

Public Finance Amendment Bill (No 2)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the State Sector and Public Finance Reform Bill as reported from the Finance and Expenditure Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- State Sector Amendment Bill comprising clauses 1 and 2, Part 1, and Schedule 1
 - this bill comprising Part 2 and Schedules 1A to 3A
 - Crown Entities Amendment Bill comprising Part 3 and Schedules 3B to 4
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Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Dr Jonathan Coleman

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Public Finance Amendment Act (No 2) **2013**.

2 Commencement

- (1) **Subpart 3 of Part 2** comes into force on 1 July 2014. 5
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

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58 Principal Act

This Part amends the Public Finance Act 1989 (the **principal Act**). 10

Part 1

**Amendments coming into force on day
after date of Royal assent**

58A Section 1A amended (Purpose)

- (1) In section 1A(2)(d), after “departments,”, insert “departmental agencies,”. 15
- (2) In section 1A(2)(d), replace “and organisations named or described in Schedule 4” with “Schedule 4 organisations, and **Schedule 4A** companies”.
- (3) In section 1A(2)(e), replace “organisations named or described in Schedule 4” with “Schedule 4 organisations and **Schedule 4A** companies”. 20

59 Section 2 amended (Interpretation)

(1AAA) In section 2(1), insert in their appropriate alphabetical order: 25

- “appropriation administrator,—**
- “(a) in relation to an appropriation made to the Crown, means the department that administers the appropriation on behalf of the appropriation Minister; and**
- “(b) in relation to an appropriation made to an Office of Parliament, means that Office of Parliament** 5
- “appropriation Minister,—**
- “(a) in relation to an appropriation made to an Office of Parliament, means the Speaker; and**
- “(b) in relation to an appropriation administered by the Office of the Clerk of the House of Representatives or the Parliamentary Service, means the Speaker; and** 10
- “(c) in relation to any other appropriation, means the Minister responsible for that appropriation**
- “category,—** 15
- “(a) in relation to expenses, means a grouping of similar or related expenses; and**
- “(b) in relation to capital expenditure, means a grouping of similar or related items of capital expenditure”.**
- (1) In section 2(1), definition of **chief executive**, after paragraph (a), insert:
- “(abaa) in the case of a departmental agency, the person holding office under section 31 of the State Sector Act 1988 as the chief executive of the departmental agency.”.**
- (1A) **In section 2(1), definition of **Crown** or **the Sovereign**, paragraph (c)(iii), after “State-Owned Enterprises Act 1986”, insert “; or”.** 25
- (1B) **In section 2(1), definition of **Crown** or **the Sovereign**, after paragraph (c)(iii), insert:**
- “(iv) a Schedule 4 organisation; or** 30
- “(v) a **Schedule 4A** company; or**
- “(vi) a mixed ownership model company”.**
- (2) In section 2(1), definition of **department**, replace paragraph (a) with:
- “(a) means—** 35
- “(i) a department (as defined in **section 27A(1) and (2)** of the State Sector Act 1988); or**
- “(ii) the New Zealand Defence Force; or**

- “(iii) the New Zealand Police; or
“(iv) the New Zealand Security Intelligence Service;
or
“(v) the Parliamentary Counsel Office; or
“(vi) the Office of the Clerk of the House of Representatives; or
“(vii) the Parliamentary Service; but”.
- (3) In section 2(1), insert in their appropriate alphabetical order:
- “departmental,—**
- “(a) in relation to expenses, means expenses incurred by a department or an Office of Parliament; and 10
- “(b) in relation to capital expenditure, means capital expenditure incurred by a department or an Office of Parliament
- “departmental agency** has the meaning given in **section 27A** of the State Sector Act 1988 (*see also section 27B* of that Act) 15
- “host department**, in relation to a departmental agency, has the meaning given in **section 27A(1) and (2)** of the State Sector Act 1988 20
- “lend money—**
- “(a) includes—
- “(i) deferring payment for any goods or services supplied or works constructed for any person, organisation, or government; and 25
- “(ii) entering into hire purchase agreements or agreements that are of the same or a substantially similar nature; and
- “(iii) entering into finance lease arrangements or arrangements that are of the same or a substantially similar nature; but 30
- “(b) does not include selling or supplying goods or services on credit for a period of 90 days or less from the date the credit is supplied
- “non-departmental,—** 35
- “(a) in relation to expenses, means expenses incurred on behalf of the Crown, other than by a department or an Office of Parliament; and

- “(b) in relation to capital expenditure, means capital expenditure incurred on behalf of the Crown, other than by a department or an Office of Parliament
- “permanent legislative authority,—
- “(a) in relation to incurring expenses or capital expenditure, means an express authority given by or under an Act other than an Appropriation Act to incur expenses or capital expenditure without further appropriation (see, for example, section 65H(2), which relates to certain finance expenses, and section 9 of the Ombudsmen Act 1975, which relates to salaries and allowances of Ombudsmen); and 5
- “(b) in relation to spending public money, means an express authority given by or under an Act to spend public money without further authority (see, for example, section 6)”. 10
- (4) In section 2(1), definition of **public money**,—
- (a) after “received by”, insert “or on behalf of”; and
- (b) delete “or money received and held by Crown entities”.
- (5) In section 2(1), replace the definition of **responsible Minister** with: 20
- “responsible Minister means,—
- “(a) in relation to an Office of Parliament, to the Office of the Clerk of the House of Representatives, or to the Parliamentary Service, the Speaker: 25
- “(b) in relation to any other department, the Minister for the time being responsible for the financial performance of the department:
- “(c) in relation to a Schedule 4 organisation, the Minister for the time being responsible for the financial performance of the organisation: 30
- “(d) in relation to a **Schedule 4A** company, the Minister and the other shareholding Minister or Ministers”.
- (6) In section 2(1), insert in their appropriate alphabetical order:
- “**Schedule 4 organisation** means an organisation named or described in Schedule 4 35
- “**Schedule 4A company** means a company named in **Schedule 4A**”.

59A New section 2A inserted (Application, savings, and transitional provisions relating to amendments to Act)

After section 2, insert:

“2A Application, savings, and transitional provisions relating to amendments to Act

5

The application, savings, and transitional provisions set out in **Schedule 1**, which relate to amendments made to this Act on or after 1 July 2013, have effect for the purposes of this Act.”

59A New section 2A inserted (Provisions affecting application of amendments to this Act)

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After section 2, insert:

“2A Provisions affecting application of amendments to this Act Schedule 1 contains application, savings, and transitional provisions relating to amendments made to this Act after 1 January 2013 (see **section 88).”**

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59B Section 3A replaced (Power to amend Schedule 4)

Replace section 3A with:

“3A Power to amend Schedule 4

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 4—

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“(a) to add the name or description of—

“(i) any body, office (except an Office of Parliament), or officer established by or under an Act; or

“(ii) any trust that is created by the Crown by deed of trust or in respect of which the Crown has appointed, or has the power to appoint, a majority of the trustees:

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“(b) to apply to an organisation any provision of the Crown Entities Act 2004 that appears in Schedule 4 (other than section 165 of that Act):

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“(c) to disapply to an organisation any provision of the Crown Entities Act 2004 that appears in Schedule 4:

“(d) to substitute the name of an organisation in recognition of a change in its name:

“(e) to remove the name or description of an organisation.

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- “(2) The Minister must recommend that an Order in Council be made to remove the name or description of an organisation from Schedule 4 if, and only if, the Minister is satisfied that—
- “(a) the organisation has become a company or a Crown entity; or 5
 - “(b) in the case of a body, office, or officer established by or under an Act, the body, office, or officer has been disestablished; or
 - “(c) in the case of a trust,—
 - “(i) the trust has been wound up; or 10
 - “(ii) the Crown no longer has the power to appoint a majority of the trustees.
- “3AB Power to amend Schedule 4A**
- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 4A**— 15
- “(a) to add the name of a company that meets the following criteria:
 - “(i) Ministers of the Crown hold, on behalf of the Crown, more than 50% of the issued ordinary shares in the capital of the company; and 20
 - “(ii) shares in the company are not listed on a registered market (within the meaning of the Securities Markets Act 1988); and
 - “(iii) the company is not a Crown entity or a State enterprise named in Schedule 1 of the State-Owned Enterprises Act 1986: 25
 - “(b) to apply to a company any provision of the Crown Entities Act 2004 that appears in **Schedule 4A** (other than section 165 of that Act):
 - “(c) to disapply to a company any provision of the Crown Entities Act 2004 that appears in **Schedule 4A**: 30
 - “(d) to substitute the name of a company in recognition of a change in its name:
 - “(e) to remove the name of a company.
- “(2) The Minister must recommend that an Order in Council be made to remove the name of a company from **Schedule 4A** if the Minister is satisfied that— 35

- “(a) the company has been removed from the register of companies kept under the Companies Act 1993; or
“(b) the company no longer meets the criteria set out in **subsection (1)(a)**.”

59C Section 4 amended (Expenses or capital expenditure must not be incurred unless in accordance with appropriation or statutory authority) 5

Replace section 4(2)(b)(ii) with:

- “(ia) a Schedule 4 organisation; or
“(ii) a **Schedule 4A** company; or”.

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60 New section 4A inserted (Authority to incur expenses or capital expenditure under Imprest Supply Act)

After section 4, insert:

“4A Authority to incur expenses or capital expenditure under Imprest Supply Act 15

“(1) The authority given by an Imprest Supply Act to incur expenses or capital expenditure in a financial year in advance of appropriation is an authority under an Act for the purposes of sections 4(1) and 26C(1).

“(2) However, **subsection (1)** does not apply unless an appropriation for the expenses or capital expenditure is made before the end of the financial year.” 20

60A New section 7C inserted (Responsibility for, and administration and use of, appropriations)

After section 7, insert:

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“7C Responsibility for, and administration and use of, appropriations

“(1) An appropriation is made to the Crown or an Office of Parliament.

“(2) In the case of an appropriation made to the Crown,—

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“(a) a Minister (the **appropriation Minister**) is responsible for the appropriation; and

“(b) the appropriation must be administered by 1 department (the **appropriation administrator**) on behalf of the appropriation Minister; and

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- “(c) if the appropriation is an appropriation for departmental expenses or a multi-category appropriation, any other department may incur expenses against the appropriation—
- “(i) at the direction of the appropriation Minister; or 5
- “(ii) with the agreement of the appropriation administrator.
- “(3) Despite **subsection (2)(a)**, the Speaker is responsible for any appropriation administered by the Office of the Clerk of the House of Representatives or the Parliamentary Service. 10
- “(4) In the case of an appropriation made to an Office of Parliament,—
- “(a) the Speaker is responsible for the appropriation; and
- “(b) the appropriation must be administered by that Office of Parliament.” 15
- 61 Section 11 amended (Expenses or payments authorised other than by Appropriation Act)**
- In section 11(2), after “in accordance with an appropriation”, insert “, or other authority”.
- 61A Section 19 amended (Power of Secretary to obtain information)** 20
- (1) In section 19(1), after “a department”, insert “, a departmental agency”.
- (2) In section 19(4), after “department”, insert “, departmental agency”.
- 25
- 61AB Section 20 repealed (Departments may incur output expenses for, or on behalf of, other departments)**
- Repeal section 20.
- 61B Section 25 amended (Expenses or capital expenditure may be incurred in emergencies)** 30
- Repeal section 25(3).

61C Section 26Z amended (Power of Secretary to obtain information)

- (1) In section 26Z(1), after “department”, insert “, any departmental agency,”.
- (2) In section 26Z(4), after “department”, insert “, departmental agency,”.

61CA Section 27 amended (Annual financial statements of Government)

Replace section 27(3)(b) with:

“(ab) all Schedule 4 organisations:

“(b) all **Schedule 4A** companies.”.

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61D Section 29A amended (Power of Secretary to obtain information)

- (1) In section 29A(1), after “department”, insert “, any departmental agency,”.
- (2) In section 29A(4), after “department”, insert “, departmental agency,”.

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62 Section 29B amended (Auditor-General to be auditor of Government reporting entity)

In section 29B, replace “this Act” with “this Act,”.

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63 Section 31 amended (Annual financial statements must be presented to House of Representatives)

- (1) In the heading to section 31, after “**House of Representatives**”, insert “**and published**”.

- (2) In section 31(3), after “published”, insert “, on an Internet site maintained by or on behalf of the Treasury,”.

25

- (3) After section 31(3), insert:

- “(4) The Secretary must ensure that the annual financial statements, the audit report, and the statement of responsibility remain available on that Internet site for inspection by members of the public for at least 5 financial years after the financial year to which the annual financial statements relate.”

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- 64 Section 31A amended (Monthly financial statements of Government)**
- (1) In section 31A(4), after “published”, insert “, on an Internet site maintained by or on behalf of the Treasury,”.
- (2) After section 31A(4), insert: 5
- “(5) The Secretary must ensure that the monthly financial statements remain available on that Internet site for inspection by members of the public for at least 5 financial years after the financial year to which the monthly financial statements relate.”
- 65 Section 31B repealed (Publication, inspection, and purchase of financial statements of Government reporting entity)** 10
- Repeal section 31B.
- 65A Part 4 heading amended**
- In the Part 4 heading, after “**departments**”, insert “**and departmental agencies**”. 15
- 65B Sections 33 to 36 and cross-heading above section 34 replaced**
- Replace sections 33 to 36 and the cross-heading above section 34 with: 20
- “**33 Extended meaning of department for purpose of Part 4**
In this Part, the following activities, bodies, and statutory offices must be taken to be part of a department:
- “(a) any activities, other than activities performed by a natural person or separate legal entity, that are funded by way of appropriation administered by the department: 25
- “(b) any bodies or statutory offices, other than natural persons or separate legal entities, that are funded by way of appropriation administered by the department.
- “Responsibilities of chief executives* 30
- “**34 Responsibilities of chief executives: financial management of departmental matters**
- “(1) The chief executive of a department—

- “(a) is responsible to the responsible Minister for the financial management, financial performance, and financial sustainability of the department; and
- “(b) must comply with any lawful financial actions required by the Minister or the responsible Minister. 5
- “(2) The chief executive of a department that administers an appropriation—
- “(a) is responsible to the appropriation Minister for what is achieved with departmental expenses and departmental capital expenditure under that appropriation; and 10
- “(b) is responsible for advising the appropriation Minister on the efficiency and effectiveness of any departmental expenses or departmental capital expenditure under that appropriation.
- “(3) However, if a department other than the appropriation administrator, or any departmental agency, incurs departmental expenses or departmental capital expenditure against the appropriation at the direction of the appropriation Minister (under **section 7C(2)(c)(i)**), then the chief executive of that department or departmental agency, rather than the chief executive of the appropriation administrator, has the responsibility specified in **subsection (2)(a)** in respect of that expenditure. 15 20
- “**35** **Responsibilities of chief executives: financial management of non-departmental matters**
- The chief executive of a department is responsible for— 25
- “(a) the financial management of, and financial reporting on, appropriations for non-departmental expenses and non-departmental capital expenditure administered by the department; and
- “(b) advising the appropriation Minister on the efficiency and effectiveness of expenditure under those appropriations; and 30
- “(c) the financial management of, and financial reporting on, assets, liabilities, and revenue managed by the department on behalf of the Crown; and 35
- “(d) advising the Minister responsible for those assets, liabilities, and revenue on their performance.

“36 Responsibilities of chief executives: reporting

“(1) The chief executive of a department is responsible to the responsible Minister for ensuring that the department complies with the reporting requirements imposed on the department by or under this or any other Act.

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“(2) The chief executive of a departmental agency is responsible, to the Minister for the time being responsible for the performance of the departmental agency, for ensuring that the departmental agency complies with the reporting requirements imposed on the departmental agency by or under this or any other Act.”

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66 Section 37 amended (Power of departmental chief executives to obtain information)

(1) In the heading to section 37, delete “**departmental**”.

(2) Replace section 37(1) with:

“(1) The chief executive of a department or departmental agency may request any specified person to supply to the chief executive any information that is necessary to enable the chief executive to carry out his or her responsibilities in relation to the department or departmental agency (as applicable) under **sections 34 to 36.**”

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(3) In section 37(3), after “department”, insert “or departmental agency”.

66A Section 44 amended (Obligation to present and publish departmental annual reports)

After section 44(3), insert:

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“(4) The annual report of a department may be presented or published in a document that includes any other report or information, whether or not that other report or information relates to the department, provided that each report or set of information is separately identifiable within that document.”

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66A Sections 43 and 44 replaced

Replace sections 43 and 44 with:

“43 Departments must prepare annual reports

“(1) As soon as practicable after the end of each financial year, each department must prepare a report on the operations of

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the department for that financial year, excluding operations on which any departmental agency hosted by the department is required to report under **section 43A**.

“(2) Not later than 15 working days after receiving an audit report under section 45D, the department must provide the annual report and the audit report to its responsible Minister. 5

“(3) This section does not limit any provision in any other Act that requires the chief executive of a department to provide an annual report, but the chief executive need not provide a separate report under each enactment. 10

“43A Departmental agencies must prepare annual reports

“(1) As soon as practicable after the end of each financial year, each departmental agency must prepare a report on the operations of the departmental agency for that financial year.

“(2) As soon as practicable after the end of the financial year, but not later than 15 working days after the audit date (as defined in **section 44(6)**), the departmental agency must provide the annual report and any applicable audit report to— 15

“(a) the Minister for the time being responsible for the performance of the departmental agency; and 20

“(b) the responsible Minister for the departmental agency’s host department.

“(3) This section does not limit any provision in any other Act that requires the chief executive of a departmental agency to provide an annual report, but the chief executive need not provide a separate report under each enactment. 25

“44 Obligation to present and publish annual reports

“(1) A responsible Minister must present to the House of Representatives—

“(a) the annual report of a department for which he or she is the responsible Minister and any applicable audit report; and 30

“(b) the annual report of any departmental agency hosted by a department for which he or she is the responsible Minister and any applicable audit report. 35

- “(2) The responsible Minister (or the Minister referred to in **subsection (3)(b)**, if applicable) must comply with **subsection (1)**—
- “(a) not later than 15 working days after the audit date; or
- “(b) if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament. 5
- “(3) A Minister other than the responsible Minister may present an annual report and audit report (if any) to the House of Representatives if—
- “(a) those reports are presented in a document that includes another report or other information (see **subsection (5)**); and 10
- “(b) that other Minister is responsible for presenting that other report or information.
- “(4) A department or departmental agency must publish its annual report and any applicable audit report— 15
- “(a) as soon as practicable after the annual report has been presented to the House of Representatives, but, if **subsection (2)(b)** applies, not later than 15 working days after the audit date; and 20
- “(b) in accordance with the manner (if any)—
- “(i) prescribed by regulations made under this Act; or
- “(ii) specified in instructions issued by the Minister under section 80A.
- “(5) The annual report of a department or departmental agency may be presented or published in a document that includes any other report or information, whether or not that other report or information relates to the department or departmental agency, but only if each report or set of information is separately identifiable within that document. 25 30
- “(6) In this section,—
- “**audit date** means,—
- “(a) in the case of a department, the date on which the department receives an audit report; and
- “(b) in the case of a departmental agency, the date on which the departmental agency’s host department receives an audit report 35
- “**audit report** means an audit report under section 45D.”

66B Section 45 amended (Contents of departmental annual report)

After section 45(2), insert:

“(2A) However, a department’s annual report need not include information that any departmental agency hosted by the department is required to include in its annual report under **section 45AA.**” 5

66C New section 45AA inserted (Contents of departmental agency annual report)

After section 45, insert:

“45AA Contents of departmental agency annual report

“(1) The annual report of a departmental agency must contain the following information in respect of the financial year to which it relates:

“(a) an assessment of the departmental agency’s operations; and 15

“(b) an assessment of the departmental agency’s progress in relation to any of the host department’s future operating intentions that are relevant to the departmental agency; and 20

“(c) information about the departmental agency’s management of its organisational health and capability; and

“(d) any other matters that relate to or affect the departmental agency’s operations that the departmental agency is required, has undertaken, or wishes to report on in its annual report. 25

“(2) The annual report of a departmental agency must identify the departmental agency’s host department.

“(3) The annual report must be dated and signed on behalf of the departmental agency by its chief executive.” 30

67 Section 45H amended (Application of subpart)

(1) Replace section 45H(1) with:

“(1) This subpart applies to the following entities:

“(a) a department and any other entity that must provide an annual report that includes audited annual financial 35

- statements for presentation to the House of Representatives; and
- “(b) a departmental agency; and
- “(c) an entity that must provide audited annual financial statements (rather than an annual report) for presentation to the House of Representatives.” 5
- (2) In section 45H(2), replace “subsection (1)(b)” with “**subsection (1)(c)**”.
- 68 Sections 45I to 45K replaced** 10
- Replace sections 45I to 45K with:
- “45I First annual report for newly established entities**
- “(1) The Minister may (at the Minister’s discretion) exempt an entity that is established during the last 4 months of a financial year from the obligation to provide an annual report for that financial year. 15
- “(2) Despite **subsection (1)**, an entity that administers an appropriation must, after the end of that financial year, provide the following statements and report as if they were an annual report:
- “(a) the statements of expenses and capital expenditure required by section 45B(2)(c) and (d); and 20
- “(b) an audit report on those statements.
- “(3) An entity that is exempted under **subsection (1)** must, after the end of the ~~next~~ entity’s first full financial year, provide an annual report that covers the period from the date on which ~~it~~ the entity is established until the end of ~~that next~~ the entity’s first full financial year. 25
- “(4) To avoid doubt, the annual report referred to in **subsection (3)** must contain the information required to be included in the entity’s annual report, ~~(except that the information must be in respect of the period referred to in that subsection).~~ 30
- “(5) **Subsections (1) to (4)** also apply to an entity that, during the last 4 months of a financial year, becomes subject to the requirement to provide an annual report for presentation to the House of Representatives. 35

“45J Final annual report for disestablished entities

- “(1) An entity that is disestablished must provide a final report for the period—
- “(a) commencing at the start of the financial year in which the entity is disestablished; and 5
 - “(b) ending on the date on which the entity is disestablished (the **disestablishment date**).
- “(2) The final report must be—
- “(a) prepared as if it were an annual report; and
 - “(b) provided not later than 3 months after the disestablishment date. 10
- “(3) If the Minister is satisfied that it is necessary or expedient to transfer some or all of the responsibility for providing a final report to another party,—
- “(a) the Minister may approve the transfer of that responsibility; and 15
 - “(b) if the Minister does so, ~~the party to whom that responsibility is transferred~~ each party with responsibility for providing the final report must sign the statement of responsibility for the report in respect of the matters in the report for which the party is responsible. 20

“45K Final annual report for entities that cease to be subject to requirement to provide annual report

- “(1) An entity that ceases to be subject to the requirement to provide an annual report for presentation to the House of Representatives must provide a final report for the period— 25
- “(a) commencing at the start of the financial year in which the entity ceases to be subject to the requirement to provide an annual report; and
 - “(b) ending on the date on which the entity ceases to be subject to the requirement to provide an annual report (the **specified date**). 30
- “(2) The final report must be—
- “(a) prepared as if it were an annual report; and
 - “(b) provided not later than 3 months after the specified date. 35
- “(3) Despite **subsection (2)(b)**, the Minister may allow the entity to provide the final report later than 3 months after the specified date on any conditions that the Minister thinks fit.

- “(4) If the Minister is satisfied that it is necessary or expedient to transfer some or all of the responsibility for providing a final report to another party,—
- “(a) the Minister may approve the transfer of that responsibility; and 5
 - “(b) if the Minister does so, ~~the party to whom that responsibility is transferred~~ each party with responsibility for providing the final report must sign the statement of responsibility for the report in respect of the matters in the report for which the party is responsible.” 10

70AAA Sections 45M and 45N and subpart 2 heading in Part 5 replaced

Replace sections 45M and 45N and the subpart 2 heading in Part 5 with:

“Subpart 2—Application of Crown Entities Act 2004 to Schedule 4 organisations” 15

“45M Application of Crown Entities Act 2004 to Schedule 4 organisations

- “(1) The following sections of the Crown Entities Act 2004, and any regulations that apply to the matters referred to in those sections, apply to a Schedule 4 organisation as if the organisation were a Crown entity under that Act: 20
- “(a) sections 133 and 134 (which relate to supply of information):
 - “(b) sections 154 to 156 (which relate to annual financial statements, statements of responsibility, and audit reports): 25
 - “(c) section 158 (which relates to bank accounts):
 - “(d) if there is a tick in a column of the table in Schedule 4 of this Act alongside the name or description of the organisation, the section indicated in the heading of that column: 30
 - “(e) if **section 139** of the Crown Entities Act 2004 (which is the obligation to prepare a statement of intent) applies to the organisation under **paragraph (d)**, sections 138 and 141 to 149 of that Act (which also relate to statements of intent): 35

- “(f) if section 150 of the Crown Entities Act 2004 (which is the obligation to prepare, present, and publish an annual report) applies to the organisation under **paragraph (d)**, sections 151 (other than subsection (1)(b)), 152, and 154 to 157 of that Act (which also relate to annual reports). 5
- “(2) The responsible Minister for a Schedule 4 organisation that is required, under **subsection (1)(d)**, to produce a statement of service performance under **section 153** of the Crown Entities Act 2004 must present that statement to the House of Representatives with the annual financial statements required under **subsection (1)(b)**. 10
- “(3) If a Schedule 4 organisation is established or regulated under an Act, the provisions applied by this section apply to the organisation subject to any express negation or modification of the provision in that Act. 15
- “45N Exemptions from certain sections of Crown Entities Act 2004 for Schedule 4 organisations**
- “(1) The Minister may exempt a Schedule 4 organisation, for 1 or more financial years or until further notice, from any of the requirements in sections 141, 151, and 152 of the Crown Entities Act 2004, other than the requirements in section 151(1)(c) to (e). 20
- “(2) If the Minister considers that it is necessary or desirable to grant an exemption under this section, the Minister may grant the exemption— 25
- “(a) by notice in writing to the organisation; and
- “(b) on any conditions that the Minister thinks fit.”
- 70AAB New Part 5AAA inserted** 30
- After section 45O, insert:

“Part 5AAA

**“Non-listed companies in which the
Crown is majority or sole shareholder**

- “450A Application of Crown Entities Act 2004 to non-listed
companies in which the Crown is majority or sole
shareholder** 5
- “(1) The following provisions of the Crown Entities Act 2004
apply to a **Schedule 4A** company as if the company were a
Crown entity company under the Crown Entities Act 2004:
- “(a) section 79 (which relates to formation and acquisition
of shares): 10
- “(b) sections 81 and 82 (which require a constitution to be
presented to the House of Representatives), except that
section 81 must be read as if it required the constitution
to contain a statement to the effect that the company is a
company named in **Schedule 4A** of the Public Finance
Act 1989: 15
- “(c) sections 83 and 84 (which relate to the shareholding
Minister), except that, if the company is not 100%
Crown-owned, the references in section 84 to a share-
holding Minister must be read as if they were references
to the shareholders: 20
- “(d) section 85 (which relates to the interface between the
Crown Entities Act 2004 and the Companies Act 1993
and other Acts in respect of Crown entity companies): 25
- “(e) if the company is 100% Crown-owned,—
- “(i) section 88 (which sets out the shareholding Min-
isters’ role):
- “(ii) **section 88A** (which sets out the monitor’s role):
- “(f) sections 89 to 92, 94, and 95 (which relate to appoint-
ment, removal, and duties of board members), except
that, if the company is not 100% Crown-owned, the refer-
ence in section 94(1) to duties owed to the sharehold-
ing Ministers must be read as a reference to duties owed
to shareholders: 30
- “(g) sections 96, 97, and 99 (which relate to subsidiaries):
- “(h) section 100 (which relates to the acquisition of shares
or interests in companies, trusts, and partnerships, etc): 35

- “(i) section 102 (which relates to the interface between the Crown Entities Act 2004 and the Companies Act 1993 and other Acts in respect of Crown entity subsidiaries):
- “(j) sections 107 to 111 and 113 (which relate to directions under section 107 of the Crown Entities Act 2004): 5
- “(k) section 114 (which relates to government directions):
- “(l) section 118 (which is the obligation to be a good employer):
- “(m) sections 132 to 135 (miscellaneous provisions):
- “(n) sections 136 to 157 (which relate to reporting obligations): 10
- “(o) section 158 (which relates to bank accounts):
- “(p) if there is a tick in a column of the table in **Schedule 4A** of this Act alongside the name of the company, the section indicated in the heading of that column. 15
- “(2) In the case of a **Schedule 4A** company that is not 100% Crown-owned, **subsection (1)(n)** does not prevent the shareholders from agreeing on a process for minority shareholders to be involved in the process of preparing, reviewing, or amending the statement of intent or statement of performance expectations referred to in sections 136 to 157 of the Crown Entities Act 2004, but only if the agreed process is not inconsistent with those sections. 20
- “(3) For the purposes of **subsections (1) and (2)**, a **Schedule 4A** company is **100% Crown-owned** if Ministers of the Crown, on behalf of the Crown, hold 100% of the issued ordinary shares in the capital of the company. 25
- “(4) For the purposes of section 107(2)(a) of the Crown Entities Act 2004, **Schedule 4A** companies may be treated as a category of Crown entities. 30
- “(5) If a **Schedule 4A** company is established or regulated under an Act, the provisions applied by this section apply to the company subject to any express negation or modification of the provision in that Act.”

70AAC Section 49 amended (The Crown not liable for debts of Crown entities, etc)

- (1) In section 49(1)(a), replace “or an organisation named or described in Schedule 4” with “, a Schedule 4 organisation, or a **Schedule 4A** company”. 5
- (2) In section 49(1)(b), replace “or of an organisation named or described in Schedule 4” with “, a Schedule 4 organisation, or a **Schedule 4A** company”.

70AAD Section 65I amended (Investment of public money)

In section 65I(3), after “Crown Bank Account”, insert “or, if the Minister directs, a Departmental Bank Account”. 10

70AAE Section 65K replaced (The Crown must not lend money except under statute)

Replace section 65K with:

“65K The Crown must not lend money except under statute 15

Except as expressly authorised by any Act, the Crown must not lend money to a person or an organisation.”

70AAF Section 65N repealed (Authority to lend money includes authority to defer payments)

Repeal section 65N. 20

70AAG Section 65Z amended (Auditor-General may direct Ministers to report to House of Representatives in cases involving unlawful expenses, etc)

Replace section 65Z(1)(a) and (b) with:

- “(a) is not within the scope, amount, or period of any appropriation, or other authority, by or under an Act; or 25
- “(b) is, for any other reason, unlawful.”

70AAH Section 65ZA amended (Auditor-General may stop payments out of Bank Accounts)

In section 65ZA(1), replace paragraphs (a) and (b) with: 30

- “(a) is not within the scope, amount, or period of any appropriation, or other authority, by or under an Act; or
- “(b) is, for any other reason, unlawful.”

- 70A Section 65ZD amended (Minister may give guarantee or indemnity if in public interest)**
- (1) In section 65ZD(2)(b), replace “the person” with “a person”.
- (2) Replace section 65ZD(3) with:
- “(3) If the contingent liability of the Crown under a guarantee or an indemnity given by the Minister under subsection (1) exceeds \$10 million, the Minister must, as soon as practicable after giving the guarantee or indemnity, present a statement to the House of Representatives that the guarantee or indemnity has been given.” 5 10
- 70B Section 65ZE amended (Departments may give guarantee or indemnity specified in regulations if in public interest)**
- Replace section 65ZE(3) with:
- “(3) If the contingent liability of the Crown under a guarantee or an indemnity given by a department under subsection (1) exceeds \$10 million, the responsible Minister must, as soon as practicable after the guarantee or indemnity is given, present to the House of Representatives a statement that the guarantee or indemnity has been given.” 15
- 71 Section 67 amended (Establishment of bank accounts for trust money)** 20
- Replace section 67(2) with:
- “(2) All trust money must, as soon as practicable after being identified as trust money, be lodged in a Trust Bank Account.”
- 72 Section 71AA amended (Delegation of Secretary’s powers)** 25
- Replace section 71AA(1)(b) with:
- “(b) conferred on the Minister by this Act and delegated to the Secretary by the Minister.”
- 72A Section 73 amended (Payment of fines to local authorities and other organisations that conduct prosecutions)** 30
- In section 73(1), replace “or an organisation named or described in Schedule 4” with “a Schedule 4 organisation, or a **Schedule 4A** company”.

72B Section 74 amended (Unclaimed money)

- (1) In section 74(1), replace “or organisation named or described in Schedule 4” with “Schedule 4 organisation, or **Schedule 4A** company”.
- (2) In section 74(3), replace “or Crown entity” with “Crown entity, organisation, or company”. 5

73 Section 75 amended (Minister may exercise powers relating to *bona vacantia*)

(1AAA) Replace section 75(2) with:

- “(2) If the Minister or any department or departmental agency, on the application of any person, performs an act under subsection (1), the Minister, department, or departmental agency is entitled to charge the person all reasonable fees and costs incurred.” 10
- (1) In section 75(3), replace “in this section shall derogate from” with “in subsection (1) or **(2)** limits”. 15
- (2) After section 75(3), insert:
- “(4) If the Minister, a department, or a departmental agency performs an act under subsection (1) that involves the transfer or disposal of property or a right, that transfer or disposal may be made without further authority than this section. 20
- “(5) If the Minister, a department, or a departmental agency performs an act under subsection (1) that involves the spending of public money, that money may be paid out of a Crown Bank Account without further authority than this section. 25
- “(6) **Subsections (4) and (5)** do not affect the validity of anything done before those subsections come into force.”

74 Section 76 amended (Offences)

In section 76(2), replace “who” with “who,”.

75 Section 80 amended (Treasury instructions)

- (1) Replace section 80(1) with: 30
- “(1) Subject to the provisions of this Act and of any regulations made under this Act, the Treasury may—
- “(a) issue instructions to departments or departmental agencies for the purpose specified in section 81(1)(a); and 35

- “(b) issue instructions to departments for all or any of the purposes specified in section 81(1)(ab), (b), (bc), (bd), and (c) to (e).”
- (2) In section 80(2), after “department”, insert “or departmental agency” in each place. 5
- 75A Section 80A amended (Minister of Finance instructions)**
- (1) After section 80A(3)(a)(i), insert:
“(ia) a departmental agency; or”.
- (2) ~~In section 80A(4), after “a department”, insert “a departmental agency.”.~~ 10
- (3) ~~In section 80A(4), after “that department”, insert “departmental agency.”.~~
- (2) Replace section 80A(3)(a)(iii) with:
“(iii) a Schedule 4 organisation; or
“(iv) a **Schedule 4A** company; and”. 15
- (3) Replace section 80A(4) with:
“(4) A chief executive of a department, a departmental agency, an Office of Parliament, a Schedule 4 organisation, a **Schedule 4A** company, or any other entity referred to in section 27(3) must comply with any instructions issued under this section to the extent that the instructions apply to that department, departmental agency, Office, organisation, company, or entity.” 20
- 75B Section 81 amended (Regulations, Orders in Council, and notices)**
- (1) In section 81(1)(a), after “departments”, insert “, departmental agencies,”. 25
- (2) Replace section 81(1)(ac) with:
“(ac) prescribing minimum requirements concerning the publication of information that departments, departmental agencies, Offices of Parliament, Schedule 4 organisations, and **Schedule 4A** companies must publish under this Act.”. 30
- (3) In section 81(1)(b), replace “or organisations named or described in Schedule 4” with “Schedule 4 organisations, or **Schedule 4A** companies”. 35

- (4) Replace section 81(1)(ba) with:
“(ba) prescribing the non-financial reporting standards that Ministers, departments, departmental agencies, Offices of Parliament, Schedule 4 organisations, or **Schedule 4A** companies must apply and the form in which they must provide the information they are required to present to the House of Representatives under this Act.”. 5
- 75BA Section 82 amended (Consultation and approval requirements for regulations or instructions relating to reporting standards)** 10
In section 82(1)(a), replace “departments or organisations named or described in Schedule 4” with “departments, departmental agencies, Schedule 4 organisations, or **Schedule 4A** companies”. 15
- 75BB Section 83 repealed (Abolition of certain accounts)**
Repeal section 83.
- 75BC Sections 85 to 87 repealed**
Repeal sections 85 to 87.
- 75BD Section 88 replaced (Transitional provisions)** 20
Replace section 88 with:
“**88 Application, savings, and transitional provisions relating to amendments to Act**
The application, savings, and transitional provisions set out in **Schedule 1**, which relate to amendments made to this Act after 1 January 2013, have effect for the purposes of this Act.” 25
- 75C Schedule 1 replaced**
 Replace Schedule 1 with the **Schedule 1** set out in **Schedule 1A** of this Act.
- 76 Schedule 2 repealed** 30
 Repeal Schedule 2.

76A Schedule 4 amended

- (1) In Schedule 4, repeal the items relating to the following organisations:
- (a) Crown Asset Management Limited:
 - (b) Crown Fibre Holdings Limited: 5
 - (c) Dispute Resolution Services Limited:
 - (d) Health Benefits Limited:
 - (e) Learning State Limited:
 - (f) The Network for Learning Limited:
 - (g) Research and Education Advanced Network New Zealand Limited: 10
 - (h) Southern Response Earthquake Services Limited:
 - (i) Tāmaki Redevelopment Company Limited:
 - (j) Transferee companies under the New Zealand Railways Corporation Restructuring Act 1990 in which the Crown holds 50% or more of the issued ordinary shares. 15
- (2) In Schedule 4, item relating to New Zealand Game Bird Habitat Trust Board, column relating to **section 153** of the Crown Entities Act 2004, delete the tick. 20
- (3) In Schedule 4, item relating to Reserves Boards as defined in section 2 of the Reserves Act 1977, column relating to **section 153** of the Crown Entities Act 2004, delete the tick.

76B New Schedule 4A inserted

After Schedule 4, insert the **Schedule 4A** set out in **Schedule 2** of this Act. 25

76C Consequential amendments arising from amendments to Public Finance Act 1989 that come into force on day after Royal assent

The enactments listed in **Schedule 3** are consequentially amended in the manner indicated in that schedule. 30

Part 2
Amendments coming into force on 1 July
2013

77 Section 1A amended (Purpose)

- (1) In section 1A(2)(d), replace “and organisations named or described in Schedule 4” with “Schedule 4 organisations; and **Schedule 4A** companies”.
- (2) In section 1A(2)(e), replace “organisations named or described in Schedule 4” with “Schedule 4 organisations and **Schedule 4A** companies”.

78 Section 2 amended (Interpretation)

- (1) In section 2(1), definition of **Crown or the Sovereign**,—
- (a) in paragraph (c)(iii), after “State-Owned Enterprises Act 1986”, insert “; or”; and
- (b) after paragraph (c)(iii), insert:
- “(iv) a Schedule 4 organisation; or
“(v) a **Schedule 4A** company; or
“(vi) a mixed ownership model company.”
- (2) In section 2(1), replace the definition of **responsible Minister** with:
- “**responsible Minister** means,—
- “(a) in relation to an Office of Parliament; to the Office of the Clerk of the House of Representatives; or to the Parliamentary Service; the Speaker:
- “(b) in relation to any other department, the Minister for the time being responsible for the financial performance of the department:
- “(c) in relation to a Schedule 4 organisation; the Minister for the time being responsible for the financial performance of the organisation:
- “(d) in relation to a **Schedule 4A** company; the Minister and the other shareholding Minister or Ministers”.
- (3) In section 2(1), insert in their appropriate alphabetical order:
- “**appropriation administrator**,—
- “(a) in relation to an appropriation made to the Crown, means the department that administers the appropriation on behalf of the appropriation Minister; and

“(b) in relation to an appropriation made to an Office of Parliament, means that Office of Parliament

“appropriation Minister,—

“(a) in relation to an appropriation made to an Office of Parliament, means the Speaker; and 5

“(b) in relation to an appropriation administered by the Office of the Clerk of the House of Representatives or the Parliamentary Service, means the Speaker; and

“(c) in relation to any other appropriation, means the Minister responsible for that appropriation 10

“category,—

“(a) in relation to expenses, means a grouping of similar or related expenses; and

“(b) in relation to capital expenditure, means a grouping of similar or related items of capital expenditure 15

“departmental,—

“(a) in relation to expenses, means expenses incurred by a department or an Office of Parliament; and

“(b) in relation to capital expenditure, means capital expenditure incurred by a department or an Office of Parliament 20

“lend money—

“(a) includes—

“(i) deferring payment for any goods or services supplied or works constructed for any person, organisation, or government; and 25

“(ii) entering into hire purchase agreements or agreements that are of the same or a substantially similar nature; and

“(iii) entering into finance lease arrangements or arrangements that are of the same or a substantially similar nature; but 30

“(b) does not include selling or supplying goods or services on credit for a period of 90 days or less from the date the credit is supplied 35

“non-departmental,—

“(a) in relation to expenses, means expenses incurred on behalf of the Crown, other than by a department or an Office of Parliament; and

“(b) in relation to capital expenditure, means capital expenditure incurred on behalf of the Crown, other than by a department or an Office of Parliament

“**Schedule 4 organisation** means an organisation named or described in Schedule 4

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“**Schedule 4A company** means a company named in **Schedule 4A**”.

79 Section 3A replaced (Power to amend Schedule 4)

Replace section 3A with:

“3A Power to amend Schedule 4

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“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 4—

“(a) to add the name or description of—

“(i) any body, office (except an Office of Parliament), or officer established by or under an Act; or

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“(iii) any trust that is created by the Crown by deed of trust or in respect of which the Crown has appointed, or has the power to appoint, a majority of the trustees;

“(b) to apply to an organisation any provision of the Crown Entities Act 2004 that appears in Schedule 4 (other than section 165 of that Act);

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“(ba) to disapply to an organisation any provision of the Crown Entities Act 2004 that appears in Schedule 4;

“(c) to substitute the name of an organisation in recognition of a change in its name;

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“(d) to remove the name or description of an organisation.

“(2) The Minister must recommend that an Order in Council be made to remove the name or description of an organisation from Schedule 4 if, and only if, the Minister is satisfied that—

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“(a) the organisation has become a company or a Crown entity; or

“(b) in the case of a body, office, or officer established by or under an Act, the body, office, or officer has been disestablished; or

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“(c) in the case of a trust,—

“(i) the trust has been wound up; or

“(ii) the Crown no longer has the power to appoint a majority of the trustees.

3AB Power to amend Schedule 4A

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 4A**— 5
- “(a) to add the name of a company that meets the following criteria:
- “(i) Ministers of the Crown hold, on behalf of the Crown, more than 50% of the issued ordinary shares in the capital of the company; and 10
- “(ii) shares in the company are not listed on a registered market (within the meaning of the Securities Markets Act 1988); and
- “(iii) the company is not a Crown entity or a State enterprise named in Schedule 1 of the State-Owned Enterprises Act 1986. 15
- “(b) to apply to a company any provision of the Crown Entities Act 2004 that appears in **Schedule 4A** (other than section 165 of that Act):
- “(ba) to disapply to a company any provision of the Crown Entities Act 2004 that appears in **Schedule 4A**: 20
- “(c) to substitute the name of a company in recognition of a change in its name:
- “(d) to remove the name of a company.
- “(2) The Minister must recommend that an Order in Council be made to remove the name of a company from **Schedule 4A** if the Minister is satisfied that— 25
- “(a) the company has been removed from the register of companies kept under the Companies Act 1993; or
- “(b) the company no longer meets the criteria set out in **subsection (1)(a)**.” 30

80 Section 4 amended (Expenses or capital expenditure must not be incurred unless in accordance with appropriation or statutory authority)

- Replace section 4(2)(b)(ii) with: 35
- “(ia) a Schedule 4 organisation; or
- “(ii) a **Schedule 4A** company; or”.

- 81 New section 7C inserted (Responsibility for, and administration and use of, appropriations)**
After section 7, insert:
- “7C Responsibility for, and administration and use of, appropriations** 5
- “(1) An appropriation is made to the Crown or an Office of Parliament.
- “(2) In the case of an appropriation made to the Crown,—
- “(a) a Minister (the **appropriation Minister**) is responsible for the appropriation; and 10
- “(b) the appropriation must be administered by 1 department (the **appropriation administrator**) on behalf of the appropriation Minister; and
- “(c) if the appropriation is an appropriation for departmental expenses or a multi-category appropriation, any other department may incur expenses against the appropriation— 15
- “(i) at the direction of the appropriation Minister; or
- “(ii) with the agreement of the appropriation administrator. 20
- “(3) Despite **subsection (2)(a)**, the Speaker is responsible for any appropriation administered by the Office of the Clerk of the House of Representatives or the Parliamentary Service.
- “(4) In the case of an appropriation made to an Office of Parliament,— 25
- “(a) the Speaker is responsible for the appropriation; and
- “(b) the appropriation must be administered by that Office of Parliament.”
- 82 Section 20 repealed (Departments may incur output expenses for, or on behalf of, other departments)** 30
Repeal section 20.
- 83 Section 27 amended (Annual financial statements of Government)**
- Replace section 27(3)(b) with:
- “(ab) all Schedule 4 organisations; 35
- “(b) all **Schedule 4A** companies.”

- 84 Part 4 heading amended**
In the Part 4 heading, after “departments”, insert “and departmental agencies”.
- 85 Sections 33 to 36 replaced**
Replace sections 33 to 36 with: 5
- “33 Interpretation**
In this Part, the following activities, bodies, and statutory offices must be taken to be part of a department:
- “**(a)** any activities, other than activities performed by a natural person or separate legal entity, that are funded by way of appropriation: 10
- “**(b)** any bodies or statutory offices, other than natural persons or separate legal entities, that are funded by way of appropriation.
- “34 Responsibilities of chief executives: financial management of departmental matters** 15
- “**(1)** The chief executive of a department—
- “**(a)** is responsible to the responsible Minister for the financial management, financial performance, and financial sustainability of the department; and 20
- “**(b)** must comply with any lawful financial actions required by the Minister or the responsible Minister.
- “**(2)** The chief executive of a department that administers an appropriation—
- “**(a)** is responsible to the appropriation Minister for what is achieved with expenditure under that appropriation; and 25
- “**(b)** is responsible for advising the appropriation Minister on the efficiency and effectiveness of departmental expenses and departmental capital expenditure under that appropriation. 30
- “**(3)** However, if a department other than the appropriation administrator, or any departmental agency, incurs departmental expenses or departmental capital expenditure against the appropriation at the direction of the appropriation Minister (under **section 7G(2)(c)(i)**); then the chief executive of that department or departmental agency, rather than the chief executive 35

of the appropriation administrator, has the responsibility specified in **subsection (2)(a)** in respect of that expenditure.

35 Responsibilities of chief executives: financial management of non-departmental matters

The chief executive of a department is responsible for— 5

“(a) the financial management of, and financial reporting on, appropriations for non-departmental expenses and non-departmental capital expenditure administered by the department; and

“(b) advising the appropriation Minister on the efficiency and effectiveness of expenditure under those appropriations; and 10

“(c) the financial management of, and financial reporting on, assets, liabilities, and revenue managed by the department on behalf of the Crown; and 15

“(d) advising the Minister responsible for those assets, liabilities, and revenue on their performance.

36 Responsibilities of chief executives: reporting

“(1) The chief executive of a department is responsible to the responsible Minister for ensuring that the department complies with the reporting requirements imposed on the department by or under this or any other Act. 20

“(2) The chief executive of a departmental agency is responsible, to the Minister for the time being responsible for the performance of the departmental agency, for ensuring that the departmental agency complies with the reporting requirements imposed on the departmental agency by or under this or any other Act.” 25

86 Section 43 replaced (Departments must prepare annual reports)

Replace section 43 with: 30

43 Departments must prepare annual reports

“(1) As soon as practicable after the end of each financial year, each department must prepare a report on the operations of the department for that financial year, excluding operations on which any departmental agency hosted by the department is required to report under **section 43A**. 35

“(2) No later than 15 working days after receiving an audit report under section 45D, the department must provide the annual report and the audit report to its responsible Minister.

“(3) This section does not limit any provision in any other Act that requires the chief executive of a department to provide an annual report, but the chief executive need not provide a separate report under each enactment.”²² 5

87 New section 43A inserted (Departmental agencies must prepare annual reports)

After section 43, insert: 10

“43A Departmental agencies must prepare annual reports

“(1) As soon as practicable after the end of each financial year, each departmental agency must prepare a report on the operations of the departmental agency for that financial year.

“(2) As soon as practicable after the end of the financial year, but not later than 15 working days after the audit date (as defined in **section 44(6)(b)**), the departmental agency must provide the annual report to— 15

“(a) the Minister for the time being responsible for the performance of the departmental agency; and 20

“(b) the responsible Minister for the departmental agency’s host department.

“(3) This section does not limit any provision in any other Act that requires the chief executive of a departmental agency to provide an annual report, but the chief executive need not provide a separate report under each enactment.”²² 25

88 Section 44 replaced (Obligation to present and publish departmental annual reports)

Replace section 44 with:

“44 Obligation to present and publish annual reports 30

“(2) A responsible Minister must present to the House of Representatives—

“(a) the annual report of a department for which he or she is the responsible Minister and any applicable audit report; and 35

- “(b) the annual report of any departmental agency hosted by a department for which he or she is the responsible Minister and any applicable audit report.
- “(2A) However, an annual report and audit report (if any) may be presented to the House of Representatives by a Minister other than the responsible Minister if—
- “(a) those reports are presented in a document that includes another report or other information (see **subsection (4)**); and
- “(b) a Minister other than the responsible Minister is responsible for presenting that other report or information.
- “(3) The responsible Minister (or the Minister referred to in **subsection (2A)(b)**, if applicable) must comply with **subsection (2)**—
- “(a) no later than 15 working days after the audit date; or
- “(b) if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.
- “(4) A department or departmental agency must publish its annual report and any applicable audit report—
- “(a) as soon as practicable after the annual report has been presented to the House of Representatives, but, if **subsection (3)(b)** applies, not later than 15 working days after the audit date; and
- “(b) in accordance with the manner (if any)—
- “(i) prescribed by regulations made under this Act; or
- “(ii) specified in instructions issued by the Minister of Finance under section 80A.
- “(5) The annual report of a department or departmental agency may be presented or published in a document that includes any other report or information, whether or not that other report or information relates to the department or departmental agency, provided that each report or set of information is separately identifiable within that document.
- “(6) In this section,—
- “**audit date** means,—
- “(a) in the case of a department, the date on which the department receives an audit report; and
- “(b) in the case of a departmental agency,—

“(i) the date on which the departmental agency receives an audit report on end-of-year performance information provided by the departmental agency; or

“(ii) if **subparagraph (i)** does not apply, the date on which the departmental agency’s host department receives an audit report

“**audit report** means an audit report under section 45D.”

89 Section 45 amended (Contents of departmental annual report)

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After section 45(2), insert:

“(2A) However, a department’s annual report need not include information that any departmental agency hosted by the department is required to include in its annual report under **section 45AA**.”

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90 New section 45AA inserted (Contents of departmental agency annual report)

After section 45, insert:

“45AA Contents of departmental agency annual report

“(1) The annual report of a departmental agency must contain the following information in respect of the financial year to which it relates:

20

“(a) an assessment of the departmental agency’s operations; and

“(b) an assessment of the departmental agency’s progress in relation to any of the host department’s future operating intentions that are relevant to the departmental agency; and

25

“(c) information about the departmental agency’s management of its organisational health and capability; and

30

“(d) any other matters that relate to or affect the departmental agency’s operations that the departmental agency is required, has undertaken, or wishes to report on in its annual report.

“(1A) The annual report of a departmental agency must identify the departmental agency’s host department.

35

“(2) The annual report must be dated and signed on behalf of the departmental agency by its chief executive.”

91 Sections 45M and 45N and subpart heading replaced

Replace sections 45M and 45N and the subpart 2 heading in Part 5 with:

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“Subpart 2—Application of Crown Entities Act 2004 to Schedule 4 organisations

“45M Application of Crown Entities Act 2004 to Schedule 4 organisations

“(1) The following sections of the Crown Entities Act 2004, and any regulations that apply to the matters referred to in those sections, apply to a Schedule 4 organisation as if the organisation were a Crown entity under that Act:

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“(a) sections 133 and 134 (which relate to supply of information):

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“(b) sections 154 to **156** (which relate to annual financial statements, statements of responsibility, and audit reports):

“(c) section 158 (which relates to bank accounts):

“(d) if there is a tick in a column of the table in Schedule 4 of this Act alongside the name or description of the organisation, the section indicated in the heading of that column:

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“(e) if **section 139** of the Crown Entities Act 2004 (which is the obligation to prepare a statement of intent) applies to the organisation under **paragraph (d)**, sections 138, 141, and 144 to **149AAA** of that Act (which also relate to statements of intent):

25

“(f) if section 150 of the Crown Entities Act 2004 (which is the obligation to prepare, present, and publish an annual report) applies to the organisation under **paragraph (d)**, sections 151 (other than subsection (1)(b)), 152, and 154 to **157** of that Act (which also relate to annual reports):

30

“(2) The responsible Minister for a Schedule 4 organisation that is required, under **subsection (1)(d)**, to produce a statement of service performance under **section 153** of the Crown Entities

35

Act 2004 must present that statement to the House of Representatives with the annual financial statements required under **subsection (1)(b)**:

- “(3) If a Schedule 4 organisation is established or regulated under an Act, the provisions applied by this section apply to the organisation subject to any express negation or modification of the provision in that Act. 5

“45N Exemptions from certain sections of Crown Entities Act 2004 for Schedule 4 organisations

- “(1) The Minister may exempt a Schedule 4 organisation, for 1 or more financial years or until further notice, from any of the requirements in sections 141, ~~149C~~, 151, and 152 of the Crown Entities Act 2004, other than the requirements in section 151(1)(c) to (e). 10
- “(2) The Minister may grant an exemption under this section— 15
- “(a) if the Minister considers that it is necessary or desirable to grant the exemption; and
- “(b) by notice in writing to the organisation, on any conditions that the Minister thinks fit.”

- 92 New Part 5AA inserted** 20
After section 45O, insert:

“Part 5AA

“Non-listed companies in which the Crown is majority or sole shareholder

“45OA Application of Crown Entities Act 2004 to non-listed companies in which the Crown is majority or sole shareholder 25

- “(1) The following provisions of the Crown Entities Act 2004 apply to a **Schedule 4A** company as if the company were a Crown entity company under the Crown Entities Act 2004: 30
- “(a) section 79 (which relates to formation and acquisition of shares);
- “(b) sections 81 and 82 (which require a constitution to be presented to the House of Representatives), except that section 81 must be read as if it required the constitution to contain a statement to the effect that the company is a 35

- company named in **Schedule 4A** of the Public Finance Act 1989:
- “(e) sections 83 and 84 (which relate to the shareholding Minister); except that, if the company is not 100% Crown-owned, the references in section 84 to a shareholding Minister must be read as if they were references to the shareholders: 5
- “(d) section 85 (which relates to the interface between the Crown Entities Act 2004 and the Companies Act 1993 and other Acts in respect of Crown entity companies): 10
- “(e) if the company is 100% Crown-owned,—
- “(i) section 88 (which sets out the shareholding Ministers’ role):
- “(ii) **section 88A** (which sets out the monitor’s role):
- “(f) sections 89 to 92, 94, and 95 (which relate to appointment, removal, and duties of board members); except that, if the company is not 100% Crown-owned, the reference in section 94(1) to duties owed to the shareholding Ministers must be read as a reference to duties owed to shareholders: 15 20
- “(g) sections 96, 97, and 99 (which relate to subsidiaries):
- “(h) section 100 (which relates to the acquisition of shares or interests in companies, trusts, and partnerships, etc):
- “(i) section 102 (which relates to the interface between the Crown Entities Act 2004 and the Companies Act 1993 and other Acts in respect of Crown entity subsidiaries): 25
- “(j) sections 107 to 111 and 113 (which relate to whole of government directions):
- “(k) section 114 (which relates to Government directions):
- “(l) section 118 (which is the obligation to be a good employer): 30
- “(m) sections 132 to 135 (miscellaneous provisions):
- “(n) sections 136 to **157** (which relate to reporting obligations):
- “(o) section 158 (which relates to bank accounts): 35
- “(p) if there is a tick in a column of the table in **Schedule 4A** of this Act alongside the name of the company, the section indicated in the heading of that column.

- “(2) In the case of a **Schedule 4A** company that is not 100% Crown-owned, **subsection (1)(n)** does not prevent the shareholders from agreeing a process for minority shareholders to be involved in the process of preparing, reviewing, or amending the statement of intent or statement of performance expectations referred to in sections 136 to 157 of the Crown Entities 2004, provided that the agreed process is not inconsistent with those sections. 5
- “(3) For the purposes of **subsections (1) and (2)**, a **Schedule 4A** company is **100% Crown-owned** if Ministers of the Crown, on behalf of the Crown, hold 100% of the issued ordinary shares in the capital of the company. 10
- “(4) For the purposes of section 107(2)(a) of the Crown Entities Act 2004, **Schedule 4A** companies may be treated as a category of Crown entities. 15
- “(5) If a **Schedule 4A** company is established or regulated under an Act, the provisions applied by this section apply to the company subject to any express negation or modification of the provision in that Act.”
- 93 Section 49 amended (The Crown not liable for debts of Crown entities, etc) 20**
- (1) In section 49(1)(a), replace “or an organisation named or described in Schedule 4” with “, a Schedule 4 organisation, or a **Schedule 4A** company”.
- (2) In section 49(1)(b), replace “or of an organisation named or described in Schedule 4” with “, a Schedule 4 organisation, or a **Schedule 4A** company”.
- 94 Section 61 repealed (Expenses in respect of money borrowed by the Crown) 30**
- Repeal section 61.
- 95 Section 65D amended (Payments under public securities) 35**
- Replace section 65D(2) with:
- “(2) In this section and **section 65ZH**, **public security** does not include a guarantee or an indemnity on behalf of or in the name of the Crown given under this Act or any other enactment.”

- 96 Section 65E repealed (Expenses in respect of securities)**
Repeal section 65E.
- 97 Section 65H amended (Payments relating to derivative transactions of the Crown)**
Repeal section 65H(2). 5
- 98 Section 65I amended (Investment of public money)**
In section 65I(3), after “Crown Bank Account”, insert “or, if the Minister directs, a Departmental Bank Account”.
- 99 Section 65J repealed (Payment of expenses relating to investment)** 10
Repeal section 65J.
- 99A Section 65K replaced (The Crown must not lend money except under statute)**
Replace section 65K with:
- “65K The Crown must not lend money except under statute** 15
Except as expressly authorised by any Act, the Crown must not lend money to a person or an organisation.”
- 100 Section 65N repealed (Authority to lend money includes authority to defer payments)** 20
Repeal section 65N.
- 100A Section 65Z amended (Auditor-General may direct Ministers to report to House of Representatives in cases involving unlawful expenses, etc)**
Replace section 65Z(1)(a) and (b) with:
- “(a) is not within the scope, amount, or period of any appro- 25
priation, or other authority, by or under an Act; or
“(b) is, for any other reason, unlawful.”
- 101 Section 65ZA amended (Auditor-General may stop payments out of Bank Accounts)** 30
In section 65ZA(1), replace paragraphs (a) and (b) with:

- “(a) is not within the scope, amount, or period of any appropriation, or other authority, by or under an Act; or
 “(b) is, for any other reason, unlawful.”

103 New subpart 7 of Part 6 inserted

After section 65ZG, insert:

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“Subpart 7—Permanent appropriation for payment of certain expenses

“65ZH Permanent appropriation for payment of certain expenses

- “(1) Any expenses incurred in connection with any of the following matters may be incurred without further appropriation, and must be paid without further authority, than this section:

“Expenses in respect of money borrowed by the Crown

- “(a) negotiating the borrowing of money by the Crown:
 “(b) undertaking, managing, servicing, converting, or repaying the borrowing: 15

“Expenses in respect of securities

- “(g) issuing a public security in respect of the Crown:
 “(h) executing, redeeming, or varying the public security:

“Expenses relating to derivative transactions of the Crown 20

- “(k) negotiating a derivative transaction:
 “(l) managing, servicing, or making payments under the derivative transaction:

“Expenses relating to investment 25

- “(o) negotiating an investment referred to in section 65I:
 “(p) placing, managing, servicing, or converting the investment:

- “(2) In this section, **expenses**—

- “(a) includes— 30
 “(i) duties, taxes, premiums, bonuses, fees, interests, and commissions; and
 “(ii) any expenses incurred on personnel and equipment necessary in connection with the matters set out in **subsection (1)**; but 35

- “(b) does not include expenses incurred in connection with—
- “(i) money borrowed by the Crown under a hire purchase agreement, a finance lease agreement, or any agreement that is of the same nature as or a substantially similar nature to either of those agreements; or 5
- “(ii) a guarantee or an indemnity on behalf of or in the name of the Crown given under this Act or any other enactment.” 10
- 104 Section 73 amended (Payment of fines to local authorities and other organisations that conduct prosecutions)**
In section 73(1), replace “or an organisation named or described in Schedule 4” with “a Schedule 4 organisation, or a **Schedule 4A** company”. 15
- 105 Section 74 amended (Unclaimed money)**
- (1) In section 74(1), replace “or organisation named or described in Schedule 4” with “Schedule 4 organisation, or **Schedule 4A** company”.
- (2) In section 74(3), replace “or Crown entity” with “Crown entity, organisation, or company”. 20
- 106 Section 80A amended (Minister of Finance instructions)**
- (1) Replace section 80A(3)(a)(iii) with:
- “(iii) a Schedule 4 organisation; or
“(iv) a **Schedule 4A** company; and” 25
- (2) Replace section 80A(4) with:
- “(4) A chief executive of a department, a departmental agency, an Office of Parliament, a Schedule 4 organisation, a **Schedule 4A** company, or an entity referred to in section 27(3)(a) to (f) must comply with any instructions issued under this section to the extent that the instructions apply to that department, departmental agency, Office, organisation, company, or entity.” 30

- 107 Section 81 amended (Regulations, Orders in Council, and notices)**
- (1) Replace section 81(1)(ac) with:
 “(ac) prescribing minimum requirements concerning the publication of information that departments, departmental agencies, Offices of Parliament, Schedule 4 organisations, and **Schedule 4A** companies must publish under this Act.” 5
- (2) In section 81(1)(b), replace “or organisations named or described in Schedule 4” with “Schedule 4 organisations, or **Schedule 4A** companies”. 10
- (3) Replace section 81(1)(ba) with:
 “(ba) prescribing the non-financial reporting standards that Ministers, departments, departmental agencies, Offices of Parliament, Schedule 4 organisations, or **Schedule 4A** companies must apply and the form in which they must provide the information they are required to present to the House of Representatives under this Act.” 15
- 108 Section 82 amended (Consultation and approval requirements for regulations or instructions relating to reporting standards)** 20
- In section 82(1)(a), replace “departments or organisations named or described in Schedule 4” with “departments, departmental agencies, Schedule 4 organisations, or **Schedule 4A** companies”. 25
- 110 Sections 83 and 85 to 88 repealed**
- Repeal sections 83 and 85 to 88.
- 111 Schedule 4 amended**
- (1) In Schedule 4, repeal the items relating to the following organisations: 30
- (a) Crown Asset Management Limited:
 (b) Crown Fibre Holdings Limited:
 (c) Dispute Resolution Services Limited:
 (d) Health Benefits Limited: 35

- (e) Learning State Limited:
- (ea) The Network for Learning Limited:
- (f) Research and Education Advanced Network New Zealand Limited:
- (g) Southern Response Earthquake Services Limited: 5
- (ga) Tāmaki Redevelopment Company Limited:
- (h) Transferee companies under the New Zealand Railways Corporation Restructuring Act 1990 in which the Crown holds 50% or more of the issued ordinary shares: 10
- (2) In Schedule 4, in the table, column heading relating to **section 153** of the Crown Entities Act 2004, replace “SSP” with “SP”:
- (3) In Schedule 4, in the table, item relating to New Zealand Game Bird Habitat Trust Board, column relating to **section 153** of the Crown Entities Act 2004, delete the tick: 15
- (4) In Schedule 4, in the table, item relating to Reserves Boards as defined in section 2 of the Reserves Act 1977, column relating to **section 153** of the Crown Entities Act 2004, delete the tick:
- 112 New Schedule 4A inserted** 20
After Schedule 4, insert the **Schedule 4A** set out in **Schedule 2** of this Act:
- 113 Consequential amendments arising from amendments to Public Finance Act 1989 that come into force on 1 July 2013** 25
The enactments listed in **Schedule 3** are consequentially amended in the manner indicated in that schedule:

Part 3

Amendments coming into force on 1 July 2014

- 114 Section 2 amended (Interpretation)** 30
- (1) In section 2(1), definition of **Budget**, replace “first Appropriation Bill” with “main Appropriation Bill”.

- (2) In section 2(1), definition of **Estimates**, replace “first Appropriation Bill that relates to” with “main Appropriation Bill for”.
- (2A) In section 2(1), repeal the definition of **impact**.
- (3) In section 2(1), repeal the definition of **multi-class output expense appropriation**. 5
- (4) In section 2(1), definition of **other expenses**, replace paragraph (b) with:
“(b) benefits or related expenses; or”.
- (4A) In section 2(1), repeal the definition of **outcome**. 10
- (5) In section 2(1), definition of **type**, replace “section 7(1)” with “**section 7A(1)**”.
- (6) In section 2(1), insert in their appropriate alphabetical order:
“**main Appropriation Bill**, in respect of a financial year, means the first Appropriation Bill that relates to that financial year, and **main Appropriation Act** has a corresponding meaning 15
“**multi-category appropriation** means an appropriation described in **section 7A(1)(g)**
“**permanent legislative authority**,— 20
“(a) in relation to incurring expenses or capital expenditure, means an express authority given by or under an Act other than an Appropriation Act to incur expenses or capital expenditure without further appropriation (*see*, for example, **section 65ZH**, which relates to certain finance expenses; and section 9 of the Ombudsmen Act 1975, which relates to salaries and allowances of Ombudsmen); and 25
“(b) in relation to spending public money, means an express authority given by or under an Act to spend public money without further authority (*see*, for example, section 6)”. 30
- (7) In section 2(1), definition of **permanent legislative authority** (as inserted by **section 59** of this Act), replace “section 65H(2)” with “**section 65ZH**”. 35

115 Section 7 replaced (Separate appropriation required for types of expenses and capital expenditure)

Replace section 7 with:

“7 Expenses and capital expenditure must be allocated to appropriation type

5

All expenses and capital expenditure to be incurred in any financial year must be allocated to one of the appropriation types set out in **section 7A(1)** within a Vote specified in an Appropriation Act.

“7A Appropriation types

10

“(1) An appropriation must be an appropriation for—

“(a) 1 category of output expenses; or

“(b) 1 category of benefits or related expenses; or

“(c) 1 category of borrowing expenses; or

“(d) 1 category of other expenses; or

15

“(e) 1 category of capital expenditure; or

“(f) expenses and capital expenditure to be incurred by an intelligence and security department; or

“(g) ± 2 or more categories of 1 or more of the following:

“(i) output expenses:

20

“(ii) other expenses:

“(iii) non-departmental capital expenditure.

“(2) For the purposes of this section,—

“(a) a category of output expenses must not include both departmental and non-departmental expenses; and

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“(b) a category of other expenses must not include both departmental and non-departmental expenses; and

“(c) a category of capital expenditure must not include both departmental and non-departmental capital expenditure.

30

“7B Requirements for multi-category appropriations

A multi-category appropriation described in **section 7A(1)(g)**—

“(a) must be approved by the Minister; and

“(b) must include only categories of expenses or non-departmental capital expenditure that contribute to a single overarching purpose.”

35

116 Section 9 amended (Appropriation limited by scope)

Replace section 9(2)(a) with:

- “(a) the scope of a multi-category appropriation is the scope of each of the individual categories of expenses or non-departmental capital expenditure included in that appropriation; and” 5

117 Section 12 amended (Timing of first Appropriation Bill for financial year)

- (1) In the heading to section 12, replace “**first Appropriation Bill**” with “**main Appropriation Bill**”. 10
- (2) In section 12, replace “first Appropriation Bill that relates to” with “main Appropriation Bill for”.

118 New sections 12A and 12B and cross-heading inserted

After section 12, insert:

“*Requirements for capital injections*” 15

“12A Capital injections must be authorised

- “(1) The Crown must not make a capital injection to a department (other than an intelligence and security department) or an Office of Parliament unless the capital injection is authorised under an Appropriation Act. 20

- “(2) The authority to make the capital injection—

“(a) is limited by the amount specified for the capital injection by ~~or under~~ that Appropriation Act; and

“(b) ~~may~~ must not be exceeded (except as provided for in **section 25A**). 25

“12B Authority to make capital injections under Imprest Supply Act

- “(1) The authority given by an Imprest Supply Act to make a capital injection in a financial year in advance of authorisation under an Appropriation Act must be treated as an authority under an Appropriation Act for the purposes of **sections 12A and 26CA**. 30

- “(2) However, **subsection (1)** does not apply unless the capital injection is authorised under an Appropriation Act before the end of the financial year.” 35

- 119 Section 13 amended (Estimates and other supporting information must be presented with first Appropriation Bill)**
- (1) Replace the heading to section 13 with “**Estimates and supporting information must be presented with main Appropriation Bill**”. 5
- (2) In section 13(2),—
- (a) delete “other” in each place; and
- (b) replace “section 15” with “**sections 15 to 15E**”.
- 120 Sections 14 and 15 replaced** 10
- Replace sections 14 and 15 with:
- “14 Content of Estimates**
- “(1) The Estimates must state, for each appropriation sought in the main Appropriation Bill for a financial year and each appropriation authorised for that financial year by an Appropriation Act,— 15
- “(a) the Vote to which the appropriation relates; and
- “(b) the appropriation Minister; and
- “(c) the appropriation administrator; and
- “(d) the type of the appropriation (in terms of **section 7A(1)**); and 20
- “(e) in the case of a multi-category appropriation, the overarching purpose of the appropriation (in terms of **section 7B(1)(b)**); and
- “(f) the amount authorised by the appropriation (in terms of section 8); and 25
- “(g) the scope of the appropriation (in terms of section 9); and
- “(h) the period of the appropriation (in terms of section 10), but only if the period is more ~~or less~~ than 1 financial year. 30
- “(1A) The Estimates must state, for each appropriation authorised by a permanent legislative authority against which it is proposed to incur expenses or capital expenditure in a ~~financial year~~ the financial year to which the Estimates relate,— 35
- “(a) the authority for the appropriation; and
- “(b) the information specified in **subsection (1)(a) to (h)**, other than **subsection (1)(f)**; and

- “(c) the amount forecast to be incurred under the appropriation.
- “(2) The Estimates must state,—
- “(a) for each department, the responsible Minister for the department; and 5
- “(b) for each department other than an intelligence and security department, the amount of capital injections authorised to be made to the department for the financial year to which the Estimates relate.
- “(3) The Minister may, in addition to the information referred to in this section, include in the Estimates any further information that the Minister considers necessary or desirable. 10
- “**15 Main Appropriation Bill: supporting information relating to Votes**
- “(1) The supporting information for the main Appropriation Bill must include, for the total in each Vote of each type of appropriation,— 15
- “(a) voted departmental and non-departmental expenses or capital expenditure for the financial year to which the Appropriation Bill relates; and 20
- “(b) comparative voted and estimated actual expenses or capital expenditure for the previous financial year; and
- “(c) comparative actual expenses or capital expenditure for each of the 4 financial years that preceded the previous financial year; and 25
- “(d) projected expenses or capital expenditure for each of the 3 financial years following the financial year to which the Appropriation Bill relates.
- “(2) However, if the Vote has been restructured 1 or more times since the beginning of the period in respect of which supporting information is required under **subsection (1)**, then the comparative information required under that subsection must, to the extent practicable, be prepared as if the restructuring had occurred before the beginning of that period. 30
- “(3) For the purposes of **subsection (2)**, a Vote has been **restructured** if— 35
- “(a) it has been combined with, or separated from, any other Vote; or

- “(b) an appropriation, or a category within a multi-category appropriation, has been moved into the Vote from, or moved out of the Vote into, any other Vote; or
- “(c) a category of expenses or non-departmental capital expenditure has been moved into or out of a multi-category appropriation within the Vote. 5

“15A Main Appropriation Bill: supporting information relating to appropriations

- “(1) The supporting information for the main Appropriation Bill for a financial year must include the information specified in **subsections (2) and (3)**, including any information required by **section 15AA(2)**, for— 10
- “(a) each appropriation sought in the Bill; and
- “(b) each appropriation authorised for that financial year by an Appropriation Act; and 15
- “(c) each appropriation authorised by a permanent legislative authority against which it is proposed to incur expenses or capital expenditure in that financial year.
- “(2) The following information is required for each appropriation: 20
- “(a) a concise explanation of what the appropriation is intended to achieve; and
- “(b) comparative voted and estimated actual expenses or capital expenditure for the previous financial year; and
- “(c) 1 of the following: 25
- “(i) the end-of-year performance information details described in **section 15AB**;
- “(ii) if the Minister has, under **section 15B**, granted an exemption from the end-of-year performance information requirements, the Minister’s reasons for granting the exemption. 30
- “(3) The following additional information is required for each category of a multi-category appropriation:
- “(a) a concise explanation of what the category is intended to achieve; and
- “(b) projected expenses or non-departmental capital expenditure to be incurred for the category; and 35

- “(c) comparative projected and estimated actual expenses or non-departmental capital expenditure for the category for the previous financial year.
- “(4) However,—
- “(a) in the case of an appropriation for expenses and capital expenditure to be incurred by an intelligence and security department, **subsection (2)(a) and (c)** do not apply; and
- “(b) in the case of an appropriation for borrowing expenses, **subsection (2)(c)** does not apply.
- “**15AA Comparative information requirements if no directly corresponding appropriation or category**
- “(1) This section applies if—
- “(a) **section 15A** requires the supporting information for the main Appropriation Bill for a financial year to include, for an appropriation or a category within a multi-category appropriation, comparative information for the previous financial year; and
- “(b) that appropriation or category (the **new appropriation or category**) does not directly correspond to an appropriation or category for the previous financial year.
- “(2) The comparative information for the new appropriation or category must include all comparable expenses or capital expenditure.
- “(3) The comparative information for the new appropriation or category must also, to the extent practicable,—
- “(a) identify each previous appropriation or category that includes comparable expenses or capital expenditure; and
- “(b) identify the amount of comparable expenses or capital expenditure for that previous appropriation or category.
- “(4) In this section, **comparable expenses or capital expenditure**, in relation to a new appropriation or category, means voted or projected (as applicable) and estimated actual expenses or capital expenditure for a previous appropriation or category that would, if the new appropriation or category had been authorised for the previous financial year, have been within the scope of the new appropriation or category.

“15AB End-of-year performance information requirements

“(1) The end-of-year performance information details for an appropriation (*see* **section 15A(2)(c)(i)**) are—

“(a) a concise explanation of how performance against the appropriation will be assessed; and 5

“(b) in the case of a multi-category appropriation, a concise explanation of how performance against each category of the appropriation will be assessed; and

“(c) who, in accordance with **subsection (2)**, will provide information at the end of the financial year on what has been achieved with the appropriation; and 10

“(d) the document in which the end-of-year performance information will be presented to the House of Representatives.

“(2) End-of-year performance information on an appropriation must be provided,— 15

“(a) for a multi-category appropriation, by the appropriation administrator; and

“(b) for an appropriation described in **subsection (3)**, by the appropriation Minister; and 20

“(c) for any other appropriation, by a department, a departmental agency, an Office of Parliament, or a Crown entity.

“(3) **Subsection (2)(b)** applies in respect of an appropriation for non-departmental expenses, or non-departmental capital expenditure, from which resources will be provided to a person or an entity other than a department, a departmental agency, an Office of Parliament, or a Crown entity. 25

“15B Exemptions from end-of-year performance information requirements for certain categories of expenses and capital expenditure 30

“(1) The Minister may grant an exemption from the end-of-year performance information requirements in respect of an appropriation for departmental output expenses, or a category of departmental output expenses within a multi-category appropriation, if the Minister is satisfied that the appropriation or category relates exclusively to outputs supplied by a department to 1 or more other departments. 35

- “(2) The Minister may grant an exemption from the end-of-year performance information requirements in respect of an appropriation for non-departmental expenses or non-departmental capital expenditure, or a category of non-departmental expenses or non-departmental capital expenditure within a multi-
category appropriation, if the Minister is satisfied that— 5
- “(a) the appropriation or category is one from which resources will be provided to a person or an entity other than a department, a departmental agency, an Office of Parliament, or a Crown entity; and 10
- “(b) 1 of the following applies:
- “(i) key performance information relevant to the appropriation or category will be otherwise readily available to the House of Representatives; or 15
- “(ii) end-of-year performance information for the appropriation or category is not likely to be informative in the light of the nature of the transaction or causal event giving rise to the expenses or capital expenditure; or 20
- “(iii) the amount of the annual appropriation (or its annual average equivalent if the appropriation is a multi-year or permanent appropriation) or the projected amount of the expenses or non-departmental capital expenditure in the category (or its annual average equivalent if the category is part
of a multi-year or permanent appropriation) is less than \$5 million for expenses or less than \$15 million for capital expenditure. 25
- “(2A) An exemption under this section may be granted for 1 or more financial years or until further notice. 30
- “(3) The Minister’s reasons for granting an exemption must be included in the supporting information for an Appropriation Bill (*see section 15A(2)(c)(ii)*).
- “(4) In subsection (2)(b)(iii),— 35
- “multi-year appropriation means an appropriation authorised to apply for more than 1 financial year (*see section 10*)
- “permanent appropriation means an appropriation authorised by a permanent legislative authority.

“15D Main Appropriation Bill: supporting information relating to capital injections

- “(1) The supporting information for the main Appropriation Bill must include, for each capital injection authorised for the financial year to which the Appropriation Bill relates,— 5
- “(a) the department to which the capital injection is to be made; and
- “(b) a concise explanation of what the capital injection is to be used for; and
- “(c) the amount of the capital injection. 10
- “(2) **Subsection (1)** does not apply to a capital injection to an intelligence and security department.

“15E Minister may present further supporting information

The Minister may, in addition to the information referred to in **sections 15 to 15D**, include in the supporting information 15 for the main Appropriation Bill any further information that the Minister considers necessary or desirable.”

121 Section 16 amended (Supplementary Estimates must be presented with Supplementary Appropriation Bill)

- (1) In the heading to section 16, after “**Supplementary Estimates**”, insert “**and supporting information**”. 20
- (2) In section 16(a), replace “first Appropriation Bill” with “main Appropriation Bill”.
- (3) In section 16, insert as subsection (2):
- “(2) The Minister must also present to the House of Representatives the supporting information referred to in **sections 17A and 17B** at the same time that he or she presents the Supplementary Estimates under subsection (1), unless that supporting information is already contained in the Supplementary Estimates.” 25 30

122 Section 17 replaced (Content of Supplementary Estimates)

Replace section 17 with:

“17 Content of Supplementary Estimates

- “(1) The Supplementary Estimates for a financial year must include— 35

- “(a) the information specified in **section 14(1)** for—
- “(i) each appropriation authorised for that financial year by an Appropriation Act; and
- “(ii) each appropriation sought in an Appropriation Bill relating to that financial year; and 5
- “(b) the information specified in **section 14(1A)** for each appropriation authorised by a permanent legislative authority against which it is proposed to incur expenses or capital expenditure in that financial year.
- “(2) The Supplementary Estimates must state,— 10
- “(a) for each department, the responsible Minister for the department; and
- “(b) for each department other than an intelligence and security department, the amount of capital injections authorised to be made to the department for the financial year. 15
- “(3) The Minister may, in addition to the information referred to in this section, include in the Supplementary Estimates any further information that the Minister considers necessary or desirable. 20
- “17A Supplementary Appropriation Bill: supporting information relating to appropriations**
- “(1) The supporting information for a supplementary Appropriation Bill must include,—
- “(a) for each new appropriation, the information (excluding comparative information) specified in **section 15A**; and 25
- “(b) for each existing appropriation, any change to the information (excluding comparative information) specified in **section 15A** that was most recently included in the supporting information for an Appropriation Act in respect of the appropriation. 30
- “(2) In this section,—
- “**comparative information** means the information specified in **section 15A(2)(b) and (3)(c)** 35
- “**existing appropriation**, in relation to a supplementary Appropriation Bill for a financial year, means an appropriation for

which the information specified in **section 15A** is included in the supporting information for an Appropriation Act relating to that financial year

“**new appropriation**, in relation to a supplementary Appropriation Bill for a financial year, means— 5

- “(a) an appropriation—
 - “(i) that is sought in that Bill; and
 - “(ii) for which the information specified in **section 15A** is not included in the supporting information for any Appropriation Act relating to that financial year; or 10
- “(b) an appropriation—
 - “(i) that is authorised by a permanent legislative authority to incur expenses or capital expenditure; and 15
 - “(ii) against which it is proposed to incur expenses or capital expenditure in that financial year; and
 - “(iii) for which the information specified in **section 15A** is not included in the supporting information for any Appropriation Act relating to that financial year. 20

“**17B Supplementary Appropriation Bill: supporting information relating to capital injections**

“(1) The supporting information for a supplementary Appropriation Bill must include,— 25

- “(a) for each new capital injection, the information specified in **section 15D**; and
- “(b) for each existing capital injection, any change to the information specified in **section 15D** that is included in the supporting information for an Appropriation Act relating to that financial year. 30

“(2) In this section,—

“**existing capital injection**, in relation to a supplementary Appropriation Bill and a financial year, means a capital injection for which the information specified in **section 15D** is included in the supporting information for an Appropriation Act relating to that financial year 35

“**new capital injection**, in relation to a supplementary Appropriation Bill and a financial year, means a capital injection—

“(a) that is authorised for that financial year; and

“(b) for which the information specified in **section 15D** is not included in the supporting information for any Appropriation Act relating to that financial year. 5

“(3) This section does not apply to a capital injection to an intelligence and security department.”

123 Section 18 amended (Minister must consult on proposal to change format or content of information presented with Appropriation Bills) 10

Replace section 18(1) with:

“(1) This section applies if the Minister proposes to significantly change the format or content of—

“(a) the Estimates (*see section 14*); or 15

“(b) the supporting information for a main Appropriation Bill (*see sections 15 to 15D*); or

“(c) the Supplementary Estimates (*see section 17*); or

“(d) the supporting information for a supplementary Appropriation Bill (*see sections 17A and 17B*).” 20

124 Section 19 amended (Power of Secretary to obtain information)

(1) Replace section 19(1)(a) to (c) with:

“(a) the Estimates; or

“(b) the supporting information for a main Appropriation Bill (*see sections 15 to 15D*); or 25

“(c) the Supplementary Estimates (*see section 17*); or

“(d) the supporting information for a supplementary Appropriation Bill (*see sections 17A and 17B*).”

(2) Replace section 19(3)(a) and (b) with: 30

“(a) the Estimates and the supporting information for a main Appropriation Bill (*see section 13*); and

“(b) the Supplementary Estimates and the supporting information for a supplementary Appropriation Bill (*see section 16*).” 35

125 New sections 19A to 19C and cross-heading inserted

After section 19, insert:

“Reporting on appropriations: end-of-year performance information

“19A Provision of end-of-year performance information other than by Ministers 5

“(1) This section applies to the department, departmental agency, Office of Parliament, or Crown entity (**performance reporter**) most recently identified in the supporting information for an Appropriation Act as providing end-of-year performance information on an appropriation for a financial year. 10

“(2) As soon as practicable after the end of each financial year, the performance reporter must prepare the information that is required by **section 19C**.

“(3) Not later than 15 working days after the performance reporter receives an audit report on the information under section 45D of this Act or section **156** of the Crown Entities Act 2004 (as applicable),— 15

“(a) the performance reporter must, unless the performance reporter is the appropriation administrator, provide the information and the audit report to the appropriation administrator; and 20

“(b) the appropriation administrator must provide the information and the audit report to the appropriation Minister; and 25

“(c) the appropriation Minister must ensure that the information and the audit report are presented to the House of Representatives in the document most recently specified for that purpose in the supporting information for an Appropriation Act. 30

“(4) If Parliament is not in session, **subsection (3)(c)** does not apply, but the appropriation Minister must ensure that, as soon as possible after the commencement of the next session of Parliament, the information and the audit report are presented to the House of Representatives in the document most recently specified for that purpose in the supporting information for an Appropriation Act. 35

- “(5) The performance reporter must ensure that the information is published as soon as practicable after the information is presented to the House of Representatives, or, if **subsection (4)** applies, not later than 15 working days after receiving the audit report. 5
- “**19B Provision of end-of-year performance information by Ministers**
- “(1) This section applies to the appropriation Minister most recently identified in the supporting information for an Appropriation Act as providing end-of-year performance information on an appropriation for a financial year. 10
- “(2) Within 4 months after the end of the financial year, the appropriation Minister must—
- “(a) prepare the information that is required by **section 19C**; and 15
- “(b) ensure that the information is presented to the House of Representatives in the document most recently specified for that purpose in the supporting information for an Appropriation Act.
- “(3) If Parliament is not in session, **subsection (2)(b)** does not apply, but the appropriation Minister must ensure that, as soon as possible after the commencement of the next session of Parliament, the information is presented to the House of Representatives in the document most recently specified for that purpose in the supporting information for an Appropriation Act. 25
- “(4) The appropriation Minister must ensure that the information is published as soon as practicable after the information is presented to the House of Representatives, or, if **subsection (3)** applies, not later than 4 months after the end of the financial year. 30
- “**19C Requirements for end-of-year performance information**
- “(1) The end-of-year performance information for an appropriation must include the following:
- “(a) an assessment of what has been achieved with the appropriation in the financial year; and 35
- “(b) a comparison of the actual expenses or capital expenditure incurred in relation to the appropriation in the fi-

financial year with the expenses or capital expenditure that were appropriated or forecast to be incurred.

“(2) In the case of a multi-category appropriation, **subsection (1)(a) and (b)** must be read as if the references in those paragraphs to an appropriation included a reference to each category of expenses or capital expenditure within that appropriation. 5

“(3) The end-of-year performance information for an appropriation must be prepared in accordance with generally accepted accounting practice, to the extent that the information is of a form or nature for which provision is made in financial reporting standards ~~(within the meaning of section 2 of the Financial Reporting Act 1993)~~ that form part of generally accepted accounting practice. 10

126 Section 22 amended (Operating surplus of department) 15
Repeal section 22(2) to (4).

127 Section 23 repealed (Net assets of departments must be confirmed)
Repeal section 23.

128 Section 24 amended (Movements within departmental statement of financial position) 20
In section 24(1), after “A department”, insert “other than an intelligence and security department”.

129 New section 25A inserted (Capital injections may be made in emergencies) 25
After section 25, insert:

“25A Capital injections may be made in emergencies

“(1) The Minister may approve a capital injection to meet an emergency or disaster described in section 25(1).

“(2) A capital injection approved under **subsection (1)** may be made despite not being authorised under an Appropriation Act and despite **section 12A.** 30

“(4) A statement about any capital injection made under **subsection (2)** in any financial year that has not been authorised in

an Appropriation Act (other than a capital injection to an intelligence and security department) must be included in—

“(a) the annual financial statements of the Government; and

“(b) an Appropriation Bill for confirmation by Parliament.

“(5) **Subsection (4)** does not limit the validity of any capital injection made under this section.” 5

130 Section 26 amended (Minister may determine terms and conditions of capital injections)

In section 26(1)(a), replace “section 7(1)(e)” with “**section 7A(1)(e)**”.

10

131 New section 26CA inserted (Capital injections made without authority or approval require validation by Parliament)

After section 26C, insert:

“**26CA Capital injections made without authority or approval require validation by Parliament** 15

“(1) The making of a capital injection without authority under an Appropriation Act or approval under **section 25A** is unlawful, unless it is validated by Parliament in an Appropriation Act. 20

“(2) The Minister must, on the introduction of any Appropriation Bill that seeks validation by Parliament of any capital injection made without authority under an Appropriation Act or approval under **section 25A**, present to the House of Representatives a report that sets out— 25

“(a) the amount of each capital injection so made; and

“(b) an explanation by the responsible Minister for the department to which the capital injection was made.

“(3) This section does not apply to a capital injection to an intelligence and security department.” 30

132 Section 26D amended (Reporting requirements in relation to expenses or capital expenditure incurred in excess of, or without, appropriation)

- (1) In the heading to section 26D, after “**appropriation**”, insert “**and capital injections made in excess of, or without, authorisation**”. 5
- (2) Replace section 26D(1) with:
- “(1) This section applies to—
- “(a) any expenses that have, or capital expenditure that has, been incurred— 10
- “(i) without appropriation or other authority; or
- “(ii) in excess of an existing appropriation or other authority; and
- “(b) any capital injection (other than a capital injection to an intelligence and security department) that has been made— 15
- “(i) without authority under an Appropriation Act or approval under **section 25A**; or
- “(ii) in excess of an existing authority under an Appropriation Act or an existing approval under **section 25A**.” 20
- (3) In section 26D(2), replace “or capital expenditure” with “, capital expenditure, or capital injection”.
- (4) Replace section 26D(2)(b) with:
- “(b) the annual report of the administering department 25 for the financial year in accordance with **section 45A(1)(c) and (e)**.”

133 Section 26E replaced (Application of this Part to Offices of Parliament)

Replace section 26E with: 30

“26E Application of this Part to Offices of Parliament

- “(1) Before an appropriation in a Vote administered by an Office of Parliament may be included in an Appropriation Bill for a financial year, the chief executive of the Office concerned must prepare and submit to the House of Representatives the following information: 35

- “(a) an estimate of expenses and capital expenditure to be incurred for—
- “(i) each proposed appropriation; and
- “(ii) each proposed category of expenses or non-departmental capital expenditure within a multi-
category appropriation; and 5
- “(b) the revenue of the Office (including the revenue associated with each proposed expenses appropriation and each proposed category of expenses within a multi-category appropriation). 10
- “(2) Before an authorisation for a capital injection to be made to an Office of Parliament may be included in an Appropriation Bill for a financial year, the chief executive of the Office concerned must submit to the House of Representatives the amount of the proposed capital injection. 15
- “(3) The House of Representatives, after considering the information provided under **subsections (1) and (2)**, may for each Office of Parliament commend to the Governor-General, by way of an address,—
- “(a) the estimates referred to in **subsection (1)(a)**; and 20
- “(b) the capital injection referred to in **subsection (2)**.
- “(4) The House of Representatives may, in that address, request that the estimates be included as a Vote, and the capital injection be authorised, in an Appropriation Bill for that year.
- “(5) If the Vote or authorisation is included in an Appropriation Bill for that year, this Part applies, with all necessary modifications, as if references to a department were references to an Office of Parliament. 25
- “(6) An alteration to the Vote or authorisation during that year is subject to the provisions of this section.” 30

134 Section 27 amended (Annual financial statements of Government)

Replace section 27(2)(c)(ii) and (iii) with:

- “(ii) a statement of unappropriated expenses and capital expenditure and unauthorised capital injections (excluding any capital injection to an intelligence and security department): 35

- “(iii) a statement of emergency expenses and capital expenditure incurred under section 25 and emergency capital injections (excluding any capital injection to an intelligence and security department) made under **section 25A**.”. 5
- 135 Section 32A repealed (Additional reports in relation to non-departmental appropriations)**
Repeal section 32A.
- 136 Sections 38 to 41 and cross-heading above section 38 replaced** 10
Replace sections 38 to 41 and the cross-heading above section 38 with:
“Reporting requirements: information on strategic intentions
- “38 Departments must provide information on strategic intentions** 15
- “(1) A department must provide to its responsible Minister—
- “(a) information on the department’s strategic intentions that complies with this section and **section 40**; and
- “(b) a statement of responsibility for the information, signed 20
by the department’s chief executive.
- “(2) The information—
- “(a) must relate to the forthcoming financial year and at least the following 3 financial years; and
- “(b) may also relate to the remainder of the current financial 25
year.
- “(3) The information must identify the period to which it relates.
- “(4) The department must provide the information—
- “(a) at least once in every 3-year period, unless the Minister has granted an extension of time under **section 41**; and 30
- “(b) in the case of a new department, as soon as practicable, but not later than 6 months, after the date on which the department is established; and
- “(c) if there has been a significant change in the nature or scope of the department’s functions, as soon as practicable, but not later than 6 months, after that change. 35

- “(5) Despite **subsection (4)(a)**, the department must comply with **subsection (1)** as soon as practicable if the information most recently provided by the department under this section—
- “(a) becomes out of date because of a material change in the department’s strategic intentions; or 5
 - “(b) is otherwise false or misleading in a material particular.
- “**38A Minister Responsible Minister may require department to provide information on strategic intentions at any time**
- “(1) A department’s responsible Minister may, if ~~the~~ that Minister considers it necessary or desirable, require the department to provide new information on strategic intentions at any time. 10
- “(2) Information on strategic intentions provided under this section must comply with **sections 38 and 40**.
- “(3) The responsible Minister may require the information to relate to the remainder of the current financial year in addition to the forthcoming financial year and at least the following 3 financial years. 15
- “**39 Obligation to publish and present information on strategic intentions**
- “(1) A department must, as soon as practicable after providing information on its strategic intentions to its responsible Minister, publish the information on an Internet site maintained by or on behalf of the department. 20
- “(2) However, the department must not publish the information—
- “(a) in the period of 3 months before the Minister delivers the Budget for the first full financial year to which the information relates; or 25
 - “(b) if the Minister gives less than 3 months’ notice of the day on which he or she will deliver that Budget, in the period commencing on the day on which the Minister gives that notice and ending when the Minister delivers the Budget. 30
- “(3) In the case of information provided by an intelligence and security department, the responsible Minister must forward a copy of the information, as soon as practicable after receiving it, to the members of the Intelligence and Security Commit- 35

tee established under the Intelligence and Security Committee Act 1996.

- “(3A) In the case of information provided by any other department, the responsible Minister (or the Minister referred to in **subsection (3C)**, if applicable) must present the information to the House of Representatives— 5
- “(a) in the same document as the department’s annual report for the financial year before the first full financial year to which the information relates; or
- “(b) in any other document, in which case the information must be presented as soon as practicable after the responsible Minister receives it and not later than the date on which the annual report described in **paragraph (a)** is presented. 10
- “(3B) However, the responsible Minister (or the Minister referred to in **subsection (3C)**, if applicable) must not present the information to the House of Representatives in the period described in **subsection (2)**. 15
- “(3C) A Minister other than the responsible Minister may present the information to the House of Representatives if— 20
- “(a) the information is presented in a document that includes other information; and
- “(b) that other Minister is responsible for presenting that other information.
- “(4) Information presented to the House of Representatives under **subsection (3A)** must be accompanied by a statement signed by the responsible Minister stating,— 25
- “(a) in the case of the Office of the Clerk of the House of Representatives or the Parliamentary Service, that the information is consistent with the policies and performance expectations of the responsible Minister; or 30
- “(b) in the case of any other department, that the information is consistent with the policies and performance expectations of the Government.
- “**40 Requirements for information on strategic intentions** 35
- “(1) The information required under **section 38** must, for the period to which it relates, set out the strategic objectives that

the department intends to achieve or contribute to (**strategic intentions**).

- “(2) The information must also, for the period to which it relates,—
- “(a) explain the nature and scope of the department’s functions and intended operations; and 5
 - “(aa) identify any departmental agencies hosted by the department; and
 - “(b) explain how the department intends to manage its functions and operations to meet its strategic intentions; and
 - “(c) set out and explain any other matters that— 10
 - “(i) are reasonably necessary to achieve an understanding of the department’s strategic intentions and capability; or
 - “(ii) may be specified by the Minister or the responsible Minister for the purposes of **subpara-** 15
graph (i).

“**41 Minister may grant extension of time for, or waive, requirement to provide information on strategic intentions**

- “(1) If a department is likely to have a significant change in the nature or scope of its functions, the Minister may grant the department an extension, of up to 1 year, of the period specified in **section 38(4)(a)**. 20
- “(2) However, the Minister must not grant an extension unless the Minister is satisfied that the extension will enable the department to improve the quality of the information on strategic intentions that the department provides to its responsible Minister. 25
- “(3) If a department is likely to be disestablished, the Minister may grant the department a waiver of the requirements in **section 38**. 30
- “(4) As soon as practicable after granting an extension or a waiver, the Minister must present to the House of Representatives notice of the extension or waiver and the Minister’s reasons for granting it.” 35

- 137 Section 42 repealed (Information on future operating intentions must include statement of responsibility)**
Repeal section 42.
- 138 Section 45 replaced (Contents of annual report of department)** 5
Replace section 45 with:
- “45 Contents of annual report of department**
- “(1) The annual report of a department must provide the information that is necessary to enable an informed assessment to be made of the department’s performance during the financial year, including how well the department is managing the resources it controls. 10
- “(2) The annual report of a department must contain the following information in respect of the financial year to which it relates:
- “(a) an assessment of the department’s operations (excluding operations on which any departmental agency hosted by the department is required to report under **section 43A**); and 15
- “(b) an assessment of the department’s progress in relation to its strategic intentions; and 20
- “(c) information about the department’s management of its organisational health and capability; and
- “(d) statements of expenses and capital expenditure for the department that comply with **section 45A**; and
- “(e) annual financial statements for the department that comply with section 45B; and 25
- “(f) a statement of responsibility that complies with **section 45C**; and
- “(g) any other matters that relate to or affect the department’s operations that the department is required, has undertaken, or wishes to report on in its annual report. 30
- “(3) The annual report of a department must also contain, in respect of the financial year after the financial year to which the annual report relates, forecast financial statements for the department that comply with **section 45BA**. 35
- “(3A) The annual report of a department must identify any departmental agencies hosted by the department.

“(4) The annual report must be dated and signed on behalf of the department by its chief executive.”

138A Section 45AA amended (Contents of departmental agency annual report)

In **section 45AA(1)(b)**, as inserted by **section 90 section 66C** of this Act, replace “future operating intentions” with “strategic intentions”.

138B Section 45A replaced (Statement of service performance)

Replace section 45A with:

“45A Statements of expenses and capital expenditure” 10

“(1) A department’s annual report must include—

“(a) a statement of the budgeted and actual expenses and capital expenditure incurred against—

“(i) each appropriation administered by the department; and 15

“(ii) each category of expenses or non-departmental capital expenditure included in a multi-category appropriation administered by the department; and

“(b) for each appropriation administered by the department, details of the document in which the end-of-year performance information for the appropriation for the previous financial year (if required) is presented to the House of Representatives; and 20

“(c) a statement of expenses and capital expenditure incurred without appropriation or other authority, or in excess of an existing appropriation or other authority, in relation to the activities of, or appropriations administered by, the department, together with an explanation of the reasons for the unappropriated expenses and capital expenditure; and 25 30

“(d) a statement of the amount of any capital injection authorised, under an Appropriation Act, to be made to the department compared with the actual amount of any capital injection made to the department; and 35

“(e) a statement of any capital injection made to the department without authority, or in excess of an existing au-

thority, under an Appropriation Act, together with an explanation of the reasons for the unauthorised capital injection.

~~“(2) **Subsection (1)(b)** does not apply to an appropriation exempted from end-of-year performance information requirements under **section 45B**.”~~ 5

139 Section 45B amended (Annual financial statements)

- (1) In section 45B(2)(b), delete “; and”.
- (2) Repeal section 45B(2)(c) and (d).

140 New section 45BA inserted (Forecast financial statements) 10

After section 45B, insert:

“45BA Forecast financial statements

- “(1) A department’s forecast financial statements must be prepared in accordance with generally accepted accounting practice.
- “(2) In addition to what is required by generally accepted accounting practice, a department’s forecast financial statements must include— 15
 - “(a) a statement of all significant assumptions underlying the forecast financial statements; and
 - “(b) any other information or explanations needed to fairly 20 reflect the forecast financial operations and financial position of the department.”

141 Section 45C replaced (Statement of responsibility)

Replace section 45C with:

“45C Statement of responsibility 25

- “(1) A statement of responsibility relating to the annual report of a department must include—
 - “(a) a statement of the responsibility of the department’s chief executive for the preparation of the financial statements, and statements of expenses and capital expenditure, and for the judgements expressed in them; and 30
 - “(b) a statement of the responsibility of the department’s chief executive for having in place a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting; and 35

- “(ca) a statement of the responsibility of the department’s chief executive for ensuring that end-of-year performance information on each appropriation administered by the department is provided in accordance with **sections 19A to 19C**, whether or not that information is included in the annual report; and 5
- “(cb) a statement of the responsibility of the department’s chief executive for the accuracy of any end-of-year performance information prepared by the department (*see section 19A*), whether or not that information is included in the annual report; and 10
- “(d) a statement that, in the opinion of the department’s chief executive,—
- “(i) the financial statements fairly reflect the financial position and operations of the department for the reporting period; and 15
- “(ii) the forecast financial statements fairly reflect the forecast financial position and operations of the department for the financial year to which the forecast financial statements relate. 20
- “(2) A statement of responsibility for the annual report of a departmental agency must include—
- “(a) a statement that, in the opinion of the chief executive of the departmental agency, the annual report fairly reflects the operations, progress, and organisational health and capability of the departmental agency; and 25
- “(b) a statement of the responsibility of the departmental agency’s chief executive for the accuracy of any end-of-year performance information prepared by the departmental agency (*see section 19A*), whether or not that information is included in the annual report. 30
- “(3) A statement of responsibility must be signed by the chief executive of the department or departmental agency (as applicable).”
- 142 Section 45D amended (Audit report) 35**
- (1) In section 45D(1)(a), replace “statement of service performance” with “statements of expenses and capital expenditure”.
- (3) After section 45D(1), insert:

- “(1A) The department or departmental agency most recently identified in the supporting information for an Appropriation Act as providing end-of-year performance information on an appropriation for a financial year must, within 2 months after the end of that financial year, forward that information to the Auditor-General.” 5
- (4) In section 45D(2)(a), after “statements referred to in subsection (1)(a)”, insert “and the information referred to in subsections (1)(a) and **(1A)**”.
- (5) In section 45D(2)(b), after “department”, insert “or departmental agency (as the case may be)”. 10

143 Section 45E amended (Application of this Part to intelligence and security departments)

- (1) In section 45E(1)(a), replace “section 40(e)(ii)” with “**section 40(2)(c)(ii)**”. 15
- (2) In section 45E(1)(b), replace “sections 41 and 45B(1) and (2)(a) and (b)” with “sections 45B and **45BA**”.
- (3) In section 45E(1)(c)(ii), delete “; and”.
- (4) Repeal section 45E(1)(d).
- (5) Replace section 45E(2) with: 20
- “(2) **Section 39** (which requires information provided by a department on its strategic intentions to be presented to the House of Representatives and to be published) does not apply to an intelligence and security department.
- “(3) However, **subsection (2)** does not affect the obligations of the responsible Minister of an intelligence and security department under **section 39(3)**. 25
- “(4) **Section 45A(1)(d) and (e)** (which requires statements of expenses and capital expenditure to include statements relating to capital injections) does not apply to an intelligence and security department.” 30

144 Section 45F replaced (Application of this Part to Offices of Parliament)

Replace section 45F with:

“45F Application of this Part to Offices of Parliament

“(1) This Part applies to an Office of Parliament, subject to **sub-section (2)** and with the following (and any other necessary) modifications:

“(a) references to a department must be read as references to an Office of Parliament; and 5

“(b) references to the Auditor-General must be read as references to an auditor appointed by the House of Representatives to audit the financial statements, statements of expenses and capital expenditure, and end-of-year performance information of Offices of Parliament; and 10

“(c) **section 40(2)(c)** must be read as if an Office of Parliament were not required to comply with the requirement for the information on strategic intentions to set out and explain any other matters that may be specified by the Minister or responsible Minister, but were instead required to have regard to those matters in the preparation of that information; and 15

“(d) **section 41** must be read as if the references in that section to the Minister were references to the Speaker. 20

“(2) **Section 39(4)(b)** (which requires the information on strategic intentions to be accompanied by a statement that the information is consistent with the policy and performance expectations of the Government) does not apply to an Office of Parliament.”

145 Section 45G repealed (This Part modified for purpose of applying Part to Offices of Parliament) 25

Repeal section 45G.

145A Section 45I amended (First annual report for newly established entities)

Replace **section 45I(2)(a)**, as inserted by **section 68** of this Act, with: 30

“(a) the statements and details required by **section 45A**; and”.

146 Section 45L amended (Minister may allow certain information to be included in another entity's annual report if operations transferred)

In section 45L(2)(a), replace “statement of service performance” with “statement of performance”. 5

146A Section 45M amended (Application of Crown Entities Act 2004 to Schedule 4 organisations)

(†) In **section 45M(1)(e)**, as inserted by **section 91** of this Act, after “138,”, insert “**139A**,”.

(1) In **section 45M(1)(e)**, as inserted by **section 70AAA** of this Act, replace “sections 138 and 141 to 149” with “sections 138, **139AAA, 139A, 141**, and 144 to **149AAA**”.

(1A) In **section 45M(1)(f)**, as inserted by **section 70AAA** of this Act, replace “157” with “**157A**”.

(2) In **section 45M(2)**, as inserted by **section 91 section 70AAA** of this Act, replace “statement of service performance” with “statement of performance”. 15

146AA Section 45N amended (Exemptions from certain sections of Crown Entities Act 2004 for Schedule 4 organisations)

In **section 45N(1)**, as inserted by **section 70AAA** of this Act, after “141,”, insert “**149C**,”. 20

146AB Section 45OA amended (Application of Crown Entities Act 2004 to non-listed companies in which the Crown is majority or sole shareholder)

In **section 45OA(1)(n) and (2)**, as inserted by **section 70AAB** of this Act, replace “157” with “**157A**”. 25

146AC Section 61 repealed (Expenses in respect of money borrowed by the Crown)

Repeal section 61.

146AD Section 65D amended (Payments under public securities)

Replace section 65D(2) with: 30

“(2) In this section and **section 65ZH, public security** does not include a guarantee or an indemnity on behalf of or in the name of the Crown given under this Act or any other enactment.”

146AE Section 65E repealed (Expenses in respect of securities)

Repeal section 65E.

5

146AF Section 65H amended (Payments relating to derivative transactions of the Crown)

Repeal section 65H(2).

146AG Section 65J repealed (Payment of expenses relating to investment)

Repeal section 65J.

10

146AH New subpart 7 of Part 6 inserted

After section 65ZG, insert:

“Subpart 7—Permanent legislative authority for payment of certain expenses

15

“65ZH Permanent legislative authority for payment of certain expenses

“(1) Any expenses incurred in connection with any of the following matters may be incurred without further appropriation, and must be paid without further authority, than this section:

20

“Expenses in respect of money borrowed by the Crown

“(a) negotiating the borrowing of money by the Crown:

“(b) undertaking, managing, servicing, converting, or repaying borrowing described in **paragraph (a)**:

“Expenses in respect of securities

25

“(c) issuing a public security in respect of the Crown:

“(d) executing, redeeming, or varying a public security described in **paragraph (c)**:

“Expenses relating to derivative transactions of the Crown

30

“(e) negotiating a derivative transaction of the Crown:

“(f) managing, servicing, or making payments under a derivative transaction described in **paragraph (e)**:

- “Expenses relating to investment
- “(g) negotiating an investment referred to in section 65I:
- “(h) placing, managing, servicing, or converting an investment referred to in section 65I.
- “(2) In this section, **expenses**— 5
- “(a) includes—
- “(i) duties, taxes, premiums, bonuses, fees, interests, and commissions; and
- “(ii) any expenses incurred on personnel and equipment necessary in connection with the matters set out in **subsection (1)**; but 10
- “(b) does not include expenses incurred in connection with—
- “(i) money borrowed by the Crown under a hire purchase agreement, a finance lease agreement, or any agreement that is of the same nature as or a substantially similar nature to either of those agreements; or 15
- “(ii) a guarantee or an indemnity on behalf of or in the name of the Crown given under this Act or any other enactment.” 20

146AI Schedule 4 amended

In Schedule 4, column heading relating to **section 153** of the Crown Entities Act 2004, replace “SSP” with “SP”.

146B Consequential amendments arising from amendments to Public Finance Act 1989 that come into force on 1 July 2014 25

The enactments listed in **Schedule 3A** are consequentially amended in the manner indicated in that schedule.

. 30

Schedule 1A

s 75C

**Replacement Schedule 1 inserted into
Public Finance Act 1989 Schedule 1 of
principal Act replaced**

Schedule 1

s 2Ass 2A, 88 5

**Application, savings, and transitional
provisions relating to amendments made
to Act on or after 1 July 2013 after 1
January 2013**

- 1 Interpretation** 10
In this schedule,—
2013/14 financial year means the financial year ending with
30 June 2014
2014/15 financial year means the financial year ending with
30 June 2015 15
amendment Act means the **State Sector and Public Fi-
nance Reform Act 2012**
commencement date means the date on which the amend-
ment Act comes into force
new provision means a provision of this Act as amended or 20
inserted by the amendment Act, and **new section** has a corres-
ponding meaning
old provision means a provision of this Act as in force imme-
diately before its amendment or repeal by the amendment Act,
and **old section** has a corresponding meaning. 25
- General application of provisions relating to
financial year
- 2 Amendments made on 1 July 2013 apply to 2013/14
financial year and subsequent financial years**
- (1) This clause applies to any provision of this Act that— 30
(a) relates to a financial year; and
(b) is amended on 1 July 2013 by **subpart 2 of Part 2** of
the amendment Act.
- (2) The provision must,—

Schedule 1—*continued*

- (a) to the extent that it relates to the 2013/14 financial year and subsequent financial years, be treated as if it were amended on the commencement date rather than 1 July 2013; and
- (b) to the extent that it relates to previous financial years, be treated as if it were not amended on 1 July 2013. 5
- 3 Amendments made on 1 July 2014 apply to 2014/15 financial year and subsequent financial years**
- (1) This clause applies to any provision of this Act that— 10
- (a) relates to a financial year; and
- (b) is amended on 1 July 2014 by **subpart 3 of Part 2** of the amendment Act.
- (2) The provision must,—
- (a) to the extent that it relates to the 2014/15 financial year and subsequent financial years, be treated as if it were amended on the commencement date rather than 1 July 2014; and 15
- (b) to the extent that it relates to previous financial years, be treated as if it were not amended on 1 July 2014.
- (3) This clause is subject to **clause 4**. 20
- 4 Multi-category appropriations may be used in 2013/14 financial year**
- Despite **clause 3**, in the 2013/14 financial year,—
- (a) old section 7(1) must be read as if it included, as a type of appropriation, a multi-category appropriation described in new **section 7A(1)(g)** (as inserted by **section 115** of the amendment Act); and 25
- (b) any new provision that relates to a multi-category appropriation must, for the purposes of the multi-category appropriation and any expenses or capital expenditure incurred under it, be treated as if it were amended on 1 July 2013 the commencement date. 30

Schedule 1—*continued*

- 5 Annual report for 2013/14 financial year must include forecast financial statements for 2014/15 financial year**
Despite **clause 3**, old section 45 must be read as if it included a requirement for a department's annual report for the 2013/14 financial year to include forecast financial statements for the 2014/15 financial year that comply with new **section 45BA** (as inserted by **section 140** of the amendment Act). 5
- 6 First information on strategic intentions under new section 38 must relate to 2014/15 financial year and subsequent financial years** 10
- (1) A department must provide to its responsible Minister, under new **section 38** (as inserted by **section 136** of the amendment Act), information on its strategic intentions for the 2014/15 financial year and at least the following 3 financial years. 15
- (2) A department must comply with **subsection (1)** not later than the day on which it provides, to its responsible Minister, its annual report for the 2013/14 financial year.
- Additional transitional provisions applicable to Schedule 4 organisations and Schedule 4A companies 20
- 7 Additional transitional provisions applicable to Schedule 4 organisations and Schedule 4A companies**
- (1) **Clauses 1 to 3 of Schedule 1AAA** of the Crown Entities Act 2004 (the **CEA transitional schedule**) apply to Schedule 4 organisations and **Schedule 4A** companies, except that references in **clause 1** of the CEA transitional schedule to a Crown entity must be read as if they were references to a Schedule 4 organisation or a **Schedule 4A** company (as applicable). 25
- (2) If new **section 139** of the Crown Entities Act 2004 applies to a Schedule 4 organisation or a **Schedule 4A** company, then **clause 4** of the CEA transitional schedule also applies to the organisation or company, except that references in that clause to a Crown entity must be read as if they were references to a 30

Schedule 1—*continued*

Schedule 4 organisation or a **Schedule 4A** company (as applicable).

- 8 Exception to section 450A(1)(g) for Crown Fibre Holdings Limited in respect of certain subsidiaries**
- (1) Despite **section 450A(1)(g)**, section 97 of the Crown Entities Act 2004 (which sets out rules that apply to a parent Crown entity in respect of its subsidiaries) does not apply to Crown Fibre Holdings Limited in respect of a specified subsidiary. 5
- (2) For the purposes of **subclause (1)**, **specified subsidiary** means a subsidiary that, on the commencement date, is a company with no shareholders other than— 10
- (a) Crown Fibre Holdings Limited; and
- (b) the Crown; and
- (c) 1 of the following: 15
- (i) Chorus Limited;
- (ii) Enable Services Limited;
- (iii) Northpower Limited;
- (iv) Waikato Networks Limited;
- (v) a wholly owned subsidiary of Chorus Limited, Enable Services Limited, Northpower Limited, or Waikato Networks Limited. 20
- (3) This clause is repealed on the close of 30 June 2021.
- 9 Application of Crown Entities Act 2004 to Tāmaki Redevelopment Company Limited’s statement of intent for 2013/14 financial year** 25
- (1) Despite new **section 450A(1)(n)**,—
- (a) sections 138 to 144, 145(a) and (b), and 146 of the Crown Entities Act 2004 do not apply to TRCL’s first statement of intent; and
- (b) sections 145(c) and 149— 30
- (i) do not apply to TRCL’s first statement of intent; but
- (ii) apply to an amendment to TRCL’s first statement of intent.

Schedule 1—*continued*

- (2) If TRCL's first statement of intent includes information described in section 141(1)(b), (c), (d), (f), (g), or (h) or section 142(1)(b) (a **specified provision**) of the Crown Entities Act 2004, section 147 of that Act applies as if the information were included in TRCL's first statement of intent under the specified provision. 5
- (3) In this clause, **TRCL's first statement of intent** means Tā-maki Redevelopment Company Limited's statement of intent for the 2013/14 financial year.
-

Schedule 2**s 442s 76B****New Schedule 4A inserted into Public
Finance Act 1989 principal Act****Schedule 4A****ss 3AB, 450A****Non-listed companies in which Crown is
majority or sole shareholder** 5

Note: A tick alongside the name of a company means that the section of the Crown Entities Act 2004 that appears above the tick applies to that company.

Company	Sections of Crown Entities Act 2004 (relating to financial powers)				
	161	162	163	164	165
Crown Asset Management Limited		✓	✓	✓	
Crown Fibre Holdings Limited					
Dispute Resolution Services Limited	✓	✓	✓	✓	
Health Benefits Limited	✓	✓	✓	✓	
Learning State Limited	✓	✓	✓	✓	
The Network for Learning Limited					
Research and Education Advanced Network New Zealand Limited	✓	✓	✓	✓	
Southern Response Earthquake Services Limited	✓	✓		✓	
Tāmaki Redevelopment Company Limited	✓	✓	✓	✓	

Schedule 3

s 443

s 76C

**Consequential amendments arising from
amendments to Public Finance Act 1989
that come into force on 1 July 2013
principal Act that come into force on day
after Royal assent**

5

Part 1

Amendments to Acts

Crown Organisations (Criminal Liability) Act 2002 (2002 No 37)

In section 4, definition of **Crown entity**, paragraph (b), after “Schedule 4”, insert “, or a company named in **Schedule 4A**.”

10

Government Superannuation Fund Act 1956 (1956 No 47)

In section 93B(1A)(a), delete “, and comprising the same statements that are required by section 42(2) of the Public Finance Act 1989 as if the Fund were a Crown entity”.

15

Hazardous Substances and New Organisms Act 1996 (1996 No 30)

In section 2(1), definition of **Crown entity**, paragraph (b), after “Schedule 4”, insert “, or a company named in **Schedule 4A**.”

In section 49A, definition of **government agency**, paragraph (b), after “Schedule 4”, insert “or **4A**”.

20

Income Tax Act 2007 (2007 No 97)

In section YA 1, definition of **Venture Investment Fund**, replace “Schedules 4, 5, and 6 of the Public Finance Act 1989” with “Schedule 2 of the Crown Entities Act 2004”.

25

Land Transport Management Act 2003 (2003 No 118)

In section 5(1), definition of **public organisation**, after paragraph (ca), insert:

“(cb) a company named in **Schedule 4A** of the Public Finance Act 1989.”

30

Part 1—*continued***New Zealand Railways Corporation Restructuring Act 1990
(1990 No 105)**

Repeal section 18.

**New Zealand Superannuation and Retirement Income Act 2001
(2001 No 84)**

5

In section 39(4), replace “65J” with “**65ZH(1)(o) and (p)**”.

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, insert in its appropriate alphabetical order “Companies named in **Schedule 4A** of the Public Finance Act 1989”.

10

In Schedule 1, Part 2, repeal the items relating to Crown Asset Management Limited, Crown Fibre Holdings Limited, Dispute Resolution Services Limited, Health Benefits Limited, Learning State Limited, Research and Education Advanced Network New Zealand Limited, and Southern Response Earthquake Services Limited.

15

Public Audit Act 2001 (2001 No 10)

Repeal section 36(5).

In Schedule 1, insert in its appropriate alphabetical order “Companies named in **Schedule 4A** of the Public Finance Act 1989”.

20

Part 2

Amendment to regulations

**Anti-Money Laundering and Countering Financing of
Terrorism (Requirements and Compliance) Regulations 2011
(SR 2011/225)**

25

After regulation 5(1)(d), insert:

“(da) a company named in **Schedule 4A** of the Public Finance Act 1989.”.

Schedule 3A

s 146B

**Consequential amendments arising from
amendments to ~~Public Finance Act 1989~~
principal Act that come into force on 1
July 2014**

5

**National Animal Identification and Tracing Act 2012 (2012
No 2)**

In Schedule 2, clause 74, replace “section 39” with “**section 43**”.

**New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa)
Act 2008 (2008 No 30)**

10

In section 14(3), replace “section 39” with “**section 44**”.

Parliamentary Service Act 2000 (2000 No 17)

In Schedule 1, clause 16(b), replace “section 14 or section 15” with
“**sections 14 to 15A and 15D**”.

Search and Surveillance Act 2012 (2012 No 24)

15

In section 170(1), replace “section 39” with “**section 43**”.

In section 171(1), replace “section 39” with “**section 43**”.

Legislative history

2 July 2013

Divided from State Sector and Public Finance
Reform Bill (Bill 55–2) by committee of the whole
House as Bill 55–3B
