

Reprint
as at 7 August 2020



Law Commission Act 1985

Public Act 1985 No 151
Date of assent 9 December 1985
Commencement see section 1(2)

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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An Act to establish a Law Commission as a central advisory body for the review, reform, and development of the law of New Zealand

1 Short Title and commencement

- (1) This Act may be cited as the Law Commission Act 1985.
- (2) This Act shall come into force on 1 February 1986.

2 Act to bind the Crown

This Act binds the Crown.

3 Purpose

The purpose of this Act is to promote the systematic review, reform, and development of the law of New Zealand.

3A Interpretation

In this Act, unless the context otherwise requires,—

Commissioner means a member of the Commission

organisation means—

- (a) an organisation named in Part 2 of Schedule 1 of the Ombudsmen Act 1975:
- (b) an organisation named in Schedule 1 of the Official Information Act 1982:
- (c) the Auditor-General

responsible Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.

Section 3A: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

4 Establishment

- (1) For the purpose of this Act, there is hereby established a commission to be called the Law Commission.

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

Section 4(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 4(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

5 Functions

- (1) The principal functions of the Commission are—
 - (a) to take and keep under review in a systematic way the law of New Zealand:
 - (b) to make recommendations for the reform and development of the law of New Zealand:
 - (c) to advise on the review of any aspect of the law of New Zealand conducted by any government department or organisation (as defined in section 3A) and on proposals made as a result of the review:
 - (d) to advise the Minister of Justice and the responsible Minister on ways in which the law of New Zealand can be made as understandable and accessible as is practicable.
- (2) In making its recommendations, the Commission—
 - (a) shall take into account te ao Maori (the Maori dimension) and shall also give consideration to the multicultural character of New Zealand society; and
 - (b) shall have regard to the desirability of simplifying the expression and content of the law, as far as that is practicable.
- (3) Except as expressly provided otherwise in this or any other Act, the Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers under—
 - (a) this Act; and
 - (b) any other Act that expressly provides for the functions, powers, or duties of the Commission (other than the Crown Entities Act 2004).

Section 5(1)(c): amended, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1)(d): amended, on 19 December 2002, by section 4 of the Law Commission Amendment Act 2002 (2002 No 69).

Section 5(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

6 Powers

- (1) *[Repealed]*

- (2) The Commission shall have the power—
- (a) to initiate proposals for the review, reform, or development of any aspect of the law of New Zealand and to receive and consider any such proposals made or referred to it by any person:
 - (b) to initiate, sponsor, and carry out such studies and research as it thinks expedient for the proper discharge of its functions:
 - (c) to publicise such parts of its work in such manner as it thinks expedient, to conduct public hearings, to seek comments from the public on its proposals, and to consult with any persons or classes of persons:
 - (d) to provide advice and assistance to, and to request information from, any government department or organisation considering the review, reform, or development of any aspect of the law of New Zealand.

- (3) Subsection (2) does not limit section 16 or section 17 of the Crown Entities Act 2004.

Section 6(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(2)(d): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

7 Responsibilities

- (1) The Commission shall prepare and submit to the responsible Minister, at least once a year, programmes for the review of appropriate aspects of the law of New Zealand with a view to their reform or development.
- (2) The responsible Minister may, at any time, request the Commission to examine any aspect of the law of New Zealand, and the Commission shall review that aspect accordingly, and report to the responsible Minister thereon with its recommendations.
- (3) The responsible Minister may request the Commission to give priority to the examination of any aspect of the law of New Zealand (whether or not included in a programme), and the Commission shall give that matter appropriate priority.

Section 7(1): amended, on 19 December 2002, by section 4 of the Law Commission Amendment Act 2002 (2002 No 69).

Section 7(2): amended, on 19 December 2002, by section 4 of the Law Commission Amendment Act 2002 (2002 No 69).

Section 7(3): amended, on 19 December 2002, by section 4 of the Law Commission Amendment Act 2002 (2002 No 69).

8 Assistance by departments

- (1) The Commission may consult with any government department or organisation concerning any review of any aspect of the law of New Zealand administered by that department or organisation and may receive from the department or organisation such information relating to that review as is appropriate.

- (2) *[Repealed]*

Section 8(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

9 Membership of Commission

- (1) The Law Commission must have no less than 3, and no more than 6, members.
- (2) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.
- (3) The Governor-General must, on the recommendation of the responsible Minister, appoint 1 member of the Commission, who must be a Judge or retired Judge of the Court of Appeal or the High Court, or a barrister or solicitor of the High Court of not less than 7 years' practice, as the president of the Commission.
- (4) The president holds office as chairperson of the board for the purposes of the Crown Entities Act 2004 for the same term as he or she is president.
- (5) Clauses 1 to 4 of Schedule 5 of the Crown Entities Act 2004 do not apply to the Commission.

Section 9: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Appointment of Judge as member not to affect tenure, etc

The appointment of a Judge as a member of the Commission, or service by a Judge as a member of the Commission, does not affect the Judge's tenure of the judicial office or the Judge's rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as a Judge (including those in relation to superannuation) and, for all purposes, the Judge's service as a member shall be taken to be service as a Judge.

11 Term of office

[Repealed]

Section 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Vacation of office

[Repealed]

Section 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

13 President and deputy

- (1) The president of the Commission shall be its chief executive and shall supervise and direct the work of the Commission.
- (1A) Despite subsection (1), section 117 of the Crown Entities Act 2004 does not apply to the president.
- (2) The president of the Commission may from time to time appoint another member of the Commission as the deputy of the president of the Commission.
- (2A) The deputy president holds office as deputy chairperson of the board for the purposes of the Crown Entities Act 2004 for the same term as he or she is deputy president.
- (3) In any case in which the president of the Commission becomes incapable of acting by reason of illness, absence, or other sufficient cause or during any vacancy in the office of president, the deputy of the president of the Commission shall have and may exercise all the powers, functions, and duties of the president.
- (4) No acts done by a person holding office as the deputy of the president of the Commission in that person's capacity as such deputy, and no act done by the Commission while a deputy of the president of the Commission is acting as such deputy, shall in any proceedings be questioned on the ground that the occasion for the deputy's so acting had not arisen or had ceased.

Section 13(1A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 13(2A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

14 Procedure

[Repealed]

Section 14: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

15 Proceedings of Commission

The provisions of Schedule 1 shall have effect in relation to the Commission and its proceedings.

16 Reports

- (1) The Commission—
 - (a) shall submit to the responsible Minister, and any relevant portfolio Minister, every report prepared by it on any aspect of the law of New Zealand; and
 - (b) shall publish every report submitted to the responsible Minister, and any relevant portfolio Minister, pursuant to paragraph (a) of this subsection.

- (2) Where the Commission furnishes to the responsible Minister a report prepared by it on any aspect of the law of New Zealand, the responsible Minister shall lay a copy of that report before Parliament as soon as practicable after the receipt of that report by the Minister.

Section 16(1)(a): amended, on 19 December 2002, by section 4 of the Law Commission Amendment Act 2002 (2002 No 69).

Section 16(1)(b): amended, on 19 December 2002, by section 4 of the Law Commission Amendment Act 2002 (2002 No 69).

Section 16(2): amended, on 19 December 2002, by section 4 of the Law Commission Amendment Act 2002 (2002 No 69).

17 Annual report

[Repealed]

Section 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

18 Consequential amendments to other enactments

The enactments specified in Schedule 2 are hereby amended in the manner indicated in that schedule.

Schedule 1

Provisions relating to Law Commission

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1 Remuneration, allowances, and expenses of members of Commission

[Repealed]

Schedule 1 clause 1: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

2 Employees of Commission

[Repealed]

Schedule 1 clause 2: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

3 Committees and consultants

[Repealed]

Schedule 1 clause 3: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

4 Application of certain Acts to members and staff of Commission

[Repealed]

Schedule 1 clause 4: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

5 Superannuation or retiring allowances

- (1) The Commission may, for the purpose of providing retirement benefits to its members, contribute to any superannuation scheme that complies with the requirements of clause 14 of Schedule 8 of the Public Service Act 2020.
- (2) Subclause (1) does not limit the powers of the Commission under clauses 12 to 14 of Schedule 8 of the Public Service Act 2020 in relation to its employees and officers.
- (3) Notwithstanding anything in this Act, any person who immediately before becoming an officer or employee of the Commission or member of the Commission is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 shall be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues to be an officer or employee of the Commission or to hold office as a member of the Commission; and that Act shall apply to that person in all respects as if that person's service as such an officer or employee or as such a member were Government service.
- (4) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (3) shall entitle any such person to become a contributor to the Govern-

ment Superannuation Fund after that person has once ceased to be a contributor.

- (5) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (3), to a person who is in the service of the Commission, whether as an officer or employee or as a member, and is a contributor to the Government Superannuation Fund, the term **controlling authority**, in relation to any such person who is in the service of the Commission, means the Commission.

Schedule 1 clause 5(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 5(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Schedule 1 clause 5(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 5(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

6 Crown may provide services for Commission

[Repealed]

Schedule 1 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

7 Money to be appropriated by Parliament for purposes of this Act

[Repealed]

Schedule 1 clause 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

8 Funds of Commission

[Repealed]

Schedule 1 clause 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

9 Bank accounts

[Repealed]

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Investment of money

[Repealed]

Schedule 1 clause 10: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11 Crown entity

[Repealed]

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Seal

[Repealed]

Schedule 1 clause 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

13 Exemption from income tax

The income of the Commission shall be exempt from income tax.

14 Proceedings privileged

(1) *[Repealed]*

(2) *[Repealed]*

(3) No member of the Commission, or officer or employee thereof, or any other person appointed or engaged by the Commission to assist it in the performance of its functions, shall be required to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to the knowledge of the member, officer, employee, or person in the course of the operations of the Commission.

(4) Anything said or any information supplied or any document produced by any person in the course of any proceedings before the Commission shall be privileged in the same manner as if the proceedings were proceedings in a court.

(5) For the purposes of clause 3 of Part 2 of Schedule 1 of the Defamation Act 1992, any report made by the Commission in the course of the exercise or intended exercise of its functions shall be deemed to be an official report made by a person holding an inquiry under the authority of the Parliament of New Zealand.

Schedule 1 clause 14(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 14(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 14(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 14(5): substituted, on 1 February 1993, by section 56(1) of the Defamation Act 1992 (1992 No 105).

Schedule 2
Enactments amended
[Repealed]

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Schedule 2: repealed, on 1 April 1988, by section 15(1) of the Higher Salaries Commission Amendment Act 1988 (1988 No 24).

Reprints notes

1 *General*

This is a reprint of the Law Commission Act 1985 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Public Service Act 2020 (2020 No 40): section 135

Crown Entities Act 2004 (2004 No 115): section 200

Law Commission Amendment Act 2002 (2002 No 69)

Defamation Act 1992 (1992 No 105): section 56(1)

Higher Salaries Commission Amendment Act 1988 (1988 No 24): section 15(1)