

Electronic Interactions Reform Bill

Government Bill

As reported from the Government Administration Committee

Commentary

Recommendation

The Government Administration Committee has examined the Electronic Interactions Reform Bill and recommends that it be passed with the amendments shown.

Introduction

This cross-agency omnibus bill seeks to amend and update 17 Acts to help enable digital interactions between individuals, businesses, and government. The bill is part of ongoing information management and digital transformation work in the State sector. The bill is in four parts, comprising proposals from the Department of Internal Affairs (DIA), the Ministry of Business, Innovation and Employment (MBIE), and the Department of Conservation (DOC).

The DIA-related amendments would allow certain services offered by Births, Deaths and Marriages to be applied for without requiring written statutory declarations. It also proposes to remove some restrictions on the use of photographs stored in the RealMe identity verification service, with the consent of the individual.

The MBIE-related amendments would allow people or businesses to appear before government agencies via electronic means in some circumstances. They would also allow for certain types of notices to be provided electronically.

The DOC-related amendments would facilitate the online sale of game hunting licences, and online voting for Fish and Game Council elections.

Proposed amendments

This commentary covers the main amendments that we recommend to the bill. It does not cover minor or technical amendments, such as those to clarify requirements regarding records of usage history for electronic identity photographs. We also propose

a number of technical changes to provide greater certainty that overseas-based individuals can apply for a marriage or civil union licence using an electronic channel.

Part 2: Amendments to the Electronic Identity Verification Act 2012

Use of electronic identity photograph

Clause 30 would insert new section 20A into the Electronic Identity Verification Act. This would permit a person who has access to an individual's electronic identity photograph to supply it, with the individual's consent, to a participating agency for specified purposes.

We recommend amending clause 30, new subparagraph 20A(1)(c)(i), to replace "card or a licence" with "document". This broader wording would help to ensure that photographs could be used to support the issuance of a range of document types.

We also recommend inserting new subsection 20A(4) to include a definition of "identification document". This would make it clearer which documents a participating agency can request electronic identity photographs for.

Consequentially, we recommend amending the heading of Part 2 to reflect these changes.

Offences relating to improper access and use

Clause 38 would amend section 62 to create offences relating to the use of electronic identity photographs.

We recommend amending clause 38, new subsection (3A), to replace "participating agency" with "person". This would align the additional offence provisions with the existing provisions in the Act.

Part 3: Giving evidence and notice by electronic means

Subpart 6—Amendments to Fair Trading Act 1986

We recommend inserting new clause 61A, which would amend section 47G of the Fair Trading Act. This section allows the Commerce Commission to require a person to supply information or documents or to give evidence.

Our proposed changes would allow compulsory interviews to be held by audio or audiovisual link with the agreement of the person and the Commission.

For the purposes of this new provision, we recommend inserting new subsection 61A(6) giving definitions of "audio link" and "audiovisual link".

Proof of email and delivery of a notice sent by courier

We recommend amending several clauses throughout Part 3 of the bill regarding proof of an email's delivery. We propose that, to prove that a document or information was emailed, it is sufficient to prove that it was properly addressed and sent to the email address. This would share the onus of proof more evenly between the send-

er and the receiver. The wording we propose is similar to that used in section 392(1)(f) of the Companies Act 1993.

Similarly, we recommend amending clause 45 (section 102(2)) and clause 62(3) (section 47I(2)). This would make it clear that, in proving delivery of a notice sent by courier service, it is sufficient to prove that the document was properly addressed and provided to the courier service.

Service of notices

We also recommend several amendments throughout Part 3 of the bill, to provide that an emailed notice or document may be served or given by emailing it to the person at an email address that is used by the person.

For example, we recommend amending clause 45 (section 45(1)(d)). We are aware of concerns about the clarity of this provision in the bill as introduced. Our amendment would ensure that an email could not be sent to an email address that is not used by a person.

Email notices

We considered how departments should provide guidance about their expectations of when and how agencies should use email to serve notices on businesses.

We are satisfied that it is not necessary to include a legislative requirement to issue guidance notes in the bill. We understand that there are mechanisms available to Ministers and departments to issue guidance to the relevant agency or statutory officer about the use of email notices.

Part 4: Enabling electronic licences and electronic voting

Conduct of elections

Clause 82 of the bill would amend section 26Z of the Conservation Act 1987 to enable elections to be conducted by electronic vote as well as by postal voting.

To avoid uncertainty, we recommend amending section 26Z(1)(a) to clarify that postal voting, or a combination of electronic and postal voting, may be used.

Other issues considered

The digital divide

During our consideration of the bill, we discussed the “digital divide”. This term generally refers to the gap between those who do and do not have Internet access, often because of geographic or affordability reasons. It can also cover differences in digital capability between socio-economic groups.

We asked about work under way to address the digital divide in New Zealand. We were informed about ongoing initiatives including:

- a cross-agency Digital Economy Work Programme that aims to support the growth of the digital sector and the uptake and “smart” use of ICT across the economy
- research initiated by DIA and MBIE in December 2016 that aims to gain insights about current levels of digital exclusion and capability
- a digital services “heatmap” that the 2020 Trust and Internet New Zealand are updating, which maps digital initiatives by location, type, and programme
- research on international initiatives that assess countries’ effectiveness in dealing with digital exclusion and improving digital capability.

We are pleased to see that there is work focussing on this issue, and we hope to see it continue.

New Zealand Labour and Green members expressed concern that work being undertaken on the digital divide was inefficient and vague, and that any legislation that impacts on those who have limited access to connectivity either through income, geography, or other barriers were disadvantaged by new laws that promote digital interactions between government and citizens above other interactions.

Appendix

Committee process

The Electronic Interactions Reform Bill was referred to the committee on 13 October 2016. The closing date for submissions was 25 November 2016. We received and considered eight submissions from interested groups and individuals. We heard oral evidence from two submitters.

We received advice from the Department of Internal Affairs, which was supported by the Ministry for Business, Innovation and Employment and the Department of Conservation. The Regulations Review Committee reported to us on the powers contained in clause 42.

Committee membership

Hon Ruth Dyson (Chairperson)

Hon David Bennett

Barry Coates

Paul Foster-Bell

Brett Hudson

Hon Nanaia Mahuta

Clare Curran replaced Hon Nanaia Mahuta for some consideration of this item of business.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Peter Dunne

Electronic Interactions Reform Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Electronic Interactions Reform Act **2016**.

2 Commencement

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

Part 1

Enabling electronic applications

Subpart 1—Amendments to Births, Deaths, Marriages, and Relationships Registration Act 1995 10

3 Principal Act

This **subpart** amends the Births, Deaths, Marriages, and Relationships Registration Act 1995 (the **principal Act**).

4 Section 21A amended (Application for registration of name change)

- (1) In section 21A(2)(c), replace “deposit 1 of the following with” with “provide one of the following to”. 15
- (2) Replace section 21A(2)(c)(i) with:

- (i) a statement 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 application was made by the eligible person's guardian) and verified—
- (A) electronically in a prescribed manner (*see also section 82A*); or
- (B) by statutory declaration; or
- (3) In section 21A(3), replace “statutory declaration” with “verified statement”.
- (4) In section 21A(3A), replace “the statutory declaration referred to in subsection (2)(c)(i) ~~is made~~” with “a statutory declaration ~~is made for the purposes of verifying a statement provided under~~ referred to in subsection (2)(c)(i)(B) or section 82A(1A)”.
- 5 Section 21B amended (Registration of name change)**
- In section 21B(1), replace “deposited with” with “provided to”.
- 6 Section 62 amended (Recording new names in relation to marriages)**
- In section 62(3), replace “statutory declaration, deed poll, or copy of the deed poll concerned is deposited” with “verified statement, deed poll, or copy of the deed poll concerned is provided”.
- 7 Section 62G amended (Recording new names in relation to civil unions)**
- In section 62G(3), replace “statutory declaration is deposited” with “verified statement is provided”.
- 8 Section 82 amended (Registrar-General's powers of inquiry)**
- In the heading to section 82, after “**inquiry**”, insert “**in relation to registrable events**”.
- 9 New section 82A inserted (Registrar-General's powers of inquiry in relation to information provided or verified electronically)**
- After section 82, insert:
- 82A Registrar-General's powers of inquiry in relation to information provided or verified electronically**
- (1) The Registrar-General may, if he or she considers it reasonably necessary for the purposes of this Act, the Marriage Act 1955, or the Civil Union Act 2004, make inquiries to satisfy himself or herself that—
- (a) any information verified electronically under section 21A of this Act, section 11 or Schedule 1 of the Civil Union Act 2004, or section 9, 10, 23, 32B, or 42 of the Marriage Act 1955 is true; or

- (b) an application, statement, or certificate approved electronically under clause 1 of Schedule 1 of the Civil Union Act 2004 or section 9, 10, or 32B of the Marriage Act 1955 is approved by the required persons.
- (1A) The Registrar-General may also require a person who verifies a statement electronically under **section 21A(2)(c)(i)** to make a statutory declaration in support of the statement. 5
- (2) The Registrar-General may also require a person who verifies information electronically under ~~section 21A of this Act,~~ clause 1 of Schedule 1 of the Civil Union Act 2004, or section 9, 10, or 32B of the Marriage Act 1955 to make a statutory declaration in support of the information. 10
- (3) The Registrar-General may also require a person who verifies information electronically under section 11 of the Civil Union Act 2004 or section 23 or 42 of the Marriage Act 1955 to appear personally before a Registrar to make a statutory declaration in support of the information.
- (4) The Registrar-General may delegate his or her powers under this section to 1 or more Registrars. 15
- 10 Section 87B amended (Registrar-General may issue standard forms)**
In section 87B(1), after “forms”, insert “(including electronic forms)”.
- 11 Section 88 amended (Regulations)**
After section 88(1)(ad), insert: 20
- (ae) prescribing, for the purposes of **section 21A(2)(c)(i)**, the manner in which information may be verified electronically, including prescribing—
- (i) when and how the information must be verified:
- (ii) what evidence must be provided to verify the information: 25
- (iii) requirements with which evidence must comply:
- 12 Section 89 amended (Offences and penalties)**
- (1) After section 89(1)(h), insert:
- (i) for the purpose of applying for registration of a name change under section 21A, verifies a statement ~~that is~~ and that the person knows to be false and that the person intends to be misleading. 30
- (2) After section 89(2A), insert:
- (2B) A person who commits an offence against **subsection (1)(i)** is liable, on conviction, to a term of imprisonment not exceeding 3 years.

Subpart 2—Amendments to Civil Union Act 2004

13 Principal Act

This **subpart** amends the Civil Union Act 2004 (the **principal Act**).

14 Section 11 amended (Notice of civil union, and statutory declaration)

- (1) In the heading to section 11, delete “, **and statutory declaration**”. 5
- (2) In section 11(1), replace “appear personally before the Registrar and give notice in the prescribed form of the intended civil union” with “give notice to the Registrar of the intended civil union in a manner specified by the Registrar-General”.
- (3) Replace section 11(2) with: 10
- (2) The person giving notice must verify that—
- (a) the particulars in the notice are true; and
 - (b) the person believes that the parties are not within the prohibited degrees of civil union or, if they are, an order has been made under section 10 dispensing with the prohibition; and 15
 - (c) there is no other lawful impediment to the intended civil union.
- (2A) The information in **subsection (2)** may be verified—
- (a) electronically in a manner specified by the Registrar-General (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995); or 20
 - (b) by the person giving notice appearing personally before the Registrar and making a statutory declaration.
- (4) In section 11(3), replace “this section” with “subsection (1) and **(2A)(b)**”.
- (5) In section 11(3)(a), replace “posts the notice in the prescribed form to the Registrar” with “gives notice to the Registrar of the intended civil union in a manner specified by the Registrar-General”. 25

15 Section 32 amended (Offences in connection with false statements relating to civil union)

In section 32(a), after “declaration”, insert “or verification”.

16 Section 34 amended (Registrar-General) 30

In section 34, insert as subsections (2) and (3):

- (2) The Registrar-General may specify, ~~for the purposes of section 11 and Schedule 1,~~—
- (a) the manner in which a notice may be given for the purposes of section 11 or an application may be made for the purposes of Schedule 1, including specifying— 35

- (i) when and how a notice may be given or an application may be made; and
- (ii) forms (including electronic forms) requiring information or setting out information that must be provided in the notice or application; and 5
- (iii) requirements in connection with the use of specified forms; and
- (b) the manner in which information may be verified electronically for the purposes of section 11 and Schedule 1, including specifying—
 - (i) when and how information may be verified; and
 - (ii) what evidence must be provided to verify the information; and 10
 - (iii) requirements with which evidence must comply.
- (3) Information required by a form specified under **subsection (2)(a)(ii)** must be required by this Act or prescribed by regulations.

17 Schedule 1 amended

- (1) In Schedule 1, clause 1(1), replace “the prescribed form” with “a manner specified by the Registrar-General”. 15
- (2) In Schedule 1, clause 1(2)(e), after “union”, insert “; and”.
- (3) In Schedule 1, after clause 1(2)(e), insert:
 - (f) any prescribed information.
- (4) In Schedule 1, replace clause 1(3) with: 20
 - (3) The application must be—
 - (a) signed by at least 10 members of the body who are of or over the age of 16, each of whom must state his or her age and address; or
 - (b) approved electronically by, or on behalf of, at least 10 members of the body who are of or over the age of 16 in a manner specified by the Registrar-General (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995). 25
- (3A) A person who is not a member of the organisation must verify, either electronically in a manner specified by the Registrar-General or by statutory declaration, that the signatories to an application signed under **subsection (3)(a)** are who they claim to be and are members of the body (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995). 30

Subpart 3—Amendments to Marriage Act 1955

18 Principal Act

- This **subpart** amends the Marriage Act 1955 (the **principal Act**). 35

19 Section 9 amended (Approval of organisations)

Replace section 9(2) and (3) with:

- (2) The application must be accompanied by a statement setting out—
- (a) the objects and beliefs of the organisation; and
 - (b) the number or, if that cannot be accurately ascertained, the approximate number of members of the organisation who are of or over the age of 18 years. 5
- (2A) The statement must be—
- (a) signed by the persons specified in **subsection (2B)**, each of whom must state his or her age and address; or 10
 - (b) approved electronically by, or on behalf of, the persons specified in **subsection (2B)** in a manner specified by the Registrar-General (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995). 15
- (2B) The persons are— 15
- (a) the chief office bearer and at least 10 members of the organisation who are of or over the age of 18; or
 - (b) in the case of an organisation whose constitution or tenets do not recognise a chief office bearer, at least 10 members of the organisation who are of or over the age of 18. 20
- (3) Another person must verify, either electronically in a manner specified by the Registrar-General or by statutory declaration, that the signatories to a statement signed under **subsection (2A)(a)** are who they claim to be and are members of the organisation (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995). 25

20 Section 10 amended (Marriage celebrants from approved organisations)

Replace section 10(2) with:

- (2) The certificate must be made or signed in the same manner as a statement under **section 9(2A) to (3)**.

21 Section 23 amended (Notice of marriage) 30

- (1) In section 23(1), replace “in the prescribed form to a Registrar” with “to a Registrar in a manner specified by the Registrar-General”.
- (2) Replace section 23(2) and (3) with:
- (2) The person giving notice must verify that—
- (a) the particulars in the notice are true; and 35
 - (b) he or she believes that the intended marriage is not prohibited by section 15; and
 - (c) there is no other lawful impediment to the intended marriage.

- (2A) The information in **subsection (2)** may be verified—
- (a) electronically in a manner specified by the Registrar-General (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995); or
 - (b) by the person giving notice appearing personally before the Registrar and making a statutory declaration. 5
- ~~(3) In section 23(3), replace “Notwithstanding subsection (2)” with “However”.~~
- (3) However, if the 2 parties to an intended marriage are ordinarily resident outside New Zealand, the requirements of subsection (1) and **(2A)(b)** are satisfied if—
- (a) one of the parties gives notice to the Registrar in a manner specified by the Registrar-General; and 10
 - (b) the Registrar is satisfied that one of the parties has made a statutory declaration as to the matters in **subsection (2)(a) to (c)**.
- 22 Section 32B amended (Application to become exempt religious body)**
- (1) In section 32B(2)(a), delete “signed by the chief office bearer and 10 members of the religious body”. 15
 - (2) Replace section 32B(3) and (4) with:
 - (3) The statement referred to in subsection (2)(a) must be—
 - (a) signed by the persons specified in **subsection (4)**, each of whom must state his or her age and address; or 20
 - (b) approved electronically by, or on behalf of, the persons specified in **subsection (4)** in a manner specified by the Registrar-General (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995).
 - (4) The persons are— 25
 - (a) the chief office bearer and at least 10 members of the religious body who are of or over the age of 18; or
 - (b) in the case of a religious body whose rules and procedures or tenets do not recognise a chief office bearer, at least 10 members of the organisation who are of or over the age of 18. 30
 - (5) Another person must verify, either electronically in a manner specified by the Registrar-General or by statutory declaration, that the signatories to an application signed under **subsection (3)(a)** are who they claim to be and are members of the body (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995). 35
- 23 Section 42 amended (Notice of intended marriage outside New Zealand)**
- (1) In section 42(1), replace “the prescribed form” with “a manner specified by the Registrar-General”.

- (2) Replace section 42(2) with:
- (2) The person giving notice must verify that—
- (a) the particulars in the notice are true; and
 - (b) he or she believes the intended marriage is not prohibited by Schedule 2; and
 - (c) there is no other lawful impediment to the intended marriage.
- (2A) The information in **subsection (2)** may be verified—
- (a) electronically in a manner specified by the Registrar-General (*see also section 82A* of the Births, Deaths, Marriages, and Relationships Registration Act 1995); or
 - (b) by the person giving notice appearing personally before the Registrar and making a statutory declaration.
- 24 Section 60 amended (Offences in connection with false statements and improper solemnisation of marriages)**
- In section 60(a), after “declaration”, insert “or verification”.
- 25 New section 64AA inserted (Registrar-General may specify manner of application and verification of information)**
- After section 64, insert:
- 64AA Registrar-General may specify manner of application and verification of information**
- (1) The Registrar-General may specify—
- (a) the manner in which a notice may be given for the purposes of sections 23 and 42, including specifying—
 - (i) when, where, and how the notice may be given; and
 - (ii) forms (including electronic forms) requiring information or setting out information that must be provided in the notice; and
 - (iii) requirements in connection with the use of specified forms; and
 - (b) the manner in which information may be verified electronically for the purposes of sections 9, 10, 23, 32B, and 42, including specifying—
 - (i) when and how information must be verified; and
 - (ii) what evidence must be provided to verify the information; and
 - (iii) requirements with which evidence must comply.
- (2) Information required by a form specified under **subsection (1)(a)(ii)** must be prescribed by regulations.

Part 2

Enabling use of electronic identity photograph for ~~identity cards, licensing, identification documents and public registers~~

- 26 Principal Act** 5
This **Part** amends the Electronic Identity Verification Act 2012 (the **principal Act**).
- 27 Section 4 amended (Principles)**
In section 4(1)(f), after “credential”, insert “or electronic identity photograph”.
- 28 Section 7 amended (Interpretation)** 10
- (1) In section 7, insert in its appropriate alphabetical order: 10
electronic identity photograph means a photograph of an individual that is either or both of the following:
- (a) stored or recorded in or on the Service database:
- (b) supplied to a participating agency under **section 20A**
- (2) In section 7, definition of **record of usage history**, after “credential”, insert “and each electronic identity photograph”. 15
- (3) In section 7, definition of **usage history**, paragraphs (a) and (b), after “credential”, insert “or electronic identity photograph”.
- (4) ~~In section 7, definition of **use**, paragraph (b), after “electronic means”, insert “; or”.~~ 20
- (5) ~~In section 7, definition of **use**, after paragraph (b), insert:~~
- (e) ~~in relation to use of an electronic identity photograph by a participating agency, means to use the electronic identity photograph for a purpose described in **section 20A(1)(c)**.~~
- 29 Cross-heading above section 16 amended** 25
In the cross-heading above section 16, after “Use”, insert “*of electronic identity credential*”.
- 30 New section 20A and cross-heading inserted**
- After section 20, insert:
- Use of electronic identity photograph* 30
- 20A Use of electronic identity photograph by participating agency**
- (1) A person who has access to an individual’s electronic identity photograph under section 22(1)(b) may supply the photograph to a participating agency only if—

- (a) the individual who is the subject of the photograph—
- (i) has a current electronic identity credential; and
 - (ii) consents to the supply of the photograph; and
- (b) the photograph is the photograph most recently provided by, or on behalf of, the individual to the Service in accordance with requirements specified by the chief executive under section 46; and 5
- (c) the participating agency requests the photograph for 1 or more of the following purposes:
- (i) to issue an identification card ~~or a licence document~~ to the individual with the photograph on it: 10
 - (ii) to issue an electronic licence or a means of identification to the individual that displays the photograph electronically (for example, in a mobile application):
 - (iii) to display the photograph in a public register on which the individual is registered: 15
 - (iv) to compare the photograph with a photograph held by the participating agency (the **participating agency’s photograph**) in order to verify the participating agency’s photograph for 1 or more of the purposes in **paragraphs (i) to (iii)**:
 - (v) any other purpose permitted by Order in Council made under this Act; and 20
- (d) the participating agency has paid or has made arrangements to pay any fees or charges prescribed by regulations made under this Act or set by an agreement referred to in section 71(4)(a)(ii) or (b)(ii).
- (2) A photograph supplied under **subsection (1)** must be accompanied by the technical code for the individual’s electronic identity. 25
- (3) A participating agency that is supplied with a photograph under **subsection (1)** may use the photograph only for a purpose described in **subsection (1)(c)** to which the individual consents.
- (4) For the purposes of this section, an **identification document** means any of the following: 30
- (a) a passport:
 - (b) an identification card:
 - (c) a licence:
 - (d) a document that evidences the individual’s identity. 35

31 Section 22 amended (Access to photograph)

- (1) In the heading to section 22, after “to”, insert “**electronic identity**”.

- (2) In section 22(1), replace “a photograph of any individual stored in the Service database” with “an electronic identity photograph of an individual”.
- (3) In section 22(2), replace “a photograph” with “an electronic identity photograph”.
- 32 Section 44 amended (Chief executive must keep record of usage history for prescribed period) 5**
- (1) In section 44(1), after “or otherwise”, insert “and each electronic identity photograph (whether or not the subject of the photograph has a current electronic identity credential)”.
- (2) Replace section 44(2)(a) with: 10
- (a) must include, subject to subsection (3), information about which participating agencies have done either or both of the following:
- (i) used an individual’s electronic identity credential to verify the identity of the individual:
- (ii) used an electronic identity photograph for a purpose described in **section 20A(1)(c)**; and 15
- (3) In section 44(2)(c), after “credential”, insert “or electronic identity photograph”.
- 33 Section 47 amended (Chief executive may set standards or specifications for use of electronic identity credentials by participating agencies) 20**
- (1) In the heading to section 47, after “credentials”, insert “**and electronic identity photographs**”.
- (2) In section 47(1), after “credentials”, insert “or electronic identity photographs”.
- 34 Section 48 amended (Chief executive may require participating agencies to report on use of electronic identity credentials) 25**
- (1) In the heading to section 48, after “credentials”, insert “**or electronic identity photographs**”.
- (2) In section 48(1), after “credentials”, insert “or electronic identity photographs”.
- (3) After section 48(2)(b), insert:
- (ba) the numbers and types of applicable transactions or services for which electronic identity photographs are used: 30
- 35 Section 49 amended (Chief executive may suspend use of electronic identity credentials by participating agencies)**
- (1) In the heading to section 49, after “credentials”, insert “**or electronic identity photographs**”. 35
- (2) In section 49(1), after “suspend the use of electronic identity credentials”, insert “or electronic identity photographs (or both)”.

- (3) In section 49(1)(b), after “misuse of electronic identity credentials”, insert “or electronic identity photographs (or both)”.
- 36 Section 53 amended (Application of section 54)** 5
In section 53(j), after “credentials”, insert “or electronic identity photographs (or both)”.
- 37 Section 57 amended (Privacy Commissioner may require periodic reports on operation of Service or of confirmation agreement)**
In section 57(2)(c), after “credentials”, insert “or electronic identity photographs”.
- 38 Section 62 amended (Offences relating to improper access and use)** 10
- (1) After section 62(1)(a)(iii), insert:
- (iv) a photograph of the individual; or
- (2) After section 62(3), insert:
- (3A) A ~~participating agency person~~ commits an offence if the ~~participating agency person~~ knowingly uses an individual’s electronic identity photograph— 15
- (a) for a purpose described in **section 20A(1)(c)** without the individual’s consent; or
- (b) for a purpose other than a purpose described in **section 20A(1)(c)** (with or without the individual’s consent).
- (3B) A person other than a participating agency commits an offence if the person— 20
- (a) knowingly uses an electronic identity photograph in relation to any transaction or service (whether the transaction or service is offered online or not); and
- (b) is not the subject of the photograph.
- 39 Section 65 amended (Protection from liability)** 25
Replace section 65(3) with:
- (3) There is no cause of action against the Crown or a Minister of the Crown, or against any other person, to recover damages for any loss or damage that is due directly or indirectly to—
- (a) the use of an electronic identity credential to verify an individual’s identity; or 30
- (b) the use of an electronic identity photograph for a purpose described in **section 20A(1)(c)**.
- 40 Section 68 amended (When Minister may recommend certain regulations relating to participating agencies)** 35
In section 68(b), after “credentials”, insert “or electronic identity photographs”.

- 41 Section 71 amended (Regulations relating to fees)**
In section 71(4)(a)(i), after “section 18”, insert “or electronic identity photographs under **section 20A**”.
- 42 Section 72 amended (Other regulations)**
After section 72(b), insert: 5
(ba) specifying any other purposes for which the Service may supply electronic identity photographs to a participating agency under **section 20A**:
- Part 3**
Giving evidence and notice by electronic means 10
Subpart 1—Amendments to Commerce Act 1986
- 43 Principal Act**
This **subpart** amends the Commerce Act 1986 (the **principal Act**).
- 44 Section 98 amended (Commission may require person to supply information or documents or give evidence)** 15
In section 98, insert as subsections (2) and (3):
(2) A person may appear before the Commission under **subsection (1)(c)** by audio link or audiovisual link if the Commission and the person agree.
(3) In this section,—
audio link means facilities (for example, telephone facilities) that enable audio communication between the Commission and a person when either or both of them are not physically present at the place specified in the notice 20
audiovisual link means facilities that enable audio and visual communication between the Commission and a person when either or both of them are not physically present at the place specified in the notice. 25
- 45 Section 102 amended (Service of notices)**
Replace section 102(1) and (2) with:
(1) A notice or any other document required or authorised to be served on or given to a person for the purposes of this Act may be served or given by—
(a) delivering it to the person; or 30
(b) leaving it at the person’s usual or last known place of residence or business or at the address specified by the person in any notice, application, or other document given to the Commission under this Act; or

- (c) sending it by post to the person’s usual or last known place of residence or business or to the address specified by the person in any notice, application, or other document given to the Commission under this Act; or
- (d) emailing it to the person at an email address that is used by the person.
- (2) A notice or any other document that is sent to a person by a postal or courier service that ~~provides a system of recorded records~~ delivery must, in the absence of proof to the contrary, be treated as received by the ~~claimant or other~~ person when it would have been delivered in the ordinary course of ~~post business for that service~~, and, in proving the delivery, it is sufficient to prove that the ~~letter document~~ was properly addressed and ~~posted~~ provided to the service.
- (2A) In the absence of proof to the contrary, a notice or any other document that is emailed to a person must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the document was emailed, it is sufficient to prove that the document was properly addressed and sent to the email address.

Subpart 2—Amendments to Companies Act 1993

46 Principal Act

This **subpart** amends the Companies Act 1993 (the **principal Act**).

47 Section 388 amended (Service of other documents on companies)

In section 388(1)(d), replace “sending it by email to an electronic address” with “emailing it to the company at an email address that is”.

48 Section 388A amended (Service of other documents on directors)

- (1) In section 388A(f) ~~and (g)~~, replace “sending it by email to an electronic address” with “emailing it to the director at an email address that is”.
- (2) In section 388A(g), replace “sending it by email to an electronic address” with “emailing it to the company at an email address that is”.

49 Section 390 amended (Service of other documents on overseas companies)

- (1) In section 390(1)(c), after “company”, insert “; or”.
- (2) After section 390(1)(c), insert:
- (d) by emailing it to the overseas company at an email address that is used by the overseas company.

Subpart 3—Amendments to Copyright Act 1994

50 Principal Act

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

51 Section 136A amended (Chief executive may suspend accepted notice)

- (1) In section 136A(3)(b), after “executive”, insert “; or”.
- (2) After section 136A(3)(b), insert:
- (c) by emailing it to the person at an email address that is used by the person. 5
- (3) After section 136A(3), insert:
- (4) In the absence of proof to the contrary, written advice that is emailed to a person must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the advice was emailed, it is sufficient to prove that the advice was properly addressed and sent to the email address. 10

52 Section 136B amended (Notice of suspension)

- (1) In section 136B(2)(b), after “executive”, insert “; or”.
- (2) After section 136B(2)(b), insert:
- (c) by emailing it to the person at an email address that is used by the person. 15
- (3) After section 136B(2), insert:
- (3) In the absence of proof to the contrary, a notice of suspension that is emailed to a person must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 20

53 Section 139 amended (Notice of determination)

- (1) Replace section 139(2)(b) and (c) with:
- (b) by posting it to the last known address of the claimant or other person; or 25
- (c) by faxing it to the last known fax number of the claimant or other person; or
- (d) by emailing it to the claimant or other person at an email address that is used by the claimant or other person.
- (2) After section 139(2), insert: 30
- (2A) A notice that is posted to a claimant or any other person must be treated as served on the claimant or other person at the time when it would have been delivered in the ordinary course of post, and, in proving the delivery,—
- (a) it is sufficient to prove that the letter was properly addressed and posted; and 35
- (b) in the absence of proof to the contrary, the notice must be treated as having been posted on the day on which it was dated.

- (2B) A notice that is faxed to a claimant or any other person must, in the absence of proof to the contrary, be treated as served on the claimant or other person on the day after the date on which it is faxed, and, in proving that it was faxed, it is sufficient to prove that a fax machine generated a record of the transmission of the notice to the fax number. 5
- (2C) ~~A~~In the absence of proof to the contrary, a notice that is emailed to a claimant or any other person must, in the absence of proof to the contrary, be treated as served on the claimant or other person on the second working day after the date on which it is emailed, ~~and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address.~~ 10
- 54 Section 144A amended (Chief executive may require person to produce documents concerning goods in control of Customs)**
- (1) In section 144A(2)(d)(iv), after “to that person”, insert “; or”.
- (2) After section 144A(2)(d)(iv), insert: 15
- (v) emailing it to the person at an email address that is used by the person.
- (3) After section 144A(2), insert:
- (2A) In the absence of proof to the contrary, a notice that is emailed to a person must be treated as served on the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 20
- 55 Section 144B amended (Chief executive may require person to appear and answer questions concerning goods in control of Customs)**
- (1) In section 144B(2)(d)(iv), after “to that person”, insert “; or”. 25
- (2) After section 144B(2)(d)(iv), insert:
- (v) emailing it to the person at an email address that is used by the person.
- (3) After section 144B(2), insert:
- (3) In the absence of proof to the contrary, a notice that is emailed to a person must be treated as served on the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 30
- 56 Section 217 amended (Service of summons)**
- (1) Replace section 217(1)(b) with: 35
- (b) by sending it to the person summoned, at that person’s usual place of residence, by a ~~postal or courier service that provides a system of recorded records~~ delivery; or

- (c) by emailing it to the person summoned at an email address that is used by the person summoned that person.
- (2) In section 217(2)(b), after “required”, insert “; or”.
- (2) In section 217(2)(b), after “subsection (1)(b)”, insert “**or (c)**”.
- (3) After section 217(2)(b), insert: 5
- (e) ~~where it is served under **subsection (1)(c)**, be served at least 10 days before the attendance of the witness is required.~~
- (4) Replace section 217(3) with:
- (3) A summons sent to a person in accordance with **subsection (1)(b)** must be treated as served on the person at the time when it would have been delivered in the ordinary course of post business for the service it was sent by. 10
- (4) In the absence of proof to the contrary, a summons emailed to a person in accordance with **subsection (1)(c)** must be treated as served on the person on the second working day after the date on which it is emailed, and, in proving that the summons was emailed, it is sufficient to prove that the summons was properly addressed and sent to the email address. 15

Subpart 4—Amendment to Corporations (Investigation and Management) Act 1989

57 Principal Act

This **subpart** amends the Corporations (Investigation and Management) Act 1989 (the **principal Act**). 20

58 Section 37 amended (Miscellaneous provisions relating to notices)

Replace section 37(1) with:

- (1) A notice may be given to a corporation (under section 30) or an associated person (under section 31(2)) by— 25
- (a) delivering it to the head office, registered office, or principal place of business in New Zealand of the corporation or associated person (as the case may be); or
- (b) emailing it to the corporation or associated person at an email address that is used by the corporation or associated person. 30
- (1A) In the absence of proof to the contrary, a notice that is emailed to a corporation or an associated person must be treated as received by the corporation or associated person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that it was properly addressed and sent to the email address. 35

Subpart 5—Amendment to Designs Act 1953

59 Principal Act

This **subpart** amends the Designs Act 1953 (the **principal Act**).

60 Section 48 replaced (Service of notices, etc, by post)

Replace section 48 with:

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48 Service of notices

(1) A notice, an application, or any other document may be given to, made to, or filed with a person by—

(a) sending it by post addressed to the person at the person's usual or last known address; or

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(b) emailing it to the person at an email address that is used by the person.

(2) A notice posted to a person by the Commissioner must be treated as received by the person when it would have been delivered in the ordinary course of post.

(3) In the absence of proof to the contrary, a notice emailed to a person by the Commissioner must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that it was properly addressed and sent to the email address.

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Subpart 6—Amendments to Fair Trading Act 1986

61 Principal Act

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This **subpart** amends the Fair Trading Act 1986 (the **principal Act**).

61A Section 47G amended (Commission may require person to supply information or documents or give evidence)

(1) After section 47G(1), insert:

(1A) A person may appear before the Commission under subsection (1)(c) by audio link or audiovisual link if the Commission and the person agree.

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(2) After section 47G(5), insert:

(6) In this section,—

audio link means facilities (for example, telephone facilities) that enable audio communication between the Commission and a person when either or both of them are not physically present at the place specified in the notice

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audiovisual link means facilities that enable audio and visual communication between the Commission and a person when either or both of them are not physically present at the place specified in the notice.

62 Section 47I amended (Service of notices)

- (1) In section 47I(1)(c), after “address”, insert “; or”.
- (2) After section 47I(1)(c), insert:
- (d) emailing it to the person at an email address that is used by the person.
- (3) In section 47I(2), replace “registered letter” with “a ~~postal or courier~~ service that ~~provides a system of recorded records~~ delivery”. 5
- (3A) In section 47I(2)(a), replace “post” with “business for that service”.
- (3B) In section 47(2)(b), replace “letter was properly addressed and posted” with “notice was properly addressed and provided to the service”.
- (4) After section 47I(2), insert: 10
- (2A) In the absence of proof to the contrary, a notice that is emailed to a person must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 15

Subpart 7—Amendments to Financial Advisers Act 2008

63 Principal Act

This **subpart** amends the Financial Advisers Act 2008 (the **principal Act**).

64 Section 110 amended (Serving of summons)

- (1) In section 110(1)(b), after “residence”, insert “; or”. 20
- (2) After section 110(1)(b), insert:
- (c) by emailing it to the person summoned at an email address that is used by the person summoned.
- (3) After section 110(2)(b), insert:
- (e) ~~if it is to be served under **subsection (1)(c)**, be served at least 10 days before the attendance of the witness is required.~~ 25
- (3) In section 110(2)(b), after “subsection (1)(b)”, insert “**or (c)**”.
- (4) After section 110(3), insert:
- (4) In the absence of proof to the contrary, a summons that is emailed to a person must be treated as served on the person on the second working day after the date on which it is emailed, and, in proving that the summons was emailed, it is sufficient to prove that the summons was properly addressed and sent to the email address. 30

Subpart 8—Amendments to Friendly Societies and Credit Unions Act 1982

65 Principal Act

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

5

66 Section 26 amended (Amendment of rules by Registrar)

(1) In section 26(1), replace “writing served personally or by post upon the society or branch, require it” with “writing, require the society or branch”.

(2) After section 26(1), insert:

(1A) A notice under this section may be served on a society or branch by—

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(a) delivering it personally to the society or branch; or

(b) sending it by post to the usual or last known address of the society or branch; or

(c) emailing it to the society or branch at an email address that is used by the society or branch.

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(1B) In the absence of proof to the contrary, a notice that is emailed to a society or branch must be treated as served on the society or branch on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address.

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Subpart 9—Amendments to Insolvency Act 2006

67 Principal Act

This **subpart** amends the Insolvency Act 2006 (the **principal Act**).

68 Section 3 amended (Interpretation)

In section 3, insert in their appropriate alphabetical order:

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audio link means facilities (for example, telephone facilities) that enable audio communication between people in different places

audiovisual link means facilities that enable both audio and visual communication between people in different places

69 Section 143 amended (Bankrupt must give Assignee information relating to property)

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In section 143, insert as subsection (2):

(2) The bankrupt may attend before the Assignee for the purposes of **subsection (1)(c)** by audio link or audiovisual link if the Assignee and the bankrupt agree.

70 Section 165 amended (Assignee may summon bankrupt and others to be examined)

After section 165(1), insert:

- (1A) A person who is summoned by the Assignee for examination may appear before the Assignee by audio link or audiovisual link if the Assignee and the person agree. 5

71 Section 223 amended (Means of giving notice to creditors)

- (1) In section 223(a)(iii), after “documents by facsimile”, insert “; or”.

- (2) After section 223(a)(iii), insert:

- (iv) emailed to the person at an email address that is used by that person. 10

- (3) In section 223, insert as subsection (2):

- (2) In the absence of proof to the contrary, a notice that is emailed to a person must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 15

Subpart 10—Amendment to Patents Act 2013

72 Principal Act

This **subpart** amends the Patents Act 2013 (the **principal Act**). 20

73 Section 233 amended (Service of notices (other than those given to or by Commissioner))

In section 233(2), replace “not later than 2 days after the date” with “on the second working day after the date”.

Subpart 11—Amendments to Trade Marks Act 2002 25

74 Principal Act

This **subpart** amends the Trade Marks Act 2002 (the **principal Act**).

75 Section 139A amended (Chief executive may suspend accepted notice)

- (1) In section 139A(3)(b), after “executive”, insert “; or”.

- (2) After section 139A(3)(b), insert: 30

- (c) by emailing it to the person at an email address that is used by the person.

- (3) After section 139A(3), insert:

- (4) In the absence of proof to the contrary, written advice that is emailed to a person must be treated as received by the person on the second working day after 35

the date on which it is emailed, and, in proving that the advice was emailed, it is sufficient to prove that the advice was properly addressed and sent to the email address.

76 Section 139B amended (Notice of suspension)

(1) In section 139B(2)(b), after “executive”, insert “; or”. 5

(2) After section 139B(2)(b), insert:

(c) by emailing it to the person at an email address that is used by the person.

(3) After section 139B(2), insert:

(3) In the absence of proof to the contrary, a notice of suspension that is emailed to a person must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 10

77 Section 155B amended (Chief executive may require person to produce documents concerning goods in control of Customs) 15

(1) In section 155B(2)(d)(iv), after “to that person”, insert “; or”.

(2) After section 155B(2)(d)(iv), insert:

(v) emailing it to the person at an email address that is used by the person. 20

(3) After section 155B(2), insert:

(2A) In the absence of proof to the contrary, a notice that is emailed to a person must be treated as served on the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 25

78 Section 155C amended (Chief executive may require person to appear and answer questions concerning goods in control of Customs)

(1) In section 155C(2)(d)(iv), after “to that person”, insert “; or”.

(2) After section 155C(2)(d)(iv), insert:

(v) emailing it to the person at an email address that is used by the person. 30

(3) After section 155C(2), insert:

(3) In the absence of proof to the contrary, a notice that is emailed to a person must be treated as served on the person on the second working day after the date on which it is emailed, and, in proving that the notice was emailed, it is sufficient to prove that the notice was properly addressed and sent to the email address. 35

79 Section 197 amended (Method of service of notices)

- (1) In section 197(1)(c), after “address”, insert “; or”.
- (2) After section 197(1)(c), insert:
- (d) emailing it to the person or the person’s agent at an email address that is used by the person-summoned or the person’s agent. 5
- (3) In section 197(3), replace “If a notice or other document is sent to any person by post, it is deemed to have been delivered to that person at the time when the letter would in the ordinary course of post be delivered” with “A notice or any other document that is sent to a person by post must be treated as received by the person when it would have been delivered in the ordinary course of post.”. 10
- (4) After section 197(3), insert:
- (4) In the absence of proof to the contrary, a notice or any other document that is emailed to a person must be treated as received by the person on the second working day after the date on which it is emailed, and, in proving that the document was emailed, it is sufficient to prove that the document was properly addressed and sent to the email address. 15

Part 4**Enabling electronic licences and electronic voting**

Subpart 1—Amendments to Conservation Act 1987

- 80 Principal Act** 20
This **subpart** amends the Conservation Act 1987 (the **principal Act**).
- 81 Sections 26N and 26O and cross-heading repealed**
Repeal sections 26N and 26O and the cross-heading above section 26N.
- 82 Section 26Z amended (Conduct of elections)**
- (1) Replace section 26Z(1) with: 25
- (1) The election of members of Fish and Game Councils must be conducted—
- (a) ~~by postal ballot or electronic vote; and~~
- (a) using either of the following methods of voting:
- (i) postal voting;
- (ii) a combination of electronic voting and postal voting; and 30
- (b) in accordance with regulations made under section 48.
- (2) Repeal section 26Z(2).

Subpart 2—Amendments to Wildlife Act 1953

83 Principal Act

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

84 Section 2 amended (Interpretation)

(1) In section 2(1), definition of **associated products**, replace “products made” with “goods or services produced or supplied”. 5

(2) In section 2(1), definition of **game bird habitat stamp**, after “a stamp”, insert “or mark”.

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

game licence means a licence to hunt or kill game issued by the Department or a Fish and Game Council under regulations made under this Act 10

(4) In section 2(1), repeal the second definition of **licence**.

85 Section 8 amended (Alteration of schedules)

In section 8(3), replace “licences” with “game licences” in each place.

86 Section 16 amended (Notification as to conditions on which open season is declared) 15

(1) In section 16(3)(b), replace “licences to hunt or kill game” with “game licences”.

(2) In section 16(3)(c), before “licences”, insert “game”.

87 Section 19 amended (Licence to hunt or kill game) 20

(1) In section 19(1) and (3), replace “licence” with “game licence” in each place.

(2) In section 19(5), replace—

(a) “paragraph (b) of subsection (4)” with “subsection (4)(b)”; and

(b) “licence under this Act to hunt or kill game” with “game licence”; and

(c) “subsection (3) of section 61” with “section 61(3)”. 25

88 Section 19A amended (Game bird habitat stamp)

(1) In section 19A(1), replace “affixed to” with “displayed on”.

(2) In section 19A(1), (2)(b), and (3), replace “licence to hunt or kill game” with “game licence”.

(3) In section 19A(2)(b), replace “affixing it to” with “displaying it on”. 30

89 Section 21 amended (Holder of licence not to enter on land without consent)

(1) In the heading to section 21, before “**licence**”, insert “**game**”.

(2) In section 21(1), before “licence”, insert “game”.

- 90 Section 44D amended (Functions of Board)**
- (1) In section 44D(m) and (n), replace “licences” with “game licences”.
 - (2) In section 44D(m), replace “affixing” with “display”.
 - (3) In section 44D(n), replace “affixing to” with “display on”.
- 91 Section 61 amended (Person in pursuit of wildlife to comply with demand by authorised officer) 5**
- In section 61(2) and (3)(f), replace “licence” with “game licence or other licence or authority” in each place.
- 92 Section 67E amended (Penalties for offences in respect of game) 10**
- In section 67E(4)(g), before “licence”, insert “game”.
- 93 Section 72 amended (Regulations)**
- (1) In section 72(2)(a), (b), and (c) and (3A)(a) and (b), replace “licences to hunt or kill game” with “game licences”.
 - (2) In section 72(3A)(a), after “forms”, insert “(including electronic forms)”.
 - (3) In section 72(3A)(b), after “effect of”, insert “game”. 15
 - (4) In section 72(3A)(c),—
 - (a) before “licences”, insert “game”; and
 - (b) delete “for hunting or killing game”.
 - (5) In section 72(3A)(d), replace “licence to hunt or kill game” with “game licence”. 20

Legislative history

21 September 2016
13 October 2016

Introduction (Bill 175–1)
First reading and referral to Government Administration
Committee