

Statutes Amendment Bill (No 3)

Government Bill

As reported from the Government Administration
Committee

Commentary

Recommendation

The Government Administration Committee has examined the Statutes Amendment Bill (No 3) and recommends that it be passed with the amendments shown.

Introduction

A Statutes Amendment bill is defined in Standing Order 258(1)(e) of the House of Representatives as an omnibus bill that consists entirely of amendments to Acts. It provides for unrelated and non-controversial amendments to a number of existing Acts. These amendments should be unrelated to the implementation of a particular policy objective.

The Statutes Amendment Bill (No 3) will be split into 41 separate amending bills during the committee of the whole House stage.

Parts that require no amendment

A large number of Parts in the bill do not require amendment. In most cases no submissions on these Parts were received or all submissions supported the proposed amendments. We are satisfied that no amendments or comments are required to Parts 2, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 18, 20, 21, 22, 24, 25, 26, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38 and 39. We also do not propose any amendments to Parts 3, 4, 9 and 15, but wish to provide some comments.

Parts that require minor amendments

Amendments to Parts 1 and 17 are minor and technical. We do not therefore provide any comment on these changes.

Amendments to Acts not amended by bill as introduced

The Minister of Education, Hon Trevor Mallard, sought our approval to include an amendment to the Local Government (Rating) Act 2002, which is not amended by the bill as introduced. The Associate Minister of Justice, Hon Rick Barker, sought approval to include amendments to the Misuse of Drugs Act 1975 and the Trade Marks Act 2002.

An amendment to the Fifth Schedule of the Privacy Act 1993 was also sought by the Department of Corrections. However, as no request was received from the Minister of Corrections for such an amendment, and cross-party support had not been sought for it, the committee did not give leave for it to be included in the bill.

The amendments to the Local Government (Rating) Act, the Misuse of Drugs Act, and the Trade Marks Act could have been made during the Committee of the whole House stage by way of supplementary order papers. However, there are recent precedents for a select committee considering minor amendments of this nature to a Statutes Amendment bill. This course of action has two advantages. It saves the House time and energy and allows a select committee to scrutinise a proposed amendment and include its consideration of the amendment in its report to the House.

We are satisfied that these amendments are appropriate for a Statutes Amendment bill and merit inclusion in the bill. Before proposing the amendments, the responsible ministers gained the consent of the leaders of non-Government parties in the House to the inclusion of the amendments in the bill. This satisfied the requirement in Standing Order 302(1) that no substantive amendment to an Act not amended by an omnibus bill as originally introduced may be moved without the leave of the Committee. While that rule applies to the Committee of the whole House, Standing Order 205 provides that, subject to any express provision of the Standing Orders or contrary House practice, the same rules of conduct should apply to select committees. A summary of the proposed amendments follows.

New Part 20A—Local Government (Rating) Act 2002

The proposed amendments to sections 25 and 26 of the Local Government (Rating) Act 2002 are to advance the date after which regulations may be made under powers contained in those sections. At present, sections 25 and 26 of the Act provide for the making of regulations to prescribe how local authorities may assess rates for sewage disposal in relation to land of educational establishments. However, regulations may only be made from 1 July 2007, or on presentation to Parliament of a report on rating practice under the Act for the financial years commencing on 1 July 2003 and 1 July 2004, whichever occurs first, and only on the recommendation of the Minister responsible for the administration of the Act (currently the Minister of Local Government).

The proposed amendments to sections 25 and 26 of the Act bring the 1 July 2007 regulation-making date forward to 1 July 2004. The Minister of Education tells us that the need to advance the date has arisen because the intention of an equitable rating formula behind the 2001 amendment to the Rating Powers Act 1988 that made special provision for certain rates for educational establishments has been defeated. In particular, smaller discounts than the Government intended have been given to educational establishments. We understand that the Government had hoped that the equitable rating formula, as originally intended, would have formed a rating benchmark beyond the expiry date of the 2001 Amendment Act; that is, 30 June 2003. We note that the Minister of Education considers that the making of regulations from an earlier date will enable the Government to intervene sooner, if necessary, to restore the original intent of the 2001 Amendment Act.

The New Zealand School Trustees Association supports the proposed amendment, as it believes that local government has not upheld the intent of the 2001 Amendment Act. We are not persuaded by the arguments of Local Government New Zealand, Auckland City Council, and the New Zealand Society of Local Government Managers that the proposed amendment curtails the opportunity to consider the sewage levy practices of local authorities.

We support the amendment of sections 25 and 26 of the Act to advance the date after which regulations may be made. However, we recommend that the date be advanced to 1 July 2005 rather than to 1 July 2004. This would enable a review to be conducted of local authorities' practices in assessing rates of educational establishments under the Act.

We also recommend that the report on the review of rating practices perform a different function. Rather than (as currently) being a means for advancing the making of regulations to a date earlier than 1 July 2007, the report should instead be a general prerequisite to the making (after 1 July 2005) of the regulations. To ensure the integrity of the review (and of any resulting regulations), we also consider that the review should cover not fewer than two consecutive financial years.

Finally, we recommend a minor amendment to section 26(c)(i) of the Act. The amendment would clarify that the Minister responsible for administering Part VIII of the Education Act 1989 must be consulted in the preparation of the report on the review of local authorities' rating practices.

Part 23—Misuse of Drugs Act 1975

New clause 79A of the bill proposes an amendment to section 31(5) of the Misuse of Drugs Act 1975 to repeal the definition of 'member of the police' and replace it with an updated definition. The new definition takes account of an internal reorganisation of branches of the Military Police. We are satisfied that the proposed amendment to section 31(5) of the Act is a minor technical matter and recommend its inclusion in this bill.

The Ministry of Justice tells us that the proposed amendment is to ensure that the New Zealand Army Military Police, the Royal New Zealand Naval Police, and the Air Security Branch of the Royal New Zealand Air Force come within the definition of 'member of the police' for the purposes of the Act. This means military police from each of the three services continue to be included in its administrative provisions and military evidence continues to be admissible under the Act.

New Part 36A—Trade Marks Act 2002

The proposed amendment to the Trade Marks Act 2002 is to correct a cross-reference in section 208(2) to section 74 instead of section 73. The amendment is of a minor technical nature and we support its inclusion in this bill.

Section 208 of the Act contains transitional provisions in respect of trade marks registered before the commencement of the Act. Section 208(2) currently refers to section 74, which sets out the effect of a declaration of invalidity made under section 73.

Section 208(2) should instead refer to section 73, which provides for the process by which the Commissioner of Trade Marks or the High Court may declare that the registration of a trade mark is invalid.

Part 3—Bail Act 2000

We support the proposed amendment to section 59(2) of the Bail Act 2000 and do not recommend any changes. The amendment extends the period within which a defendant charged with drug-dealing offences who has breached a bail condition, or is about to abscond, or has already absconded, must be brought before a High Court Judge. At present the requirement is no later than 48 hours after the arrest. The proposed amendment will extend this period to 72 hours, and aims to deal with the practicalities of arrests during weekends and holidays.

The New Zealand Law Society raised concerns about the proposed extension of the period within which defendants can be detained without being brought before a High Court Judge. It contends that administrative convenience is an unacceptable justification for extending the period of detention from 48 to 72 hours. The society states the proposed extension is inappropriate for an omnibus bill, as it affects individual liberty. It also contends that the fact that sections 35 and 58 do not impose specific times is not a principled justification for relaxing the section 59(2) requirement. The society also questions whether there is a systemic issue, such as the availability of judges, that might address concerns without extending the period in question.

The Ministry of Justice tells us that under the current provisions the High Court is forced to hold a special hearing on a Sunday to comply with the 48-hour period requirement. The ministry notes that it is desirable to align section 59(2) of the Act with sections 35 and 58, but we note these provisions only require that a defendant be brought before the Court ‘as soon as possible’ rather than within 72 hours. We therefore consider that the proposed amendment presents a sensible compromise between section 59(2) and the requirements under sections 35 and 58 of the Act.

Part 4—Births, Deaths, and Marriages Registration Act 1995

The clause 11 amendment to Schedule 1A of the Births, Deaths, and Marriages Registration Act 1995 allows for the disclosure of birth,

death, and marriage information to the Accident Compensation Corporation to assist in the detection of fraud. We inquired into why the corporation requires this information, and were advised that matching birth, marriage, and death information with information provided by claimants would assist in the detection of fraudulent claims.

We note that disclosures of birth, death, and marriage information will be subject to the rules and guidelines contained in Part X of the Privacy Act 1993. This means that before any information can be disclosed, an information matching Privacy Impact Assessment report must be completed and submitted to the Privacy Commissioner. We therefore do not propose any changes to this amendment.

Part 9—Coroners Act 1988

We received one submission from the Investment Savings and Insurance Association of New Zealand Incorporated, recommending amendments to section 23 of the Coroners Act 1988 in addition to the proposed amendment in the bill.

Section 23(1) requires any coroner holding an inquest to direct the police to notify various persons of the inquest. Such persons are listed in section 23(2) and include life insurance companies ((23(2)(d)) and the Life Offices Association of New Zealand Incorporated ((23(2)(e)). The Investment Savings and Insurance Association submits that section 23(2)(d) should be repealed as its members do not require notification. The association also submits that section 23(2)(e) should be repealed as the Life Offices Association no longer exists. It was in 1996 replaced by the association, which has no interest in receiving notification.

We note that the Ministry of Justice is currently engaged in preparing option papers for the Minister of Justice in response to Law Commission Report 62 on coroners. We therefore consider that the association's recommendations would be more appropriately considered as part of the broader review of the Act.

Part 15—Gas Act 1992

The Ministry of Economic Development advises that the proposed amendment to section 5 of the Gas Act 1992 would ensure that the process for making a gas operator declaration is aligned with the Electricity Act 1992 and the Telecommunications (Residual Provisions) Act 1987. Both of those Acts have been amended to enable

operator status to be granted by notice in the *Gazette*, rather than by Order in Council.

We note that a consequential amendment is made to the definition of 'gas operator' in section 2(1)(b) of the Act to align it with the change to section 5. A declaration by the Minister responsible for the Act by notice in the *Gazette* therefore still requires the same assessment and agreement from the Minister that the person has demonstrated that they have a current or reasonably foreseeable need to possess one or more of the rights of access under the Act. We do not recommend any changes to this amendment.

Part 19—Legal Services Act 2000

Clause 63 of the bill inserts a new section 62A into the Legal Services Act 2000 to enable the Convenor of the Legal Aid Review Panel to delegate his or her functions to any member of the panel. Currently there are 30 members on the panel, of whom 18 are lawyer members, and 12 lay members.

The New Zealand Law Society is concerned that the special characteristics required of a Convenor under the Act are not required under the proposed amendment of the member to whom the Convenor delegates powers and functions. The Act requires a Convenor to be a lawyer with a practising certificate of at least 7 years.

We share the society's concerns and consider that a delegate should meet similar requirements. We therefore recommend that clause 63 be amended to state that the Convenor of the Review Panel may delegate powers and functions only if he or she is satisfied that the member has the capability, skills, and experience to perform or exercise those powers and functions. We consider this will provide more guidance as to what is required of a member before the Convenor may delegate to him or her, without being overly prescriptive on the necessary qualifications of the member.

Part 27—Official Information Act 1982

Currently the First Schedule of the Official Information Act 1982 refers to airport companies as defined in section 2 of the Airport Authorities Act 1966. As a general rule, organisations listed in the First Schedule are public sector organisations. However, the current inclusion of all airport companies means that some wholly privately owned airport companies are covered by the requirements of the Official Information Act. Clause 92 attempts to remedy this by

inserting a distinction in the schedule between airport companies with majority private or public ownership.

However, the Ministry of Justice advises us that the clause 92 reference to ‘any local authority trading enterprise’ is now out of date. The Local Government Act 2002 contains a new definition that came into force on 1 July 2003. We concur with the ministry’s recommendation that clause 92 be amended so that it refers instead to ‘any council-controlled organisation (as defined in section 6 of the Local Government Act 2002)’.

Part 31—Privacy Act 1993

We recommend amendments to Part 31 of the bill to include provisions to address incorrect references to the ‘Proceedings Commissioner’ and ‘Complaints Review Tribunal’ in sections 77(2) and (3), 94(1B)(a)(iii) and (b), 94(1B)(b), and 116(3) of the Privacy Act 1993.

Section 88(2) of the Act requires any damages recovered by the Director of Human Rights Proceedings in proceedings before the Human Rights Review Tribunal to be paid to the Privacy Commissioner. The commissioner is then required to forward those damages to the individual on whose behalf the proceedings were brought. Clause 106 removes the commissioner from section 88(2) and thereby removes an unnecessary step in the process. The amendment made by clause 106 should also provide consistency in the treatment of these types of payments across similar legislation, for example under the Human Rights Act 1993.

Since proposing the amendment the Ministry of Justice has become aware of further amendments that should be made to the Act in order that the terminology used is consistent with the 2001 amendments to the Human Rights Act, which changed the term ‘Proceedings Commissioner’ to ‘Director of Human Rights Proceedings’ and ‘Complaints Review Tribunal’ to ‘Human Rights Review Tribunal’. The ministry advises that some references were overlooked when these terms were replaced in the Privacy Act. To rectify these minor inaccuracies we recommend that clause 106 of the bill be amended to include provisions to address the incorrect references.

Appendix

Committee process

The Statutes Amendment Bill (No 3) was referred to the committee on 1 April 2003. Public submissions were called for with a closing date of 16 May 2003. Six submissions were received and considered from interested groups. Hearing evidence took 1 hour and consideration took approximately 1 hour and 44 minutes.

We principally received advice from the Ministry of Justice. The Ministry of Education also provided advice on certain aspects of the bill.

Committee membership

Dianne Yates (Chairperson)

Pansy Wong (Deputy Chairperson)

Steve Chadwick

Judith Collins

Hon David Cunliffe

Key to symbols used in reprinted bill

As reported from a select committee

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Rick Barker

Statutes Amendment Bill (No 3)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Statutes Amendment Act (No 3) **2002**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1 Administration Act 1969

- 3 Administration Act 1969 called principal Act in this Part**
 In this Part, the Administration Act 1969¹ is called “the principal Act”. 5
¹ 1969 No 52
- 4 Interest on legacies and annuities**
 Section 39 of the principal Act is amended by repealing subsection (2), and substituting the following subsections:
- “(2) While interest is payable on a legacy or on arrears of an annuity, in accordance with the will or instrument pursuant to which the legacy or annuity is payable or any enactment or rule of law, unless the will or instrument otherwise provides or the Court otherwise orders, the interest on the legacy or arrears of the annuity is payable— 10
- “(a) at the rate of 7.5% per annum; or 15
- “(b) at any other rate that may from time to time be fixed for the purposes of this section by the Governor-General by Order in Council.
- “(2A) However, if an administrator (in accordance with any power conferred on the administrator in that behalf) appropriates property in or towards satisfaction of a legacy (other than an annuity),— 20
- “(a) the legatee is entitled to the income from the property so appropriated; and
- “(b) interest is not payable out of any other part of the estate on so much of the legacy as has been satisfied by the appropriation. 25
- “(2B) The Ministry of Justice must, at least once every 2 years after the date on which this subsection comes into force, review and report to the Minister of Justice on the rate of interest payable under **subsection (2)**.” 30

Part 2

Armed Forces Discipline Act 1971

- 5 Armed Forces Discipline Act 1971 called principal Act in this Part**
- In this Part, the Armed Forces Discipline Act 1971² is called “the principal Act”.
- ² 1971 No 53
- 6 Fourth Schedule**
- The Fourth Schedule of the principal Act is amended by—
- (a) omitting from the first item the words “Reduction in rank‡” where they appear in the second column, and substituting the words “Reduction in rank (this punishment may be imposed only on a petty officer who, at the time of the disposal of the charge, is on sea service)”; and
 - (b) revoking the note to the first item denoted by the symbol “‡”; and
 - (c) omitting from the third item the words “Detention for a period not exceeding 60 days‡” where they appear in the second column, and substituting the words “Detention for a period not exceeding 60 days (this punishment may be imposed only on a rating of able rank or of lower rank in respect of an offence committed on sea service)”; and
 - (d) revoking the note to the third item denoted by the symbol “‡”.

Part 3

Bail Act 2000

- 7 Bail Act 2000 called principal Act in this Part**
- In this Act, the Bail Act 2000³ is called “the principal Act”.
- ³ 2000 No 38
- 8 Variation of conditions of bail**
- Section 57(3) of the principal Act is amended by omitting the words “in writing”.
- 9 Arrest of defendant charged with drug dealing offence**
- Section 59(2) of the principal Act is amended by omitting the expression “48”, and substituting the expression “72”.

Part 4

Births, Deaths, and Marriages Registration Act 1995

10 Births, Deaths, and Marriages Registration Act 1995 called principal Act in this Part

In this Part, the Births, Deaths, and Marriages Registration Act 1995⁴ is called “the principal Act”. 5

⁴ 1995 No 16

11 Schedule 1A amended

Schedule 1A of the principal Act is amended by inserting, in the appropriate alphabetical order, the following item:

Accident Compensation Corporation	Birth information	To verify the identity of a claimant, and a claimant's eligibility or continuing eligibility for a benefit	10
	Marriage information	To verify a claimant's change of name	15
	Death information	To identify deceased claimants	

Part 5

Building Act 1991

12 Building Act 1991 called principal Act in this Part 20

In this Part, the Building Act 1991⁵ is called “the principal Act”.

⁵ 1991 No 150

13 Second Schedule amended

The Second Schedule of the principal Act is amended by repealing clause 7, and substituting the following clause: 25

“7 If the Authority determines not to disclose any information in reliance on clause 6,—

“(a) the Authority must inform the person of the fact of non-disclosure and that the person may seek a review of that non-disclosure by,— 30

“(i) in the case of an individual, the Privacy Commissioner under the Privacy Act 1993; or

“(ii) in any other case, an Ombudsman under the Official Information Act 1982; and

“(b) a request for the information that has been withheld must be dealt with in accordance with,— 35

- “(i) in the case of a request by an individual, the provisions of the Privacy Act 1993 as if the information had been withheld in reliance on section 27(1)(d) of that Act; or
- “(ii) in any other case, the provisions of the Official Information Act 1982 as if the information had been withheld in reliance on section 6(d) of that Act.”

Part 6

Burial and Cremation Act 1964 10

- 14 Burial and Cremation Act 1964 called principal Act in this Part**
- In this Part, the Burial and Cremation Act 1964⁶ is called “the principal Act”.
- ⁶ 1964 No 75 15

- 15 Burial of members of Her Majesty’s Forces, etc**
- Section 15(2) of the principal Act is amended by omitting the words “Minister of Internal Affairs”, and substituting the words “Minister of Veterans’ Affairs”.

- 16 Inspection of cemeteries**
- Section 52 of the principal Act is amended by repealing subsection (1), and substituting the following subsection: 20
- “(1) An employee of the Public Service appointed by the Minister for the purpose, or any person designated as a Health Protection Officer under the Health Act 1956, may inspect any cemetery or any portion of a cemetery exclusively set apart for any denomination in order to— 25
- “(a) ascertain the state and condition of it; and
- “(b) examine the accounts of receipts and expenditure in relation to it; and
- “(c) if regulations or bylaws in relation to it have been made under this Act, ascertain whether the regulations or bylaws are being observed and complied with.” 30

Part 7

Business Development Boards Act 1991

- 17 Business Development Boards Act 1991 repealed**
The Business Development Boards Act 1991 (1991 No 108) is repealed. 5
- 18 Consequential amendments to other Acts**
- (1) The First Schedule of the Ombudsmen Act 1975 is amended by omitting from Part II the item “Business Development Boards established pursuant to the Business Development Boards Act 1991”. 10
- (2) The Fourth, Fifth, and Seventh Schedules of the Public Finance Act 1989 are amended by omitting from each the item “Business Development Boards”.

Part 8

Conservation Act 1987

- 19 Conservation Act 1987 called principal Act in this Part**
In this Part, the Conservation Act 1987⁷ is called “the principal Act”. 15
⁷ 1987 No 65
- 20 Amendments to conservation management strategies and conservation management plans** 20
Section 17I of the principal Act is amended by inserting, after subsection (1), the following subsection:
- “(1A) The Director-General may amend a conservation management strategy so that the information in the strategy required by section 17D(7) (identifying and describing protected areas) remains accurate. Subsections (1), (2), and (4)(a) do not apply to the Director-General’s ability to amend a conservation management strategy under this subsection. However, the Director-General must promptly notify the Conservation Boards affected of every amendment made under this subsection.” 25 30
- 21 First Schedule amended**
The First Schedule of the principal Act is amended by repealing the item “The Sand Drift Act 1908”.

Part 9 Coroners Act 1988

- 22 Coroners Act 1988 called principal Act in this Part** 5
 In this Part, the Coroners Act 1988⁸ is called “the principal Act”.
- ⁸ 1988 No 111
- 23 Information held in Department of Justice**
- (1) The heading to section 44 of the principal Act is amended by omitting the words “**Department of Justice**”, and substituting the words “**Department for Courts**”.
- (2) Section 44 of the principal Act is amended by repealing subsection (3), and substituting the following subsection: 10
- “(3) Subject to subsection (2), the availability of documents given to the Secretary under this Act must be determined,—
- “(a) in the case of a request made by the individual to whom the information relates, in accordance with the Privacy Act 1993; or 15
- “(b) in any other case, in accordance with the Official Information Act 1982.”

Part 10 Courts Martial Appeals Act 1953

- 24 Courts Martial Appeals Act 1953 called principal Act in this Part** 20
 In this Part, the Courts Martial Appeals Act 1953⁹ is called “the principal Act”. 25
- ⁹ 1953 No 100
- 25 Title amended**
- The Title of the principal Act is amended by omitting the words “**and certain naval disciplinary courts**”.

Part 11 Defence Act 1990

- 26 Defence Act 1990 called principal Act in this Part** 30
 In this Part, the Defence Act 1990¹⁰ is called “the principal Act”.
- ¹⁰ 1990 No 28

- 27 Regulations fixing certain terms and conditions of service**
 Section 46 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
- “(a) the making of grants in the amounts and circumstances prescribed by the regulations to— 5
- “(i) discharged or retired members of the Armed Forces; or
- “(ii) dependants of members of the Armed Forces; or
- “(iii) dependants of deceased, discharged, or retired members of the Armed Forces; or 10
- “(iv) the executors or administrators of the estates of deceased members of the Armed Forces (whether or not probate or letters of administration have been granted):” 15
- 28 New section 51 substituted**
 The principal Act is amended by repealing section 51, and substituting the following section:
- “51 Persons receiving pay but not properly attested** 20
- A person who, without having been properly attested, has accepted pay as a member of a component of the Armed Forces referred to in section 11(3) to (5)—
- “(a) is a member of that component until discharged; and
- “(b) must be discharged without delay at any time before being properly attested, if he or she so requests.” 25
- 29 Constitution of cadet forces**
 Section 74(2) of the principal Act is amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:
- “(a) determine the number of units comprising— 30
- “(i) the Sea Cadet Corps; or
- “(ii) the New Zealand Cadet Corps; or
- “(iii) the Air Training Corps; or
- “(iv) any combination of those corps; and
- “(b) authorise and direct the formation of a unit that is a unit of any of those corps or any combination of them, and determine or approve the size of the unit’s membership; and” 35

- 30 Regulations**
 Section 101(1) of the principal Act is amended by repealing paragraph (f), and substituting the following paragraph:
 “(f) providing for the enlistment of forces under section 11(3)(e), (4)(d), or (5)(d), and providing for the terms and conditions of service of those forces:”.
- Part 12**
Domestic Violence Act 1995
- 31 Domestic Violence Act 1995 called principal Act in this Part**
 In this Part, the Domestic Violence Act 1995¹¹ is called “the principal Act”.
¹¹ 1995 No 86
- 32 Regulations**
 Section 127(a) of the principal Act is amended by inserting, after subparagraph (iv), the following subparagraphs:
 “(iva) providing for the review of a decision to refuse an application for approval:
 “(ivb) providing for the review of a decision to cancel an approval:”.
- Part 13**
Electricity Act 1992
- 33 Electricity Act 1992 called principal Act in this Part**
 In this Part, the Electricity Act 1992¹² is called “the principal Act”.
¹² 1992 No 122
- 34 Interpretation**
 Section 2(1) of the principal Act is amended by omitting from paragraph (b) of the definition of **electricity operator** the words “by the Governor-General by Order in Council”.

Part 14

Flags, Emblems, and Names Protection Act 1981

- 35** **Flags, Emblems, and Names Protection Act 1981 called principal Act in this Part**
 In this Part, the Flags, Emblems, and Names Protection Act 1981¹³ is called “the principal Act”. 5
¹³ 1981 No 47
- 36** **Interpretation**
- (1) Section 2 of the principal Act is amended by repealing the definition of **Minister**, and substituting the following definition: 10
 “**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the principal Act”.
- (2) Section 2 of the principal Act is amended by inserting, in the appropriate alphabetical order, the following definition: 15
 “**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 principal Act”.
- (3) The definition of **registering authority** in section 2 of the principal Act is amended by repealing paragraphs (d) and (k), and substituting, in their appropriate alphabetical order, the following paragraphs: 20
- “(d) the Registrar of Friendly Societies and Credit Unions under the Friendly Societies and Credit Unions Act 1982: 25
 “(k) the Registrar of Unions under the Employment Relations Act 2000;—”.
- 37** **Administration of Act**
- (1) Section 4(1) of the principal Act is amended by omitting the words “Department of Internal Affairs”, and substituting the word “Ministry”. 30
- (2) Section 4(2) of the principal Act is amended by omitting the words “Department of Justice” and substituting the words “Ministry of Justice”. 35

- 38 Use of alternative flags**
Section 9 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:
- “(2) The Governor-General may authorise the use of a flag under subsection (1) only on the joint recommendation of the Minister and— 5
“(a) the Minister of Defence if subsection (1)(a) applies; or
“(b) the Minister of Transport if subsection (1)(b) applies.”
- 39 Rules relating to flying of New Zealand Flag**
Section 10(1) of the principal Act is amended by omitting the words “of Internal Affairs”. 10
- 40 Unauthorised use of words suggesting Royal or government patronage**
Section 14(4)(a) of the principal Act is amended by repealing subparagraph (v), and substituting the following subparagraph: 15
“(v) the Minister if subsection (3)(b) or subsection (3)(c)(iv) applies; or”.
- 41 Unauthorised use of name and emblem of United Nations and other international organisations** 20
Section 16(2) of the principal Act is amended by omitting the words “of Internal Affairs”.
- Part 15**
Gas Act 1992
- 42 Gas Act 1992 called principal Act in this Part** 25
In this Part, the Gas Act 1992¹⁴ is called “the principal Act”.
¹⁴ 1992 No 124
- 43 Interpretation**
Section 2(1) of the principal Act is amended by omitting from paragraph (b) of the definition of **gas operator** the words “by the Governor-General by Order in Council”. 30
- 44 New section 5 substituted**
The principal Act is amended by repealing section 5, and substituting the following section:

- “5 Declaration of person as gas operator**
- “(1) The Minister may, by notice in the *Gazette*, declare a person to be a gas operator for the purposes of this Act or any provision or provisions of this Act if the Minister is satisfied that a declaration is necessary to enable the person to start or carry on a business as a gas distributor. 5
- “(2) The Minister must, as soon as reasonably practicable, by notice in the *Gazette*, declare that a person ceases to be a gas operator on a date stated in the notice if the Minister is satisfied that the person no longer carries on a business as a gas distributor.” 10

Part 16

Health Research Council Act 1990

- 45 Health Research Council Act 1990 called principal Act in this Part** 15
- In this Part, the Health Research Council Act 1990¹⁵ is called the principal Act.
- ¹⁵ 1990 No 68
- 46 Term of office**
- Section 9(1) of the principal Act is amended by adding the words “or for a shorter term”. 20

Part 17

Industrial and Provident Societies Act 1908

- 47 Industrial and Provident Societies Act 1908 called principal Act in this Part** 25
- In this Part, the Industrial and Provident Societies Act 1908¹⁶ is called “the principal Act”.
- ¹⁶ 1908 No 81
- 48 New section 4 inserted**
- (1) The principal Act is amended by inserting, after section 3, the following section:
- “4 Societies which may be registered**
- “(1) A society which may be registered under this Act (in this Act called **an industrial and provident society**) is a society for carrying on any industry, business, or trade, whether wholesale or retail, specified in or authorised by its rules, including

- dealings of any description with land, but excepting the business of banking.
- “(2) However, no member (other than a registered society) may have or claim any interest in the shares of the society exceeding \$4,000 or such higher amount as may be specified, in respect of any particular society, by notice in the *Gazette* given by the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.
- “(3) This section is subject to section 33 of the Statutes Amendment Act 1939 (which limits the registration of societies, and is deemed to be part of this Act).”
- (2) All notices under section 2(1) of the Industrial and Provident Societies Amendment Act 1923 that are in force on the day on which this Act comes into force are deemed to have been made, and may be amended, revoked, or revoked and replaced, under **section 4(2)** of the principal Act (as *substituted*) inserted by **subsection (1)**.
- 49 Consequential amendments and repeal**
- (1) The following are consequentially amended by omitting the expression “section 2(1) of the Industrial and Provident Societies Amendment Act 1923”, and substituting the words “**section 4(2)** of the principal Act”:
- (a) the proviso to section 9(e) of the principal Act; and
- (b) section 2(1A)(a) of the Industrial and Provident Societies Amendment Act 1919.
- (2) Section 33(2) of the Statutes Amendment Act 1939 is consequentially amended by omitting the expression “section 2 of the Industrial and Provident Societies Amendment Act 1923”, and substituting the words “**section 4** of the principal Act”.
- (3) The Industrial and Provident Societies Amendment Act 1923 (1923 No 20) is consequentially repealed.

Part 18
Injury Prevention, Rehabilitation, and Compensation
Act 2001

- 50 Injury Prevention, Rehabilitation, and Compensation Act 2001 called principal Act in this Part** 5
 In this Part, the Injury Prevention, Rehabilitation, and Compensation Act 2001¹⁷ is called “the principal Act”.
¹⁷ 2001 No 49
- 51 Claimant who no longer has vocational independence regains entitlement to weekly compensation** 10
 Section 113(1) of the principal Act is amended by omitting the expression “section 107(5)”, and substituting the expression “section 109”.
- 52 Classification of industries or risks** 15
 Section 170(3) of the principal Act is amended by inserting, after the word “threshold”, the words “(if any)”.
- 53 Purchase of weekly compensation by shareholder-employees**
 Section 190(2) of the principal Act is amended by inserting, after the word “sections”, the expression “**206A**,”.
- 54 Classification of industries or risk** 20
 Section 195(3) of the principal Act is amended by inserting, after the word “threshold”, the words “(if any)”.
- 55 New sections 206A to 206C inserted** 25
 The principal Act is amended by inserting, after section 206, the following sections:
- “**206A Risk adjustment of Self-Employed Work Account levy**
 “(1) A levy determined for the purposes of section 202 or section 211 may be adjusted down, in accordance with regulations made under this Act, for a particular self-employed person on the basis of the person’s safety management capabilities (including, for example, practices and qualifications). 30
 “(2) Section 331 (which prescribes consultation requirements for regulations relating to levy setting) applies in relation to the

making of regulations for the purposes of this section as if the regulations prescribed rates of levies.

- “(3) The Corporation must decide whether an adjustment to a Self-Employed Work Account levy is to be made and the level of the adjustment. 5

Compare: 1998 No 114 s 301

“206B Incorporation by reference

- “(1) Regulations made for the purpose of **section 206A** may incorporate by reference all or any part of any—

“(a) New Zealand standard; or 10
“(b) standard, requirement, recommended practice, rule, statute, or regulation, of any foreign government or organisation.

- “(2) Any material incorporated in regulations by reference is to be regarded for all purposes as forming part of the regulations, but any amendment made to the material after the commencement of the regulations does not have effect until regulations have been made incorporating the amendment into the regulations. 15

“206C Copy of material incorporated by reference to be available to public 20

A copy of all material incorporated in regulations must be made available by the Corporation for inspection by the public free of charge.”

56 Corporation to comply with Government policy 25

Section 270(4)(b) of the principal Act is amended by omitting the expression “271(6)”, and substituting the expression “271(5)”.

57 Compensation payable to surviving spouses under 1972 and 1982 Acts 30

Section 384 of the principal Act is amended by inserting, after subsection (2), the following subsection:

- “(2A) For the purposes of subsection (1), section 446 continues to apply as if subsection (4) of that section provided as follows:

- “(4) The compensation does not cease if, when compensation would otherwise cease under subsection (3), the spouse— 35

- ‘(a) is 45 years or older; or
- ‘(b) would have been entitled to continue to receive compensation under section 123 of the Accident Compensation Act 1972 or section 65 of the Accident Compensation Act 1982.’ ” 5

58 Compensation for pecuniary loss not related to earnings under former Acts: child care for child of deceased person

Section 387(1)(c) of the principal Act is amended by omitting the expression “149(5)”, and substituting the expression “149(7)”. 10

**Part 19
Legal Services Act 2000**

59 Legal Services Act 2000 called principal Act in this Part
In this Part, the Legal Services Act 2000¹⁸ is called “the principal Act”. 15

¹⁸ 2000 No 42

60 Other situation where legal aid refused or limited: civil matters

Section 10 of the principal Act is amended by repealing subsection (2), and substituting the following subsection: 20

- “(2) Subsection (1) does not apply in respect of—
 - “(a) proceedings referred to in that subsection for which a person was granted legal aid before 1 October 1999; or
 - “(b) proceedings specified in section 7(1)(j) to (m).”

61 New section 55A inserted 25

The principal Act is amended by inserting, after section 55, the following section:

“55A Powers and duties of Convenor of Review Panel on receipt of application for review

“(1) On receipt of an application for review, the Convenor of the Review Panel— 30

- “(a) may require the Agency or any person to provide any information relating to the decision or the application for review; and
- “(b) must assign a team of 1, 2, or 3 members of the Panel to review the decision. 35

“(2) The Convenor must include 1 lawyer in every team assigned to a review.”

62 Review of decision by Review Panel

(1) Section 56 of the principal Act is amended by repealing subsections (1) and (2). 5

(2) Section 56(3) of the principal Act is amended by omitting the words “The team” in both places where they appear, and substituting in each case the words “A team assigned to a review”.

63 New section 62A inserted 10

The principal Act is amended by inserting, after section 62, the following section:

“62A Delegation by Convenor of Review Panel

“(1) The Convenor of the Review Panel may delegate *(to any member of the Panel)* any of the Convenor’s functions, duties, and powers to a member of the Panel who the Convenor is satisfied has the capability, skills, and experience to perform and exercise those functions, duties, or powers. 15

“(2) A delegation—

“(a) must be in writing; and 20

“(b) must be to a named person; and

“(c) is revocable at any time, in writing; and

“(d) does not prevent the performance or exercise of a function, duty, or power by the Convenor.

“(3) A person to whom any functions, duties, or powers are delegated may perform and exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation. 25

“(4) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.” 30

64 New section 116A inserted

The principal Act is amended by inserting, after section 116, the following section:

“116A Legal aid granted under Legal Aid Act 1969 35

“(1) On and after the date on which the **Legal Services Amendment Act 2002** comes into force, any application made, or proceedings

commenced, under the Legal Aid Act 1969 must, to the extent that the application or proceedings were not dealt with before that date, be continued or completed by the Agency as if the application or proceedings had been made or commenced under this Act.

5

“(2) To avoid doubt,—

“(a) a charge created by the Legal Aid Act 1969 (the **charge**) must be treated as if it were a charge created by section 32; and

“(b) the provisions of this Act, so far as they are applicable and with any necessary modifications, apply to the charge and the Agency may, for the purposes of **subsection (1)**,—

10

“(i) transfer the charge in accordance with section 34; and

15

“(ii) enforce the charge in accordance with section 35; and

“(iii) write off the amounts secured by the charge in accordance with section 37; and

“(c) the Agency may sign any document, on behalf of the Crown, in order to give effect to **subsection (1)**.”

20

65 Legal aid granted under former Act

Section 117 of the principal Act is amended by repealing subsection (4).

66 New section 117B inserted

25

The principal Act is amended by inserting, after section 117A, the following section:

“117B District Legal Aid Committees

“(1) Every District Legal Aid Committee established under the Legal Aid Act 1969 ceases to exist at the close of the day before the date on which the **Legal Services Amendment Act 2002** comes into force.

30

“(2) No member of a District Legal Aid Committee is entitled to compensation as a result of those Committees ceasing to exist.

“(3) All assets and liabilities of a District Legal Aid Committee, and all records of the Committee, vest in the Agency at the close of the day before the date on which the **Legal Services Amendment Act 2002** comes into force.”

35

Part 20
Local Government Official Information and
Meetings Act 1987

- 67 Local Government Official Information and Meetings Act 1987 called principal Act in this Part** 5
 In this Part, the Local Government Official Information and Meetings Act 1987¹⁹ is called “the principal Act”.
¹⁹ 1987 No 174
- 68 New sections 17A and 17B inserted** 10
 The principal Act is amended by inserting, after section 17, the following sections:
- “17A Requests involving substantial collation or research**
- “(1) In deciding whether to refuse a request under section 17(f), the local authority must consider whether doing either or both of the following would enable the request to be granted:
- “(a) fixing a charge under section 13: 15
- “(b) extending the time limit under section 14.
- “(2) For the purposes of refusing a request under section 17(f), the local authority may treat as a single request 2 or more requests from the same person—
- “(a) that are about the same subject matter or about similar subject matters; and 20
- “(b) that are received simultaneously or in short succession.
- “17B Duty to consider consulting person if request likely to be refused under section 17(e) or (f)** 25
 If a request is likely to be refused under section 17(e) or (f), the local authority must, before that request is refused, consider whether consulting with the person who made the request would assist that person to make the request in a form that would remove the reason for the refusal.”
- 69 Functions of Ombudsmen** 30
 Section 27 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:
- “(3) An investigation and review under subsection (1) or subsection (2) may be made by an Ombudsman only on complaint being made to an Ombudsman in writing or orally. 35

“(3A) A complaint made orally must be put in writing as soon as practicable.”

New (unanimous)

Part 20A

Local Government (Rating) Act 2002

- | | | |
|------------|---|----|
| 69A | Local Government (Rating) Act 2002 called principal Act in this Part | 5 |
| | In this Part, the Local Government (Rating) Act 2002 ²⁰ is called “the principal Act”. | |
| | ²⁰ 2002 No 6 | |
| 69B | Regulations relating to rating of educational establishments | 10 |
| | Section 25 of the principal Act is amended by repealing subsection (2), and substituting the following subsection: | |
| | “(2) Regulations— | |
| | “(a) may not be made before 1 July 2005; and | |
| | “(b) may be made only on the recommendation of the Minister; and | 15 |
| | “(c) may be made only after a report that complies with section 26.” | |
| 69C | Report of Ministerial review of rating practice in relation to educational establishments | 20 |
| | (1) Section 26(b) of the principal Act is amended by omitting the words “the financial years commencing on 1 July 2003 and 1 July 2004”, and substituting the words “not fewer than 2 consecutive financial years”. | |
| | (2) Section 26(c)(i) of the principal Act is amended by inserting, after the words “administration of”, the words “Part VIII of”. | 25 |

Part 21

Medicines Act 1981

- | | | |
|-----------|---|----|
| 70 | Medicines Act 1981 called principal Act in this Part | 30 |
| | In this Part, the Medicines Act 1981 ²¹ is called “the principal Act”. | |
| | ²¹ 1981 No 118 | |

71 Interpretation

- (1) Section 2(1) of the principal Act is amended by inserting, after the definition of **container**, the following definition: 5
 “**controlled drug** has the same meaning as in section 2(1) of the Misuse of Drugs Act 1975”.
- (2) Section 2(1) of the principal Act is amended by inserting in paragraphs (a) and (b) of the definition of **standing order**, in each case after the words “prescription medicines”, the words “or controlled drugs”.
- (3) Section 2(1) of the principal Act is amended by adding to the definition of **standing order** the following paragraphs: 10
 “(c) a written instruction issued by a practitioner, or mid-wife, in accordance with any applicable regulations, authorising any specified class of persons engaged in the delivery of health services to supply and administer 15
 any specified class or description of pharmacy-only medicines or restricted medicines to any specified class of persons, in circumstances specified in the instruction:
 “(d) a written instruction issued by a veterinarian in accordance with any applicable regulations, authorising any 20
 specified class of persons to supply and administer any specified class or description of pharmacy-only medicines or restricted medicines to any specified class of animals, in circumstances specified in the instruction”. 25

72 Meaning of medicine, new medicine, prescription medicine, and restricted medicine

- (1) Section 3(3) of the principal Act is amended by repealing the definition of **pharmacy-only medicine**, and substituting the following definition: 30
 “**pharmacy-only medicine** means a medicine that is declared by regulations made under this Act or by a notice given under section 106 to be one that, except as may be permitted by the regulations, may be—
 “(a) sold by retail only— 35
 “(i) in a pharmacy or hospital; or
 “(ii) in any shop described in section 51(2) and in accordance with a licence issued under Part III;
 or

- “(b) supplied in circumstances corresponding to retail sale only—
- “(i) in a pharmacy or hospital; or
- “(ii) in any shop described in section 51(2) and in accordance with a licence issued under Part III; 5
or
- “(iii) in accordance with a standing order”.
- (2) Section 3(3) of the principal Act is amended by repealing the definition of **restricted medicine**, and substituting the following definition: 10
- “**restricted medicine** means a medicine that is declared by regulations made under this Act or by a notice given under section 106 to be one that, except as may be permitted by the regulations, may be—
- “(a) sold by retail only by a pharmacist in a pharmacy or hospital; or 15
- “(b) supplied in circumstances corresponding to retail sale only—
- “(i) by a pharmacist in a pharmacy or hospital; or
- “(ii) in accordance with a standing order.” 20
- 73 Sale of medicines by retail**
- Section 18(1) of the principal Act is amended by repealing paragraphs (aa) and (b), and substituting the following paragraphs:
- “(aa) any restricted medicine unless— 25
- “(i) he or she is a pharmacist and sells, supplies, or distributes the medicine in a pharmacy or hospital; or
- “(ii) he or she is authorised to supply any specified class or description of restricted medicine under a standing order and supplies the medicine in accordance with that standing order; or 30
- “(b) any pharmacy-only medicine, unless—
- “(i) he or she sells, supplies, or distributes the medicine in a pharmacy or hospital; or 35
- “(ii) he or she sells, supplies, or distributes the medicine in any shop described in section 51(2) and in accordance with a licence issued under Part III; or

“(iii) he or she is authorised to supply any specified class or description of pharmacy-only medicine under a standing order and supplies the medicine in accordance with that standing order.”

- 74 Regulations** 5
Section 105(2)(c) of the principal Act is amended by omitting the word “indentify”, and substituting the word “identify”.

Part 22

Mental Health (Compulsory Assessment and Treatment) Act 1992 10

- 75 Mental Health (Compulsory Assessment and Treatment) Act 1992 called principal Act in this Part**
In this Part, the Mental Health (Compulsory Assessment and Treatment) Act 1992²² is called “the principal Act”. 15
²² 1992 No 46

- 76 Use of force**
Section 122B(3) of the principal Act is amended by inserting, after the words “to whom”, the words “section 58 or”.

Part 23

Misuse of Drugs Act 1975

- 77 Misuse of Drugs Act 1975 called principal Act in this Part** 20
In this Part, the Misuse of Drugs Act 1975²³ is called “the principal Act”.
²³ 1975 No 116

- 78 Exemptions from sections 6 and 7**
- (1) Section 8(1) of the principal Act is amended by inserting, after the words “registered midwife”, in both places where they occur, the words “designated prescriber,”. 25
- (2) Section 8(2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
“(b) any pharmacist may produce, manufacture, or supply controlled drugs— 30
 “(i) listed in the pharmaceutical schedule within the meaning of the New Zealand Public Health and

	Disability Act 2000 for the purposes of a person eligible for a subsidy for the supply of controlled drugs; or	
	“(ii) for the purposes of the hospital in which he or she is employed; or	5
	“(iii) pursuant to a prescription or order issued by a medical practitioner, dentist, designated prescriber, or veterinarian.”.	
79	Treatment of persons dependent on controlled drugs	
(1)	Section 24(1A) of the principal Act is amended by omitting the word “practitioner” in both places where it occurs, and substituting in each case the word “prescriber”.	10
(2)	Section 24(7)(a) of the principal Act is amended by inserting, after the words “who may”, the words “, subject to any general or specific conditions imposed by the Minister on the recommendation of the Director-General of Health,”.	15
New (unanimous)		
79A	Evidence of analysis	
	Section 31(5) of the principal Act is amended by repealing the definition of member of the police , and substituting the following definition:	20
	“ member of the police includes the following persons:	
	“(a) a member of the Royal New Zealand Naval Police:	
	“(b) a member of the New Zealand Army Military Police:	
	“(c) a member of the Air Security Branch of the Royal New Zealand Air Force:	25
	“(d) an officer of the Air Security specialisation of the Administrative Branch of the Royal New Zealand Air Force”.	
80	Regulations	
	Section 37 of the principal Act is amended by inserting, after paragraph (f), the following paragraph:	30
	“(fa) regulating the issue of standing orders that authorise the supply and administration of controlled drugs, imposing conditions, limitations, requirements, or restrictions in relation to the contents of standing orders of that kind	35

and their use, and providing for any other matters that are necessary or desirable for the administration of standing orders of that kind.”.

Part 24

New Zealand Public Health and Disability Act 2000 5

- 81 New Zealand Public Health and Disability Act 2000 called principal Act in this Part**
 In this Part, the New Zealand Public Health and Disability Act 2000²⁴ is called “the principal Act”. 10
²⁴ 2000 No 91
- 82 Modifications of Health Sector (Transfers) Act 1993 in respect of former employees of dissolved entities and certain employees of Ministry of Health**
 Section 101(1)(d) of the principal Act is amended by omitting the word “Disabilities”, and substituting the word “Disability”. 15

Part 25

New Zealand Railways Corporation Act 1981

- 83 New Zealand Railways Corporation Act 1981 called principal Act in this Part**
 In this Part, the New Zealand Railways Corporation Act 1981²⁵ is called “the principal Act”. 20
²⁵ 1981 No 119
- 84 Unused lands and buildings may be leased**
- (1) The heading to section 33 of the principal Act is amended by omitting the words “Unused lands”, and substituting the word “Lands”. 25
- (2) Section 33(3) of the principal Act is amended by repealing paragraph (b) of the proviso, and substituting the following paragraphs:
 “(b) where the rent payable under the lease is not less than an annual rent fixed by a valuation made by a registered valuer; or 30
 “(c) where paragraph (a) does not apply and the Corporation considers that it would be impracticable or unreasonable to obtain a valuation for the purposes of paragraph (b).” 35

- (3) Section 33 of the principal Act is amended by adding the following subsection:
- “(7) In subsection (3), **registered valuer** means a valuer registered under the Valuers Act 1948.”

Part 26

5

Ngāti Tūrangitukua Claims Settlement Act 1999

85 Ngāti Tūrangitukua Claims Settlement Act 1999 called principal Act in this Part

In this Part, the Ngāti Tūrangitukua Claims Settlement Act 1999²⁶ is called “the principal Act”.

10

²⁶ 1999 No 118

86 Kutai Street reserves

Section 25 of the principal Act is amended by adding the following subsections:

- “(6) The vesting under subsection (4) is—
- “(a) subject to a public pedestrian right of way that is 3 m in width and immediately adjacent to the Tongariro River; and
- “(b) to avoid doubt, free from a requirement under Part IVA of the Conservation Act 1987 to reserve a marginal strip.
- “(7) If, at any time and for any reason, the course of the Tongariro River is altered, the right of way referred to in **subsection (6)(a)**, immediately adjacent to the river, is determined by the course of the river.”

15

20

87 New section 25A inserted

25

The principal Act is amended by inserting, after section 25, the following section:

“25A Notation on title

- “(1) The Registrar-General of Land is authorised and directed to make entries in the register under the Land Transfer Act 1952 and on the certificates of title for the Kutai Street reserves, and generally do what is necessary, to give effect to the provisions of **section 25(6) and (7)** of this Act.

30

- “(2) The Registrar must enter on the certificates of title for the Kutai Street reserves the following words:
 ‘Subject to a public pedestrian right of way that is 3 m in width and immediately adjacent to the Tongariro River, as provided for by **section 25(6) and (7)** of the Ngāti Tūrangitukua Claims Settlement Act 1999.’ 5
- “(3) **Subsection (2)** does not limit **subsection (1)**.
- “(4) Section 37 does not apply in respect of the right of way created under **section 25(6)**.”

Part 27 10

Official Information Act 1982

88 Official Information Act 1982 called principal Act in this Part

In this Part, the Official Information Act 1982²⁷ is called “the principal Act”. 15

²⁷ 1982 No 156

89 New sections 18A and 18B inserted

The principal Act is amended by inserting, after section 18, the following sections:

“18A Requests involving substantial collation or research

- “(1) In deciding whether to refuse a request under section 18(f), the Department, Minister of the Crown, or organisation must consider whether doing either or both of the following would enable the request to be granted: 20

“(a) fixing a charge under section 15:

“(b) extending the time limit under section 15A. 25

- “(2) For the purposes of refusing a request under section 18(f), the Department, Minister of the Crown, or organisation may treat as a single request 2 or more requests from the same person—

“(a) that are about the same subject matter or about similar subject matters; and 30

“(b) that are received simultaneously or in short succession.

“18B Duty to consider consulting person if request likely to be refused under section 18(e) or (f)

If a request is likely to be refused under section 18(e) or (f), the Department, Minister of the Crown, or organisation must, before that request is refused, consider whether consulting 35

with the person who made the request would assist that person to make the request in a form that would remove the reason for the refusal.”

- 90 Publication setting out functions of Departments and organisations** 5
- Section 20 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- “(2A) In complying with subsection (2), the Ministry of Justice may publish a new edition or supplementary material on an Internet website and in an electronic form that is publicly accessible (at all reasonable times), so long as the Ministry also publishes that edition or material in any other manner and form that is necessary in the light of the need specified in subsection (4).” 10
- 91 Functions of Ombudsmen** 15
- Section 28 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:
- “(3) An investigation and review under subsection (1) or subsection (2) may be made by an Ombudsman only on complaint being made to an Ombudsman in writing or orally. 20
- “(3A) A complaint made orally must be put in writing as soon as practicable.”
- 92 First Schedule amended**
- (1) The First Schedule of the principal Act is amended by omitting the item “Airport Companies (as defined in section 2 of the Airport Authorities Act 1966)”, and substituting the item “Airport Companies (as defined in section 2 of the Airport Authorities Act 1966) in which more than 50% of the ordinary shares are owned by, or by any combination of, the Crown, any local authority (as defined in section 2 of that Act), (or any local authority trading enterprise (as defined in section 594B of the Local Government Act 1974)) or any council-controlled organisation (as defined in section 6 of the Local Government Act 2002)”. 25 30
- (2) The First Schedule of the principal Act is amended by omitting the item “Fruit Distributors Limited”. 35

Part 28

Ombudsmen Act 1975

- 93 Ombudsmen Act 1975 called principal Act in this Part** 5
 In this Part, the Ombudsmen Act 1975²⁸ is called “the principal Act”.
- ²⁸ 1975 No 9
- 94 House of Representatives may make rules for guidance of Ombudsmen** 10
 Section 15(1) and (2) of the principal Act is amended by omitting the words “the Local Government Official Information and Meetings Act 1987”, and substituting in each case the words “under the Local Government Official Information and Meetings Act 1987 or under the Protected Disclosures Act 2000”.
- 95 Evidence** 15
 Section 19(5A) of the principal Act is amended by inserting, after the words “the Local Government Official Information and Meetings Act 1987”, the words “or the Protected Disclosures Act 2000”.
- 96 Proceedings privileged** 20
- (1) Section 26(1)(a) and (b) and (3) of the principal Act is amended by inserting, after the words “the Local Government Official Information and Meetings Act 1987”, the words “or the Protected Disclosures Act 2000”.
- (2) Section 26(4) of the principal Act is amended by inserting, after the words “the Local Government Official Information and Meetings Act 1987,”, the words “or under the Protected Disclosures Act 2000,”.
- 97 Annual report** 30
 Section 29 of the principal Act is amended by omitting the words “or the Local Government Official Information and Meetings Act 1987”, and substituting the words “and the Local Government Official Information and Meetings Act 1987 and the Protected Disclosures Act 2000”.

Part 29 Passports Act 1992

- 98 Passports Act 1992 called principal Act in this Part** 5
 In this Part, the Passports Act 1992²⁹ is called the principal Act.
- ²⁹ 1992 No 92
- 99 Issue of passport**
- (1) Section 4(3)(b)(ii) of the principal Act is amended by omitting the words “sentence of supervision under”, and substituting the words “community-based sentence under subpart 2 of Part 2 of”. 10
- (2) Section 4(3)(b) of the principal Act is amended by repealing subparagraph (iii), and substituting the following subparagraphs:
- “(iii) the applicant is required by an order made by a New Zealand court to refrain from obtaining a passport or to surrender a passport; or 15
- “(iv) the applicant is subject to an order made by a New Zealand court that requires the applicant, or the effect of which requires the applicant, to remain in New Zealand; or 20
- “(v) the applicant is subject to a sentence imposed by a New Zealand court, the effect of which requires the applicant to remain in New Zealand:”.
- 100 Cancellation of passport where holder ceases to be entitled to passport** 25
- (1) Section 8(1)(c) of the principal Act is repealed.
- (2) Section 8(2) of the principal Act is repealed.

Part 30 Police Act 1958

- 101 Police Act 1958 called principal Act in this Part** 30
 In this Part, the Police Act 1958³⁰ is called “the principal Act”.
- ³⁰ 1958 No 109

- 102 Non-sworn members of the Police**
- (1) Section 6(2) of the principal Act is amended by omitting the words “other enactment”, and substituting the words “enactment other than this Act”.
- (2) Section 6 of the principal Act is amended by repealing subsection (4), and substituting the following subsections: 5
- “(4) In any of the enactments specified in **subsection (5)**, a reference to a member of the police that is not expressly limited to a sworn member of the police includes a reference to a non-sworn member of the police. 10
- “(5) The enactments referred to in **subsection (4)** are as follows:
- “(a) sections 5, 10, 11, 13, 15, 30, 39 to 44, 51, 52, 54(1), 55, 55A, 57 to 59, 61A, 64, 76 to 79, and 96 of this Act:
- “(b) section 52(1)(b) of the Electoral Act 1993:
- “(c) section 8(g) of the Juries Act 1981: 15
- “(d) the Police Complaints Authority Act 1988:
- “(e) section 24 of the Summary Offences Act 1981.”
- 103 Members not to engage in politics**
- Section 31 of the principal Act is amended by omitting the words “sections 30 and 31 of the Electoral Act 1956”, and substituting the words “sections 52 and 53 of the Electoral Act 1993”. 20
- 104 Section 50 repealed**
- Section 50 of the principal Act is repealed.
- Part 31** 25
Privacy Act 1993
- 105 Privacy Act 1993 called principal Act in this Part**
- In this Part, the Privacy Act 1993³¹ is called “the principal Act”. 30
- ³¹ 1993 No 28

New (unanimous)**105A Procedure after investigation**

Section 77(2) and (3) of the principal Act is amended by omitting the words “Proceedings Commissioner” in each place where they occur, and substituting in each case the words “Director of Human Rights Proceedings”.

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106 Damages

Section 88(2) of the principal Act is amended by omitting the words “by the Privacy Commissioner”.

New (unanimous)**106A Protection and privileges of witnesses, etc**

- (1) Section 94(1B)(a)(iii) and (b) of the principal Act is amended by omitting the words “Proceedings Commissioner” in each place where they occur, and substituting in each case the words “Director of Human Rights Proceedings”. 10
- (2) Section 94(1B)(b) of the principal Act is amended by omitting the words “Complaints Review Tribunal”, and substituting the words “Human Rights Review Tribunal”. 15

106B Commissioner and staff to maintain secrecy

Section 116(3) of the principal Act is amended by omitting the words “Proceedings Commissioner”, and substituting the words “Director of Human Rights Proceedings”.

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Part 32**Private Investigators and Security Guards Act 1974****107 Private Investigators and Security Guards Act 1974 called principal Act in this Part**

In this Part, the Private Investigators and Security Guards Act 1974³² is called “the principal Act”. 25

³² 1974 No 48

108 Grounds for cancellation of licence

Section 58(1)(b) of the principal Act is amended by omitting the words “Part III of the Dogs Registration Act 1955”, and substituting the words “the Dog Control Act 1996”.

Part 33

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Queen Elizabeth the Second National Trust Act 1977**109 Queen Elizabeth the Second National Trust Act 1977 called principal Act in this Part**

In this Part, the Queen Elizabeth the Second National Trust Act 1977³³ is called the principal Act.

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³³ 1977 No 102

110 Meetings of Board

Section 9(4) of the principal Act is amended by omitting the words “persons specified in paragraphs (a) to (f) of subsection (5) of this section”, and substituting the words “Director-General of Conservation”.

15

Part 34**Standards Act 1988****111 Standards Act 1988 called principal Act in this Part**

In this Part, the Standards Act 1988³⁴ is called “the principal Act”.

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³⁴ 1988 No 5

112 Membership of Council

- (1) Section 4(2)(a) of the principal Act is amended by repealing subparagraph (v), and substituting the following subparagraph:

“(v) Business New Zealand Incorporated:”.

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- (2) Section 4(2)(b) of the principal Act is amended by repealing subparagraph (i), and substituting the following subparagraph:

“(i) Electricity Networks Association Incorporated:”.

- (3) Section 4(2)(c) of the principal Act is amended by repealing subparagraph (ii), and substituting the following subparagraph:

“(ii) New Zealand Retailers Association Incorporated:”.

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- (4) Section 4(2)(e) of the principal Act is amended by repealing subparagraph (ii), and substituting the following subparagraph:
- “(ii) The New Zealand Federation of Country Women’s Institutes Incorporated.”.

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Part 35

State Sector Act 1988

- 113 State Sector Act 1988 called principal Act in this Part**
In this Part, the State Sector Act 1988³⁵ is called “the principal Act”.
- ³⁵ 1988 No 20

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- 114 Interpretation**
Section 2 of the principal Act is amended by omitting from paragraph (a)(ii) of the definition of the term **employer** the words “Part IX of”.

Part 36

Tokelau Act 1948

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- 115 Tokelau Act 1948 called principal Act in this Part**
In this Part, the Tokelau Act 1948³⁶ is called “the principal Act”.
- ³⁶ 1948 No 24

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- 116 New section 4AA inserted**
The principal Act is amended by inserting, after section 4, the following section:

“4AA Making and issuing of certain Tokelau commemorative coins validated

- “(1) The following coins are deemed to be, and always to have been, validly made and issued, and legal tender only in Tokelau:

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“(a) the Tokelau 2000 Queen Elizabeth the Queen Mother Commemorative Five Dollars:

“(b) the Tokelau 1999 Smallest Gold Coins Commemorative Ten Dollars.

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- “(2) In **subsection (1)(a), Tokelau 2000 Queen Elizabeth the Queen Mother Commemorative Five Dollars** means the coin—

“(a) the reverse impression of which shows—

- “(i) the portraits of His late Majesty King George VI standing behind a draped balcony and acknowledging the crowd, and of Her late Majesty the Queen Mother to the right, also acknowledging the crowd: 5
- “(ii) the expression “VE DAY CELEBRATIONS 8TH MAY” appearing immediately above the portraits:
- “(iii) the expressions “1945” and “\$5” appearing on the draped balcony immediately below the portraits: 10
- “(iv) the expression “1900 HM THE QUEEN MOTHER’S CENTENARY 2000” appearing in the upper part of the peripheral border of the coin, and the expression “LIMA TALA” in the lower part of the peripheral border; and 15
- “(b) the specifications of which are as follows:
- “(i) it is made of 925/1000 silver with an outer ring plated in 24 carat gold:
- “(ii) it weighs 28.10 grammes (with a tolerance, in excess or deficiency, of 0.25% allowed); and 20
- “(iii) it is circular with a diameter of 38.61 millimetres.
- “(3) In **subsection (1)(b), Tokelau 1999 Smallest Gold Coins Commemorative Ten Dollars** means the coin—
- “(a) the reverse impression of which shows— 25
- “(i) a representation of Hina, the Tokelauan maiden, pointing to her left, and being carried by the turtle, te Kea, swimming in the sea:
- “(ii) the expression “HINA MA TE KEA” appearing at the periphery of the coin, immediately above the representation; the expression “\$10” to the right of the representation; and the expression “HEFULU TALA” at the periphery of the coin, immediately below the representation; and 30
- “(b) the specifications of which are as follows: 35
- “(i) it is made of 999.9/1000 gold:
- “(ii) it weighs 1.2442 grammes (with a tolerance, in excess or deficiency, of 0.025% allowed):
- “(iii) it is circular with a diameter of 13.92 millimetres.
- “(4) The coins referred to in **subsection (1)**— 40
- “(a) have a reeded edge; and

- “(b) show, on the obverse impression, a portrait of Her Majesty the Queen in profile wearing a diadem; and
- “(c) bear the expression,—
- “(i) in the case of the coin referred to in **subsection (1)(a)**, “**TOKELAU • 2000**” in the peripheral border above the portrait; and 5
- “(ii) in the case of the coin referred to in **section (1)(b)**, “**TOKELAU • 1999**” between the border pattern and the top of the portrait.”

New (unanimous)

Part 36A

Trade Marks Act 2002

116A Trade Marks Act 2002 called principal Act in this Part

In this Part, the Trade Marks Act 2002³⁷ is called “the principal Act”.

³⁷ 2002 No 49

116B Status of trade marks registered before commencement of Act

Section 208(2) of the principal Act is amended by omitting the expression “74”, and substituting the expression “73”.

Part 37

Unit Titles Act 1972

117 Unit Titles Act 1972 called principal Act in this Part

In this Part, the Unit Titles Act 1972³⁸ is called “the principal Act”.

³⁸ 1972 No 15

118 Cancellation of plan on application of proprietors

Section 45(8) of the principal Act is amended by omitting the words “, and to the Valuer-General,”.

Part 38

War Funds Act 1915

119 War Funds Act 1915 repealed

The War Funds Act 1915 (1915 No 41) is repealed.

Part 39
Wildlife Act 1953

120 Wildlife Act 1953 called principal Act in this Part
In this Part, the Wildlife Act 1953³⁹ is called the principal Act. 5
³⁹ 1953 No 31

121 Wildlife refuges
Section 14(1)(e) of the principal Act is amended by omitting the expression “Reserves Act 1977”, and substituting the expression “Conservation Act 1987”.

Legislative history

10 December 2002

Introduction (Bill 24–1)

1 April 2003

First reading and referral to Government Administration Committee
