class of interest, to do anything otherwise prohibited by section 66, if the chairperson is satisfied that it is in the public interest to do so.
- (2) The permission may state conditions that the member must comply with.
- (3) The deputy or temporary chairperson may give the permission if there is no chairperson, or if the chairperson is unavailable or interested.
- (4) The responsible Minister may give the permission if there is neither a chairperson nor a deputy or temporary chairperson,

or if both the chairperson and the deputy or temporary chairperson are unavailable or interested.

- (5) The permission may be amended or revoked in the same way as it may be given.
- (6) The board must disclose an interest to which a permission relates in its annual report, together with a statement of who gave the permission and any conditions or amendments to, or revocation of, the permission.

69 Entity may avoid certain acts done in breach of conflict of interest rules

- (1) A statutory entity may avoid a natural person act done by the entity in respect of which a member was in breach of section 66.
- (2) However, the act—
 - (a) may be avoided only within 3 months of the affected act being disclosed to the responsible Minister under section 67; and
 - (b) cannot be avoided if the entity receives fair value in respect of the act.
- (3) An act in which a member is interested can be avoided on the ground of the member's interest only in accordance with this section.

Compare: 1993 No 105 s 141(1), (2), (6)

70 What is fair value

- (1) The entity is presumed to receive fair value in respect of an act that is done by the entity in the ordinary course of its business and on usual terms and conditions.
- (2) Whether an entity receives fair value in respect of an act must be determined on the basis of the information known to the entity and to the interested member at the time the act is done.

Compare: 1993 No 105 s 141(3), (4)

71 Onus of proving fair value

- (1) A person seeking to prevent an act being avoided, and who knew, or ought reasonably to have known, of the member's interest at the time the act was done, has the onus of establishing fair value.

- (2) In any other case, the entity has the onus of establishing that it did not receive fair value.

Compare: 1993 No 105 s 141(5)

72 Effect of avoidance on third parties

The avoidance of an act under section 69 does not affect the title or interest of a person to or in property that that person has acquired if the property was acquired—

- (a) from a person other than the entity; and
- (b) for valuable consideration; and
- (c) without knowledge of the circumstances of the act under which the person referred to in paragraph (a) acquired the property from the entity.

Delegation

73 Ability to delegate

- (1) The board of a statutory entity may delegate any of the functions or powers of the entity or the board, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons:
- (a) a member or members:
 - (b) the chief executive or any other employee or employees, or office holder or holders, of the entity;
 - (c) a committee;
 - (d) any other person or persons approved by the entity's responsible Minister;
 - (e) any class of persons comprised of any of the persons listed in paragraphs (a) to (d);
 - (f) a Crown entity subsidiary of the statutory entity.
- (2) Subsection (1) does not apply to any functions or powers specified in the entity's Act as not being capable of delegation.
- (3) Subsection (1)(f) does not apply to any of the statutory entity's statutorily independent functions.
- (4) The board must not delegate the general power of delegation.

Compare: 1988 No 20 ss 28, 41(1); 1993 No 105 s 130

74 Powers of delegate

- (1) A delegate to whom any functions or powers of a statutory entity or board are delegated—

- (a) may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the entity or the board; and
 - (b) may delegate the function or power only—
 - (i) with the prior written consent of the board; and
 - (ii) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.
- (2) A delegate who purports to perform a function or exercise a power under a delegation—
- (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - (b) must produce evidence of his or her authority to do so, if reasonably requested to do so.

Compare: 1988 No 20 s 41(2), (3), (4)

75 Effect of delegation on entity or board

No delegation in accordance with this Act or the entity's Act—

- (a) affects or prevents the performance of any function or the exercise of any power by the entity or the board; or
- (b) affects the responsibility of the board for the actions of any delegate acting under the delegation; or
- (c) is affected by any change in the membership of the board or of any committee or class of persons or by any change in an office holder, chief executive, or employee.

Compare: 1988 No 20 ss 41(7), 42(2)

76 Revocations of delegations

- (1) A delegation under section 73 may be revoked at will by—
 - (a) resolution of the board and written notice to the delegate; or
 - (b) any other method provided for in the delegation.
- (2) A delegation under section 74(1)(b) may be revoked at will by written notice of the delegate to the subdelegate.

Compare: 1988 No 20 s 42

*Miscellaneous provisions relating to board***77 Vacancies in membership of board**

The powers and functions of a statutory entity are not affected by any vacancy in the membership of its board.

78 Board procedure

The provisions set out in Schedule 5 govern the proceedings of the board of a statutory entity (other than a corporation sole).

Subpart 2—Crown entity companies*Formation and shareholding of Crown entity companies***79 Formation and acquisition of shares in Crown entity companies**

- (1) Shares in a Crown entity company may be subscribed for, or otherwise acquired, on behalf of the Crown only by 2 or more Ministers.
- (2) One of those shareholding Ministers must be the Minister of Finance.
- (3) Each shareholding Minister of a Crown entity company must always hold the same number of shares in the Crown entity company as each other shareholding Minister of that Crown entity company.
- (4) This section does not limit the Crown's ability to subscribe for, or otherwise acquire, shares in a company that is not a Crown entity company.
- (5) This section applies also to a company that is being formed with the intention of becoming a Crown entity company, despite the fact that the company is not yet named in Schedule 2.

80 Restrictions relating to shares in Crown entity companies

- (1) No Minister may—
 - (a) sell or otherwise dispose of any shares in a Crown entity company held in the Minister's name; or
 - (b) permit shares in a Crown entity company to be allotted or issued to any person other than a shareholding Minister.

- (2) However, despite subsection (1)(a), a Minister may dispose of shares—
 - (a) as part of a reconstruction or merger in which the Crown's interest in the shares of the company is not diluted; or
 - (b) if an Act authorises the transfer of ownership of shares of a Crown entity company.
- (3) Subsection (1) does not apply to redeemable preference shares that—
 - (a) are not convertible into shares of any other class; and
 - (b) do not confer any rights to vote at any general meeting of the company.

Compare: 1986 No 124 s 11

81 Crown entity company must have constitution stating it is Crown entity

A Crown entity company must have a constitution, and the constitution must contain a statement to the effect that the company is a Crown entity for the purposes of this Act.

82 Constitution must be presented to House of Representatives

A shareholding Minister of a Crown entity company must present the constitution of the company, and any changes to the constitution and any replacement constitution, to the House of Representatives as soon as practicable after the date on which the company becomes a Crown entity company, or the date of the change or replacement, whichever is applicable.

83 Shares to be held by person holding office as Minister

- (1) Shares in a Crown entity company held in the name of a person described as a Minister are to be held by the person for the time being holding the office of that Minister.
- (2) It is not necessary to complete or register a transfer of shares in a Crown entity company held in the name of a person described as a Minister upon a change in the person holding that office.
- (3) Subsection (2) applies despite any other enactment or rule of law.

84 Appointment of representative of shareholding Minister

- (1) A shareholding Minister of a Crown entity company may, by written notice to a Crown entity company, authorise (on the terms specified in the notice) a person to act as the shareholding Minister's representative at any or all of the meetings of shareholders of the company or of any class of those shareholders.
- (2) Any person authorised under subsection (1) is entitled to exercise the same powers on behalf of the shareholding Minister as the shareholding Minister could exercise if present in person at the meeting or meetings.
- (3) This section applies despite any other enactment or rule of law.

85 Interface with Companies Act 1993 and other Acts

- (1) Section 178 of the Companies Act 1993 (which relates to information for shareholders and, among other things, sets out some reasons for which a company can refuse to provide information) does not entitle a Crown entity company to refuse to provide information that must be provided under this Act or otherwise made available to any person under the Official Information Act 1982.
- (2) Section 161(1)(b) of the Companies Act 1993 (which relates to payment to a director or former director of compensation for loss of office) does not apply to a Crown entity company.
- (3) In all other respects, both the Companies Act 1993 and this Act apply to a Crown entity company in respect of a matter, but anything done under one Act counts towards compliance with the other Act.

*Role and accountability of members***86 Board's role**

- (1) In accordance with section 128(1) of the Companies Act 1993, the business and affairs of a Crown entity company must be managed by, or under the direction or supervision of, the board of the company.
- (2) The board of a Crown entity company must exercise its duties under section 128(1) of that Act in accordance with this Act and the entity's Act (if any).

- (3) Subsection (2) does not limit section 128(3) of the Companies Act 1993 (which relates to modifications, exceptions, or limitations contained in that Act or in the company's constitution).

87 Accountability of members to shareholding Ministers

- (1) Members of a Crown entity company must comply with—
 - (a) the board's collective duties (in sections 92 and 93); and
 - (b) the individual duty (in section 95); and
 - (c) any directions applicable to the company under subpart 1 of Part 3.
- (2) Members are accountable to the shareholding Ministers for performing their duties as members under this Act.
- (3) This section does not affect individual directors' duties that are owed to the company under Part VIII of the Companies Act 1993.

Shareholding Ministers' role

88 Shareholding Ministers' role

- (1) The role of the shareholding Ministers is to oversee and manage the Crown's interests in, and relationship with, a Crown entity company and to exercise any statutory responsibilities given to the shareholding Ministers, including functions and powers—
 - (a) to appoint and remove members by shareholder resolution in accordance with the Companies Act 1993; and
 - (b) to review the operations and performance of the company under subpart 3 of Part 3; and
 - (c) to request information from the entity under subpart 3 of Part 3, whether for a review or otherwise; and
 - (d) to participate in the process of setting and monitoring the company's strategic direction and targets under Part 4; and
 - (e) to do other things under this Act or another Act or the company's constitution.
- (2) The shareholding Ministers may give directions to the company only if expressly authorised to do so by this Act or another Act.
- (3) This section does not limit another Minister's relationship with the Crown entity company under any other authority.

*Appointment and removal of members***89 Criteria for appointments by shareholding Minister**

- (1) A shareholding Minister of a Crown entity company must appoint members in accordance with any criteria for members, and any process for appointment, set out under this Act or another Act or the company's constitution.
- (2) A shareholding Minister—
 - (a) may only appoint a person who, in the shareholding Minister's opinion, has the appropriate knowledge, skills, and experience to ensure the sound management of the Crown entity company and to assist the company to achieve its objectives and perform its functions; and
 - (b) subject to subsection (1), in appointing, must take into account the desirability of promoting diversity in the membership of Crown entities.
- (3) A member of Parliament is disqualified from being a member of a Crown entity company.

90 Members must disclose interests before appointment

- (1) Before a person is appointed as a member of a Crown entity company, the person must disclose to the shareholding Ministers the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the Crown entity company.
- (2) The board of the Crown entity company must notify the shareholding Ministers of a failure to comply with subsection (1) as soon as practicable after becoming aware of the failure.
- (3) Sections 139 and 140 of the Companies Act 1993 do not apply until after the member is appointed.

91 No compensation for removal from office

A member of a Crown entity company is not entitled to any compensation or other payment or benefit relating to his or her ceasing for any reason to hold office as a member.

*Collective duties of board***92 Duty to act consistently with objectives, functions, statement of intent, and output agreement**

The board of a Crown entity company must ensure that the company acts in a manner consistent with its objectives, functions, current statement of intent, and current output agreement (if any).

93 Subsidiaries

A Crown entity company must ensure that the company complies with sections 96 to 101.

94 Accountability for collective board duties

- (1) The duties of the board and members of a Crown entity company under sections 92 and 93 (**collective duties**) are duties owed to the shareholding Ministers.
- (2) If a board does not comply with any of its collective duties, all or any of the members may be removed from office.
- (3) However, subsection (2) does not apply to a member if—
 - (a) he or she did not know and could not reasonably be expected to know that the duty was to be or was being breached; or
 - (b) he or she took all reasonable steps in the circumstances to prevent the duty being breached.
- (4) A member is not liable for a breach of a collective duty under this Act, except for being removed from office as provided for in subsection (2).
- (5) This section does not affect any other ground for removing a member from office or section 156 of the Companies Act 1993 (which relates to the process for removal of a company director).
- (6) Subsection (4) does not affect—
 - (a) anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach; or
 - (b) the right to apply for a court order under the Companies Act 1993.

*Individual duty of members***95 Duty to comply with this Act and entity's Act**

- (1) A member of a Crown entity company must not contravene, or cause or agree to the company's contravention of, this Act or the entity's Act (if any).
- (2) This duty is owed to the responsible Minister and the Crown entity company.
- (3) If a member does not comply with the duty, that member may be removed from office.
- (4) A Crown entity company may bring action against a member for breach of the duty.
- (5) A member is not liable for a breach of the duty, except for being removed from office as provided for in subsection (3) or in an action brought under subsection (4).
- (6) Subsection (5) does not affect anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach.

Subpart 3—Crown entity subsidiaries*Formation and shareholding of Crown entity subsidiaries***96 Acquisition of subsidiaries**

A Crown entity must ensure that the entity acquires or forms a Crown entity subsidiary only,—

- (a) in the case of a Crown entity that is a Crown entity subsidiary, after written notice to its parent Crown entity;
- (b) in the case of another Crown entity, after written notice to the responsible Ministers.

97 Subsidiaries: rules applying to all Crown entities

A Crown entity (the **parent**) must ensure, to the extent of its powers, that each of its Crown entity subsidiaries—

- (a) does not do anything that the parent itself does not have the power to do; and
- (b) acts consistently with the parent's objectives and current statement of intent (to the extent they relate to the subsidiary); and

- (c) exercises its powers only for the purpose of performing, or assisting the parent to perform, the parent's functions; and
- (d) does not contravene this Act or the entity's Act (if any) to the extent that it relates to a subsidiary; and
- (e) complies with a direction given to the parent (to the extent that it relates to the subsidiary); and
- (f) does not pay directors of the subsidiary any compensation or other payment or benefit, on any basis, for ceasing for any reason to hold office; and
- (g) does not perform any of the parent's statutorily independent functions; and
- (h) has a constitution and that the constitution contains a statement to the effect that the company is a Crown entity for the purposes of this Act; and
- (i) complies with the statutory requirements as to employees that apply to the parent; and
- (j) does not have a member of Parliament as a member.

98 Subsidiaries: rules applying only to statutory entities

- (1) A statutory entity (the **parent**) must ensure, to the extent of its powers, that each of its Crown entity subsidiaries—
 - (a) performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public; and
 - (b) pays remuneration to members of the subsidiary only at a rate and of a kind determined by the parent in accordance with the fees framework or after consulting with the responsible Minister; and
 - (c) complies with the requirements as to chief executives set out in section 117 in the same way as the parent must do (but for this purpose, references to the responsible Minister in section 117 must be read as references to the parent).
- (2) The requirements of this section are additional to those in section 97.

99 Application to multi-parent subsidiaries

If there is any doubt as to how section 97, section 98, or sections 161 to 164 apply to a multi-parent subsidiary, the responsible Ministers of the 2 or more parents of a multi-

parent subsidiary must agree on the restrictions and obligations that the sections require.

100 Acquisition of shares or interests in companies, trusts, and partnerships, etc

- (1) A Crown entity must ensure that the entity does not—
 - (a) acquire shares in a company that gives the entity substantial influence in or over that company; or
 - (b) acquire an interest in any partnership, joint venture, or other association of persons, or an interest in a company other than in its shares; or
 - (c) settle, or be or appoint a trustee of, a trust,—
other than—
 - (d) after written notice to its parent Crown entity (in the case of a Crown entity subsidiary) or to the responsible Ministers (in the case of any other Crown entity); and
 - (e) in accordance with the procedures and conditions contained in its statement of intent or specified by the responsible Ministers; and
 - (f) for the purpose of the Crown entity carrying out any of its functions, and acting consistently with its objectives, under any Act and its constitution (if any).
- (2) **Substantial influence**, in relation to a company, means the capacity to affect substantially either the financial or operating policies, or both, of the company.
- (3) This section does not apply if the entity acquires a Crown entity subsidiary (in which case section 96 applies).

101 Corporation sole may not acquire interests in bodies corporate

- (1) A corporation sole must not acquire or form a Crown entity subsidiary.
- (2) A corporation sole must not, without the prior written approval of its responsible Minister, otherwise—
 - (a) form or hold any shares or interests in any body corporate or in a partnership, joint venture, or other association of persons; or
 - (b) settle, or be or appoint a trustee of, a trust.

102 Interface with Companies Act 1993 and other Acts

- (1) Section 178 of the Companies Act 1993 (which relates to information for shareholders and, among other things, sets out some reasons for which a company can refuse to provide information) does not entitle a Crown entity subsidiary to refuse to provide information that must be provided under this Act or otherwise made available to any person under the Official Information Act 1982.
- (2) Section 161(1)(b) of the Companies Act 1993 (which relates to payment to a director or former director of compensation for loss of office) does not apply to Crown entity subsidiaries.
- (3) In all other respects, both the Companies Act 1993 and this Act apply to a Crown entity subsidiary in respect of a matter, but anything done under one Act counts towards compliance with the other Act.

Part 3 Operation of Crown entities

Subpart 1—Provisions applying generally to Crown entities

Directions on government policy to statutory entities and Crown entity companies

103 Power to direct Crown agents to give effect to government policy

- (1) The responsible Minister of a Crown agent may direct the entity to give effect to a government policy that relates to the entity's functions and objectives.
- (2) Sections 114 and 115 apply to the direction.
- (3) This section is subject to section 113.

104 Power to direct autonomous Crown entities to have regard to government policy

- (1) The responsible Minister of an autonomous Crown entity may direct the entity to have regard to a government policy that relates to the entity's functions and objectives.
- (2) Sections 114 and 115 apply to the direction.

- (3) A responsible Minister of an autonomous Crown entity may not direct the entity to give effect to a government policy unless specifically provided in another Act.
- (4) This section is subject to section 113.

105 No power to direct independent Crown entities or Crown entity companies on government policy unless provided in another Act

A responsible Minister of an independent Crown entity or a Crown entity company may not direct the entity or company to have regard to or to give effect to a government policy unless specifically provided in another Act.

106 Directions to members and office holders of entities

- (1) A responsible Minister may, if an Act provides for any member or office holder of an entity to do something, direct that person to have regard to, or to give effect to, a government policy, as the case may be, in the same way that the Minister could give a direction to the entity if the Act required the entity to do the act itself.
- (2) Sections 114 and 115 apply to the direction.

107 Whole of government directions

- (1) The Minister of State Services and the Minister of Finance may jointly direct Crown entities to comply with specified requirements for the purpose of both—
 - (a) supporting a whole of government approach; and
 - (b) either directly or indirectly, improving public services.

Example:

A direction may be given requiring that all Crown entities comply with e-government requirements to improve public services.

- (2) The direction may be given only—
 - (a) to 1 or more categories of Crown entities (for example, to all statutory entities, all Crown entity companies, or all school boards of trustees); or
 - (b) to 1 or more types of statutory entity (for example, to all Crown agents).
- (3) No direction may be given under this section to Crown entity subsidiaries.

108 Process for giving whole of government directions

- (1) The Ministers must, before giving a direction under section 107, to the extent that the Ministers consider necessary in the circumstances,—
 - (a) consult with those entities to which the direction is proposed to apply; and
 - (b) consult with persons that the Ministers consider are representative of the interests of persons likely to be substantially affected by the proposed direction.
- (2) The Ministers must, as soon as practicable after giving a direction under section 107,—
 - (a) notify the entities to which the direction will apply that the direction has been given and will come into force subject to section 109; and
 - (b) present the direction to the House of Representatives.
- (3) This section is subject to section 113.

109 House of Representatives may resolve to disapply whole of government direction

A whole of government direction given under section 107 comes into force 15 sitting days after it is presented to the House of Representatives unless the House of Representatives resolves, in that period, to disapply the direction.

110 Obligation to give effect to direction

Every Crown entity within the category or type of Crown entities to which the direction is given must give effect to the direction as soon as it comes into force under section 109.

111 Publication of whole of government direction

- (1) As soon as practicable after a direction comes into force under section 109, the Ministers who gave it must ensure that it is published in the *Gazette* and on the Internet.
- (2) If a direction does not come into force, the Ministers who gave it must, as soon as practicable, notify the entities to which the direction would have applied that the direction has been dis-applied and will not come into force.

112 Power to add functions if authorised by entity's Act or constitution

- (1) If an Act, or a Crown entity company's constitution, gives the responsible Minister power to add to the functions of a Crown entity, the Minister may direct the entity to perform any additional function that is so added and that is consistent with the entity's objectives.
- (2) Sections 114 and 115 apply to the direction.

113 Safeguarding independence of Crown entities

- (1) This Act does not authorise a Minister to direct a Crown entity, or a member, employee, or office holder of a Crown entity,—
 - (a) in relation to a statutorily independent function; or
 - (b) requiring the performance or non-performance of a particular act, or the bringing about of a particular result, in respect of a particular person or persons.
- (2) This Act does not change the way in which the following functions must be carried out under an entity's Act:
 - (a) statutorily independent functions in an entity's Act; or
 - (b) functions that are carried out by a person acting judicially in relation to a particular matter in accordance with an entity's Act.
- (3) This section applies to all Ministerial directions given under this Act, including whole of government directions.

*Government directions to Crown entities***114 Crown entities must comply with directions given under statutory power of direction**

- (1) A Crown entity must, in performing its functions, comply with—
 - (a) any direction given to it under a power of direction in this Act or another Act; and
 - (b) any whole of government direction given to it under section 107.
- (2) **Comply**, in this section, means to give effect to the direction or to have regard to the direction, as the context requires.
- (3) Subsection (1) applies—
 - (a) except as provided in section 113; and

- (b) to a direction given by a Minister, only if it is in writing and signed by a Minister entitled to give the direction.

115 Procedure for all Ministerial directions

- (1) A Minister who proposes to give a direction to a Crown entity under this Act, the entity's Act, or another Act must consult with the Crown entity before giving the direction to the entity.
- (2) As soon as practicable after giving the direction, a Minister must—
 - (a) publish it in the *Gazette*; and
 - (b) present a copy of it to the House of Representatives.
- (3) The direction may be amended, revoked, or replaced in the same way as it may be given.
- (4) This section does not apply to whole of government directions given under section 107.
- (5) This section does not apply, in the case of directions given under another Act, if the other Act contains a procedure for giving directions.

Employees

116 Employment of employees

- (1) If the Governor-General, by Order in Council, requires it, a Crown entity to which the order applies must not agree to terms and conditions of employment in a collective employment agreement, or an amendment to those terms and conditions, without—
 - (a) consulting the State Services Commissioner; and
 - (b) having regard to the recommendations the Commissioner makes to the Crown entity within a reasonable time of being consulted.
- (2) An Order in Council may relate to—
 - (a) all statutory entities and Crown entity companies, categories or types of statutory entities or Crown entity companies, or specific statutory entities or Crown entity companies;
 - (b) all employees or classes of employees of those employers.
- (3) A failure to comply with this section does not invalidate the acts of an employee of a Crown entity.
- (4) This section does not limit section 117.

117 Employment of chief executive

- (1) A statutory entity must not agree to the terms and conditions of employment for a chief executive, or to an amendment of those terms and conditions, without—
 - (a) consulting the State Services Commissioner; and
 - (b) if the proposed terms and conditions or amendment do not comply with any guidance issued by the State Services Commissioner to 1 or more Crown entities, consulting the responsible Minister.
- (2) A statutory entity must have regard to any recommendations that the Commissioner and (if applicable) the responsible Minister makes to it within a reasonable time of being consulted.
- (3) A failure to comply with this section does not invalidate the acts of a chief executive of an entity.

118 Crown entity to be good employer

- (1) A Crown entity must, if it employs employees,—
 - (a) operate a personnel policy that complies with the principle of being a good employer; and
 - (b) make that policy (including the equal employment opportunities programme) available to its employees; and
 - (c) ensure its compliance with that policy (including its equal employment opportunities programme) and report in its annual report on the extent of its compliance.
- (2) For the purposes of this section, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
 - (a) good and safe working conditions; and
 - (b) an equal employment opportunities programme; and
 - (c) the impartial selection of suitably qualified persons for appointment; and
 - (d) recognition of—
 - (i) the aims and aspirations of Māori; and
 - (ii) the employment requirements of Māori; and
 - (iii) the need for involvement of Māori as employees of the entity; and

- (e) opportunities for the enhancement of the abilities of individual employees; and
 - (f) recognition of the aims and aspirations and employment requirements, and the cultural differences, of ethnic or minority groups; and
 - (g) recognition of the employment requirements of women; and
 - (h) recognition of the employment requirements of persons with disabilities.
- (3) For the purposes of this section, an **equal employment opportunities programme** means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

119 Application of sections 84 to 84B of State Sector Act 1988

- (1) Each Crown entity is an employer in the State services for the purposes of sections 84 to 84B of the State Sector Act 1988.
- (2) Sections 84 to 84B of the State Sector Act 1988 apply to the officers and employees of a Crown entity.

Subpart 2—Statutory entities

Protections from liability of members, office holders, and employees

120 Protections from liabilities of statutory entity

A member, office holder, or employee of a statutory entity is not liable for any liability of the entity by reason only of being a member, office holder, or employee.

121 Immunity from civil liability

- (1) A member of a statutory entity is not liable, in respect of an excluded act or omission,—
 - (a) to the entity, unless it is also a breach of an individual duty under any of sections 53 to 57:
 - (b) to any other person.
- (2) An office holder or employee is not liable to any person in respect of an excluded act or omission.
- (3) Nothing in this section affects—

- (a) the making of an order under section 60:
- (b) the liability of any person that is not a civil liability:
- (c) the right of any person to apply, in accordance with the law, for judicial review.

122 Indemnities in relation to excluded act or omission

- (1) A statutory entity may only indemnify a member, office holder, or employee in respect of an excluded act or omission.
- (2) An indemnity under subsection (1) is limited to—
 - (a) liability for conduct; and
 - (b) costs incurred in defending or settling any claim or proceeding relating to that liability.

Compare: 1993 No 105 s 162

123 Insurance for liability of member, office holder, or employee

A statutory entity may effect insurance cover for a member, office holder, or employee of the entity in relation to his or her acts or omissions, except an act or omission that is—

- (a) in bad faith:
- (b) not in the performance or intended performance of the entity's functions.

124 Saving of judicial protections from liability

A Judge who is appointed as a member of a statutory entity has the same immunities and limitations or other protections from liability when acting as a member of that entity as he or she would have as a Judge.

125 Breach of indemnity and insurance limits

- (1) A member, office holder, or employee who is indemnified or insured by a statutory entity in breach of this Act must repay to the entity the cost of providing or effecting that indemnity or insurance cover, to the extent that the indemnity or insurance cover exceeds that which could have been provided or effected under this Act.
- (2) The entity may recover the amount as a debt due in a court of competent jurisdiction.

126 Definitions for protections from liability

In sections 120 to 125,—

effect insurance includes pay, whether directly or indirectly, the costs of the insurance

employee includes a person who was an employee at any time after the commencement of this Act but who is no longer an employee

entity's functions includes any function that an Act confers separately on a member, office holder, or employee of the entity

excluded act or omission means an act or omission by the member, office holder, or employee in good faith and in performance or intended performance of the entity's functions

indemnify includes relieve or excuse from liability, whether before or after the liability arises, and **indemnity** has a corresponding meaning

member includes a person who was a member at any time after the commencement of this Act but who is no longer a member

office holder includes a person who was an office holder at any time after the commencement of this Act but who is no longer an office holder.

Dealings with third parties by statutory entities

127 Method of contracting

- (1) A contract or other enforceable obligation may be entered into by a statutory entity as provided in this section.
- (2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of a statutory entity in writing, signed under the name of the entity,—
 - (a) by 2 or more of its members or, if the entity is a corporation sole, by the sole member; or
 - (b) by 1 or more attorneys appointed by the entity in accordance with this Part.
- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of a statutory entity in writing by a person acting under the entity's express or implied authority.

- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of a statutory entity in writing or orally by a person acting under the entity's express or implied authority.
- (5) This section applies to a contract or other obligation—
 - (a) whether or not that obligation was entered into in New Zealand; and
 - (b) whether or not the law governing that obligation is the law of New Zealand.

128 Seal

- (1) A statutory entity may have a common seal if its board adopts one.
- (2) The common seal of a statutory entity (if it has one) must be judicially noticed in all courts and for all purposes.

129 Attorneys

- (1) A statutory entity may, by an instrument in writing executed in accordance with section 127(2), appoint a person as its attorney either generally or in relation to a specified matter.
- (2) An act of the attorney in accordance with the instrument binds the statutory entity.

130 Address for service

The address for service in respect of a statutory entity is the address of the head office of the entity.

Subpart 3—Miscellaneous provisions**131 Application of Ombudsmen Act 1975 and Official Information Act 1982**

- (1) The Ombudsmen Act 1975 is amended by inserting, in Part 2 of Schedule 1, in their appropriate alphabetical order, the name of every Crown entity that is named in Schedule 1 or Schedule 2 of this Act (other than the Police Complaints Authority).
- (2) The Ombudsmen Act 1975 is further amended by inserting in Part 2 of Schedule 1, in its appropriate alphabetical order, the item “Crown entities within the meaning of section 7 of the Crown Entities Act 2004 (other than the Police Complaints Authority)”.

132 Review of Crown entity's operations and performance

- (1) A responsible Minister may review the operations and performance of a Crown entity at any time.
- (2) This section does not limit powers of review in the State Sector Act 1988 or the Public Audit Act 2001 or under any other Act.
- (3) Before a Minister undertakes a review under this section, he or she must—
 - (a) consult with the entity on the purpose and nature of the review; and
 - (b) consider any submissions made by the entity on the proposed review.
- (4) The entity must take all reasonable steps to co-operate with the review.

133 Power to request information

- (1) The board of a Crown entity must supply to its responsible Minister any information relating to the operations and performance of the Crown entity that the Minister requests.
- (2) The board of a Crown entity must supply to the Minister of Finance any information requested by the Minister in connection with the exercise of his or her powers under Part 4.
- (3) This section is subject to section 134.

Compare: 1989 No 44 s 45B(1)

134 Good reasons for refusing to supply requested information

- (1) A request for information under section 133 may be refused if—
 - (a) the withholding of the information is necessary to protect the privacy of a person (whether or not a natural person or a deceased person); or
 - (b) the supply of the information would limit the ability of the Crown entity, or of any of its employees, members, or office holders, to act judicially, or to carry out the statutorily independent functions of the entity, in relation to a particular matter.
- (2) The reason in subsection (1)(a) applies only if it is not outweighed by the Minister's need to have the information in order to discharge the Minister's ministerial duties.

- (3) The information cannot be withheld other than for the reasons in subsection (1), and cannot be withheld at all if it could not properly be withheld under the Official Information Act 1982.
- (4) Section 178 of the Companies Act 1993 does not entitle a Crown entity company or Crown entity subsidiary to refuse to provide information requested under this subpart.

Compare: 1989 No 44 s 45B(2)

135 Members, office holders, and employees are officials

- (1) This section applies to—
 - (a) members, office holders, and employees of the following Crown entities:
 - (i) a statutory entity:
 - (ii) a Crown entity company:
 - (iii) a school board of trustees:
 - (iv) a Crown entity subsidiary that is wholly owned by 1 or more Crown entities referred to in subparagraphs (i) to (iii):
 - (b) office holders and employees of—
 - (i) a tertiary education institution:
 - (ii) a Crown entity subsidiary that is wholly owned by 1 or more tertiary education institutions or by 1 or more tertiary education institutions and 1 or more Crown entities referred to in paragraph (a)(i) to (iii).
- (2) A person to whom this section applies is an official for the purposes of sections 105 and 105A of the Crimes Act 1961.
- (3) This section does not limit the meaning of **official** in section 99 of the Crimes Act 1961.

Part 4

Crown entity reporting and financial obligations

Subpart 1—Interpretation for this Part

136 Interpretation for this Part

- (1) In this Part, unless the context otherwise requires,—
 - borrow**,—
 - (a) includes entering into hire purchase agreements or agreements that are of the same or a substantially similar nature; and

- (b) includes entering into finance lease arrangements or arrangements that are of the same or a substantially similar nature; and
- (c) includes accepting debt on assignment from other persons; but
- (d) does not include the purchase of goods or services on credit or the obtaining of an advance by the use of a credit card or by a supplier supplying credit for the purchase of goods or services, for a period of 90 days or less from the date the credit card is used or the credit is supplied

class of outputs or **class** has the meaning set out in section 2(1) of the Public Finance Act 1989

Crown entity group means a group comprising—

- (a) a Crown entity; and
- (b) its Crown entity subsidiaries under paragraph (a) of the definition of Crown entity subsidiaries in column 2 of section 7(1)(c); and
- (c) any entity that is its subsidiary for the purpose of any financial reporting standard that applies to the Crown entity under generally accepted accounting practice

debt security has the meaning set out in section 2 of the Securities Act 1978

derivative transaction means—

- (a) a transaction that is a rate swap transaction, swap option, basis swap, forward rate transaction, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, forward purchase or sale of a security, or commodity or other financial instrument or interest (including an agreement or option that relates to any of these transactions); or
- (b) a transaction that is similar to any transaction referred to in paragraph (a) that—
 - (i) is currently, or in the future becomes, recurrently entered into in the financial markets; and

- (ii) is a forward, swap, future, option, or other derivative on 1 or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, environmental or climatic variable, or other benchmarks against which payments or deliveries are to be made

financial year means,—

- (a) in relation to a school board of trustees or a tertiary education institution, an academic year as defined in section 159(1) of the Education Act 1989; and
- (b) in relation to any other Crown entity, the 12 months ending on the close of 30 June or any other date determined for that entity by the Minister of Finance

forecast financial statements has the meaning set out in section 2(1) of the Public Finance Act 1989

generally accepted accounting practice means—

- (a) approved financial reporting standards (within the meaning of section 2(1) of the Financial Reporting Act 1993) so far as those standards apply to the Crown entity;
- (b) in relation to matters for which no provision is made in approved financial reporting standards (within the meaning of section 2(1) of the Financial Reporting Act 1993) and that are not subject to any applicable rule of law, accounting policies that—
 - (i) are appropriate in relation to the Crown entity; and
 - (ii) have authoritative support within the accounting profession in New Zealand

outputs—

- (a) means the goods or services that are supplied by a Crown entity; but
- (b) does not include goods and services that are produced for purchase or consumption solely within the Crown entity group

public security has the meaning set out in section 2(1) of the Public Finance Act 1989

registered bank has the meaning set out in section 2 of the Reserve Bank of New Zealand Act 1989

registered building society means a building society within the meaning of the Building Societies Act 1965 that is registered on the register of building societies kept under that Act

security has the meaning set out in section 2D of the Securities Act 1978 except that it does not include the things referred to in subsection (1)(d) to (f) of that section

working day has the meaning set out in section 2(1) of the Public Finance Act 1989.

- (2) Any term or expression that is defined in the Public Finance Act 1989 and used, but not defined, in this Part has the same meaning as in the Public Finance Act 1989.

Subpart 2—Reporting obligations

137 Application of this subpart

- (1) This subpart applies in respect of financial years commencing on or after 1 January 2006.
- (2) Subsection (1) is subject to section 198.

Planning: Statement of intent

138 Purpose of statement of intent

The purpose of a statement of intent is to promote the public accountability of a Crown entity by—

- (a) enabling the Crown to participate in the process of setting the Crown entity's medium-term intentions and undertakings:
- (b) setting out for the House of Representatives those intentions and undertakings:
- (c) providing a base against which the Crown entity's actual performance can later be assessed.

139 Obligation to prepare statement of intent

- (1) At or before the start of each financial year, a Crown entity must prepare a statement of intent for the Crown entity for that financial year and at least the 2 following financial years.
- (2) However, in the case of a Crown entity group,—
- (a) the parent Crown entity must prepare a statement of intent for the Crown entity group as if—
- (i) section 142(1)(a) required 2 forecast financial statements, 1 for the parent Crown entity and 1 for the Crown entity group; and

- (ii) sections 138 to 142 otherwise required consolidated information in respect of the Crown entity group (rather than a single Crown entity); and
 - (b) no other member of the Crown entity group needs to prepare a statement of intent.
- (3) This section applies unless the Crown entity is exempted from its requirements by or under this or another Act.

Compare: 1989 No 44 s 41C

140 Statement of intent for newly established Crown entities

- (1) As soon as practicable after a Crown entity is established, the Crown entity must comply with section 139 as if it were the start of the financial year.
- (2) The process requirements of section 148(4), rather than section 146, apply to the process for preparing that statement of intent.
- (3) The responsible Minister may give directions to the Crown entity on any matters referred to in section 141(1)(b) to (d), (g), and (h) at any time before the Crown entity's statement of intent is in force under section 144.
- (4) The directions apply as if they were the Crown entity's statement of intent, until the Crown entity's statement of intent is in force.
- (5) Sections 113, 114, and 115 apply to the directions.
- (6) An entity that becomes a Crown entity within 4 months before the end of the Crown entity's financial year, and that has prepared, in accordance with subsection (1), a statement of intent for the next financial year and at least the 2 following financial years, need not prepare a new statement of intent at or before the start of the next financial year.

141 Content of statement of intent

- (1) Each statement of intent must contain the following information for the full period to which it relates:
 - (a) key background information about the Crown entity and its operating environment:
 - (b) the nature and scope of the entity's functions and intended operations:
 - (c) the specific impacts, outcomes, or objectives that the entity seeks to achieve or contribute to and, if the entity

is directed to give effect to or have regard to government policy directions, how those objectives might relate to any outcomes or objectives referred to in the direction:

- (d) how the entity intends to perform its functions and conduct its operations to achieve those impacts, outcomes, or objectives:
 - (e) how the entity proposes to manage the organisational health and the capability of the entity:
 - (f) the main financial and non-financial measures and standards by which the future performance of the Crown entity may be judged:
 - (g) the matters on which the Crown entity will consult or notify its responsible Minister before making a decision, the matters on which it will report to its responsible Minister, and the frequency of reporting:
 - (h) any process to be followed for the purpose of section 100:
 - (i) other matters the entity is required to include in its statement of intent under this Act or another Act:
 - (j) any other matters that are reasonably necessary to achieve an understanding of the entity's intentions and direction.
- (2) The statement of intent must also contain the information required by section 142 for the first financial year of the period to which it relates.
- (3) A statement of intent must be in writing, be dated, and be signed on behalf of the board by 2 members of the entity or, in the case of a corporation sole, by the sole member.
- (4) A Crown entity that is to be disestablished or significantly restructured may, with the agreement of the responsible Minister, provide a statement of intent that includes the information required under this section and section 142 for a period of less than 3 financial years.

Compare: 1989 No 44 s 41D

142 Extra information required in statement of intent for first financial year

- (1) Each statement of intent must contain the following information for the first financial year of the period to which it relates:

- (a) forecast financial statements for the entity that have been prepared in accordance with generally accepted accounting practice; and
 - (b) a statement of forecast service performance; and
 - (c) any other measures and standards necessary to assess the Crown entity's performance at the end of the financial year; and
 - (d) a statement of all significant assumptions underlying the forecast financial statements; and
 - (e) any additional information and explanations needed to fairly reflect the forecast financial operations and financial position of the entity.
- (2) The statement of forecast service performance must describe the classes of outputs the Crown entity proposes to supply (except to the extent that the entity is exempted under section 143) and—
- (a) provide measures and forecast standards of output delivery performance against which the entity's actual delivery of classes of outputs will be reported and audited in the statement of service performance at the end of the financial year; and
 - (b) identify the expected revenue to be earned, and proposed expenses to be incurred, for each class of outputs; and
 - (c) comply with generally accepted accounting practice; and
 - (d) include a statement of any exemptions granted under section 143.

143 Exemption for certain outputs

- (1) The Minister of Finance may exempt, from any statement of forecast service performance required under section 142(1)(b) or any statement of service performance required under section 153(1), any class of outputs that the Minister is satisfied are—
- (a) not directly funded (in whole or in part) by the Crown in accordance with an appropriation for the purpose, or by grants distributed under any Act, or by levies, fees, or charges prescribed by or under any Act; or

- (b) to be adequately reported on, in that financial year, to the House of Representatives by a Minister, department, or another public entity.
- (2) The Minister of Finance may exempt a class of outputs under subsection (1) that includes outputs that do not comply with paragraph (a) or paragraph (b) of that subsection if the Minister is satisfied that those outputs have an insignificant value.
- (3) A statement of forecast service performance does not need to contain information about exempted outputs.

144 Application and term of statement of intent

A statement of intent is in force—

- (a) from the later of—
 - (i) the date on which the final statement of intent is provided to the responsible Minister; or
 - (ii) the first day of the period to which the statement of intent relates; and
- (b) until a new statement of intent is in force in relation to that entity or group (despite the end of any financial year to which the statement relates); and
- (c) with any amendments that are made as described in section 147 or section 148.

145 Ministerial involvement in statements of intent

Ministers may participate in determining the content of statements of intent as follows:

- (a) a responsible Minister may agree with the Crown entity that information additional to that required by sections 141 and 142 be included in the statement of intent:
- (b) a responsible Minister may, by written notice to 1 or more Crown entities, specify the particular form in which any information in the statement of intent must be disclosed:
- (c) a responsible Minister may make comments on a draft statement of intent under section 146 or on an amendment to a statement of intent proposed by the Crown entity under section 148:
- (d) a responsible Minister may direct amendments to certain information in a statement of intent under section 147.

146 Process for providing statement of intent to responsible Minister

- (1) A Crown entity that is required to prepare a statement of intent must provide it to its responsible Minister.
- (2) The process that must be followed in providing a statement of intent is as follows:
 - (a) the Crown entity must provide a draft statement of intent to its responsible Minister by whichever is the later of—
 - (i) 30 days before the start of each financial year; or
 - (ii) if the Crown entity's financial year ends on 30 June, the date that the first Appropriation Bill relating to a financial year is introduced into the House of Representatives in accordance with section 12 of the Public Finance Act 1989; and
 - (b) the responsible Minister must provide to the entity any comments that he or she may have on the draft no later than—
 - (i) 14 days before the start of the financial year, if subsection (2)(a)(i) applies; or
 - (ii) 16 days after receiving the draft, if subsection (2)(a)(ii) applies; and
 - (c) the entity must consider the comments (if any) on the draft and provide the final statement of intent to its responsible Minister—
 - (i) on or before the start of the financial year, if subsection (2)(a)(i) applies; or
 - (ii) 30 days after the draft was supplied to the responsible Minister, if subsection (2)(a)(ii) applies.

147 Amendments to statement of intent by responsible Minister

- (1) A responsible Minister of a Crown entity may direct a Crown entity to amend any provision that is included in the entity's statement of intent under section 141(1)(b), (c), (d), (f), (g), or (h) or section 142(1)(b).
- (2) If a responsible Minister intends to so direct, the process is as follows:
 - (a) the Minister must give a direction to the Crown entity specifying the amendment that it is required to give effect to; and

- (b) sections 113, 114, and 115 apply.
- (3) The amendment to the statement of intent, as specified by the Minister, is in force from the effective date of the direction (which may not be earlier than the date on which the direction is presented to the House of Representatives under section 115).
- (4) The final amendment must be in writing, be dated, and be signed on behalf of the board by 2 members or, in the case of a corporation sole, by the sole member.
- (5) Section 148 does not apply to amendments made under this section.

Compare: 1989 No 44 s 41G

148 Amendments to statement of intent by Crown entity

- (1) A Crown entity may amend its statement of intent.
- (2) A Crown entity must amend its statement of intent if—
 - (a) the information contained in the statement of intent is false or misleading in a material particular; or
 - (b) the intentions and undertakings in the statement of intent are significantly altered or affected by—
 - (i) a direction given to the Crown entity by a Minister or by a whole of Government direction; or
 - (ii) any change in the law; or
 - (iii) any other change in the entity's operating environment.
- (3) The Crown entity must make the amendment required under subsection (2) as soon as practicable after the entity becomes aware of the facts that give rise to the obligation to amend under this section.
- (4) A Crown entity must amend its statement of intent in accordance with the following process:
 - (a) the Crown entity must provide a draft amendment to its responsible Minister; and
 - (b) the responsible Minister must provide to the entity any comments that he or she may have no later than 14 days after receiving the draft; and
 - (c) the entity must consider the comments (if any) and must provide the final amendment to its responsible Minister as soon as practicable; and

- (d) the final amendment to the statement of intent is in force from the date on which the final amendment is provided to the responsible Minister.

149 Obligation to present and publish statement of intent

- (1) A responsible Minister for a Crown entity must present a copy of the final statement of intent, and any amendment to it, to the House of Representatives no later than 5 working days after the final statement of intent or amendment (as the case may be) is received by the Minister or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.
- (2) A responsible Minister who presents a final statement of intent that covers a limited period in accordance with section 141(4) must also present with it an explanation of why it was not possible to produce a statement of intent for the period of 3 financial years.
- (3) A Crown entity must publish its statement of intent as soon as practicable after it has been presented to the House of Representatives, but in any case not later than 10 working days after the statement of intent is received by the Minister, in a manner consistent with any instructions given under section 174.

Compare: 1989 No 44 s 41F

Reporting: Annual report

150 Obligation to prepare, present, and publish annual report

- (1) A Crown entity must—
 - (a) at the end of each financial year, prepare a report on the affairs of the Crown entity; and
 - (b) provide the report to its responsible Minister no later than 15 working days after receiving the audit report provided under section 156.
- (2) However, in the case of a Crown entity group,—
 - (a) the parent Crown entity must prepare an annual report on the affairs of the Crown entity group; and
 - (b) no other member of the Crown entity group needs to prepare an annual report.
- (3) A responsible Minister of a Crown entity must present the entity's annual report to the House of Representatives within 5

working days after receiving the annual report or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.

- (4) A Crown entity must publish its annual report as soon as practicable after it has been presented to the House of Representatives, but in any case not later than 10 working days after the annual report is received by the Minister, in a manner consistent with any instructions given under section 174.

Compare: 1989 No 44 s 41I

151 Form and content of annual report

- (1) An annual report must contain the following information and reports in respect of the financial year to which it relates:
- (a) information on operations that complies with subsection (2); and
 - (b) a statement of service performance in accordance with section 153; and
 - (c) the annual financial statements for the entity and, if the entity is the parent of a Crown entity group, the consolidated financial statements for the group in accordance with section 154; and
 - (d) a statement of responsibility in accordance with section 155; and
 - (e) the audit report in accordance with section 156; and
 - (f) any direction given to the entity by a Minister in writing under any enactment during that financial year; and
 - (g) information on compliance with its obligation to be a good employer (including its equal employment opportunities programme); and
 - (h) information required by section 152 (which relates to payments in respect of members, committee members, and employees during that financial year); and
 - (i) information required by section 20(3) (which relates to the enforcement of certain natural person transactions); and
 - (j) information required by section 68(6) (which relates to permission to act despite being interested in a matter); and
 - (k) any matters that relate to or affect the entity's operations that the entity is otherwise required, or has undertaken, or wishes to report on in its annual report.

- (2) The annual report must provide the information that is necessary to enable an informed assessment to be made of the entity's operations and performance for that financial year, including an assessment against the intentions, measures, and standards set out in the statement of intent prepared at the beginning of the financial year.
- (3) An annual report must be in writing, be dated, and be signed on behalf of the board by 2 members or, in the case of a corporation sole, by the sole member.

152 Disclosure of payments in respect of members, committee members, and employees

- (1) The annual report must include, in respect of the Crown entity or, in the case of a Crown entity group, for each Crown entity in the group,—
 - (a) for each member, the total value of the remuneration (other than compensation or other benefits referred to in paragraph (d)) paid or payable to the member in his or her capacity as a member from the entity (or entities in the group, as the case may be) during that financial year; and
 - (b) for each committee member who is not a board member or an employee, the total value of the remuneration (other than compensation or other benefits referred to in paragraph (d)) paid or payable to the member in his or her capacity as a committee member from the entity (or entities in the group, as the case may be) during that financial year; and
 - (c) the number of employees to whom, during the financial year, remuneration (other than compensation or other benefits referred to in paragraph (d)) was paid or payable in their capacity as employees, the total value of which is or exceeds \$100,000 per annum, and the number of those employees in brackets of \$10,000; and
 - (d) the total value of any compensation or other benefits paid or payable to persons who ceased to be members, committee members, or employees during the financial year in relation to that cessation and the number of persons to whom all or part of that total was paid or payable; and

- (e) details of any indemnity provided by the entity during the financial year to any member, office holder, or employee; and
 - (f) details of any insurance cover effected by the entity during the financial year in respect of the liability or costs of any member, office holder, or employee.
- (2) In subsection (1), **member** and **office holder** and **employee** include a person who was a member or office holder or employee at any time after the commencement of this Act but who is no longer a member, office holder, or employee.

Compare: 1989 No 44 s 41I; 1993 No 105 s 211

153 Form and content of statement of service performance

- (1) A statement of service performance must—
- (a) be prepared in accordance with generally accepted accounting practice; and
 - (b) describe each class of outputs supplied by the entity during the financial year; and
 - (c) include, for each class of outputs,—
 - (i) the standards of delivery performance achieved by the entity, as compared with the forecast standards included in the entity's statement of forecast service performance at the start of the financial year; and
 - (ii) the actual revenue earned and output expenses incurred, as compared with the expected revenues and proposed output expenses included in the entity's statement of forecast service performance at the start of the financial year.
- (2) A Crown entity need not prepare a statement of service performance in respect of outputs for which it has an exemption under section 143.

154 Annual financial statements

- (1) At the end of each financial year, a Crown entity must prepare financial statements in relation to the entity for that financial year.
- (2) In addition, a Crown entity that is a parent of a Crown entity group must prepare consolidated financial statements in relation to the group for that financial year.
- (3) The financial statements must—

- (a) comply with generally accepted accounting practice; and
- (b) include any other information or explanations needed to fairly reflect the financial operations and financial position; and
- (c) include the forecast financial statements prepared at the start of the financial year, for comparison with the actual financial statements.

155 Statement of responsibility

The statement of responsibility must—

- (a) contain a statement of the signatories' responsibility for the preparation of the financial statements and statement of service performance and for the judgments in them; and
- (b) contain a statement of the signatories' responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting; and
- (c) contain a statement that, in the opinion of the signatories, the financial statements and statement of service performance for the financial year fairly reflect the financial position and operations of the Crown entity; and
- (d) be dated and signed on behalf of the board by 2 members or, in the case of a corporation sole, by the sole member.

156 Audit report

(1) A Crown entity must forward to the Auditor-General—

- (a) its annual financial statements, statement of service performance, and any other information that the Auditor-General has agreed, or is required, to audit within 3 months after the end of each financial year; and
- (b) its annual report in a timely manner to enable the Auditor-General to review that report before providing the audit report required under subsection (2)(b).

(2) The Auditor-General must—

- (a) audit the statements referred to in subsection (1)(a); and
- (b) provide an audit report on them to the Crown entity within 4 months after the end of each financial year.

157 Reporting by multi-parent subsidiaries

- (1) A multi-parent subsidiary must comply with the requirements of this subpart.
- (2) However, the Minister of Finance may exempt a multi-parent subsidiary from the requirement to prepare a statement of intent or an annual report if the Minister is satisfied that it would be unduly onerous on the multi-parent subsidiary to comply with the requirement.
- (3) The exemption may be granted subject to any conditions the Minister thinks fit (which may include the condition that the statement of intent or annual report of 1 of the parents must cover the multi-parent subsidiary).

Subpart 3—Other provisions for financial accountability*Bank accounts***158 Bank accounts of Crown entities**

- (1) A Crown entity must ensure that all money received by the Crown entity is paid, as soon as practicable after it is received, into 1 or more bank accounts that are established, maintained, and operated by the Crown entity at 1 or more of the following:
 - (a) a registered bank or registered building society that satisfies a relevant credit-rating test specified in either regulations made under this Part or a notice in the *Gazette* published by the Minister of Finance; or
 - (b) a registered bank or registered building society that meets the conditions of any relevant approval given by the Minister of Finance by notice in the *Gazette*; or
 - (c) a bank outside New Zealand that meets the conditions of any relevant approval given by the Minister of Finance by notice in the *Gazette*; or
 - (d) a bank outside New Zealand if the conditions specified in subsection (2) are met.
- (2) The conditions referred to in subsection (1)(d) are—
 - (a) the Crown entity, or the class of Crown entities to which the Crown entity belongs, must be authorised to establish, maintain, and operate 1 or more bank accounts at 1 or more banks outside New Zealand by—
 - (i) the Minister of Finance in writing; or
 - (ii) any regulations made under this Part; and

- (b) the bank account or bank accounts must be of a type approved by—
 - (i) the Minister of Finance in writing; or
 - (ii) any regulations made under this Part.
- (3) A Crown entity must establish, maintain, and operate a bank account referred to in subsection (2) subject to—
 - (a) any regulations made under this Part; and
 - (b) if applicable, any conditions of the authorisation or approval given by the Minister of Finance; and
 - (c) the entity's Act.
- (4) The Minister of Finance must notify in the *Gazette* an authorisation or approval given under subsection (2)(a)(i) or, as the case may be, subsection (2)(b)(i).
- (5) A Crown entity must ensure that it does not establish, maintain, or operate a bank account other than as provided for in subsection (1).
- (6) All money in a bank account at a registered bank or a registered building society must be denominated in New Zealand dollars unless the Minister of Finance allows otherwise.
- (7) A Crown entity must properly authorise the withdrawal or payment of money from a bank account of the Crown entity.
- (8) There is a period of grace if a bank account ceases to qualify under subsection (1), and—
 - (a) during that period the Crown entity may continue to pay money into the bank account; but
 - (b) by the end of the period the Crown entity must have closed the account and paid all the money in the account into another bank account that does qualify under subsection (1).
- (9) The period of grace ends on the earlier of—
 - (a) 2 months after the bank account ceases to qualify under subsection (1); or
 - (b) a date specified by the Minister of Finance and notified to the Crown entity.

Compare: 1989 No 44 s 24

Acquisition of securities, borrowing, guarantees, indemnities, and derivative transactions

159 Application of acquisition of securities, borrowing, guarantees, indemnities, and derivative transactions rules

Sections 160 to 164 apply on and after 1 April 2005.

160 Further provision relating to acquisition of securities, borrowing, guarantees, indemnities, and derivative transactions rules

- (1) Sections 161 to 164 apply subject to—
 - (a) any regulations made under this Part; and
 - (b) any approval given jointly by the entity's responsible Minister and the Minister of Finance; and
 - (c) an entity's Act; and
 - (d) an exemption granted in Schedule 1 or Schedule 2.
- (2) Sections 161 to 164 apply to a Crown entity subsidiary in the same way as they apply to its parent.
- (3) The Minister of Finance must notify in the *Gazette* an approval given under subsection (1)(b).

161 Restrictions on acquisition of securities

- (1) A Crown entity must not acquire securities other than—
 - (a) a debt security denominated in New Zealand dollars that is issued by a registered bank, or by any other entity, that satisfies a credit-rating test that is specified in either regulations made under this Part or a notice in the *Gazette* published by the Minister of Finance;
 - (b) a public security;
 - (c) as provided in section 160.
- (2) This section does not apply to any money, security, or credit balance in a bank account held by a Crown entity on trust for any purpose or for another person.
- (3) This section does not prohibit a Crown entity from acquiring subsidiaries or shares if section 96 or, as the case may be, section 100 allows the acquisition.

162 Restrictions on borrowing

A Crown entity must not borrow from any person, or amend the terms of any borrowing, other than as provided in section 160.

163 Restrictions on giving of guarantees and indemnities

- (1) A Crown entity must not, with or without security, give a guarantee to, or indemnify, another person other than as provided in section 160.
- (2) This section does not apply if the other person is—
 - (a) a member, office holder, committee member, employee, or other individual indemnified by the board in relation to any claim or proceeding under—
 - (i) section 122 of this Act; or
 - (ii) section 162 of the Companies Act 1993; or
 - (iii) the entity's natural person powers or other powers in the entity's Act:
 - (b) a delegate or agent indemnified by the board under its natural person powers, or the common law, in relation to any claim or proceeding.
- (3) This section does not apply to any guarantee or indemnity that is implied at law or arising from any transactions that may be authorised under regulations made under this Part.

164 Restrictions on use of derivatives

A Crown entity must not enter into a derivative transaction, or amend the terms of that transaction, other than as provided in section 160.

*Miscellaneous***165 Net surplus payable by certain statutory entities and Crown entity companies**

- (1) Unless an exemption is granted in Schedule 1 or Schedule 2, the Minister of Finance may, in writing, require a statutory entity or Crown entity company to pay to the Crown a sum equal to the whole or any part of a net surplus of the statutory entity or Crown entity company, or its Crown entity group, as determined in accordance with generally accepted accounting practice or any other basis that may be agreed between that Minister and the entity.

- (2) In this section, **net surplus** includes both an annual profit and an accumulated surplus.
- (3) Before the Minister of Finance issues a requirement under this section,—
 - (a) the Minister of Finance must consult with each responsible Minister; and
 - (b) a responsible Minister must consult with the Crown entity.
- (4) This section does not limit any provision for the payment of an annual distribution or similar payment to the Crown under the entity's Act.
- (5) This section does not limit the need for a Crown entity company to comply also with the provisions of the Companies Act 1993 (or its constitution, if relevant) relating to distributions.

166 Capital charge payable by certain statutory entities

- (1) This section applies to a statutory entity only if the Minister of Finance has notified the statutory entity in writing that it is now subject to a capital charge under this section.
- (2) A statutory entity must pay to the Crown a capital charge in respect of the whole or part of the net assets of the entity of an amount, and at the times, prescribed by the capital charge rules.
- (3) Unless otherwise compensated by the Crown, the Minister of Finance may not require a statutory entity to pay a capital charge in respect of the net value of assets acquired by way of gift from any person other than the Crown or an entity described in section 27(3) of the Public Finance Act 1989.
- (4) In this section, **net assets** means, in relation to a Crown entity, the total assets of the entity, less its total liabilities, as defined in accordance with generally accepted accounting practice.
- (5) The Minister of Finance must—
 - (a) consult with the statutory entity before notifying the statutory entity that it is subject to a capital charge under this section; and
 - (b) present a copy of the notification to the House of Representatives as soon as practicable after the date on which the notification is given.

167 Gifts

- (1) Any money or property that is gifted to a Crown entity may be accepted or disclaimed by a Crown entity.
- (2) The limitations in this Act (such as the limitations on the form in which property may be held) do not apply to gifted property during a period that is reasonable in the circumstances.

168 Accounting records to be kept

- (1) The board of a Crown entity must cause accounting records to be kept that—
 - (a) correctly record and explain the transactions of the Crown entity; and
 - (b) will at any time enable the financial position of the Crown entity to be determined with reasonable accuracy; and
 - (c) will enable the members of the Crown entity to ensure that the financial statements of the Crown entity comply with section 154; and
 - (d) will enable the financial statements of the Crown entity to be readily and properly audited.
- (2) The accounting records must be in written form or in a manner in which they are easily accessible and convertible into written form.
- (3) If the board of a Crown entity fails to comply with the requirements of this section, every member of the Crown entity commits an offence and is liable on conviction to a penalty not exceeding \$5,000.
- (4) It is a defence to a member charged with an offence under this section if the member proves that—
 - (a) the board took all reasonable and proper steps to ensure that the requirements of this section would be complied with; or
 - (b) he or she took all reasonable and proper steps to ensure that the board complied with the requirements of this section; or
 - (c) in the circumstances he or she could not reasonably have been expected to take steps to ensure that the board complied with the requirements of this section.

Compare: 1993 No 105 s 194

Subpart 4—Miscellaneous

169 Taxation of statutory entities

A statutory entity is a public authority for the purpose of the Inland Revenue Acts (as that term is defined in the Tax Administration Act 1994) unless either those Acts or the entity's Act provides otherwise.

170 Power to require output agreement

- (1) A Minister may require a Crown entity to have in place an output agreement for any or all outputs that the Crown entity intends to provide that do not qualify for an exemption under section 143(1)(a).
- (2) The purpose of an output agreement is to assist a Minister and a Crown entity to clarify, align, and manage their respective expectations and responsibilities in relation to the funding and production of certain outputs, including the particular standards, terms, and conditions under which the Crown entity will deliver and be paid for the specified outputs.
- (3) An output agreement may be for 1 year or any other term agreed between the parties, may be entered into at any time, and may be updated to reflect any changes agreed between the parties during its term.
- (4) An output agreement need not be legally enforceable as an agreement, but gives rise to legally enforceable board member duties under sections 49 and 92.
- (5) An output agreement must be in writing, be dated, and be signed by, or on behalf of, the Minister and the Crown entity.

171 Offences

- (1) Every person commits an offence against this Act who knowingly—
 - (a) refuses or fails to produce any information that is in that person's possession or under that person's control in relation to the management, performance, or operations of a Crown entity when required to do so under this Act; or
 - (b) resists or obstructs any person acting in the discharge of that person's functions or in the exercise of that person's powers under this Act; or

- (c) represents directly or indirectly that he or she holds any authority under this Act knowing that he or she does not hold that authority.
- (2) Every person commits an offence against this Act who makes any statement or declaration, or gives any information or certificate, required by or under this Act, knowing it to be false or misleading.

Compare: 1989 No 44 s 76

172 Penalties for offences

- (1) Every person who commits an offence against section 171(1) is liable on summary conviction,—
- (a) in the case of an individual, to a fine not exceeding \$2,000; or
 - (b) in the case of a person or organisation other than an individual, to a fine not exceeding \$5,000.
- (2) Every person who commits an offence against section 171(2) is liable on summary conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding \$5,000; or
 - (b) in the case of a person or organisation other than an individual, to a fine not exceeding \$15,000.

Compare: 1989 No 44 s 77

173 Regulations under this Part

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- (a) requiring Crown entities to include information in a statement of intent or annual report that is additional to the information required by this Act:
 - (b) providing for the establishment, maintenance, and operation of bank accounts by Crown entities:
 - (c) prescribing the nature and extent of the acquisition of securities that may be undertaken by Crown entities, the securities that Crown entities may acquire, and any other matters relating to the acquisition:
 - (d) prescribing the nature and extent of borrowing that may be undertaken by Crown entities, the persons from whom a Crown entity may borrow, and any other matters relating to borrowing by Crown entities:

- (e) authorising the giving of any guarantees or indemnities:
 - (f) prescribing the nature and extent of derivative transactions that may be entered into by Crown entities, the persons with whom a Crown entity may enter into those transactions, and any other matters relating to those transactions in respect of Crown entities:
 - (g) specifying credit-rating tests for the purpose of this Part:
 - (h) prescribing capital charge rules for the purposes of section 166, including (without limitation) the amount of a capital charge or the method of calculating the amount of a capital charge, the procedures for notifying a statutory entity of the capital charge payable, the frequency of its payment, how the assets of a statutory entity must be valued in calculating the capital charge, and the cost-of-capital rate or formula for determining the cost-of-capital rate for a statutory entity:
 - (i) amending Schedule 1 or Schedule 2 to remove or add any exemptions from the acquisition of securities, borrowing, guarantees, or derivatives rules in sections 161 to 164:
 - (j) amending Schedule 1 or Schedule 2 to add any exemption from the requirement to pay a net surplus to the Crown in section 165:
 - (k) prescribing offences in respect of the contravention of any regulations made under this Act, and prescribing penalties not exceeding \$2,000 in respect of those offences:
 - (l) providing for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect.
- (2) The regulations in subsection (1) may be made in respect of all or any Crown entities or categories or types of Crown entities.

174 Minister of Finance instructions

- (1) The Minister of Finance may issue instructions to Crown entities that,—
- (a) prescribe minimum requirements concerning the publication of information that Crown entities must publish by or under this Act:

- (b) prescribe the non-financial reporting standards that Crown entities must apply and the form in which Crown entities must provide the information that they are required to present to the House of Representatives by or under this Act.
- (2) The instructions in subsection (1) may be made in respect of all or any Crown entities, or categories or types of Crown entities.
- (3) The instructions in subsection (1) must be consistent, in the opinion of the Minister, with generally accepted accounting practice and any reporting standard imposed by or under any other Act, to the extent that those matters are relevant to the instructions.
- (4) The Minister of Finance may exempt any Crown entities, or categories or types of Crown entities, from provisions of any instruction, and may amend or revoke that exemption in the same way.
- (5) The instructions are regulations for the purpose of the Regulations (Disallowance) Act 1989 but not the Acts and Regulations Publication Act 1989.
- (6) The Minister must notify the instruction in the *Gazette*, and publish it on the Internet, as soon as practicable after issuing it.

175 Consultation with House of Representatives on reporting standards

- (1) The Minister must prepare and submit to the Speaker of the House of Representatives a draft of any instruction proposed to be issued under section 174(1)(b).
- (2) The Speaker must present the draft instruction to the House of Representatives as soon as is reasonably practicable.
- (3) The Minister, after considering any comments of the Speaker or any committee of the House of Representatives that considered the draft instruction, may amend the draft instruction as the Minister thinks fit.
- (4) The Minister must, as soon as practicable after issuing an instruction, present it to the House of Representatives.

Compare: 2001 No 10 s 36

176 Application of provisions of Public Finance Act 1989

The following provisions of the Public Finance Act 1989 apply (without limitation) in relation to Crown entities:

- (a) section 26 (terms and conditions of capital injections):
- (b) section 49 (liability for debts of Crown entities):
- (c) section 74 (unclaimed money).

Part 5**Miscellaneous provisions***Miscellaneous***177 Application of liquidation provisions of Judicature Act 1908 to statutory entities**

For the avoidance of doubt, sections 17A to 17E of the Judicature Act 1908 apply to a statutory entity, unless the statutory entity may be put into liquidation in accordance with the entity's Act.

178 Application of Archives Act 1957

The Archives Act 1957 applies to a Crown entity that is a Government office for the purpose of that Act.

179 Public Bodies Contracts Act 1959 does not apply to Crown entities

- (1) The Public Bodies Contracts Act 1959 does not apply to a Crown entity.
- (2) The schedules of the Public Bodies Contracts Act 1959 are consequentially amended by repealing every item that relates to a Crown entity.

180 Local Authorities (Members' Interests) Act 1968 does not apply to Crown entities

- (1) The Local Authorities (Members' Interests) Act 1968 does not apply to a Crown entity.
- (2) The schedules of the Local Authorities (Members' Interests) Act 1968 are consequentially amended by repealing every item that relates to a Crown entity.

181 Administration of Crown entity provisions

- (1) Parts 1, 2, 3, and 5 are administered in the State Services Commission.

- (2) Part 4 is administered in the Treasury.

Transitional and savings provisions

182 Existing members exempt from qualification requirements

Every member of a statutory entity or Crown entity company or a Crown entity subsidiary in office at the commencement of this section may continue in office for the remainder of his or her current term of office as if sections 30 and 89 had not been enacted.

183 Term of office of existing members other than ex officio members

Every member of a statutory entity (other than an ex officio member) in office at the commencement of this section may continue in office for the remainder of his or her current term of office as if section 32(1) had not been enacted.

184 Term of office of existing ex officio members

- (1) Every ex officio member of a statutory entity (other than the Secretary for Justice who is an ex officio member of the Electoral Commission) who is in office at the date of commencement of this section ceases to be a member on that date.
- (2) An ex officio member is not entitled to any compensation or other payment or benefit relating to his or her ceasing to be an ex officio member under this section.
- (3) In this section and sections 183, 185, and 186, an **ex officio member** is a member who holds office as a member because he or she is a representative of any part of the Public Service.

185 Term of office of existing chairpersons and deputy chairpersons

Every chairperson and deputy chairperson of a statutory entity (other than an ex officio member) in office at the commencement of this section is not affected by any change in the method of appointment of the person under this Act.

186 Continuation of existing board committees

- (1) Every committee that exists at the commencement of this section continues in existence under this Act until it is disestablished under this Act.
- (2) Every member of the committee (other than an ex officio member) who is in office at that date continues in office under this Act until the person is removed under this Act or his or her term of office expires.

187 Continuation of existing employment

A person who is, at the commencement of this section, an employee of a statutory entity, does not cease to be an employee because of the coming into force of this Act.

188 Existing compensation provision

- (1) This section applies to a member of a Crown entity and every member of a committee who is entitled, at the commencement of this section under any contract or arrangement, to any compensation or other payment or benefit relating to his or her ceasing for any reason to hold office as a member.
- (2) The entitlement is not affected by the enactment of this Act.
- (3) However, the entitlement is cancelled on the date of reappointment of the member to the Crown entity or the committee (if any).

189 Existing protection from liability provisions

- (1) This section applies to a member, an office holder, or an employee of a Crown entity who is entitled, immediately before the date of commencement of this section, to be indemnified by a Crown entity in respect of any proceedings for any liability or costs arising from any act or omission as a member, office holder, or employee that occurred before that date.
- (2) This Act does not affect the member, office holder, or employee's entitlement to an indemnity if that entitlement is, in its overall effect, as favourable to that person as, or more favourable to that person than, the entitlement provided for in this Act.

190 Existing insurance cover

- (1) This section applies to a member, office holder, or employee of a statutory entity who has insurance cover at the commencement of this section in respect of any liability or costs arising from any act or omission as a member, office holder, or employee.
- (2) The insurance cover is not affected by the enactment of this Act.
- (3) However, if the insurance cover expires, or the member, office holder, or employee is reappointed or re-employed, the insurance can be renewed or effected only if permitted by this Act or the entity's Act.

191 Existing rights under Government Superannuation Fund Act 1956 unaffected

This Act does not affect any entitlement of a member, employee, or office holder of a Crown entity under the Government Superannuation Fund Act 1956.

192 Existing delegations and directions to continue

- (1) A delegation that is in effect in respect of a statutory entity under a provision of another Act that is repealed by this Act at the commencement of this section continues in effect as if it were a delegation under section 73.
- (2) A direction that is in effect in respect of a statutory entity under a provision of another Act at the commencement of this section continues in effect as if this Act had not been enacted.

193 Other existing things protected

The commencement of this Act does not affect the completion of a matter or thing, or the bringing or completion of proceedings, that relate to an existing right, interest, title, immunity, or duty.

194 Existing shareholdings in Crown entity subsidiaries

Subpart 3 of Part 2 does not apply to any company that is a Crown entity subsidiary at the date of commencement of this section until the later of—

- (a) 3 years after that subpart comes into force; or

- (b) a date specified by the Minister of Finance by notice in the *Gazette* (if the notice is given within that 3 years).

195 Existing bank accounts

There is a period of grace of 6 months after section 158 comes into force during which—

- (a) a Crown entity must continue to comply with section 24 of the Public Finance Act 1989, and (or, as the case may be, or) its entity's Act (if relevant), as if this Act and the Public Finance Amendment Act 2004 had not been passed; and
- (b) neither section 158, nor any amendment of an entity's Act in relation to bank accounts in Schedule 6 of this Act, apply to a Crown entity.

196 Existing law on securities, borrowing, guarantees, indemnities, and derivative transactions continues to apply until 1 April 2005

- (1) This section applies to the period between the date on which this section comes into force and the start of 1 April 2005 (which is the date on which the new rules in sections 160 to 164 relating to securities, borrowing, guarantees, indemnities, and derivative transactions apply) (the **transitional period**).
- (2) The rules relating to securities, borrowing, guarantees, indemnities, and derivative transactions that would have applied if this Act and the Public Finance Amendment Act 2004 had not been enacted continue to apply during the transitional period.
- (3) Therefore, for example, the Crown entity must comply, during the transitional period, with the rules relating to those things that were in the Public Finance Act 1989 or the entity's Act, as the case may be, immediately before the commencement of this section.

197 Continuation of pre-1 April 2005 securities, borrowing, guarantees, indemnities, and derivative transactions

- (1) This section applies to any security, borrowing, guarantee, indemnity, or derivative transaction that a Crown entity has lawfully acquired, given, or entered into before 1 April 2005 that the Crown entity would be restricted from having, acquiring, giving, or entering into under this Act after sections 160 to 164 apply.

- (2) The security, borrowing, guarantee, indemnity, or derivative transaction is not affected by the enactment of this Act.
- (3) However, the terms of the security, borrowing, guarantee, indemnity, or derivative transaction may be amended, or any options resulting from the security, borrowing, or derivative may be taken up, on and after 1 April 2005, only if permitted by the Minister of Finance.
- (4) This section does not apply to an indemnity in respect of a member, office holder, employee, committee member, or other individual of a Crown entity in relation to a claim or proceeding.

198 Reporting obligations in respect of financial years ending before 1 July 2006

- (1) The reporting requirements and provisions that would have applied if this Act and the Public Finance Amendment Act 2004 had not been enacted continue to apply in respect of each financial year that ends before 1 July 2006 to a Crown entity, rather than the reporting requirements and provisions enacted by this Act.
- (2) Therefore, for example, the Crown entity must comply, in respect of those financial years, with the requirements relating to annual financial statements, annual reports, and audits that were in the Public Finance Act 1989 or the entity's Act, as the case may be, immediately before the commencement of this section.
- (3) Despite subsections (1) and (2),—
 - (a) section 87(2)(ca)(iv) and (v) of the Education Act 1989 applies in respect of each financial year that ends on or after 31 December 2004; and
 - (b) section 152 applies in respect of the financial year commencing on 1 July 2005 and each subsequent financial year.
- (4) In this section, **Crown entity** includes any entity that is required by any other Act to report as though it were a Crown entity.

199 Regulations for transitional, savings, and general purposes

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - (a) providing for any transitional or savings matters concerning the coming into force of this Act;
 - (b) providing for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect.
- (2) The regulations may be made in respect of all or any Crown entities or categories or types of Crown entities.
- (3) Any transitional or savings provisions prescribed in regulations made under subsection (1) may be in addition to or in place of any of the provisions of sections 137, 159, 195, 196, 197, and 198.

*Amendments to other enactments***200 Amendments to other enactments**

The enactments specified in Schedule 6 are amended in the manner shown in that schedule.

201 Amendment to Gas Amendment Act 2004

- (1) Section 2(1) of the Gas Amendment Act 2004 is amended by omitting, with effect on and after 18 October 2004, the expression “Subpart 2”, and substituting the expression “Subpart 3”.
 - (2) For the avoidance of doubt, the Gas Amendment Act 2004, assented to by Her Excellency the Governor-General on 17 October 2004, is deemed to be, and always to have been, a valid Act of Parliament.
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Schedule 1 Statutory entities

ss 7, 160, 165

Note: A tick alongside the name of a statutory entity means that the statutory entity is granted an exemption from the section of this Act that appears above the tick.

Part 1 Crown agents

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	S 161	S 162	S 163	S 164	
Accident Compensation Corporation	✓	✓	✓	✓	✓
Career Services					
Civil Aviation Authority of New Zealand					✓
District Health Boards					
Earthquake Commission	✓	✓	✓	✓	✓
Electricity Commission					✓
Energy Efficiency and Conservation Authority					
Foundation for Research, Science, and Technology					
Health Research Council of New Zealand					
Health Sponsorship Council					
Housing New Zealand Corporation					
Land Transport New Zealand					✓
Legal Services Agency					
Maritime Safety Authority of New Zealand					✓
New Zealand Antarctic Institute					
New Zealand Blood Service					
New Zealand Fire Service Commission					✓
New Zealand Qualifications Authority					✓
New Zealand Tourism Board					
New Zealand Trade and Enterprise					
Pharmaceutical Management Agency					
Residual Health Management Unit					
Social Workers Registration Board					

Part 1—*continued*

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	S 161	S 162	S 163	S 164	
Sport and Recreation New Zealand					✓
Tertiary Education Commission					
Transit New Zealand					✓

Part 2
Autonomous Crown entities

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	S 161	S 162	S 163	S 164	
Alcohol Advisory Council of New Zealand					✓
Arts Council of New Zealand Toi Aotearoa					✓
Broadcasting Commission					
Environmental Risk Management Authority					
Families Commission					
Government Superannuation Fund Authority	✓	✓	✓	✓	✓
Guardians of New Zealand Superannuation					
Mental Health Commission					
Museum of New Zealand Te Papa Tongarewa Board					
New Zealand Artificial Limb Board					
New Zealand Film Commission					✓
New Zealand Historic Places Trust (Pouhere Taonga)					✓
New Zealand Lotteries Commission	✓				✓
New Zealand Symphony Orchestra					
New Zealand Teachers Council					✓
Public Trust	✓	✓	✓	✓	
Retirement Commissioner					
Standards Council					

Part 2—*continued*

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	S 161	S 162	S 163	S 164	
Te Reo Whakapuaki Irirangi (Māori Broadcasting Funding Agency)					
Te Taura Whiri I Te Reo Māori (Māori Language Commission)					
Testing Laboratory Registration Council					

Part 3
Independent Crown entities

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	S 161	S 162	S 163	S 164	
Accounting Standards Review Board					
Broadcasting Standards Authority					
Children's Commissioner					
Commerce Commission					
Electoral Commission					
Health and Disability Commissioner					
Human Rights Commission					
Law Commission					
New Zealand Sports Drug Agency					
Office of Film and Literature Classification					
Police Complaints Authority					
Privacy Commissioner					
Securities Commission					
Takeovers Panel					
Transport Accident Investigation Commission					

ss 7, 160, 165

Schedule 2

Crown entity companies

Note: A tick alongside the name of a Crown entity company means that the Crown entity company is granted an exemption from the section of this Act that appears above the tick.

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	S 161	S 162	S 163	S 164	
Crown Research Institutes	✓	✓	✓	✓	✓
New Zealand Venture Investment Fund Limited	✓	✓	✓		✓
Radio New Zealand Limited					✓
Television New Zealand Limited	✓	✓	✓	✓	✓

Schedule 3 s 5

Application of Crown Entities Act 2004 to School Boards of Trustees

Section	Brief description
Sections 3 to 8	Crown entities and categories
Section 10	Interpretation
Section 99	Application to multi-parent subsidiaries
Section 102	Interface with Companies Act 1993 and other Acts
Section 107	Whole of government directions
Section 113	Safeguarding independence of Crown entities
Section 114	Crown entity must comply with directions given under statutory power of direction
Section 115	Procedure for all Ministerial directions
Section 119	Cross reference to State Sector Act 1988, ss 84–84B
Section 131(2)	Application of Ombudsmen Act 1975 and Official Information Act 1982
Section 133	Minister's power to request information
Section 134	Reasons for refusing to supply information
Section 135	Officials for the purposes of sections of the Crimes Act 1961
Section 136	Interpretation for Part 4
Section 137	Application of subpart 2 of Part 4
Section 155, with the variation specified in section 87(4) of the Education Act 1989	Statement of responsibility for financial statements
Section 157	Variation of reporting requirements of multi-parent subsidiaries
Section 158	Bank accounts
Section 159	Application of acquisition of securities, borrowing, guarantees, indemnities, and derivative transactions rules
Sections 160 to 164	Restrictions on acquisition of securities, borrowing, guarantees, indemnities, and derivative transactions
Section 167	Gifts
Section 168(1) and (2), except that the reference to section 154 must be read as a reference to section 87(3) of the Education Act 1989	Accounting records
Section 173	Regulations
Section 176	Application of provisions of the Public Finance Act 1989
Section 178	Application of Archives Act 1957
Section 179	Public Bodies Contracts Act 1959 does not apply
Section 180	Local Authorities (Members' Interests) Act 1968 does not apply
Sections 181, 188, 191, 193, 194, 195, 196, 197, 198, 199, 200	Transitional and savings provisions and associated consequential amendments

s 6

Schedule 4

Application of Crown Entities Act 2004 to Tertiary Education Institutions

Section	Brief description
Section 3 to 8	Crown entities and categories
Section 10	Interpretation
Section 119	Cross reference to State Sector Act 1988, ss 84–84B
Section 131(2)	Application of Official Information Act 1982 and Ombudsmen Act 1975
Section 135 (but only in respect of office holders and employees of tertiary education institutions and Crown entity subsidiaries)	Officials for the purposes of sections of the Crimes Act 1961
Section 136	Interpretation for Part 4
Section 137	Application of subpart 2 of Part 4
Section 154, as amended by the Education Act 1989 s 220(2)–(2B), in Sch 6	Financial statements
Section 155	Statement of responsibility for financial statements
Section 156	Audit report
Section 157	Allows for variation of reporting requirements of multi-parent subsidiaries
Section 220 Education Act 1989	Inclusion of financial statements in annual report
Section 220 Education Act 1989	Laying before House of Representatives of financial statements
Section 167	Gifts
Section 168(1) and (2)	Accounting records
Sections 171(1)(b) and (2) and 172	Offences and penalties
Section 176	Application of provisions of the Public Finance Act 1989
Section 178	Application of Archives Act 1957
Sections 181, 188, 191, 193, 194, 198, 199, 200	Transitional and savings provisions and associated consequential amendments

Schedule 5

s 78

Board procedure for statutory entities (other than corporations sole)*Chairperson and deputy chairperson of board***1 Appointment**

- (1) The responsible Minister may appoint 1 of the members as the chairperson, and another member as the deputy chairperson, of the board of a Crown agent or an autonomous Crown entity by written notice to the member (with a copy to the board).
- (2) The Governor-General may, on the recommendation of the responsible Minister, appoint 1 of the members as the chairperson, and another member as the deputy chairperson, of the board of an independent Crown entity by written notice to the member (with a copy to the board).
- (3) The notice of appointment must state the date on which the appointment takes effect.

2 Term of appointment

The chairperson and the deputy chairperson each hold that office until—

- (a) he or she resigns from that office; or
- (b) he or she is removed from it by the responsible Minister or the Governor-General, as the case may be; or
- (c) he or she ceases to hold office as a member; or
- (d) the term of office that may have been specified on appointment expires, unless the member is reappointed for a further term.

3 Resignation

- (1) A chairperson or deputy chairperson may, without resigning as a member, resign from that office by written notice to the responsible Minister (with a copy to the board).
- (2) The notice of resignation must state the date on which the resignation takes effect.

4 Removal

- (1) The responsible Minister may, after consultation with the person concerned, remove a chairperson or deputy chairperson of the board of a Crown agent or an autonomous Crown

entity from that office by written notice to the person (with a copy to the board).

- (2) The Governor-General may, on the recommendation of the responsible Minister and after consultation with the person concerned, remove a chairperson or deputy chairperson of the board of an independent Crown entity from that office by written notice to the person (with a copy to the board).
- (3) The notice of removal must state the date on which the removal takes effect.

5 Exercise of chairperson's functions and powers during vacancy

- (1) The deputy chairperson of a statutory entity has and may exercise all of the functions and powers of the chairperson in relation to a matter if—
 - (a) the chairperson is unavailable; or
 - (b) the chairperson is interested in the matter.
- (2) The board may, by resolution, appoint a temporary deputy chairperson, who may exercise all the functions and powers of the chairperson in relation to a matter if—
 - (a) there is no deputy chairperson; or
 - (b) the deputy chairperson is unavailable; or
 - (c) the deputy chairperson is interested in the matter.

Procedure of board

6 Procedure generally

Except as otherwise provided under this or another Act, the members may regulate their own procedure.

7 Notice of meetings

- (1) The board or the chairperson must appoint the times and places of ordinary meetings of the board, and give notice of those meetings to each member not present when the appointment is made.
- (2) The chairperson or any 2 members (or, if the board consists of only 2 members, either member) may call a special meeting of the board by giving at least 5 working days' notice (or any shorter notice period that all the members agree) of the special meeting, and the business to be transacted at the meeting, to each member for the time being in New Zealand.

- (3) Only the business stated in the notice of special meeting may be transacted at the special meeting.
- (4) Notice of a meeting—
 - (a) must be written, and state the time and place of the meeting; and
 - (b) may be given by post, delivery, or electronic communication; and
 - (c) must be sent to the member's last known address in New Zealand.
- (5) An irregularity in a notice of a meeting is waived if all members entitled to receive the notice either—
 - (a) attend the meeting without protesting about the irregularity; or
 - (b) do not attend the meeting, but agree before the meeting is held to the waiver of the irregularity.

8 Methods of holding meetings

A meeting of the board may be held—

- (a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or
- (b) by means of audio, audio and visual, or electronic communication provided that—
 - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

9 Quorum

- (1) A quorum for a meeting of the board is the number that is—
 - (a) half the number of members (if the board has an even number of members); or
 - (b) a majority of the members (if the board has an odd number of members).
- (2) If the board has only 2 members, the quorum for a meeting is both members.
- (3) No business may be transacted at a meeting of the board if a quorum is not present.

10 Special provisions for boards with only 1 member available to act

- (1) This section applies while a board has only 1 member who is available (for example, because of a vacancy or because section 66, but not section 68, applies to 1 or more members).
- (2) The quorum for a meeting of the board is 1.
- (3) The available member—
 - (a) may appoint the times and places of ordinary meetings; and
 - (b) may call a special meeting; and
 - (c) need not send a notice of meeting for those meetings; and
 - (d) may enter into any obligation that, under section 127(2), may be entered into by 2 or more members.

11 Presiding at meetings

- (1) At a meeting of the board, the following person presides:
 - (a) if there is a chairperson and he or she is present and is not interested in the matter, the chairperson; or
 - (b) if there is no chairperson or he or she is not present or is interested in the matter, the deputy chairperson; or
 - (c) in any other case, the temporary deputy chairperson.
- (2) A person referred to in subclause (1)(b) or (c) may exercise all the powers and functions of the chairperson for the purposes of the meeting.

12 Voting at meetings

- (1) Each member has 1 vote.
- (2) In addition to his or her general vote, the chairperson at a meeting has, in the case of an equality of votes, a casting vote.
- (3) A resolution of the board is passed if it is agreed to by all members present without dissent or if a majority of the votes cast on it are in favour of it.
- (4) A member present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless he or she expressly dissents from or votes against the resolution at the meeting.

13 Unanimous written resolutions

- (1) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all members is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.

14 Board may appoint committees

- (1) The board may, by resolution, appoint committees—
 - (a) to advise it on any matters relating to the entity's functions and powers that are referred to the committee by the board; or
 - (b) to perform or exercise any of the entity's functions and powers that are delegated to the committee, if the committee includes at least 1 member of the board and any other person or persons that the board thinks fit.
- (2) A person must not be appointed as a member of a committee unless, before appointment, he or she discloses to the board the details of any interest the person may have if he or she were a member of that committee.

15 Provisions relating to committee members

- (1) Sections 43, 47, 48, 57, 77, 118, 120 to 126, 135, 152(1)(e), (f), and (2), 189, and 190 apply to each member of a committee who is not a member of the board with necessary modifications.
- (2) Sections 62 to 72 apply to each member of a committee who is not a member of the board as if the committee member were a board member and as if the disclosure must be made to both the committee and the board, and with other necessary modifications.

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Schedule 6
Amendments to other Acts arising from Crown
entity reforms

Alcohol Advisory Council Act 1976 (1976 No 143)Repeal the definition of **Chairperson** in section 2(1).Repeal the definition of **financial year** in section 2(1).

Repeal section 3(3) and substitute:

“(3) The Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(4) The Crown Entities Act 2004 applies to the Council except to the extent that this Act expressly provides otherwise.”

Omit from section 3A(1) the words “to be appointed by the Governor-General on the recommendation of the Minister”.

Repeal section 3A(3) and (4) and substitute:

“(3) Members of the Council are the board for the purposes of the Crown Entities Act 2004.

“(4) Subsections (1) and (2) do not limit section 29 of the Crown Entities Act 2004.”

Repeal sections 4 to 6.

Repeal section 9(1).

Omit from section 9(2) the words “Without limiting subsection (1) of this section, the” and substitute the word “The”.

Add to section 9:

“(3) Subsection (2) does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal sections 10 to 12.

Repeal section 13(1) to (5).

Repeal sections 14 to 16.

Repeal sections 19 to 19C.

Repeal sections 22 to 24.

Omit from section 25(1) the words “statement submitted to him by the Council under section 24 of this Act in respect of that year” and substitute the words “forecast financial statements in the Council’s statement of intent”.

Omit from section 25(2) the words “money invested by the Council pursuant to section 22 of this Act” and substitute the words “money belonging to the Fund invested by the Council”.

Omit from section 37(1) the words “land tax and”.

Repeal sections 37A and 38.

Arts Council of New Zealand Toi Aotearoa Act 1994

(1994 No 19)

Repeal section 6(2) and (3) and substitute:

“(2) The Arts Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Council except to the extent that this Act expressly provides otherwise.”

Add to section 7:

“(3) The Minister may not give a direction to the Council in relation to cultural matters.”

Repeal section 8(1).

Repeal section 8(2) and substitute:

“(2) Without limiting sections 16 and 17 of the Crown Entities Act 2004, the Council has power—

“(a) to deliver funding in accordance with decisions made by the arts boards:

“(b) to establish any endowments or create any trusts on any terms and conditions, and for any objects within the purposes of this Act, that the Council thinks fit, and appoint trustees in respect of any of those endowments or trusts.”

Repeal section 8(3) to (5) and substitute:

“(5) Any trustees appointed in respect of a trust must keep accounts in a manner that will enable the Council to fulfil its obligations under section 154 of the Crown Entities Act 2004.”

Repeal section 9(1) and (2) and substitute:

“(1) The board of the Council consists of 7 persons.”

Insert in section 9, after subsection (3):

“(3A) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.”

Repeal sections 11 and 12 and substitute:

“11 Delegation of functions and powers by Council

“(1) Subject to subsections (3) and (4), the Council may delegate any of its functions and powers to an arts board.

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.

“(3) Sections 74 to 76 of that Act apply to a delegation under subsection (1).

Arts Council of New Zealand Toi Aotearoa Act 1994

(1994 No 19)—continued

“(4) The Council may not delegate—

“(a) the power to determine the level of funding that should be available for allocation by each arts board:

“(b) any power to borrow money that it may have under section 160 or section 162 of the Crown Entities Act 2004.

“12 Exemption from income tax

The Council is exempt from the payment of income tax.”

Omit from section 14(2)(b) the words “under clause 8 of the First Schedule to this Act” and substitute the words “under section 73 of the Crown Entities Act 2004”.

Repeal sections 25 to 30.

Repeal section 34.

Omit from the heading of the First Schedule the words “Arts Councils and”.

Omit from clauses 1 and 2 of the First Schedule the words “the Council or” in every case where they appear.

Omit from clause 3(1) of the First Schedule the words “The Council and”.

Omit from the heading to clause 4 of the First Schedule the words “**Council, boards,**” and substitute the word “**boards**”.

Omit from clause 4(1) of the First Schedule the words “the Council and”.

Omit from clause 4(1) of the First Schedule the expression “Fees and Travelling Allowances Act 1951” and substitute the words “fees framework”.

Insert in clause 4 of the First Schedule, after subclause (1):

“(1A) For the purposes of subclause (1), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.”

Omit from clause 5(1) of the First Schedule the words “the Council and” in both cases where they appear.

Omit from clause 5(4) of the First Schedule the words “the Council or” in every case where they appear.

Omit from clause 5(5) of the First Schedule the words “the Council or”.

Arts Council of New Zealand Toi Aotearoa Act 1994

(1994 No 19)—continued

Omit from clause 5(6) and (7) of the First Schedule the words “the Council or boards” and substitute in each case the words “a board”.

Omit from clause 5(8) of the First Schedule the words “Council or”.

Repeal clause 6(1) of the First Schedule.

Omit from clause 7(1) to (3) of the First Schedule the words “the Council or” in every case where they appear.

Omit from clause 7(1) of the First Schedule the words “the Council’s or”.

Repeal clause 7(4) of the First Schedule and substitute:

“(4) Subject to this Act, to any rules made by a board, and to any direction given by the Council or a board, every committee of the board may regulate its own procedure.”

Repeal clause 8 of the First Schedule and substitute:

“8 **Delegation of functions and powers by boards**

“(1) A board may, either generally or specifically, delegate any of its functions and powers to any of its committees or members or to any employee or employees of the Council, whether by name or as the holder or holders for the time being of any specified office or offices.

“(2) Every delegation under this clause must be in writing.

“(3) The board exercising the power of delegation must ensure that a copy of every delegation under this clause is kept at its office and is made available for inspection by any person.

“(4) Any delegation under this clause may be made to—

“(a) a specified person; or

“(b) a person belonging to a specified class of persons; or

“(c) the holder for the time being of a specified office or appointment; or

“(d) the holder for the time being of an office or appointment of a specified class.

“(5) Subject to any general or special directions given or conditions imposed by the board, the committee or person to whom a delegation is made may exercise or perform the delegated functions or powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

“(6) Every committee or person purporting to act under any delegation under this clause must, in the absence of proof to the

Arts Council of New Zealand Toi Aotearoa Act 1994

(1994 No 19)—continued

contrary, be presumed to be acting in accordance with the terms of the delegation.

“(7) If the board, or any delegate of the board, uses a written document to inform any other person of action taken by the delegate, that document must—

“(a) state that the action was taken by a delegate of the board; and

“(b) give the delegate’s name and office, or the name of the committee that acted pursuant to the delegation, as the case may be; and

“(c) state that a copy of the instrument of delegation is available for inspection at the board’s office.

“(8) Every delegation under this clause is revocable at will, but any such revocation does not take effect until it is communicated to the delegate.

“(9) Until the delegation is revoked, it continues in force according to its tenor, despite any change in the membership of the board or of any committee.

“(10) No delegation under this clause prevents the performance or exercise of any function or power by the board that made the delegation.”

Repeal clauses 9 to 23 of the First Schedule.

Repeal clause 24 of the First Schedule and substitute:

“24 **Protection of members of arts boards acting under authority of Act**

“(1) Sections 120 to 126 of the Crown Entities Act 2004 apply to a member or employee of an arts board who performs any functions in accordance with this Act, whether or not under a delegation from the Council, as if he or she were a member of a statutory entity.”

“(2) However, section 121(1)(a) and (3)(a) do not apply to a member of an arts board.”

Repeal so much of the Second Schedule as relates to the Ombudsmen Act 1975 and the Public Finance Act 1989.

Broadcasting Act 1989 (1989 No 25)

Add to section 20, as subsections (2) and (3):

“(2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

Broadcasting Act 1989 (1989 No 25)—continued

“(3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.”

Add to section 21:

“(5) Except as expressly provided otherwise in this or any other Act, the Authority must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Authority (other than the Crown Entities Act 2004).”

Repeal sections 24 and 25.

Repeal section 26(1) and substitute:

“(1) The board of the Authority consists of 4 members, 1 of whom must be appointed as Chairperson.”

Insert in section 26, as subsection (3), the following subsection:

“(3) Despite clause 9 of Schedule 5 of the Crown Entities Act 2004, a quorum for a meeting of the board of the Authority is 3 members.”

Repeal section 26(7).

Repeal section 27.

Add to section 28, as subsection (2):

“(2) This section applies despite section 45 of the Crown Entities Act 2004.”

Repeal section 29.

Repeal section 31 and substitute:

“31 **Funds of Authority**

The funds of the Authority include all annual levies paid by broadcasters under section 30B.”

Repeal section 32.

Repeal section 35(2) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Repeal section 38.

Insert in section 42, after the words “Nothing in this Act”, the words “or the Crown Entities Act 2004”.

Broadcasting Act 1989 (1989 No 25)—continued

Repeal section 44(1) and substitute:

“(1) The Minister may not give a direction to the Commission in relation to cultural matters.”

Omit from section 44(1A) the words “, pursuant to subsection (1) of this section,”.

Omit from section 44(2) the words “Nothing in this section authorises the Minister to give a direction under that subsection” and substitute the words “No responsible Minister or any other Minister, and no person acting by or on behalf of or at the direction of a responsible Minister or any other Minister, may give a direction”.

Repeal section 44(3).

Repeal section 45 and substitute:

“45 **Membership of Commission**

The board of the Commission consists of not less than 3, and not more than 6, members.”

Repeal section 46.

Repeal section 48.

Repeal section 52.

Repeal section 53A(2) and substitute:

“(2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.”

Repeal section 53D.

Repeal section 53I and substitute:

“53I **Membership of Te Reo Whakapuaki Irirangi**

The board of Te Reo Whakapuaki Irirangi consists of not more than 7 members.”

Repeal sections 53J and 53K.

Repeal sections 53P and 53Q.

Repeal section 53R(2).

Repeal section 53S(1) and (3) and substitute:

“(3) Subsection (2) applies despite subpart 1 of Part 3 of the Crown Entities Act 2004.”

Repeal clauses 1 to 7 of the First Schedule.

Omit from clause 8 of the First Schedule the words “for any of the officers or employees of the Authority or the Commission or”.

Broadcasting Act 1989 (1989 No 25)—continued

Omit from clause 8 of the First Schedule the words “approved by the Minister of Finance for the purposes of this clause”.

Repeal clauses 9 to 16 of the First Schedule.

Repeal the Second Schedule.

Broadcasting Amendment Act 1996 (1996 No 53)

Repeal section 21.

Children’s Commissioner Act 2003 (2003 No 121)

Repeal the definition of **fees framework** in section 4.

Repeal section 6(2) to (4) and substitute:

“(2) The Commissioner is—

“(a) a corporation sole; and

“(b) a Crown entity for the purposes of section 7 of the Crown Entities Act 2004; and

“(c) the board for the purposes of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commissioner except to the extent that this Act expressly provides otherwise.”

Repeal section 7(1) and (2).

Omit from section 7(3) the words “Before advising the appointment of a Commissioner” and substitute the words “Before recommending the appointment of a Commissioner under section 28(1)(b) of the Crown Entities Act 2004”.

Repeal section 7(4) and (6).

Repeal sections 8 to 10.

Repeal section 12(2) and substitute:

“(2) Except as expressly provided otherwise in this or another Act, the Commissioner must act independently in performing his or her statutory functions and duties, and exercising his or her statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Commissioner (other than the Crown Entities Act 2004).”

Repeal sections 15 and 16.

Omit from section 25 the words “Despite anything in this Act” and substitute the words “Despite anything in this Act or the Crown Entities Act 2004”.

Repeal section 27(1).

Children’s Commissioner Act 2003 (2003 No 121)—continued

Insert in section 27, after subsection (5):

“(5A) Sections 122 to 126 of the Crown Entities Act 2004 apply as if the conduct for which a person may be indemnified or insured under those sections were conduct that is covered by the protection from liability in this section.

“(5B) This section contains an exception to section 121 of the Crown Entities Act 2004.”

Repeal sections 28 and 29.

Omit from section 31(2) the words “under section 7(1)” and substitute the words “under this Act”.

Omit from section 31(2)(c) the expression “clause 5 of Schedule 1” and substitute the expression “section 47 of the Crown Entities Act 2004”.

Omit from section 31(3) the expression “clause 5 of Schedule 1” and substitute the expression “section 47 of the Crown Entities Act 2004”.

Repeal sections 33 to 35.

Repeal clauses 1 to 5 of Schedule 1.

Omit from clause 6(1) of Schedule 1 the words “or any employee of the Commissioner”.

Omit from clause 6(1) of Schedule 1 the words “and approved by the Minister of Finance for the purpose of this clause”.

Repeal clauses 7 to 10, and the heading above clause 7, of Schedule 1.

Repeal clause 11(1) of Schedule 1 and substitute:

“(1) Despite section 73 of the Crown Entities Act 2004, the Commissioner may delegate any of the functions and powers of the Commissioner, either generally or specifically, only to—

“(a) an employee of the Commissioner; or

“(b) any other person or persons approved by the Minister; or

“(c) any class of persons comprised of any of the persons listed in paragraphs (a) and (b).”

Repeal clause 11(2)(b) of Schedule 1.

Repeal clauses 12 to 22, and the headings above clause 13 and clause 17, of Schedule 1.

Repeal so much of Schedule 3 as relates to the definition of **Commissioner** in the Children, Young Persons, and Their Families Act 1989.

Children’s Commissioner Act 2003 (2003 No 121)—continued

Repeal so much of Schedule 3 as relates to the Ombudsmen Act 1975 and the Public Finance Act 1989.

Children, Young Persons, and Their Families Act 1989

(1989 No 24)

Repeal the definition of **Commissioner** in section 2(1) and substitute:

“**Commissioner** means the Children’s Commissioner continued under section 6 of the Children’s Commissioner Act 2003”.

Civil Aviation Act 1990 (1990 No 98)

Omit from the definition of **member** in section 2 the words “person appointed under section 72A of this Act as a”.

Repeal the definition of **performance agreement** in section 2.

Add to section 22:

“(8) The Authority must not delegate any functions or powers delegated to the Authority by the Minister without the written consent of the Minister.”

Repeal section 23.

Repeal section 23A(3), (4)(a), and (5) and substitute:

“(5) The provisions of sections 73(4) and 74 to 76 of the Crown Entities Act 2004 apply as if references to the board were references to the Director, with all necessary modifications.”

Add to section 23A:

“(6) The Director must not delegate any functions or powers delegated to the Director by the Minister without the written consent of the Minister.

“(7) Any delegation under this section may be made to a specified employee of the Authority or to employees of a specified class, or to the holder or holders for the time being of a specified office or specified class of offices of the Authority.

“(8) Every delegation under this section, until it is revoked, continues in force according to its tenor, despite the fact that the employee of the Authority by whom it was made may cease to hold office, and continues to have effect as if made by the employee for the time being holding that office.”

Omit from the heading to section 23B the words “**Authority’s or**”.

Repeal section 23B(1).

Omit from section 23B(5) the words “the Authority or”.

Repeal section 23B(6), (9), and (10) and substitute:

Civil Aviation Act 1990 (1990 No 98)—continued

“(6) The provisions of sections 73(4) and 74 to 76 of the Crown Entities Act 2004 apply as if references to the board were references to the Director, with all necessary modifications.”

Insert in section 23B(12), after the words “under this section”, the words “or under section 73 of the Crown Entities Act 2004”.

Insert in section 23C, after the words “Notwithstanding sections 23 to 23B of this Act”, the words “or section 73 of the Crown Entities Act 2004”.

Repeal section 27N(3) and (4) and substitute:

“(4) Section 23A applies to a delegation under this section.”

Insert in section 72A, after subsection (1):

“(1A) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(1B) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.”

Add to section 72A(2) the words “appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004”.

Insert in section 72A, after subsection (2):

“(2A) Members of the Authority are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 72A(3).

Omit from section 72A(4) the words “recommend for appointment” and substitute the word “appoint”.

Insert in section 72A, after subsection (4):

“(4A) Subsection (4) does not limit section 29 of the Crown Entities Act 2004.”

Omit from section 72(5) the words “Before making any recommendation in respect of 2 of the members,” and substitute the words “Before appointing 2 of the members,”.

Repeal section 72A(6).

Repeal section 72A(9) and substitute:

“(9) The Authority is owned by the Crown.”

Omit from section 72B(3) the words “prescribe by notice in the *Gazette*”, and substitute the words “direct in accordance with section 112 of the Crown Entities Act 2004”.

Repeal section 72C.

Repeal section 72D.

Repeal section 72F and substitute:

Civil Aviation Act 1990 (1990 No 98)—continued**“72F Extra information to be included in statement of intent**

“(1) The Authority must include the following information in its statement of intent prepared under section 139 of the Crown Entities Act 2004:

“(a) a statement of any new borrowings or financial leases, or similar liabilities the Authority intends to incur during that year; and

“(b) a statement of the Authority’s best estimate of—

“(i) both the various impacts the outputs described in the statement of intent will have for, and the consequences of those outputs for, a safe civil aviation system in New Zealand during the year to which the statement of intent relates; and

“(ii) the impacts of those outputs on, and consequences of those outputs for, a safe civil aviation system in New Zealand for later years.

“(2) The Minister may direct the Authority to amend any provision that is included in the statement of intent under this section, and section 147 of the Crown Entities Act 2004 applies accordingly.

“(3) No provision specifying any liabilities the Authority intends to incur may be included in a statement of intent without the concurrence of the Minister of Finance.”

Omit from section 72I(2) the words “under section 23 of this Act” and substitute the words “under section 73 of the Crown Entities Act 2004”.

Omit from section 72L(2) the words “under section 23 of this Act” and substitute the words “under section 73 of the Crown Entities Act 2004”.

Repeal section 74(2)(i) and substitute:

“(i) the current statement of intent under section 139 of the Crown Entities Act 2004.”

Repeal clauses 1 to 23 of the Third Schedule.

Repeal clause 23B of the Third Schedule.

Repeal clauses 26 to 31 of the Third Schedule.

Repeal clause 35 of the Third Schedule.

Omit from clauses 36 and 37 of the Third Schedule the words “The Authority or the” and substitute in each case the word “The”.

Omit from clause 37(a) and (b) of the Third Schedule the words “the Authority or”.

Civil Aviation Act 1990 (1990 No 98)—continued

Repeal clause 38 of the Third Schedule.

Repeal clause 39 of the Third Schedule.

Commerce Act 1986 (1986 No 5)

Omit the word “Chairman” in every case where it appears and substitute in each case the word “chairperson”.

Omit the words “Deputy Chairman” in every case where they appear and substitute in each case the words “deputy chairperson”.

Omit the words “officer of the Commission” in every case where they appear and substitute in each case the words “employee of the Commission”.

Insert in section 2(1), after the definition of “assets”:

“**associate member** means a member appointed under section 11(1)”.

Repeal the definition of **Chairman** in section 2(1) and substitute:

“**chairperson** means the chairperson of the Commission”.

Repeal the definition of **Commission** in section 2(1) and substitute:

“**Commission**—

“(a) means the Commerce Commission established under Part 1; or

“(b) for the purposes of determining any matter or class of matter specified in a direction under section 16(1), means the Division of the Commission specified in the direction in accordance with section 16(5)”.

Repeal the definition of **Commissioner** in section 2(1) and substitute:

“**Commissioner** means a Commissioner appointed under section 74AA(1)”.

Repeal the definition of **Deputy Chairman** in section 2(1) and substitute:

“**deputy chairperson** means the deputy chairperson of the Commission”.

Repeal the definition of **member of the Commission** in section 2(1) and substitute:

“**member of the Commission**—

“(a) means a member appointed under section 9(2); and

“(b) means the Telecommunications Commissioner appointed under section 9 of the Telecommunications Act 2001; and

“(c) in the circumstances in section 11(3), includes an associate member”.

Commerce Act 1986 (1986 No 5)—continued

Repeal the first definition of **Minister** in section 2(1).

Repeal the definition of **officer of the Commission** in section 2(1).

Repeal section 8(2) and (3) and substitute:

- “(2) Except as expressly provided otherwise in this or any other Act, the Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—
- “(a) this Act; and
 - “(b) any other Act that expressly provides for the functions, powers, or duties of the Commission (other than the Crown Entities Act 2004).”

Insert after section 8:

“8A Application of Crown Entities Act 2004

- “(1) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- “(2) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.
- “(3) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 9 and substitute:

“9 Membership of Commission

- “(1) The Commission must have no less than 4, and no more than 6, members appointed in accordance with this section, and may also have associate members appointed under section 11(1).
- “(2) No less than 3, and no more than 5, of the members, of whom at least 1 must be a barrister and solicitor of at least 5 years’ standing, must be appointed by the Governor-General in accordance with section 28(1)(b) of the Crown Entities Act 2004.
- “(3) One of the members must be appointed by the Governor-General as Telecommunications Commissioner under section 9 of the Telecommunications Act 2001.
- “(4) The Minister must not recommend a person for appointment as a member under subsection (2) unless,—
- “(a) in the opinion of the Minister, that person is qualified for appointment, having regard to the functions of the Commission, by virtue of that person’s knowledge of or experience in industry, commerce, economics, law,

Commerce Act 1986 (1986 No 5)—continued

accountancy, public administration, or consumer affairs; and

“(b) in the case of a member who is a barrister or solicitor, the Minister has first consulted with the Attorney-General.

“(5) Subsections (2) and (4) do not limit section 29 of the Crown Entities Act 2004.”

Repeal section 10(1) to (4).

Repeal section 10(6).

Insert in section 11, after subsection (1):

“(1A) Subsection (1) applies despite section 28(1)(b) of the Crown Entities Act 2004.”

Omit from section 11(2) the words “instrument of appointment” and substitute the words “notice of appointment”.

Omit from section 11(2) the expression “3 years” and substitute the expression “5 years”.

Omit from section 11(4) the words “instrument of appointment” and substitute the words “notice of appointment”.

Add to section 11:

“(5) An associate member may only be appointed in relation to a matter or class of matters arising under an Act under which the Commission is required to act independently under section 8(2).

“(6) An associate member may not be appointed as chairperson, deputy chairperson, or a temporary deputy chairperson under clause 5 of Schedule 5 of the Crown Entities Act 2004.”

Repeal section 12 and substitute:

“**12 Chairperson and deputy chairperson**

“(1) One member appointed under section 9(2) must be appointed by the Governor-General, on the recommendation of the responsible Minister, as chairperson and another must be appointed as deputy chairperson.

“(2) The chairperson and deputy chairperson may only be removed from office as chairperson or deputy chairperson for just cause.

“(3) In other respects, clauses 1(2) and (3) and 4(2) and (3) of Schedule 5 of the Crown Entities Act 2004 apply to the appointment and removal of the chairperson and deputy chairperson of the Commission.”

Commerce Act 1986 (1986 No 5)—continued

Repeal section 13(1) to (3) and substitute:

“(1) The Governor-General may remove any member of the Commission appointed by the Governor-General from office under section 39 of the Crown Entities Act 2004.

“(2) The Minister may remove any associate member from office on the same grounds and in the same manner as the Governor-General may remove a member under section 39 of the Crown Entities Act 2004.

“(3) Subsection (2) applies despite section 39(1) of the Crown Entities Act 2004.”

Add to section 13:

“(5) Subsection (4) applies despite sections 32(3) and 45 of the Crown Entities Act 2004.”

Repeal section 14.

Repeal section 15(1) to (3).

Repeal section 15(5) and (6) and substitute:

“(5) Subsection (4) applies despite clause 9(1) and (2) of Schedule 5 of the Crown Entities Act 2004.”

Insert in section 16, after subsection (1):

“(1A) The powers in subsection (1) are an exception to clause 14 of Schedule 5 of the Crown Entities Act 2004.”

Omit from section 17 the words “by letter, telegram, cable, or telex or facsimile message” and substitute the words “in writing (whether sent by post, delivery, or electronic communication)”.

Add to section 17, as subsection (2):

“(2) This section applies despite clause 13 of Schedule 5 of the Crown Entities Act 2004.”

Repeal sections 18 to 18C.

Repeal section 18D(1).

Repeal sections 19 to 23.

Add to section 26:

“(3) For the avoidance of doubt, a statement of economic policy transmitted to the Commission under this section is not a direction for the purposes of Part 3 of the Crown Entities Act 2004.”

Insert, before section 74A:

Commerce Act 1986 (1986 No 5)—continued**“74AA Cease and Desist Commissioners**

- “(1) The Governor-General, on the recommendation of the Minister (which recommendation may be given only after consultation by the Minister with the Attorney-General), must appoint 2 persons as Commissioners for the sole purpose of hearing cease and desist applications in accordance with sections 74A to 74C.
- “(2) The Minister may not recommend a person for appointment as a Commissioner unless that person—
- “(a) is a barrister or solicitor; and
 - “(b) would qualify for appointment as a member of the Commission under section 9(4)(a) of this Act and sections 29(2) and 30(2) of the Crown Entities Act 2004.
- “(3) The notice of appointment must—
- “(a) state—
 - “(i) the date on which the appointment takes effect; and
 - “(ii) the term of appointment, which may be 5 years or any shorter period that is stated in the notice; and
 - “(b) be published by the Minister in the *Gazette* as soon as practicable after being given.
- “(4) Section 106 of this Act and sections 31, 32(2) to (4), 34, 35, 39 to 45, 47, 48, 62 to 68, 122 to 126 (as applied by section 106(3B) of this Act), and 188 to 190 of the Crown Entities Act 2004 apply to a Commissioner, with any necessary modification, as if he or she were a member of the Commission.
- “(5) A Commissioner must act independently of the Commission in carrying out his or her functions under this Act.
- “(6) The Commission must include in its annual report under section 150 of the Crown Entities Act 2004 the information in section 152(1)(a) and (d) to (f) of that Act, in respect of each Commissioner.”

Add to section 74C, as subsection (2):

- “(2) For the purposes of conducting a hearing for a cease and desist order, a Commissioner may exercise the powers in section 98 as if he or she were the Commission.”

Repeal section 105 and substitute:

Commerce Act 1986 (1986 No 5)—continued**“105 Restriction on delegation**

“(1) The Commission may not delegate its powers to grant, revoke, or vary an authorisation under this Act, except in accordance with subsection (2).

“(2) The Commission may delegate to the chief executive or any other employee or employees, or office holder or holders, of the Commission, or any class of employee or office holder, any of its powers under sections 70 to 74.

“(3) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal section 106(2) and substitute:

“(2) No proceedings, civil or criminal, lie against any member of the Commission, or any officer or employee of the Commission, or any member of a committee of the Commission, for anything that person may do or say or fail to do or say in the course of the operations of the Commission, unless it is shown that the person acted in bad faith.”

Insert in section 106, after subsection (3):

“(3A) Section 59(3) of the Crown Entities Act 2004 (which provides that a statutory entity may bring an action against a member for breach of an individual duty) does not apply, unless it is shown by the Commission that the person acted in bad faith.

“(3B) Sections 122 to 126 of the Crown Entities Act 2004 apply as if the conduct for which a person may be indemnified or insured under those sections were conduct that is covered by the protection from liability in this section.

“(3C) This section contains an exception to section 121 of the Crown Entities Act 2004.”

Repeal section 107.

Credit Contracts and Consumer Finance Act 2003

(2003 No 52)

Repeal section 113(a) and substitute:

“(a) sections 15 to 17 (proceedings of the Commission):”.

Repeal section 113(k).

Crown Research Institutes Act 1992 (1992 No 47)

Repeal the definition of **board** in section 2 and substitute:

Crown Research Institutes Act 1992 (1992 No 47)—continued

“**board**, in relation to a Crown Research Institute or a Crown entity subsidiary of a Crown Research Institute, has the same meaning as in section 127 of the Companies Act 1993”.

Insert in section 2, after the definition of **board**:

“**constitution**, in relation to a Crown Research Institute, means the constitution of the Crown Research Institute under section 29 of the Companies Act 1993

“**Crown entity subsidiary** has the same meaning as in section 8(2) of the Crown Entities Act 2004”.

Repeal the definition of **Crown Research Institute** in section 2 and substitute:

“**Crown Research Institute** means a company established as a Crown Research Institute under section 11”.

Insert in section 2, after the definition of **Crown Research Institute**:

“**multi-parent subsidiary** has the same meaning as in section 10 of the Crown Entities Act 2004

“**parent Crown Research Institute** has the same meaning as in section 8(1) of the Crown Entities Act 2004, with any necessary modifications”.

Repeal the definition of **responsible Minister** in section 2 and substitute:

“**responsible Minister** means,—

“(a) in relation to a Crown Research Institute, the Minister of Finance and the other shareholding Minister or Ministers:

“(b) in relation to a Crown entity subsidiary of a Crown Research Institute, a responsible Minister of the parent Crown Research Institute”.

Repeal the definition of **rules** in section 2.

Repeal the definition of **shareholding Ministers** in section 2 and substitute:

“**shareholding Ministers** has the same meaning as in section 10 of the Crown Entities Act 2004”.

Repeal the definitions of **sitting day** and **subsidiary** in section 2.

Insert in section 5(1)(e), after the words “good employer”, the words “as required by section 118 of the Crown Entities Act 2004”.

Repeal section 5(4).

Repeal section 6(1) and substitute:

Crown Research Institutes Act 1992 (1992 No 47)—continued

“(1) The shareholding Ministers have the role in section 88 of the Crown Entities Act 2004.”

Insert in section 6, after subsection (1):

“(1A) Section 88(1)(d) of the Crown Entities Act 2004 applies as if the reference to Part 4 were replaced by a reference to Part 3 of this Act.”

Repeal section 7(1) and substitute:

“(1) The shareholding Ministers must appoint the directors of a Crown Research Institute in accordance with section 89 of the Crown Entities Act 2004.

“(1A) The shareholding Ministers must appoint one of the directors of the Crown Research Institute to be chairperson of the board, in accordance with the criteria (if any) in the constitution of the Crown Research Institute.

“(1B) Subsection (1A) applies despite anything in any other enactment.”

Omit from section 7(4) the word “rules” and substitute the word “constitution”.

Insert in section 7, after subsection (4):

“(4A) Subsection (4) does not limit any provisions of the Crown Entities Act 2004 that apply to the board of a Crown Research Institute.”

Insert in section 7(5), after the words “section 5 of this Act”, the words “, and in accordance with the Crown Research Institute’s statement of corporate intent”.

Add to section 7:

“(6) In exercising or performing the powers, duties, and functions conferred or imposed on them with respect to the Crown Research Institute, the directors of a Crown Research Institute must have regard to any direction given under section 107 of the Crown Entities Act 2004 that relates to Crown entity companies.

“(7) Sections 110 and 114(1)(b) of that Act do not apply in so far as they require a Crown Research Institute to give effect to the direction.”

Repeal section 8.

Repeal section 9 and substitute:

Crown Research Institutes Act 1992 (1992 No 47)—continued**“9 Collective agreements**

A Crown Research Institute must comply with any Order in Council made under section 116 of the Crown Entities Act 2004 that relates to that Crown Research Institute before entering into a collective employment agreement or amendment to a collective employment agreement.”

Insert in section 10, before the word “subsidiary”, the words “Crown entity”.

Insert, before section 11:

“10A Application of Crown Entities Act 2004 to Crown Research Institutes

“(1) A Crown Research Institute is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to a Crown Research Institute except to the extent that this Act expressly provides otherwise.

“(3) The following sections of the Crown Entities Act 2004 do not apply to Crown Research Institutes, or the boards, board members, or employees of a Crown Research Institute:

“(a) section 87:

“(b) sections 92 to 95:

“(c) section 97:

“(d) section 100:

“(e) section 107 (except as applied by section 7(6) of this Act):

“(f) sections 138 to 157.”

Repeal section 11 and substitute:

“11 Establishment of Crown Research Institutes

“(1) A Crown entity company may be formed under section 79 of the Crown Entities Act 2004 for the purposes of establishing a Crown Research Institute.

“(2) The constitution of a Crown Research Institute must state that the company is a Crown Research Institute for the purposes of this Act.

“(3) Subsection (2) applies in addition to section 81 of the Crown Entities Act 2004 (which requires the constitution of a Crown entity company to state that the company is a Crown entity).

Crown Research Institutes Act 1992 (1992 No 47)—continued

“(4) The Companies Act 1993 applies to a Crown Research Institute as provided in section 85 of the Crown Entities Act 2004, or as otherwise modified by this Act.”

Repeal sections 12 to 14 and substitute:

“12 Provisions relating to Crown entity subsidiaries of Crown Research Institutes

“(1) A Crown Research Institute or a Crown entity subsidiary of a Crown Research Institute may form or acquire shares in a Crown entity subsidiary from time to time in accordance with section 96 of the Crown Entities Act 2004.

“(2) Each Crown entity subsidiary of a Crown Research Institute is a Crown entity for the purposes of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to a Crown entity subsidiary of a Crown Research Institute except to the extent that this Act expressly provides otherwise.

“(4) Sections 97, 100, and 138 to 157 of the Crown Entities Act 2004 do not apply to a Crown entity subsidiary of a Crown Research Institute.

“(5) The Companies Act 1993 applies to a Crown entity subsidiary of a Crown Research Institute as provided in section 102 of the Crown Entities Act 2004, or as otherwise modified by this Act.

“13 Acquisition of shares or interests in companies, trusts, and partnerships

“(1) A Crown Research Institute or a Crown entity subsidiary of a Crown Research Institute must ensure that it does not—

“(a) acquire shares in a company that gives it substantial influence in or over that company; or

“(b) acquire an interest in any partnership, joint venture, or other association of persons, or an interest in a company other than in its shares; or

“(c) settle, or be or appoint a trustee of, a trust,—
other than—

“(d) after written notice to its parent Crown Research Institute (in the case of a Crown entity subsidiary of a Crown Research Institute) or to the shareholding Ministers (in the case of a Crown Research Institute); and

Crown Research Institutes Act 1992 (1992 No 47)—continued

“(e) in accordance with the procedures and conditions contained in its statement of corporate intent or specified by the shareholding Ministers.

“(2) **Substantial influence**, in relation to a company, means the capacity to affect substantially either or both the financial or operating policies of the company.

“(3) This section does not apply if the Crown Research Institute or Crown entity subsidiary of a Crown Research Institute acquires a Crown entity subsidiary (in which case section 96 of the Crown Entities Act 2004 applies).”

Omit from section 15(1) the word “rules” and substitute the word “constitution”.

Repeal section 15(2) and (3) and substitute:

“(2) Section 115 of the Crown Entities Act 2004 applies to a direction under subsection (1).”

Insert in section 16(2), before the word “subsidiaries”, the words “Crown entity”.

Insert in section 16(2), before paragraph (a):

“(aa) key background information about the Crown Research Institute and its operating environment.”

Insert in section 16, after subsection (3):

“(3A) The shareholding Ministers may, if the Ministers are satisfied that it would be unduly onerous on a parent Crown Research Institute to comply with the requirement, grant an exemption from the requirement for a statement of corporate intent to cover a multi-parent subsidiary, or contain any particular information in relation to a multi-parent subsidiary.

“(3B) An exemption under subsection (3A) may be subject to any conditions the shareholding Ministers think fit (for example, the condition may be that the statement of corporate intent of only one of the parents must cover the multi-parent subsidiary).”

Add to section 16:

“(6) Each completed statement of corporate intent under subsection (4) or amended statement of corporate intent under subsection (5) must—

“(a) be in writing, be dated, and be signed on behalf of the board by 2 directors:

Crown Research Institutes Act 1992 (1992 No 47)—continued

“(b) be published as soon as practicable after it has been presented to the House of Representatives under section 19.”

Insert in section 17(1)(a), (b), and (2)(a), before the word “subsidiaries” in every case where it appears, the words “Crown entity”.

Add to section 17(1)(c), the word “; and”.

Add to section 17(1):

“(d) a statement of responsibility for the financial statements that, with any necessary modifications, complies with section 155 of the Crown Entities Act 2004.”

Add to section 17(2)(b) the word “; and”.

Add to section 17(2):

“(c) report on the extent of the Crown Research Institute’s and each of its Crown entity subsidiaries’ compliance with their obligation to be a good employer under section 118 of the Crown Entities Act 2004 (including their equal employment opportunities programmes) in that financial year; and

“(d) contain any direction given by the Minister in writing to the board of the Crown Research Institute under this Act during that financial year; and

“(e) include, in respect of the Crown Research Institute and each of its Crown entity subsidiaries, the information in section 152 of the Crown Entities Act 2004.”

Add to section 17:

“(3) The shareholding Ministers may, if the Ministers are satisfied that it would be unduly onerous on a parent Crown Research Institute to comply with the requirement, grant an exemption from the requirement for a report under subsection (1)(a) to cover a multi-parent subsidiary, or contain any particular information in relation to a multi-parent subsidiary.

“(4) An exemption under subsection (3) may be subject to any conditions the shareholding Ministers think fit (for example, the condition may be that the annual report of one of the parents must cover the multi-parent subsidiary).

“(5) Each Crown Research Institute must publish the documents required by subsection (1) as soon as practicable after it has been presented to the House of Representatives under section 19.”

Crown Research Institutes Act 1992 (1992 No 47)—continued

Repeal section 19(1).

Omit from section 19(2) the words “12 sitting days” and substitute the words “5 working days”.

Omit from section 19(2)(b) the words “and audited financial statements” and substitute the words “, audited financial statements, and the statement of responsibility for the financial statements”.

Omit from section 19(3) and (4) the words “12 sitting days” and substitute in each case the words “5 working days”.

Insert in section 20(1), before the word “subsidiaries”, the words “Crown entity”.

Insert in section 20(3), before the word “subsidiary”, the words “Crown entity”.

Insert in section 20, after subsection (4):

“(4A) Subsections (1) to (4) apply in addition to section 133(1) of the Crown Entities Act 2004.”

Insert in section 21(1) and (2), before the word “subsidiary” in every case where it appears, the words “Crown entity”.

Insert in the definition of **Crown Research Institute** in section 23(1), before the word “subsidiary”, the words “Crown entity”.

Insert in section 43(2), after the words “this Act”, the words “, the Crown Entities Act 2004,”.

Omit from section 43(2) the word “rules” and substitute the word “constitution”.

Add to section 43:

“(5) Section 115 of the Crown Entities Act 2004 does not apply to a direction given under this section.”

Repeal section 45.

Repeal so much of the First Schedule as relates to the Ombudsmen Act 1975 and the Public Finance Act 1989.

Dairy Industry Restructuring Act 2001 (2001 No 51)

Repeal section 145(a) and substitute:

“(a) sections 15 to 17 (proceedings of the Commission):”.

Repeal section 145(o) and substitute:

“(o) section 104 (determinations of Commission):”.

Earthquake Commission Act 1993 (1993 No 84)

Omit from the definition of **Board** in section 2(1) the words “constituted in accordance with the First Schedule to this Act” and substitute the words “referred to in section 4B”.

Repeal section 4(2) to (4).

Earthquake Commission Act 1993 (1993 No 84)—continued

Insert, after section 4:

“4A Crown Entities Act 2004 to apply

“(1) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.

“4B Membership of Commission’s board

“(1) The Commission’s board must have no fewer than 5, and no more than 9, members.”

“(2) The members of the Commission are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 5(1)(f)(ii) and substitute:

“(ii) the Minister, in accordance with section 112 of the Crown Entities Act 2004.”

Repeal section 5(2).

Repeal section 6.

Repeal section 8.

Repeal section 11(1).

Omit from section 11(2) the expression “subsection (1)” and substitute the words “section 4 of the Public Audit Act 2001”.

Repeal section 12(1) and substitute:

“(1) In directing the entity in accordance with section 103 of the Crown Entities Act 2004, the Minister must, if practicable, first consult with those persons likely to be affected by the direction.”

Omit from section 12(1A) and (1B) the words “under subsection (1)”.

Repeal section 12(2).

Repeal section 12(2A) to (3).

Omit from section 12(4) the words “under this section” and substitute the words “under section 103 of the Crown Entities Act 2004”.

Add to section 13:

“(5) Section 100 of the Crown Entities Act 2004 does not apply to an investment that is part of the Fund.”

Repeal section 38.

Repeal clauses 1 and 2 of the First Schedule.

Repeal clause 3 of the First Schedule.

Repeal clauses 4 to 11 of the First Schedule.

Earthquake Commission Act 1993 (1993 No 84)—continued

Omit from clause 12 of the First Schedule the words “Without limiting sections 4(2) and 6 of this Act,” and substitute the words “Without limiting sections 16 and 17 of the Crown Entities Act 2004,”.

Repeal clauses 13 to 16 of the First Schedule.

Education Act 1989 (1989 No 80)*Amendments relating to school boards of trustees*

Omit from section 11Q(1) the words “section 44B of the Public Finance Act 1989” and substitute the expression “section 87B”.

Add to section 61(2) “, and provide a base against which the Board’s actual performance can later be assessed”.

Insert in section 62(1), after the word “updated”, the words “or amended”.

Insert in section 62(2), after the word “updated”, the word “annually”.

Add to section 62:

“(3) A Board must amend its school charter as soon as practicable after it becomes aware of any information contained in the charter that is false or misleading in a material particular.”

Insert, after section 65G:

“65H Application of Crown Entities Act 2004

“(1) Every Board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) However, that Act applies to Boards only to the extent that subsection (3) provides.

“(3) The provisions of that Act set out in Schedule 3 of that Act and Schedule 5A of this Act apply to Boards and their Crown entity subsidiaries (within the meaning of that Act).

“(4) The trustees are the governing board for the purposes of those provisions of the Crown Entities Act 2004.”

Repeal section 66 and substitute:

“66 Delegations

“(1) The governing board of a Board may delegate any of the functions or powers of the Board or the governing board, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons:

“(a) a trustee or trustees:

“(b) the principal or any other employee or employees, or office holder or holders, of the Board:

Education Act 1989 (1989 No 80)—continued

- “(c) a committee consisting of at least 2 persons, at least one of whom is a trustee:
 - “(d) any other person or persons approved by the Board’s responsible Minister:
 - “(e) any class of persons comprised of any of the persons listed in paragraphs (a) to (d).
- “(2) Subsection (1) does not apply to any functions or powers specified in this Act as not being capable of delegation.
- “(3) The governing board must not delegate the general power of delegation.
- “(4) A delegate to whom any functions or powers of a Board or governing board are delegated may,—
- “(a) unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the Board or the governing board; and
 - “(b) delegate the function or power only—
 - “(i) with the prior written consent of the governing board; and
 - “(ii) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.
- “(5) A delegate who purports to perform a function or exercise a power under a delegation—
- “(a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - “(b) must produce evidence of his or her authority to do so, if reasonably requested to do so.
- “(6) No delegation in accordance with this Act—
- “(a) affects or prevents the performance of any function or the exercise of any power by the Board or the governing board; or
 - “(b) affects the responsibility of the governing board for the actions of any delegate acting under the delegation; or
 - “(c) is affected by any change in the membership of the governing board or of any committee or class of persons.

Education Act 1989 (1989 No 80)—continued

- “(7) A delegation may be revoked at will by—
- “(a) resolution of the governing board and written notice to the delegate; or
 - “(b) any other method provided for in the delegation.
- “(8) A delegation under subsection (1)(b) may be revoked at will by written notice of the delegate to the subdelegate.
- “(9) The governing board may, by resolution, appoint committees—
- “(a) to advise it on any matters relating to the Board’s functions and powers that are referred to the committee by the governing board; or
 - “(b) to perform or exercise any of the Board’s functions and powers that are delegated to the committee.
- “(10) A person must not be appointed as a member of a committee unless, before appointment, he or she discloses to the governing board the details of any financial interest that would disqualify the person from being a member of the committee under section 103A.
- “(11) This section applies to each member of a committee who is not a trustee with necessary modifications.
- “(12) Until revoked, a delegation to a committee continues in force, even if the membership of the Board or committee changes.”

Repeal section 66A and substitute:

“66A No delegation of power to borrow

The governing board of a Board must not delegate any power to borrow money that it may have under section 160 or section 162 of the Crown Entities Act 2004.”

Insert, before section 67, the following section:

“66B Application of new acquisition of securities, borrowing, guarantees, indemnities, and derivative transactions rules

- “(1) The amendments made to sections 67 to 67B and 73 of this Act by Schedule 6 of the Crown Entities Act 2004 (being amendments that correspond with sections 160 to 164 of that Act) apply on and after 1 April 2005.
- “(2) Until that date, the existing law applies (*see* the transitional provisions in sections 196 and 197 of the Crown Entities Act 2004).”

Repeal section 67 and substitute:

Education Act 1989 (1989 No 80)—continued**“67 Restrictions on borrowing**

“(1) Sections 160 and 162 of the Crown Entities Act 2004 apply.

“(2) Therefore, a Board must not borrow from any person, or amend the terms of any borrowing, other than as provided in—

“(a) any regulations made under Part 4 of that Act; or

“(b) any approval given jointly by the Minister of Education and the Minister of Finance; or

“(c) this Act.”

Repeal section 67A and substitute:

“67A Restrictions on giving of guarantees and indemnities

“(1) Sections 160 and 163 of the Crown Entities Act 2004 apply.

“(2) Therefore, a Board must not, with or without security, give a guarantee to, or indemnify, another person other than as provided in—

“(a) any regulations made under Part 4 of that Act; or

“(b) any approval given jointly by the Minister of Education and the Minister of Finance; or

“(c) this Act.”

Repeal section 67B and substitute:

“67B Restrictions on use of derivatives

“(1) Sections 160 and 164 of the Crown Entities Act 2004 apply.

“(2) Therefore, a Board must not enter into a derivative transaction, or amend the terms of that transaction, other than as provided in—

“(a) any regulations made under Part 4 of that Act; or

“(b) any approval given jointly by the Minister of Education and the Minister of Finance; or

“(c) this Act.”

Omit the heading to section 68 and substitute the heading **“Gifts”**.

Repeal section 68(1) and substitute:

“(1) Any money or property that is gifted to a school may be accepted or disclaimed by the Board in accordance with section 167 of the Crown Entities Act 2004.

“(1A) A limitation in this Act or that applies under the Crown Entities Act 2004 (such as a limitation on the form in which property may be held) does not apply during a period that is reasonable in the circumstances.

Education Act 1989 (1989 No 80)—continued

“(1B) Subsections (1) and (1A) apply to any gift that is received by the Board for funding scholarships or bursaries, or for other educational purposes in connection with a school.”

Repeal section 73 and substitute:

“73 Restrictions on acquisition of securities

“(1) Sections 160 and 161 of the Crown Entities Act 2004 apply.

- “(2) Therefore, a Board must not acquire securities other than—
- “(a) a debt security denominated in New Zealand dollars that is issued by a registered bank, or by any other entity, that satisfies a credit-rating test that is specified in either regulations made under Part 4 of that Act or a notice in the *Gazette* published by the Minister of Finance:
 - “(b) a public security:
 - “(c) as provided in—
 - “(i) any regulations made under Part 4 of that Act; or
 - “(ii) any approval given jointly by the Minister of Education and the Minister of Finance: or
 - “(iii) this Act.”

Insert, after section 78N:

“78NA No compensation for loss of office

- “(1) A trustee is not entitled to any compensation or other payment or benefit relating to his or her ceasing for any reason to hold office as a trustee.
- “(2) A Board must ensure, to the extent of its powers, that each of its Crown entity subsidiaries does not pay directors of the subsidiary any compensation or other payment or benefit, on any basis, for ceasing for any reason to hold office.
- “(3) However, subsections (4) and (5) apply to a person who is entitled, at the commencement of this section under any contract or arrangement, to any compensation or other payment or benefit relating to his or her ceasing for any reason to hold office.
- “(4) The entitlement is not affected by the enactment of this section.
- “(5) The entitlement is cancelled on the date of reappointment of the trustee or director or of the member to the committee (if any).”

Repeal section 87(2)(c) and substitute:

Education Act 1989 (1989 No 80)—continued

- “(c) the auditor’s report in accordance with section 87A; and
- “(ca) in respect of the Board or, in the case of a Crown entity group, for each Crown entity in the group,—
 - “(i) the total value of the remuneration (other than compensation and other benefits referred to in subparagraph (v)) paid or payable to the trustees in their capacity as trustees from the Board (or entities in the group, as the case may be), during that financial year; and
 - “(ii) the total value of the remuneration (other than compensation, and other benefits referred to in subparagraph (v)) paid or payable to the committee members in their capacity as committee members from the Board (or entities in the group, as the case may be) during that financial year (except that this paragraph does not apply to trustees whose remuneration is disclosed under subparagraph (i)); and
 - “(iii) the number of employees (other than principals of the school) to whom, during the financial year, remuneration (other than compensation and other benefits referred to in subparagraph (v)) was paid or payable in their capacity as employees, the total value of which is or exceeds \$100,000 per annum, and the number of those employees in brackets of \$10,000; and
 - “(iv) a report, presented in the manner required by the Minister by notice in the *Gazette*, on the total remuneration (including benefits, any compensation, ex gratia payments, any other payments, and any other consideration paid or payable in the school principal’s capacity as an employee) paid to a principal of the school; and
 - “(v) the total value of any compensation or other benefits paid or payable to persons who ceased to be trustees, committee members, or employees during the financial year in relation to that cessation and the number of persons to whom all or part of that total was payable; and”.

Omit from section 87(3) the words “section 41(3) of the Public Finance Act 1989” and substitute the expression “section 87A”.

Education Act 1989 (1989 No 80)—continued

Insert in section 87, after subsection (3):

“(3A) In addition, a Board that is a parent in a Crown entity group must, to the extent required to do so by generally accepted accounting practice, prepare consolidated financial statements in relation to the group for that financial year.”

Repeal section 87(4) and substitute:

“(4) The annual financial statements must be accompanied by a statement of responsibility that complies with section 155 of the Crown Entities Act 2004 but that is signed by the chair of the Board and principal instead of 2 members.

“(5) In subsection (2), **trustee** and **employee** include a person who was a trustee or employee at any time during the applicable financial year but who is no longer a trustee or employee.

“(6) The requirements of this section and section 87A as to annual financial statements also apply to a Crown entity subsidiary of a Board as if the subsidiary were a Board and with all necessary modifications.

“(7) Subsection (2)(ca)(iv) and (v) applies in respect of each financial year that ends on or after 31 December 2004.

“(8) The rest of the amendments made to this section by Schedule 6 of the Crown Entities Act 2004 apply as provided in section 198 of that Act.”

Insert, after section 87:

87A Audit

“(1) Each Board must submit its annual financial statements to the Auditor-General within 90 days after the end of each financial year.

“(2) The Auditor-General must audit the financial statements and provide an audit report on them to the Board.

87B Report on performance of schools' sector

“(1) The Minister of Education must in each year, not later than 30 September, prepare and present to the House of Representatives a report on the performance of the schools' sector in the immediately preceding financial year ending on 31 December.

“(2) The report must include information on—

“(a) the performance of the schools' sector in the supply of outputs:

Education Act 1989 (1989 No 80)—continued

“(b) the management performance in the schools’ sector, including the quality of the management systems and practices in the schools’ sector and the management of all the assets used in the schools’ sector:

“(c) the effectiveness of the schools’ sector in terms of educational achievement.

“(3) The report—

“(a) must relate to all of the schools owned by the Crown; and

“(b) may relate to other schools.

“87C Annual financial statements of Boards

“(1) A Board must provide its audited annual financial statements to the Secretary no later than 31 May in the year after the previous financial year.

“(2) The Minister must in each year send to each member of Parliament copies of the statements provided to the Secretary under subsection (1) by the Boards in respect of schools situated in the member’s electoral district.

“(3) Those copies must be sent no later than 1 month after the date on which the statements were provided to the Secretary.”

Repeal section 90.

Omit from section 100(2) the words “Part V of the Public Finance Act 1989” and substitute the expression “section 87(3)”.

Repeal section 103(1)(c) to (db) and substitute:

“(c) is an undischarged bankrupt; or

“(d) is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under section 382, section 383, or section 385 of the Companies Act 1993; or

“(da) is a permanently appointed member of the Board staff; or

“(db) is ineligible to be a trustee under section 103A(2); or

“(dc) is subject to a property order under the Protection of Personal and Property Rights Act 1988; or

“(dd) is a person in respect of whom a personal order has been made under that Act that reflects adversely on the person’s—

“(i) competence to manage his or her own affairs in relation to his or her property; or

Education Act 1989 (1989 No 80)—continued

- “(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of his or her personal care and welfare; or
- “(de) is a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person; or”.

Insert, after section 103A:

“103B Requirements before appointment

Before a person is elected, co-opted, or appointed as a trustee, the person must confirm to the governing board that he or she is, to the best of his or her knowledge, eligible to be a trustee, having regard to the grounds of ineligibility in section 103 or section 103A.”

Amendments relating to New Zealand Teachers Council

Repeal section 139AC and substitute:

“139AC New Zealand Teachers Council established

- “(1) The New Zealand Teachers Council (**Teachers Council**) is established.
- “(2) The Teachers Council is owned by the Crown.
- “(3) The Teachers Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- “(4) The Crown Entities Act 2004 applies to the Teachers Council except to the extent that this Act expressly provides otherwise.
- “(5) The members of the Teachers Council are the board for the purposes of the Crown Entities Act 2004.”

Omit from section 139AD(1)(a) the words “, 1 of whom the Minister must appoint as chairperson”.

Insert in section 139AD, after subsection (1):

- “(1A) The Minister must appoint 1 of the members appointed under subsection (1)(a) as chairperson, despite clause 1 of Schedule 5 of the Crown Entities Act 2004.”

Add to section 139AD:

- “(5) An elected member becomes a member of the Council on the date fixed by the Council as the date on which elected members take office.

Education Act 1989 (1989 No 80)—continued

“(6) The term of office of every elected member is 3 years.

“(7) Despite subsection (6), every elected member continues in office until his or her successor comes into office.”

Add to section 139AE(m) the words “in accordance with section 112 of the Crown Entities Act 2004”.

Repeal section 139AF(1) and (2).

Repeal section 139AF(3) and substitute:

“(3) The Teachers Council may not charge a commercial rate for any goods and services that it provides unless the Minister has given his or her approval.”

Repeal section 139AG(1) and substitute:

“(1) The Minister may not give directions to the Council in respect of its functions under section 139AE(a) and (b) (which relate to professional leadership and best teaching practice).

“(2) Subsection (1) is an exception to section 104 of the Crown Entities Act 2004.”

Repeal section 139AG(2) to (5).

Insert, after section 139AJ:

“139AJA Delegations

“(1) The Council may not delegate any of its functions or powers—

“(a) to make rules:

“(b) relating to deregistration:

“(c) to appoint a chief executive.

“(2) This section applies despite section 73 of the Crown Entities Act 2004.

“139AJB Chief Executive

The Council must from time to time appoint a chief executive, on terms and conditions agreed between the Council and the person appointed, in accordance with section 117 of the Crown Entities Act 2004.

“139AJC Superannuation

“(1) Any person who, immediately before becoming an employee of the Council, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is deemed for the purpose of that

Education Act 1989 (1989 No 80)—continued

Act to be employed in the Government service so long as he or she continues to be an employee of the Council.

“(2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person’s service as an employee of the Council were Government service.

“(3) Nothing in subsection (2) entitles a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

“(4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the Council is the controlling authority.”

Amendments relating to Tertiary Education Commission

Omit from paragraph (a) of the definition of **Government training establishment** in section 159(1) the words “(within the meaning of the Public Finance Act 1989)” and substitute the words “(within the meaning of section 10 of the Crown Entities Act 2004).”

Repeal section 159C and substitute:

“159C Establishment of Commission

“(1) A Tertiary Education Commission is established.

“(2) The Commission is owned by the Crown.

“(3) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(4) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.

“(5) The members of the Commission are the board for the purposes of the Crown Entities Act 2004.”

Omit from section 159D(1) the words “by the Minister” and substitute the words “in accordance with section 28(1)(a) of the Crown Entities Act 2004”.

Add to section 159D:

“(4) When appointing members of the Commission, the Minister must have regard to the need for its members to collectively have a breadth of experience and expertise, and depth of knowledge, regarding areas of the tertiary education sector.

“(5) Subsection (4) does not limit section 29 of the Crown Entities Act 2004.”

Repeal section 159E and substitute:

Education Act 1989 (1989 No 80)—continued**“159E Charging**

The Commission may not charge a commercial rate for any goods and services that it provides unless the Minister has given his or her approval.”

Repeal section 159F(1)(g).

Omit from section 159G(a) the words “written direction of the Minister given under section 159J” and substitute “direction of the Minister given under section 103 of the Crown Entities Act 2004”.

Repeal section 159H.

Repeal section 159J(1) and (2).

Omit from section 159J(3) the words “under this section” and substitute the words “under section 103 of the Crown Entities Act 2004.”

Omit from section 159J(4) the words “, under this section,”.

Repeal section 159J(5).

Repeal section 159J(6) and substitute:

“(6) If the Minister gives a direction to the Commission, the Commission must include in its annual report for every year to which the direction relates a report on how the Commission has responded to it.”

Insert, after section 159K:

“159KA Chief executive

“(1) The Commission must appoint a chief executive in accordance with section 117 of the Crown Entities Act 2004.

“(2) The chief executive must not be a member of the Commission.

“(3) The Commission must act independently when appointing the chief executive.

“(4) The Commission must monitor and evaluate the performance of the chief executive.

“159KB Responsibilities of chief executive

The chief executive must—

“(a) ensure the efficient and effective administration of the affairs of the Commission; and

“(b) act in accordance with lawful policies and directions given to him or her by the Commission.

Education Act 1989 (1989 No 80)—continued**“159KC Declaration of interests**

- “(1) A person who is proposed to be appointed as chief executive must declare any interests (within the meaning of that term in section 10 of the Crown Entities Act 2004) to the Commission before accepting appointment to the position of chief executive.
- “(2) If the chief executive has any direct or indirect interest in any transaction or other matter listed in section 62 of the Crown Entities Act 2004, he or she must disclose that interest to the Commission.

“159KD Superannuation

- “(1) Any person who, immediately before becoming an employee of the Commission, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service so long as he or she continues to be an employee of the Commission.
- “(2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person’s service as an employee of the Commission were Government service.
- “(3) Subsection (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- “(4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the Commission is the controlling authority.

“159KE Statement of intent

- “(1) The Commission must include the following information in its statement of intent:
- “(a) a general description of the things that the Commission proposes to do, achieve, or work towards during the period covered by the statement of intent, which—
 - “(i) must be consistent with the statement of tertiary education priorities and the Commission’s functions; and
 - “(ii) must include a summary of the nature and scope of the Commission’s proposed operations; and

Education Act 1989 (1989 No 80)—continued

- “(iii) may cover both financial and non-financial matters; and
 - “(b) a general description of the Commission’s proposed strategies and activities for giving effect to, or achieving, the things referred to in paragraph (a), including a list of the intended principal activities of the Commission and how they relate to the things referred to in paragraph (a); and
 - “(c) a description of how the statement of forecast service performance in the statement of intent links to the things referred to in paragraph (a); and
 - “(d) a general description of the manner in which the Commission proposes to operate and, in particular,—
 - “(i) which other persons or bodies engaged in similar or related work it proposes to liaise with, and how it proposes to liaise with those other persons or bodies; and
 - “(ii) what capability it needs to do its work, and how it will develop that capability; and
 - “(iii) how it proposes to manage its risks; and
 - “(e) for each of the financial years to which the statement of intent relates, performance measures and targets by which the Commission’s performance, and progress towards delivering the things referred to in paragraph (a) may be judged.
- “(2) The Commission need not include in its statement of intent the information required in section 141(1)(b), (e), and (f) of the Crown Entities Act 2004.
- “(3) The grouping of outputs in the statement of forecast service performance in the statement of intent must be done so that, in the case of outputs funded by appropriation, a group of outputs does not contain outputs funded from more than 1 appropriation in the Estimates.
- “(4) The Minister may, in relation to the Commission, exercise his or her powers under section 147(1) of the Crown Entities Act 2004 as if that section included a reference to subsection (1)(a) and (e); and that section applies accordingly.

Education Act 1989 (1989 No 80)—continued**“159KF Annual report**

- “(1) The Commission must include in its annual report a description of how the Commission is monitoring, and how it will report on, progress in implementing the tertiary education strategy.
- “(2) This section does not limit section 151 of the Crown Entities Act 2004.

“159KG Certain powers must not be delegated

- “(1) The Commission must not delegate any of the following powers:
- “(a) the power to appoint a chief executive; or
 - “(b) any other power that the Minister specifies by notice in writing to the Commission.
- “(2) This section applies despite section 73 of the Crown Entities Act 2004.”

Amendments relating to Tertiary Education Institutions

Repeal section 179 and substitute:

“179 Fees and allowances

- “(1) A member of a Council other than the chief executive may be paid fees at such rates (not exceeding maximum rates fixed by the Minister in accordance with the fees framework) as the Council determines.
- “(2) A member of a Council of an institution is entitled, in accordance with the fees framework, to be reimbursed, out of the funds of the entity, for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.
- “(3) For the purposes of this section, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest, including statutory entities and their subsidiaries and tertiary education institutions.”

Repeal section 195B(5).

Insert in section 200(1), after the words “registered bank”, the words “or any registered building society with which a Crown entity may establish, maintain, or operate a bank account under section 158 of the Crown Entities Act 2004”.

Education Act 1989 (1989 No 80)—continued

Repeal section 201 and substitute:

“201 Proper accounts to be kept

Section 168(1) and (2) of the Crown Entities Act 2004 applies to a Council of an institution.”

Insert, before section 202:

“201B Gifts

“(1) Any money or property that is gifted to an institution may be accepted or disclaimed by the Council of the institution in accordance with section 167 of the Crown Entities Act 2004.

“(2) A limitation in this Act or the Crown Entities Act 2004 (such as a limitation on the form in which property may be held) does not apply during a period that is reasonable in the circumstances.”

Repeal section 203 and substitute:

“203 Institutions are Crown entities

“(1) Every institution is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) However, that Act applies to tertiary education institutions only to the extent that subsection (3) provides.

“(3) The provisions of that Act set out in Schedule 4 of that Act and Schedule 13A of this Act apply to tertiary education institutions and their Crown entity subsidiaries (within the meaning of that Act).

“(4) Section 65I(1) and (2) of the Public Finance Act 1989 applies, with all necessary modifications, to tertiary education institutions and, accordingly, every institution must invest in the same manner that Treasury invests money under that section.

“(5) No instruction issued by the Minister of Finance under section 80A of the Public Finance Act 1989 applies to an institution.

“(6) The financial year of an institution is an academic year.

“(7) The members of the Council of an institution are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 220(2) and substitute:

“(2) A Council must include in every annual report of the Council the financial statements prepared by the Council, in accordance with section 154 of the Crown Entities Act 2004, in respect of the academic year to which the report relates,

Education Act 1989 (1989 No 80)—continued

together with the audit report and the statement of responsibility under section 155 of that Act relating to those financial statements.

“(2AA) A Council must comply with sections 154 to 157 of the Crown Entities Act 2004 except that, despite section 155(d) of that Act, the statement of responsibility must be signed by—

“(a) the chairperson of the Council and the chief executive of the institution; or

“(b) if there is no chairperson, the chief executive of the institution and the chief financial officer.”

Add to section 220(2A)(c)(ii) the word “; and”.

Add to section 220(2A):

“(f) a statement of service performance reporting on the performance of the institution as compared with the institution’s objectives and performance targets specified in the institution’s profile for that financial year.”

Insert, after section 220(2A):

“(2B) Section 156 of the Crown Entities Act 2004 applies to institutions and, for this purpose, is to be read as referring to a statement of service performance under subsection (2A)(f).”

Repeal section 220(3) and substitute:

“(3) The Minister must present the report to the House of Representatives within 5 working days after receiving the report or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.”

Amendment relating to Vice-Chancellors Committee

Repeal section 240(6) and substitute:

“(6) Sections 153 to 156 of the Crown Entities Act 2004 apply to the Committee as if it were a Crown entity within the meaning of that Act.”

Amendments relating to New Zealand Qualifications Authority

Repeal the definition of **employee** in section 246.

Repeal section 248 and substitute:

“248 Establishment of Authority

“(1) A New Zealand Qualifications Authority is established.

“(2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.

Education Act 1989 (1989 No 80)—continued

“(4) The members of the Authority are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 249(2).

Insert in section 249, after subsection (3):

“(3A) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.”

Repeal section 249(4) to (6).

Repeal section 250(1).

Repeal section 251(1) and substitute:

“(1) The Authority must not delegate the power to appoint a chief executive.

“(1A) Subsection (1) applies despite section 73 of the Crown Entities Act 2004.”

Repeal section 251(2) to (5).

Omit from section 251(6) the words “under subsection (1) of this section” and substitute the words “under section 73 of the Crown Entities Act 2004”.

Repeal section 251(6)(a).

Repeal section 251(7) to (10).

Repeal section 252.

Repeal section 254(1) and (2).

Insert, after section 254:

“254A Child care allowances

A member may be paid any allowances in respect of child care that the Authority determines.

“254B Chief executive

The Authority must from time to time appoint a chief executive of the Authority, on terms and conditions agreed by the Authority and the person appointed in accordance with section 117 of the Crown Entities Act 2004.

“254C Membership of Government Superannuation Fund

Employment in the service of the Authority is Government service within the meaning of the Government Superannuation Fund Act 1956.

Education Act 1989 (1989 No 80)—continued**“254D Employees transferring from other Government employment**

“(1) Every person who,—

“(a) before the commencement of the Fifteenth Schedule and while employed in the Public Service or the Education Service, or employed by the University Grants Committee, the Trades Certification Board or the Authority for Advanced Vocational Awards, received from the Secretary written notice that the person is designated to become an employee of the Qualifications Authority; and

“(b) immediately before that commencement was still employed in the Public Service or the Education Service or by the University Grants Committee, the Trades Certification Board or the Authority for Advanced Vocational Awards,—

on that commencement becomes an employee of the Qualifications Authority.

“254E Taxation

“(1) The Authority is deemed to be the agent of the Crown in respect of its property and the performance of its functions and is entitled accordingly to all the privileges the Crown enjoys in respect of exemption from taxation and the payment of fees or charges, and from other obligations.

“(2) Subsection (1) does not exempt the Authority from—

“(a) the payment of goods and services tax under the Goods and Services Tax Act 1985; or

“(b) any obligation imposed by that Act.”

Repeal section 268(2) and (3) and substitute:

“(2) Section 103 of the Crown Entities Act 2004 applies in the performance of the Authority’s functions under this Part.”

Amendments relating to Career Services

Repeal the definition of **document of accountability** in section 278.

Repeal section 279(2) to (5) and substitute:

“(2) The Service is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Service except to the extent that this Act expressly provides otherwise.

Education Act 1989 (1989 No 80)—continued

“(4) The members of the Service are the board for the purposes of the Crown Entities Act 2004.”

Omit from section 280(2) and (3) the words “document of accountability” wherever they appear and substitute in each case the words “statement of intent”.

Omit from section 281(2)(a) and (b) the words “appointed by the Minister”.

Repeal section 281(2)(c).

Repeal section 281(3) to (5).

Repeal section 282(d).

Repeal sections 283A and 283B.

Repeal section 283C(1).

Omit from section 283C(2) the words “Every document of accountability shall specify” and substitute the words “In addition to the information required under section 141 of the Crown Entities Act 2004, every statement of intent must specify”.

Repeal section 283C(2) and substitute:

“(2) Every document of accountability must specify—

“(a) the services that the Board is to provide; and

“(b) the persons for whom or which the services are to be provided.”

Repeal section 283(3).

Repeal sections 283D to 283G.

Repeal section 283H(1) and substitute:

“(1) The Minister may, by notice in the *Gazette*, appoint a person to act in place of the board if the board is dismissed under the Crown Entities Act 2004 for breach of its collective duties.”

Repeal section 283H(3)(a).

Insert in section 283H(3)(b)(i), after the word “service”, the words “in the same manner as if he or she were the Board or the Service, as the case may be”.

Repeal section 283H(3)(b)(ii).

Omit from section 283H(3)(c) and substitute:

“(c) the provisions of the Crown Entities Act 2004, and section 286A of this Act, apply to the person as if he or she were a board under the Crown Entities Act 2004, with necessary modifications.”

Repeal section 283I.

Repeal section 286(1).

Insert, after section 286:

Education Act 1989 (1989 No 80)—continued**“286A Child care allowances**

A member may be paid any allowances in respect of child care that the Board determines.

“286B Chief executive

- “(1) The Board must from time to time appoint a chief executive of the Board, on terms and conditions agreed by the Board and the person appointed.
- “(2) Section 117 of the Crown Entities Act 2004 also applies.

“286C Membership of Government Superannuation Fund

Employment by the Service is Government service within the meaning of the Government Superannuation Fund Act 1956.

“286D Employees transferring from Ministry and Education Boards

- “(1) Every person who,—
- “(a) before the commencement of this section and while an employee of the Ministry or an Education Board, received from the Secretary written notice that the person is designated to become an employee of the Service; and
 - “(b) immediately before that commencement was still an employee of the Ministry or that Education Board,—
- on that commencement becomes an employee of the Service.
- “(2) If a person has become an employee of the Service under subsection (1), the person’s period of continuous service in the Public Service or, as the case may be, the Education Service so ended must be treated for all purposes other than superannuation as service in the employment of the Service.

“286E Board may not delegate power to appoint general manager

- “(1) The Board may not delegate the power to appoint a general manager.
- “(2) This section applies despite the power of delegation in section 73 of the Crown Entities Act 2004.

Education Act 1989 (1989 No 80)—continued**“286F Delegations to general manager**

A delegation to the member who is the general manager continues to have effect,—

- “(a) as if made to the general manager for the time being (subject to paragraph (b)), if the general manager to whom it was made ceases to hold office; and
- “(b) as if made to the person for the time being acting in place of the general manager, if there is no general manager for the time being, or if the general manager is absent from duty.

“286G Taxation

“(1) The Service is deemed to be the agent of the Crown in respect of its property and the performance of its functions and is entitled accordingly to all the privileges the Crown enjoys in respect of exemption from taxation and the payment of fees or charges, and from other obligations.

“(2) Subsection (1) does not exempt the Service from—

- “(a) the payment of goods and services tax under the Goods and Services Tax Act 1985; or
- “(b) any obligation imposed by that Act.”

Amendments relating to school boards of trustees

Insert, after Schedule 5, as new Schedule 5A, the schedule set out in Schedule 3 of the Crown Entities Act 2004.

Repeal clause 1 of the Sixth Schedule and substitute:

“1 Status of Board

“(1) A Board (and not the school) is a body corporate.

“(2) A Board—

- “(a) is accordingly a legal entity separate from its members, office holders, employees, and the Crown; and
- “(b) continues in existence until it is dissolved in accordance with this Act.

“1A Things Board can do

“(1) A Board may do anything authorised by this Act.

“(2) A Board may do anything that a natural person of full age and capacity may do.

“(3) Subclause (2) applies except as provided in this Act or another Act or rule of law.

Education Act 1989 (1989 No 80)—continued

- “(4) A Board may do an act under this clause only for the purpose of performing its functions.
- “(5) References in this clause to **this Act** include the provisions of the Crown Entities Act 2004 that are applied by Schedule 5A of this Act.

*“Validity of Acts***“1B Acts in breach of statute are invalid**

- “(1) An act of a Board is invalid, unless clause 1C applies, if it is—
- “(a) an act that is contrary to, or outside the authority of, an Act; or
 - “(b) an act that is done otherwise than for the purpose of performing its functions.
- “(2) Subclause (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

“1C Some natural person acts protected

- “(1) Clause 1B or any rule of law to similar effect does not prevent a person dealing with a Board from enforcing a transaction that is a natural person act unless the person dealing with the Board had, or ought reasonably to have had, knowledge—
- “(a) of an express restriction in an Act that makes the act contrary to, or outside the authority of, the Act; or
 - “(b) that the act is done otherwise than for the purpose of performing the Board’s functions.
- “(2) In this clause, **natural person act**—
- “(a) means an act that a natural person of full age and capacity can do (whether or not the act is something that is also authorised by an Act); and
 - “(b) includes entry into a contract for, or relating to,—
 - “(i) acquisition of securities or borrowing of money; or
 - “(ii) a derivative transaction; or
 - “(iii) the purchase, leasing, or sale of, or other dealings with, property; or
 - “(iv) the employment, or engagement of the services, of a person.

Education Act 1989 (1989 No 80)—continued

- “(3) A person who relies on subclause (1) has the onus of proving that that person did not have, and ought not reasonably to have had, the knowledge referred to in that subsection.
- “(4) A Board must report, in its annual report, each transaction that the Board has performed in the year to which the report relates that was invalid under clause 1B but enforced in reliance on subclause (1).
- “(5) For the avoidance of doubt, this section does not affect any person’s remedies (for example, remedies in contract) under the general law.

“1D Acts that are not in best interests of Board

It is irrelevant to the validity of an act that the act is not, or would not be, in the best interests of a Board.

Compare: 1993 No 105 s 17(3)

“1E Dealings between Boards and other persons

- “(1) A Board may not assert against a person dealing with the Board that—
- “(a) a person held out by the Board to be a member, office holder, chief executive, employee, or agent of the Board (as the case may be)—
 - “(i) has not been duly appointed in that capacity or has ceased to be appointed in that capacity; or
 - “(ii) does not have the authority to exercise a power that, given the nature of the Board, a person appointed to that capacity customarily has authority to exercise; or
 - “(iii) does not have the authority to exercise a power that the Board holds him or her out as having; or
 - “(b) a document issued on behalf of the Board by a member, office holder, chief executive, employee, or agent of the Board with actual or usual authority to issue the document is not valid or genuine.
- “(2) However, a Board may assert any of those matters if the person dealing with the Board has, or ought reasonably to have had, knowledge of the matter.

Education Act 1989 (1989 No 80)—continued

“(3) Nothing in this clause affects a person’s right to apply, in accordance with the law, for judicial review.

Compare: 1993 No 105 s 18

“1F Interpretation

In clauses 1B to 1E, unless the context otherwise requires,—

“**act** includes a transfer of property, rights, or interests to or by a Board

“**do** includes—

“(a) to do an act; and

“(b) to have a capacity; and

“(c) to have or exercise a power, right, or privilege

“**person dealing**—

“(a) means the other party to the transaction, if the act of the Board is a transaction; and

“(b) includes a person who has acquired property, rights, or interests from a Board.

*“Whole of government directions***“1G Whole of government directions**

“(1) A Board must comply with any whole of government direction given under section 107 of the Crown Entities Act 2004.

“(2) The Board may be dissolved under section 78I(1)(e) if it does not.”

Insert in clause 8(8) of the Sixth Schedule, after the words “who has a pecuniary interest in any matter”, the words “or any interest that may reasonably be regarded as likely to influence a trustee in carrying out his or her duties and responsibilities as a trustee”.

Insert, after clause 8(11) of the Sixth Schedule:

“(11A) A meeting of the board may be held—

“(a) by more than half the trustees then holding office being assembled together at the time and place appointed for the meeting; or

“(b) by means of audio, audio and visual, or electronic communication provided that—

“(i) all of the trustees who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

Education Act 1989 (1989 No 80)—continued

“(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

“(11B) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all members is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.

“(11C) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.”

Amendment relating to New Zealand Teachers Council

Repeal the Seventh Schedule.

Amendment relating to Tertiary Education Commission

Repeal Schedule 13A.

Amendment relating to Tertiary Education Institutions

Insert, after Schedule 13, as new Schedule 13A, the schedule set out in Schedule 4 of the Crown Entities Act 2004.

Amendments relating to Vice-Chancellors Committee

Omit from clause 9 of the Fourteenth Schedule the expression “section 23” and substitute the words “section 65I(1) and (2)”.

Repeal clause 10(2) and (3) of the Fourteenth Schedule and substitute:

“(2) The Committee must include in every annual report of the Committee the financial statements and statement of service performance prepared by the Committee, in accordance with sections 153 to 156 of the Crown Entities Act 2004, in respect of the financial year to which the report relates, together with the audit report and the statement of responsibility under section 155 of that Act relating to those financial statements.

“(3) The Minister must present a copy of the report to the House of Representatives in accordance with section 150 of the Crown Entities Act 2004.”

Amendment relating to New Zealand Qualifications Authority

Repeal the Fifteenth Schedule.

Amendment relating to Career Services

Repeal the Seventeenth Schedule.

Electoral Act 1993 (1993 No 87)

Repeal section 4(2).

Insert, after section 4:

Electoral Act 1993 (1993 No 87)—continued**“4A Crown Entities Act 2004 to apply**

“(1) The Electoral Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Electoral Commission except to the extent that this Act expressly provides otherwise.”

Repeal section 6(1).

Omit from section 6(2) the words “Without limiting the generality of subsection (1) of this section, the,” and substitute the word “The”.

Add to section 6:

“(3) Subsection (2) does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal section 7 and substitute:

“7 Independence

The Electoral Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, duties, or powers of the Electoral Commission (other than the Crown Entities Act 2004).”

Omit from section 8(2) the words “by the Governor-General”.

Insert in section 8, after subsection (2):

“(2A) The person who holds office under subsection (1)(d) is also the chairperson of the Commission, despite clause 1(2) of Schedule 5 of the Crown Entities Act 2004.

“(2B) The members of the Commission are the board for the purposes of section 10 of the Crown Entities Act 2004.”

Repeal section 8(3) and substitute:

“(3) The person who holds office under section 8(1)(c) is the chief executive of the Commission.

“(3A) That person is not an employee of the Commission, despite section 10 of the Crown Entities Act 2004.”

Repeal section 10(1).

Repeal section 10(1A) and substitute:

Electoral Act 1993 (1993 No 87)—continued

“(1A) A member of the Electoral Commission appointed under section 8(4)(b) holds office for 12 months or any shorter period stated in the notice of appointment, despite section 32(1)(b) of the Crown Entities Act 2004.”

Repeal section 10(2).

Repeal section 10(3) and substitute:

“(3) Section 32(3) of the Crown Entities Act 2004 does not apply to a member of the Electoral Commission appointed under section 8(4)(b).”

Repeal section 11 and substitute:

“11 **Vacation of office of additional members who hold office for purposes of jurisdiction under Part 6 of Broadcasting Act 1989**

“(1) A member of the Electoral Commission appointed under section 8(4)(b) may be removed for just cause by the Governor-General acting upon an address from the House of Representatives.

“(2) **Just cause**—

“(a) includes misconduct, inability to perform the functions of office, and neglect of duty; but

“(b) excludes breach of any of the collective duties of the board or the individual duties of members (unless the act or omission that constitutes the breach comes within paragraph (a)).

“(3) Section 39 of the Crown Entities Act 2004 does not apply to that member.”

Repeal section 11B(4).

Repeal section 11C.

Repeal sections 12 and 13.

Repeal section 15.

Omit from section 20D(4) the words “section 2 of the Public Finance Act 1989” and substitute the words “section 7 of the Crown Entities Act 2004”.

Repeal sections 282 and 283 and the headings above those sections.

Repeal clauses 1 to 2A of the First Schedule and substitute:

Electoral Act 1993 (1993 No 87)—continued**“1 Conflict of interest disclosure rules do not apply to additional members who hold office for purposes of jurisdiction under Part 6 of Broadcasting Act 1989**

Sections 62 to 72 of the Crown Entities Act 2004 do not apply to a member of the Electoral Commission appointed under section 8(4)(b).”

Repeal clause 3 of the First Schedule and substitute:

“3 Staff

The chief executive of the Electoral Commission may, under delegation from the Board, appoint any officers and employees (including acting or temporary or casual officers and employees) as may be necessary for carrying this Act into effect.”

Repeal clause 4(1) of the First Schedule and substitute:

“(1) For the purposes of providing superannuation or retiring allowances for the chief executive, the Commission may, out of the funds of the Commission, make payment to or subsidise any superannuation scheme that is registered under the Superannuation Schemes Act 1989.”

Repeal clauses 5 to 11 of the First Schedule.

Repeal clause 13 of the First Schedule.

Electricity Act 1992 (1992 No 122)

Repeal the definition of **Commission’s board** or **board** in section 2(1) and substitute:

“**Commission’s board** or **board**, for the purposes of Part 15, means the members of the Commission’s board who number not less than the required quorum acting together as a board”.

Omit from section 172M(2) the words “Public Finance Act 1989” and substitute the words “section 7(1) of the Crown Entities Act 2004”.

Insert in section 172M, after subsection (2):

“(2A) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Repeal sections 172P and 172Q.

Repeal section 172S(1).

Add to section 172S:

“(3) This section is in addition to the duties in Part 2 of the Crown Entities Act 2004.”

Electricity Act 1992 (1992 No 122)—continued

Repeal sections 172T and 172U.

Repeal section 172V and substitute:

“172V Notice of special meetings of Commission’s board

Despite clause 7(2) of Schedule 5 of the Crown Entities Act 2004, at least 2 days’ notice of a special meeting must be given.”

Repeal section 172ZD.

Repeal section 172ZF.

Repeal sections 172ZJ to 172ZQ and substitute:

“172ZJ Interpretation

In this subpart, unless the context otherwise requires,—

“**financial year** has the same meaning as in section 136 of the Crown Entities Act 2004.

“**GPS objectives and outcomes** means the objectives and outcomes that apply to the Commission under section 172ZK

“**performance standards** means the performance targets and measures referred to in section 172ZL

“172ZK Setting of GPS objectives and outcomes

“(1) The Minister must set objectives and outcomes that the Government wants the Commission to give effect to in relation to the governance of the electricity industry, and against which the Commission must report and be examined in accordance with this subpart.

“(2) The Minister must set those objectives and outcomes by—
“(a) giving the Commission a statement of government policy containing those objectives and outcomes; or
“(b) giving the Commission an amendment to, or replacement of, that statement.

“(3) Each statement (or amendment to, or replacement of, a statement) under subsection (2) must be published in the *Gazette* and presented to the House of Representatives by the Minister as soon as practicable after it is given to the Commission.

“(4) GPS objectives and outcomes must be consistent with the purpose of this Part and the functions, principal objectives, and specific outcomes of the Commission.

“(5) GPS objectives and outcomes must not require the Commission, in respect of a particular person, to make a particular

Electricity Act 1992 (1992 No 122)—continued

decision, or to do or refrain from doing a particular act, or to bring about a particular result (other than in relation to Transpower).

“(6) Subsection (5), in so far as it relates to Transpower, applies despite section 113 of the Crown Entities Act 2004.

“(7) The Minister must consult with the Commission before giving a statement under this section.

“172ZL Annual performance standards

“(1) The Commission must include, in its statement of intent prepared in accordance with section 139 of the Crown Entities Act 2004, performance standards for the first financial year to which the statement of intent relates that have been agreed with the Minister.

“(2) The performance standards—

“(a) must include the performance targets and other measures by which the performance of the Commission may be judged; and

“(b) must be matters against which the Commission’s actual performance may be reported and audited; and

“(c) must relate to all of the GPS objectives and outcomes.

“(3) The Minister must consult with the Auditor-General on whether the proposed performance standards meet the requirements in subsection (2)(b) and (c) before agreeing the performance standards.

“(4) The Minister may direct the Commission to amend the draft performance standards, and section 147 of the Crown Entities Act 2004 applies accordingly.

“172ZM Additional information to be included in annual report

“(1) The Commission must include, in its annual report prepared under section 150 of the Crown Entities Act 2004, the information that is necessary to enable an informed assessment to be made of the performance of the Commission against the GPS objectives and outcomes and against the performance standards in its statement of intent for that year.

Electricity Act 1992 (1992 No 122)—continued

“(2) The Commission must, within 90 days after the end of the financial year, submit that information to the Auditor-General, for an assurance audit under section 172ZO.

“172ZO Assurance audit by Auditor-General

“(1) The Auditor-General must—

“(a) examine the information included in the annual report, and provided to the Auditor-General, under section 172ZM; and

“(b) either report on it—

“(i) in the audit report provided to the Commission under section 156 of the Crown Entities Act 2004; or

“(ii) despite that section, to the Minister and the House of Representatives as soon as practicable after receiving the information.

“(2) The Auditor-General’s report under subsection (1) must provide assurance on—

“(a) the appropriateness, adequacy, and accuracy of the information contained, or to be contained, in the annual report under section 172ZM; and

“(b) whether the information included in the annual report under that section enables, or is likely to enable, an informed assessment to be made of the matters stated in that section.

“(3) The Auditor-General may, at any time, examine the information to be contained in the annual report and the systems of the Commission, and report on that examination to the Minister and the House of Representatives.

“(4) This section does not limit section 156 of the Crown Entities Act 2004.

“172ZP Report by Parliamentary Commissioner for Environment

“(1) The Parliamentary Commissioner for the Environment must examine, in accordance with subsection (2), the extent to which the Commission is meeting the GPS objectives and outcomes concerning the environment.

Electricity Act 1992 (1992 No 122)—continued

- “(2) The Parliamentary Commissioner for the Environment—
- “(a) must, as soon as practicable after the end of each financial year of the Commission, carry out that examination in respect of that financial year and report to the House of Representatives on the results of the examination; and
 - “(b) in addition, may carry out the examination under subsection (1) and report to the House of Representatives on the results of the examination at any other time.

“172ZQ Functions under this subpart

- “(1) The Parliamentary Commissioner for the Environment may exercise all of the Commissioner’s powers under the Environment Act 1986 in relation to the functions in this subpart, and that Act applies to those functions as if they were functions conferred under that Act.
- “(2) The functions conferred on the Auditor-General and the Parliamentary Commissioner for the Environment by this subpart are additional to, and do not limit, the Auditor-General’s or the Commissioner’s functions, powers, and duties under the Public Audit Act 2001, the Crown Entities Act 2004, or the Environment Act 1986 (as the case may be).”

Repeal Schedule 2A.

Electricity Amendment Act 2004 (2004 No 80)

Repeal section 28(1) to (3).

Electricity Industry Reform Act 1998 (1998 No 88)

Insert in the definition of **Commission** in section 3(1), after the words “established by”, the words “section 8 of”.

Insert in section 3(1), after the definition of **member**:

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.

Insert in the heading to section 58, after the words “Commerce Act 1986”, the words “and the Crown Entities Act 2004”.

Repeal section 58(o).

Energy Efficiency and Conservation Act 2000 (2000 No 14)

Repeal section 20(2) and (3) and substitute:

Energy Efficiency and Conservation Act 2000 (2000 No 14)—
continued

“(2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.”

Add to section 21:

“(3) Subsection (2) does not limit section 14(2) of the Crown Entities Act 2004.”

Repeal section 22(1).

Omit from section 22(2) the words “Without limiting the generality of subsection (1) of this section, the Authority has the power” and substitute the words “The Authority may”.

Repeal section 22(2)(a).

Omit from section 22(2)(b) the word “to”.

Omit from section 22(2)(c) the word “to”.

Repeal section 22(2)(d).

Repeal section 22(3) and substitute:

“(3) This section does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal section 23.

Repeal section 24(1) and substitute:

“(1) The board of the Authority consists of no fewer than 6, and no more than 8, members.”

Repeal section 24(3) and (4).

Add to section 25:

“(3) This section does not limit section 29 of the Crown Entities Act 2004.”

Repeal sections 26 to 30.

Repeal sections 40 to 42.

Repeal clauses 1 to 20 of the Schedule.

Repeal clause 21(3) and (4) of the Schedule and substitute:

“(3) Section 117 of the Crown Entities Act 2004 applies to the appointment of a chief executive under this clause.”

Repeal clauses 22 to 25 of the Schedule.

Repeal clause 26(1) of the Schedule.

Repeal clauses 27 to 35 of the Schedule.

Fair Trading Act 1986 (1986 No 121)

Omit from the definition of **Commission** in section 2(1), the words “; and includes a Division of the Commission, or a member of the Commission, performing any function of the Commission”.

Repeal the definition of **officer of the Commission** in section 2(1).

Repeal sections 7 and 8.

Repeal section 48(2) and substitute:

“(2) No proceedings, civil or criminal, lie against any member of the Commission, or any officer or employee of the Commission, or any member of a committee of the Commission, for anything that person may do or say or fail to do or say in the course of the operations of the Commission, unless it is shown that the person acted in bad faith.”

Add to section 48:

“(4) Section 59(3) of the Crown Entities Act 2004 (which provides that a statutory entity may bring an action against a member for breach of an individual duty) does not apply, unless it is shown by the Commission that the person acted in bad faith.

“(5) Sections 122 to 126 of the Crown Entities Act 2004 apply as if the conduct for which a person may be indemnified or insured under those sections were conduct that is covered by the protection from liability in this section.

“(6) This section contains an exception to section 121 of the Crown Entities Act 2004.”

Families Commission Act 2003 (2003 No 128)

Repeal section 3(a) and substitute:

“(a) establish the Commission as a Crown entity for the purposes of section 7 of the Crown Entities Act 2004:”.

Repeal the definitions of **board** and **fees framework** in section 4.

Repeal section 8(g).

Repeal section 9.

Omit from section 14(3) the words “section 16(2)” and substitute the expression “section 18 of the Crown Entities Act 2004”.

Repeal sections 15 and 16.

Repeal sections 17 and 18 and substitute:

17 Commission is Crown entity

“(1) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.

Families Commission Act 2003 (2003 No 128)—continued**“18 Membership of Commission**

- “(1) The Commission consists of no more than 7, and no less than 3, members.
- “(2) The Minister must appoint one member to be Chief Commissioner.
- “(3) The Minister may appoint one member to be Deputy Chief Commissioner.
- “(4) The Chief Commissioner is the chairperson of the board of the Commission, and the Deputy Chief Commissioner (if any) is the deputy chairperson of that board, for the purposes of clause 1 of Schedule 5 of the Crown Entities Act 2004.
- “(5) In addition to the appointment processes and criteria in sections 28 and 29 of the Crown Entities Act 2004, the Minister must—
- “(a) before appointing a member, notify a vacancy in a manner that enables suitably qualified individuals to apply for appointment; and
 - “(b) in appointing a member, take into account the need for Commissioners to have among them a breadth of experience and expertise, and knowledge of, or experience in,—
 - “(i) different aspects of matters likely to come before the Commission; and
 - “(ii) the needs and aspirations (including life experiences) of different communities of interest and population groups in New Zealand society.”

Repeal sections 19 to 30 and the headings above sections 22, 24, and 28.

Repeal sections 32 to 60 and the headings above sections 34, 37, 38, 45, 49, 56, 57, and 60.

Repeal Schedules 1 to 3.

Films, Videos, and Publications Classification Act 1993

(1993 No 94)

Repeal section 76(2) and (3) and substitute:

- “(2) The Office of Film and Literature Classification is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- “(3) The Crown Entities Act 2004 applies except to the extent that this Act expressly provides otherwise.”

Films, Videos, and Publications Classification Act 1993

(1993 No 94)—continued

Add to section 77, as subsection (2):

- “(2) Except as expressly provided otherwise in this or another Act, the Classification Office must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—
- “(a) this Act; and
 - “(b) any other Act that expressly provides for the functions, powers, or duties of the Classification Office (other than the Crown Entities Act 2004).”

Repeal sections 78 and 79 and substitute:

“79 Membership of Classification Office

- “(1) The Classification Office consists of the Chief Censor and the Deputy Chief Censor.
- “(2) The Chief Censor and the Deputy Chief Censor are the board for the purposes of the Crown Entities Act 2004.
- “(3) The Chief Censor and the Deputy Chief Censor hold office as chairperson and deputy chairperson of the board respectively, for the same term as they hold office as Chief Censor and Deputy Chief Censor, for the purposes of the Crown Entities Act 2004.
- “(4) Subsection (3) applies despite anything to the contrary in Schedule 5 of that Act.”

Repeal section 80(1) and substitute:

- “(1) The Chief Censor and the Deputy Chief Censor must be appointed under section 28(1)(b) of the Crown Entities Act 2004 by the Governor-General on the recommendation of the Minister acting with the concurrence of the Minister of Women’s Affairs and the Minister of Justice.”

Insert in section 80, after subsection (3):

- “(3A) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.”

Add to section 80:

- “(5) Clause 1 of Schedule 5 of the Crown Entities Act 2004 does not apply.”

Repeal section 81 and substitute:

Films, Videos, and Publications Classification Act 1993

(1993 No 94)—continued

“81 Term of office

“(1) A person appointed under section 80 may be appointed for any period not exceeding 3 years, and may from time to time be reappointed for any period not exceeding 3 years.

“(2) Subsection (1) applies despite section 32(1)(b) of the Crown Entities Act 2004.

“(3) Clause 2 of Schedule 5 of the Crown Entities Act 2004 does not apply.”

Repeal section 82.

Repeal section 83 and substitute:

“83 Vacation of office as chairperson and deputy chairperson

Clauses 3 and 4 of Schedule 5 of the Crown Entities Act 2004 do not apply.”

Repeal section 84 and substitute:

“84 Holding of other offices

“(1) Neither the Chief Censor nor the Deputy Chief Censor may be a member of a local authority.

“(2) This section does not limit section 30 of the Crown Entities Act 2004.”

Repeal section 85 and substitute:

“85 Administration of Classification Office

“(1) The Chief Censor is responsible for matters of administration in relation to the Classification Office, including—

“(a) the allocation of spheres of responsibility between the Chief Censor and the Deputy Chief Censor; and

“(b) the allocation of duties among the classification officers.

“(2) In other respects, section 25 of the Crown Entities Act 2004 applies.

“(3) Subject to subsection (1), the board may delegate the statutory functions and powers of the Classification Office only to the Chief Censor, the Deputy Chief Censor, or a classification officer.

“(4) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Add to section 86:

Films, Videos, and Publications Classification Act 1993

(1993 No 94)—continued

“(3) Clause 5(2) of Schedule 5 of the Crown Entities Act 2004 does not apply.”

Repeal section 89.

Repeal section 99 and substitute:

“(1) A member of the Board is entitled—

“(a) to receive remuneration not within paragraph (b) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and

“(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

“(2) For the purposes of subsection (1)(b), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.”

Repeal clause 1 of the First Schedule.

Repeal clause 2(2) to (4) of the First Schedule and substitute:

“(2) This clause is subject to sections 116 and 118 of the Crown Entities Act 2004.”

Repeal clause 4 of the First Schedule.

Repeal clause 5(1) of the First Schedule and substitute:

“(1) For the purpose of providing superannuation or retiring allowances for the Chief Censor or the Deputy Chief Censor, the Classification Office may, out of the funds of the Classification Office, make payments to or subsidise any superannuation scheme that is registered under the Superannuation Schemes Act 1989.”

Repeal clauses 6 to 15 of the First Schedule.

Repeal so much of the Second Schedule as relates to the Ombudsmen Act 1975, the Higher Salaries Commission Act 1977, and the Public Finance Act 1989.

Financial Reporting Act 1993 (1993 No 106)

Repeal the definition of **Crown entity** in section 2(1) and substitute:

“**Crown entity** has the same meaning as in section 10 of the Crown Entities Act 2004”.

Repeal section 22(2) and (3) and substitute:

Financial Reporting Act 1993 (1993 No 106)—continued

“(2) The Accounting Standards Review Board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Accounting Standards Review Board except to the extent that this Act expressly provides otherwise.

“(4) Members of the Accounting Standards Review Board are the board for the purposes of the Crown Entities Act 2004.”

Omit from section 23(1) the words “appointed from time to time by the Governor-General on the recommendation of the Minister”.

Repeal section 23(2).

Add to section 23:

“(4) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.”

Insert in section 24(1)(a), after subparagraph (i):

“(ia) the Crown Entities Act 2004; or”.

Add to section 24:

“(3) Except as expressly provided otherwise in this or another Act, the Board must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Board (other than the Crown Entities Act 2004).”

Repeal section 30 and substitute:

“30 Consultation

“(1) The Board may consult any persons or organisations that the Board thinks fit to assist the Board in deciding whether or not to—

“(a) approve a financial reporting standard; or

“(b) approve any amendment to an approved financial reporting standard; or

“(c) revoke the approval of any approved financial reporting standard.

“(2) This section does not limit section 26 of this Act or section 16 or section 17 of the Crown Entities Act 2004.”

Repeal section 31.

Repeal section 35.

Repeal section 48(3).

Financial Reporting Act 1993 (1993 No 106)—continued

Repeal clauses 1 to 5 of the First Schedule.

Omit from clause 6(1) of the First Schedule the word “All” and substitute the words “Despite clause 12 of Schedule 5 of the Crown Entities Act 2004,”.

Repeal clause 6(2) and (3) of the First Schedule.

Repeal clauses 7 to 9 of the First Schedule.

Fire Service Act 1975 (1975 No 42)

Insert in section 2, after the definition of “facultative reinsurance”, the following definition:

“**fees framework** has the same meaning as in section 10 of the Crown Entities Act 2004”.

Repeal the definition of **financial year** in section 2 and substitute:

“**financial year** has the same meaning as in section 136 of the Crown Entities Act 2004”.

Omit from the definition of **member of the Fire Service** in section 2 the words “appointed or deemed to be appointed under section 18 of this Act”.

Add to section 2, as subsection (2):

“(2) For the purposes of this Act, the **functions and activities of the Fire Service** include the functions and activities of any member of the Fire Service.”

Omit from section 3(1) the words “persons employed under section 18 of this Act” and substitute the words “the employees of the Commission”.

Repeal section 3(2).

Repeal section 4(2) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2A) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Repeal section 4(8).

Repeal section 5.

Repeal section 6(1) and substitute:

“(1) The Commission must have 5 members.

“(1A) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.”

Omit from section 6(2) the words “recommending persons for appointment as” and substitute the word “appointing”.

Fire Service Act 1975 (1975 No 42)—continued

Insert in section 6, after subsection (2):

“(2A) Subsection (2) does not limit section 29 of the Crown Entities Act 2004.”

Repeal section 6(6).

Repeal sections 7 and 8.

Repeal section 9 and substitute:

“9 **Deputies of members**

“(1) If the Minister is satisfied that any member of the Commission is incapacitated or prevented by illness, absence, or other sufficient cause from performing his or her duties as a member, the Minister may designate a person qualified for appointment to the office of that member as a deputy member to act for that member while that member is so incapacitated or prevented.

“(2) A deputy member must, while the deputy member acts as a member of the Commission, be taken to be the member in whose place the deputy member acts.

“(3) For the avoidance of doubt, where the Minister designates a deputy member for the chairperson of the Commission, that deputy member is to be taken as the chairperson of the Commission, despite the fact that there may be a deputy chairperson appointed under clause 1 of Schedule 5 of the Crown Entities Act 2004.”

Repeal sections 10 to 13.

Repeal section 14 and substitute:

“14 **Functions of Commission**

The Commission has the following functions under this Act:

“(a) the functions and activities expressed in this Act to be functions and activities of the Commission, including in its role as National Rural Fire Authority:

“(b) general control, within the framework of this Act, of the Fire Service and the functions and activities of the Fire Service:

“(c) efficient administration of this Act:

“(d) any other functions conferred on it by the Minister in accordance with section 112 of the Crown Entities Act 2004.”

Repeal section 14B.

Fire Service Act 1975 (1975 No 42)—continued

Repeal the heading to section 15 and substitute the heading “**Restrictions on delegation**”.

Repeal section 15(1) and (2) and substitute:

“(1) The Commission may delegate its functions and powers under this Act or the Forest and Rural Fires Act 1977 only to the Chief Executive.

“(2) Subsection (1) applies despite section 73(1) of the Crown Entities Act 2004.”

Omit from section 15(3) the words “Subject to subsection (4) of this section, no delegation under this section shall include” and substitute the words “The Commission may not delegate”.

Repeal section 15(3)(b).

Add to section 15(3)(c) the words “that it may have under sections 160 and 162 of the Crown Entities Act 2004”.

Repeal section 15(3)(d) to (f).

Repeal section 15(4) to (8) and substitute:

“(4) In other respects, sections 73 to 76 of the Crown Entities Act 2004 apply.”

Repeal section 15A.

Add to section 15B:

“(3) This section applies despite section 25 of the Crown Entities Act 2004.”

Add to section 17:

“(4) Section 115 of the Crown Entities Act 2004 does not apply to a notice under this section.”

Omit from section 17A(3)(f) the words “the Fire Service is a good employer; and” and substitute the words “the Commission meets its obligation to be a good employer under section 118 of the Crown Entities Act 2004”.

Repeal section 17A(3)(g).

Add to section 17C, as subsection (2):

“(2) In carrying out the Chief Executive’s obligations under subsection (1), the Chief Executive must comply with any Order in Council under section 116 of the Crown Entities Act 2004 that relates to the Commission.”

Insert, after section 17C:

Fire Service Act 1975 (1975 No 42)—continued**“17CA Responsibility in regard to conduct**

The Chief Executive is responsible to the Commission for ensuring that all employees maintain proper standards of integrity, conduct, and concern for the public interest.”

Insert in section 17G(1), after the word “including”, the words “, without the prior written consent of the Commission,”.

Insert in section 17G(4)(a), after the words “other Act”, the words “(except the Crown Entities Act 2004)”.

Add to section 17G:

“(8) Sections 62 to 72 of the Crown Entities Act 2004 apply to a delegate under this section as if the delegate were a member and as if the disclosure must be made to the chief executive and with other necessary modifications.

“(9) This section applies despite sections 74 to 76 of the Crown Entities Act 2004.”

Repeal section 17I(3) and (4) and substitute:

“(3) This section applies in addition to section 117 of the Crown Entities Act 2004.”

Repeal section 17J.

Omit from section 17N(4), the words “or the Commission”.

Insert in section 17Q(4)(a), after the words “other Act”, the words “(except the Crown Entities Act 2004)”.

Add to section 17Q:

“(8) Sections 62 to 72 of the Crown Entities Act 2004 apply to a delegate under this section as if the delegate were a member and as if the disclosure must be made to the National Commander and with other necessary modifications.

“(9) This section applies despite sections 74 to 76 of the Crown Entities Act 2004.”

Omit from section 17S(3) the words “, but the Chief Executive shall consult the State Services Commission concerning the conditions of employment of the National Commander before finalising those conditions of employment”.

Repeal section 17T.

Omit from section 17Y(3) the words “, but the Chief Executive shall consult the State Services Commission concerning the conditions of employment of the National Rural Fire Officer before finalising those conditions of employment”.

Fire Service Act 1975 (1975 No 42)—continued

Insert in section 17Z(4)(a), after the words “other Act”, the words “(except the Crown Entities Act 2004)”.

Add to section 17Z:

“(8) Sections 62 to 72 of the Crown Entities Act 2004 apply to a delegate under this section as if the delegate were a member and as if the disclosure must be made to the National Rural Fire Officer and with other necessary modifications.

“(9) This section applies despite sections 74 to 76 of the Crown Entities Act 2004.”

Repeal section 17ZB.

Omit from section 17ZE the expression “section 15” and substitute the words “section 73 of the Crown Entities Act 2004”.

Repeal section 18(1) and (3).

Omit from section 18(4) the words “any staff so employed” and substitute the words “its employees”.

Repeal section 18(6) to (8).

Repeal section 19.

Repeal section 27 and substitute:

“27 Chief Fire Officer and Deputy Chief Fire Officer

“(1) The Chief Executive must appoint a Chief Fire Officer and a Deputy Chief Fire Officer for each Fire District, who must be either—

“(a) a member of the Fire Service; or

“(b) a member of a volunteer brigade that has entered into an agreement for service under section 34.

“(2) An appointment as Chief Fire Officer or Deputy Chief Fire Officer may be held separately or in conjunction with any other office in the Fire Service.”

Insert in section 43, after subsection (1):

“(1A) Subsection (1) applies despite section 121 of the Crown Entities Act 2004.”

Repeal section 43(3) and substitute:

“(3) Sections 120 to 126 of the Crown Entities Act 2004 apply to a member of a volunteer fire brigade as if that member were an employee of the Commission.”

Omit from section 44(1)(b) the words “Fees and Travelling Allowances Act 1951” and substitute the words “fees framework”.

Insert in section 44(1), after paragraph (f):

“(fa) the payment of gratuities under sections 55 and 56:”.

Fire Service Act 1975 (1975 No 42)—continued

Repeal section 44(2) and (3) and substitute:

“(2) This section does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal sections 45 and 46.

Repeal section 46J(2).

Repeal section 54(1).

Repeal sections 57 to 60.

Repeal section 61(1).

Repeal section 62.

Repeal section 79.

Repeal sections 83 to 83B.

Forest and Rural Fires Act 1977 (1977 No 52)

Insert in section 56, after subsection (1):

“(1A) Subsection (1) applies despite section 121 of the Crown Entities Act 2004.”

Insert in section 57, after subsection (1):

“(1A) Subsection (1) applies despite section 121 of the Crown Entities Act 2004.”

Omit from section 66 the words “section 46(5) of the Fire Service Act 1975” and substitute the words “section 150 of the Crown Entities Act 2004”.

Foundation for Research, Science, and Technology Act 1990

(1990 No 72)

Repeal section 4(2) and (3) and substitute:

“(2) The Foundation is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Foundation except to the extent that this Act expressly provides otherwise.”

Repeal section 6.

Repeal section 7(4) and substitute:

“(4) This section applies in addition to sections 103 and 115 of the Crown Entities Act 2004.”

Omit from section 8A(5) the word “notice” in both cases where it appears and substitute in each case the word “direction”.

Repeal section 8A(6).

Omit from section 8B(2) the words “subject to clause 18 of the First Schedule to this Act” and substitute the words “subject to section 161 of the Crown Entities Act 2004”.

Foundation for Research, Science, and Technology Act 1990

(1990 No 72)—continued

Repeal section 8C and substitute:

“8C Provision of information

“(1) The Foundation must supply any information that the Minister requests to any person or class or classes of persons that the Minister specifies.

“(2) The Minister may request information to be supplied only if the supply of the information is necessary for the purposes of monitoring a ministerial scheme.

“(3) Subsection (1) does not limit section 133 of the Crown Entities Act 2004.

“(4) No member of the Foundation, and no officer or employee of the Foundation, who acts in accordance with a request or direction under this section is liable to any person under any other enactment or rule of law by reason of acting in accordance with that request or direction.”

Omit from section 9(1) the words “, who shall be appointed by the Governor-General on the recommendation of the Minister”.

Insert in section 9, after subsection (3):

“(3A) Members of the Foundation are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 9(2) to (5).

Repeal sections 10 and 11.

Repeal clauses 1 to 12 of the First Schedule.

Repeal clauses 14 to 19 of the First Schedule.

Repeal clauses 21 to 24 of the First Schedule.

Repeal so much of the Second Schedule as relates to the Public Bodies Contracts Act 1959 and the Ombudsmen Act 1975.

Gambling Act 2003 (2003 No 51)

Repeal section 236(2).

Repeal section 237 and substitute:

“237 Crown entity status

“(1) The Lotteries Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Lotteries Commission except to the extent that this Act expressly provides otherwise.”

Repeal section 239.

Repeal section 240 and substitute:

Gambling Act 2003 (2003 No 51)—continued**“240 Board of Lotteries Commission**

“(1) The board of the Lotteries Commission consists of 5 members.

“(2) Members of the Lotteries Commission are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 242(1).

Add to section 242:

“(6) The Lotteries Commission must give effect to a direction under subsection (2) despite section 104 of the Crown Entities Act 2004.”

Add to section 245:

“(3) An instruction under this section is a direction for the purposes of the Crown Entities Act 2004.”

Omit from section 247(1) the words “under section 258”.

Repeal section 258.

Repeal section 260.

Repeal section 265.

Repeal section 266(1).

Omit from section 266(2) the words “Part V of the Public Finance Act 1989” and substitute the words “Part 4 of the Crown Entities Act 2004”.

Repeal section 266(3).

Repeal section 269.

Omit from section 270(1) the words “under section 269(1)” and substitute the words “under section 17 of the Crown Entities Act 2004”.

Repeal clauses 1 to 20 of Schedule 4.

Repeal clause 21 of Schedule 4 and substitute:

“21 Ability to delegate

“(1) The Lotteries Commission must not delegate—

“(a) any power to borrow money that it may have under section 160 or section 162 of the Crown Entities Act 2004; or

“(b) the power to make, alter, or rescind rules conferred by section 243.

“(2) This clause applies despite section 73 of the Crown Entities Act 2004.”

Repeal clauses 22 to 45 of Schedule 4.

Repeal clause 46(1) of Schedule 4.

Gambling Act 2003 (2003 No 51)—continued

Repeal clauses 47 and 48 of Schedule 4.

Omit from clause 49(1) of Schedule 4 the words “, the Minister, the Lotteries Commission, or its board” and substitute the words “or the Minister”.

Repeal clause 49(2) of Schedule 4 and substitute:

“(2) This clause does not limit sections 19 and 20 of the Crown Entities Act 2004.”

Repeal clauses 50 to 56 of Schedule 4.

Repeal so much of Schedule 9 as relates to the Ombudsmen Act 1975 and the Public Finance Act 1989.

Gas Act 1992 (1992 No 124)

Omit from section 43ZZQ(2) the words “The Public Finance Act 1989 is amended by omitting from the Fourth, Fifth, and Sixth Schedules” and substitute “Schedule 1 of the Crown Entities Act 2004 is amended by omitting”.

Government Superannuation Fund Act 1956 (1956 No 47)

Insert in paragraph (ec) of the definition of **controlling authority** in section 2(1), before the word “subsidiary”, the words “Crown entity”.

Insert in section 2(1), after the definition of **controlling authority**:

“**Crown entity subsidiary** has the same meaning as in section 7 of the Crown Entities Act 2004”.

Omit from the definition of **Government Superannuation Fund Authority board** or **board** in section 2(1) the words “as referred to in section 15G” and substitute the words “as referred to in section 15A(4)”.

Insert in section 2B(1)(a), before the word “subsidiary”, the words “Crown entity”.

Repeal section 2B(2)(c).

Insert in section 2B(3)(a) and (b), in each case before the word “subsidiary”, the words “Crown entity”.

Insert in section 2B(4), before the word “subsidiary”, the words “Crown entity”.

Insert after section 13:

“13A Property of Fund

The Fund consists of—

- “(a) the property and liabilities vested in the Authority by section 21A of the Government Superannuation Fund Amendment Act 2001; and

Government Superannuation Fund Act 1956 (1956 No 47)—
continued

“(b) money payable into the Fund under section 14.”

Omit from section 15A(2) the words “the Public Finance Act 1989” and substitute the words “section 7 of the Crown Entities Act 2004”.

Add to section 15A:

“(3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.

“(4) The Government Superannuation Fund Authority Board must have no less than 4, but no more than 7, members.”

Omit the heading to section 15B and substitute the heading “**Investment.**”

Repeal section 15B(1) to (3).

Add to section 15B:

“(8) Subsection (5) applies despite sections 100 and 161 of the Crown Entities Act 2004.”

Insert in section 15B(5)(a), before the word “subsidiary”, the words “Crown entity”.

Repeal section 15C(1)(c) and substitute:

“(c) enter into a derivative transaction, or amend the terms of that transaction, (where derivative transaction includes swaps, options, futures, and any combination of those things).”

Insert in section 15D(3), after the words “if the Minister so directs”, the words “in accordance with section 112 of the Crown Entities Act 2004”.

Repeal sections 15F to 15H.

Repeal section 15I(2).

Omit from section 15N the words “Part V of the Public Finance Act 1989” and substitute the words “Part 4 of the Crown Entities Act 2004.”

Insert in section 15O, after subsection (1):

“(1A) Despite section 104 of the Crown Entities Act 2004, the Minister may not give a direction to the Authority in respect to the Fund except in accordance with this section.”

Repeal section 15O(4).

Add to section 15O:

“(5) Nothing in this section limits section 147 of the Crown Entities Act 2004.”

Government Superannuation Fund Act 1956 (1956 No 47)—
continued

Add to section 19(4) the words “or sections 16 and 17 of the Crown Entities Act 2004”.

Add to section 19A(5) the words “or sections 16 and 17 of the Crown Entities Act 2004”.

Insert in section 59(4), before the word “subsidiary”, the words “Crown entity”.

Add to section 93A:

“(4) This section applies to the financial statements for the Fund referred to in section 93B.”

Omit from section 93B(1) the words “The Authority shall, as soon as practicable after the end of each financial year, supply to the Minister a report on matters affecting the Fund during that year, which report shall include” and substitute the words “The Authority must include, in its annual report required under section 150 of the Crown Entities Act 2004, a report on matters affecting the Fund during that year, which report must include”.

Repeal section 93B(2) and (3).

Repeal clauses 1 to 18 of Schedule 4.

Repeal clauses 19 to 22 of Schedule 4 and substitute:

“19 **Obligation to disclose interests**

Section 66 of the Crown Entities Act 2004 does not apply to a person who is interested in a matter only because he or she is a member of a company referred to in section 15B(6).”

Omit from clause 23 of Schedule 4 the expression “clause 22” and substitute the words “section 66 of the Crown Entities Act 2004”.

Omit from clause 24 of Schedule 4 the expression “Clause 22” and substitute the words “Section 66 of the Crown Entities Act 2004”.

Repeal clauses 25 to 38 of Schedule 4.

Repeal clause 39 of Schedule 4 and substitute:

“39 **Additional persons to whom delegation may be made**

The board may delegate any of the functions or powers of the board or the Authority to all or any of the following, despite section 73(1)(d) of the Crown Entities Act 2004:

“(a) an administration manager:

“(b) an investment manager:

“(c) a custodian:

“(d) a company established under section 15B(6) and to any employee of that company.”

Repeal clause 40(1)(a) of Schedule 4.

Government Superannuation Fund Act 1956 (1956 No 47)—
continued

Omit from clause 40(2) of Schedule 4 the words “This clause does not limit” and substitute the words “Neither this clause nor section 73(4) of the Crown Entities Act 2004 limits”.

Repeal clauses 41 to 52 of Schedule 4.

Omit from clause 53(1) the words “Despite clause 52,”.

Hazardous Substances and New Organisms Act 1996
(1996 No 30)

Repeal section 10(a) and (b).

Add to section 10:

“(2) Subsection (1)(c) and (d) apply despite section 113 of the Crown Entities Act 2004.

“(3) This section does not limit section 27 of the Crown Entities Act 2004.”

Add to section 11, as subsection (2):

“(2) This section does not limit section 17 of the Crown Entities Act 2004.”

Repeal section 14(2) and (3) and substitute:

“(2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.”

Repeal section 15 and substitute:

“15 **Membership of Authority**

“(1) The Authority must have no fewer than 6, and no more than 8, members.

“(2) Members of the Authority are the board for the purposes of the Crown Entities Act 2004.

“(3) Members of the Authority hold office for 5 years or any shorter period stated in the notice of appointment.

“(4) Subsection (3) applies despite section 32(1)(a) of the Crown Entities Act 2004.”

Add to section 16:

“(3) Subsection (1) does not limit section 29 of the Crown Entities Act 2004.”

Repeal section 17 and substitute:

Hazardous Substances and New Organisms Act 1996

(1996 No 30)—continued

“17 Restriction on Ministerial direction

The Minister may not give a direction under section 104 of the Crown Entities Act 2004 that relates to the exercise of any power, duty, or function of the Authority under Part 5 of this Act.”

Insert in section 19, after subsection (5):

“(5A) A delegate to whom any function or power is delegated under this section may delegate the function or power only—

“(a) with the prior written consent of the Authority; and

“(b) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate”.

Add to section 19:

“(7) Sections 73 to 76 of the Crown Entities Act 2004 do not apply to the Authority.”

Insert in section 61, after subsection (4):

“(4A) Subsection (4) applies despite section 121 of the Crown Entities Act 2004.”

Insert in section 68, after subsection (2):

“(2A) Sections 114 and 115 of the Crown Entities Act 2004 do not apply to a direction under subsection (1).

“(2B) This section applies despite section 113 of the Crown Entities Act 2004.”

Repeal sections 145 and 146.

Omit from section 147(1) the words “, in addition to the matters specified in section 41D of the Public Finance Act 1989, include the following matters in the statement of intent prepared under that section” and substitute the words “include in its statement of intent under section 139 of the Crown Entities Act 2004”.

Repeal section 147(1)(a) to (c).

Repeal section 147(2).

Omit from section 147(3) the words “in the year to which the statement of intent relates and following years” and substitute the words “in the period to which the statement of intent relates”.

Omit from section 148(1) the words “delivered by the Authority in accordance with section 41L of the Public Finance Act 1989, shall” and substitute the words “under section 150 of the Crown Entities Act 2004 must”.

Repeal section 148(a).

Hazardous Substances and New Organisms Act 1996

(1996 No 30)—continued

Omit from section 157(2)(a)(iv) the words “section 2(1) of the Public Finance Act 1989” and substitute the words “section 7 of the Crown Entities Act 2004”.

Repeal clauses 1 to 27 of the First Schedule.

Omit from clause 28 of the First Schedule the words “on such terms and conditions as shall be determined by the Authority”.

Repeal clauses 29 to 37 of the First Schedule and substitute:

“(29) Section 117 of the Crown Entities Act 2004 applies to the appointment of a chief executive under clause 28.”

Repeal clauses 41 and 42 of the First Schedule.

Repeal clause 43(4) of the First Schedule and substitute:

“(4) Subclause (3) applies despite clause 14(1)(b) of Schedule 5 of the Crown Entities Act 2004.”

Add to clause 43 of the First Schedule:

“(5) For the avoidance of doubt, except as provided in subclause (4), clauses 14 and 15 of Schedule 5 of the Crown Entities Act 2004 apply to a committee appointed for the purposes of this section.”

Repeal clauses 44 to 47 of the First Schedule.

Health and Disability Commissioner Act 1994 (1994 No 88)

Omit from the definition of **Commissioner** in section 2(1) the words “under section 8 of this Act” and substitute the words “in accordance with section 8 of this Act and section 28(1)(b) of the Crown Entities Act 2004”.

Repeal section 8(2) to (4) and substitute:

“(2) The Commissioner is—

“(a) a corporation sole; and

“(b) a Crown entity for the purposes of section 7 of the Crown Entities Act 2004; and

“(c) the board for the purposes of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commissioner except to the extent that this Act expressly provides otherwise.”

Repeal section 9(1) and substitute:

“(1) A Deputy Commissioner may be appointed in the same way as the Commissioner is appointed.”

Repeal section 9(2).

Health and Disability Commissioner Act 1994 (1994 No 88)—
continued

Insert in section 9(3), after the words “this Act”, the words “, the Crown Entities Act 2004,”.

Repeal section 9(4).

Add to section 10, as subsections (2) and (3):

“(2) Subsection (1) does not limit section 29 of the Crown Entities Act 2004.

“(3) In addition to the matters in section 30(2) of the Crown Entities Act 2004, a member of a local authority is disqualified from being appointed as Commissioner.”

Repeal sections 11 to 13.

Repeal section 14(1)(n).

Omit from section 14(1)(o) the words “authorised to perform by the Minister, by written notice to the Commissioner after consultation with the Commissioner” and substitute the words “directed to perform by the Minister in accordance with section 112 of the Crown Entities Act 2004”.

Insert in section 14, after subsection (2):

“(2A) Except as expressly provided otherwise in this or another Act, the Commissioner must act independently in performing his or her statutory functions and duties, and exercising his or her statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Commissioner (other than the Crown Entities Act 2004).”

Repeal section 14(3).

Omit from section 15(1) the words “as the Director of Proceedings one of the persons appointed under clause 2 of Schedule 2 to this Act” and substitute the words “one of its employees as the Director of Proceedings”.

Repeal section 16.

Omit from section 24(1) the words “as the Director of Health and Disability Services Consumer Advocacy one of the persons appointed under clause 2 of Schedule 2 to this Act” and substitute the words “one of its employees as the Director of Health and Disability Services Consumer Advocacy”.

Repeal section 65(1) and substitute:

Health and Disability Commissioner Act 1994 (1994 No 88)—
continued

“(1) Sections 120 to 126 and section 135 of the Crown Entities Act 2004 apply to an advocate, with any necessary modifications, as if the advocate were an office holder.”

Repeal section 65(2)(a).

Omit from section 65(2)(b) the words “no person to whom this section applies shall be required” and substitute the words “none of the Commissioner, an office holder, or employee of the Commissioner, nor any advocate is required”.

Repeal section 66.

Omit from section 67 the expression “16,”.

Insert in section 67, after the words “of this Act”, the words “or its annual report under Part 4 of the Crown Entities Act 2004”.

Repeal section 68(1).

Omit from section 68(2) the words “No delegation under subsection (1) of this section shall include” and substitute the words “The Commissioner may not delegate”.

Repeal section 68(2)(a).

Repeal section 68(3) and substitute:

“(3) The Commissioner may not delegate the functions or powers of the Commissioner under Part IV or section 61 to the Director of Proceedings.

“(3A) In other respects, the Commissioner may delegate in accordance with section 73 of the Crown Entities Act 2004.”

Add to section 68:

“(8) Sections 62 to 72 of the Crown Entities Act 2004 apply to a delegate under subsection (4) or (5) as if the delegate were a member and as if the disclosure must be made to the Commissioner and with other necessary modifications.

“(9) Sections 74 to 76 of the Crown Entities Act 2004 do not apply to a delegation under subsection (4) or (5).”

Omit from sections 69(1) to (6), 70, and 71(1) the expression “section 68” in every case where it appears and substitute in each case the words “section 68(4) or (5)”.

Repeal section 76(3).

Repeal sections 77 and 78.

Repeal clauses 1 to 3 of the Second Schedule.

Omit from clause 4(1) of the Second Schedule the words “and for any of the employees of the Commissioner”.

Repeal clauses 5 to 12 of the Second Schedule.

Health Research Council Act 1990 (1990 No 68)

Repeal the definition of **financial year** in section 2.

Omit from section 5(1) the word “corporation” and substitute the words “statutory entity”.

Repeal section 5(2) and substitute:

“(2) The Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Council except to the extent that this Act expressly provides otherwise.”

Add to section 6(1):

“(m) any other functions conferred on it by the Minister in accordance with section 112 of the Crown Entities Act 2004.”

Repeal section 6(2).

Repeal section 7(1).

Omit from section 7(2) the words “Without limiting the generality of subsection (1) of this section, the Council shall have power” and substitute the words “Without limiting section 17 of the Crown Entities Act 2004, the Council may”.

Omit from section 7(2)(a) and (b) the word “to” in the first place where it appears.

Repeal section 7(2)(c).

Repeal section 7(3).

Repeal section 8(2) and substitute:

“(2) Subsection (1) does not limit section 29 of the Crown Entities Act 2004.

“(3) Members of the Council are the board for the purposes of the Crown Entities Act 2004.”

Repeal sections 9 to 12.

Repeal sections 27 to 30.

Repeal sections 35 to 37.

Repeal section 38(1).

Insert in section 38(2), after the words “annual report of the Council”, the words “under section 150 of the Crown Entities Act 2004”.

Repeal section 38(3) and (4).

Omit from section 41(1) the words “, and the Council may accept,”.

Repeal section 42.

Repeal section 58.

Repeal clauses 1 to 3 of the First Schedule.

Repeal clauses 6 to 13 of the First Schedule.

Historic Places Act 1993 (1993 No 38)

Repeal the definition of **financial year** in section 2 and substitute:

“**financial year** means the 12 months ending on the close of 30 June or any other date determined for the Trust by the Minister of Finance”.

Repeal section 38(2) and substitute:

“(2) The Trust is the same body corporate as the New Zealand Historic Places Trust continued under section 4 of the Historic Places Act 1980.

“(3) The Trust is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(4) The Crown Entities Act 2004 applies to the Trust except to the extent that this Act expressly provides otherwise.”

Add to section 39, as subsection (2):

“(2) The Minister may not give a direction to the Trust in relation to heritage matters.”

Repeal section 41.

Omit from section 42(a) the words “by the Minister”.

Add to section 42, as subsection (2):

“(2) The appointments under subsection (1)(a) and (b) must be made in accordance with the Crown Entities Act 2004.”

Insert in the heading to section 43, before the word “**members**”, the word “**elected**”.

Repeal section 43(1).

Repeal section 43(3) and substitute:

“(3) Unless an elected member vacates or is removed from office under the Crown Entities Act 2004, he or she continues in office until his or her successor comes into office.”

Repeal section 44.

Repeal sections 45 to 49.

Repeal section 50 and substitute:

“50 **Meetings of Board**

Clauses 6 to 13 of Schedule 5 of the Crown Entities Act 2004 apply except that, despite clause 13 of that schedule, a resolution signed or assented to in writing, by members who together form a quorum, is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted.”

Repeal sections 52 and 53.

Repeal section 54(1).

Historic Places Act 1993 (1993 No 38)—continued

Omit from section 54(2) the words “Without limiting the generality of subsection (1) of this section, the” and substitute the word “The”.

Repeal section 54(2)(e), (h), and (i).

Repeal section 54(2)(m) to (r).

Repeal section 55 and substitute:

“55 **General rules as to delegation of functions or powers by Board**

“(1) The rules about delegation in the Crown Entities Act 2004 apply to delegations by the Board.

“(2) However, the Board must not delegate the power to—

“(a) execute a heritage covenant under section 6:

“(b) declare an archaeological site under section 9(2):

“(c) consent to an authority under section 14 where the costs of investigation exceed \$100,000:

“(d) confirm registration under section 30:

“(e) change or remove a registration under section 37:

“(f) acquire real property:

“(g) dispose of real property:

“(h) borrow money:

“(i) adopt any statement of general policy under section 57:

“(j) adopt any conservation plan under section 58.

“(3) Also, the Board must not delegate the power to give notice of requirement for a heritage order, or to grant interim registration under section 26, unless the delegation is one that must be jointly exercised by any 2 of the following persons, namely, the Chairperson, 1 of the members appointed by the Minister, or the chief executive officer.

“55A **Additional powers of delegation in respect of Maori Heritage Council and branch committees**

“(1) The Board may, by writing, delegate any of its functions or powers (except those referred to in section 55(2) or (3)) to—

“(a) the Maori Heritage Council; or

“(b) any branch committee of the Trust.

“(2) Clause 14(1)(b) of Schedule 5 of the Crown Entities Act 2004 does not limit subsection (1).

“(3) Subject to any general or special directions given by the Board, the Council or branch committee may exercise those powers in the same manner and with the same effect as if they

Historic Places Act 1993 (1993 No 38)—continued

had been conferred on the body directly by this Act and not by delegation.

“(4) A body to which a power has been delegated under this section may delegate the power only—

“(a) with the prior written consent of the Board; and

“(b) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.

“(5) A body purporting to act in accordance with a delegation under this section—

“(a) is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation; and

“(b) must, if reasonably requested to do so, produce evidence of its authority to act in accordance with the delegation.

“(6) A delegation under this section is revocable at will, and does not prevent the exercise of any power by the Trust or the Board.”

Repeal section 56.

Repeal section 59.

Insert in section 60(1), after the words “this Act”, the words “or the Crown Entities Act 2004”.

Repeal section 60(2).

Repeal sections 66 to 70.

Repeal sections 73 to 79.

Omit from section 80, and from the heading to section 80, the words “land tax and”.

Repeal section 81.

Repeal section 83.

Insert in section 94, after the words “the Deputy Chairperson of the Board”, the words “(if any)”.

Insert, after section 96:

“96A Fees and travelling allowances in respect of Council

The members of the Council are entitled to be paid, out of money appropriated by Parliament for the purpose, remuneration by way of fees or salary, and allowances and expenses, in accordance with the fees framework for members of statutory and other bodies.”

Repeal section 109.

Repeal sections 117 and 118.

Historic Places Act 1993 (1993 No 38)—continued

Repeal so much of the Second Schedule as relates to the Ombudsmen Act 1975.

Housing Corporation Act 1974 (1974 No 19)

Repeal the definition of **committee** in section 2.

Insert in section 2, after the definition of **Corporation**:

“**Crown entity subsidiary** has the same meaning as in section 8(2) of the Crown Entities Act 2004”.

Omit from the definition of **statement of intent** in section 2 the words “section 41E of the Public Finance Act 1989” and substitute the words “section 139 of the Crown Entities Act 2004”.

Repeal section 3(2) to (4) and substitute:

“(2) The Corporation is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Corporation except to the extent that this Act expressly provides otherwise.”

Insert, after section 3:

3AA Membership of Corporation

“(1) The Corporation must have at least 2, but no more than 8, members appointed under section 28(1)(a) of the Crown Entities Act 2004.

“(2) A person who is employed by a department of State responsible for advising the Minister on the Corporation’s performance is disqualified from being a member.

“(3) Subsection (2) does not limit section 30 of the Crown Entities Act 2004.

“(4) Members of the Corporation are the board for the purposes of the Crown Entities Act 2004.”

Insert in section 3C(2)(b), before the word “subsidiaries”, the words “Crown entity”.

Omit from section 3C(3) the words “the Public Finance Act 1989” and substitute the words “sections 141 and 142 of the Crown Entities Act 2004”.

Repeal section 4.

Repeal section 19(1).

Insert in section 19, after subsection (1A):

“(1B) Subsection (1A) does not limit section 17 of the Crown Entities Act 2004.”

Housing Corporation Act 1974 (1974 No 19)—continued

Omit from section 19(4) the words “the generality of subsection (1) of this section” and substitute the words “section 17 of the Crown Entities Act 2004”.

Repeal section 19(4)(b).

Repeal section 19(6).

Repeal sections 19B and 19C.

Omit from section 20(1)(a) the words “notice in writing that it is required to give effect to a policy stated in the notice” and substitute the words “a direction under section 103 of the Crown Entities Act 2004”.

Omit from section 20(1)(b) the words “notice in writing” and substitute the words “a direction”.

Repeal section 20(2) and (3).

Repeal section 20(4).

Omit from the heading to section 20A the word “**requirements**” and substitute the word “**directions**”.

Repeal section 20A(1) and (2) and substitute:

“(1) Sections 114 and 115 of the Crown Entities Act 2004 apply to a direction under section 20.

“(2) When complying with section 115(2) of the Crown Entities Act 2004 in respect of a direction under section 20(1)(b), the Minister must also publish in the *Gazette* and present to the House of Representatives a copy of the agreement entered into with the Corporation in accordance with the direction.”

Omit from section 20A(3)(a) the word “requirement” and substitute the word “direction”.

Repeal section 20A(3)(b) and substitute:

“(b) the Minister directs the Corporation to give effect to a government policy under section 103 of the Crown Entities Act 2004.”

Omit from section 20B(4) the words “requirement under section 20(1)” and substitute the words “direction under section 20(1)(b)”.

Omit from section 20C the word “subsidiaries” and substitute the words “Crown entity subsidiaries of the Corporation”.

Omit from section 20C the word “subsidiary” and substitute the words “Crown entity subsidiary of the Corporation”.

Repeal section 30(2)(b) and (4)(a).

Omit from section 30(5)(a) the words “under the Public Finance Act 1989” and substitute the words “under Part 4 of the Crown Entities Act 2004”.

Housing Corporation Act 1974 (1974 No 19)—continued

Insert in section 30AA(b) and (c), after the expression “section 30” in every case where it appears, the words “or subpart 3 of Part 4 of the Crown Entities Act 2004”.

Insert in section 30AA, before the word “subsidiary” in every case where it appears, the words “Crown entity”.

Omit from section 30AA(d) the words “that section” and substitute the words “that Act”.

Repeal section 38.

Repeal section 42.

Repeal section 46.

Repeal clauses 1 to 40 of Schedule 1A.

Repeal clause 41(1) of Schedule 1A and substitute:

“(1) Despite section 73 of the Crown Entities Act 2004, the Corporation must not delegate the power to grant a power of attorney.”

Repeal clause 41(2) of Schedule 1A and substitute:

“(2) Despite sections 73(4) and 74(1)(b)(i) of the Crown Entities Act 2004,—

“(a) the Corporation may delegate its general power of delegation to the chief executive; but

“(b) the chief executive may not further delegate that power.”

Repeal clauses 42 to 53 of Schedule 1A.

Housing Corporation Amendment Act 2001 (2001 No 37)

Repeal section 24(5)(d).

Housing Restructuring Act 1992 (1992 No 76)

Repeal so much of the First Schedule as relates to the Ombudsmen Act 1975 and the Official Information Act 1982.

Human Rights Act 1993 (1993 No 82)

Insert in the definition of **Commission** in section 2(1), after the words “continued by section 4”, the words “and includes the Office of Human Rights Proceedings”.

Repeal section 4(2) and (3) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Human Rights Act 1993 (1993 No 82)—continued

Omit from section 4(4) the words “The capacities, rights, and powers referred to in subsections (2) and (3) may be exercised only” and substitute the words “Despite anything in any other Act, the powers of the Commission under sections 16 and 17 of the Crown Entities Act 2004 may be exercised only”.

Insert in section 4(4)(a), after the words “under this Act”, the words “or the Crown Entities Act 2004”.

Omit from the heading of section 5 the words “**and powers**”.

Repeal section 5(2)(n).

Omit from section 7(1) the words “The members” and substitute the words “Subject to the role of the Minister in the process of setting and monitoring the strategic direction and targets of the Commission under Part 4 of the Crown Entities Act 2004, the members”.

Repeal section 8(2) and (3) and substitute:

“(2) The Commissioners are the board for the purposes of the Crown Entities Act 2004.

“(3) The Chief Commissioner holds office as chairperson of the board for the purposes of the Crown Entities Act 2004 for the same term as he or she is Chief Commissioner.

“(4) Clauses 1 to 5 of Schedule 5 of the Crown Entities Act 2004 do not apply to the Commission.”

Repeal section 10(1).

Omit from section 10(2) the words “Chairperson, the” and the words “, or any 4 Commissioners,”.

Repeal section 10(3) to (8) and substitute:

“(3) Subsection (2) applies in addition to clause 7(2) of Schedule 5 of the Crown Entities Act 2004.”

Insert in section 11, after subsection (1):

“(1A) Subsection (1) does not limit section 29 of the Crown Entities Act 2004.”

Omit from section 11(2) the words “and section 13” and substitute the words “section 13 or section 14”.

Add to section 18(2)(b) the word “; and”.

Add to section 18(2):

“(c) is the chief executive of the Commission for the purposes of the Crown Entities Act 2004.”

Repeal section 19 and substitute:

Human Rights Act 1993 (1993 No 82)—continued**“19 Duty to act independently**

Except as expressly provided otherwise in this or another Act, the Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Commission (other than the Crown Entities Act 2004).”

Omit from section 20D(1) the words “Sections 20E to 20G” and substitute the words “Sections 20F and 20G”.

Repeal section 20D(1)(a) and (b).

Repeal section 20D(2) and (3).

Repeal section 20E.

Repeal section 119 and substitute:

“119 Fees of members of Tribunal

“(1) A member of the Tribunal is entitled—

“(a) to receive remuneration not within paragraph (b) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and

“(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

“(2) For the purposes of subsection (1), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.”

Repeal section 126(6) and substitute:

“(6) An additional member is entitled—

“(a) to receive remuneration not within paragraph (b) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and

“(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

Human Rights Act 1993 (1993 No 82)—continued

“(7) For the purposes of subsection (6), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.”

Repeal section 130(1) and (2) and substitute:

“(1) Sections 120 to 126 of the Crown Entities Act 2004 apply except to the extent provided in subsections (2) and (2A) (which set out special rules relating to proceedings under section 131 (which relates to inciting racial disharmony)).

“(2) No proceedings under section 131 lie against any Commissioner or person engaged or employed in connection with the work of the Commission and the Director of Human Rights Proceedings (**relevant person**) for anything he or she may do or report or say in the course of the exercise or intended exercise of his or her duties under this Act, unless it is shown that he or she acted in bad faith.

“(2A) Sections 122 to 126 of the Crown Entities Act 2004 then apply as if the conduct for which a relevant person may be indemnified or insured under those sections included conduct that is covered by the immunity in subsection (2).

“(2B) No relevant person can be required to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions.”

Repeal section 137 and substitute:

“137 Advisors to be officials

“(1) Every person engaged by the Commission in connection with its work is an official for the purposes of sections 105 and 105A of the Crimes Act 1961.

“(2) This section does not limit section 135 of the Crown Entities Act 2004.”

Repeal section 139 and substitute:

“139 Restriction on delegation

“(1) The Commission may not delegate the powers or functions in section 7 or section 76.

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Add to section 140:

Human Rights Act 1993 (1993 No 82)—continued

“(6) Sections 62 to 72 of the Crown Entities Act 2004 apply to a delegate under this section as if the delegate were a member and as if the disclosure must be made to the Commission and with other necessary modifications.

“(7) Sections 74 to 76 of the Crown Entities Act 2004 do not apply to a delegation under this section.”

Repeal section 141.

Repeal section 142.

Repeal clause 1(2) of Schedule 1 and substitute:

“(2) Subclause (1) is subject to section 117 of the Crown Entities Act 2004.”

Repeal clauses 2 to 5 of Schedule 1.

Omit from clause 6(1) of Schedule 1 the words “and for the General manager and for any of the employees of the Commission”.

Repeal clauses 7 to 16 of Schedule 1.

Repeal clause 2(3) and (4) of Schedule 2 and substitute:

“(3) Subclause (2) is subject to section 116 of the Crown Entities Act 2004, except that the reference in section 116(1) to agreement by a Crown entity must be read as a reference to agreement by the Director.”

Repeal clause 3 of Schedule 2.

Repeal clause 5 of Schedule 2 and substitute:

“5 **Application of Crown Entities Act 2004 to Director**

Sections 47 and 48 and 120 to 126 of the Crown Entities Act 2004 apply to the Director, with all necessary modifications, as if he or she were a member of the Commission.”

Omit from clause 6(1) of Schedule 2 the words “and for any of the employees of the office”.

Repeal clauses 7 to 11 of Schedule 2.

Income Tax Act 1994 (1994 No 164)

Repeal section CB 3A.

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)

Insert in section 6(1), after the definition of **cover**:

“**Crown entity subsidiary** has, subject to section 266, the same meaning as in section 8(2) of the Crown Entities Act 2004.”

Add to section 65:

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—continued

“(5) Sections 19 to 23 of the Crown Entities Act 2004 do not limit this section.”

Omit from section 199(3) the expression “section 270” and substitute the words “section 103 of the Crown Entities Act 2004”.

Repeal section 227(4) and substitute:

“(4) The Minister may direct the Corporation to repay to the Crown any surplus funds held in the Non-Earners’ Account.

“(5) This section is not limited by any provision in the Crown Entities Act 2004.”

Repeal section 259(2) to (4) and substitute:

“(2) The Corporation is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Corporation except to the extent that this Act expressly provides otherwise.

“(4) The Corporation is a local authority for the purposes of section 73 of the Public Finance Act 1989.”

Repeal section 260.

Omit from section 261 the words “under section 260” and substitute the words “to a Crown entity subsidiary of the Corporation”.

Omit from section 261 the words “subsidiary company” and substitute the words “Crown entity subsidiary”.

Insert in section 262(2), before the word “subsidiary”, the words “Crown entity”.

Insert in section 265(a) and (b), before the word “subsidiary”, the words “Crown entity”.

Omit from section 265(d) the expression “section 270” and substitute the words “section 103 of the Crown Entities Act 2004”.

Add to section 265, as subsection (2):

“(2) This section applies despite section 97(a) of the Crown Entities Act 2004.”

Insert in the heading to section 266, before the word **subsidiaries** the words **Crown entity**.

Omit from section 266 in every case where they appear the words “subsidiary company”, and substitute in each case the words “Crown entity subsidiary”.

Repeal section 266(2)(b).

Repeal section 266(3) and substitute:

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—continued

“(3) A Crown entity subsidiary of the Corporation—

“(a) is a Crown entity for the purposes of the Crown Entities Act 2004:

“(b) is not a local authority for the purposes of section 73 of the Public Finance Act 1989:

“(c) is not exempt from income tax.”

Omit from section 266(4) the expression “section 270” and substitute the words “section 103 of the Crown Entities Act 2004”.

Omit from section 267(1) the words “to be appointed by the Minister” and substitute the words “appointed by the Minister under section 28(1)(a) of the Crown Entities Act 2004”.

Repeal section 267(2) to (4) and substitute:

“(2) A person is not interested in a matter for the purposes of section 62(2) of the Crown Entities Act 2004 only because he or she is a taxpayer or private motorist.”

Insert in section 269, before the word “subsidiary”, the words “Crown entity”.

Repeal section 270.

Insert in section 271(2), before the word “subsidiary”, the words “Crown entity”.

Add to section 271:

“(6) A service agreement is an output agreement for the purposes of the Crown Entities Act 2004 in respect of any outputs covered by the agreement and section 170(2), (4), and (5) of the Crown Entities Act 2004 applies to a service agreement, with any necessary modifications.”

Omit from section 272(1) the words “Part V of the Public Finance Act 1989” and substitute the words “Part 4 of the Crown Entities Act 2004”.

Omit from section 272(2) the words “section 41D of the Public Finance Act 1989” and substitute the words “sections 141 and 142 of the Crown Entities Act 2004”.

Omit from section 272(2)(a) the words “subsidiary company” and substitute the words “Crown entity subsidiary”.

Insert in section 272(2)(b), before the word “subsidiaries”, the words “Crown entity”.

Omit from section 272(2)(c) the words “subsidiary companies” and substitute the words “Crown entity subsidiaries”.

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—continued

Insert in section 272(2)(d), before the word “subsidiary”, the words “Crown entity”.

Insert in section 272(2)(f), before the word “subsidiaries”, the words “Crown entity”.

Repeal section 273(2) and substitute:

“(2) This section does not limit section 133 of the Crown Entities Act 2004.”

Omit from section 274(5)(a) and (b) the expression “section 270” and substitute in each case the words “section 103 of the Crown Entities Act 2004”.

Omit from section 275(1) the expression “section 270” and substitute the words “section 103 of the Crown Entities Act 2004”.

Omit from section 275(3) the expression “section 270” and substitute the words “section 103 of the Crown Entities Act 2004”.

Add to section 275:

“(4) Section 100 of the Crown Entities Act 2004 does not apply to an investment made under this section.”

Repeal section 277.

Repeal section 278 and substitute:

“278 Annual financial statements

“(1) The Corporation must include in its annual report under section 150 of the Crown Entities Act 2004 annual financial statements for each Account.

“(2) Sections 154(3), 155, and 156 of the Crown Entities Act 2004 apply to the financial statements under subsection (1) with any necessary modifications.”

Insert in section 300, after the words “this Act”, the words “or the Crown Entities Act 2004”.

Repeal clauses 1 to 16 of Schedule 5.

Repeal clause 17(3) of Schedule 5 and substitute:

“(3) Section 117 of the Crown Entities Act 2004 applies to the appointment of a chief executive under this clause.”

Repeal clauses 18 and 19 of Schedule 5.

Omit from clause 20 of Schedule 5 the words “In addition to the requirements specified in clause 19, the” and substitute the word “The”.

Repeal clauses 21 to 24 of Schedule 5.

Repeal clause 25 of Schedule 5 and substitute:

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—continued

“25 **Additional persons to whom delegations can be made**

Despite section 73(1)(d) of the Crown Entities Act 2004, the Corporation need not obtain the approval of the Minister before delegating services provided under this Act to any person referred to in paragraph (d) of that section.”

Repeal so much of Part 1 of Schedule 6 as relates to the Public Bodies Contracts Act 1959.

Land Transport Act 1998 (1998 No 110)

Omit from the definition of **member** in section 2(1) the words “under section 184 of this Act”.

Omit the heading to section 185 and substitute the heading “**Other provisions relating to Authority**”.

Repeal section 185(1) and (2) and substitute:

“(1) The Authority is owned by the Crown.”

Repeal section 186(4) and (5) and substitute:

“(4) Section 117 of the Crown Entities Act 2004 applies in determining the terms and conditions of employment of the Director if he or she is also the chief executive of the Authority.”

Omit from section 197(1) the expression “section 203” and substitute the words “section 73 of the Crown Entities Act 2004”.

Add to the heading to section 206 the words “**under sections 204 and 205**”.

Omit from section 206(3) the words “original power holder” and substitute the word “Director”.

Omit from section 206(7) the words “original power holder nor does the delegation affect the responsibility of that power holder, as the case may be,” and substitute the words “Director, nor does the delegation affect the responsibility of the Director”.

Land Transport Management Act 2003 (2003 No 118)

Repeal the definition of **financial year** in section 5 and substitute:

“**financial year**, in relation to Transit, means the 12 months ending on the close of 30 June or any other date determined for the entity by the Minister of Finance”.

Repeal the definition of **interested** in section 5.

Repeal the definition of **performance agreement** in section 5.

Repeal paragraph (c) of the definition of **public organisation** in section 5 and substitute:

Land Transport Management Act 2003 (2003 No 118)—
continued

“(c) a Crown entity (as defined in section 7 of the Crown Entities Act 2004):

“(ca) an organisation named or described in Schedule 4 of the Public Finance Act 1989:”.

Repeal paragraph (b) of the definition of **statutorily independent function** and substitute:

“(b) a matter in respect of which this Act provides must be carried out independently”.

Omit from section 10(1) the words “through 1 or more accounts with any bank or banks selected by it under clause 51 of Schedule 4”.

Repeal section 10(4)(b) and substitute:

“(b) any costs and expenses of the Authority that—

“(i) arise out of the performance of its functions and duties and the exercise of its powers under this Act or any other Act; and

“(ii) are up to a maximum amount that has been approved by the responsible Minister; and”.

Repeal section 21(1) and substitute:

“(1) The Authority may approve funding for research, education, or training activities or activity classes up to a maximum amount that has been approved by the responsible Minister.”

Repeal section 24(1) and substitute:

“(1) Every approved organisation that receives funds from the national land transport account must operate a land transport disbursement account.”

Repeal section 67 and substitute:

“67 Crown entity status

“(1) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.”

Omit from section 69(1)(n) the words “information and”.

Omit from section 69(1)(p) the words “requests or directs” and substitute the words “directs in accordance with section 112 of the Crown Entities Act 2004”.

Repeal sections 70 and 71.

Land Transport Management Act 2003 (2003 No 118)—
continued

Add to section 72(1) the words “appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004”.

Repeal section 72(2).

Repeal section 76 and substitute:

“76 Crown entity status

“(1) Transit is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to Transit except to the extent that this Act expressly provides otherwise.”

Omit from section 78(f) the words “information and”.

Omit from section 78(h) the words “requests or directs” and substitute the words “directs in accordance with section 112 of the Crown Entities Act 2004”.

Repeal sections 79 and 80.

Add to section 81(1) the words “appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004”.

Repeal section 81(2).

Repeal sections 84 to 86 and substitute:

“84 Extra information to be included in statement of intent

“(1) Each entity must, if required by the Minister, include the following information in its statement of intent under section 139 of the Crown Entities Act 2004:

“(a) in the case of the Authority, the matters set out in Part 1 of Schedule 5; and

“(b) in the case of Transit, the matters set out in Part 2 of Schedule 5.

“(2) The Minister may direct each entity to amend any provision that is included in the statement of intent under this section, and section 147 of the Crown Entities Act 2004 applies accordingly.”

Omit from section 105 the words “as if they were directions given under clause 8 of Schedule 4” and substitute the words “as if they were directions given under section 69(1)(p) or section 78(h), as the case may be”.

Omit from clause 9 of Schedule 1 the words “clause 8 of Schedule 4” and substitute the words “Part 3 of the Crown Entities Act 2004”.

Omit from clause 14 of Schedule 1 the words “clause 8 of Schedule 4” and substitute the words “Part 3 of the Crown Entities Act 2004”.

Land Transport Management Act 2003 (2003 No 118)—
continued

Repeal clauses 1 to 4 of Schedule 4 and the headings above clauses 1 and 3.

Repeal clause 5 of Schedule 4, and the heading above it, and substitute:

“5 **Social and environmental responsibility**

The entity’s objectives include the entity’s social and environmental responsibility for the purposes of section 49 of the Crown Entities Act 2004 (which relates to the collective board duty to act consistently with the entity’s objectives).”

Repeal clauses 6 to 15 of Schedule 4, and the headings above clauses 10 and 15.

Repeal clauses 16 to 19 of Schedule 4 and substitute:

“16 **Meaning of interested**

Section 66 of the Crown Entities Act 2004 does not apply to a person who is interested in a matter only because he or she is a member of the board of both the Authority and Transit.”

Repeal clause 20(1), (2), and (4) of Schedule 4.

Repeal clauses 21 to 23 of Schedule 4 and the heading above clause 23.

Repeal clauses 24 and 25 of Schedule 4 and the heading above clause 24.

Repeal clause 26(2) of Schedule 4.

Repeal clause 27(1) and (2) of Schedule 4.

Repeal clause 27(3) of Schedule 4.

Repeal clauses 28 to 45 of Schedule 4 and the headings above clauses 35, 39, and 44.

Repeal clauses 49 to 73 of Schedule 4 and the headings above clauses 50, 59, 62, and 67.

Omit from the heading to Schedule 5 the words “**performance agreement**” and substitute the words “**statement of intent**”.

Omit from clause 3 of Schedule 5 the words “clause 8 of Schedule 4” and substitute the words “section 69(1)(p) or section 78(h) or under Part 3 of the Crown Entities Act 2004”.

Repeal clauses 5 to 7 of Schedule 5.

Repeal clause 10 of Schedule 5.

Repeal clause 11(a) of Schedule 5 and substitute:

“(a) the various impacts of the outputs described in the statement of forecast service performance required under section 142(1)(b) of the Crown Entities Act 2004; and”.

Land Transport Management Act 2003 (2003 No 118)—
continued

Repeal clause 12 of Schedule 5 and substitute:

“12 The maximum amount (level) of the Authority’s costs and expenses as approved under section 10(4)(b).

“12A The maximum amount of funding for research, education, or training activities or activity classes as approved under section 21(1).”

Omit from clause 14 of Schedule 5 the words “and clause 7 of Schedule 4”.

Repeal clauses 16 and 17 of Schedule 5.

Omit from clause 18 of Schedule 5 the words “clause 8 of Schedule 4” and substitute the words “section 69(1)(p) or section 78(h) or under Part 3 of the Crown Entities Act 2004”.

Repeal clause 19 of Schedule 5.

Repeal clause 22 of Schedule 5.

Omit from clause 26 of Schedule 5 the words “and clause 7 of Schedule 4”.

Law Commission Act 1985 (1985 No 151)

Repeal section 3A and substitute:

“3A **Interpretation**

In this Act, unless the context otherwise requires,—

“**Commissioner** means a member of the Commission

“**organisation** means—

“(a) an organisation named in Part II of the First Schedule of the Ombudsmen Act 1975:

“(b) an organisation named in the First Schedule of the Official Information Act 1982:

“(c) the Auditor-General

“**responsible Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.”

Repeal section 4(2) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Add to section 5:

Law Commission Act 1985 (1985 No 151)—continued

“(3) Except as expressly provided otherwise in this or any other Act, the Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Commission (other than the Crown Entities Act 2004).”

Repeal section 6(1).

Omit from section 6(2) the words “Without limiting the generality of subsection (1) of this section,”.

Omit from section 6(2)(d) the words “(as defined in section 8(2) of this Act)”.

Add to section 6:

“(3) Subsection (2) does not limit section 16 or section 17 of the Crown Entities Act 2004.”

Repeal section 8(2).

Repeal section 9 and substitute:

“9 **Membership of Commission**

“(1) The Law Commission must have no less than 3, and no more than 6, members.

“(2) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.

“(3) The Governor-General must, on the recommendation of the responsible Minister, appoint 1 member of the Commission, who must be a Judge or retired Judge of the Court of Appeal or the High Court, or a barrister or solicitor of the High Court of not less than 7 years’ practice, as the president of the Commission.

“(4) The president holds office as chairperson of the board for the purposes of the Crown Entities Act 2004 for the same term as he or she is president.

“(5) Clauses 1 to 4 of Schedule 5 of the Crown Entities Act 2004 do not apply to the Commission.”

Repeal sections 11 and 12.

Insert in section 13, after subsection (1):

“(1A) Despite subsection (1), section 117 of the Crown Entities Act 2004 does not apply to the president.”

Insert in section 13, after subsection (2):

Law Commission Act 1985 (1985 No 151)—continued

“(2A) The deputy president holds office as deputy chairperson of the board for the purposes of the Crown Entities Act 2004 for the same term as he or she is deputy president.”

Repeal section 14.

Repeal section 17.

Repeal clauses 1 to 4 of the First Schedule.

Repeal clause 5(1) and (2) of the First Schedule and substitute:

“(1) The Commission may, for the purpose of providing retirement benefits to its members, contribute to any superannuation scheme that complies with the requirements of section 84B of the State Sector Act 1988.

“(2) Subclause (1) does not limit the powers of the Commission under sections 84 to 84B of the State Sector Act 1988 in relation to its employees and officers.”

Repeal clauses 6 to 12 of the First Schedule.

Repeal clause 14(1) and (2) of the First Schedule.

Omit from clause 14(3) the words “person appointed or engaged under clause 3 of this Schedule” and substitute the words “any other person appointed or engaged by the Commission to assist it in the performance of its functions”.

Legal Services Act 2000 (2000 No 42)

Insert in section 4(1), after the definition of **Minister**:

“**output agreement** has the same meaning as in section 10 of the Crown Entities Act 2004”.

Repeal the definition of **purchase agreement** in section 4(1).

Omit from section 53 the word “purchase” and substitute the word “output”.

Repeal section 63 and substitute:

“63 Fees of members of Review Panel

“(1) A member of the Review Panel is entitled—

“(a) to receive remuneration not within paragraph (b) for services as a member at a rate and of a kind determined by the Attorney-General in accordance with the fees framework; and

“(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

Legal Services Act 2000 (2000 No 42)—continued

“(2) For the purposes of subsection (1), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.”

Omit from section 82 and the heading to that section the word “purchase” in every case where it appears, and substitute in each case the word “output”.

Repeal section 91(2) to (4) and substitute:

“(2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.”

Repeal sections 93 and 94.

Repeal section 95(1) and substitute:

“(1) The Board of the Agency must have no more than 6 members.”

Repeal section 95(2).

Omit from section 95(3) the words “In making appointments to the Board” and substitute the words “Before making appointments to the Board under section 28(1)(a) of the Crown Entities Act 2004”.

Repeal sections 97 and 98.

Omit from section 102(1) the words “At the end of every financial year, the Board must give the Minister a report on the operation of this Act, which” and substitute the words “The annual report of the Agency under section 150 of the Crown Entities Act 2004”.

Repeal section 102(2).

Repeal section 103.

Add to section 104:

“(5) For the avoidance of doubt, the Public Advisory Committee is not a committee of the Board.”

Repeal section 107 and substitute:

“107 Fees of members of Public Advisory Committee

“(1) A member of the Public Advisory Committee or any subcommittee of the Public Advisory Committee is entitled—

- “(a) to receive remuneration not within paragraph (b) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework;
- and

Legal Services Act 2000 (2000 No 42)—continued

“(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

“(2) For the purposes of subsection (1), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.”

Repeal clauses 1 to 12 of Schedule 2.

Repeal clause 13(2) of Schedule 2 and substitute:

“(2) Subclause (1) is subject to section 117 of the Crown Entities Act 2004.”

Repeal clauses 14 and 15 of Schedule 2.

Repeal clause 16(1) of Schedule 2.

Repeal so much of Schedule 3 as relates to the Ombudsmen Act 1975 and the Public Finance Act 1989.

Maori Language Act 1987 (1987 No 176)

Repeal section 6(2) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Repeal section 8(1).

Omit from section 8(2) the words “Without limiting the generality of subsection (1) of this section” and substitute the words “Without limiting sections 16 and 17 of the Crown Entities Act 2004”.

Repeal sections 9 and 10.

Repeal section 12(1) and (2) and substitute:

“(1) The board of the Commission consists of not more than 5 members.”

Add to section 12:

“(4) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.”

Repeal section 14.

Repeal section 17(2) to (4) and substitute:

“(2) The Commission may make a delegation under subsection (1) only if the delegation also complies with section 73 of the Crown Entities Act 2004.”

Maori Language Act 1987 (1987 No 176)—continued

Repeal clauses 1 to 9 of the Second Schedule.

Omit from clause 10 of the Second Schedule the words “for any of the officers or employees of the Commission or”.

Repeal clauses 11 to 14 of the Second Schedule.

Repeal clause 16 of the Second Schedule.

Maritime Transport Act 1994 (1994 No 104)

Repeal the definition of **Crown entity** in section 98 and substitute:

“**Crown entity** has the same meaning as in section 7 of the Crown Entities Act 2004”.

Add to section 255:

“(5) For the avoidance of doubt, a direction under this section is not a direction to the Authority for the purposes of sections 114 and 115 of the Crown Entities Act 2004.”

Add to section 256, as subsection (2):

“(2) Section 121 of the Crown Entities Act 2004 does not limit this section.”

Add to section 310:

“(3) The Minister is not required to comply with section 115 of the Crown Entities Act 2004 in relation to a direction to the Authority under this section.”

Add to section 327, as subsection (2):

“(2) Section 121 of the Crown Entities Act 2004 does not limit this section.”

Omit from section 330(3) the words “an account established by the Authority for the purpose at such bank as the Authority may from time to time determine” and substitute the words “a bank account established under section 158(1) of the Crown Entities Act 2004 for the purpose”.

Omit from section 330(4) the words “its investment powers under section 25 of the Public Finance Act 1989” and substitute the words “any powers to acquire securities it may have under sections 160 and 161 of the Crown Entities Act 2004.”

Omit from section 332(4) the words “the Public Finance Act 1989” and substitute the words “the Crown Entities Act 2004”.

Repeal section 429(2) to (10) and substitute:

“(2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.

Maritime Transport Act 1994 (1994 No 104)—continued

“(4) The Authority is owned by the Crown.”

Insert, after section 429:

“429A Membership of Authority

“(1) The Authority must have 5 members appointed under section 28(1)(a) of the Crown Entities Act 2004.

“(2) Members of the Authority are the board for the purposes of the Crown Entities Act 2004.

“(3) The Minister may only appoint as members persons who—
“(a) are New Zealand citizens or permanent residents of New Zealand; and
“(b) the Minister considers will represent the public interest in maritime matters.

“(4) Before appointing 2 of the members, the Minister must request, from such organisation or organisations as the Minister considers represent those who have a substantial interest in the maritime industry in New Zealand, the names of persons such organisation considers or organisations consider proper candidates for appointment to the Authority.

“(5) A person may not hold office as a member concurrently with any office or appointment under the Transport Accident Investigation Commission Act 1990.

“(6) Neither the Director nor any other employee of the Authority may be a member of the Authority.

“(7) This section does not limit sections 29 and 30 of the Crown Entities Act 2004.”

Omit from section 431(2) the words “prescribe by notice in the *Gazette*” and substitute the words “direct in accordance with section 112 of the Crown Entities Act 2004”.

Repeal section 432.

Repeal section 433.

Repeal section 436 and substitute:

“436 Extra information to be included in statement of intent

“(1) The Authority must include the following information in its statement of intent prepared under section 139 of the Crown Entities Act 2004:

“(a) a statement of any new borrowings or financial leases, or similar liabilities the Authority intends to incur during that year; and

“(b) a statement of the Authority’s best estimate of—

Maritime Transport Act 1994 (1994 No 104)—continued

- “(i) both the various impacts the outputs described in the statement of intent will have, and the consequences of those outputs, for a safe maritime system in New Zealand during the year to which the statement of intent relates; and
 - “(ii) the impacts of those outputs on, and consequences of those outputs for, a safe maritime system in New Zealand for later years; and
 - “(c) a statement of the Authority’s assessment of the impact and consequences that the outputs will have for New Zealand’s preparedness to respond to marine oil pollution.
- “(2) The Minister may direct the Authority to amend any provision that is included in the statement of intent under this section, and section 147 of the Crown Entities Act 2004 applies accordingly.
- “(3) No provision specifying any liabilities the Authority intends to incur may be included in a statement of intent without the concurrence of the Minister of Finance.”

Omit from section 439(2) the words “section 442 of this Act” and substitute the words “section 73 of the Crown Entities Act 2004”.
Repeal section 442 and substitute:

“442 **Restriction on delegation of functions and powers by Authority**

- “(1) The Authority must not delegate any powers or functions delegated to the Authority by the Minister without the written consent of the Minister.
- “(2) Sections 73 to 76 of the Crown Entities Act 2004 otherwise apply.”

Repeal section 443(2) and (4)(a).

Repeal section 443(5) and substitute:

- “(5) The provisions of sections 73(4) and 74 to 76 of the Crown Entities Act 2004 apply as if references to the board were references to the Director, with all necessary modifications.
- “(6) Any delegation under this section may be made to a specified employee of the Authority or to employees of a specified class, or to the holder or holders for the time being of a specified office or specified class of offices of the Authority.

Maritime Transport Act 1994 (1994 No 104)—continued

“(7) Every delegation under this section, until it is revoked, continues in force according to its tenor, despite the fact that the employee of the Authority by whom it was made may cease to hold office, and continues in effect as if made by the employee for the time being holding that office.”

Omit from the heading to section 444 the words “**Authority’s or**”.

Repeal section 444(1).

Omit from section 444(5) the words “the Authority or”.

Repeal section 444(6) and substitute:

“(6) The provisions of sections 73(4) and 74 to 76 of the Crown Entities Act 2004 apply as if references to the board were references to the Director, and with all necessary modifications.”

Repeal section 444(9) and (10).

Insert in section 444(12), after the words “under this section”, the words “or under section 73 of the Crown Entities Act 2004”.

Repeal clauses 1 to 38 of the First Schedule.

Repeal clause 42 of the First Schedule.

Omit from clauses 43 and 44 of the First Schedule the words “the Authority or” in every case where they appear.

Add to the First Schedule:

“45 In making any payment under clause 44, the Director must have regard to the fees framework determined by the Government from time to time.”

Mental Health Commission Act 1998 (1998 No 5)

Add to section 5, as subsections (2) and (3):

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Repeal sections 7 and 8.

Omit from section 9(1) the words “, who are appointed by the Minister, and of whom one must be appointed as Chairperson”.

Repeal section 9(2) and substitute:

“(2) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.”

Add to section 10, as subsection (2):

Mental Health Commission Act 1998 (1998 No 5)—continued

“(2) This section applies despite section 32 of the Crown Entities Act 2004.”

Repeal clauses 1 to 9 of Schedule 1.

Omit from clause 10(1) of Schedule 1 the words “or employee”.

Repeal clauses 11 to 13 of Schedule 1.

Repeal so much of Schedule 2 as relates to the Public Finance Act 1989.

Museum of New Zealand Te Papa Tongarewa Act 1992

(1992 No 19)

Amend the definition of **Minister** in section 2 by inserting, after the words “who is,”, the words “under the authority of a warrant or”.

Repeal section 6(2) and substitute:

“(2) The Board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Board except to the extent that this Act expressly provides otherwise.

“(4) Members of the Board are the board for the purposes of the Crown Entities Act 2004.”

Add to section 7, as subsection (2):

“(2) The Minister may not give a direction to the Board in relation to cultural matters.”

Repeal section 9 and substitute:

“9 **Money**

“(1) The Board may receive on behalf of the Museum any money paid to the Museum by the Crown or by any other person, and may allocate the money to the activities of the Museum in any manner that the Board thinks fit.

“(2) This section does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal section 10(1) and substitute:

“(1) The Board consists of not fewer than 6, nor more than 8, members.”

Repeal section 10(2).

Repeal section 10(3) and substitute:

“(3) In making appointments to the Board, the Minister must have regard to the need for members to have knowledge and experience of, and commitment to, the functions of the Board, and the specific activities of the Museum.

Museum of New Zealand Te Papa Tongarewa Act 1992

(1992 No 19)—continued

“(4) This section does not limit section 29 of the Crown Entities Act 2004.”

Repeal sections 11 to 16.

Repeal section 17 and substitute:

“17 **Delegation of functions and powers**

“(1) The Board must not delegate any power to borrow money that it may have under section 160 or section 162 of the Crown Entities Act 2004.

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal section 18.

Repeal section 19(2).

Repeal section 21.

Repeal clause 1 of the First Schedule and substitute:

“1 **Meetings**

The Board must meet at least once in each financial year.”

Repeal clauses 2 to 6 of the First Schedule.

Omit from clause 7(1) of the First Schedule the words “for its employees, or”.

Repeal clauses 8 to 14 of the First Schedule.

Repeal the Third Schedule.

New Zealand Antarctic Institute Act 1996 (1996 No 38)

Repeal the definition of **year** in section 2.

Repeal section 4(2) and (3) and substitute:

“(2) The Institute is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Institute except to the extent that this Act expressly provides otherwise.”

Omit from section 7(2) the words “to be appointed from time to time by the Minister”.

Repeal section 7(3) and (4).

Repeal section 8 and substitute:

“8 **Restriction on power of delegation**

“(1) The Board may not delegate any power to borrow money that the Institute may have under sections 160 and 162 of the Crown Entities Act 2004.

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

New Zealand Antarctic Institute Act 1996 (1996 No 38)—
continued

Omit from section 9(1) the words “the statement of intent” and substitute the words “its statement of intent under section 139 of the Crown Entities Act 2004”.

Omit from section 9(1) the words “,— and the Board shall comply with the notice”.

Repeal section 9(2) and (3).

Repeal clauses 1 to 15 of the First Schedule.

Omit from clause 16(1) of the First Schedule the words “its employees or for”.

Repeal clauses 17 to 24 of the First Schedule.

Repeal so much of the Second Schedule as relates to the Local Authorities (Members’ Interests) Act 1968, the Ombudsmen Act 1975, and the Public Finance Act 1989.

New Zealand Film Commission Act 1978 (1978 No 61)

Repeal the definitions of **appointed member** and **financial year** in section 2.

Repeal section 3(2) to (4) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.

“(4) The Commission consists of not less than 6 or more than 9 persons.

“(5) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.”

Repeal sections 4 to 6.

Repeal sections 8 to 12.

Repeal section 13(2) to (8) and substitute:

“(2) Section 117 of the Crown Entities Act 2004 applies.”

Repeal section 14.

Repeal section 15(1).

Repeal section 15(2) to (5) and substitute:

“(2) The Commission must not delegate to a member, officer, committee, or agent any power to borrow money.

“(3) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal section 16.

Insert, after section 17(1):

New Zealand Film Commission Act 1978 (1978 No 61)—
continued

“(1A) The Minister may not give a direction to the Commission in relation to cultural matters.”

Repeal section 17(2).

Repeal section 19(1)(g), (h), (i), (j), and (l).

Add to section 19:

“(5) This section does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal sections 20 and 22.

Repeal sections 24 to 28.

Repeal sections 30 to 32.

Repeal section 36.

Repeal so much of the Schedule as relates to the Public Bodies Contracts Act 1959.

New Zealand Public Health and Disability Act 2000

(2000 No 91)

Omit from section 5(3)(d) the words “statutory corporations” and substitute the words “statutory entities”.

Omit from section 5(3)(e) the words “sections 37 to 43” and substitute the words “under the Crown Entities Act 2004 and sections 38 to 42”.

Omit from section 5(5), (6), and (7) the words “statutory corporation” and substitute in each case the words “statutory entity”.

Repeal the definition of **annual plan** in section 6(1) and substitute:
“**annual plan** means an annual plan of a DHB under section 39”.

Omit from the definition of **board** in section 6(1) the words “acting together as a board”.

Omit from the definition of **conflict of interest** in section 6(1) the words “publicly-owned health and disability organisation” in every case where they appear and substitute in each case the expression “DHB”.

Insert in section 6(1), after the definition of **Crown**:

“**Crown entity subsidiary** has the meaning set out in section 8(2) of the Crown Entities Act 2004”.

Omit from the definition of **eligible people** in section 6(1) the expression “section 32” and substitute the words “section 103 of the Crown Entities Act 2004”.

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

Repeal the definition of **good employer** in section 6(1) and substitute:

“**good employer** has the same meaning as in section 118 of the Crown Entities Act 2004”.

Repeal the definition of **sitting day** in section 6(1).

Omit from the definition of **statement of intent** in section 6(1) the words “the Public Finance Act 1989” and substitute the words “the Crown Entities Act 2004”.

Repeal the definition of **subsidiary** in section 6(1).

Omit from the definition of **transaction** in section 6(1) the words “publicly-owned health and disability organisation” in every case where they appear and substitute in each case the expression “DHB”.

Repeal section 6(2) and substitute:

“(2) For the purposes of this Act, a person who is a member of a board of a DHB or a member of a committee of such board or a delegate of such board is **interested in a transaction** of a DHB if, and only if, the board member or member of the committee or the delegate—

“(a) is a party to, or will derive a financial benefit from, the transaction; or

“(b) has a financial interest in another party to the transaction; or

“(c) is a director, member, official, partner, or trustee of another party to, or person who will or may derive a financial benefit from, the transaction, not being a party that is—

“(i) the Crown; or

“(ii) a publicly-owned health and disability organisation; or

“(iii) a body that is wholly owned by 1 or more publicly-owned health and disability organisations; or

“(d) is the parent, child, de facto partner (whether of the same or different sex), or spouse of another party to, or person who will or may derive a financial benefit from, the transaction; or

“(e) is otherwise directly or indirectly interested in the transaction.

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

“(3) A person is not interested in a transaction for the purposes of subsection (2)—

“(a) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under this Act or another Act; or

“(b) because he or she receives remuneration or other benefits authorised under this Act or another Act.”

Insert in section 10, after subsection (2):

“(2A) A Crown funding agreement is an output agreement for the purposes of Part 4 of the Crown Entities Act 2004 in respect of any outputs covered by the agreement and section 170(2) to (5) of the Crown Entities Act 2004 applies to a Crown funding agreement, with any necessary modifications.”

Add to section 10:

“(6) To avoid doubt, a Minister may not require a publicly-owned health and disability organisation to have in place a separate output agreement under section 170(1) of the Crown Entities Act 2004, in respect of any outputs covered by a Crown funding agreement.”

Repeal section 21 and substitute:

“21 Application of Crown Entities Act 2004 to DHBs

“(1) Each DHB is a Crown entity owned by the Crown for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to each DHB except to the extent that this Act expressly provides otherwise.

“(3) As provided elsewhere in this Act, the following sections of the Crown Entities Act 2004 do not apply to DHBs, or their boards, board members, committee members or employees:

“(a) section 38 (removal of elected members):

“(b) section 60(1) (applications by board members to restrain action):

“(c) sections 62 to 72 (conflicts of interest):

“(d) sections 73 to 76 (delegations):

“(e) section 78 (provisions in Schedule 5):

“(f) section 96 (acquisition of subsidiaries):

“(g) section 100 (acquisition of shares or other interests):

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

“(h) sections 116 and 117 (employment of employees and chief executives):

“(i) sections 120 to 126 (immunities, indemnities, and insurance):

“(j) section 161 (in relation to shares and interests covered by section 28):

“(k) section 170(1) (in relation to any outputs covered by a Crown funding agreement):

“(l) Schedule 5 (board procedure for statutory entities).”

Add to section 22(1)(k) the words “in accordance with section 118 of the Crown Entities Act 2004”.

Omit from section 22(2) the words “section 32 or section 33” and substitute the words “section 33 of this Act or section 103 of the Crown Entities Act 2004, or under section 107 of the Crown Entities Act 2004”.

Omit from section 23(1)(l) the words “Public Finance Act 1989” and substitute the words “Crown Entities Act 2004”.

Repeal section 26(1) and substitute:

“(1) The board of a DHB has the role set out in section 25 of the Crown Entities Act 2004.”

Repeal section 26(2).

Repeal section 27 and substitute:

“27 **Duties of board**

“(1) The board of a DHB must ensure that the DHB acts in a manner consistent with the DHB’s district strategic plan, annual plan, and any directions under section 33 of this Act or section 103 or section 107 of the Crown Entities Act 2004.

“(2) The duty in subsection (1)—

“(a) applies in addition to the duties of the board in sections 49 to 52 of the Crown Entities Act 2004; and

“(b) is a collective duty owed to the Minister for the purposes of section 58 of the Crown Entities Act 2004.

“(3) Despite section 60(1) of the Crown Entities Act 2004, a member of a board of a DHB may not apply for a court order under that section.”

Add to section 28:

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

“(3) Conditions specified by the Minister under subsection (2) must be consistent with section 97 of the Crown Entities Act 2004.

“(4) Sections 96 and 100 of the Crown Entities Act 2004 do not apply to DHBs.

“(5) Section 161 of the Crown Entities Act 2004 applies to DHBs except in relation to acquisition of securities that are covered by this section.”

Omit from section 29(1)(b) the words “by notice in the *Gazette*” and substitute the words “under section 28(1)(a) of the Crown Entities Act 2004”.

Omit from section 29(2) and (3) the words “by notice in the *Gazette*” and substitute in each case the words “in accordance with the procedure in section 28 of the Crown Entities Act 2004”.

Repeal section 29(5) and (6) and substitute:

“(5) Subsection (4) does not limit section 29 of the Crown Entities Act 2004.

“(6) Section 31(1)(c) of the Crown Entities Act 2004 applies as if the reference in that section to ‘interests’ were replaced by a reference to ‘conflicts of interest’ (as defined in section 6 of this Act).”

Insert in section 31, after subsection (1):

“(1A) The Minister may also replace the board with a commissioner, by written notice to the board and the commissioner, if all the members of the board of a DHB are removed from office under this Act and the Crown Entities Act 2004.”

Insert in section 31(5), after the words “this Act”, the words “and the Crown Entities Act 2004”.

Repeal section 32 and substitute:

“32 **Ministerial directions**

“(1) Subpart 1 of Part 3 of the Crown Entities Act 2004 applies to the giving of Ministerial directions.

“(2) Without limiting subsection (1), the Minister may, under that Act, give a DHB any directions—

“(a) that specify the persons who are eligible to receive services funded under this Act; and

“(b) that the Minister considers necessary or expedient in relation to any matter relating to the DHB; and

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

“(c) that are consistent with the objectives and functions of the DHB.

“(3) No direction may require the supply to any person of any information relating to an individual that would enable the identification of the individual.

“(4) Section 33, and not this section nor Part 3 of the Crown Entities Act 2004, applies to a direction that would more appropriately be given under section 33.”

Repeal section 33(3) and substitute:

“(3) A notice under subsection (1) is a direction for the purposes of the Crown Entities Act 2004 and must be published in the *Gazette* and presented to the House of Representatives in accordance with section 115 of that Act.”

Repeal section 37.

Repeal section 39(2)(d).

Omit from section 39(5) the words “the Public Finance Act 1989” and substitute the words “the Crown Entities Act 2004”.

Repeal section 41(a), (c), and (d).

Add to section 41, as subsection (2):

“(2) This section does not limit section 51 of the Crown Entities Act 2004.”

Omit the heading to section 42 and substitute the heading “**Accountability documents under Crown Entities Act 2004**”.

Repeal section 42(1) and substitute:

“(1) Each DHB must prepare statements of intent, annual financial statements, and annual reports in accordance with Part 4 of the Crown Entities Act 2004 and regulations made under section 92(1)(d) of this Act.”

Omit from section 42(2) the words “sections 41C to 41H of the Public Finance Act 1989” and substitute the words “sections 141 to 149 of the Crown Entities Act 2004”.

Omit from section 42(3) the words “section 41I of the Public Finance Act 1989” and substitute the words “section 151 of the Crown Entities Act 2004”.

Repeal section 42(3)(a).

Repeal section 42(3)(d) to (f).

Add to section 42:

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

“(4) For the purposes of section 151(1)(j) of the Crown Entities Act 2004, the annual report of a DHB must disclose any interests to which a permission, waiver, or modification given under clause 36(4) or clause 37(1) of Schedule 3 or clause 38(4) or clause 39(1) of Schedule 4 relates, together with a statement of who gave the permission, waiver, or modification, and any conditions of amendments to, or revocation of, the permission, waiver, or modification.”

Repeal section 43.

Omit from section 44(1) the words “section 45B of the Public Finance Act 1989” and substitute the words “sections 133 and 134 of the Crown Entities Act 2004”.

Insert in section 44(1), before the word “subsidiaries”, the words “Crown entity”.

Repeal section 44(2).

Add to section 44, after subsection (3):

“(4) Subsection (3) applies despite section 134 of the Crown Entities Act 2004.”

Add to section 45:

“(3) Section 78 and Schedule 5 of the Crown Entities Act 2004 do not apply to the board of a DHB.”

Repeal section 46(2) and (3) and substitute:

“(2) Pharmac is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to Pharmac except to the extent that this Act expressly provides otherwise.

“(4) Pharmac is owned by the Crown.”

Omit from section 48 the words “annual plan and any directions given under section 65” and substitute the words “statement of intent (including the statement of forecast service performance) and (subject to section 65) any directions given under the Crown Entities Act 2004”.

Insert in section 50(1), after the words “following advisory committees”, the words “under clause 14(1)(a) of Schedule 5 of the Crown Entities Act 2004”.

Repeal section 50(2) and (3).

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

Omit from section 50(4) the words “Despite subsection (3), the” and substitute the words “Despite clause 14(1)(a) of Schedule 5 of the Crown Entities Act 2004, the”.

Omit from section 52(1) the words “appointed by the Minister by notice in the *Gazette*” and substitute the words “appointed under section 28 of the Crown Entities Act 2004”.

Repeal section 52(2) and (3).

Repeal section 54(2) and (3) and substitute:

“(2) NZBS is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to NZBS except to the extent that this Act expressly provides otherwise.

“(4) NZBS is owned by the Crown.”

Omit from section 55(1)(a) the words “annual plan and any directions given under section 65” and substitute the words “statement of intent (including the statement of forecast service performance) and (subject to section 65) any directions given under the Crown Entities Act 2004”.

Omit from section 55(1)(c) the words “annual plan and any directions given under section 65” and substitute the words “statement of intent (including the statement of forecast service performance) and (subject to section 65) any directions given under the Crown Entities Act 2004”.

Omit from section 56(1) the words “appointed by the Minister by notice in the *Gazette*” and substitute the words “appointed under section 28 of the Crown Entities Act 2004”.

Repeal section 56(2) and (3).

Repeal section 57(2) and (3) and substitute:

“(2) RHMU is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to RHMU except to the extent that this Act expressly provides otherwise.

“(4) RHMU is owned by the Crown.”

Omit from section 58(1) the words “annual plan and any directions given under section 65” and substitute the words “statement of intent (including the statement of forecast service performance) and any directions given under the Crown Entities Act 2004”.

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

Omit from section 59(1) the words “appointed by the Minister by notice in the *Gazette*” and substitute the words “appointed under section 28 of the Crown Entities Act 2004”.

Repeal section 59(2) and (3).

Repeal section 59(5) and (6).

Repeal section 61(1) to (4) and substitute:

“61 Role of Board

The board of an organisation has the role set out in section 25 of the Crown Entities Act 2004.”

Repeal sections 62 to 64.

Repeal the heading to section 65 and substitute the heading “**Restrictions on directions by Minister**”.

Repeal section 65(1) and (2).

Insert in section 65(3), after the words “to Pharmac”, the words “under section 103 of the Crown Entities Act 2004”.

Omit from section 65(4) the words “this section” and substitute the words “section 103 of the Crown Entities Act 2004”.

Repeal section 65(4)(a).

Insert in section 65, after subsection (4):

“(4A) Despite anything in the Crown Entities Act 2004, subsection (4) does not limit—

“(a) the ability of the Minister to direct NZBS under section 147 of that Act; or

“(b) section 107 of that Act.”

Repeal section 65(5).

Omit from section 65(6) the words “this section” and substitute the words “section 103 of the Crown Entities Act 2004”.

Repeal section 66(a), (c), and (d).

Add to section 66, as subsection (2):

“(2) This section does not limit section 51 of the Crown Entities Act 2004.”

Repeal section 67 and substitute:

“67 Accountability documents under Crown Entities Act 2004

The statements of intent, annual financial statements, and annual reports of an organisation under the Crown Entities Act 2004 must comply with any regulations made under section 92(1)(d) of this Act.”

Repeal section 68.

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

Omit from section 69(1) the words “section 45B of the Public Finance Act 1989” and substitute the words “section 133(2) of the Crown Entities Act 2004”.

Insert in section 69(1), before the word “subsidiaries”, the words “Crown entity”.

Repeal section 69(2).

Add to section 69:

“(4) Subsection (3) applies despite section 134 of the Crown Entities Act 2004.”

Repeal section 71(4) and substitute:

“(4) There may be paid out of money appropriated by Parliament for the purpose to any person or persons appointed under subsection (1)—

“(a) remuneration not within paragraph (b) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and

“(b) reimbursement for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.

“(4A) For the purposes of subsection (4), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.”

Insert in section 90, after subsection (2):

“(2A) Section 59(3) of the Crown Entities Act 2004 (which provides that a statutory entity may bring an action against a member for breach of an individual duty) does not apply to a member of a publicly-owned health and disability organisation, unless it is shown by that publicly-owned health and disability organisation that the person did not act with good faith, or with reasonable care.”

Add to section 90:

“(5) Sections 120 to 126 of the Crown Entities Act 2004 do not apply to a publicly-owned health and disability organisation, members of the board or a committee of the board of a publicly-owned health and disability organisation, or office holders or employees of a publicly-owned health and disability organisation.”

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

Omit from section 92(1)(a) the words “capital investment, financial instruments (including currency and interest rate hedges),”.

Repeal section 92(1)(b) and substitute:

“(b) specifying the circumstances in which a person may lend money to a DHB:”.

Omit from section 92(1)(c) the words “publicly-owned health and disability organisations” and substitute the expression “DHBs”.

Omit from section 92(1)(d) the words “the Public Finance Act 1989” and substitute the words “the Crown Entities Act 2004”.

Repeal clause 17(1)(a) to (d) of Schedule 2 and substitute:

“(a) a person described in section 30(2)(a) to (f) of the Crown Entities Act 2004:”.

Add to clause 17 of Schedule 2:

“(3) However, subclause (1)(a) does not disqualify a person described in section 30(2)(f) of that Act who is elected (rather than appointed) to office as a member under any other Act.”

Repeal clause 2(a) of Schedule 3.

Add to clause 2 of Schedule 3, as subclause (2).

“(2) Subclause (1)(b) applies despite section 32(2) of the Crown Entities Act 2004.”

Repeal clause 4 of Schedule 3.

Repeal clause 6 of Schedule 3.

Repeal clause 7(1) of Schedule 3 and substitute:

“(1) A member of a board ceases to hold office if the DHB to which the board relates is disestablished by an Order in Council made under section 19(2).”

Insert in clause 7 of Schedule 3, after subclause (1):

“(1A) Subclause (1) applies to appointed members of a board in addition to the grounds in section 45 of the Crown Entities Act 2004.”

Omit from clause 7(2) of Schedule 3 the expression “(1)(c)” and substitute the expression “(1)”.

Insert in clause 8 of Schedule 3, before subclause (1):

“(1AA) The Minister may remove an appointed member of a board from that office in accordance with section 36 of the Crown Entities Act 2004.”

Omit from clause 8(1) of Schedule 3 the words “a member of a board from that office by notice in the *Gazette* stating the date on

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

which the removal takes effect but, if the member is an elected member of the board,” and substitute the words “an elected member of a board from that office by notice in the *Gazette* stating the date on which the removal takes effect, but”.

Add to clause 8 of Schedule 3:

“(3) Sections 38 and 45(c) of the Crown Entities Act 2004 do not apply to an elected member of a board of a DHB.

“(4) An elected member is not disqualified from office for failure to comply with section 30(2) of the Crown Entities Act 2004, but may be removed from office under subclause (1)(b) and clause 9(a).”

Omit from clause 9(e) of Schedule 3 the words “that applied to the member” and substitute the words “and section 58(2) or section 59(2) of the Crown Entities Act 2004 applies.”

Omit from clause 10(2)(a) of Schedule 3 the words “under section 29”.

Omit from clause 13(3) of Schedule 3 the expression “clause 8(1)” and substitute the words “section 36 of the Crown Entities Act 2004 or clause 8(1), as the case may be.”

Repeal clauses 14 and 15 of Schedule 3 and substitute:

“14 Teleconferences

“(1) A meeting of a board may be held—

“(a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or

“(b) by means of audio, audio and visual, or electronic communication, provided that—

“(i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

“(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

“(2) For the avoidance of doubt, all the provisions of this schedule relating to meetings of a board (including, without limitation, the requirement for public admission to meetings) apply to a meeting held in accordance with subclause (1)(b).”

Add to clause 36(2)(b) of Schedule 3 the word “; or”.

Add to clause 36(2) of Schedule 3:

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

“(c) sign any document relating to the entry into a transaction or the initiation of the transaction.”

Omit from clause 36(6)(a) of Schedule 3 the expression “section 29(6)” and substitute the words “section 31(1)(c) of the Crown Entities Act 2004”.

Add to clause 36 of Schedule 3:

“(7) Sections 62 to 72 of the Crown Entities Act 2004 do not apply to a DHB.”

Add to clause 39 of Schedule 3:

“(10) Sections 73 to 76 of the Crown Entities Act 2004 do not apply to a DHB.”

Repeal clauses 41 and 42 and the headings above clauses 41 and 42 of Schedule 3.

Insert in clause 43(8) of Schedule 3, before the word “subsidiary”, the words “Crown entity”.

Add to clause 44 of Schedule 3:

“(5) This clause applies despite sections 25 and 117 of the Crown Entities Act 2004.

“(6) Despite section 116(2) of the Crown Entities Act 2004, the Governor-General may not make an Order in Council under section 116(1) of that Act in relation to a DHB.”

Omit from clause 45(1) of Schedule 3 the words “A DHB must not raise a loan and no” and substitute the word “No”.

Repeal clause 45(2) and (3) of Schedule 3 and substitute:

“(2) In subclause (1), **DHB** includes a Crown entity subsidiary of a DHB.

“(3) Sections 160 and 162 of the Crown Entities Act 2004 set out the circumstances in which a DHB may borrow.”

Insert in Schedule 3, after clause 45:

“45A **Restrictions on giving of guarantees and indemnities and the use of derivatives**

“(1) Sections 160 and 163 of the Crown Entities Act 2004 set out the circumstances in which a DHB may give a guarantee to, or indemnify, another person.

“(2) Sections 160 and 164 of the Crown Entities Act 2004 set out the circumstances in which a DHB may enter into or amend the terms of a derivative transaction.”

Repeal clause 46 of Schedule 3 and substitute:

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

“46 Investment

Sections 160 and 161 of the Crown Entities Act 2004 (which relate to acquisition of securities) apply to a DHB subject to section 28.”

Repeal clause 47 of Schedule 3.

Repeal clauses 48 and 49 and the headings above those clauses of Schedule 3.

Omit from clause 7(b) of Schedule 4 the words “as the Minister determines” and substitute the words “in accordance with section 47 of the Crown Entities Act 2004 and are entitled to be reimbursed for expenses in accordance with section 48 of that Act as if the members of the committee were members of the DHB”.

Repeal clauses 16 and 17 of Schedule 4 and substitute:

“16 Teleconferences

“(1) A meeting of a committee may be held—

“(a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or

“(b) by means of audio, audio and visual, or electronic communication, provided that—

“(i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

“(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

“(2) For the avoidance of doubt, all the provisions of this schedule relating to meetings of a committee (for example, the requirement for public admission to meetings) apply to a meeting held in accordance with subclause (1)(b).”

Add to clause 38(2)(b) of Schedule 4 the word “; or”.

Add to clause 38(2) of Schedule 4:

“(c) sign any document relating to the entry into a transaction or the initiation of the transaction.”

Repeal clauses 2 to 22 of Schedule 6 and substitute:

“21 Disclosure of interests

Section 66 of the Crown Entities Act 2004 does not apply to a person who is interested in a matter only because he or she is a member of the board of another organisation or of a DHB.”

Repeal clause 23(1) of Schedule 6.

Repeal clause 23(3) to (5) of Schedule 6.

New Zealand Public Health and Disability Act 2000

(2000 No 91)—continued

Omit from clause 24(3) of Schedule 6 the words “this clause” and substitute the words “section 73 of the Crown Entities Act 2004”.

Repeal clause 24(4) to (8) of Schedule 6.

Repeal clauses 25 to 27 of Schedule 6.

Insert in clause 28(5) of Schedule 6, before the word “subsidiary”, the words “Crown entity”.

Add to clause 28 of Schedule 6:

“(7) This clause applies despite sections 16 and 17 of the Crown Entities Act 2004.”

Repeal clause 29(1) of Schedule 6.

Repeal clause 29(5) and (6) of Schedule 6 and substitute:

“(5) This clause applies despite section 117 of the Crown Entities Act 2004.

“(6) Despite section 116(2) of the Crown Entities Act 2004, the Governor-General may not make an Order in Council under section 116(1) of that Act in relation to an organisation.”

Repeal clauses 30 to 34 and the headings above clauses 30, 32, 33, and 34 of Schedule 6.

New Zealand Sports Drug Agency Act 1994 (1994 No 75)

Repeal the definition of **Executive Director** in section 2(1).

Omit from the definition of **Sport and Recreation New Zealand** in section 2(1) the words “an agency” and substitute the words “a Crown entity”.

Repeal section 4(2) to (4) and substitute:

“(2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.”

Add to section 4(5) the words “in addition to the provisions of the Crown Entities Act 2004.”

Omit from section 5(1) the words “appointed by the Minister, one of whom shall be appointed chairperson of the Board”.

Omit from section 5(2) the words “a person is suitable to be appointed” and substitute the words “to recommend a person for appointment”.

Add to section 5:

“(3) Subsection (2) does not limit section 29 of the Crown Entities Act 2004.”

New Zealand Sports Drug Agency Act 1994 (1994 No 75)—
continued

Add to section 6:

“(3) Except as expressly provided otherwise in this or any other Act, the Agency must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers or duties of the Agency (other than the Crown Entities Act 2004).”

Repeal section 7(1) and (2).

Add to section 7:

“(6) This section does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal section 29 and substitute:

“29 **Restriction on delegation**

“(1) The Board may not delegate—

“(a) the power of the Board to make determinations under sections 14 and 16B; or

“(b) the fixing of fees and charges under section 7.

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal sections 38 and 39.

Repeal clauses 1 and 2 of the Schedule.

Add to clause 3 of the Schedule, as subclause (2):

“(2) This clause applies despite section 25 of the Crown Entities Act 2004.”

Repeal clauses 4 to 10 of the Schedule.

Omit from clause 11(1) of the Schedule the words “the Executive Director and its employees, or for”.

Repeal clause 12(1) and (2) of the Schedule.

Repeal clause 12(4) of the Schedule and substitute:

“(4) Subclause (3) does not limit section 17 of the Crown Entities Act 2004.”

Repeal clauses 13 to 22 of the Schedule.

New Zealand Superannuation Act 2001 (2001 No 84)

Omit from the definition of **board** in section 5(1) the words “referred to in section 53”.

Insert in section 39, after subsection (2):

New Zealand Superannuation Act 2001 (2001 No 84)—
continued

“(2A) Sections 114 and 115 of the Crown Entities Act 2004 do not apply to a direction under subsection (2).”

Omit from section 39(4) the expression “24, 25,”.

Omit from section 48(2) the expression “Public Finance Act 1989” and substitute the words “section 7 of the Crown Entities Act 2004”.

Add to section 48:

“(3) The Crown Entities Act 2004 applies to the Guardians except to the extent that this Act provides otherwise.”

Repeal section 49(1) to (3) and substitute:

“(3) Sections 100 and 160 to 164 of the Crown Entities Act 2004 do not apply to the Guardians in relation to the Fund.”

Omit from section 49(4) the words “investment powers” and substitute the words “power to invest the Fund”.

Omit from section 50(1)(a) the words “neither on behalf of the Guardians nor”.

Omit from section 50(1)(c) the words “the Guardians,”.

Repeal section 53.

Add to section 54, as subsection (2):

“(2) This section applies despite section 28(1)(a) of the Crown Entities Act 2004.”

Add to section 55, as subsection (2):

“(2) This section applies in addition to section 29 of the Crown Entities Act 2004.”

Omit from section 59(4) the words “subsidiary of the Guardians” and substitute the words “Crown entity subsidiary of the Guardians (within the meaning of section 8 of the Crown Entities Act 2004)”.

Add to section 62(4) the words “of this Act or section 17 of the Crown Entities Act 2004”.

Add to section 63(5) the words “of this Act or section 17 of the Crown Entities Act 2004”.

Repeal section 64(3) to (5) and substitute:

“(3) Despite section 104 of the Crown Entities Act 2004 the Minister may not give a direction to the Guardians in respect of the Fund except in accordance with this section.”

Omit from section 65 the words “Part V of the Public Finance Act 1989” and substitute the words “Part 4 of the Crown Entities Act 2004”.

New Zealand Superannuation Act 2001 (2001 No 84)—
continued

Omit from section 68 the words “Part V of the Public Finance Act 1989” and substitute the words “Part 4 of the Crown Entities Act 2004”.

Omit from section 68(b) the words “section 42(2) of the Public Finance Act 1989” and substitute the words “section 155 of the Crown Entities Act 2004”.

Repeal section 70.

Repeal sections 74 and 75.

Repeal section 76(5) and (6).

Repeal clause 2 of Schedule 3.

Repeal clauses 3 and 4 of Schedule 3 and substitute:

“3 Method of appointment

“(1) The Governor-General appoints a member, despite section 28(1)(a) of the Crown Entities Act 2004.

“(2) Section 28(2) and (3) of that Act apply.”

Repeal clause 5 of Schedule 3.

Repeal clause 6 of Schedule 3 and substitute:

“6 Term of office

A member holds office for 5 years or any shorter period stated in the notice of appointment, despite section 32(1) of the Crown Entities Act 2004.”

Repeal clauses 7 to 9 and the headings above clauses 7, 8, and 9 of Schedule 3.

Repeal clause 10(2) of Schedule 3 and substitute:

“(2) Subclause (1) applies despite section 37 of the Crown Entities Act 2004.”

Repeal clause 10(4) to (6) of Schedule 3.

Repeal clauses 11 to 22 of Schedule 3.

Omit from clause 23 of Schedule 3 the expression “clause 22” and substitute the words “section 66 of the Crown Entities Act 2004”.

Add to clause 24 of Schedule 3, as subclause (2):

“(2) This clause is an exception to clause 14 of Schedule 5 of the Crown Entities Act 2004.”

Repeal clauses 25 to 38 of Schedule 3.

Repeal clause 39 of Schedule 3 and substitute:

New Zealand Superannuation Act 2001 (2001 No 84)—
continued

“39 Additional persons to whom delegations can be made

The board may delegate any of the functions or powers of the board or the entity to all or any of the following, despite section 73(1)(d) of the Crown Entities Act 2004:

“(a) a person appointed to undertake the investment of any part of the Fund under section 62:

“(b) a custodian.”

Repeal clause 40(1)(a) of Schedule 3.

Add to clause 40(2) of Schedule 3 the words “or section 73(4) of the Crown Entities Act 2004.”

Repeal clauses 41 to 52 and the headings above clauses 44, 45, and 46 of Schedule 3.

New Zealand Symphony Orchestra Act 2004 (2004 No 20)

Repeal section 3(a) and substitute:

“(a) establish the Orchestra as a Crown entity for the purposes of section 7 of the Crown Entities Act 2004:”.

Repeal section 3(c) and (d).

Repeal the definition of **fees framework** in section 4.

Repeal the definition of **statement of intent** in section 4.

Repeal the definition of **subsidiary** in section 4.

Repeal section 6(2).

Repeal section 7 and substitute:

“7 Orchestra is Crown entity

“(1) The Orchestra is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Orchestra except to the extent that this Act expressly provides otherwise.”

Repeal sections 10 and 11.

Repeal section 12(1).

Omit from section 12(2) the words “(including the chairperson) appointed by the Minister”.

Repeal section 12(3) and substitute:

“(3) In addition to the requirements in section 29 of the Crown Entities Act 2004, the Minister must, in particular, have regard to the need for members to have, among them, an appropriate balance of governance and financial skills, and an awareness of artistic matters, as relevant to the role of the board.”

New Zealand Symphony Orchestra Act 2004 (2004 No 20)—
continued

Repeal section 13.

Repeal sections 14 to 16 and substitute:

“16 Independence of Orchestra

The Minister may not give a direction to the Orchestra in relation to cultural matters.”

Repeal section 17 and substitute:

“17 Collective duties of board

“(1) The board, acting collectively, must endeavour to ensure that the total operating costs of the Orchestra do not exceed its total operating revenues.

“(2) Subsection (1) does not limit the collective duties in the Crown Entities Act 2004.”

Repeal sections 18 to 24.

Repeal sections 25 to 27 and headings.

Repeal section 32(2).

Repeal clauses 1 to 36 and headings of Schedule 1.

Repeal the Part 1 and Part 2 headings of Schedule 1.

Repeal clause 37(a) of Schedule 1.

Omit from clause 37(e) the words “under section 25”.

Add to clause 37, as subclause (2):

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies”.

Repeal clauses 38 to 45 and headings of Schedule 1.

Repeal the Part 4 heading of Schedule 1.

Repeal so much of Schedule 2 as relates to the Official Information Act 1982, the Ombudsmen Act 1975, and the Public Finance Act 1989.

New Zealand Tourism Board Act 1991 (1991 No 110)

Omit the word “Board” in every case where it refers to the New Zealand Tourism Board and substitute in each case the words “New Zealand Tourism Board”.

Repeal the definition of **Board** in section 3 and insert, in its appropriate alphabetical order:

“**New Zealand Tourism Board** means the New Zealand Tourism Board established by section 4(1)”.

Repeal the definition of **member** in section 3 and substitute:

“**member** has the same meaning as in section 10 of the Crown Entities Act 2004”.

New Zealand Tourism Board Act 1991 (1991 No 110)—
continued

Repeal section 4(2) and (3) and substitute:

“(2) The New Zealand Tourism Board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the New Zealand Tourism Board except to the extent that this Act expressly provides otherwise.

“(4) Members of the New Zealand Tourism Board are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 5.

Repeal section 7(1).

Omit from section 7(2) the words “Subject to subsection (1) of this section,”.

Repeal section 8(1).

Omit from section 8(2) the words “Every annual statement shall be accompanied by” and substitute the words “Every statement of intent required under section 139 of the Crown Entities Act 2004 must be accompanied by”.

Repeal section 8(3) to (9).

Repeal section 9.

Repeal section 10 and substitute:

“10 **Annual report**

The New Zealand Tourism Board must include in its annual report required under section 150 of the Crown Entities Act 2004 a statement of the extent to which the impacts of the Board’s outputs in that year and previous years on, and the consequences of those outputs for, the number of visitors to New Zealand during that year, and the amount of money they spent, matched the estimates contained in past statements (as finally approved by the Minister) under section 8(2).”

Repeal section 11(1) and substitute:

“(1) The Board must have no fewer than 5, and no more than 9, members.”

Repeal section 11(3) and (4).

Repeal sections 12 and 13.

Repeal clauses 1 to 9 of the First Schedule.

Repeal clause 10(2) of the First Schedule.

Repeal clauses 11 to 14 of the First Schedule.

Repeal clause 15(1) of the First Schedule.

New Zealand Tourism Board Act 1991 (1991 No 110)—
continued

Repeal clauses 16 to 20 of the First Schedule.

Repeal so much of Schedule 2 as relates to the Ombudsmen Act 1975.

New Zealand Trade and Enterprise Act 2003 (2003 No 27)

Repeal the definitions of **borrow**, **chairperson**, **committee**, **deputy chairperson**, **equal employment opportunities programme**, **fees framework**, **good employer**, and **member** in section 5.

Repeal paragraph (b) of the definition of **NZTE** in section 5.

Repeal the definition of **subsidiary** in section 5 and substitute:

“**subsidiary** has the same meaning as Crown entity subsidiary does in section 7 of the Crown Entities Act 2004”.

Repeal section 8 and substitute:

“8 **Crown entity status**

“(1) NZTE is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to NZTE except to the extent that this Act expressly provides otherwise.

“(3) Members of NZTE are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 9(1)(e) and (f) and substitute:

“(e) carry out any additional function in relation to trade, industry, and regional development that is added by the Minister in accordance with section 112 of the Crown Entities Act 2004.”

Repeal section 9(2) and (3).

Repeal sections 10 to 13.

Repeal section 14(2).

Repeal sections 15 to 18.

Repeal section 20.

Add to section 21, as subsection (2):

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal sections 22 to 27.

Repeal sections 29 to 33.

Repeal sections 35 to 73.

Repeal section 83.

Repeal Schedules 1 to 4.

Official Information Act 1982 (1982 No 156)

Insert in section 2(6), after paragraph (b):

“(ba) in relation to its judicial functions, a Crown entity within the meaning of the Crown Entities Act 2004; or”.

Police Complaints Authority Act 1988 (1988 No 2)

Repeal section 4(5) and substitute:

“(5) Subsection (2) applies despite section 28(1)(b) of the Crown Entities Act 2004.”

Insert after section 4:

“4A Crown entity

“(1) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly applies otherwise.

“(3) The person appointed as the Authority is the board for the purpose of section 10 of that Act.

“(4) The Authority is a corporation sole.

“4AB Independence

Except as expressly provided in this or any other Act, the Authority must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Authority (other than the Crown Entities Act 2004).”

Repeal section 5(1) and (2).

Add to section 5:

“(4) Subsection (3)(a) applies despite section 44 of the Crown Entities Act 2004.”

Repeal section 6 and substitute:

“6 Power to remove or suspend Authority

“(1) Section 42 of the Crown Entities Act 2004 applies if the Authority or the Deputy Authority is a Judge.

“(2) Section 39 of the Crown Entities Act 2004 does not apply to the Authority or Deputy Authority.

Police Complaints Authority Act 1988 (1988 No 2)—continued

“(3) Instead, the Authority or Deputy Authority may be removed for just cause by the Governor-General acting upon an address from the House of Representatives.

“(4) **Just cause** has the same meaning as in section 40 of the Crown Entities Act 2004.”

Repeal sections 9 and 10.

Omit from section 11 the words “the Authority, the Deputy Authority, and any officer or employee of the Authority” and substitute the words “the Authority and the Deputy Authority”.

Repeal sections 11A to 11D.

Add to section 33:

“(5) This section applies despite section 121 of the Crown Entities Act 2004.

“(6) Sections 59(3) and 60 of the Crown Entities Act 2004 do not apply unless the entity bringing the action, or the person making the application, shows that the member, employee, or office holder of the Authority acted in bad faith.”

Repeal sections 35 and 36.

Repeal sections 38 and 39.

Privacy Act 1993 (1993 No 28)

Repeal the definition of **Commissioner** in section 2(1) and substitute:

“**Commissioner** means the Privacy Commissioner referred to in section 12 of this Act and appointed in accordance with section 28(1)(b) of the Crown Entities Act 2004”.

Repeal section 12(2) to (4) and substitute:

“(2) The Commissioner is—

“(a) a corporation sole; and

“(b) a Crown entity for the purposes of section 7 of the Crown Entities Act 2004; and

“(c) the board for the purposes of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commissioner except to the extent that this Act expressly provides otherwise.”

Insert in section 13, after subsection (1):

Privacy Act 1993 (1993 No 28)—continued

“(1A) Except as expressly provided otherwise in this or another Act, the Commissioner must act independently in performing his or her statutory functions and duties, and exercising his or her statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Commissioner (other than the Crown Entities Act 2004).”

Repeal section 15(1) and (2) and substitute:

“(1) The Governor-General may, on the recommendation of the Minister, appoint a deputy to the person appointed as Commissioner.

“(2) Part 2 of the Crown Entities Act 2004, except section 46, applies to the appointment and removal of a Deputy Commissioner in the same manner as it applies to the appointment and removal of a Commissioner.”

Repeal section 15(5).

Repeal sections 16 to 18.

Repeal section 19(1) and substitute:

“(1) In addition to the matters in section 30(2) of the Crown Entities Act 2004, a member of a local authority is disqualified from being appointed as Commissioner.”

Omit from section 24 the words “the Commissioner shall in each year furnish to the responsible Minister” and substitute the words “the annual report of the Commissioner under section 150 of the Crown Entities Act 2004 must include”.

Repeal section 24(2).

Repeal section 96(2)(a).

Insert in section 105(1), after the words “of the Commissioner”, the words “under section 150 of the Crown Entities Act 2004”.

Repeal section 118.

Insert in section 120, after the words “this Act”, the words “or the Crown Entities Act 2004”.

Repeal sections 121 to 123.

Repeal clauses 1 to 3 of Schedule 1.

Omit from clause 4(1) of Schedule 1 the words “, the Deputy Commissioner, and for any of the employees of the Commissioner” and substitute the words “or Deputy Commissioner”.

Repeal clause 5 of Schedule 1.

Repeal clauses 6 to 11 of Schedule 1.

Public Audit Act 2001 (2001 No 10)

Omit from Schedule 1 the item relating to Crown entities and substitute the item “Crown entities as defined in section 7 of the Crown Entities Act 2004.”

Omit from Schedule 1 the item relating to recognised bodies under section 322(2) of the Education Act 1989 and substitute, in its appropriate alphabetical order, the item “Educational bodies funded under the Education Act 1989 in respect of 1 or more Rural Education Activities Programmes.”

Public Trust Act 2001 (2001 No 100)

Insert in section 4, after the definition of **chief executive**:

“**Crown entity subsidiary** has the same meaning as in section 8(2) of the Crown Entities Act 2004”.

Repeal the definition of **good employer** in section 4.

Insert in the definition of **Public Trust** in section 4, before the word “subsidiary”, the words “Crown entity”.

Insert in section 5(4), after the word “do”, the words “the provisions of the Crown Entities Act 2004 or”.

Add to section 6:

“(4) Section 100 of the Crown Entities Act 2004 does not apply to the exercise of any authority or power Public Trust has under any enactment, instrument, or law to—

“(a) invest any estate money, or invest the common fund, or invest any group investment fund; or

“(b) settle, or be or appoint a trustee of, a trust.

“(5) Subsection (4) does not limit subsection (3).”

Repeal section 7(2).

Insert, after section 7:

7A Application of Crown Entities Act 2004

“(1) Public Trust is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to Public Trust except to the extent that this Act expressly provides otherwise.

“(3) Sections 28(1), 29, 37, 96, 100, and 104 and Part 4 of the Crown Entities Act 2004 apply as if the reference in each of those provisions or Parts to the ‘responsible Minister’ were replaced by a reference to ‘the responsible Minister acting with the agreement of the Minister of Finance’”.

Insert in section 8, after subsection (1):

Public Trust Act 2001 (2001 No 100)—continued

“(1A) For the avoidance of doubt, a request under section 8(1)(c) is not a direction by the Minister for the purposes of section 112 of the Crown Entities Act 2004.”

Insert in section 10, after the words “in this Act”, the words “or the Crown Entities Act 2004”.

Repeal section 11(1).

Omit from section 11(2) the words “Public Trust is not to exercise its capacity or any of its rights, powers, and privileges except” and substitute the words “Public Trust may exercise its capacity or any of its rights, powers, and privileges”.

Repeal section 11(2)(a).

Add to section 11:

“(3) Subsection (2) does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal section 12(1) to (4) and substitute:

“(1) A contract or other enforceable obligation may be entered into by Public Trust as provided in section 127 of the Crown Entities Act 2004.”

Repeal the heading to section 13 and substitute the heading “**Application of Public Finance Act 1989**”.

Repeal section 13(1).

Repeal section 13(2) and substitute:

“(2) For the purposes of the Public Finance Act 1989 and the Crown Entities Act 2004, every reference to the Responsible Minister is to be read as a reference to the Minister acting with the agreement of the Minister of Finance.”

Repeal section 13(3).

Repeal section 14 and substitute:

“14 **Board of Public Trust**

The Board of the Public Trust must have no less than 5, and no more than 9, members.”

Repeal sections 15 to 17.

Repeal section 18 and substitute:

“18 **Delegations generally**

Sections 73(3) and 97(g) of the Crown Entities Act 2004 (which limit a Crown entity’s ability to delegate statutorily independent functions to a Crown entity subsidiary) do not apply to Public Trust.”

Public Trust Act 2001 (2001 No 100)—continued

Omit from section 19 the expression “section 18” and substitute the words “section 73 of the Crown Entities Act 2004”.

Omit from section 20 the word “The” and substitute the words “Despite section 73 of the Crown Entities Act 2004, the”.

Repeal section 20(a).

Repeal sections 21 to 25.

Repeal section 26(3).

Repeal sections 27 to 33.

Omit from section 34 the words “appointed under section 17”.

Repeal section 36(1) and (2) and substitute:

“(1) Section 158 of the Crown Entities Act 2004 applies to the Public Trust only in respect of its funds under section 35.

“(2) In addition to any bank account opened under section 158 of the Crown Entities Act 2004, the Public Trust may establish, maintain, and operate in connection with any estate a separate bank account (including an overseas bank account) in the name of—

“(a) Public Trust; or

“(b) the estate; or

“(c) any beneficiary or beneficiaries of the estate.

“(2A) For the avoidance of doubt, section 158 of the Crown Entities Act 2004 does not apply to an account opened, maintained, or operated under subsection (2).”

Omit from section 36(3) the expression “subsection (1)” and substitute the words “section 158(1) of the Crown Entities Act 2004”.

Insert in section 36, after subsection (3):

“(3A) Subsection (3) applies despite section 158 of the Crown Entities Act 2004.”

Omit from section 36(4) the words “subsection (1) or”.

Omit from section 38(1), the words “Despite anything in section 11,”.

Add to section 38:

“(3) This section applies despite section 17 of the Crown Entities Act 2004.”

Repeal sections 39 and 40.

Add to section 44:

Public Trust Act 2001 (2001 No 100)—continued

“(4) An agreement under subsection (1)—

“(a) is an output agreement for the purposes of the Crown Entities Act 2004 in respect of any outputs covered by the agreement; and

“(b) must comply with section 170(2) to (5) of the Crown Entities Act 2004.”

Repeal section 45.

Repeal section 46 and substitute:

“46 **Refusal of request to supply information**

“(1) A request for information must be refused if the information is held by Public Trust in a fiduciary capacity.

“(2) Subsection (1) does not limit section 134 of the Crown Entities Act 2004.

“(3) Subsection (1) applies despite any other enactment or law.”

Repeal section 140.

Repeal section 141 and substitute:

“141 **Limitation of liability**

The immunity in section 121 of the Crown Entities Act 2004 does not extend to any injury or loss occasioned by or arising out of any act or thing done or omitted by a person acting jointly with Public Trust in any of the offices or positions referred to in section 75(1), except to the extent that the Public Trust, or any board member, committee member, office holder, or employee of Public Trust has contributed to the injury or loss, or could by the exercise of reasonable diligence have averted it.”

Repeal Schedule 1.

Repeal so much of Schedule 2 as relates to the Ombudsmen Act 1975.

Radio New Zealand Act 1995 (1995 No 52)

Repeal the definition of **shareholding Ministers** in section 2 and substitute:

“**shareholding Ministers** has the same meaning as in section 10 of the Crown Entities Act 2004”.

Repeal the definition of **subsidiary** in section 2.

Insert in section 2, in its appropriate alphabetical order:

“**Crown entity subsidiary** has the same meaning as in section 8(2) of the Crown Entities Act 2004”.

Repeal sections 4 to 6.

Radio New Zealand Act 1995 (1995 No 52)—continued

Repeal sections 9 and 10.

Repeal section 11(1).

Add to section 11:

“(3) The shareholding Ministers may, by written notice to the board of the public radio company, determine the amount of dividend payable by the public radio company to the Crown in respect of any financial year or years.

“(4) Before giving any notice under subsection (3), the shareholding Ministers must—

“(a) have regard to the functions and principles of operation of the public radio company; and

“(b) comply with section 115 of the Crown Entities Act 2004.”

Repeal section 12.

Omit from section 13(1) the words “Nothing in this Act authorises any Minister of the Crown to give a direction to the public radio company, or any subsidiary of the company, or any director or officer or employee of the company or any such subsidiary” and substitute the words “No responsible Minister or any other Minister, and no person acting by or on behalf of or at the direction of a responsible Minister or any other Minister, may give a direction to the public radio company, or any Crown entity subsidiary of the company, or any director or officer or employee of the company or any such Crown entity subsidiary”.

Insert in section 13(2), before the word “subsidiary”, the words “Crown entity”.

Add to section 13:

“(3) Section 97(g) of the Crown Entities Act 2004 does not apply to the public radio company.”

Repeal section 14(2).

Omit from section 14(3) the words “shareholding Ministers” and substitute the words “responsible Minister”.

Repeal section 14(3)(a).

Add to section 14:

“(5) This section does not limit section 89 of the Crown Entities Act 2004.”

Repeal section 15(1).

Repeal section 16 and substitute:

Radio New Zealand Act 1995 (1995 No 52)—continued**“16 Crown entity**

“(1) The public radio company is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the public radio company except to the extent that this Act expressly provides otherwise.”

Repeal section 17.

Repeal so much of the Schedule as relates to the Ombudsmen Act 1975, the Official Information Act 1982, and the Public Finance Act 1989.

Remuneration Authority Act 1977 (1977 No 110)

Insert in section 12(1)(a), after subparagraph (v):

“(va) remuneration in accordance with section 47(1)(b) of the Crown Entities Act 2004:”.

Add the following items to the Fourth Schedule, in their appropriate alphabetical order:

The members of the Accounting Standards Review Board

The members of the New Zealand Sports Drug Agency

The members of the Takeovers Panel

The members of the Transport Accident Investigation Commission.

Omit from the Fourth Schedule the item relating to Mema o Te Taura Whiri I Te Reo Maori.

Retirement Income Act 1993 (1993 No 148)

Repeal section 5(2).

Omit from section 5(3) the words “subsection (2) of this section” and substitute the expression “Part 2 of the Crown Entities Act 2004”.

Repeal section 5(4) and substitute:

“(4) The Retirement Commissioner is a corporation sole.”

Repeal section 7.

Repeal sections 9 to 12 and the heading above section 9.

Repeal section 13 and substitute:

“13 Crown entity

“(1) The Retirement Commissioner is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to the Retirement Commissioner except to the extent that this Act expressly provides otherwise.

Retirement Income Act 1993 (1993 No 148)—continued

“(3) The Retirement Commissioner is the board for the purpose of section 10 of that Act.”

Repeal section 14(1).

Omit from section 14(2) the words “subsection (1) of this section” and substitute the words “section 150 of the Crown Entities Act 2004”.

Repeal section 14(3).

Add to section 14(4) the words “or under the Crown Entities Act 2004”.

Repeal section 15.

Repeal section 16 and substitute:

“16 **Delegation by Retirement Commissioner**

Despite section 73 of the Crown Entities Act 2004, the Retirement Commissioner must not delegate the power to appoint an attorney under section 129 of the Crown Entities Act 2004 without the prior written consent of the Minister.”

Repeal section 17.

Repeal sections 19 to 21 and the heading above section 19.

Repeal clauses 1 and 2 of the Second Schedule.

Omit from clause 3(1) of the Second Schedule the words “, and for any of the employees of the Retirement Commissioner”.

Repeal clauses 4 to 8 of the Second Schedule.

Securities Act 1978 (1978 No 103)

Repeal the definition of **Commission** in section 2(1) and substitute:

“**Commission**—

“(a) means the Securities Commission established under Part 1; or

“(b) for the purposes of determining any matter or class of matter specified in a determination under section 14B, means the division of the Commission specified in the determination in accordance with section 14D(1)(a)”.

Repeal section 9(2) and (3) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Add to section 10, as subsection (2):

Securities Act 1978 (1978 No 103)—continued

- “(2) Except as expressly provided otherwise in this or any other Act, the Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—
- “(a) this Act; and
 - “(b) any other Act that expressly provides for the functions, powers or duties of the Commission (other than the Crown Entities Act 2004).”

Repeal section 11(2) and (3) and substitute:

- “(2) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.
- “(3) One member of the Commission must be appointed by the Governor-General, on the recommendation of the Minister, as chairperson.
- “(3A) The chairperson and any deputy chairperson may only be removed from office as chairperson or deputy chairperson for just cause.
- “(3B) In other respects, clauses 1(2) and (3) and 4(2) and (3) of Schedule 5 of the Crown Entities Act 2004 apply to the appointment and removal of the chairperson and any deputy chairperson of the Commission.”

Omit from section 11(4) the words “No person may be recommended” and substitute the words “The Minister must not recommend a person”.

Add to section 11:

- “(5) Subsection (4) does not limit section 29 of the Crown Entities Act 2004.”

Repeal section 12.

Repeal section 13(1) to (3).

Repeal section 13(5) and substitute:

- “(5) Subsection (4) applies despite section 45 of the Crown Entities Act 2004.”

Repeal sections 14 and 14A.

Add to section 14B:

- “(4) The powers in this section are an exception to clause 14 of Schedule 5 of the Crown Entities Act 2004.”

Repeal section 14C(4).

Repeal section 14C(5).

Repeal section 15(1) to (4).

Securities Act 1978 (1978 No 103)—continued

Repeal section 15(6) and (7) and substitute:

“(6) Subsection (5) applies despite clause 9(1) and (2) of Schedule 5 of the Crown Entities Act 2004.”

Omit from section 16 the words “by letter, telegram, cable, telex message, facsimile, electronic mail, or other similar means of communication” and substitute the words “in writing (whether sent by post, delivery, or electronic communication)”.

Add to section 16, as subsection (2):

“(2) This section applies despite clause 13 of Schedule 5 of the Crown Entities Act 2004.”

Repeal section 17.

Repeal sections 20 and 21.

Omit from section 22(1) the words “officers or employees or”.

Repeal section 23.

Repeal section 24.

Repeal section 27 and substitute:

“27 **Restrictions on delegation**

“(1) The Commission may not delegate the powers in sections 5(5), 44, 44A, 44B(2), 67, and 69.

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal section 28(2) and substitute:

“(2) No proceedings, civil or criminal, lie against any member of the Commission, or any officer or employee of the Commission, or any member of a committee of the Commission, for anything that person may do or say or fail to do or say in the course of the operations of the Commission, unless it is shown by the Commission that the person acted in bad faith.

“(2A) Section 59(3) of the Crown Entities Act 2004 (which provides that a statutory entity may bring an action against a member for breach of an individual duty) does not apply, unless it is shown that the person acted in bad faith.”

Omit from section 28(5) the words “subsections (1) to (4) of this section” and substitute the words “subsections (1) and (2)”.

Insert in section 28, after subsection (5):

“(5A) Sections 122 to 126 of the Crown Entities Act 2004 apply as if the conduct for which a person may be indemnified or insured under those sections were conduct that is covered by the protection from liability in this section.

Securities Act 1978 (1978 No 103)—continued

“(5B) This section contains an exception to section 121 of the Crown Entities Act 2004.”

Repeal sections 30 to 31D.

Add to section 67A:

“(4) Section 73 of the Crown Entities Act 2004 does not limit this section.”

Insert in section 68B, after subsection (2):

“(2A) Section 115 of the Crown Entities Act 2004 does not apply to a direction by the Minister under subsection (2).”

Smoke-free Environments Act 1990 (1990 No 108)

Repeal the definition of **Director** in section 2.

Repeal section 43(2) and substitute:

“(2) The Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Council except to the extent that this Act expressly provides otherwise.”

Repeal section 44(1)(b).

Add to section 44:

“(3) The Council also has any other functions conferred on it by the Minister in accordance with section 112 of the Crown Entities Act 2004.”

Repeal section 45(1) to (4) and substitute:

“(1) The Council must have no fewer than 3, and no more than 6, members.

“(2) Members of the Council are the board for the purposes of the Crown Entities Act 2004.”

Repeal sections 46 to 48.

Omit from section 49(1) the word “Director” and substitute the words “chief executive”.

Repeal section 49(2).

Repeal sections 50 to 59.

Repeal section 61(2).

Repeal sections 62A to 64.

Social Welfare (Transitional Provisions) Act 1990

(1990 No 26)

Repeal section 43(2) and (3) and substitute:

“(2) The Board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

Social Welfare (Transitional Provisions) Act 1990

(1990 No 26)—continued

“(3) The Crown Entities Act 2004 applies to the Board except to the extent that this Act expressly provides otherwise.”

Repeal section 45.

Insert in section 46(1), after the words “The Board shall consist of”, the words “6 members appointed under section 28(1)(a) of the Crown Entities Act 2004, including”.

Repeal section 46(1)(a).

Repeal section 46(2) and substitute:

“(2) Members of the Board are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 47.

Repeal section 50.

Repeal clauses 1 to 6 of the Third Schedule.

Repeal clauses 7(3) and (5) of the Third Schedule.

Repeal clauses 8 to 15 of the Third Schedule.

Repeal clauses 17 to 21 of the Third Schedule.

Repeal clauses 23 to 25 of the Third Schedule.

Social Workers Registration Act 2003 (2003 No 17)

Add to section 97, as subsections (2) and (3):

“(2) The Board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Board except to the extent that this Act expressly provides otherwise.”

Repeal section 98.

Repeal section 102 and substitute:

“102 Restriction on Ministerial direction

The Minister may not give a direction under section 103 of the Crown Entities Act 2004 relating to the registration of social workers.”

Repeal section 103.

Add to section 106:

“(3) Members of the Board are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 107 and substitute:

“107 Additional information in annual report

In addition to the information required by section 151 of the Crown Entities Act 2004, the annual report of the Board under section 150 of that Act must include a report on any other

Social Workers Registration Act 2003 (2003 No 17)—continued

matters affecting the social work profession that the Board thinks fit.”

Repeal sections 111 and 112.

Repeal section 137(1) and substitute:

“(1) The Board must appoint one of its employees as Registrar of the Register of Social Workers.”

Omit from section 137(2) the word “secretary” and substitute the words “chief executive”.

Repeal section 143 and substitute:

“**143 Immunity of members and legal advisers of complaints assessment committees and other from civil liability to third parties**

Section 121(2) of the Crown Entities Act 2004 applies, with any necessary modifications, to a member of a complaints assessment committee and any legal adviser appointed to assist a complaints assessment committee as if he or she were an office holder.”

Omit from section 144(1) the words “the Board,”.

Repeal clause 1 of Schedule 1.

Insert in clause 2(1) of Schedule 1, after the words “the Minister”, the words “under section 28(1)(a) of the Crown Entities Act 2004”.

Repeal clause 2(2)(a) of Schedule 1.

Add to clause 2 of Schedule 1:

“(3) Subclauses (1) and (2) do not limit section 29 of the Crown Entities Act 2004.

“(4) In addition to the matters in section 30(2) of the Crown Entities Act 2004, a person employed by a department of State responsible for advising the Minister on the Board’s performance is disqualified from being appointed as a member.”

Repeal clauses 3 to 6 of Schedule 1.

Add to clause 7 of Schedule 1:

“(4) This clause applies despite sections 32(2) and 45 of the Crown Entities Act 2004.”

Repeal clauses 8 and 9 of Schedule 1.

Add to clause 10 of Schedule 1:

“(5) This clause does not limit section 45 of the Crown Entities Act 2004.”

Repeal clauses 11 to 19 and the headings above clauses 12, 13, 14, and 19 of Schedule 1.

Social Workers Registration Act 2003 (2003 No 17)—continued

Repeal clauses 21 to 32 and the headings above clauses 21, 22, and 30 of Schedule 1.

Repeal clause 33(3) of Schedule 1.

Repeal clauses 34 to 36 of Schedule 1.

Add to clause 37 of Schedule 1, as subclause (2):

“(2) This clause applies despite clause 9(1) and (2) of Schedule 5 of the Crown Entities Act 2004.”

Repeal clause 38 of Schedule 1.

Repeal clause 39(1) and (2) of Schedule 1.

Repeal clauses 40 to 42 of Schedule 1.

Repeal clause 43 of Schedule 1 and substitute:

“43 **Restriction on delegation**

“(1) The Board may not delegate its functions, duties, and powers relating to registration.

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal clauses 44 to 54 of Schedule 1.

Add to clause 55 of Schedule 1:

“(3) Subclause (1) does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal clause 56 of Schedule 1.

Repeal so much of Schedule 3 as relates to the Ombudsmen Act 1975 and the Public Finance Act 1989.

Sport and Recreation New Zealand Act 2002 (2002 No 38)

Repeal the definitions of **chairperson**, **committee**, **deputy chairperson**, **equal employment opportunities programme**, **good employer**, and **member** in section 5.

Repeal section 7(2) and (3) and substitute:

“(2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.”

Repeal section 9.

Repeal section 10 and substitute:

“10 **Restriction on directions**

The Minister may not give a direction to the Agency under section 103 of the Crown Entities Act 2004 in relation to the allocation of funds to, or for the benefit of, any persons, or in relation to a policy, practice, procedure, or decision, of the

Sport and Recreation New Zealand Act 2002 (2002 No 38)—
continued

Agency regarding the allocation of funds to, or for the benefit of, any person.”

Repeal section 11.

Omit from section 13(1) the words “appointed by the Minister”.

Repeal section 13(2) and (3).

Repeal sections 14 to 17.

Repeal section 23.

Repeal section 24(a).

Repeal section 24(c).

Insert in section 24(e), after the word “committee”, the words “appointed under clause 14 of Schedule 5 of the Crown Entities Act 2004”.

Add to section 24, as subsection (2):

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal sections 25 to 30.

Insert in section 31, after the word “member”, the words “of the board”.

Repeal sections 32 and 33 and substitute:

“32 **Good employer**

In addition to the matters in section 118(2) of the Crown Entities Act 2004, the personnel policy of the Agency must contain provisions requiring recognition of the aims and aspirations, and the cultural differences, of Pacific Island people and ethnic and minority groups.”

Repeal sections 34 to 38.

Repeal sections 40 to 44.

Repeal section 45(2).

Repeal sections 46 and 47.

Repeal section 48(1)(b).

Add to section 48:

“(3) The Agency may guarantee, with or without security, advances made by any person to any other person in the circumstances in sections 160 and 163 of the Crown Entities Act 2004.”

Repeal sections 49 to 51.

Repeal section 52(1).

Repeal the definition of **Inland Revenue Acts** in section 52(3).

Repeal Schedules 1 to 3.

Sport and Recreation New Zealand Act 2002 (2002 No 38)—
continued

Repeal so much of Schedule 4 as relates to the Ombudsmen Act 1975, the Public Bodies Contracts Act 1959, and the Public Finance Act 1989.

Standards Act 1988 (1988 No 5)

Repeal the definition of **financial year** in section 2.

Repeal section 3(2) and (3) and substitute:

“(2) The Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Council except to the extent that this Act expressly provides otherwise.

“(3A) Members of the Council are the board for the purposes of the Crown Entities Act 2004.”

Omit from section 4(1)(a) the expression “2” and substitute the expression “4”.

Repeal section 4(1)(c).

Repeal section 4(6).

Repeal section 4(7).

Repeal sections 5 to 9.

Repeal section 11 and substitute:

“11 **Additional powers of Council**

“(1) The Council may make grants or advances of money, on any conditions that it thinks fit, or pay any fee or subscription, to any organisation or person with similar or related functions or carrying out work related to that of the Council.

“(2) This section does not limit sections 16 and 17 of the Crown Entities Act 2004.”

Repeal section 12.

Omit from section 13(1) the words “or into any other employer-subsidised scheme”.

Repeal sections 14 to 17.

Repeal sections 19 and 19A.

Omit from section 20 the words “land tax and”.

Repeal section 21 and the heading above that section.

Repeal sections 27 to 30.

Takeovers Act 1993 (1993 No 107)

Repeal the definition of **Panel** in section 2 and substitute:

“**Panel**—

Takeovers Act 1993 (1993 No 107)—continued

- “(a) means the Takeovers Panel established under Part 1; or
- “(b) for the purposes of determining any matter or class of matter specified in a determination under section 7A, means the division of the Panel specified in the determination in accordance with section 7C(1)(a)”.

Repeal section 5(2) and substitute:

- “(2) The Panel is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- “(3) The Crown Entities Act 2004 applies to the Panel except to the extent that this Act expressly provides otherwise.
- “(4) Members of the Panel are the board for the purposes of the Crown Entities Act 2004.”

Omit from section 6(1) the words “appointed from time to time by the Minister”.

Repeal section 6(2) and substitute:

- “(2) Despite clause 1(2) of Schedule 5 of the Crown Entities Act 2004, 1 member must be appointed by the Governor-General, on the recommendation of the Minister, as chairperson of the Panel, and another must be appointed by the Governor-General, on the recommendation of the Minister, as deputy chairperson of the Panel.
- “(2A) The chairperson and any deputy chairperson of the Panel may only be removed from office as chairperson or deputy chairperson for just cause.”

Repeal section 6(4) and substitute:

- “(4) The Minister must not recommend a person for appointment as a member of the Panel unless, in the opinion of the Minister, that person is qualified or experienced in business, accounting, or law.
- “(5) Subsection (4) does not limit section 29 of the Crown Entities Act 2004.”

Add to section 7A:

- “(5) The powers in this section are an exception to clause 14 of Schedule 5 of the Crown Entities Act 2004.
- “(6) Clause 7 of Schedule 5 of that Act applies to meetings of a special division of the Panel.”

Repeal section 7B(3).

Repeal section 7B(4).

Add to section 8:

Takeovers Act 1993 (1993 No 107)—continued

“(3) Except as expressly provided otherwise in this or any other Act, the Panel must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Panel (other than the Crown Entities Act 2004).”

Repeal section 11(2) and substitute:

“(2) No proceedings, civil or criminal, lie against any member of the Panel, or any officer or employee of the Panel, or any member of a committee of the Panel, for anything that person may do or say or fail to do or say in the course of the operations of the Panel, unless it is shown by the Panel that the person acted in bad faith.”

Insert in section 11, after subsection (3):

“(3A) Section 59(3) of the Crown Entities Act 2004 (which provides that a statutory entity may bring an action against a member for breach of an individual duty) does not apply, unless it is shown that the person acted in bad faith.

“(3B) Sections 122 to 126 of the Crown Entities Act 2004 apply as if the conduct for which a person may be indemnified or insured under those sections were conduct that is covered by the protection from liability in this section.

“(3C) This section contains an exception to section 121 of the Crown Entities Act 2004.”

Repeal section 11(11).

Repeal section 14 and substitute:

“14 **Delegation**

“(1) The Panel may not delegate the powers in sections 31X, 32, and 45(1).

“(2) In other respects, section 73 of the Crown Entities Act 2004 applies.”

Repeal section 15.

Repeal section 16.

Repeal section 17A.

Add to section 31B:

“(4) This section applies despite section 73 of the Crown Entities Act 2004.”

Takeovers Act 1993 (1993 No 107)—continued

Insert in section 31C, after subsection (2):

“(2A) Section 115 of the Crown Entities Act 2004 does not apply to that requirement.”

Repeal sections 47 and 48.

Repeal clauses 1 to 3 of the Schedule.

Repeal clause 4(1) to (2A) of the Schedule.

Add to clause 4 of the Schedule:

“(4) Subclause (3) applies despite clause 9 of Schedule 5 of the Crown Entities Act 2004.”

Repeal clauses 5 to 10 of the Schedule.

Telecommunications Act 2001 (2001 No 103)

Omit the word “Chairman” in every case where it appears in the Act and substitute in each case the word “chairperson”.

Add to section 9(2) the words “as provided in section 9(3) of the Commerce Act 1986”.

Insert in section 9, after subsection (3):

“(3A) Subsection (3) applies despite section 28(1)(b) of the Crown Entities Act 2004.”

Repeal section 9(6) and substitute:

“(6) Subsections (4) and (5) do not limit section 29 of the Crown Entities Act 2004.”

Add to section 10:

“(4) The quorum requirements in section 15(4) of the Commerce Act 1986 do not apply if the Telecommunications Commissioner is performing functions alone under section 10(1)(c)(i).”

Insert in the heading to section 15, after the words “**Commerce Act 1986**”, the words “**and Crown Entities Act 2004**”.

Repeal section 15(a).

Repeal section 15(c).

Omit from section 15(d) the words “(except subsection (4))” and substitute the words “(except as provided in section 10(4) of this Act)”.

Repeal section 15(e).

Repeal section 15(n).

Repeal the heading to section 17 and substitute the heading “**Telecommunications Commissioner to consent to delegation of some functions and powers of Commission**”.

Telecommunications Act 2001 (2001 No 103)—continued

Omit from section 17 the words “section 105 of the Commerce Act 1986”, and substitute the words “section 73 of the Crown Entities Act 2004”.

Television New Zealand Act 2003 (2003 No 1)

Add to section 3(c) the words “in addition to the provisions contained in the Crown Entities Act 2004.”

Repeal the definition of **Crown entity** in section 4.

Repeal the definition of **equal employment opportunities programme** in section 4.

Omit from the definition of **GAAP** in section 4 the words “section 2 of the Financial Reporting Act 1993” and substitute the words “section 136 of the Crown Entities Act 2004”.

Repeal the definition of **good employer** in section 4.

Repeal the definition of **shareholding Ministers** in section 4 and substitute:

“**shareholding Ministers** has the same meaning as in section 10 of the Crown Entities Act 2004”.

Repeal section 11.

Repeal section 12(3)(a) and (b).

Repeal sections 13 to 17.

Repeal section 19.

Repeal section 20 and substitute:

“20 Application of Crown Entities Act 2004

“(1) TVNZ is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(2) The Crown Entities Act 2004 applies to TVNZ except to the extent that this Act expressly provides otherwise.”

Repeal section 21.

Repeal section 22(1).

Omit from section 22(2) the words “section 41I of the Public Finance Act 1989” and substitute the words “section 151 of the Crown Entities Act 2004”.

Omit from section 23(1) the words “section 41D of the Public Finance Act 1989” and substitute the words “section 141 of the Crown Entities Act 2004”.

Repeal section 23(1)(a).

Omit from section 24 the words “section 41 of the Public Finance Act 1989” and substitute the words “section 154 of the Crown Entities Act 2004”.

Repeal sections 25 and 26.

Television New Zealand Act 2003 (2003 No 1)—continued

Repeal section 27(2).

Omit from section 27(3) the words “and consult with the board of TVNZ as to the matters to be referred to in the notice” and substitute the words “, and section 115 of the Crown Entities Act 2004 applies”.

Add to section 28:

“(3) Section 97(g) of the Crown Entities Act 2004 does not apply to TVNZ”.

Omit from section 29(1) the words “section 41G of the Public Finance Act 1989” and substitute the words “section 147 of the Crown Entities Act 2004”.

Omit from section 29(2) the words “notified in the *Gazette* within 12 sitting days” and substitute the words “published in the *Gazette* as soon as practicable after giving the direction”.

Repeal section 32.

Omit from section 36 the words “, section 14, or section 19”.

Repeal so much of Schedule 1 as relates to the Public Finance Act 1989.

Testing Laboratory Registration Act 1972 (1972 No 36)

Repeal section 3(2) and substitute:

“(2) The Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Council except to the extent that this Act expressly provides otherwise.

“(4) The members of the Council are the board for the purposes of the Crown Entities Act 2004.”

Repeal section 4(1) and substitute:

“(1) The Council consists of 9 members of whom—

“(a) 5 members must be appointed by the Minister under section 28(1)(a) of the Crown Entities Act 2004; and

“(b) 4 members must be appointed by the Council itself.”

Repeal section 4(3) to (5).

Repeal sections 5 to 11.

Repeal section 13(1).

Omit from section 13(2) the words “under subsection (1) of this section” and substitute the words “under sections 16 and 17 of the Crown Entities Act 2004”.

Repeal section 14(1) and (2).

Testing Laboratory Registration Act 1972 (1972 No 36)—
continued

Omit from section 14(3) the words “in this section” and substitute the words “in this Act or any other Act”.

Omit from section 14(4) the words “under this section”.

Repeal section 14(5).

Repeal section 15.

Repeal sections 16 to 20A.

Omit from section 21 the words “land tax and”.

Repeal sections 22 and 23.

Repeal sections 26 to 28.

Transport Accident Investigation Commission Act 1990
(1990 No 99)

Repeal section 3(2) and (3) and substitute:

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.”

Repeal section 5(1) and substitute:

“(1) The Commission consists of not less than 3 and not more than 5 members appointed in accordance with section 28(1)(b) of the Crown Entities Act 2004.”

Repeal section 5(2) and substitute:

“(2) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.”

Add to section 5:

“(4) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.”

Repeal section 6.

Repeal section 6A and substitute:

“6A **Extra information to be included in statement of intent**

“(1) The Commission must include the following information in its statement of intent under section 139 of the Crown Entities Act 2004:

“(a) any new borrowings or financial leases or similar liabilities the Commission intends to incur during that year; and

“(b) policies and priorities in exercising its discretion with respect to the investigation of accidents and incidents.

Transport Accident Investigation Commission Act 1990

(1990 No 99)—continued

“(2) The Minister may direct the Commission to amend any provision that is included in the statement of intent under subsection (1)(a), and section 147 of the Crown Entities Act 2004 applies accordingly.”

Add to section 8:

“(3) Except as expressly provided otherwise in this or another Act, the Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

“(a) this Act; and

“(b) any other Act that expressly provides for the functions, powers, or duties of the Commission (other than the Crown Entities Act 2004).”

Repeal section 11(2) and substitute:

“(2) Subsection (1) applies in addition to sections 16 and 17 of the Crown Entities Act 2004.”

Insert in section 12(1), after the words “section 11 of this Act”, the words “or sections 16 and 17 of the Crown Entities Act 2004.”

Repeal clauses 2 to 20 of the Schedule and substitute:

“2 The Chief Commissioner holds office as chairperson of the board and the Deputy Chief Commissioner holds office as deputy chairperson of the board for the purposes of the Crown Entities Act 2004 for the same term as they hold office as Chief Commissioner or Deputy Chief Commissioner respectively.

“3 Clauses 1 to 4 of Schedule 5 of the Crown Entities Act 2004 do not apply to the Commission.”

Add to clause 21 the words “, in accordance with section 117 of the Crown Entities Act 2004”.

Repeal clauses 22 to 24 and the heading above clause 23 of the Schedule.

Repeal clauses 26 to 34 and the headings above clauses 33 and 34 of the Schedule and substitute:

“26 The Commission may delegate under section 73 of the Crown Entities Act 2004 its power to investigate an accident or incident, or any power incidental to that power (including the functions set out in section 8 of this Act), but—

“(a) if it does so, it must review the facts; and

Transport Accident Investigation Commission Act 1990

(1990 No 99)—continued

“(b) it may not delegate its power to make findings and recommendations as to the contributing factors and causes of the accident or incident.

“27 The Chief Commissioner may delegate the Chief Commissioner’s power to issue a warrant under section 12(4) in the same manner as the Board may delegate a power under section 73 of the Crown Entities Act 2004.

“28 Sections 74 to 76 of the Crown Entities Act 2004 apply to a delegation under clause 27, with all necessary modifications.”

Legislative history

14 December 2004	Divided from Public Finance (State Sector Management) Bill (Bill 99–2), third reading
21 December 2004	Royal assent

This Act is administered in the State Services Commission and the Treasury.
