

Statutes Amendment Bill (No 4)

Government Bill

Explanatory note

General policy statement

This Statutes Amendment Bill consists entirely of amendments to Acts and is therefore an omnibus Bill that may be introduced by virtue of Standing Order 259(1)(f). It is intended that the Bill will be divided into separate Bills at the committee of the whole House stage.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Part 1

Animal Welfare Act 1999

Clause 3 provides that *Part 1* amends the Animal Welfare Act 1999.

Clause 4 amends section 131(1) to ensure that every constable and inspector may execute a search warrant issued under that provision.

Part 2

Antarctica (Environmental Protection) Act 1994

Clause 5 provides that *Part 2* amends the Antarctica (Environmental Protection) Act 1994. These amendments are intended to implement New Zealand's international obligations under the Amendment of Annex II to the Environment Protocol, as agreed at the Antarctic Consultative Meeting in April 2009 under Measure 16 (2009)—Amendment of Annex II to the Protocol on Environmental Protection to the Antarctic Treaty: Conservation of Antarctic Fauna and Flora (Measure 16 (2009)).

Clause 6 amends section 28, which lists the acts that are prohibited in Antarctica unless authorised by permit. The amendment—

- prohibits the taking of native invertebrates; and
- includes sea ice as a place where introduction of non-native species is prohibited; and
- prohibits the introduction of any living organism; and
- prohibits the reintroduction of any living birds, including birds that are native to Antarctica; and
- deletes reference to Appendix C, the provisions of which have been incorporated under Measure 16 (2009).

Clause 7 amends section 32, which provides restrictions on permits to introduce non-indigenous animals, plants, or micro-organisms into Antarctica. The amendment—

- specifies land, ice shelves, sea ice, and water as the parts of Antarctica in relation to which a permit may be issued for the import of any non-native species or any non-sterile soil; and
- broadens the scope of the section to include any living organism in respect of which a permit may be issued.

Part 3

Biosecurity Act 1993

Clause 8 provides that *Part 3* amends the Biosecurity Act 1993.

Clause 9 amends section 24E(1) to clarify that a craft risk management standard may specify requirements to be met for the effective management of risks associated with the arrival of craft in the EEZ.

Clause 10 amends section 110 to ensure that every inspector and authorised person may execute a warrant issued under that provision.

Clause 11 amends section 142A(5)(a). The amendment aligns that provision with section 142C, as amended by *clause 12*.

Clause 12 amends section 142C so that the distinction between different types of information in the biosecurity database is made based on whether the information is publicly available, rather than whether the information comes from a source in the public domain or from any other source. *New section 142C(7)* defines publicly available. Additionally, *new section 142C(2)(g) and (h)* allows the Director-General to access, use, or authorise the use of information that is not publicly available for statistical or research purposes if the information does not identify any person and will not be published in a way that would identify any person.

Clause 13 amends section 161(2)(d), (e), and (f). Section 161(2) specifies the kinds of certificate that may be admissible in evidence and, in the absence of proof to the contrary, may be sufficient evidence of the matters stated in a certificate in any proceedings for an offence against the Biosecurity Act 1993. The amendments—

- remove the requirement that the person specified in the certificate must have been appointed by the chief technical officer who signed the certificate (in the case of section 161(2)(d) and (e)) or the principal officer who signed the certificate (in the case of section 161(2)(f)); and
- include within section 161(2)(d), (e), and (f) certificates stating that the person specified in the certificate is accredited for a particular function under section 103(7).

Part 4

Births, Deaths, Marriages, and Relationships Registration Act 1995

Clause 14 provides that *Part 4* amends the Births, Deaths, Marriages, and Relationships Registration Act 1995.

Clause 15 amends section 21A, which relates to applications for registration of a name change. *Clause 15* rearranges subsection (2) and introduces a reference to a standard form. This change will allow the Registrar-General to issue a standard form setting out the information to be provided for the purposes of an application for regis-

tration of a name change. *Clause 15* also adds *new subsections (3A) and (4A)*, which provide that the Registrar-General may require—

- the person before whom a statutory declaration is made to verify the identity of the person applying for registration of a name change:
- the person applying for registration of a name change to provide means of identification to confirm the applicant's identity.

Part 5 Commodity Levies Act 1990

Clause 16 provides that *Part 5* amends the Commodity Levies Act 1990.

Clause 17 amends section 19(1) to ensure that every constable and designated person may execute a search warrant issued under that provision.

Part 6 Copyright Act 1994

Clause 18 provides that *Part 6* amends the Copyright Act 1994.

Clause 19 amends section 206, which provides for membership of the Copyright Tribunal. The amendment allows for the number of members of the Copyright Tribunal (other than the chairperson) to fluctuate, provided that there are least 2 and not more than 5 at any time.

Part 7 Forests Act 1949

Clause 20 provides that *Part 7* amends the Forests Act 1949.

Clause 21 amends section 71B(1)(e) to ensure that every authorised person may execute a search warrant issued under that provision.

Part 8 Friendly Societies and Credit Unions Act 1982

Clause 22 provides that *Part 8* amends the Friendly Societies and Credit Unions Act 1982.

Clause 23 repeals section 10, with the effect that the Registrar of Friendly Societies and Credit Unions will no longer be required to report annually to the Minister responsible for the administration of the principal Act (currently the Minister of Commerce) about matters transacted under or pursuant to that Act.

Part 9

Governor-General Act 2010

Clause 24 provides that *Part 9* amends the Governor-General Act 2010. Section 12 of that Act is a permanent legislative authority providing funding for listed payments, benefits, and privileges, including the salary of the Governor-General. *Clause 25* amends section 12 to clarify that the permanent appropriation also provides funding to meet all compulsory payments in relation to the Governor-General's remuneration. Examples of such payments, under legislation currently in force, are employer KiwiSaver contributions and accident compensation levies.

Part 10

Heavy Engineering Research Levy Act 1978

Clause 26 provides that *Part 10* amends the Heavy Engineering Research Levy Act 1978.

Clause 27 amends section 5(1). The amendment updates the name of the organisation that the Minister responsible for the administration of the Act (currently the Minister of Science and Innovation) must consult before prescribing rates of research levy payable on any levied items.

Clauses 28 and 29 amend the headings to Schedules 2 and 3 to align them with changes made by section 4 of the Heavy Engineering Research Levy Amendment Act 2012 to the maximum rates of research levy that may be prescribed under section 5 of the principal Act.

Part 11

Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004

Clause 30 provides that *Part 11* amends the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004.

Clause 31 inserts *new section 8B(1)(b)(iv)*, which provides that a function of the Deputy Commissioner is to carry out the functions of the Commissioner in relation to complaints that the Commissioner decides to refer to the Deputy Commissioner.

Clause 32 replaces section 16(1)(i). *New section 16(1)(i)* provides that the Commissioner must dismiss a complaint if the Commissioner is of the opinion that he or she has previously considered the subject matter of the complaint, and the complaint fails to raise any issues of significance that he or she has not previously considered.

Part 12

Land Transport Act 1998

Clause 33 provides that *Part 12* amends the Land Transport Act 1998.

Clause 34 amends section 74(7)(c) by removing the reference to part of a blood specimen. The reference is redundant following an amendment to the Land Transport Act 1998 in 2011 that enabled blood specimens to be collected using a method that does not involve dividing blood specimens into parts.

Clause 35 replaces section 79V. Section 79V refers to section 198 of the Summary Proceedings Act 1957. Section 198, which provided for the issue of search warrants, was repealed on 1 October 2012 by the Search and Surveillance Act 2012. *Clause 35* replaces the reference to section 198 with a reference to the corresponding provisions in the Search and Surveillance Act 2012 and updates the wording of section 79V to make it consistent with that Act.

Clause 36 amends section 91A and, in particular, paragraph (a) of the definition of traffic offence. The amendment reinstates a reference to the Road User Charges Act 1977 (the **1977 Act**). Section 94 and Schedule 3 of the Road User Charges Act 2012 (the **2012 Act**) on 1 August 2012 replaced the reference to the 1977 Act with a reference to the 2012 Act. The reference to the 1977 Act needs to be

reinstated, however, to make it clear that outstanding fines imposed under either the 1977 Act or the 2012 Act can be enforced under the driver licence stop order provisions that apply only to traffic fines (defined by section 91A as, subject to express inclusions and exclusions, fines or other amounts of money payable under sentences imposed or orders made in respect of traffic offences).

Clause 37 amends section 140, which provides for the contents of infringement notices and reminder notices. The amendment provides that a reminder notice for an alleged infringement offence that is a stationary vehicle offence must contain a summary of the provisions of section 133A (which, among other things, provides for circumstances giving rise to defences to proceedings for a stationary vehicle offence). As a consequence of the amendment, the regulations that prescribe the form of infringement and reminder notices will be amended so that the summary of section 133A will not be included in the infringement notice.

Clause 38 consequentially amends the Schedule of the Search and Surveillance Act 2012 to reflect the amendment made by *clause 35*.

Part 13

Land Transport Management Amendment Act 2008

Clause 39 provides that *Part 13* amends the Land Transport Management Amendment Act 2008.

Clause 40 amends section 47(1) to correct an erroneous reference to 1 July 2008 by replacing it with a reference to 1 August 2008.

Part 14

Local Government Act 1974

Clause 41 provides that *Part 14* amends the Local Government Act 1974.

Clause 42 amends section 342 by deleting a reference to a borough council. That term is outdated and, in the context of section 342, the reference is unnecessary.

Clause 43 amends clause 11 of Schedule 10. That clause requires territorial authorities to consult the Police and the Ministry of Transport before temporarily closing any road or any part of a road for

certain purposes. However, the Ministry no longer has operational responsibility for roads and the appropriate body for territorial authorities to consult, besides the Police, is the New Zealand Transport Agency. *Clause 43* replaces the reference to the Ministry in clause 11 of Schedule 10 with a reference to the New Zealand Transport Agency.

Part 15

Local Government Act 2002

Clause 44 provides that *Part 15* amends the Local Government Act 2002.

Clause 45 amends section 169A, which relates to proving that a substance is alcohol in relation to an alleged breach of an alcohol ban. The amendment provides that if a defendant disputes that the substance was alcohol, written notice must be served on the prosecution.

Part 16

Local Government (Auckland Council) Act 2009

Clause 46 provides that *Part 16* amends the Local Government (Auckland Council) Act 2009.

Clause 47 amends section 46. Section 46 sets out statutory functions and powers of Auckland Transport in relation to the Auckland transport system.

Clause 47(1) repeals section 46(1)(b). Section 46(1)(b) is unnecessary because it duplicates section 46(1)(g) in providing that Auckland Transport has, in relation to the Auckland transport system, the powers of a local authority under the Land Transport Act 1998.

Clause 47(2) amends section 46(1)(d) to remove outdated references to sections 591A and 684 of the Local Government Act 1974. Both of those sections were repealed in 2011.

Clause 47(3) amends section 46(1)(f) to add, to Auckland Transport's functions and powers, the functions and powers of an enforcement authority under the Land Transport Act 1998 in relation to prosecuting infringement offences relating to a failure to pay a public transport service fare.

Clause 47(4) consequentially amends section 46(3) to reflect the amendment made by *clause 47(3)*.

Part 17

Local Government Official Information and Meetings Act 1987

Clause 48 provides that *Part 17* amends the Local Government Official Information and Meetings Act 1987.

Clause 49 amends section 2, which is the interpretation section. The amendment—

- inserts a definition of legal professional privilege; and
- aligns this section with section 2(5) of the Official Information Act 1982, and clarifies that information held by a person engaged by a local authority as an independent contractor is deemed to be held by the local authority.

Clause 50 amends section 4, which provides the purposes of the Act. The amendment aligns the Act with section 4 of the Official Information Act 1982, and provides that the purposes of the Act include increasing progressively the availability of information to the public.

Clause 51 amends section 7, which provides other reasons for withholding official information. The amendment makes section 7(2)(g) consistent with section 26(1)(g), and allows for withholding official information if necessary to avoid a breach of legal professional privilege.

Clause 52 amends section 10, which deals with requests for official information. The amendments provide that—

- a request may be made and communicated in any way; and
- a request does not need to specify that it is a request made under the Act; and
- if a request is made orally and the person making the request declines or is unable to put the request in writing, the local authority must record its understanding of the request and provide a copy of the record to that person.

Clause 53 amends section 12, which deals with the transfer of requests. The amendment clarifies that a part or the whole of a request may be transferred to another local authority or department or Minister of the Crown or organisation.

Clause 54 amends section 13, which deals with decisions on requests for information. The amendment provides that if a request for information is amended after consultation with the person making the request, the amended request is treated as a new request, unless—

- the local authority concerned sought clarification of the request, which led to the amended request; and
- the local authority took more than 7 working days to seek clarification from the date of receipt of the request.

Clause 55 amends section 15, which contains provisions relating to the release of information contained in documents. The amendment provides that information in a document may be released in electronic form or by electronic means.

Clause 56 amends section 17, which provides the grounds for refusal of requests. The amendment clarifies that a local authority may refuse a request if the document alleged to contain the information cannot be found despite reasonable efforts to locate it.

Clause 57 amends section 27, which provides for the functions of the Ombudsmen under the Act. The amendments—

- widen the grounds under which a complaint may be made to an Ombudsman for the failure of a local authority to respond to a request for information, including not responding as soon as is reasonably practicable; and
- provide that, if a request is refused on any of the grounds listed in section 17(1)(e) to (g), the Ombudsman may notify the Chief Archivist.

Part 18

Marine Mammals Protection Act 1978

Clause 58 provides that *Part 18* amends the Marine Mammals Protection Act 1978.

Clause 59 amends section 14 to clarify that a warrant may be issued to more than 1 officer.

Part 19

Misuse of Drugs Amendment Act 1978

Clause 60 provides that *Part 19* amends the Misuse of Drugs Amendment Act 1978.

Clause 61 deletes from the definition of drug dealing offence in section 10, a cross-reference to section 46 (Garnishee proceedings) made redundant by that section's repeal, on 13 February 2012, by section 5 of the Misuse of Drugs Amendment Act 1978 Amendment Act 2011.

Part 20

National Animal Identification and Tracing Act 2012

Clause 62 provides that *Part 20* amends the National Animal Identification and Tracing Act 2012.

Clause 63(1) replaces section 10(3)(b). That provision provides that the NAIT organisation may not contract out its compliance and enforcement functions apart from any compliance functions that relate to the provision of information and training. The amendment allows the NAIT organisation to contract out its compliance and enforcement functions to its subsidiary or holding company.

Clause 63(2) provides that in contracting out its compliance and enforcement functions under *new section 10(3)(b)*, the NAIT organisation remains responsible and accountable for the performance of those functions. The amendment also inserts definitions of holding company and subsidiary that are consequential to the amendment to section 10(3)(b).

Part 21

National Parks Act 1980

Clause 64 provides that *Part 21* amends the National Parks Act 1980.

Clause 65 amends section 56C to correct a drafting error by replacing references to “conservation management plan” with “management plan”.

Clause 66 amends section 61 by restoring subsection (8), which was mistakenly repealed by section 285(5) of the Search and Surveillance Act 2012.

Part 22

Ngāti Manuhiri Claims Settlement Act 2012

Clause 67 provides that *Part 22* amends the Ngāti Manuhiri Claims Settlement Act 2012.

Clause 68 amends the definition of RFR land in section 112 by removing land that was held in fee simple by a Crown body on the settlement date.

Part 23

Official Information Act 1982

Clause 69 provides that *Part 23* amends the Official Information Act 1982.

Clause 70 inserts a definition of legal professional privilege.

Clause 71 amends section 9(2)(h) to correct an inconsistency between that section and section 27(1)(g).

Clause 72 amends section 12, which deals with requests for information. *New section 12(1AA)* clarifies that a request—

- (a) may be made and communicated in any way; and
- (b) does not need to specify that it is made under the Act.

New section 12(4) and (5) provides that a department, a Minister, or an organisation to which an oral request is made may, for the purposes of clarifying the request, ask the person making the request to put his or her request in writing. If the person declines, or is unable, to put the request in writing, the department, Minister, or organisation to which the request was made must record its understanding of the request and provide a copy of the record to the requester.

Clause 73 amends section 14, which deals with transfers of requests. The amendment clarifies that, if only part of a request relates to information not held by the department, Minister, or organisation to which the request was made, only the relevant part must be transferred.

Clause 74 amends section 15, which deals with decisions on requests for information. The amendment provides that, if a request for information is amended or clarified after the date on which it is received, the amended or clarified request is treated as a new request, unless—

- the amendment was made because the department, Minister, or organisation sought to amend or clarify the request; and

- the amendment or clarification was not sought within 7 working days after the request was received.

Clause 75 amends section 16, which contains provisions relating to the release of information contained in documents. The amendment clarifies that information in a document may be released in electronic form or by electronic means.

Clause 76 amends section 18(e) to provide that a request for a document may be refused on the grounds that the document cannot be found only if reasonable efforts were made to locate it.

Clause 77 amends section 28, which sets out the functions of the Ombudsmen under the Act. *New section 28(4)* clarifies that an Ombudsman may review a failure by a department, a Minister, or an organisation to comply with the requirement to respond to a request for information as soon as is reasonably practicable. *New section 28(6)* provides that an Ombudsman may notify the Chief Archivist of any complaint relating to a refusal by a department, a Minister, or an organisation to provide information for any of the reasons specified in section 18(e) to (g) of the Act.

Part 24

Ombudsmen Act 1975

Clause 78 provides that *Part 24* amends the Ombudsmen Act 1975.

Clause 79 replaces section 17, which sets out the grounds on which the Ombudsman can refuse to investigate, or refuse to further investigate, a complaint. While section 17 provides that an Ombudsman can refuse to investigate a complaint further if it appears that further investigation is unnecessary, it does not expressly allow an Ombudsman to refuse to commence an investigation on the grounds that an investigation is unnecessary. This means that a formal investigation has to commence (by the process set out in section 18) even if it is to be immediately followed by notice that the Ombudsman is going to refuse to investigate the complaint further. This is administratively inefficient. *New section 17(1)(f)(i)* therefore allows an Ombudsman to refuse to investigate a complaint on the grounds that it is unnecessary, without having to commence a formal investigation first. The section is recast entirely to set out the existing provision in more modern style while making that single substantive change.

Part 25

Pork Industry Board Act 1997

Clause 80 provides that *Part 25* amends the Pork Industry Board Act 1997.

Clause 81 amends section 45(1) and (2) to ensure that every authorised person may execute a search warrant issued under those provisions.

Part 26

Reserves Act 1977

Clause 82 provides that *Part 26* amends the Reserves Act 1977.

Clause 83 amends section 12 to allow for the transfer to the Crown of reserves vested in and administered by local authorities. The need for this to be made explicit in the Act was highlighted by the recent District Court case of *Department of Conservation v Woolley* CRI-2010-006-001793 (2 August 2011).

Clauses 84, 85, and 86 amend sections 48A, 114, and 115, respectively, by removing references to section 26, which limit the application of those sections to reserves that were originally vested in the Crown.

Part 27

Sale and Supply of Alcohol Act 2012

Clause 87 states that *Part 27* amends the Sale and Supply of Alcohol Act 2012.

Clause 88 amends section 81, which relates to appeal rights against provisional local alcohol policies, to clarify that the period for appealing against elements of a provisional local alcohol policy runs from the notification of that provisional policy, and not from the notification of the original draft policy.

Clause 89 amends section 83, which relates to determinations to be made on appeals against provisional local alcohol policies, to replace an incorrect reference to a draft policy with a reference to a provisional policy.

Clause 90 recasts a provision in section 102, which relates to objections to the granting of licences, to clarify that objections are limited to the suitability of the applicant in the case of an application for a

licence that is of the same kind, and is subject to the same conditions, as the current licence for the premises concerned.

Clause 91 amends section 135, which relates to decisions on renewal, to clarify that the licensing authority, as well as a licensing committee, has to state a date for the expiry of a licence where a renewal is refused.

Clause 92 amends the heading to section 232 to provide a fuller indication of the contents of the section.

Clause 93 amends section 371, which relates to the qualification of electors of trustees of community trusts, to clarify that electors must reside in the trust district.

Part 28

Sentencing Act 2002

Clause 94 provides that *Part 28* amends the Sentencing Act 2002.

Clause 95 amends section 140A, which provides the procedure to be followed if the lessor (not being the offender or a substitute for the offender whose motor vehicle has been confiscated) under a lease of a confiscated motor vehicle (not being a motor vehicle that is to be destroyed under section 129A or 136(4)) applies to the Registrar, after the Registrar has sold or disposed of the motor vehicle but before the proceeds of the sale have been fully applied, for the transfer of the motor vehicle to the lessor as if the offender or the substitute had breached the terms of the lease. Section 140A(2) permits the lessor to apply to the court for the release of the proceeds of the sale that have not been applied. On the application, the Registrar or a District Court Judge may release the proceeds of the sale in accordance with section 140A(4) and (5). Those subsections require the proceeds of the sale to be applied as if the lease were a security agreement and the lessor were a secured party, but also in different ways depending on whether the term of the lease is more or less than 1 year.

If the lease is for a term of more than 1 year, those proceeds must be applied (under section 140A(5)(b)(ii)) for the payment to the lessor as if they were payments to a secured party under an established security agreement of the amount to which the secured party would, but for the extinguishment of the security interest concerned, have been entitled under that agreement, in the order of priority (if those proceeds are to be applied to 2 or more security interests) determined for those

security interests by Part 7 or 8 of the Personal Property Securities Act 1999.

If the lease is for a term of less than 1 year, those proceeds must be applied (under section 140A(5)(b)(i), which was informed by the terms of the Personal Property Securities Act 1999) for the payment to the lessor—

- after they are applied for impoundment and sale costs; but
- before they are applied for other described payments (including payments to a secured party under an established security agreement).

But section 140A(5)(b)(i) and (ii) does not indicate how those proceeds are to be applied if the term of the lease is for exactly 1 year. Section 140A(5)(b)(i) is therefore amended so that it specifies how those proceeds are to be applied if the term of the lease is for (less than 1 year or) exactly 1 year.

Part 29

Summary Proceedings Act 1957

Clause 96 provides that *Part 29* amends the Summary Proceedings Act 1957.

Clause 97 amends section 24(3). Section 24(3) relates to service of a document required to be served on a defendant, and that is served on the defendant—

- by being sent to the defendant by prepaid post addressed to the defendant at the defendant’s last known or usual place of residence or at the defendant’s place of business; or
- in the case of a notice relating to an infringement offence, by being sent by letter by prepaid post addressed to the defendant at the defendant’s last known place of residence or business.

Section 24(3) ensures, if service is effected in either of those ways, that, unless the contrary is shown, service is deemed to have been effected on the person to whom the letter is addressed at the time when the letter would have been delivered in the ordinary course of post, and also that, in proving service, it is sufficient to prove that the letter was properly addressed and posted. For greater certainty, the reference to “at the time when the letter would have been delivered in the ordinary course of post” is replaced with a reference to “on the 6th working day after the day on which the letter was posted”.

(Working day is not defined in the Summary Proceedings Act 1957, and therefore has the meaning given to it by section 29 of the Interpretation Act 1999.) The date of service of an infringement notice or reminder notice, for example, which is a date of service referred to, for example, in section 21(2)(b) or (3)(b), will therefore be presumed (under section 24(3) as amended), unless the contrary is shown, to be the 6th working day after the date on which the notice is posted.

Clause 98 amends section 78C(5). Section 78C(3) provides that, in the case of an infringement notice issued for an owner liability offence, the defendant is not eligible to rely on the (irregularity correction power) ground stated in section 78B(1)(a)(ii) (which relates to not in fact receiving the reminder notice required to have been served on the defendant under section 21) unless the Registrar is satisfied that, at the date of the commission of that offence, the defendant complied or was not responsible for complying with any applicable obligations imposed on the defendant by Part 17 of the Land Transport Act 1998 and any regulations made under that Act in respect of the motor vehicle to which the infringement notice relates. The definition of owner liability offence in section 78C(5) is amended to replace a reference to the repealed section 41A of the Transport Act 1962 with a reference to the corresponding successor enactment: section 133A of the Land Transport Act 1998.

Clause 99 amends section 79(1) and, in particular, paragraph (a) of the definition of traffic offence. The amendment reinstates a reference to the Road User Charges Act 1977 (the **1977 Act**). Section 94 and Schedule 3 of the Road User Charges Act 2012 (the **2012 Act**) on 1 August 2012 replaced the reference to the 1977 Act with a reference to the new 2012 Act. The reference to the 1977 Act needs to be reinstated, however, to make it clear that outstanding fines imposed under either the 1977 Act or the 2012 Act can be enforced under the Part 3 (Enforcement of fines) provisions that apply only to traffic fines (defined by section 79(1) as fines payable in respect of traffic offences).

Clause 100 amends section 88AE. Section 88AE specifies powers of a District Court Judge or Community Magistrate after considering a Registrar's report (on the circumstances of the case that involves enforcement action to resolve an unpaid fine) under section 88AD(2)(c). The heading to section 88AE and section 88AE(1) are amended to ensure that they refer and apply not only to a Regis-

trar's report under section 88AD(2)(c), but also to an equivalent Registrar's report under section 88(2)(b). The amendment restores the position under section 88(3) as in force before 13 February 2012 (which is the date on which section 88 was, under section 25 of the Summary Proceedings Amendment Act 2011, replaced with new sections 88 to 88AG).

Clause 101 amends section 92D. Section 92D relates to (credit reporters or other) recognised users submitting to the chief executive (for the purposes of a fines enforcement option called Credit Reporting of Fines) fine status queries (queries as to whether a query subject has a default balance and, if so, the amount of that balance). A fine status query must (section 92D(1)(d)(i)) provide an assurance that the query subject has consented—

- to the submission of a fine status query that includes the identifying particulars of the query subject; and
- to any resulting fine status response being disclosed to the recognised user and, if the recognised user is a credit reporter, also to any subscriber on whose behalf the fine status response is sought.

A recognised user who sends a fine status query must (section 92D(2)) keep, for the period specified by regulations made under section 92I, a record evidencing the consent given by the query subject for the purpose of the fine status query. Section 92D(2) is amended so that what the recognised user who sends the fine status query must keep, for the specified period, is not a record (usually kept by the recognised user's subscriber) evidencing that consent given, but instead only (and as is more consistent with the requirements of section 92D(1)(d)(i)) a record evidencing the assurance (provided by the query) of that consent given.

Clause 102 amends section 92I(1)(n). Section 92I(1)(n) authorises the making of regulations providing for status as a recognised user to be terminated by the Minister for Courts in specified circumstances (even though that person comes within the definition of registered user in section 92A). The amendment aligns section 92I(1)(n) with the terms of that definition (and of the Privacy Act 1993) by replacing references to a person with references to an agency.

Clause 103 amends section 100I. Section 100I provides the procedure to be followed if the lessor under a lease of a motor vehicle seized in respect of a traffic fine applies to the Registrar, after the Registrar

has sold or disposed of the motor vehicle but before the proceeds of the sale have been fully applied, for the transfer of the motor vehicle to the lessor as if the offender or the substitute had breached the terms of the lease. Section 100I(2) permits the lessor to apply to the court for the release of the proceeds of the sale that have not been applied. On the application, the Registrar or a District Court Judge may release the proceeds of the sale in accordance with section 100I(4) and (5). Those subsections require the proceeds of the sale to be applied as if the lease were a security agreement and the lessor were a secured party, but also in different ways depending on whether the term of the lease is more or less than 1 year.

If the lease is for a term of more than 1 year, those proceeds must be applied (under section 100I(5)(b)(ii)) for the payment to the lessor as if they were payments to a secured party under an established security agreement of the amount to which the secured party would, but for the extinguishment of the security interest concerned, have been entitled under that agreement, in the order of priority (if those proceeds are to be applied to 2 or more security interests) determined for those security interests by Part 7 or 8 of the Personal Property Securities Act 1999.

If the lease is for a term of less than 1 year, those proceeds must be applied (under section 100I(5)(b)(i), which was informed by the terms of the Personal Property Securities Act 1999) for the payment to the lessor—

- after they are applied for impoundment and sale costs; but
- before they are applied for other described payments (including payments to a secured party under an established security agreement).

But section 100I(5)(b)(i) and (ii) does not indicate how those proceeds are to be applied if the term of the lease is for exactly 1 year. Section 100I(5)(b)(i) is therefore amended so that it specifies how those proceeds are to be applied if the term of the lease is for (less than 1 year or) exactly 1 year.

Part 30

Tariff Act 1988

Clause 104 provides that *Part 30* amends the Tariff Act 1988.

Clause 105 amends section 2 to replace the definitions of chief executive and Minister. The current definition of chief executive refers to the Ministry of Economic Development, which no longer exists. The current definition of Minister is limited to the Minister of Commerce. The new definitions provide more flexibility, so that the Act does not need to be changed as titles or responsibilities of Ministers or departments change.

Part 31

Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977

Clause 106 provides that *Part 31* amends the Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977.

Clause 107 amends section 6, which prohibits foreign fishing craft fishing in the territorial sea of Tokelau. The amendment—

- increases the maximum penalty on conviction to \$250,000; and
- removes the difference in penalties between the owner, master, and any other crew member of a foreign fishing craft.

Clause 108 amends section 8, which relates to the Governor-General's regulation-making powers for control of fishing in the exclusive economic zone of Tokelau. The amendment—

- increases the maximum penalty that may be provided in the case of an unlicensed foreign fishing craft to \$500,000; and
- increases the maximum penalty that may be provided in the case of a licensed foreign fishing craft to \$250,000; and
- removes the differences in penalties between the owner, master, and any other crew member of both unlicensed and licensed foreign fishing craft.

Clause 109 amends section 11, which relates to the Governor-General's general regulation-making powers. The amendment increases the maximum penalty that may be provided for a breach of regulations made under this section from \$10,000 to \$250,000.

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

Clause 110 provides that *Part 32* amends the Trade in Endangered Species Act 1989.

Clause 111 amends section 38 to clarify that a warrant may be issued to more than 1 officer.

Part 33**Wildlife Act 1953**

Clause 112 provides that *Part 33* amends the Wildlife Act 1953.

Clause 113 amends the definition of threatened species in section 2(1) to correct a reference to section 2(1A).

Hon Chester Borrows

Statutes Amendment Bill (No 4)

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Statutes Amendment Act (No 4) **2014**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1
Animal Welfare Act 1999

- 3 Principal Act**
This Part amends the Animal Welfare Act 1999 (the **principal Act**). 10
- 4 Section 131 amended (Search warrants)**
In section 131(1), replace “authorise the constable or the inspector” with “authorise every constable and inspector”.

Part 2
Antarctica (Environmental Protection)
Act 1994

- 5 Principal Act**
This Part amends the Antarctica (Environmental Protection) Act 1994 (the **principal Act**). 5
- 6 Section 28 amended (Acts prohibited except in accordance with permit)**
- (1) In section 28(1)(b), after “mammal”, insert “or native invertebrate”. 10
- (2) Replace section 28(1)(e) with—
“(e) introduce onto land or ice shelves or sea ice or into water in Antarctica any living organism (including, but not limited to, any species of animal, plant, or micro-organism) not native to that area; or”. 15
- (3) After section 28(1)(e), insert—
“(ea) introduce onto land or ice shelves or sea ice or into water in Antarctica any living bird; or”. 15
- (4) In section 28(3),—
(a) replace “dressed poultry” with “poultry or avian products”: 20
(b) delete “Appendix C to”.
- 7 Section 32 amended (Restrictions on permits to introduce non-indigenous animals, plants, or micro-organisms into Antarctica)** 25
In section 32,—
(a) replace “into Antarctica” with “onto land or ice shelves or sea ice or into water in Antarctica”:
(b) replace “animal, plant, or micro-organism” with “living organism (including, but not limited to, any species of animal, plant, or micro-organism)”. 30

Part 3 Biosecurity Act 1993

- 8 Principal Act**
This Part amends the Biosecurity Act 1993 (the **principal Act**). 5
- 9 Section 24E amended (Meaning of craft risk management standard)**
In section 24E(1)(a), after “territory”, insert “or the arrival of craft in the EEZ”.
- 10 Section 110 amended (Warrant to inspect dwellinghouse, marae, etc)** 10
- (1) In section 110(1), replace “authorising the inspector or authorised person” with “authorising every inspector and authorised person”.
- (2) In section 110(3)(a), replace “authorises the inspector or authorised person” with “authorises every inspector and authorised person”. 15
- 11 Section 142A amended (Establishment)**
In section 142A(5)(a), replace “in the public domain” with “that is publicly available, as defined in **section 142C(7)**”. 20
- 12 Section 142C amended (Access, use, or disclosure)**
- (1) Replace the heading above section 142C(1) with:
“*Publicly available information*”.
- (2) In section 142C(1), replace “comes from the public domain” with “is publicly available”. 25
- (3) Replace the heading above section 142C(2) with:
“*Information that is not publicly available*”.
- (4) In section 142C(2), (4), and (5), replace “comes from any other source” with “is not publicly available”.
- (5) After section 142C(2)(f), insert: 30
“(g) to access, use, or disclose it for statistical or research purposes, provided that the information accessed, used, or disclosed—

- “(i) does not identify any person; and
“(ii) is not published in any form that could reasonably be expected to identify any person:
“(h) to authorise other persons to access and use it for statistical or research purposes, provided that the information used— 5
“(i) does not identify any person; and
“(ii) is not published in any form that could reasonably be expected to identify any person.”
- (6) After section 142C(6), insert: 10
“Meaning of publicly available
- “(7) In this section and section 142A(5)(a), information that is **publicly available** means information that—
“(a) comes directly or indirectly from a source that is, or was at the time of collection, available to the public; or 15
“(b) the Director-General believes on reasonable grounds is available to the public.”
- 13 Section 161 amended (Evidence in proceedings)**
- (1) In section 161(2)(d) and (e), delete “by that chief technical officer” in each place. 20
- (2) In section 161(2)(d)(ii), replace “the certificate:” with “the certificate; or”.
- (3) After section 161(2)(d)(ii), insert:
“(iii) a person accredited for a particular function under section 103(7):”. 25
- (4) In section 161(2)(e)(ii), replace “the certificate:” with “the certificate; or”.
- (5) After section 161(2)(e)(ii), insert:
“(iii) a person accredited for a particular function under section 103(7):”. 30
- (6) Replace section 161(2)(f) with:
“(f) a certificate purporting to be signed by the principal officer of a regional council stating that a person specified in the certificate is—
“(i) an authorised person appointed under section 103(3) in relation to a regional pest management plan or a regional pathway management plan or 35

- a small-scale management programme specified or described in, or attached to, the certificate; or
- “(ii) a person accredited for a particular function under section 103(7).”.

Part 4

5

Births, Deaths, Marriages, and Relationships Registration Act 1995

14 Principal Act

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

10

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

(1) Replace section 21A(2) with:

“(2) A person applying for registration of a name change must—

“(a) complete the standard form and provide it to the Registrar-General; and

15

“(b) pay the prescribed fee (if any); and

“(c) deposit 1 of the following with the Registrar-General:

“(i) a statutory declaration made, in accordance with subsection (3), by an eligible person or the guardian of an eligible person (accompanied by the eligible person’s written consent if the eligible person is 16 years of age or older and the application was made by the eligible person’s guardian); or

20

“(ii) a deed poll executed before 1 September 1995, evidencing any change in the eligible person’s names; or

25

“(iii) a copy of a deed poll executed and filed in an office of the High Court before 1 September 1995 and certified by a Registrar of the court in which it was filed.”

30

(2) In section 21A(3), replace “subsection (2)(a)” with “**subsection (2)(c)(i)**”.

(3) After section 21A(3), insert:

35

- “(3A) The Registrar-General may require a person before whom the statutory declaration referred to in **subsection (2)(c)(i)** is made—
- “(a) to verify the identity of the eligible person or the guardian of the eligible person, or both, in a manner specified by the Registrar-General; and 5
- “(b) to state whether he or she is satisfied of the identity of the eligible person or the guardian of the eligible person, or both.”
- (4) In section 21A(4), replace “deposited with” with “provided to”. 10
- (5) After section 21A(4), insert:
- “(4A) The Registrar-General may require a person applying for registration of a name change to provide, with the standard form referred to in **subsection (2)(a)** or separately, any means of identification that is reasonably necessary to confirm the identity of the eligible person or the guardian of the eligible person, or both.” 15
- (6) In section 21A(5), replace “deposited under subsection (4)” with “provided under subsection (4) or **(4A)**”. 20

Part 5

Commodity Levies Act 1990

- 16 **Principal Act**
This Part amends the Commodity Levies Act 1990 (the **principal Act**). 25
- 17 **Section 19 amended (Power of search)**
 In section 19(1), replace “authorise the constable or person” with “authorise every constable and designated person”.

Part 6

Copyright Act 1994

- 18 **Principal Act**
This Part amends the Copyright Act 1994 (the **principal Act**). 30

- 19 Section 206 amended (Membership of Tribunal)**
- (1) Replace section 206(1) with:
“(1) The Tribunal consists of a chairperson and at least 2, but not more than 5, other persons.”
- (2) In section 206(3), delete “5”. 5

**Part 7
Forests Act 1949**

- 20 Principal Act**
This Part amends the Forests Act 1949 (the **principal Act**).
- 21 Section 71B amended (Restrictions on exercise of power of entry)** 10
In section 71B(1)(e), replace “may issue a warrant directed to the authorised person by name directing him to enter for the stated purpose” with “may issue a warrant to every authorised person to enter for the stated purpose”. 15

**Part 8
Friendly Societies and Credit Unions Act
1982**

- 22 Principal Act**
This Part amends the Friendly Societies and Credit Unions Act 1982 (the **principal Act**). 20
- 23 Section 10 repealed (Annual report)**
Repeal section 10.

**Part 9
Governor-General Act 2010** 25

- 24 Principal Act**
This Part amends the Governor-General Act 2010 (the **principal Act**).

- 25 Section 12 amended (Permanent appropriation for salary, allowance, annuities, etc)**
In section 12(a), after “section 5”, insert “and compulsory remuneration-related payments”.

Part 10

5

Heavy Engineering Research Levy Act 1978

- 26 Principal Act**
This Part amends the Heavy Engineering Research Levy Act 1978 (the **principal Act**). 10
- 27 Section 5 amended (Minister may prescribe rates of research levy)**
In section 5(1), replace “the New Zealand Manufacturing Engineer’s Federation (Incorporated)” with “The New Zealand Manufacturers and Exporters Association Incorporated”. 15
- 28 Schedule 2 amended**
In the Schedule 2 heading, replace “\$5” with “\$20”.
- 29 Schedule 3 amended**
In the Schedule 3 heading, replace “5 cents” with “10 cents”.

Part 11

20

Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004

- 30 Principal Act**
This Part amends the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 (the **principal Act**). 25
- 31 Section 8B amended (Function and powers of Deputy Commissioner)**
After section 8B(1)(b)(iii), insert:
“(iv) if the Commissioner decides to refer a complaint to the Deputy Commissioner.” 30

- 32 Section 16 amended (Commissioner must dismiss complaints that fail to meet required threshold)**
- (1) In section 16(1), replace “he or she” with “the Commissioner”.
- (2) Replace section 16(1)(i) with:
- “(i) he or she has previously considered the subject matter of the complaint, and the complaint fails to raise any issue of significance that he or she has not previously considered.” 5
- Part 12**
- Land Transport Act 1998** 10
- 33 Principal Act**
This Part amends the Land Transport Act 1998 (the **principal Act**).
- 34 Section 74 amended (Procedure for dealing with blood specimens)** 15
In section 74(7)(c), delete “part of the”.
- 35 Section 79V replaced (Search warrants in relation to offences against section 79T or 79U)**
- Replace section 79V with:
- “79V Search warrants in relation to offences against section 79T or 79U** 20
- “(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a search warrant in relation to a place, vehicle, or other thing if, on application made by a constable in the manner provided in subpart 3 of Part 4 of that Act, he or she is satisfied that there are reasonable grounds— 25
- “(a) to suspect that an offence has been, is being, or will be committed against section 79T or 79U; and
- “(b) to believe that the search will find evidential material in respect of the offence in the place, vehicle, or other thing. 30
- “(2) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.

“(3) Despite **subsection (2)**, sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.”

36 Section 91A amended (Interpretation)

In section 91A, definition of **traffic offence**, paragraph (a), after “the Transport (Vehicle and Driver Registration and Licensing) Act 1986,”, insert “the Road User Charges Act 1977,”. 5

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

(1) In section 140(2)(c), after “alleged offence”, insert “; and”. 10

(2) After section 140(2)(c), insert:

“(d) in the case of an alleged infringement offence that is a stationary vehicle offence, include a summary of the provisions of section 133A.” 15

38 Search and Surveillance Act 2012 consequentially amended

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

(2) In the Schedule, item relating to the Land Transport Act 1998, before the item relating to section 119(1) and (2) of that Act, insert: 20

79V	Constable may obtain and execute a search warrant to search for evidence of offence against section 79T or 79U of Land Transport Act 1998	All (except that sections 118 and 119 apply to constables only)
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**Part 13
Land Transport Management
Amendment Act 2008**

39 Principal Act

This Part amends the Land Transport Management Amendment Act 2008 (the **principal Act**). 25

- 40 Section 47 amended (Consequences of establishment of New Zealand Transport Agency)**
In section 47(1), replace “1 July 2008” with “1 August 2008”.

Part 14

Local Government Act 1974

5

- 41 Principal Act**
This Part amends the Local Government Act 1974 (the **principal Act**).
- 42 Section 342 amended (Stopping and closing of roads)**
In section 342(1)(a), delete “(not being a borough council)”. 10
- 43 Schedule 10 amended**
In Schedule 10, clause 11, replace “Ministry of Transport” with “New Zealand Transport Agency”.

Part 15

Local Government Act 2002

15

- 44 Principal Act**
This Part amends the Local Government Act 2002 (the **principal Act**).
- 45 Section 169A amended (Proving substance is alcohol in relation to alleged breach of alcohol ban)**
In section 169A(3)(b), replace “given” with “served on the prosecution”. 20

Part 16

Local Government (Auckland Council) Act 2009

25

- 46 Principal Act**
This Part amends the Local Government (Auckland Council) Act 2009 (the **principal Act**).

47 Section 46 amended (Functions and powers of Auckland Transport acting as local authority or other statutory body)

- (1) Repeal section 46(1)(b).
- (2) In section 46(1)(d), replace “sections 591, 591A, and 684” with “section 591”. 5
- (3) Replace section 46(1)(f) with:
- “(f) the functions and powers of an enforcement authority under the Land Transport Act 1998 in relation to prosecuting infringement offences under that Act that relate to— 10
- “(i) the use of special vehicle lanes within Auckland:
- “(ii) a failure to pay a public transport service fare.”
- (4) In section 46(3), replace “subsection (1)(f)” with “subsection (1)(~~f~~)(i)”. 15

Part 17

Local Government Official Information and Meetings Act 1987

48 Principal Act

This Part amends the Local Government Official Information and Meetings Act 1987 (the **principal Act**). 20

49 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in its appropriate alphabetical order:
- “**legal professional privilege** means the privilege that a person— 25
- “(a) has under section 54 or 56 of the Evidence Act 2006 to require communications or information not to be disclosed in a proceeding; or
- “(b) would have under section 54 or 56 of the Evidence Act 2006 to require communications or information not to be disclosed in a proceeding, if a proceeding were to be instituted”. 30
- (2) Replace section 2(6) with:
- “(6) Any information held by an independent contractor engaged by any local authority in his or her capacity as an independent 35

contractor is, for purposes of this Act, deemed to be held by the local authority.”

50 Section 4 amended (Purposes)

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

5

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

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

52 Section 10 amended (Requests)

10

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

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

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

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

15

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

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

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

20

53 Section 12 amended (Transfer of requests)

25

In section 12,—

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

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

54 Section 13 amended (Decisions on requests)

30

After section 13(6), insert:

“(7) If a request is amended or clarified after the date on which it is received, the local authority that receives the request may

treat the amended or clarified request as a new request for the purposes of subsection (1).

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

55 Section 15 amended (Documents) 10

After section 15(1), insert:

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

56 Section 17 amended (Refusal of requests) 15

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

57 Section 27 amended (Functions of Ombudsmen)

- (1) Replace section 27(4) with:
- “(4) For the purposes of subsection (1)(a), a refusal to make official information available includes, without limitation, a failure by the local authority to comply with section 13(1)— 20
- “(a) as soon as is reasonably practicable, or at the latest within 20 working days, after receiving the request; or
 - “(b) within an extended time limit notified under section 14(3) to the person who requested the information.” 25
- (2) After section 27(5), insert:
- “(6) If an Ombudsman receives a complaint that a local authority has refused to make official information available for any of the reasons specified in section 17(1)(e) to (g), the Ombudsman may notify the Chief Archivist appointed under the Public Records Act 2005.” 30

Part 18

Marine Mammals Protection Act 1978

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

Part 19

Misuse of Drugs Amendment Act 1978 10

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

Part 20

National Animal Identification and Tracing Act 2012

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

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

Part 21 National Parks Act 1980

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

Part 22 Ngāti Manuhiri Claims Settlement Act 2012

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

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

Part 23
Official Information Act 1982

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

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

73 Section 14 amended (Transfer of requests)

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In section 14,—

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

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

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74 Section 15 amended (Decisions on requests)

After section 15(1), insert:

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

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

“(a) the request is amended or clarified because the department or Minister of the Crown or organisation to which the request was made sought an amendment to, or a clarification of, the request; and

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“(b) the department or Minister of the Crown or organisation did not seek that amendment or clarification within 7 working days after receiving the request.”

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75 Section 16 amended (Documents)

After section 16(1), insert:

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

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76 Section 18 amended (Refusal of requests)

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

77 Section 28 amended (Functions of Ombudsmen)

(1) Replace section 28(4) with:

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

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

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

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

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

Part 24 Ombudsmen Act 1975

78 Principal Act

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

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

Replace section 17 with:

“**17 Ombudsman may refuse to investigate complaint** 25

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

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

“(b) the complaint relates to a decision, recommendation, act, or omission that the complainant has known about for more than 12 months; or

- “(c) the subject matter of the complaint is trivial; or
“(d) the complaint is frivolous or vexatious or is not made in good faith; or
“(e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or 5
“(f) having regard to all the circumstances of the case,—
“(i) following preliminary inquiries, an investigation is unnecessary; or
“(ii) having commenced an investigation, further investigation is unnecessary. 10
- “(2) If an Ombudsman refuses to investigate or further investigate a complaint, the Ombudsman must inform the complainant of the decision and give his or her reasons for it.”

Part 25

Pork Industry Board Act 1997

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80 Principal Act

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

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

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

Part 26

Reserves Act 1977

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82 Principal Act

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

83 Section 12 amended (Minister’s powers)

After section 12(4), insert:

- “(5) The Minister may, with the prior written agreement of a local authority, declare by notice in the *Gazette* that a reserve, or any part of a reserve,— 30

- “(a) ceases to be vested in and administered by the local authority and instead vests in the Crown; and
“(b) has such classification under this Act as may be specified in the *Gazette* notice, or be included in any existing reserve under this Act; and
“(c) be administered in accordance with that classification. 5
“(6) The notice must be registered in the office of the Registrar-General of Land.”
- 84 Section 48A amended (Use of reserve for communications station)** 10
Repeal section 48A(6).
- 85 Section 114 amended (Variation of covenants, terms, and conditions in leases and licences)**
Repeal section 114(5).
- 86 Section 115 amended (Transfers, subleases, and mortgages)** 15
Repeal section 115(6).

Part 27

Sale and Supply of Alcohol Act 2012

- 87 Principal Act** 20
This Part amends the Sale and Supply of Alcohol Act 2012 (the **principal Act**).
- 88 Section 81 amended (Right of appeal to licensing authority)**
Replace section 81(1) and (2) with: 25
- “(1) A person or an agency that made submissions as part of the special consultative procedure on a draft local alcohol policy may, within 30 days of the public notification of the resulting provisional local alcohol policy, appeal to the licensing authority against any element of that provisional local alcohol policy. 30
“(2) The Police or a Medical Officer of Health may, within 30 days of the public notification of the resulting provisional local

alcohol policy, appeal to the licensing authority against any element of that provisional local alcohol policy.”

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

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

90 Section 102 amended (Objections to applications)

Replace section 102(4) with:

“(4) This subsection applies to an application— 10

“(a) for a licence for premises that is of the same kind as the licence currently in force for those premises; and

“(b) in which the conditions sought are the same as apply to that licence.

“(4A) In the case of an application to which **subsection (4)** applies, the ground for an objection may not relate to any matter other than the suitability of the applicant.” 15

91 Section 135 amended (Decision on renewal)

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

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

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

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93 Section 371 amended (Who is qualified to vote in election of trustees of community trust)

In section 371(1), replace “that district” with “the trust district”.

Part 28 Sentencing Act 2002

- 94 **Principal Act**
This Part amends the Sentencing Act 2002 (the **principal Act**). 5
- 95 **Section 140A amended (What happens if lessor does not apply to Registrar before motor vehicle sold or disposed of)**
In section 140A(5)(b)(i), replace “less than 1 year” with “1 year or less”. 10

Part 29 Summary Proceedings Act 1957

- 96 **Principal Act**
This Part amends the Summary Proceedings Act 1957 (the **principal Act**). 15
- 97 **Section 24 amended (Mode of service of documents on defendant)**
In section 24(3), replace “at the time when the letter would have been delivered in the ordinary course of post” with “on the 6th working day after the day on which the letter was posted”. 20
- 98 **Section 78C amended (Certain defendants ineligible to rely on non-receipt of reminder notice)**
In section 78C(5), replace “section 41A of the Transport Act 1962 or section 133” with “section 133 or 133A”. 25
- 99 **Section 79 amended (Interpretation)**
In section 79(1), definition of **traffic offence**, paragraph (a), after “the Transport Act 1962,”, insert “the Road User Charges Act 1977,”.

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

- (1) In the heading to section 88AE, replace “88AD” with “88(2)(b) or 88AD(2)(c)”. 5
- (2) In section 88AE(1), replace “88AD” with “88(2)(b) or 88AD(2)(c)”.

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

In section 92D(2), after “evidencing the”, insert “assurance of the”. 10

102 Section 92I amended (Regulations)

In section 92I(1)(n),—

- (a) replace “a person’s” with “an agency’s”;
- (b) replace “person” with “agency”. 15

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

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

**Part 30
Tariff Act 1988**

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104 Principal Act

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

105 Section 2 amended (Interpretation)

- (1) In section 2(1), replace the definition of **chief executive** with: 25
“**chief executive**, in any provision, means the chief executive of the department responsible for the administration of that provision”.
- (2) In section 2(1), replace the definition of **Minister** with: 30
“**Minister**, in any provision, means the Minister of the Crown who, under the authority of any warrant or with the authority

of the Prime Minister, is for the time being responsible for the administration of that provision”.

Part 31
Tokelau (Territorial Sea and Exclusive
Economic Zone) Act 1977

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- 106 Principal Act**
This Part amends the Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977 (the **principal Act**).
- 107 Section 6 amended (Prohibition of foreign fishing in territorial sea)** 10
Replace section 6(2) with:
- “(2) If a foreign fishing craft is used in contravention of subsection (1), the owner, the master, and every crew member of the craft commits an offence and are each liable on conviction to a fine not exceeding \$250,000.” 15
- 108 Section 8 amended (Control of foreign fishing in zone)**
Replace section 8(1)(k) with:
- “(k) providing that a breach of any regulation made under this section is an offence and imposing fines as penalties for any such offences, not exceeding,— 20
- “(i) in the case of the owner or master or any other crew member of an unlicensed foreign fishing craft, \$500,000; and
- “(ii) in the case of the licensee or master or any other crew member of a licensed foreign fishing craft, 25
 \$250,000.”.
- 109 Section 11 amended (General regulations)**
In section 11(h), replace “\$10,000” with “\$250,000”.

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

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

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111 Section 38 amended (Powers of search)

(1) In section 38(2), replace “on application made in the manner provided in subpart 3 of Part 4 of that Act” with “on application made by an officer in the manner provided in subpart 3 of Part 4 of that Act”.

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(2) In section 38(2), replace “may issue a search warrant to that officer” with “may issue a search warrant to every officer named in the warrant”.

Part 33**Wildlife Act 1953**

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112 Principal Act

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

113 Section 2 amended (Interpretation)

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

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