

Archives, Culture, and Heritage Reform Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill

As reported from the committee of the whole House

New

Subject to this Act,

Text inserted

Hon Mark Burton

Archives, Culture, and Heritage Reform Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Archives, Culture, and Heritage Reform Act **2000**.
- 2 Commencement** 5
This Act comes into force on **1 October 2000**.
- 3 Purpose**
The purpose of this Act is—
 - (a) to provide for the transfer of staff and resources from the Department of Internal Affairs to a new department of State responsible for the National Archives; and 10
 - (b) to facilitate the transfer of—
 - (i) certain functions under the Archives Act 1957; and
 - (ii) administration of that Act; and 15

- (c) to facilitate the transfer of—
 - (i) functions currently performed by the Minister of Internal Affairs under the Antiquities Act 1975, the Massey Burial-ground Act 1925, the National War Memorial Act 1992, and the Patriotic and Canteen Funds Act 1947; and 5
 - (ii) functions currently performed by the Minister of Conservation under the Historic Places Act 1993; and
 - (iii) administration of those enactments; and 10
- (d) to provide for matters ancillary to the transfer of certain functions from the Department of Internal Affairs to the Ministry for Culture and Heritage; and
- (e) to amend related enactments and to provide for related matters. 15

Part 1

Preliminary provisions and transfer of employees

4 Interpretation

In this Act, unless the context otherwise requires,—

responsible department means the department of State that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Archives Act 1957 20

responsible ministry means the department of State that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Arts Council of New Zealand Toi Aotearoa Act 1994 25

transferred employee means a person employed in the Department of Internal Affairs immediately before the commencement of this Act who is transferred to the responsible department under **section 5**. 30

5 Transfer of employees

- (1) Every person who is employed in the Department of Internal Affairs immediately before the date of commencement of this Act must be treated as having transferred to the responsible department on that date of commencement if— 35
 - (a) the person is carrying out duties that on or after that date are to be carried out, in whole or in part, by the responsible department; and

- (b) the person's transfer to the responsible department is agreed between the chief executive of the Department of Internal Affairs and the chief executive of the responsible department.
- (2) The transfer of any employee by this section is subject to any relevant transfer provisions of the employment contract applying to that employee. 5
 Compare: 1998 No 106 s 3; 1999 No 76 s 3; 2000 No 14 s 32
- 6 Protection of terms and conditions for transferred employee** 10
- (1) The employment of a transferred employee must be on terms and conditions no less favourable than those applying to the employee immediately before the date of the person's transfer to the responsible department.
- (2) **Subsection (1)**— 15
- (a) continues to apply to the terms and conditions of employment of a transferred employee until those terms and conditions are varied by agreement between the transferred employee and the responsible department; but 20
- (b) does not apply to a transferred employee who, after the transfer, receives any subsequent appointment within the responsible department.
- Compare: 1998 No 106 s 4; 1999 No 76 s 4; 2000 No 14 s 33
- 7 Employment to be continuous** 25
- For the purposes of any provisions of a transferred employee's employment contract relating to continuity of service, that employee's transfer from the Department of Internal Affairs to the responsible department is insufficient by itself to break his or her employment. 30
- Compare: 1998 No 96 s 4; 1999 No 76 s 5; 1999 No 82 s 5
- 8 No compensation for technical redundancy**
- A transferred employee is not entitled to receive any compensation for redundancy or any severance payment solely on the ground that— 35
- (a) the position held by that employee in the Department of Internal Affairs has ceased to exist; or

- (b) the person has ceased to be an employee of the Department of Internal Affairs as a result of his or her transfer to the responsible department.

Compare: 1998 No 96 s 5; 1998 No 106 s 7; 1999 No 76 s 7; 2000 No 14 s 35

Part 2

5

Transfer of obligations and functions, and other related matters

9 Transfer of contracts or leases not to give rise to claims

- (1) No person has any claim against the Crown for breach of any contract merely because the administration of the contract, or the benefit or burden of the contract, is transferred (in whole or in part) to the responsible department or the responsible ministry, whether that transfer takes place before, on, or after the commencement of this Act. 10
- (2) **Subsection (1)** applies— 15
- (a) whether or not the person has agreed to the transfer; and
- (b) whether or not the transfer involves the responsible department or the responsible ministry (and its employees) gaining access to any information, data, programme, intellectual property right, know-how, chattel, equipment, transmission device, or facility of the claimant or any other person. 20
- (3) No person has any claim against the Crown for breach of any lease of any premises that are, or are to be, occupied or administered (in whole or in part) by the responsible department or the responsible ministry merely because of that occupation or administration of the premises by the responsible department or the responsible ministry. 25
- (4) **Subsection (3)** applies whether or not the person has agreed to the occupation or administration of the premises by the responsible department or the responsible ministry. 30

Compare: 1998 No 96 s 6; 1999 No 82 s 7

10 References to functions being transferred to responsible department or responsible ministry

- (1) Unless the context otherwise requires, in any regulation, rule, order, agreement, deed, instrument, application, notice, direction, contract, lease, or other document in force at the commencement of this Act, the references specified in **subsections** 35

(2) and (3) must be read in the manner indicated in those subsections.

- (2) Every reference to the Secretary for Internal Affairs, when used in relation to the National Archives, is a reference to the chief executive of the responsible department. 5
- (3) Every reference to the Secretary for Internal Affairs, when used in relation the Heritage Property Unit, Historical Branch of the Department of Internal Affairs, or the Dictionary of New Zealand Biography, is a reference to the chief executive of the responsible ministry. 10

Compare: 1998 No 96 s 10; 1999 No 82 s 11

11 Savings relating to brands, logos, marks, etc

All names, brands, stamps, logos, emblems, marks, forms, and other representation or documents that were in use by the Department of Internal Affairs at any time before the date of commencement of this Act for the purposes of the National Archives, the Heritage Property Unit, the Historical Branch, or the Dictionary of New Zealand Biography— 15

- (a) continue to have effect in relation to anything done before that date; and 20
- (b) may continue to be used, and are to have effect, for the purposes of the functions, duties, and powers of the responsible department or the responsible ministry, as the case may be.

Compare: 1997 No 100 s 6; 1998 No 96 s 8; 1999 No 82 s 9 25

12 Amendments to other Acts

The Acts specified in the **Schedule** are amended in the manner indicated in that **schedule**.

13 Revocation

The State Sector Order (No 2) 1990 (SR 1990/171) is consequentially revoked. 30

Schedule Acts amended

Antiquities Act 1975 (1975 No 41)

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

“**chief executive** means the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”.

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

“**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”.

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

Omit from sections 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, and 20 the word “Secretary” wherever it appears and substitute in each case the words “chief executive”.

Omit from the heading to section 8 the word “Secretary” and substitute the words “chief executive”.

Omit from the heading to section 9 the word “Secretary’s” and substitute the words “chief executive’s”.

Omit from the Schedule the item relating to the “National Museum” and substitute the item “Museum of New Zealand Te Papa Tongarewa, Wellington”.

Archives Act 1957 (1957 No 13)

Repeal the definition of **Chief Archivist** in section 2 and substitute:

“**Chief Archivist** means the chief executive of the responsible department”.

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

“**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”.

Add to section 2:

“**responsible department** means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act.”

Repeal section 4.

Repeal section 6 and substitute:

“6 Responsibilities of Chief Archivist

The Chief Archivist is responsible for—

“(a) the custody, care, control, and administration of all public archives deposited in the National Archives; and

Archives Act 1957 (1957 No 13)—continued

“(b) the performance of any other duties prescribed by this Act.”

Omit from section 8(4) the words “of Internal Affairs”.

Omit from section 16(7) the words “of Internal Affairs”. 5

Omit from section 17(7) the words “Secretary for Internal Affairs” and substitute the word “Minister”.

Omit from section 18(1), (2), (5), and (6) the words “Secretary for Internal Affairs” and substitute in each case the word “Minister”.

Omit from section 18(3) the words “Secretary for Internal Affairs” 10 where they first appear and substitute the word “Minister”.

Omit from section 18(3) the words “direct the Secretary for Internal Affairs to”.

Omit from section 23B(2) the words “, under the general direction of the Secretary for Internal Affairs,”. 15

Arts Council of New Zealand Toi Aotearoa Act 1994

(1994 No 19)

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

“**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”. 20

Conservation Act 1987 (1987 No 65)

Omit from the First Schedule the item “The Historic Places Act 1993”.

Historic Places Act 1993 (1993 No 38) 25

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

“**chief executive** means the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”.

Repeal the definition of **Director-General** in section 2. 30

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

“**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”.

Omit from section 19 the words “Secretary for Internal Affairs” and substitute the words “chief executive”. 35

Omit from the heading to section 19 the words “**Secretary for Internal Affairs**” and substitute the words “**chief executive**”.

Omit from section 51 the expression “Director-General” in both places where it appears and substitute in each case the words “chief executive”. 40

Historic Places Act 1993 (1993 No 38)—continued

Omit from section 51 the expression “Director-General’s” and substitute the words “chief executive’s”.

Omit from the heading to section 51 the expression “**Director-General**” and substitute the words “**chief executive**”. 5

Omit from section 107 (1) the words “Department of Conservation” and substitute the words “department for the time being responsible for the administration of this Act”.

Omit from section 107(1) the expression “Director-General” and substitute the words “chief executive”. 10

New

Add to section 115, as subsection (2):

“(2) This Act must continue to be interpreted and administered to give effect to the principles of the Treaty of Waitangi, unless the context otherwise requires, even though this Act is no longer— 15

“(a) administered by the Department of Conservation; or

“(b) included in the First Schedule of the Conservation Act 1987.”

Massey Burial-ground Act 1925 (1925 No 5) 20

Omit from section 5(1) and (2) the words “of Internal Affairs”.

Add to section 5:

“(3) In this section and section 6, **Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”. 25

Omit from section 6 the words “of Internal Affairs”.

Museum of New Zealand Te Papa Tongarewa Act 1992

(1992 No 19)

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

“**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”. 30

Omit from sections 10, 12, 13, and 29(3), and from clauses 12 and 13 of the First Schedule, the words “of Cultural Affairs” wherever they appear. 35

National War Memorial Act 1992 (1992 No 20)

Insert, after section 3:

National War Memorial Act 1992 (1992 No 20)—continued**“3A Interpretation**

In this Act, unless the context otherwise requires, **Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act.” 5

Omit from sections 5, 9, 10, 12, 13, 15, and 18, and the heading to section 18, the words “of Internal Affairs” wherever they appear.

Repeal section 10(1)(d) and substitute:

“(d) the chief executive of the department that is for the time being responsible for the administration of this Act.” 10

New Zealand Film Commission Act 1978 (1978 No 61)

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

“**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act.” 15

New Zealand Symphony Orchestra Act 1988 (1988 No 163)

Insert, after the definition of **the company** in section 3:

“**responsible Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”.” 20

Omit from the definition of **shareholding Ministers** in section 3 the words “Minister of Cultural Affairs” and substitute the words “responsible Minister”.

Omit from section 6(3) the words “person for the time being holding the office of Minister of Cultural Affairs” and substitute the words “responsible Minister”.” 25

Omit from section 6(5) the words “person holding office as the Minister of Cultural Affairs or Minister of Finance” and substitute the words “responsible Minister or the person holding office as the Minister of Finance”.” 30

Ombudsmen Act 1975 (1975 No 9)

Omit from the First Schedule the item relating to the Ministry of Cultural Affairs and substitute the item “Ministry for Culture and Heritage”.” 35

Patriotic and Canteen Funds Act 1947 (1947 No 63)

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

“**Minister** means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act”.” 40

Patriotic and Canteen Funds Act 1947 (1947 No 63)—
continued

Repeal section 4(1)(a) and substitute:

“(a) the Chief of Defence Force or a person from time to time nominated by the Chief of Defence Force” 5

Omit from section 4(2) the words “Secretary for Internal Affairs any officer of that department authorised by him in that behalf may attend that meeting in his stead” and substitute the words “person who is a member under subsection (1)(a), any person authorised by that member for the purpose may attend that meeting instead of the member” 10

State Sector Act 1988 (1988 No 20)

Omit from the First Schedule the item relating to the “Ministry of Cultural Affairs” and substitute the item “Ministry for Culture and Heritage” 15

Legislative history

24 July 2000	Introduction (Bill 47-1)
17 August 2000	First reading and referral to Government Administration Committee
25 August 2000	Reported from Government Administration Committee
7 September 2000	Second reading
12 September 2000	Committee of the whole House (Bill 47-2)