

# **Industry New Zealand and Trade New Zealand Integration Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to support the development of internationally competitive New Zealand business by establishing a new Crown entity called Industry New Zealand/Trade New Zealand.

Industry New Zealand/Trade New Zealand will incorporate the services currently provided by Trade New Zealand and Industry New Zealand into an integrated service range. Trade New Zealand and Industry New Zealand are to be dissolved under the Bill, which provides for the repeal of the New Zealand Trade Development Board Act 1988 and the Industry New Zealand Act 2000.

The aim of the integration of Trade New Zealand and Industry New Zealand is to improve service delivery to enterprise by making services less fragmented and aligning economic development programmes.

The Crown entity form is seen as appropriate for Industry New Zealand/Trade New Zealand because—

- it would allow the new organisation to develop a strong commercial culture and to build and maintain credibility with business networks; and
- the 2 organisations to be dissolved are also Crown entities.

Industry New Zealand/Trade New Zealand will be governed by a board appointed by the responsible Minister(s). There is also provision in the Bill for the responsible Minister(s) to appoint the Secretary of Foreign Affairs and Trade and the chief executive of the Ministry of Economic Development as special advisers.

Industry New Zealand/Trade New Zealand will be required to give effect to any Government policy that is communicated to it by written direction given and signed by the responsible Minister(s). A copy of every Ministerial direction must be presented to the House of Representatives.

### **Part by Part analysis**

*Clause 1* is the Title clause.

#### **Part 1**

##### **Preliminary provisions**

*Part 1* deals with the following preliminary matters:

- the commencement of the Bill (*clause 2*);
- the purpose of the Bill (*clause 3*);
- an overview of provisions (*clause 4*);
- interpretation (*clause 5*);
- the Act binding the Crown (*clause 6*).

The Bill will come into force on **1 July 2003**. Its purpose is to support the development of internationally competitive New Zealand business by establishing Industry New Zealand/Trade New Zealand.

#### **Part 2**

##### **Industry New Zealand/Trade New Zealand**

*Part 2* establishes a new Crown entity called Industry New Zealand/Trade New Zealand (INZ/TNZ) (*clause 7*).

The functions of INZ/TNZ are set out in *clause 9*.

INZ/TNZ has full rights, powers, and privileges for the purposes of performing its functions (*clause 11*) (except it must not borrow money or renew a loan without the prior written consent of the Minister of Finance (*clause 51*)).

Except in relation to the allocation of funds, INZ/TNZ must give effect to Government policy that is communicated to it and is consistent with its functions (*clauses 12 and 13*).

All decisions relating to the operation of INZ/TNZ must be made by or under the authority of the board of INZ/TNZ, and the board has all the powers necessary for carrying out that role (*clause 15*). Matters relating to the board's and members' duties, the membership of the

board, and the procedure of the board are dealt with in *Schedules 1 to 3* respectively.

The Minister may appoint the Secretary of Foreign Affairs and Trade and the chief executive of the Ministry of Economic Development as special advisers to assist the board in aligning its strategies and activities with Government policy (*clause 19*).

The board may delegate certain of its functions, duties, and powers to various persons (*clauses 20 to 24*). The board may also appoint committees to perform certain functions and duties and to exercise certain powers (*clauses 25 to 27*). The board must appoint a chief executive (*clauses 28 to 30*).

INZ/TNZ may employ persons to assist in performing its functions, subject to the requirements specified in *clauses 31 and 32*.

The board, its members and special advisers, members of its committees, and officers and employees of INZ/TNZ are not liable for certain acts done or omitted to be done in the performance of INZ/TNZ's functions, unless the act or omission arises out of conduct that is not in good faith or that is criminal conduct (*clause 38*).

INZ/TNZ may, in certain cases, indemnify members of the board or employees for costs incurred in any civil or criminal proceedings (*clause 39*). INZ/TNZ may also effect insurance cover for more persons in relation to liability and costs incurred in civil proceedings and in relation to costs incurred in criminal proceedings (*clause 40*).

INZ/TNZ may authorise members of the board or employees to execute certain documents (*clause 43*). INZ/TNZ may enter into a contract or other enforceable obligation in the manner stated in *clause 44*. Every person who appears to have been so authorised is presumed to be acting in accordance with that authority unless evidence indicates otherwise (*clause 47*).

INZ/TNZ has the usual powers and duties regarding financial matters (*clauses 48 to 52*) and is exempt from taxation (*clause 53*).

INZ/TNZ must prepare—

- a statement of intent in accordance with *clauses 54 to 64*; and
- an annual report on its affairs in accordance with *clauses 65 to 72*.

### Part 3

#### Miscellaneous provisions

*Clause 74* provides for the dissolution of the New Zealand Trade Development Board and Industry New Zealand (the **former agencies**).

*Clauses 75 to 82* deal with transitional matters.

*Clause 75* provides that all rights, assets, liabilities, and debts of the former agencies are vested in INZ/TNZ as at the commencement of the Act.

*Clause 76* provides for the transfer of employees of the former agencies to INZ/TNZ.

*Clause 77* provides that, if an employee is transferred, the terms and conditions of employment must be no less favourable to the transferred employee than those applying to the employee immediately before the transfer.

*Clause 79* provides that a transferred employee is not entitled to compensation for technical redundancy.

*Clause 80* requires INZ/TNZ to arrange for the final reports of the former agencies to be delivered to the Minister, who must present a copy of the reports to the House of Representatives.

*Clause 81* provides that all references to the former agencies in certain enactments, agreements, and other documents must be read as references to INZ/TNZ.

*Clause 82* provides that any proceedings pending by or against the former agencies may be carried on, completed, and enforced by or against INZ/TNZ.

Consequential amendments are made to other Acts (*clause 84 and Schedule 4*).

The New Zealand Trade Development Board Act 1988 and the Industry New Zealand Act 2000 are repealed (*clause 85*).

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Hon Jim Anderton

# Industry New Zealand and Trade New Zealand Integration Bill

Government Bill

## Contents

1	Title	21	Certain powers must not be delegated
	<b>Part 1</b>	22	Effect of delegation
	<b>Preliminary provisions</b>	23	Presumption of acting in accordance with delegation
2	Commencement	24	Other matters relating to delegation
3	Purpose		<i>Committees</i>
4	Overview	25	Board may appoint committees
5	Interpretation	26	Membership of committee
6	Act binds the Crown	27	Committee to regulate own procedure
	<b>Part 2</b>		<i>Chief executive of INZ/TNZ</i>
	<b>Industry New Zealand/Trade New Zealand</b>	28	Appointment of chief executive
	<i>Establishment of INZ/TNZ</i>	29	Terms and conditions of chief executive's employment
7	Establishment	30	Delegation of functions, duties, or powers by chief executive
8	Crown entity status		<i>Employees of INZ/TNZ</i>
9	Functions	31	Personnel policy
10	INZ/TNZ is body corporate	32	Equal employment opportunities programme
11	Capacity and powers		<i>Superannuation</i>
12	Compliance with Government policy	33	Establishment of superannuation schemes
13	Requirements for notices and Ministerial directions	34	Government Superannuation Fund
	<i>Membership, role, and accountability of board</i>	35	Employees not in service of the Crown
14	Membership of board		<i>Members and employees are officials</i>
15	Board's role	36	Members and employees are officials
16	Accountability of members to Minister		<i>Protections from liability of members and employees</i>
	<i>Minister's role</i>	37	Protections for members and employees from liabilities of INZ/TNZ
17	Minister's role		
18	Minister responsible to House of Representatives		
	<i>Special advisers</i>		
19	Special advisers		
	<i>Delegation by board</i>		
20	Persons to whom board may delegate functions, duties, and powers		

**Industry New Zealand and Trade  
New Zealand Integration Bill**

<p>38 Immunity of members and employees from civil liability to third parties</p> <p>39 Indemnity for members and employees for costs from civil and criminal proceedings</p> <p>40 Insurance for members and employees</p> <p>41 Breach of indemnity and insurance limits</p> <p>42 Definitions for protections from liability</p> <p style="text-align: center;"><i>Dealings with third parties by INZ/TNZ</i></p> <p>43 Execution of documents</p> <p>44 Method of contracting</p> <p>45 Attorneys</p> <p>46 Dealings between INZ/TNZ and other persons</p> <p>47 Presumption of authority to execute document</p> <p style="text-align: center;"><i>Financial provisions</i></p> <p>48 Funds of INZ/TNZ</p> <p>49 Bank accounts</p> <p>50 Investment of money</p> <p>51 INZ/TNZ not to borrow without consent of Minister of Finance</p> <p>52 Auditor-General to be auditor of INZ/TNZ</p> <p>53 INZ/TNZ deemed to be public authority</p> <p style="text-align: center;"><i>Planning—Statement of intent</i></p> <p>54 Purpose of statement of intent</p> <p>55 Obligation to prepare statement of intent</p> <p>56 Form and content of statement of intent</p> <p>57 Ministerial involvement in statements of intent</p> <p>58 Process for providing statement of intent to Minister</p> <p>59 Application and term of statement of intent</p> <p>60 Amendments to statement of intent</p> <p>61 Optional amendments by INZ/TNZ</p> <p>62 Mandatory amendments</p> <p>63 Amendments to statement of intent by Minister</p> <p>64 Minister to present statement of intent and amendments to House of Representatives</p> <p style="text-align: center;"><i>Reporting—Annual report</i></p> <p>65 Obligation to prepare annual report</p>	<p>66 Form and content of annual report</p> <p>67 Form and content of statement of service performance</p> <p>68 Form and content of annual financial statements</p> <p>69 Statement of responsibility</p> <p>70 Audit</p> <p>71 Obligation to provide annual report to Minister</p> <p>72 Minister to present annual report to House of Representatives</p> <p style="text-align: center;"><i>Review of INZ/TNZ's operations and performance</i></p> <p>73 Review of INZ/TNZ's operations and performance</p> <p style="text-align: center;"><b>Part 3 Miscellaneous provisions</b></p> <p style="text-align: center;"><i>Dissolution of former agencies</i></p> <p>74 Former agencies dissolved</p> <p style="text-align: center;"><i>Transitional provisions</i></p> <p>75 Assets and liabilities vest in INZ/TNZ</p> <p>76 Transfer of employees</p> <p>77 Terms and conditions of employment for transferred employee</p> <p>78 Continuity of employment</p> <p>79 No compensation for technical redundancy</p> <p>80 Final reports and accounts</p> <p>81 References to former agency</p> <p>82 Proceedings of former agency</p> <p style="text-align: center;"><i>Application of Archives Act 1957</i></p> <p>83 Archives Act 1957 to apply</p> <p style="text-align: center;"><i>Consequential amendments</i></p> <p>84 Consequential amendments</p> <p style="text-align: center;"><i>Repeals</i></p> <p>85 Repeals</p> <p style="text-align: center;">—————</p> <p style="text-align: center;"><b>Schedule 1 Members' duties</b></p> <p style="text-align: center;"><b>Schedule 2 Membership of board</b></p> <p style="text-align: center;"><b>Schedule 3 Procedure of board</b></p> <p style="text-align: center;"><b>Schedule 4 Acts amended</b></p>
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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Industry New Zealand and Trade New Zealand Integration Act **2003**.

**Part 1**  
**Preliminary provisions**

5

**2 Commencement**

This Act comes into force on **1 July 2003**.

**3 Purpose**

- (1) The purpose of this Act is to support the development of internationally competitive New Zealand business by establishing Industry New Zealand/Trade New Zealand. 10
- (2) Industry New Zealand/Trade New Zealand is the Crown entity responsible for facilitating (in co-operation with industry, central and local government, and relevant community groups) the development and implementation of strategies, programmes, and activities for trade, industry, and regional development as directed by the Government. 15

**4 Overview**

In this Act,— 20

- (a) this Part deals with preliminary matters, including the purpose of this Act, interpretation, and the application of this Act to the Crown:
- (b) **Part 2** and **Schedules 1 to 3** contain provisions regarding a new Crown entity called Industry New Zealand/Trade New Zealand and include— 25
- (i) provisions relating to the establishment of INZ/TNZ (**sections 7 to 13**), the membership, role, and accountability of the board of INZ/TNZ (**sections 14 to 16**), the Minister's role (**sections 17 and 18**), special advisers to the board (**section 19**), and committees of the board (**sections 25 to 27**) and supplementary provisions regarding the board's and members' duties, membership of the board, and procedure of the board (**Schedules 1 to 3** respectively): 30 35

- (ii) provisions regarding the chief executive of INZ/TNZ, employees, superannuation, and the liability of members, and employees (**sections 28 to 42**):
- (iii) provisions regarding dealings with third parties by INZ/TNZ (**sections 43 to 47**), financial provisions (**sections 48 to 53**), provisions relating to the preparation of statements of intent (**sections 54 to 64**), and annual reporting provisions (**sections 65 to 72**):
- (c) **Part 3** deals with the dissolution of the New Zealand Trade Development Board and of Industry New Zealand (**section 74**), transitional matters (**sections 75 to 82**), the application of the Archives Act 1957 (**section 83**), consequential amendments to other Acts (**section 84** and **Schedule 4**), and repeals (**section 85**).

## 5 Interpretation

In this Act, unless the context otherwise requires,—

**board** means the board of INZ/TNZ

**borrow**—

- (a) includes entering into hire purchase agreements; and
- (b) includes entering into financing lease arrangements; and
- (c) includes accepting debt on assignment from other persons; but
- (d) excludes the purchase of goods or services, 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

**chairperson** means the chairperson of the board

**committee** means a committee appointed under **section 25**

**deputy chairperson** means the deputy chairperson of the board

**enactment** includes this Act

**equal employment opportunities programme** has the meaning set out in **section 32(2)**



- fees framework** means the framework determined by the Government from time to time for the classification and remuneration of members of statutory and other bodies in which the Crown has an interest, including statutory entities and their subsidiaries 5
- former agency** means either or both of the following (as the context requires):
- (a) Industry New Zealand:
  - (b) Trade New Zealand
- good employer** has the meaning set out in **section 31(2)** 10
- industry** means a business, trade, manufacturing or commercial undertaking, profession, occupation, or undertaking relating to the supply or acquisition of goods or services
- Industry New Zealand** means the Crown entity established under section 7 of the Industry New Zealand Act 2000 15
- INZ/TNZ**—
- (a) means Industry New Zealand/Trade New Zealand established under **section 7**; and
  - (b) in **sections 9, 11, 51, 52**, in **Schedule 1** (which relates to members' duties), and in **Schedule 4** in respect of the items relating to the Official Information Act 1982 and the Ombudsmen Act 1975, includes a subsidiary of INZ/TNZ 20
- member** means a member of the board
- Minister** means the Minister or Ministers of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, are for the time being responsible for the administration of this Act 25
- subsidiary** means a company that, under sections 5 to 8 of the Companies Act 1993, is a subsidiary of INZ/TNZ 30
- Trade New Zealand** means the New Zealand Trade Development Board established under section 3 of the New Zealand Trade Development Board Act 1988
- transferred employee** means a person who,—
- (a) immediately before the commencement of this Act, is employed by a former agency; and 35
  - (b) is transferred to INZ/TNZ under **section 76**.

- 6 Act binds the Crown**  
This Act binds the Crown.

**Part 2**  
**Industry New Zealand/Trade New Zealand**

*Establishment of INZ/TNZ* 5

- 7 Establishment**  
This section establishes Industry New Zealand/Trade New Zealand.
- 8 Crown entity status**  
INZ/TNZ is a Crown entity for the purposes of the Public Finance Act 1989. 10
- 9 Functions**
- (1) The functions of INZ/TNZ are to—
- (a) contribute to a supportive environment for sustainable economic growth by— 15
    - (i) fostering collaborative networks and partnerships between central government, local government, industry, regions, education and research organisations, potential investors, and individual enterprises; and 20
    - (ii) encouraging the development and delivery of economic development services by the private and non-government sector; and
    - (iii) co-ordinating the delivery of government economic development assistance to industry, regions, and individual businesses: 25
  - (b) provide a conduit for input and advice from industry, local government, and relevant community groups on programmes to implement the Government's policies for economic, industry, and regional development: 30
  - (c) enhance industry and regional enterprise and entrepreneurial capabilities by— 35
    - (i) providing information; and
    - (ii) facilitating access to skills, expertise, and resources:
  - (d) contribute to increased exports from, and investment in, New Zealand by—

- (i) strengthening global linkages through trade and investment promotion; and
    - (ii) providing targeted business and international market development assistance:
  - (e) carry out any other functions and duties in relation to trade, industry, and regional development that the Minister may prescribe by notice in writing signed by the Minister and given to INZ/TNZ: 5
  - (f) carry out any functions that are incidental and related to, or consequential upon, its functions as set out in paragraphs (a) to (e). 10
- (2) In performing its functions, INZ/TNZ must give effect to the purpose of this Act.
- (3) A prescribed notice under **subsection (1)(e)**—
  - (a) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989; and 15
  - (b) may be amended, revoked, or replaced, at any time, in the same manner.
- 10 INZ/TNZ is body corporate**
  - INZ/TNZ— 20
    - (a) is a body corporate with perpetual succession; and
    - (b) is accordingly a legal entity in its own right separate from its board, members, office holders, and the Crown; and
    - (c) continues in existence until it is dissolved by an Act. 25
- 11 Capacity and powers**
  - (1) Except as provided in this Act or any other Act or rule of law, INZ/TNZ—
    - (a) has all the rights, powers, and privileges of a natural person of full age and capacity; and 30
    - (b) has the statutory powers conferred by this Act or any other Act.
  - (2) INZ/TNZ may exercise its powers only for the purpose of performing its functions.

**12 Compliance with Government policy**

- (1) In the performance of its functions and duties, and in the exercise of its powers, INZ/TNZ must give effect to any policy of the Government that—
- (a) relates to INZ/TNZ's functions; and 5
  - (b) is communicated to INZ/TNZ by written direction given and signed by the Minister.
- (2) A Ministerial direction—
- (a) must not be given without the Minister consulting the board about the terms of the direction; and 10
  - (b) may be amended, revoked, or replaced, at any time, in the same manner.
- (3) Nothing in this section authorises the Minister to direct INZ/TNZ to allocate funds to, or for the benefit of, a particular person. 15

**13 Requirements for notices and Ministerial directions**

The Minister must, as soon as practicable after prescribing a notice under **section 9(1)(e)** or giving a Ministerial direction under **section 12** (as the case may be),—

- (a) publish a copy of it in the *Gazette*; and 20
- (b) present a copy of it to the House of Representatives.

*Membership, role, and accountability of board***14 Membership of board**

- (1) The board must have at least 3 members, but not more than 9 members. 25
- (2) **Schedules 1 to 3** apply to the board and its members.

**15 Board's role**

- (1) The board is the governing body of INZ/TNZ, with the authority, in INZ/TNZ's name, to exercise the powers and perform the functions of INZ/TNZ. 30
- (2) All decisions relating to the operation of INZ/TNZ must be made by or under the authority of the board in accordance with this Act.
- (3) The board has all the powers necessary for carrying out its role. 35

- 16 Accountability of members to Minister**
- (1) Members must comply with—
- (a) the board’s collective duties in **clauses 1 to 4 of Schedule 1**; and
  - (b) their individual duties as members in **clauses 5 to 9 of Schedule 1**; and 5
  - (c) any Ministerial directions given under **section 12**.
- (2) Members are accountable to the Minister, in accordance with this Act, for performing their duties as members.
- Minister’s role* 10
- 17 Minister’s role**
- The Minister’s role with respect to INZ/TNZ includes functions, powers, and duties in relation to—
- (a) the appointment and removal of members:
  - (b) the prescribing of a notice under **section 9(1)(e)**: 15
  - (c) the giving of Ministerial directions to INZ/TNZ under **section 12**:
  - (d) the appointment of special advisers under **section 19**:
  - (e) the preparation and presentation of INZ/TNZ’s statement of intent in accordance with **sections 54 to 64**: 20
  - (f) determining the remuneration of members under **clause 18 of Schedule 2**:
  - (g) other matters in this Act or any other enactment.
- 18 Minister responsible to House of Representatives**
- The Minister is responsible, in accordance with this Act, to the House of Representatives for the exercise and performance of the functions, powers, and duties given to him or her in relation to INZ/TNZ. 25
- Special advisers*
- 19 Special advisers** 30
- (1) The Minister may appoint the persons referred to in **subsection (2)** as special advisers to assist the board in aligning its strategy and activities with Government policy.
- (2) The persons are—
- (a) the Secretary of Foreign Affairs and Trade; and 35

- (b) the chief executive of the Ministry of Economic Development.
- (3) A special adviser is not a member, but may attend meetings of the board.
- (4) A special adviser may also attend meetings of any of the committees of the board, but is not to be regarded as a member of the committee. 5
- (5) For the purposes of **subsection (3) or subsection (4)**, each special adviser must be given reasonable notice of the time and place of every meeting of the board or of its committees (as the case may be) and any written material or document that relates to matters to be considered at the meeting by,— 10
- (a) in the case of meetings of the board, the chairperson, the deputy chairperson, or the member or members calling the meeting; or 15
- (b) in the case of meetings of a committee, the member or members calling the meeting.

*Delegation by board*

- 20 Persons to whom board may delegate functions, duties, and powers** 20
- The board may, by writing, either generally or specifically, delegate any of its functions, duties, or powers to any of the following:
- (a) any of its members:
- (b) a committee appointed by resolution of the board that includes at least 1 member of the board: 25
- (c) the chief executive:
- (d) any employee or employees of INZ/TNZ:
- (e) any other person or persons approved by the Minister.
- 21 Certain powers must not be delegated** 30
- The board must not delegate any of the following powers:
- (a) the power to acquire or dispose of real property:
- (b) the power to form and register a subsidiary:
- (c) the power to borrow money:
- (d) the power to appoint a chief executive. 35

- 22 Effect of delegation**  
Any person to whom any functions or powers are delegated under **section 20**—
- (a) may, unless the delegation provides otherwise, perform those functions or exercise those powers in the same manner, subject to the same restrictions, and with the same effect as if the person were the board; and 5
  - (b) may delegate the functions or powers only with the prior written consent of the board.
- 23 Presumption of acting in accordance with delegation** 10  
A person who appears to act under a delegation under **section 20** is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- 24 Other matters relating to delegation** 15  
A delegation under **section 20**—
- (a) is revocable at will, but the revocation does not take effect until it is communicated, in writing, to the delegate; and
  - (b) continues in force according to its terms until it is revoked, despite any change in the membership of the board; and 20
  - (c) does not prevent the performance of a function or duty, or the exercise of a power, by the board; and
  - (d) does not affect the responsibility of the board for the actions of any person acting under delegation. 25

*Committees*

- 25 Board may appoint committees**
- (1) The board may, by resolution, appoint 1 or more committees to—
- (a) inquire into, and report to the board on, any matters within the scope of the board's functions, duties, or powers that are referred to the committee by the board; 30
  - (b) perform any of the board's functions or duties, or exercise any of the board's powers, that are delegated to the committee under **section 20**. 35

- (2) The committee is subject in all things to the control of the board and may, at any time, be discharged, altered, or reconstituted by the board.
- 26 Membership of committee** 5  
A committee must consist of at least 1 member and may include any other persons that the board thinks fit.
- 27 Committee to regulate own procedure**  
Subject to the board's direction, a committee may regulate its own procedure.
- Chief executive of INZ/TNZ* 10
- 28 Appointment of chief executive**
- (1) The board must appoint a chief executive.
- (2) The chief executive must not be a member.
- (3) The chief executive is responsible to the board for the efficient and effective administration of the affairs of INZ/TNZ. 15
- 29 Terms and conditions of chief executive's employment**
- (1) The chief executive must be appointed on terms and conditions agreed to by the board.
- (2) However, the board must not agree to any terms and conditions of employment for the chief executive, or to an amendment of those terms and conditions, without— 20
- (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 INZ/TNZ or to a class of Crown entities to which INZ/TNZ belongs, consulting the Minister. 25
- (3) The board must have regard to any recommendations that the Commissioner and (if applicable) the Minister makes to it within a reasonable time of being consulted. 30
- (4) A failure to comply with this section does not invalidate the acts of the chief executive.



**30 Delegation of functions, duties, or powers by chief executive**

- (1) The chief executive may, by writing, either generally or specifically, delegate to an employee of INZ/TNZ any functions, duties, or powers delegated to the chief executive by the board as long as the board has given its written consent to the delegation. 5
- (2) **Sections 22 to 24** apply (with any necessary modifications) to a delegation under **subsection (1)**.

*Employees of INZ/TNZ* 10

**31 Personnel policy**

- (1) INZ/TNZ must—
- (a) operate a personnel policy that complies with the principle of being a good employer; and
  - (b) report on its compliance with that policy (including its equal employment opportunities programme) in its annual report. 15
- (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— 20
- (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 25
  - (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 INZ/TNZ; and 30
  - (e) opportunities for the enhancement of the abilities of individual employees; and
  - (f) recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and 35
  - (g) recognition of the employment requirements of women; and
  - (h) recognition of the employment requirements of persons with disabilities.

- 32 Equal employment opportunities programme**
- (1) In each year, INZ/TNZ must—
- (a) develop and publish an equal employment opportunities programme for itself; and
  - (b) ensure that the programme for that year is complied with. 5
- (2) For the purposes of this section and **section 31**, an **equal employment opportunities programme** is a programme aimed at identifying and eliminating 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. 10

*Superannuation*

- 33 Establishment of superannuation schemes** 15
- INZ/TNZ may establish superannuation schemes in accordance with sections 84A to 84D of the State Sector Act 1988.
- 34 Government Superannuation Fund**
- (1) A person who, immediately before becoming an employee of INZ/TNZ, was a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, to be treated as if he or she were employed in the Government service as long as the person continues to be an employee of INZ/TNZ. 20
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of INZ/TNZ were Government service. 25
- (3) A person employed by INZ/TNZ who ceases to be a contributor to the Government Superannuation Fund is not subsequently entitled to become a contributor. 30
- (4) For the purposes of applying the Government Superannuation Fund Act 1956 in accordance with **subsection (2), controlling authority**, in relation to that employee, means INZ/TNZ.
- 35 Employees not in service of the Crown** 35
- Except as otherwise provided in **section 34**, an employee of INZ/TNZ is to be treated as if he or she is not employed in the

service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.

*Members and employees are officials*

- 36 Members and employees are officials** 5  
Members and employees are officials for the purposes of sections 105 and 105A of the Crimes Act 1961.

*Protections from liability of members and employees*

- 37 Protections for members and employees from liabilities of INZ/TNZ** 10  
A member or employee of INZ/TNZ is not liable for any liability of INZ/TNZ by reason only of being a member or employee.

- 38 Immunity of members and employees from civil liability to third parties** 15  
(1) A member or employee of INZ/TNZ is not liable to any person (other than to INZ/TNZ) for any act or omission by him or her, in the performance or intended performance of INZ/TNZ's functions, unless the act or omission arises out of conduct that is not in good faith or that is criminal conduct. 20  
(2) INZ/TNZ is liable for any act or omission for which, but for this section, a member or employee would have been liable to a person. 20  
(3) To avoid doubt, this section does not affect the right of any person to apply for judicial review.

- 39 Indemnity for members and employees for costs from civil and criminal proceedings** 25  
INZ/TNZ may indemnify a member or employee for costs incurred in any civil or criminal proceedings against him or her if— 30  
(a) any of the following circumstances apply:  
(i) judgment is given in his or her favour; or  
(ii) he or she is acquitted; or  
(iii) the proceedings are discontinued; and

- (b) the proceedings relate to an act or omission by him or her in the performance or intended performance of INZ/TNZ's functions.

**40 Insurance for members and employees**

INZ/TNZ may effect insurance cover for a member or employee of INZ/TNZ in relation to— 5

- (a) liability and costs incurred in any civil proceedings against him or her if the proceedings relate to an act or omission by him or her in the performance or intended performance of INZ/TNZ's functions; and 10
- (b) costs incurred in any criminal proceedings against him or her if—
- (i) he or she is acquitted or the proceedings are discontinued; and
- (ii) the proceedings relate to an act or omission by him or her in the performance or intended performance of INZ/TNZ's functions. 15

**41 Breach of indemnity and insurance limits**

- (1) A member or employee who is indemnified or insured by INZ/TNZ in breach of this Act must repay to INZ/TNZ 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. 20
- (2) INZ/TNZ may recover the amount as a debt due in a court of competent jurisdiction. 25

**42 Definitions for protections from liability**

In sections 37 to 41,—

**effect insurance** includes pay, whether directly or indirectly, the costs of insurance 30

**employee** includes an employee of a former agency

**indemnify** includes relieve or excuse from liability, whether before or after the liability arises

**member** includes a member of the board of a former agency.

*Dealings with third parties by INZ/TNZ*

**43 Execution of documents**

INZ/TNZ may,—

- (a) in writing, authorise any 2 or more members or 1 or more attorneys appointed in accordance with **section 45** to execute any deed, instrument, contract, or other document on its behalf; and 5
- (b) at any time, revoke the authority in the same manner.

**44 Method of contracting**

- (1) A contract or other enforceable obligation may be entered into by INZ/TNZ, as stated in **subsections (2) to (5)**. 10
- (2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of INZ/TNZ in writing, signed under the name of INZ/TNZ by—
  - (a) 2 or more members; or 15
  - (b) 1 or more attorneys appointed in accordance with **section 45**.
- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of INZ/TNZ in writing by a person acting under INZ/TNZ's express or implied authority. 20
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of INZ/TNZ in writing or orally by a person acting under INZ/TNZ's express or implied authority. 25
- (5) This section applies to a contract or other obligation—
  - (a) whether or not that contract or obligation was entered into in New Zealand; and
  - (b) whether or not the law governing the contract or obligation is the law of New Zealand. 30

**45 Attorneys**

- (1) INZ/TNZ may, by an instrument in writing, 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 INZ/TNZ. 35

- 46 Dealings between INZ/TNZ and other persons**
- (1) INZ/TNZ may not assert against a person dealing with it or a person who has acquired property, rights, or interests from it that—
- (a) INZ/TNZ has exercised its powers for a purpose other than the purpose of performing its functions; or 5
  - (b) this Act has not been complied with; or
  - (c) a person held out by INZ/TNZ to be a member, chairperson, chief executive, employee, or agent of INZ/TNZ (as the case may be)— 10
    - (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 INZ/TNZ, a person appointed to that capacity would customarily exercise; or 15
    - (iii) does not have the authority to exercise a power that INZ/TNZ holds him or her out as having; or
  - (d) a document issued on behalf of INZ/TNZ by a member, chief executive, employee, or agent of INZ/TNZ with authority to issue the document is not valid or genuine. 20
- (2) **Subsection (1)** applies even though a person referred to in **subsection (1)(c)** acts fraudulently or forges a document that appears to have been signed on behalf of INZ/TNZ, unless the person dealing with INZ/TNZ or with a person who has acquired property, rights, or interests from INZ/TNZ has actual knowledge of the fraud or forgery. 25
- 47 Presumption of authority to execute document**
- A person purporting to execute any document on behalf of INZ/TNZ under any authority is, in the absence of proof to the contrary, presumed to be acting in accordance with the authority. 30

*Financial provisions*

- 48 Funds of INZ/TNZ**
- The funds of INZ/TNZ consist of— 35
- (a) all money appropriated by Parliament and paid to INZ/TNZ; and

- (b) all other money lawfully received by INZ/TNZ for its purposes; and
- (c) all accumulations of income derived from any of that money.

- 49 Bank accounts** 5
- (1) INZ/TNZ must establish, maintain, and operate 1 or more bank accounts at 1 or more—
    - (a) registered banks (within the meaning of the Reserve Bank of New Zealand Act 1989):
    - (b) banks outside New Zealand approved by the Minister of Finance for the purpose. 10
  - (2) All money received by INZ/TNZ for its purposes must, as soon as practicable after it has been received, be paid into a bank account of INZ/TNZ.
  - (3) INZ/TNZ must properly authorise the withdrawal or payment of money from any of its accounts. 15
- 50 Investment of money**
- Any money that belongs to INZ/TNZ and that is not immediately required may be invested only in accordance with section 25 of the Public Finance Act 1989. 20
- 51 INZ/TNZ not to borrow without consent of Minister of Finance**
- Despite **section 11**, INZ/TNZ must not borrow or contract to borrow any money, or renew or amend the terms of any loan made to INZ/TNZ, without the prior written consent of the Minister of Finance. 25
- 52 Auditor-General to be auditor of INZ/TNZ**
- INZ/TNZ is a public entity as defined in section 4 of the Public Audit Act 2001, and, in accordance with that Act, the Auditor-General is its auditor. 30
- 53 INZ/TNZ deemed to be public authority**
- (1) INZ/TNZ is deemed to be a public authority for the purposes of the Inland Revenue Acts.
  - (2) In this section, **Inland Revenue Acts** has the same meaning as in section 3(1) of the Tax Administration Act 1994. 35

*Planning—Statement of intent***54 Purpose of statement of intent**

The purpose of a statement of intent is to promote the public accountability of INZ/TNZ by—

- (a) setting out INZ/TNZ's medium-term intentions and commitments: 5
- (b) enabling the Crown to participate in the process of setting those intentions and commitments:
- (c) providing to the House of Representatives contextual information about INZ/TNZ and information about the intentions and commitments that have been set: 10
- (d) providing a base against which INZ/TNZ's actual performance can later be assessed.

**55 Obligation to prepare statement of intent**

INZ/TNZ must prepare for each financial year a statement of intent that relates to at least that financial year and the 2 following financial years. 15

**56 Form and content of statement of intent**

- (1) Each statement of intent must contain the following information: 20
  - (a) an outline of key contextual information, such as the principal legislative functions and current organisational structure of INZ/TNZ:
  - (b) the nature and scope of INZ/TNZ's intended operations for the period to which the statement of intent applies: 25
  - (c) the items of significance (if any) under each of the following headings for the period to which the statement of intent applies:
    - (i) the principal areas of INZ/TNZ's activity within the scope of operations: 30
    - (ii) the expected features of INZ/TNZ's operating environment, and the potential implications of those features:
    - (iii) the nature of INZ/TNZ's long-term specific goals for its operations and principal areas of activity, and how those goals might link to goals referred to in a statement of government policy: 35
    - (iv) the proposed strategies for achieving goals, managing risks, and carrying out operations:



- (v) the performance targets and other measures by which performance may be judged:
- (vi) the matters on which INZ/TNZ will consult the Minister before making a decision, the matters on which it will report to the Minister, and the frequency of reporting: 5
- (vii) any other proposed operating policies:
- (d) the following prospective financial information:
  - (i) a forecast statement of financial performance, statement of financial position, and statement of cash flows in respect of the first financial year to which the statement of intent relates: 10
  - (ii) a summary of those forecast financial statements in respect of the remainder of the period to which the statement of intent relates: 15
  - (iii) a statement of the principal assumptions on which the forecast financial statements are based:
  - (iv) a statement of all material accounting policies and any changes to them from the last statement of them: 20
- (e) an outline of the proposed strategy for managing any recently reported or anticipated material net deficit (as determined in accordance with generally accepted accounting practice):
- (f) any other information necessary for understanding and assessing the information provided under **paragraphs (a) to (e)** or without which that information is false or misleading in a material particular. 25
- (2) Each final statement of intent must be in writing, be dated, and be signed on behalf of the board by 2 members. 30

**57 Ministerial involvement in statements of intent**

- (1) Ministers of the Crown may participate in determining the content of statements of intent as follows:
  - (a) the Minister may agree with INZ/TNZ that information additional to that required by **section 56** be included in the statement of intent: 35
  - (b) the Minister of Finance may make rules—
    - (i) specifying particular information that must be disclosed under **section 56**:

- (ii) specifying the particular form in which information under that section must be disclosed:
  - (c) the Minister may, by written notice to INZ/TNZ,—
    - (i) specify particular information that must be disclosed under **section 56**: 5
    - (ii) specify the particular form in which information under that section must be disclosed:
  - (d) the Minister may make comments on a draft statement of intent under **section 58** or on an amendment to a statement of intent proposed by INZ/TNZ under **section 61 or section 62**: 10
  - (e) the Minister may direct amendments to certain information in a statement of intent under **section 63**.
- (2) The Minister must ensure that a requirement under **subsection (1)(c)** is not incompatible with any rules made by the Minister of Finance under **subsection (1)(b)**. 15
  - (3) INZ/TNZ must comply with any applicable rules and requirements in accordance with this Act.
- 58 Process for providing statement of intent to Minister**
- (1) INZ/TNZ must follow the following process in providing a statement of intent: 20
    - (a) INZ/TNZ must provide a draft statement of intent to the Minister no later than 30 days before the commencement of each financial year; and
    - (b) the Minister must provide to INZ/TNZ any comments that he or she may have on the draft no later than 14 days before the commencement of the financial year; and 25
    - (c) INZ/TNZ must consider the comments (if any) on the draft and provide the final statement of intent to the Minister on or before the commencement of the financial year. 30
  - (2) The Minister and the Minister of Finance may jointly grant an extension of time for any step in the process, but, if they do, they must ensure that there is a period of at least 14 days from the expiry of the period in which the Minister's comments must be provided and the date on which the final statement of intent must be provided to the Minister. 35

- 59 Application and term of statement of intent**  
A statement of intent applies in relation to INZ/TNZ—
- (a) from the date on which the final statement of intent is provided to the Minister under **section 58(1)(c)**; and
  - (b) until a new statement of intent takes effect in relation to INZ/TNZ (despite the end of any financial year to which the statement relates); and
  - (c) with any amendments that are made as described in **section 60**.
- 60 Amendments to statement of intent**  
A statement of intent may be amended only as follows:
- (a) if INZ/TNZ wishes to make an amendment, in accordance with **section 61**; or
  - (b) in the circumstances referred to in **section 62**; or
  - (c) if the Minister wishes to make an amendment, in accordance with **section 63**.
- 61 Optional amendments by INZ/TNZ**
- (1) If INZ/TNZ wishes to amend its statement of intent, the process that must be followed is as follows:
    - (a) INZ/TNZ must provide a draft amendment to the Minister; and
    - (b) the Minister must provide to INZ/TNZ any comments that he or she may have on the draft no later than 14 days after receiving the draft; and
    - (c) INZ/TNZ must consider the comments (if any) on the draft.
  - (2) The final amendment must be in writing, be dated, and be signed on behalf of the board by 2 members.
  - (3) The final amendment to the statement of intent applies from the date on which the final amendment is provided to the Minister.
- 62 Mandatory amendments**
- (1) INZ/TNZ must amend its statement of intent if—
    - (a) the Minister has given a direction to INZ/TNZ that has consequences that materially alter or affect the information contained in the statement of intent; or

- (b) there are any changes to INZ/TNZ's operating environment that significantly alter or affect the performance expectations set out in the statement of intent; or
  - (c) changes in the law materially alter or affect the information contained in the statement of intent; or 5
  - (d) the information contained in the statement of intent is false or misleading in a material particular, and was so at the time when the statement of intent first took effect.
- (2) INZ/TNZ must make the amendment as soon as practicable after the entity becomes aware of the facts that give rise to the obligation to amend under this section. 10
- (3) The process and other rules set out in **section 61** apply to an amendment under this section.
- 63 Amendments to statement of intent by Minister**
- (1) The Minister may amend any provision that is included in INZ/TNZ's statement of intent under **section 56(1)(b), (c)(iii), (v), or (vi)** (which relates to the scope of operations, specific goals, performance targets, and matters for consultation). 15
- (2) If the Minister intends to amend a statement of intent, the process that must be followed is as follows: 20
- (a) the Minister must give a direction to INZ/TNZ specifying the amendment that is required:
  - (b) the Minister must consult INZ/TNZ before giving the direction:
  - (c) **section 13** applies with any necessary modifications. 25
- (3) The amendment to the statement of intent, as specified by the Minister, applies 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 13**).
- 64 Minister to present statement of intent and amendments to House of Representatives** 30
- The Minister must present a copy of the final statement of intent, and any amendments that are made to it, to the House of Representatives within 10 Parliamentary working days after the final statement of intent or amendment (as the case may be) is received by the Minister. 35

*Reporting—Annual report*

- 65** **Obligation to prepare annual report**  
INZ/TNZ must prepare an annual report on its affairs for each financial year.
- 66** **Form and content of annual report** 5
- (1) An annual report must contain the following information and reports in respect of the financial year to which it relates:
- (a) a report on operations, including the information that is necessary to enable an informed assessment to be made of performance during the financial year against the statement of intent; and 10
  - (b) a statement of service performance prepared in accordance with **section 67**; and
  - (c) annual financial statements prepared in accordance with **section 68**; and 15
  - (d) a statement of responsibility for the financial statements in accordance with **section 69**; and
  - (e) the auditor's report in accordance with **section 70**; and
  - (f) any Ministerial direction given under **section 12** during that financial year; and 20
  - (g) an assessment of the reasons for, and the implications of, any material reported net deficit (as determined in accordance with generally accepted accounting practice) incurred during the financial year; and
  - (h) any matter on which the statement of intent for that financial year required the annual report to report; and 25
  - (i) for each member, the total value of the remuneration and other benefits (other than compensation and other benefits referred to in **paragraph (m)**) received by the member from INZ/TNZ during that financial year; and 30
  - (j) for each member of a board committee, the total value of the remuneration and other benefits received by the member from INZ/TNZ during that financial year (except that this paragraph does not apply to members whose remuneration is disclosed under **paragraph (i)**); and 35
  - (k) a report on compliance with its policy of being a good employer (including its equal employment opportunities programme); and
  - (l) the number of employees who, during the financial year, received remuneration and any other benefits 40

- (other than compensation and other benefits referred to in **paragraph (m)**) 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 5
- (m) the total value of any compensation or other benefits received by persons who ceased to be employees or members during the financial year in relation to ceasing employment or ceasing to be members and the number of persons who received part of that total; and 10
- (n) details of any indemnity provided by INZ/TNZ during the financial year to any member or employee; and
- (o) details of any insurance cover effected by INZ/TNZ during the financial year in respect of the liability or costs of any member or employee; and 15
- (p) any other information that is necessary to enable an informed assessment to be made of performance for that financial year.
- (2) An annual report must be in writing, be dated, and be signed on behalf of the board by 2 members. 20
- (3) In **subsection (1), member** and **employee** include a person who was a member or employee at any time after the commencement of this Act, but who is no longer a member or employee.
- 67 Form and content of statement of service performance**
- (1) A statement of service performance must— 25
- (a) report on the classes of outputs produced during the financial year as compared with the classes of outputs described at the beginning of the financial year in the relevant statement of output objectives; and
- (b) be prepared in accordance with generally accepted accounting practice. 30
- (2) A statement of service performance must be in writing, be dated, and be signed on behalf of the board by 2 members.
- 68 Form and content of annual financial statements**
- (1) The annual financial statements of INZ/TNZ must be prepared with respect to the affairs of INZ/TNZ for the financial year to which they relate. 35
- (2) The annual financial statements must—

- (a) contain the actual financial information for INZ/TNZ as compared with the forecast financial statements contained in the statement of intent or, if the forecast financial statements in the statement of intent have been amended, as compared with the original forecast figures and the amended forecast figures; and 5
  - (b) be prepared in accordance with generally accepted accounting practice.
  
- 69 Statement of responsibility** 10  
The statement of responsibility for the financial statements must—
  - (a) be dated and signed on behalf of the board by 2 members; and
  - (b) contain a statement of the signatories' responsibility for the preparation of the annual financial statements and the judgments in them; and 15
  - (c) 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 20
  - (d) contain a statement that, in the opinion of the signatories, the annual financial statements for the financial year fairly reflect the financial position and operations of INZ/TNZ.
  
- 70 Audit** 25
  - (1) INZ/TNZ must, within 90 days after the end of each financial year, submit to the Auditor-General for audit the report on operations, the statement of service performance, and the annual financial statements required under **section 66(1)(a) to (c)**.
  - (2) The Auditor-General must audit those documents, and provide an audit report on them to INZ/TNZ within 30 days after receiving them. 30
  
- 71 Obligation to provide annual report to Minister**  
INZ/TNZ must provide the annual report to the Minister as soon as practicable after receiving the audit report. 35

- 72 Minister to present annual report to House of Representatives**  
The Minister must present a copy of INZ/TNZ's annual report to the House of Representatives within 10 Parliamentary working days after the date on which they are received by the Minister. 5
- Review of INZ/TNZ's operations and performance*
- 73 Review of INZ/TNZ's operations and performance**  
(1) The Minister may review the operations and performance of INZ/TNZ at any time. 10  
(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.
- Part 3**  
**Miscellaneous provisions** 15
- Dissolution of former agencies*
- 74 Former agencies dissolved**  
The former agencies are dissolved.
- Transitional provisions*
- 75 Assets and liabilities vest in INZ/TNZ** 20  
All rights, assets, liabilities, and debts that a former agency had immediately before the commencement of this Act must be treated as the rights, assets, liabilities, and debts of INZ/TNZ on that commencement.
- 76 Transfer of employees** 25  
INZ/TNZ may, after consulting the employee concerned, transfer a person who is employed by a former agency immediately before the commencement of this Act to INZ/TNZ.
- 77 Terms and conditions of employment for transferred employee** 30  
(1) The employment of a transferred employee must be on terms and conditions no less favourable to the transferred employee than those applying to the employee immediately before the date of the person's transfer to INZ/TNZ.



- (2) **Subsection (1)**—
- (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 INZ/TNZ; but 5
  - (b) does not apply to a transferred employee who receives any subsequent employment with INZ/TNZ.
- 78 Continuity of employment**
- (1) Every transferred employee becomes an employee of INZ/TNZ on the date of transfer. 10
  - (2) However, for the purposes of every enactment, law, determination, contract, and agreement relating to the employment of the employee,—
    - (a) the contract of employment of that employee must be treated as unbroken; and 15
    - (b) the employee's period of service with a former agency, and every other period of service of that employee that is recognised by a former agency as continuous service, must be treated as a period of service with INZ/TNZ.
- 79 No compensation for technical redundancy** 20
- A transferred employee is not entitled to receive any payment or any other benefit solely on the ground that—
- (a) the position held by the person in a former agency has ceased to exist; or
  - (b) the person has ceased (as a result of the transfer to INZ/TNZ) to be an employee of a former agency. 25
- 80 Final reports and accounts**
- (1) As soon as is practicable after the commencement of this Act, INZ/TNZ must arrange for the final report of each former agency to be delivered to the Minister. 30
  - (2) The report must—
    - (a) describe the former agency's operations for the period beginning on 1 July 2002 and ending with the close of 30 June 2003; and
    - (b) include— 35
      - (i) financial statements of that agency prepared, in accordance with Part V of the Public Finance Act 1989, for that period; and

- (ii) an audit report prepared by the Auditor-General and a management statement relating to those financial statements.
- (3) The Minister must present a copy of every report under this section to the House of Representatives under section 44A of the Public Finance Act 1989. 5
- 81 References to former agency**  
Unless the context otherwise requires, every reference to a former agency in any enactment, agreement, deed, instrument, application, notice, or in any other document in force immediately before the commencement of this Act must, on or after that commencement, be read as a reference to INZ/TNZ. 10
- 82 Proceedings of former agency**
- (1) Any proceedings to which a former agency is a party before the commencement of this Act may be continued, completed, and enforced by or against INZ/TNZ. 15
- (2) This section is for the avoidance of doubt.
- Application of Archives Act 1957*
- 83 Archives Act 1957 to apply**  
INZ/TNZ is a Government office for the purposes of the Archives Act 1957. 20
- Consequential amendments*
- 84 Consequential amendments**  
The Acts specified in **Schedule 4** are amended in the manner indicated in that schedule. 25
- Repeals*
- 85 Repeals**  
The New Zealand Trade Development Board Act 1988 (1988 No 160) and the Industry New Zealand Act 2000 (2000 No 27) are repealed. 30
-

**Schedule 1**  
**Members' duties**

s 14(2)

*Collective duties of members*

- 1 Must give effect to purpose of Act, etc** 5  
The board must ensure that INZ/TNZ acts in a manner—  
(a) that gives effect to the purpose of this Act; and  
(b) that is consistent with INZ/TNZ's functions and with its current statement of intent.
- 2 Functions must be performed efficiently, effectively, and consistently with spirit of service to public** 10  
The board must ensure that INZ/TNZ performs its functions efficiently and effectively and in a manner consistent with the spirit of service to the public.
- 3 Operation must be in financially responsible manner** 15  
The board must ensure that INZ/TNZ operates in a financially responsible manner and, for this purpose, that it prudently manages its assets and liabilities.
- 4 Subsidiaries** 20  
The board must ensure, to the extent of its powers, that each subsidiary of INZ/TNZ—  
(a) does not do anything that INZ/TNZ does not have power to do; and  
(b) acts consistently with the purpose of this Act (to the extent that the purpose of this Act relates to the subsidiary); and 25  
(c) exercises its powers only for the purpose of performing, or assisting INZ/TNZ to perform, INZ/TNZ's functions; and  
(d) in doing anything, acts consistently with the obligations and restrictions that would apply to INZ/TNZ in doing that thing; and 30  
(e) does not contravene this Act, the Companies Act 1993, or the company's constitution (if applicable); and  
(f) acts consistently with INZ/TNZ's current statement of intent under **section 55**; and 35

- (g) complies with a Ministerial direction given under **section 12** (to the extent that it relates to the subsidiary); and
- (h) 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. 5

*Individual duties of members*

- 5 Duty to comply with this Act**  
A member must not contravene, or cause or agree to INZ/TNZ contravening, this Act. 10
- 6 Duty to act with honesty and integrity**  
A member must, when acting as a member, act with honesty and integrity.
- 7 Duty to act in good faith and not at expense of entity's interests** 15  
A member must, when acting as a member, act in good faith and not pursue his or her own interests at the expense of INZ/TNZ's interests.
- 8 Duty to act with reasonable care, diligence, and skill** 20  
A member 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 INZ/TNZ; and
  - (b) the nature of the action; and 25
  - (c) the position of the member and the nature of the responsibilities undertaken by him or her.
- 9 Duty not to disclose information**
- (1) A member 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— 30
    - (a) for the purposes of INZ/TNZ; or
    - (b) as required or permitted by law; or
    - (c) in accordance with **subclause (2)**; or 35

- (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; and 5
  - (b) the disclosure, use, or act in question will not, or will not be likely to, prejudice INZ/TNZ.
- Effect of non-compliance with duties*
- 10 Accountability for collective board duties** 10
- (1) The duties of the board and members under **clauses 1 to 4** (collective duties) are duties owed to the Minister. 10
- (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, **subclause (2)** does not apply to a member if— 15
- (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 **subclause (2)**. 20
- (5) This section does not limit any other ground for removing a member from office.
- (6) **Subclause (4)** does not limit— 25
- (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 **clause 12**.
- 11 Accountability for individual duties** 30
- (1) The duties of members under **clauses 5 to 9** (individual duties) are duties owed to the Minister and INZ/TNZ.
- (2) If a member does not comply with his or her individual duties, that member may be removed from office.
- (3) INZ/TNZ may bring an action against a member for breach of any individual duty. 35

- (4) A member is not liable for a breach of an individual duty under this Act, except for being removed from office as provided for in **subclause (2)** or in an action brought under **subclause (3)**.
- (5) This section does not limit any other ground for removing a member from office. 5
- 12 Court actions requiring or restraining board or members**
- (1) The Minister or a member may apply to a court for an order— 10
- (a) requiring the board to take any action that is required to be taken by members under this Act:
  - (b) restraining the board or a member from engaging in conduct that would contravene this Act:
  - (c) granting any consequential relief.
- (2) The court may make an order on the application, subject to the following rules: 15
- (a) an order may be made only if the court is satisfied that it is just and equitable to do so; and
  - (b) no order may be made in respect of conduct that has been completed. 20
- (3) 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.
- Reliance on information and advice*
- 13 When members may rely on certain information and advice** 25
- (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: 30
- (a) an employee of INZ/TNZ 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: 35

- (c) any other member or a committee of the board on which the member did not serve in relation to matters within the member's or committee's delegated authority.
- (2) A member, when acting as a member, may rely on reports, statements, financial data, and other information supplied by the Crown. 5
- (3) **Subclauses (1) and (2)** apply 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 10
  - (c) has no knowledge that the reliance is unwarranted.

*Disclosure of interest*

**14 Obligation to disclose interest**

- (1) A member who (otherwise than as a member) has a direct or indirect interest in any of the matters listed in **subclause (2)** must, as soon as practicable after the member knows about the relevant facts, disclose the nature of the interest in accordance with **clause 15**. 15
- (2) The matters are as follows:
- (a) INZ/TNZ's performance of a function or exercise of a power: 20
  - (b) an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by INZ/TNZ.

**15 Disclosure to Minister or chairperson** 25

A member who is required to disclose the nature of an interest must disclose it—

- (a) to the Minister if the person is the chairperson or if the positions of chairperson and deputy chairperson are vacant; or 30
- (b) to the chairperson in any other case.

**16 Consequences of disclosure**

A member who discloses his or her interest under **clause 15**—

- (a) must not take part in any deliberation or decision of the board relating to the matter; and 35

- (b) is to be disregarded for the purpose of forming a quorum for a meeting of the board during which a deliberation or decision relating to the matter occurs or is made.

**17 Effect of non-compliance**

If a member fails to comply with the disclosure requirements in **clause 15**, the validity of the arrangement, agreement, or contract made or entered into by INZ/TNZ is not affected.

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**Schedule 2**  
**Membership of board**

s 14(2)

*Members' appointments*

- 1 Criteria for appointments** 5
- (1) The Minister must appoint members in accordance with any criteria for members and any process for appointment set out in this Act.
- (2) Subject to **subsection (1)**, the Minister—
- (a) may only appoint a person who, in the Minister's opinion, has appropriate skills and experience to assist INZ/TNZ to perform its functions; and 10
- (b) in appointing a person, must take into account the desirability of promoting diversity in the membership of Crown entities.
- 2 Qualifications of members** 15
- (1) A natural person who is not disqualified by **subclause (2)** may be a member.
- (2) The following persons are disqualified from being a member:
- (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: 20
- (c) a person who is subject to a property order made under section 10, section 11, section 12, section 30, or section 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act: 25
- (d) 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 or served the sentence or otherwise suffered the penalty imposed on the person: 30
- (e) a person who has failed to disclose his or her interests and potential interests as required by **clause 3**. 35

- 3 Requirements before appointment**
- (1) Before a person is appointed as a member, the person must—
- (a) consent in writing to being a member; and
  - (b) certify in writing that he or she is not disqualified from being a member; and 5
  - (c) disclose to the Minister the nature and extent (including monetary value if quantifiable) of all interests or potential interests that the person has at that time in matters relating to INZ/TNZ.
- (2) A person is **interested** in a transaction of, or other matter relating to, INZ/TNZ if he or she has an interest in a transaction of, or other matter relating to, a person who is likely to be materially affected by decisions of INZ/TNZ or is likely to have material dealings with INZ/TNZ. 10
- 4 Method of appointment** 15
- (1) A member is appointed by written notice to the member (with a copy to INZ/TNZ).
- (2) The notice of appointment must—
- (a) state the date on which the appointment takes effect; and 20
  - (b) be published by the Minister in the *Gazette* as soon as practicable after being given.
- 5 Term of appointment**
- (1) A member—
- (a) holds office for 3 years or any shorter term stated in the notice of appointment; but 25
  - (b) continues in office despite the expiry of his or her term of office until—
    - (i) the member is reappointed; or
    - (ii) the member's successor is appointed; or 30
    - (iii) the Minister informs the member by written notice (with a copy to INZ/TNZ) that the member is not to be reappointed and no successor is to be appointed at that time.
- (2) **Subclause (1)** does not apply if the member ceases to hold office under this Act or any other enactment. 35

- 6 Validity of acts**  
The acts of a person as a member are valid even if—  
(a) the person's appointment was defective; or  
(b) the person is not qualified to be a member.
- 7 Position where concurrent office** 5  
A member may hold that office concurrently with any other office.
- Resignation and removal of members*
- 8 Resignation** 10  
A member may, at any time, resign from office by written notice given to the Minister.
- 9 Removal from office**
- (1) The Minister may, at any time and entirely at his or her discretion, remove a member from office by written notice to the member (with a copy to INZ/TNZ). 15
- (2) Before removing a member from office, the Minister—  
(a) must give the member a reasonable opportunity to make written submissions or to be heard on the proposal to remove him or her; and  
(b) must otherwise comply with the principles of natural justice. 20
- 10 No compensation for removal from office**  
A member is not entitled to any compensation or other payment or benefit, on any basis, for removal from office.
- Vacancies in board's membership* 25
- 11 Position where vacancy in membership**
- (1) If a member, for any reason, ceases to hold office as a member, the Minister may appoint another person to act as a member.
- (2) A member who is appointed under **subclause (1)** is appointed for the residue of the term for which the vacating member was appointed. 30

- 12 Effect of vacancy in membership**  
The functions, duties, and powers of INZ/TNZ and of the board are not affected by any vacancy in the board's membership.
- Chairperson and deputy chairperson* 5
- 13 Appointment**
- (1) The Minister may appoint 1 of the members as the chairperson and another member as the deputy chairperson.
- (2) However, no person may, at the same time, hold the office both of chairperson and of deputy chairperson. 10
- 14 Term of office**  
Every person appointed as chairperson or deputy chairperson holds that office until the person—
- (a) dies or resigns from that office; or  
(b) is removed from it by the Minister; or 15  
(c) ceases to be a member.
- 15 Resignation**  
A chairperson or deputy chairperson may, without resigning as a member, resign from that office by written notice given to the Minister. 20
- 16 Appointment of new chairperson or deputy chairperson**  
If the chairperson or deputy chairperson ceases to be the chairperson or deputy chairperson, the Minister may appoint an existing member or a new member as the chairperson or deputy chairperson. 25
- 17 Performance and exercise of chairperson's functions, duties, and powers during vacancy**
- (1) During a vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform and exercise the functions, duties, and powers of the chairperson, the deputy chairperson has and may perform and exercise all of the functions, duties, and powers of the chairperson. 30
- (2) No acts done by the deputy chairperson acting as the chairperson may, in any proceedings, be questioned on the grounds

that the occasion for the deputy chairperson so acting had not arisen or had ceased.

*Remuneration and expenses*

- 18 Board members' remuneration and expenses**
- (1) A member is entitled to receive, from the funds of INZ/TNZ, remuneration for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework. 5
- (2) A member is entitled to be paid out of the funds of INZ/TNZ actual and reasonable travelling and other expenses relating to the performance of his or her duties and responsibilities as a member in accordance with the fees framework. 10
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s 14(2)

## Schedule 3 Procedure of board

### *General*

- 1 Procedure generally** 5  
Except as otherwise provided in this Act, the board may regulate its own procedure.

### *Meetings*

- 2 Times and places of meetings**
- (1) The board or the chairperson must appoint the times and places for meetings of the board, and give notice of those meetings to each member and each special adviser not present when the appointment is made. 10
- (2) The chairperson, or any 2 members, may, at any time, call a special meeting of the board by giving not less than 7 days' notice of the special meeting, and of the business to be transacted at the meeting, to each member of the board and each special adviser for the time being in New Zealand. 15
- (3) No business other than that specified in a notice of special meeting may be transacted at that meeting.
- (4) Notice of a meeting— 20
- (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 or special adviser's last known address in New Zealand. 25
- (5) An irregularity in a notice of a meeting is waived if all members entitled to receive the notice attend the meeting without protesting about the irregularity or agree to the waiver.
- 3 Methods of holding meetings** 30  
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; and
- (b) by means of audio, audio and visual, or electronic communications by which a quorum of members can simultaneously communicate with each other throughout the meeting. 35

#### **4 Quorum**

- (1) A quorum for a meeting of the board 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). 5
- (2) However, a quorum for a meeting of the board is not fewer than 3 members.
- (3) No business may be transacted at a meeting of the board if a quorum is not present. 10

#### **5 Who presides at meetings?**

- (1) At all meetings of the board, the chairperson presides if he or she is present.
- (2) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside. 15
- (3) The members present must appoint 1 of their number to be the chairperson for the meeting if—
  - (a) the chairperson and the deputy chairperson are not present; or
  - (b) there is no chairperson and no deputy chairperson. 20
- (4) The elected person has and may perform and exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

#### **6 Voting at meetings**

- (1) Each member has 1 vote. 25
- (2) In addition to his or her general vote, the chairperson at a meeting has 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. 30
- (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.

**7 Resolutions**

- (1) A resolution in writing signed or assented to by letter, telegram, telex, fax message, or electronic message by all members of the board is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted. 5
  - (2) The resolution may consist of several documents in the same form, each signed or appearing to have been sent by 1 or more members.
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**Schedule 4**  
**Acts amended**

s 84

**Citizenship Act 1977** (1977 No 61)

Repeal section 6(4)(b)(iii) and substitute:

“(iii) an officer or employee of Industry New Zealand/Trade New Zealand (as established by the Industry New Zealand and Trade New Zealand Integration Act **2003**) on service overseas; or”.

Repeal section 8A(3)(a)(iii) and substitute: 10

“(iii) an officer or employee of Industry New Zealand/Trade New Zealand (as established by the Industry New Zealand and Trade New Zealand Integration Act **2003**) on service overseas; or”.

**Crimes Act 1961** (1961 No 43)

Omit from section 8A(1)(c)(iii) the words “the New Zealand Trade Development Board (as established by the New Zealand Trade Development Board Act 1988)” and substitute the words “Industry New Zealand/Trade New Zealand (as established by the Industry New Zealand and Trade New Zealand Integration Act **2003**)”.

**Electoral Act 1993** (1993 No 87)

Omit from section 80(3)(a)(iii) the words “the New Zealand Trade Development Board established by the New Zealand Trade Development Board Act 1988” and substitute the words “Industry New Zealand/Trade New Zealand established by the Industry New Zealand and Trade New Zealand Integration Act **2003**”.

**Foreign Affairs Act 1988** (1988 No 159)

Omit from section 6(1)(c) the words “the New Zealand Trade Development Board (as established by the New Zealand Trade Development Board Act 1988)” and substitute the words “Industry New Zealand/Trade New Zealand (as established by the Industry New Zealand and Trade New Zealand Integration Act **2003**)”.

**Official Information Act 1982** (1982 No 156)

Omit from the First Schedule the following items:

Industry New Zealand

New Zealand Trade Development Board.

Insert, in the First Schedule, in its appropriate alphabetical order, the following item: 5

Industry New Zealand/Trade New Zealand.

**Ombudsmen Act 1975** (1975 No 9)

Omit from Part II of the First Schedule the following items:

Industry New Zealand. 10

The New Zealand Trade Development Board.

Insert in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

Industry New Zealand/Trade New Zealand.

**Public Finance Act 1989** (1989 No 44) 15

Omit from the Fourth, Fifth, Sixth, and Seventh Schedules the following items:

Industry New Zealand.

New Zealand Trade Development Board.

Insert in the Fourth, Fifth, Sixth, and Seventh Schedules, in each case in their appropriate alphabetical order, the following item: 20

Industry New Zealand/Trade New Zealand.