

Statutes Amendment Bill (No 4)

Government Bill

As reported from the Government
Administration Committee

Commentary

Recommendation

The Government Administration Committee has examined the Statutes Amendment Bill (No 4) and recommends that it be passed with the amendments shown.

Introduction

This is an omnibus bill. It is designed to provide a legislative vehicle for non-controversial amendments to existing legislation.

We recommend the amendments to the bill set out below.

Local Government Official Information and Meetings Act 1987 and Official Information Act 1982

Legal professional privilege

We recommend removing clauses 49(1) and 51 in Part 17, which would amend the Local Government Official Information and Meetings Act 1987, and clauses 70 and 71 in Part 23, which would amend the Official Information Act 1982. After careful consideration, we

consider that the proposed amendments are not appropriate for inclusion in a Statutes Amendment bill.

Clauses 49(1) and 70 seek to amend the primary Acts to include a definition of “legal professional privilege” from the Evidence Act 2006. We consider that this definition could be interpreted to restrict legal professional privilege only to circumstances where proceedings were in train or contemplated. This was not the intent of the amendments. Clauses 51 and 71 would amend the primary Acts by changing the grounds for providing a good reason for withholding legal professional privilege—from a need to “maintain” legal professional privilege, to a need to “avoid a breach of” legal professional privilege. The proposed wording could be interpreted to offer less protection than is already afforded under the original Acts.

Official information requests

We recommend amendments to clauses 52(2) and 54 in Part 17, which would amend the Local Government Official Information and Meetings Act 1987, and clauses 72(2) and 74 in Part 23, which would amend the Official Information Act 1982.

Clauses 52(2) and 72(2) as introduced confirm that an official information request can be made orally, but that local authorities or agencies may request that oral requests be put in writing. We are concerned that this unconditional provision, subject to the discretion of a local authority or an agency, could be open to abuse. Our proposed amendments would make this ability conditional, allowing local authorities or agencies to request that an oral request be put in writing only if it were reasonably necessary for the purpose of clarifying the request.

In the bill as introduced, it is also unclear what status the original request would have after it had been clarified or amended. We recommend amending clauses 54 and 74 to make clear that the amended or clarified request would replace the original request in certain circumstances, for purposes such as computation of the timeframe for dealing with requests for information.

Local Electoral Act 2001 and Local Government Act 2002

We recommend inserting new Part 13A, and new clause 45A to Part 15, which seek to amend the Local Electoral Act 2001 and Local Government Act 2002, respectively. These amendments would make consequential technical amendments that were unintentionally omitted from the Local Electoral Amendment Act 2013. The Local Electoral Amendment Act extended the timeframe for completing pre-election processes by seven days for general elections; the intention was to do so for all elections and polls, not just general elections. As a result of this omission the Local Electoral Act and Local Government Act now contain conflicting provisions. Our proposed amendments would rectify this oversight.

Appendix

Committee process

The Statutes Amendment Bill (No 4) was referred to the committee on 16 April 2014. The closing date for submissions was 6 June 2014. We received and considered four submissions from interested groups. We received advice from the Ministry of Justice.

Committee membership

Hon Ruth Dyson

Chris Auchinvole

Kanwaljit Singh Bakshi

Hon Trevor Mallard

Mojo Mathers

Eric Roy

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Chester Borrows

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Statutes Amendment Act (No 4) **2014**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1 Animal Welfare Act 1999

- 3 Principal Act**
This Part amends the Animal Welfare Act 1999 (the **principal Act**). 5
- 4 Section 131 amended (Search warrants)**
 In section 131(1), replace “authorise the constable or the inspector” with “authorise every constable and inspector”.

Part 2 Antarctica (Environmental Protection) Act 1994 10

- 5 Principal Act**
This Part amends the Antarctica (Environmental Protection) Act 1994 (the **principal Act**).
- 6 Section 28 amended (Acts prohibited except in accordance with permit) 15**
- (1) In section 28(1)(b), after “mammal”, insert “or native invertebrate”.
- (2) Replace section 28(1)(e) with—
 “(e) introduce onto land or ice shelves or sea ice or into water 20
 in Antarctica any living organism (including, but not limited to, any species of animal, plant, or micro-organism) not native to that area; or”.
- (3) After section 28(1)(e), insert—
 “(ea) introduce onto land or ice shelves or sea ice or into water 25
 in Antarctica any living bird; or”.
- (4) In section 28(3),—
 (a) replace “dressed poultry” with “poultry or avian products”;
 (b) delete “Appendix C to”. 30

7 Section 32 amended (Restrictions on permits to introduce non-indigenous animals, plants, or micro-organisms into Antarctica)

In section 32,—

- (a) replace “into Antarctica” with “onto land or ice shelves or sea ice or into water in Antarctica”;
- (b) replace “animal, plant, or micro-organism” with “living organism (including, but not limited to, any species of animal, plant, or micro-organism)”.

**Part 3
Biosecurity Act 1993**

10

8 Principal Act

This Part amends the Biosecurity Act 1993 (the **principal Act**).

9 Section 24E amended (Meaning of craft risk management standard)

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In section 24E(1)(a), after “territory”, insert “or the arrival of craft in the EEZ”.

10 Section 110 amended (Warrant to inspect dwellinghouse, marae, etc)

20

- (1) In section 110(1), replace “authorising the inspector or authorised person” with “authorising every inspector and authorised person”.
- (2) In section 110(3)(a), replace “authorises the inspector or authorised person” with “authorises every inspector and authorised person”.

25

11 Section 142A amended (Establishment)

In section 142A(5)(a), replace “in the public domain” with “that is publicly available, as defined in **section 142C(7)**”.

12 Section 142C amended (Access, use, or disclosure)

30

- (1) Replace the heading above section 142C(1) with:

“Publicly available information”.

- (2) In section 142C(1), replace “comes from the public domain” with “is publicly available”.
- (3) Replace the heading above section 142C(2) with:
“Information that is not publicly available”. 5
- (4) In section 142C(2), (4), and (5), replace “comes from any other source” with “is not publicly available”.
- (5) After section 142C(2)(f), insert:
 - “(g) to access, use, or disclose it for statistical or research purposes, provided that the information accessed, used, 10
or disclosed—
 - “(i) does not identify any person; and
 - “(ii) is not published in any form that could reasonably be expected to identify any person:
 - “(h) to authorise other persons to access and use it for statistical or research purposes, provided that the information used— 15
 - “(i) does not identify any person; and
 - “(ii) is not published in any form that could reasonably be expected to identify any person.” 20
- (6) After section 142C(6), insert:
“Meaning of publicly available
- “(7) In this section and section 142A(5)(a), information that is **publicly available** means information that—
 - “(a) comes directly or indirectly from a source that is, or was 25
at the time of collection, available to the public; or
 - “(b) the Director-General believes on reasonable grounds is available to the public.”

13 Section 161 amended (Evidence in proceedings)

- (1) In section 161(2)(d) and (e), delete “by that chief technical 30
officer” in each place.
- (2) In section 161(2)(d)(ii), replace “the certificate:” with “the certificate; or”.
- (3) After section 161(2)(d)(ii), insert:
 - “(iii) a person accredited for a particular function 35
under section 103(7):”.

- (4) In section 161(2)(e)(ii), replace “the certificate:” with “the certificate; or”.
- (5) After section 161(2)(e)(ii), insert:
“ (iii) a person accredited for a particular function
under section 103(7):”.
- (6) Replace section 161(2)(f) with:
“ (f) a certificate purporting to be signed by the principal officer of a regional council stating that a person specified in the certificate is—
“ (i) an authorised person appointed under section 103(3) in relation to a regional pest management plan or a regional pathway management plan or a small-scale management programme specified or described in, or attached to, the certificate; or
“ (ii) a person accredited for a particular function
under section 103(7):”.

Part 4

Births, Deaths, Marriages, and Relationships Registration Act 1995

- 14 Principal Act** 20
This Part amends the Births, Deaths, Marriages, and Relationships Registration Act 1995 (the **principal Act**).
- 15 Section 21A amended (Application for registration of name change)**
 - (1) Replace section 21A(2) with: 25
 - “(2) A person applying for registration of a name change must—
“ (a) complete the standard form and provide it to the Registrar-General; and
“ (b) pay the prescribed fee (if any); and
“ (c) deposit 1 of the following with the Registrar-General: 30
“ (i) a statutory declaration made, in accordance with subsection (3), by an eligible person or the guardian of an eligible person (accompanied by the eligible person’s written consent if the eligible person is 16 years of age or older and the 35

- application was made by the eligible person's guardian); or
- “(ii) a deed poll executed before 1 September 1995, evidencing any change in the eligible person's names; or 5
- “(iii) a copy of a deed poll executed and filed in an office of the High Court before 1 September 1995 and certified by a Registrar of the court in which it was filed.”
- (2) In section 21A(3), replace “subsection (2)(a)” with “**subsection (2)(c)(i)**”. 10
- (3) After section 21A(3), insert:
- “(3A) The Registrar-General may require a person before whom the statutory declaration referred to in **subsection (2)(c)(i)** is made— 15
- “(a) to verify the identity of the eligible person or the guardian of the eligible person, or both, in a manner specified by the Registrar-General; and
- “(b) to state whether he or she is satisfied of the identity of the eligible person or the guardian of the eligible person, 20 or both.”
- (4) In section 21A(4), replace “deposited with” with “provided to”.
- (5) After section 21A(4), insert:
- “(4A) The Registrar-General may require a person applying for registration of a name change to provide, with the standard form referred to in **subsection (2)(a)** or separately, any means of identification that is reasonably necessary to confirm the identity of the eligible person or the guardian of the eligible person, or both.” 25 30
- (6) In section 21A(5), replace “deposited under subsection (4)” with “provided under subsection (4) or **(4A)**”.

Part 5

Commodity Levies Act 1990

- 16 **Principal Act** 35
- This Part** amends the Commodity Levies Act 1990 (the **principal Act**).

17 Section 19 amended (Power of search)

In section 19(1), replace “authorise the constable or person” with “authorise every constable and designated person”.

Part 6
Copyright Act 1994

5

18 Principal Act

This Part amends the Copyright Act 1994 (the **principal Act**).

19 Section 206 amended (Membership of Tribunal)

(1) Replace section 206(1) with:

10

“(1) The Tribunal consists of a chairperson and at least 2, but not more than 5, other persons.”

(2) In section 206(3), delete “5”.

Part 7
Forests Act 1949

15

20 Principal Act

This Part amends the Forests Act 1949 (the **principal Act**).

21 Section 71B amended (Restrictions on exercise of power of entry)

In section 71B(1)(e), replace “may issue a warrant directed to the authorised person by name directing him to enter for the stated purpose” with “may issue a warrant to every authorised person to enter for the stated purpose”.

20

Part 8
Friendly Societies and Credit Unions Act
1982

25

22 Principal Act

This Part amends the Friendly Societies and Credit Unions Act 1982 (the **principal Act**).

23 Section 10 repealed (Annual report)

Repeal section 10.

Part 9**Governor-General Act 2010****24 Principal Act**

5

This Part amends the Governor-General Act 2010 (the **principal Act**).**25 Section 12 amended (Permanent appropriation for salary, allowance, annuities, etc)**

In section 12(a), after “section 5”, insert “and compulsory remuneration-related payments”. 10

Part 10**Heavy Engineering Research Levy Act
1978****26 Principal Act**

15

This Part amends the Heavy Engineering Research Levy Act 1978 (the **principal Act**).**27 Section 5 amended (Minister may prescribe rates of research levy)**

In section 5(1), replace “the New Zealand Manufacturing Engineer’s Federation (Incorporated)” with “The New Zealand Manufacturers and Exporters Association Incorporated”. 20

28 Schedule 2 amended

In the Schedule 2 heading, replace “\$5” with “\$20”.

29 Schedule 3 amended

25

In the Schedule 3 heading, replace “5 cents” with “10 cents”.

Part 11

Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004

- 30 Principal Act**
This Part amends the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 (the **principal Act**). 5
- 31 Section 8B amended (Function and powers of Deputy Commissioner)**
 After section 8B(1)(b)(iii), insert:
 “(iv) if the Commissioner decides to refer a complaint to the Deputy Commissioner.” 10
- 32 Section 16 amended (Commissioner must dismiss complaints that fail to meet required threshold)**
- (1) In section 16(1), replace “he or she” with “the Commissioner”.
 (2) Replace section 16(1)(i) with: 15
 “(i) he or she has previously considered the subject matter of the complaint, and the complaint fails to raise any issue of significance that he or she has not previously considered.”

Part 12

Land Transport Act 1998

- 33 Principal Act**
This Part amends the Land Transport Act 1998 (the **principal Act**). 20
- 34 Section 74 amended (Procedure for dealing with blood specimens)** 25
 In section 74(7)(c), delete “part of the”.
- 35 Section 79V replaced (Search warrants in relation to offences against section 79T or 79U)**
 Replace section 79V with: 30

“79V Search warrants in relation to offences against section 79T or 79U

- “(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a search warrant in relation to a place, vehicle, or other thing if, on application made by a constable in the manner provided in subpart 3 of Part 4 of that Act, he or she is satisfied that there are reasonable grounds—
- “(a) to suspect that an offence has been, is being, or will be committed against section 79T or 79U; and
 - “(b) to believe that the search will find evidential material in respect of the offence in the place, vehicle, or other thing.
- “(2) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.
- “(3) Despite **subsection (2)**, sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.”

36 Section 91A amended (Interpretation)

In section 91A, definition of **traffic offence**, paragraph (a), after “the Transport (Vehicle and Driver Registration and Licensing) Act 1986,”, insert “the Road User Charges Act 1977,”.

37 Section 140 amended (Contents of infringement and reminder notices)

- (1) In section 140(2)(c), after “alleged offence”, insert “; and”.
- (2) After section 140(2)(c), insert:
- “(d) in the case of an alleged infringement offence that is a stationary vehicle offence, include a summary of the provisions of section 133A.”

38 Search and Surveillance Act 2012 consequentially amended

- (1) This section amends the Search and Surveillance Act 2012.

- (2) In the Schedule, item relating to the Land Transport Act 1998, before the item relating to section 119(1) and (2) of that Act, insert:

79V	Constable may obtain and execute a search warrant to search for evidence of offence against section 79T or 79U of Land Transport Act 1998	All (except that sections 118 and 119 apply to constables only)
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Part 13

Land Transport Management Amendment Act 2008

5

39 Principal Act

This Part amends the Land Transport Management Amendment Act 2008 (the **principal Act**).

40 Section 47 amended (Consequences of establishment of New Zealand Transport Agency)

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In section 47(1), replace “1 July 2008” with “1 August 2008”.

Part 13A

Local Electoral Act 2001

40A Principal Act

15

This Part amends the Local Electoral Act 2001 (the **principal Act**).

40B Section 19ZC amended (Requirements for valid demand)

In section 19ZC(4), replace “28 February” with “21 February”.

20

40C Section 19ZF amended (Poll of electors)

In section 19ZF(3), replace “82 days” with “89 days”.

40D Section 30 amended (Requirements for valid demand)

In section 30(3A), replace “28 February” with “21 February”.

40E Section 31 amended (Local authority may resolve to hold poll)

In section 31(1), replace “28 February” with “21 February”.

40F Section 33 amended (Poll of electors)

In section 33(3), replace “82 days” with “89 days”.

5

40G Section 102 amended (New election or poll if election or poll declared void)

In section 102(2)(a) and (b), replace “82 days” with “89 days”.

40H Section 120 amended (Election to fill extraordinary vacancy)

In section 120(1)(b), replace “82 days” with “89 days”.

10

40I Section 138A amended (Special provision in relation to certain elections to fill extraordinary vacancies and certain polls)

(1) In section 138A(1)(a), replace “10 February” with “17 February”.

15

(2) In section 138A(1)(b), replace “7 March” with “14 March”.

(3) In section 138A(1)(c), replace “4 April” with “11 April”.

Part 14**Local Government Act 1974**

20

41 Principal Act

This Part amends the Local Government Act 1974 (the **principal Act**).

42 Section 342 amended (Stopping and closing of roads)

In section 342(1)(a), delete “(not being a borough council)”.

25

43 Schedule 10 amended

In Schedule 10, clause 11, replace “Ministry of Transport” with “New Zealand Transport Agency”.

Part 15

Local Government Act 2002

- 44 Principal Act** 5
This Part amends the Local Government Act 2002 (the **principal Act**).
- 45 Section 169A amended (Proving substance is alcohol in relation to alleged breach of alcohol ban)**
 In section 169A(3)(b), replace “given” with “served on the prosecution”.
- 45A Schedule 3 amended** 10
- (1) In Schedule 3, clause 26(5)(a), replace “not earlier than 10 February and not later than 17 February” with “not earlier than 17 February and not later than 24 February”.
- (2) In Schedule 3, clause 26(5)(b), replace “not earlier than 7 March and not later than 14 March” with “not earlier than 14 March and not later than 21 March”. 15
- (3) In Schedule 3, clause 26(5)(c), replace “not earlier than 4 April and not later than 11 April” with “not earlier than 11 April and not later than 18 April”.
- (4) In Schedule 3, clause 26(5)(d), replace “82 days” with “89 days”. 20

Part 16

Local Government (Auckland Council) Act 2009

- 46 Principal Act** 25
This Part amends the Local Government (Auckland Council) Act 2009 (the **principal Act**).
- 47 Section 46 amended (Functions and powers of Auckland Transport acting as local authority or other statutory body)** 30
- (1) Repeal section 46(1)(b).
- (2) In section 46(1)(d), replace “sections 591, 591A, and 684” with “section 591”.

- (3) Replace section 46(1)(f) with:
- “(f) the functions and powers of an enforcement authority under the Land Transport Act 1998 in relation to prosecuting infringement offences under that Act that relate to—
- “(i) the use of special vehicle lanes within Auckland:
- “(ii) a failure to pay a public transport service fare.”
- (4) In section 46(3), replace “subsection (1)(f)” with “subsection (1)(f)(i)”.

Part 17

10

Local Government Official Information and Meetings Act 1987

48 Principal Act

This Part amends the Local Government Official Information and Meetings Act 1987 (the **principal Act**).

15

49 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in its appropriate alphabetical order:

“legal professional privilege means the privilege that a person—

“(a) has under section 54 or 56 of the Evidence Act 2006 to require communications or information not to be disclosed in a proceeding; or

“(b) would have under section 54 or 56 of the Evidence Act 2006 to require communications or information not to be disclosed in a proceeding, if a proceeding were to be instituted”.

- (2) Replace section 2(6) with:

“(6) Any information held by an independent contractor engaged by any local authority in his or her capacity as an independent contractor is, for purposes of this Act, deemed to be held by the local authority.”

50 Section 4 amended (Purposes)

In section 4(a), replace “provide for” with “increase progressively”.

51 Section 7 amended (Other reasons for withholding official information)

In section 7(2)(g), replace “maintain” with “avoid a breach of”.

52 Section 10 amended (Requests)

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(1) After section 10(1), insert:

“(1AA) A request under subsection (1)—

“(a) may be made in any form and communicated by any means (including orally); and

“(b) does not need to refer to this Act.”

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(2) After section 10(3), insert:

“(4) A local authority to which an oral request is made under subsection (1) may, if written clarification is reasonably necessary, ask the person requesting the information to put the request in writing to clarify the request.

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“(5) If the person requesting the information declines or is unable to put the oral request in writing, the local authority must record its understanding of the request, and provide a copy of the record to the person.”

53 Section 12 amended (Transfer of requests)

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In section 12,—

(a) after “the information”, insert “, or some of the information,”;

(b) after “transfer the request”, insert “, or relevant part of the request,”.

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54 Section 13 amended (Decisions on requests)

After section 13(6), insert:

“(7) If a request (the **original request**) is amended or clarified after the date on which it is received, the local authority that receives the request may treat the amended or clarified request as a new request that, for the purposes of subsection (1), replaces the original request.

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“(8) However, **subsection (7)** does not apply if—

- “(a) the original request is amended or clarified because the local authority to which the request was made sought an amendment to, or a clarification of, the request; and
- “(b) the local authority did not seek that amendment or clarification within 7 working days after receiving the original request.” 5

55 Section 15 amended (Documents)

After section 15(1), insert:

- “(1A) Subject to subsections (2) and (3), information made available in any of the ways listed in subsection (1) may be made 10 available in electronic form or by electronic means.”

56 Section 17 amended (Refusal of requests)

In section 17(e), after “or”, insert “, despite reasonable efforts to locate it,”.

57 Section 27 amended (Functions of Ombudsmen) 15

- (1) Replace section 27(4) with:
- “(4) For the purposes of subsection (1)(a), a refusal to make official information available includes, without limitation, a failure by the local authority to comply with section 13(1)—
 - “(a) as soon as is reasonably practicable, or at the latest 20 within 20 working days, after receiving the request; or
 - “(b) within an extended time limit notified under section 14(3) to the person who requested the information.”
- (2) After section 27(5), insert:
- “(6) If an Ombudsman receives a complaint that a local authority 25 has refused to make official information available for any of the reasons specified in section 17(1)(e) to (g), the Ombudsman may notify the Chief Archivist appointed under the Public Records Act 2005.”

Part 18

Marine Mammals Protection Act 1978

- 58 Principal Act**
This Part amends the Marine Mammals Protection Act 1978 (the **principal Act**). 5
- 59 Section 14 amended (Officer may obtain warrant)**
 In section 14(1), replace “to an officer named in the warrant” with “to every officer named in the warrant”.

Part 19

Misuse of Drugs Amendment Act 1978 10

- 60 Principal Act**
This Part amends the Misuse of Drugs Amendment Act 1978 (the **principal Act**).
- 61 Section 10 amended (Interpretation)**
 In section 10(1), definition of **drug dealing offence**, paragraph (a), delete “46,”. 15

Part 20

National Animal Identification and Tracing Act 2012

- 62 Principal Act** 20
This Part amends the National Animal Identification and Tracing Act 2012 (the **principal Act**).
- 63 Section 10 amended (Functions, duties, and powers of NAIT organisation)**
- (1) Replace section 10(3)(b) with: 25
- “(b) may not contract out the compliance and enforcement functions specified in subsection (1)(a)(vi) unless—
- “(i) the functions are contracted out to the NAIT organisation’s subsidiary or holding company; or
- “(ii) the functions are compliance functions that relate to the provision of information and training.” 30

- (2) After section 10(3), insert:
- “(3A) When contracting out compliance and enforcement functions under subsection (3)(b), the NAIT organisation remains responsible and accountable for the performance of those functions. 5
- “(3B) In subsection (3), **holding company** and **subsidiary** have the meanings given by section 5 of the Companies Act 1993.”

Part 21

National Parks Act 1980

- 64 Principal Act** 10
This Part amends the National Parks Act 1980 (the **principal Act**).
- 65 Section 56C amended (Requirements in relation to dog control permits)**
- (1) In section 56C(1)(c), replace “conservation management plan” with “management plan”. 15
- (2) In section 56C(2)(b)(ii), replace “conservation management plan” with “management plan”.
- 66 Section 61 amended (Seizure and forfeiture of property)**
- After section 61(7), insert: 20
- “(8) Where proceedings are taken against the person from whom the item was seized within 6 months of the seizure of the item, the item must, when the proceedings are completed, be returned to that person, unless the court, if it enters a conviction, directs that the item must be forfeited to the Crown.” 25

Part 22

Ngāti Manuhiri Claims Settlement Act 2012

- 67 Principal Act** 30
This Part amends the Ngāti Manuhiri Claims Settlement Act 2012 (the **principal Act**).

- 68 **Section 112 amended (Meaning of RFR land)**
In section 112(1)(a)(ii), delete “or a Crown body”.

Part 23

Official Information Act 1982

- 69 **Principal Act** 5
This Part amends the Official Information Act 1982 (the principal Act).
- 70 **Section 2 amended (Interpretation)**
In section 2(1), insert in its appropriate alphabetical order:
“**legal professional privilege** means the privilege that a per- 10
son—
“(a) has under section 54 or 56 of the Evidence Act 2006
to require communications or information not to be dis-
closed in a proceeding; or
“(b) would have under section 54 or 56 of the Evidence Act 15
2006 to require communications or information not to
be disclosed in a proceeding if a proceeding were to be
instituted”.
- 71 **Section 9 amended (Other reasons for withholding official information)** 20
In section 9(2)(h), replace “maintain” with “avoid a breach of”.
- 72 **Section 12 amended (Requests)**
(1) After section 12(1), insert:
“(1AA) A request under subsection (1)— 25
“(a) may be made in any form and communicated by any
means (including orally); and
“(b) does not need to refer to this Act.”
(2) After section 12(3), insert:
“(4) A department or Minister of the Crown or organisation to 30
which an oral request is made under subsection (1) may, if
written clarification is reasonably necessary, ask the person

making the request to put the request in writing to clarify the request.

- “(5) If the person declines or is unable to put the request in writing, the department or Minister of the Crown or organisation must record its understanding of the request and provide a copy of the record to the person.” 5

73 Section 14 amended (Transfer of requests)

In section 14,—

- (a) after “the information”, insert “, or some of the information,”: 10
- (b) after “transfer the request”, insert “, or relevant part of the request,”.

74 Section 15 amended (Decisions on requests)

After section 15(1), insert:

- “(1AA) If a request (the original request) is amended or clarified after the date on which it is received, the department or Minister of the Crown or organisation that receives the request may treat the amended or clarified request as a new request that, for the purposes of subsection (1), replaces the original request. 15

- “(1AB) However, **subsection (1AA)** does not apply if— 20

- “(a) the original request is amended or clarified because the department or Minister of the Crown or organisation to which the request was made sought an amendment to, or a clarification of, the request; and
- “(b) the department or Minister of the Crown or organisation did not seek that amendment or clarification within 7 working days after receiving the original request.” 25

75 Section 16 amended (Documents)

After section 16(1), insert:

- “(1A) Subject to subsections (2) and (3), information made available in any of the ways listed under subsection (1) may be made available in electronic form or by electronic means.” 30

76 Section 18 amended (Refusal of requests)

In section 18(e), after “or” , insert “, despite reasonable efforts to locate it.”.

77 Section 28 amended (Functions of Ombudsmen)

(1) Replace section 28(4) with: 5

“(4) For the purposes of subsection (1)(a), a refusal to make official information available includes, without limitation, a failure by a department or Minister of the Crown or organisation to comply with section 15(1)—

“(a) as soon as is reasonably practicable, or at the latest within 20 working days, after receiving a request; or

“(b) within an extended time limit notified under section 15A(3) to the person who requested the information.”

(2) After section 28(5), insert:

“(6) If an Ombudsman receives a complaint that a department or Minister of the Crown or organisation has refused to make official information available for any of the reasons specified in section 18(e) to (g), the Ombudsman may notify the Chief Archivist appointed under the Public Records Act 2005.” 15

Part 24

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Ombudsmen Act 1975

78 Principal Act

This Part amends the Ombudsmen Act 1975 (the **principal Act**).

79 Section 17 replaced (Ombudsman may refuse to investigate complaint)

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Replace section 17 with:

“17 Ombudsman may refuse to investigate complaint

“(1) An Ombudsman may refuse to investigate or further investigate a complaint if it appears to the Ombudsman that,— 30

“(a) under the law or existing administrative practice, the complainant has an adequate remedy or right of appeal (other than the right to petition the House of Representatives) and it is, or would have been, reasonable for the

- complainant to resort to that remedy or right of appeal;
or
- “(b) the complaint relates to a decision, recommendation, act, or omission that the complainant has known about for more than 12 months; or 5
 - “(c) the subject matter of the complaint is trivial; or
 - “(d) the complaint is frivolous or vexatious or is not made in good faith; or
 - “(e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or 10
 - “(f) having regard to all the circumstances of the case,—
 - “(i) following preliminary inquiries, an investigation is unnecessary; or
 - “(ii) having commenced an investigation, further investigation is unnecessary. 15
- “(2) If an Ombudsman refuses to investigate or further investigate a complaint, the Ombudsman must inform the complainant of the decision and give his or her reasons for it.”

Part 25

Pork Industry Board Act 1997

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80 Principal Act

This Part amends the Pork Industry Board Act 1997 (the principal Act).

81 Section 45 amended (Warrant to inspect place other than place of business)

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- (1) In section 45(1) and (2), replace “to the authorised person” with “to every authorised person”.
- (2) In section 45(1) and (2), delete “authorising the person”.

Part 26

Reserves Act 1977

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82 Principal Act

This Part amends the Reserves Act 1977 (the principal Act).

83 Section 12 amended (Minister’s powers)

After section 12(4), insert:

- “(5) The Minister may, with the prior written agreement of a local authority, declare by notice in the *Gazette* that a reserve, or any part of a reserve,— 5
- “(a) ceases to be vested in and administered by the local authority and instead vests in the Crown; and
- “(b) has such classification under this Act as may be specified in the *Gazette* notice, or be included in any existing reserve under this Act; and 10
- “(c) be administered in accordance with that classification.
- “(6) The notice must be registered in the office of the Registrar-General of Land.”

84 Section 48A amended (Use of reserve for communications station) 15

Repeal section 48A(6).

85 Section 114 amended (Variation of covenants, terms, and conditions in leases and licences)

Repeal section 114(5).

86 Section 115 amended (Transfers, subleases, and mortgages) 20

Repeal section 115(6).

Part 27

Sale and Supply of Alcohol Act 2012

87 Principal Act 25

This Part amends the Sale and Supply of Alcohol Act 2012 (the **principal Act**).

88 Section 81 amended (Right of appeal to licensing authority)

Replace section 81(1) and (2) with: 30

- “(1) A person or an agency that made submissions as part of the special consultative procedure on a draft local alcohol policy

may, within 30 days of the public notification of the resulting provisional local alcohol policy, appeal to the licensing authority against any element of that provisional local alcohol policy.

- “(2) The Police or a Medical Officer of Health may, within 30 days of the public notification of the resulting provisional local alcohol policy, appeal to the licensing authority against any element of that provisional local alcohol policy.” 5

89 Section 83 amended (Consideration of appeals by licensing authority)

In section 83(2), replace “an element of a draft local alcohol policy” with “an element of a provisional local alcohol policy”. 10

90 Section 102 amended (Objections to applications)

Replace section 102(4) with:

- “(4) This subsection applies to an application— 15
- “(a) for a licence for premises that is of the same kind as the licence currently in force for those premises; and
 - “(b) in which the conditions sought are the same as apply to that licence.
- “(4A) In the case of an application to which **subsection (4)** applies, 20
- the ground for an objection may not relate to any matter other than the suitability of the applicant.”

91 Section 135 amended (Decision on renewal)

In section 135(2), replace “If the committee” with “If the licensing authority or the committee”. 25

92 Section 232 amended (Licensees to keep record of temporary and acting managers)

In the heading to section 232, replace “**temporary and acting managers**” with “**managers, acting managers, and temporary managers**”. 30

- 93 Section 371 amended (Who is qualified to vote in election of trustees of community trust)**
In section 371(1), replace “that district” with “the trust district”.

Part 28 Sentencing Act 2002

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- 94 Principal Act**
This Part amends the Sentencing Act 2002 (the **principal Act**).

- 95 Section 140A amended (What happens if lessor does not apply to Registrar before motor vehicle sold or disposed of)** 10
In section 140A(5)(b)(i), replace “less than 1 year” with “1 year or less”.

Part 29 Summary Proceedings Act 1957

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- 96 Principal Act**
This Part amends the Summary Proceedings Act 1957 (the **principal Act**).

- 97 Section 24 amended (Mode of service of documents on defendant)** 20
In section 24(3), replace “at the time when the letter would have been delivered in the ordinary course of post” with “on the 6th working day after the day on which the letter was posted”.

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- 98 Section 78C amended (Certain defendants ineligible to rely on non-receipt of reminder notice)**
In section 78C(5), replace “section 41A of the Transport Act 1962 or section 133” with “section 133 or 133A”.

99 Section 79 amended (Interpretation)

In section 79(1), definition of **traffic offence**, paragraph (a), after “the Transport Act 1962,”, insert “the Road User Charges Act 1977,”.

100 Section 88AE amended (Powers of District Court Judge or Community Magistrate after considering report of Registrar under section 88AD) 5

(1) In the heading to section 88AE, replace “**88AD**” with “**88(2)(b) or 88AD(2)(c)**”.

(2) In section 88AE(1), replace “88AD” with “88(2)(b) or 88AD(2)(c)”.

101 Section 92D amended (Recognised user may submit fine status query)

In section 92D(2), after “evidencing the”, insert “assurance of the”.

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102 Section 92I amended (Regulations)

In section 92I(1)(n),—

(a) replace “a person’s” with “an agency’s”:

(b) replace “person” with “agency”.

103 Section 100I amended (What happens if lessor does not apply to Registrar before property sold or disposed of) 20

In section 100I(5)(b)(i), replace “less than 1 year” with “1 year or less”.

Part 30 Tariff Act 1988

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104 Principal Act

This Part amends the Tariff Act 1988 (the **principal Act**).

105 Section 2 amended (Interpretation)

(1) In section 2(1), replace the definition of **chief executive** with:

“**chief executive**, in any provision, means the chief executive of the department responsible for the administration of that provision”.

- (2) In section 2(1), replace the definition of **Minister** with:

“**Minister**, in any provision, 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 that provision”.

Part 31

Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977 10

106 Principal Act

This Part amends the Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977 (the **principal Act**).

107 Section 6 amended (Prohibition of foreign fishing in territorial sea) 15

Replace section 6(2) with:

- “(2) If a foreign fishing craft is used in contravention of subsection (1), the owner, the master, and every crew member of the craft commits an offence and are each liable on conviction to a fine not exceeding \$250,000.” 20

108 Section 8 amended (Control of foreign fishing in zone)

Replace section 8(1)(k) with:

- “(k) providing that a breach of any regulation made under this section is an offence and imposing fines as penalties for any such offences, not exceeding,— 25
- “(i) in the case of the owner or master or any other crew member of an unlicensed foreign fishing craft, \$500,000; and
- “(ii) in the case of the licensee or master or any other crew member of a licensed foreign fishing craft, \$250,000.”. 30

109 Section 11 amended (General regulations)

In section 11(h), replace “\$10,000” with “\$250,000”.

Part 32**Trade in Endangered Species Act 1989****110 Principal Act**

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This Part amends the Trade in Endangered Species Act 1989 (the **principal Act**).

111 Section 38 amended (Powers of search)

- (1) In section 38(2), replace “on application made in the manner provided in subpart 3 of Part 4 of that Act” with “on application made by an officer in the manner provided in subpart 3 of Part 4 of that Act”. 10
- (2) In section 38(2), replace “may issue a search warrant to that officer” with “may issue a search warrant to every officer named in the warrant”. 15

Part 33**Wildlife Act 1953****112 Principal Act**

This Part amends the Wildlife Act 1953 (the **principal Act**).

113 Section 2 amended (Interpretation)

20

In section 2(1), definition of **threatened species**, replace “subsection (1)(a)” with “subsection (1A)”.

Legislative history

17 February 2014
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Introduction (Bill 188–1)
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