

Statutes Amendment Bill (No 5)

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 261(1)(e).

Clause by clause analysis

Clause 1 relates to the Bill's title.

Clause 2 is a commencement provision. It provides that all amendments contained in the Bill come into force on the day after Royal assent.

Part 1

Animal Welfare Act 1999

Clause 4 substitutes a *new section 167* into the principal Act. The amendment extends the time for the laying of an information in relation to offences against the principal Act, or regulations made under the principal Act, from 1 year to 2 years if the offence was committed on or after the date on which *new section 167* comes into force. The time for the laying of an information in relation to an offence committed before the date on which *new section 167* comes into force remains at 1 year.

Part 2

Biosecurity Act 1993

Clauses 6 and 7 amend sections 101 and 102 respectively of the principal Act to clarify that the chief executive (including the Director-General) may not delegate the power to appoint chief technical officers or deputy chief technical officers.

Clause 8 amends section 105(1) of the principal Act. The amendment limits the application of section 105(1) to principal officers or chief technical officers so that it no longer applies to Ministers or chief executives as previously prescribed. This amendment aligns delegations of Ministers and chief executives under the principal Act with their delegations under other Acts that the Ministry of Agriculture and Forestry administers.

Part 3

Cadastral Survey Act 2002

Clause 10 substitutes a *new section 8(4)* into the principal Act to ensure that the provision is consistent with section 5(4) of the Land Transfer Act 1952 and the delegation of the Registrar-General of Land's powers. The amendment also ensures consistency with the delegation of the functions and powers of the chief executives of government departments and other bodies under section 41(7) of the State Sector Act 1988.

Clause 11 amends section 49(1)(a) of the principal Act by omitting the word "cadastral" from the phrase "cadastral survey marks". This amendment is necessary to extend coverage to include geodetic survey marks that would otherwise not be included.

Clause 12(1) amends the heading to section 55 of the principal Act to read "Interference with survey marks".

Clause 12(2) and (3) amends section 55(3) and (6)(a) of the principal Act by omitting the word "cadastral" from the phrase "cadastral survey mark". These amendments are necessary to extend coverage to include geodetic survey marks that would otherwise not be included.

Part 4

Commerce Act 1986

Clauses 14 and 15 rectify the omission of the word "not" in sections 66(3) and 67(3) of the principal Act.

Part 5

Continental Shelf Act 1964

Clause 17 amends section 2(1) of the principal Act. The amendments substitute a new definition of **continental shelf**, and add a related definition of the shelf's **seaward-side boundaries**. The amendments make no substantive changes, but make clearer that the definition of **continental shelf** may be modified by orders, under section 2(2) of the principal Act, delineating the shelf's actual boundaries.

Part 6

Criminal Investigations (Bodily Samples) Act 1995

This Part makes a number of minor amendments to the principal Act and the Criminal Investigations (Bodily Samples) Regulations 2004. The amendments made by *clause 19 and clause 22* are consequential amendments arising from the Health Practitioners Competence Assurance Act 2003 (which inserted a new definition of **nurse** into the principal Act, making references to “registered nurse” unnecessary).

Clause 19 amends the definition of **suitably qualified person** in the principal Act, by removing the word “registered” from the term “registered nurse”.

Clause 20 ensures that section 17A of the principal Act (as inserted by the Criminal Investigations (Bodily Samples) Amendment Act 2003) applies to juvenile compulsion orders. Section 17A of the principal Act provides that a Judge must specify the method of taking a bodily sample if a further suspect compulsion order is made in respect of a person for the same offence. No reference is currently made to section 17A in section 20, which applies sections 15 to 17 of the principal Act (which relate to adult suspect compulsion orders). Section 20 of the principal Act is amended so that section 17A also applies to juvenile compulsion orders.

Clause 21 reinstates the position that persons of or above the rank of sergeant can apply for an arrest warrant to detain a person to take a bodily sample. The words “of or” were inadvertently omitted in the Criminal Investigations (Bodily Samples) Amendment Act 2003, meaning only members of the police above the rank of sergeant can currently apply for a warrant under section 45 of the principal Act.

Clause 22 amends the Criminal Investigations (Bodily Samples) Regulations 2004, by substituting the word “nurse” for the words “registered nurse”.

Part 7

Dairy Industry Restructuring Act 2001

Clause 24(1) amends section 104(2) of the principal Act to allow redeemable preference shares to be issued if more than 5% of co-operative shares and supply redemption rights are surrendered in a season. *Clause 24(2)* amends section 104(3) of the principal Act following the amendment to section 104(2).

Part 8

Defence Act 1990

Clause 26 repeals section 96 of the principal Act, which provides for the administration of the Nelson Rifle Prize Fund (the **Fund**) by the Public Trust.

Clause 27 abolishes the Fund and provides that all money comprising the Fund held by the Public Trust on the commencement of *clause 26* must, on that commencement, be transferred to the cadet forces raised and maintained by the Minister of Defence under section 74 of the principal Act. *Clause 27* further provides that the money so transferred must be applied by the cadet forces only for certain specified purposes associated with the Nelson region.

Part 9

District Courts Act 1947

Clause 29 amends the section 79 of the principal Act that provides a right of appeal in respect of contempt of Court, by renumbering it as section 78A. This is necessary because at present 2 sections in the principal Act are numbered section 79.

Part 10

Flags, Emblems, and Names Protection Act 1981

The purpose of this Part is to make minor amendments to section 18 of the principal Act. Section 18 of the principal Act places restrictions on the use of the name “Returned Services’ Association” and the initials “RSA”.

Clause 31 amends section 18(3) of the principal Act by—

- changing the name “New Zealand Returned Services’ Association” in the current subsection (3)(b)(i) and (iv) to “Royal New Zealand Returned and Services’ Association” (*clause 31(b) and (e)*); and
- removing the current requirement that at least half the members of the associations referred to in subsection (3)(b)(ii) and (iv) must be returned servicemen (in the case of paragraph (b)(ii)) or returned servicemen, current servicemen, or former servicemen (in the case of paragraph (b)(iv)), and substituting a requirement that the membership criterion will be satisfied if the membership of the relevant association includes any servicemen from the applicable groups (*clause 31(c) and (d)*); and
- clarifying that subsections (3)(a), (3)(b), and (3)(c) are alternative, rather than cumulative, provisions (*clause 31(a) and (f)*).

Part 11

Forests Act 1949

Clauses 33 and 34 respectively repeal sections 4 and 4A of the principal Act. These amendments align delegations of Ministers and chief executives under the principal Act with their delegations under the other Acts that the Ministry of Agriculture and Forestry administers.

Part 12

Gambling Act 2003

Clause 36 amends the definitions of **game rules** and **housie** in section 4(1) of the principal Act.

The definition of **game rules** is amended for consistency with sections 21(1)(a) and 367(1) of the principal Act.

The definition of **housie** is amended to omit the requirement in paragraph (a) that the gambling satisfy any applicable game rules because the requirements relating to the various classes of gambling are set out in subpart 2 of Part 2 of the principal Act.

Clause 37 amends section 22(a)(i) of the principal Act for consistency with section 23 of the principal Act.

Clause 38 amends section 24 of the principal Act, which relates to the meaning of class 2 gambling. *Clause 38(1)* amends section 24(b) and (c) to deal with the situation where a gambling activity has

turnover or a total value of prizes that is too high to be class 1 gambling but too low to be class 2 gambling. To address this matter, the amendments remove the minimum threshold on turnover and total value of prizes specified in the definition of class 2 gambling. *Clause 38(2)* amends section 24 by adding a *new subsection (2)*. This clarifies, to avoid doubt, that class 2 gambling is gambling that is not class 1 gambling.

Clause 39 amends section 100 of the principal Act for consistency with the terminology used in other provisions of the principal Act.

Clause 40 substitutes *new section 104(5)* into the principal Act, which defines **gaming machine profits** for the purposes of that section and section 105 of the principal Act. The amendment sets out a specific definition of the term rather than relying on the existing definition in section 12B of the Gaming Duties Act 1971, which imports a time period for calculating gaming machine profits that is inappropriate in the circumstances.

Clause 41 amends section 154(3) of the principal Act. It inserts words that were unintentionally omitted from the provision.

Clause 42 corrects a drafting error in section 203(5) of the principal Act.

Clause 43 amends section 360(b) of the principal Act by omitting the reference to a “maximum” infringement fee for an infringement offence. The word is redundant because the provision already makes it clear what the maximum fees for infringement offences are.

Clause 44 amends section 367(1) of the principal Act for consistency with section 21(1)(a) of the principal Act.

Part 13

Incorporated Societies Act 1908

Amendments to principal Act

Clauses 46 to 49 amend sections 7, 8, 21(2), and 22 of the principal Act for the purpose of simplifying and modernising the procedures of application for registration as an incorporated society, for registration, for alteration of the rules of an incorporated society, and the keeping of the register of members. In addition, those provisions have been redrafted to conform with the modern drafting style. The changes include the following:

- the requirement that the application include a description of the members is dropped:

- the application need be accompanied by 1 copy only of the rules for the society:
- the requirement of a statutory declaration accompanying the application is replaced by the requirement of a certificate by an officer of the society or a solicitor:
- as only a single copy of the rules accompanies the application, the requirement that the Registrar return the second copy falls away:
- the requirement that an alteration of the rules be filed in duplicate is removed, and the requirement of an accompanying statutory declaration is replaced by the requirement of a certificate by an officer of the society or a solicitor:
- the requirement that the register of members include the occupations of members is removed.

Clause 50 makes a minor consequential amendment to the First Schedule of the principal Act required as a result of the redrafting of section 7 of the principal Act.

Amendments to amendment Act

Clauses 51 and 52 amend sections 3 and 4 of the amendment Act to mirror the changes made to sections 7 and 8 of the principal Act. Those sections have also been redrafted to conform with the modern drafting style.

Part 14 **Judicature Act 1908**

Clause 54 amends section 26I(2) of the principal Act by adding a reference to certain sections of the Personal Property Securities Act 1999. This authorises an Associate Judge to exercise the powers that are vested in the High Court by those sections.

Clause 55 amends section 28 of the principal Act by adding *new subsections (2) and (3)*. Section 28 provides for recognition by the principal Act of the continuity of the powers and duties of Registrars and Deputy Registrars before and after the enactment of the principal Act.

New subsections (2) and (3) provide that, unless specifically excluded by the principal Act or by another enactment, Deputy Registrars have the same powers and privileges, perform the same duties, and are subject to the same provisions and penalties as

Registrars. *New subsections (2) and (3)* correspond to a similar provision, section 14(3) of the District Courts Act 1947.

Clause 56(1) amends the section 88A of the principal Act that provides for restriction on the institution of vexatious actions, by renumbering it as section 88B. This is necessary because there are at present 2 sections in the principal Act numbered section 88A. One of them, which will continue to be numbered section 88A, provides for a judicial officer to continue in office to complete proceedings, despite the expiry of his or her term of office or retirement.

Clause 56(2) makes a consequential amendment to section 141(3) of the Care of Children Act 2004 to take account of the renumbering of section 88B in the principal Act.

Part 15

Maritime Transport Act 1994

Clause 58 inserts the definitions of **demise charter**, **New Zealand-based operator**, and **New Zealand national** into the principal Act. The term **demise charter** has the same meaning as in the Ship Registration Act 1992, namely, the demise, letting, hire, or delivery of the ship to the charterer, by virtue of which the charterer has whole possession and control of the ship, including the right to appoint its master and crew. **New Zealand-based operator** means either a New Zealand national who is ordinarily resident or carries on business in New Zealand, or a New Zealand national who is ordinarily resident in New Zealand and any other person where the New Zealand national is in a position to control the exercise of the rights and powers of the charterers under the charter party. **New Zealand national** has the same meaning as in the Ship Registration Act 1992, namely, a New Zealand citizen, a body corporate established by or under the law of New Zealand, or the Executive Government of New Zealand.

Clause 59 inserts a *new section 4A* into the principal Act. *New section 4A* provides that Parts III and V of the principal Act (which relate to the duties of persons engaged in maritime activities and the related powers of the Director) apply, subject to section 42 of the principal Act, to every ship that carries coastal cargo under *new section 198(1)(b)* of the principal Act.

Clauses 60, 61, and 65 substitute section 49(7) (which relates to the criteria for action under section 43 or section 44 of the principal Act for the suspension or revocation of maritime documents), section

50(7) (which relates to the criteria for a fit and proper person), and section 276(7) (which relates to the criteria for action under section 272 or section 273 of the principal Act for the suspension or revocation of marine protection documents) of the principal Act respectively. These amendments, which relate to the disclosure of information by the Director of Maritime Safety, update the sections to refer to the relevant terms of the Privacy Act 1993.

Clause 62 amends section 189 of the principal Act, which relates to the Maritime Registry, by making it subject to the Privacy Act 1993.

Clause 63 amends section 195(2) of the principal Act, which relates to recovery where marine safety charges are not paid, by substituting “Chief Executive of the New Zealand Customs Service” for “Collector”.

Clause 64 substitutes a *new section 198(1)* of the principal Act, and *new section 198(1)(b)* provides that a foreign ship on demise charter to a New Zealand-based operator who employs or engages a crew to work on board the ship under an employment agreement or contract for services governed by New Zealand law may carry coastal cargo.

Clause 66 amends section 283 of the principal Act to provide that the Director of Maritime Safety must prepare the New Zealand marine oil spill response strategy and review that response strategy at least once every 5 years. At present, the Director is required to do so once every 3 years.

Part 16

Ombudsmen Act 1975

Clause 68 amends section 19(5A) of the principal Act by removing the reference to the Protected Disclosures Act 2000. Under section 19(5A) of the principal Act, the Ombudsman can require the production of privileged information when conducting an investigation under the Official Information Act 1982, the Local Government Official Information and Meetings Act 1987, or the Protected Disclosures Act 2000.

This amendment removes the reference to the Protected Disclosures Act 2000 because—

- the Ombudsman’s power to investigate the disclosure of information is provided by the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987, but not the Protected Disclosures Act 2000; and

- it is inconsistent with section 22 of the Protected Disclosures Act 2000, which provides that nothing in that Act authorises a person to disclose information protected by legal professional privilege.

Part 17

Personal Property Securities Act 1999

Clause 70 amends section 16(1) of the principal Act by inserting a definition of **Court** or **court**, meaning the High Court of New Zealand.

Clauses 71 and 72, respectively, consequentially amend sections 173(j) and 184(a) of the principal Act to make it clear that those sections refer to any court, not just the High Court.

Part 18

Radiocommunications Act 1989

Clause 74 amends the definition of **co-channel emissions** in section 2(1) of the principal Act to ensure that unwanted emissions do not come within this definition. Although this can currently be inferred from the principal Act, this amendment will remove any uncertainty.

Clauses 75 and 76 repeal sections 7 and 8 of the principal Act which concern the creation and use of a seal of office by the Registrar of Radio Frequencies.

Clause 77 repeals section 14 of the principal Act which requires instruments to be in duplicate and witnessed.

Clause 78 amends section 17 of the principal Act to streamline the registration procedure in order to facilitate electronic filing. In particular, the requirements in relation to duplicate copies of an instrument are removed.

Clause 79 amends section 19 of the principal Act to allow certain steps in the registration process to take place by electronic transmission.

Clause 80 amends section 30(2) of the principal Act, removing the need for a certified copy of records in the Register to be sealed with the Registrar's seal in order for it to be received in evidence.

Part 19

Receiverships Act 1993

Clauses 82 and 83 respectively amend section 30A of the principal Act and insert *new sections 30B and 30C*. The effect of the changes is to preserve priority rights of subordinate security holders in any surplus left from the disposal of property by the receiver. If there is any doubt as to entitlement to the surplus by subordinate security holders, the receiver may pay the surplus into court.

Part 20

Ship Registration Act 1992

Clause 85 provides that section 8 of the principal Act is subject to section 9.

Section 8 of the principal Act sets out which ships are entitled to be registered in the New Zealand Register of Ships (the **Register**). Under section 9, a ship may not be registered in the Register if it is registered under the law of a foreign country.

The effect of the amendment is that a ship on demise charter to a New Zealand-based operator may only be registered in the Register if the ship has been, or is in the process of being, removed from its overseas register.

Part 21

Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

Clause 87 amends section 2(1) of the principal Act so that it defines **low-water line** or **low-water mark** as the line representing the intersection with the shore of the plane of the Lowest Astronomical Tide (LAT). (The LAT is the lowest tide level that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions.) The amendment ensures that the term low-water line or low-water mark is defined in a manner consistent with international hydrographic chart datum practice.

Clause 88 amends section 31 of the principal Act. Section 31 deals with official charts which, for the purposes of the principal Act, are sufficient evidence of the low-water line in any proceedings in any court. The amendment ensures that official charts are those in the **Territorial Limits Folio** (that is, in the hydrographic information

defined and maintained by Land Information New Zealand for the purposes of maritime boundary definition).

Part 22

Trade Marks Act 2002

Clause 90 substitutes a new section 17 into the principal Act, which has been redrafted to remove the absurdity of the phrase “register a trade mark or part of a trade mark”.

Clause 91 amends section 18(1)(c) of the principal Act to remove the suggestion that a purely descriptive certification trade mark can be registered.

Clause 92 amends section 25(1) of the principal Act in 2 ways. First, it includes references to section 36, a previous omission, and second, new *section 25(1)(a)(ii)*, restores a ground for refusing registration that was inadvertently not carried over from the Trade Marks Act 1953.

Clause 93 amends section 32(1) of the principal Act by clarifying that it is the owner of the trade mark who applies for its registration.

Clause 94 includes in section 35(a) of the principal Act a reference to section 36.

Clause 95 amends section 37(2)(b) of the principal Act to make it clear that it is the correction of the error or omission, rather than the error or omission itself, that does not materially alter the meaning or scope of an application.

Clause 96 corrects an error in section 67 of the principal Act, replacing the word “and” with the word “or”, so that paragraphs (a) and (b) are read disjunctively.

Clause 97 makes a minor consequential amendment to section 75(b) of the principal Act following the redrafting of section 17.

Clause 98 amends section 83(1) of the principal Act to make provision for the registration of a licensee in the period between the making of an application for registration of a trade mark and registration of the trade mark.

Clause 99 amends section 87(1) of the principal Act, as a consequence of the amendment to section 83(1), to provide for cancellation of the registration of a licensee when the application for registration of the trade mark is withdrawn, abandoned, or rejected.

Clause 100 corrects the punctuation in section 89(1)(c) of the principal Act.

Clause 101 corrects a cross-reference in section 161(2) of the principal Act.

Clause 102 cures an illogicality by removing the words “if any” from the end of section 182(b) of the principal Act. It is an illogicality because all 3 dates referred to in that paragraph apply to a registered trade mark.

Clause 103 amends the heading to section 193 of the principal Act to remove confusion with the applicant for registration of a trade mark.

Clause 104 corrects a cross-reference in section 206 of the principal Act.

Clause 105 amends section 208(5) of the principal Act to clarify the relevant uninterrupted period of suspension of use in relation to certain trade marks registered before the commencement of the principal Act.

Clause 106 adds *new section 210* to the principal Act, which provides that the principal Act is not in force in Tokelau.

Part 23

Valuers Act 1948

Clause 108 amends section 2 of the principal Act by substituting a new definition of **Valuer-General**. The amendment defines **Valuer-General** to mean “the Valuer-General appointed under the State Sector Act 1988”.

Part 24

Weights and Measures Act 1987

Clause 110 amends section 7 of the principal Act. The effect of this amendment is that Inspectors’ working standards that are used to determine a measure of volume and are constructed of glass need to be verified against the district standards at periods of less than 10 years. Currently, they need to be verified at periods of less than 12 months.

Clause 111 amends section 7A of the principal Act with the same effect as *clause 110* achieves in relation to section 7. However, section 7A concerns accredited persons’ working standards, as opposed to Inspectors’ working standards.

Clause 112 amends section 16A of the principal Act in order to make it clear that the time period referred to in that section includes both the day on which a package is made up and the 7 days following that day, and it does not refer to the time at which a sample is taken.

Clause 113 amends section 30C of the principal Act. The effect of this amendment is that a letter of accreditation will be in force for a period of 3 years rather than 1 year, and can also be renewed for a period of 3 years. However, before a letter of accreditation is renewed, the Secretary must now be satisfied that the applicant continues to meet all of the requirements for accreditation.

Clause 114 inserts *new sections 30DA and 30DB* into the principal Act. *New section 30DA* authorises the Secretary to suspend an accredited person's accreditation for up to 28 days if the Secretary is satisfied that 1 of several listed matters applies. *New section 30DB* sets out what happens to a person's accreditation at the end of a period of suspension.

Clause 115 amends section 30F(1) of the principal Act by inserting a reference to the *new section 30DA*. This provides for an appeal to the District Court from a decision made under *new section 30DA*.

Hon Rick Barker

Statutes Amendment Bill (No 5)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Statutes Amendment Bill (No 5) 2005.

2 Commencement

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

Part 1**Animal Welfare Act 1999**

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3 Animal Welfare Act 1999 called principal Act in this Part

In this Part, the Animal Welfare Act 1999¹ is called “the principal Act”.

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¹ 1999 No 142

4 New section 167 substituted

The principal Act is amended by repealing section 167, and substituting the following section:

“167 Time for laying information

Despite section 14 of the Summary Proceedings Act 1957, an information in respect of an offence against this Act or against any regulations made under this Act may be laid,—

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“(a) if the offence was committed before the date on which this section comes into force, at any time within 1 year after the time when the matter of the information arose; or

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“(b) if the offence was committed on or after the date on which this section comes into force, at any time within 2 years after the time when the matter of the information arose.”

Part 2

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Biosecurity Act 1993**5 Biosecurity Act 1993 called principal Act in this Part**

In this Part, the Biosecurity Act 1993² is called “the principal Act”.

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² 1993 No 95

6 Chief technical officers

Section 101 of the principal Act is amended by adding the following subsection:

- “(4) The chief executive (including the Director-General) may not delegate to any person the power to appoint chief technical officers.”
- 7 Deputy chief technical officers** 5
Section 102 of the principal Act is amended by adding the following subsection:
- “(3) The chief executive (including the Director-General) may not delegate to any person the power to appoint deputy chief technical officers.”
- 8 Delegation to authorised persons** 10
Section 105 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) A principal officer or chief technical officer may delegate to any person any of his or her functions, powers, or duties under this Act, except for— 15
“(a) this power of delegation; and
“(b) the power to appoint inspectors and authorised persons.”
- Part 3**
- Cadastral Survey Act 2002** 20
- 9 Cadastral Survey Act 2002 called principal Act in this Part**
In this Part, the Cadastral Survey Act 2002³ is called “the principal Act”. 25
³ 2002 No 12
- 10 Delegation of Surveyor-General’s functions, duties, and powers**
Section 8 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
- “(4) No delegation affects or prevents the exercise of any power or the performance of any duty by the Surveyor-General, nor does it affect the responsibility of the Surveyor-General for the actions of a person acting under the delegation.” 30

- 11 Surveyor-General may make rules about conduct of cadastral surveying**
Section 49(1)(a) of the principal Act is amended by omitting the words “cadastral survey marks”, and substituting the words “survey marks”. 5
- 12 Interference with cadastral survey marks**
- (1) The heading to section 55 of the principal Act is amended by omitting the word “cadastral”.
(2) Section 55(3) of the principal Act is amended by omitting the words “cadastral survey mark”, and substituting the words “survey mark”. 10
(3) Section 55(6)(a) of the principal Act is amended by omitting the word “cadastral”.
- Part 4**
Commerce Act 1986 15
- 13 Commerce Act 1986 called principal Act in this Part**
In this Part, the Commerce Act 1986⁴ is called “the principal Act”.
⁴ 1986 No 5
- 14 Commission may give clearances for business acquisitions** 20
- (1) Section 66(3)(a) of the principal Act is amended by inserting, after the word “would”, the word “not”.
(2) Section 66(3)(b) of the principal Act is amended by inserting, after the word “would”, the word “not”.
- 15 Commission may grant authorisations for business acquisitions** 25
- Section 67(3)(a) of the principal Act is amended by inserting, after the word “would”, the word “not”.

Part 5 Continental Shelf Act 1964

- 16 Continental Shelf Act 1964 called principal Act in this Part**
- In this Part, the Continental Shelf Act 1964⁵ is called “the principal Act”.
- ⁵ 1964 No 28
- 17 Interpretation**
- (1) Section 2(1) of the principal Act is amended by repealing the definition of **continental shelf**, and substituting the following definition:
- “**continental shelf** means the seabed and subsoil of those submarine areas that extend beyond the territorial limits of New Zealand, throughout the natural prolongation of the land territory of New Zealand, to the seaward-side boundaries”.
- (2) Section 2(1) of the principal Act is amended by adding, after the definition of **natural resources**, the following definition:
- “**seaward-side boundaries**, in relation to the continental shelf, means the actual boundaries (if any) delineated by an order under subsection (2) and, to the extent that no boundaries of that kind are delineated in that way, the boundaries that are—
- “(a) a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured (as described in sections 5, 6, and 6A of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) where the outer edge of the continental margin does not extend beyond that distance; and
- “(b) at the outer edge of the continental margin where it extends beyond that distance.”

Part 6 Criminal Investigations (Bodily Samples) Act 1995

- 18 Criminal Investigations (Bodily Samples) Act 1995 called principal Act in this Part**
- In this Part, the Criminal Investigations (Bodily Samples) Act 1995⁶ is called “the principal Act”.
- ⁶ 1995 No 55

- 19 Interpretation**
Section 2(1) of the principal Act is amended by omitting from paragraph (a)(ii) of the definition of **suitably qualified person** the word “registered”.
- 20 Sections 15 and 17 to apply** 5
(1) Section 20 of the principal Act is amended by omitting from the heading the words “**Sections 15 and 17**”, and substituting the words “**Sections 15, 17, and 17A**”.
- (2) Section 20(2) of the principal Act is amended by inserting, after the expression “Section 17”, the words “and section 17A”. 10
- 21 Judge may issue warrant for arrest and detention**
Section 45(2) of the principal Act is amended by inserting after the words “who is”, the words “of or”.
- 22 Criminal Investigations (Bodily Samples) Regulations 2004 amended** 15
Forms 1 to 6, 8, and 9 in the Schedule of the Criminal Investigations (Bodily Samples) Regulations 2004 are amended by omitting the words “registered nurse” wherever they appear, and substituting in each case, the word “nurse”. 20

Part 7

Dairy Industry Restructuring Act 2001

- 23 Dairy Industry Restructuring Act 2001 called principal Act in this Part** 25
In this Part, the Dairy Industry Restructuring Act 2001⁷ is called “the principal Act”.
- ⁷ 2001 No 51
- 24 Use of redeemable preference shares**
(1) Section 104(2) of the principal Act is amended by omitting the words “the surrender amount”, and substituting the words “that part of the total value of equities surrendered”. 30
- (2) Section 104(3) of the principal Act is amended by omitting the words “the surrender amount referred to in subsection (2)”, and substituting the words “any surrender amount that falls within the total value of equities covered by subsection (2)”.

Part 8 Defence Act 1990

- 25 Defence Act 1990 called principal Act in this Part**
In this Part, the Defence Act 1990^s is called “the principal Act”. 5
^s 1990 No 28
- 26 Section 96 repealed**
Section 96 of the principal Act (which relates to the administration of the Nelson Rifle Prize Fund) is repealed.
- 27 New section 96A inserted**
The principal Act is amended by inserting, after section 96, 10
the following section:
- “96A Nelson Rifle Prize Fund abolished**
- “(1) On the repeal of section 96,—
- “(a) the Nelson Rifle Prize Fund (the **Fund**) is abolished; 15
 and
- “(b) the Public Trust ceases to administer the Fund; and
- “(c) all money comprising the Fund (including any income arising from the Fund) held by the Public Trust in its common fund immediately before that repeal must be transferred to the cadet forces. 20
- “(2) The cadet forces must apply the money so transferred only for any or all of the following purposes:
- “(a) the promotion of firearm safety in the Nelson region;
- “(b) the provision of firearm training in the Nelson region;
- “(c) the provision of monetary or other prizes for national shooting competitions held in the Nelson region. 25
- “(3) In this section, **Nelson region** means the area within the boundaries of Nelson City and the Tasman District.”

Part 9 District Courts Act 1947

- 28 District Courts Act 1947 called principal Act in this Part**
In this Part, the District Courts Act 1947^y is called “the principal Act”. 30
^y 1947 No 16

29 Renumbering of section

The principal Act is amended by renumbering section 79 (as inserted by section 3 of the District Courts Amendment Act 2002) as section 78A.

Part 10

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Flags, Emblems, and Names Protection Act 1981**30 Flags, Emblems, and Names Protection Act 1981 called principal Act in this Part**

In this Part, the Flags, Emblems, and Names Protection Act 1981¹⁰ is called “the principal Act”.

10

¹⁰ 1981 No 47

31 Unauthorised use of name Returned Services’ Association

Section 18(3) of the principal Act is amended by—

- (a) omitting from paragraph (a) the expression “:”, and substituting the word “; or”:
- (b) omitting from paragraph (b)(i) the words “New Zealand Returned Services’ Association”, and substituting the words “Royal New Zealand Returned and Services’ Association”:
- (c) omitting from paragraph (b)(ii) the words “of which at least half the members are”, and substituting the words “whose members include”:
- (d) omitting from paragraph (b)(iv) the words “of which at least half the members are”, and substituting the words “whose members include”:
- (e) omitting from paragraph (b)(iv) the words “New Zealand Returned Services’ Association”, and substituting the words “Royal New Zealand Returned and Services’ Association”:
- (f) omitting from paragraph (b)(iv) the expression “:”, and substituting the word “; or”.

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Part 11**Forests Act 1949****32 Forests Act 1949 called principal Act in this Part**

In this Part, the Forests Act 1949¹¹ is called “the principal Act”.

35

¹¹ 1949 No 19

- 33 Delegation of Minister’s powers**
Section 4 of the principal Act is repealed.
- 34 Delegation of powers by Secretary**
Section 4A of the principal Act is repealed.
- Part 12** 5
Gambling Act 2003
- 35 Gambling Act 2003 called principal Act in this Part**
In this Part, the Gambling Act 2003¹² is called “the principal Act”. 10
¹² 2003 No 51
- 36 Interpretation**
- (1) Section 4(1) of the principal Act is amended by inserting, in the definition of **game rules**, after the word “particular”, the words “games, categories, classes, or”.
- (2) Section 4(1) of the principal Act is amended by omitting from paragraph (a) of the definition of **housie** the words “that satisfies any applicable game rules, and where”, and substituting the words “in which”. 15
- 37 Meaning of class 1 gambling**
Section 22(a)(i) of the principal Act is amended by omitting the word “individuals”, and substituting the words “a person other than a society”. 20
- 38 Meaning of class 2 gambling**
- (1) Section 24(b) and (c) of the principal Act is amended by omitting the words “exceeds \$500 but”.
- (2) Section 24 of the principal Act is amended by adding, as subsection (2), the following subsection: 25
“(2) To avoid doubt, class 2 gambling is gambling that is not class 1 gambling.”
- 39 Considering and determining application for territorial authority consent** 30
Section 100 of the principal Act is amended by omitting the word “gambling” wherever it appears, and substituting in each case the words “class 4”.

- 40 Gaming machine profits must be banked**
Section 104 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:
“(5) In this section and section 105, **gaming machine profits** for a specified period means the turnover of the class 4 gambling in that period minus the total prizes paid in that period.” 5
- 41 Affected transactions**
Section 154(3) of the principal Act is amended by inserting, after the word “approve”, the words “a person with a significant influence as”. 10
- 42 Content and conditions of licensed promoter’s licence**
Section 203(5) of the principal Act is amended by omitting the word “society”, and substituting the words “licensed promoter”. 15
- 43 Regulations relating to infringement offences**
Section 360(b) of the principal Act is amended by omitting the word “maximum”. 15
- 44 Power to make game rules**
Section 367(1) of the principal Act is amended by inserting, after the word “games” in both places where it appears, the words “, categories, classes, or forms of gambling”. 20

Part 13

Incorporated Societies Act 1908

- 45 Incorporated Societies Act 1908 called principal Act and Incorporated Societies Amendment Act 1920 called amendment Act in this Part** 25
In this Part, the Incorporated Societies Act 1908¹³ is called “the principal Act” and the Incorporated Societies Amendment Act 1920¹⁴ is called the “amendment Act”. 30

¹³ 1908 No 212

¹⁴ 1920 No 50

*Amendments to principal Act***46 New section 7 substituted**

The principal Act is amended by repealing section 7, and substituting the following section:

“7 How to apply for incorporation 5

“(1) An application for incorporation may be made by sending to the Registrar—

“(a) a copy of the rules of the society on which is written an application that is—

“(i) in the form set out in the First Schedule, or a substantially similar form; and 10

“(ii) signed by not less than 15 members in accordance with **subsections (2) and (3)**; and

“(b) a certificate by an officer of the society or a solicitor certifying that— 15

“(i) a majority of the members have consented to the application; and

“(ii) the rules that are endorsed with the application are the rules of the society; and

“(c) the prescribed fee. 20

“(2) The signature of each member must be—

“(a) witnessed by a person who has not signed the rules; and

“(b) accompanied by the member’s address.

“(3) In the case of a corporate subscriber that has a seal, the seal may also be affixed as part of its signature.” 25

47 New section 8 substituted

The principal Act is amended by repealing section 8, and substituting the following section:

“8 Steps that Registrar must take if satisfied that requirements met 30

The Registrar, if satisfied that the requirements of this Act have been met, must do the following things:

“(a) enter the name of the society in the register kept by the Registrar for the purposes of this Act, together with any other information relating to the society that the Registrar thinks appropriate; and 35

“(b) issue a certificate, sealed by the Registrar, that the society is incorporated under this Act; and

“(c) register the rules of the society by sealing them with the Registrar’s seal.”

48 Alteration of rules

Section 21 of the principal Act is amended by repealing subsection (2), and substituting the following subsection: 5

- “(2) Every alteration of the rules must be—
- “(a) in writing; and
 - “(b) signed by at least 3 members of the society; and
 - “(c) delivered to the Registrar accompanied by a certificate by an officer of the society or a solicitor certifying that the alteration has been made in accordance with the rules.” 10

49 New section 22 substituted

The principal Act is amended by repealing section 22, and substituting the following section: 15

“22 Register of members

- “(1) Every society must keep a register of its members.
- “(2) The register must contain the names and addresses of the members, and the dates when they became members.
- “(3) Every society must, on request by the Registrar, send to the Registrar a list of the names and addresses of its members, accompanied by a certificate by an officer of the society certifying that the list is correct.” 20

50 First Schedule amended

The heading of the First Schedule of the principal Act is amended by omitting the expression “Section 7(a)”, and substituting the reference “s 7(1)(a)”. 25

Amendments to amendment Act

51 New section 3 substituted

The amendment Act is amended by repealing section 3, and substituting the following section: 30

“3 How to apply for incorporation of branch

- “(1) An application for incorporation of a branch or group of branches of a society registered under the principal Act may be made by sending to the Registrar— 35

- “(a) a copy of the rules of the branch or group on which is written an application for incorporation that is signed, in accordance with **subsections (2) and (3)**,—
- “(i) by not less than 2 of the executive officers of the society; and 5
- “(ii) in the case of a local branch, by not less than 15 members of that branch, or, in the case of a group of branches, by not less than 2 members of each of the branches in the group; and
- “(b) a certificate by an officer of the society or a solicitor certifying that— 10
- “(i) a majority of the members of the branch or branches has consented to the application; and
- “(ii) the rules that are endorsed with the application are the rules of the branch or the group; and 15
- “(c) the prescribed fee.
- “(2) The signature of a person signing for the purposes of **subsection (1)(a)** must be—
- “(a) witnessed by a person who has not signed the rules; and
- “(b) accompanied by the address of the person signing. 20
- “(3) In the case of a body corporate that has a seal, the seal may also be affixed as part of its signature.”
- 52 New section 4 substituted**
- The amendment Act is amended by repealing section 4, and substituting the following section: 25
- “4 Steps that Registrar must take if satisfied that requirements met**
- “(1) The Registrar must take the steps set out in **subsection (2)** if the Registrar is satisfied that—
- “(a) the requirements of this Act have been met; and 30
- “(b) the rules of the branch or group of branches are not inconsistent with the provisions of the principal Act or with the rules of the society.
- “(2) The Registrar must—
- “(a) enter the name of the branch or group of branches in a special register to be kept by the Registrar for the purposes of this Act, together with any other information relating to the branch or branches that the Registrar thinks appropriate; and 35

- “(b) issue a certificate, sealed by the Registrar, that the branch or group of branches is incorporated under this Act; and
- “(c) register the rules of the branch or group of branches by sealing them with the Registrar’s seal.”

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Part 14 Judicature Act 1908

- 53 Judicature Act 1908 called principal Act in this Part**
In this Part, the Judicature Act 1908¹⁵ is called “the principal Act”.
- ¹⁵ 1908 No 89
- 10
- 54 Associate Judge may exercise certain powers of the Court**
Section 261(2) of the principal Act is amended by adding the following paragraph:
- “(k) sections 118, 128, 131, 167, 168, 170, 179, 181, 182, and 186 of the Personal Property Securities Act 1999.”
- 15
- 55 Powers of Registrars**
Section 28 of the principal Act is amended by adding, as subsections (2) and (3), the following subsections:
- “(2) Each Deputy Registrar has the same powers and privileges, performs the same duties, and is subject to the same provisions and penalties under this Act and under any other Act as if he or she were the Registrar for the time being, whether or not those powers, privileges, duties, provisions, or penalties are conferred, imposed, or enacted under this Act or that other Act.
- 20
- 25
- “(3) **Subsection (2)** is subject to any provision to the contrary in any other enactment.”
- 56 Renumbering of section**
- (1) The principal Act is amended by renumbering section 88A, which restricts the institution of vexatious actions, as section 88B.
- 30
- (2) Section 141(3) of the Care of Children Act 2004 is consequentially amended by omitting the expression “88A”, and substituting the expression “88B”.
- 35

Part 15

Maritime Transport Act 1994

- 57 Maritime Transport Act 1994 called principal Act in this Part**
 In this Part, the Maritime Transport Act 1994¹⁶ is called “the principal Act”. 5
¹⁶ 1994 No 104
- 58 Interpretation**
 Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:
 “**demise charter** has the same meaning as in section 2(1) of the Ship Registration Act 1992 10
 “**New Zealand-based operator** means—
 “(a) a New Zealand national who is ordinarily resident or carries on business in New Zealand; or
 “(b) a New Zealand national who is ordinarily resident in New Zealand and any other person where the New Zealand national is in a position to control the exercise of the rights and powers of the charterers under the charterparty 15
 “**New Zealand national** has the same meaning as in section 2(1) of the Ship Registration Act 1992”. 20
- 59 New section 4A inserted**
 The principal Act is amended by inserting, after section 4, the following section:
 “4A **Application of Parts III and V** 25
 Parts III and V apply, subject to section 42, with all necessary modifications, to each ship that carries coastal cargo under **section 198(1)(b)** as if that ship were a New Zealand ship.”
- 60 Criteria for action under section 43 or section 44**
 Section 49 of the principal Act is amended by repealing subsection (7), and substituting the following subsection: 30
 “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and the following provisions apply: 35

- “(a) in the case of non-disclosure to an individual of information about the individual,—
- “(i) the Director must inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and 5
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and 10
- “(b) in any other case,—
- “(i) the Director must inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and 15
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.” 20

61 Criteria for fit and proper person

Section 50 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and the following provisions apply: 25
- “(a) in the case of non-disclosure to an individual of information about the individual,—
- “(i) the Director must inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and 30
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and 35
- “(b) in any other case,—

- “(i) the Director must inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.” 5
- 62 Maritime Registry**
- Section 189 of the principal Act is amended by adding the following subsection: 10
- “(4) Subsection (3) is subject to the Privacy Act 1993.”
- 63 Recovery in certain cases where marine safety charges not paid**
- Section 195(2) of the principal Act is amended by omitting the word “Collector”, and substituting the words “Chief Executive of the New Zealand Customs Service”. 15
- 64 Coastal shipping**
- (1) Section 198 of the principal Act is amended by repealing subsection (1), and substituting the following subsection: 20
- “(1) No ship shall carry coastal cargo, unless the ship is—
- “(a) a New Zealand ship; or
- “(b) a foreign ship on demise charter to a New Zealand-based operator who employs or engages a crew to work on board the ship under an employment agreement or contract for services governed by New Zealand law; or 25
- “(c) a foreign ship that—
- “(i) has disembarked at a port in New Zealand passengers who embarked at a foreign port or unloaded at a port in New Zealand goods loaded at a foreign port, and has not visited a foreign port since that disembarkation or unloading; or 30
- “(ii) will, before departing from a port in New Zealand for a foreign port, disembark such passengers or unload such goods; or 35
- “(d) a foreign ship that—
- “(i) has embarked at a port in New Zealand passengers who are to be disembarked at a foreign port

- or loaded at a port in New Zealand goods to be unloaded at a foreign port, and has not visited a foreign port since that embarkation or loading; or
- “(ii) will, before departing from a port in New Zealand for a foreign port, embark such passengers or load such goods.” 5
- (2) Section 198(2) of the principal Act is amended by omitting the words “paragraph (a) or paragraph (b) or paragraph (c) of subsection (1)”, and substituting the words “paragraph (a), (b), (c), or (d) of subsection (1)”. 10
- 65 Criteria for action under section 272 or section 273**
- Section 276 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:
- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and the following provisions apply: 15
- “(a) in the case of non-disclosure to an individual of information about the individual,—
- “(i) the Director must inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and 20
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and 25
- “(b) in any other case,—
- “(i) the Director must inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and 30
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.” 35

- 66 Preparation and review of response strategy**
Section 283 of the principal Act is amended by omitting the words “every 3 years”, and substituting the words “every 5 years”.
- Part 16** 5
Ombudsmen Act 1975
- 67 Ombudsmen Act 1975 called principal Act in this Part**
In this Part, the Ombudsmen Act 1975¹⁷ is called “the principal Act”. 10
¹⁷ 1975 No 9
- 68 Evidence**
Section 19(5A) of the principal Act is amended by omitting the words “or the Protected Disclosures Act 2000”.
- Part 17**
Personal Property Securities Act 1999
- 69 Personal Property Securities Act 1999 called principal Act in this Part** 15
In this Part, the Personal Property Securities Act 1999¹⁸ is called “the principal Act”.
¹⁸ 1999 No 126
- 70 Interpretation** 20
Section 16(1) of the principal Act is amended by inserting, in its appropriate alphabetical order, the following definition:
“**Court** or **court** means the High Court of New Zealand”.
- 71 Search purposes, etc** 25
Section 173(j) of the principal Act is amended by omitting the words “court bailiff”, and substituting the words “bailiff of the High Court of New Zealand or of any other court”.
- 72 Application of sections 185 to 189** 30
Section 184(a) of the principal Act is amended by omitting the words “a court”, and substituting the words “the High Court of New Zealand or in any other court”.

Part 18

Radiocommunications Act 1989

- 73 Radiocommunications Act 1989 called principal Act in this Part**
 In this Part, the Radiocommunications Act 1989¹⁹ is called “the principal Act”. 5
¹⁹ 1989 No 148
- 74 Interpretation**
 Section 2(1) of the principal Act is amended by inserting in the definition of **co-channel emissions**, after the words “means emissions”, the words “(other than unwanted emissions)”. 10
- 75 Section 7 repealed**
 Section 7 of the principal Act is repealed.
- 76 Section 8 repealed**
 Section 8 of the principal Act is repealed. 15
- 77 Section 14 repealed**
 Section 14 of the principal Act is repealed.
- 78 Registration procedure**
 Section 17 of the principal Act is amended by repealing paragraphs (c) to (e), and substituting the following paragraphs: 20
 “(c) retain a record of the instrument in the Registrar’s office; and
 “(d) forward the certificate issued under paragraph (b) to the person who presented the instrument for registration.” 25
- 79 Failure to comply with requisition**
 Section 19 of the principal Act is amended by omitting the words “forwarded by letter, telegram, facsimile transmission, or telex”, and substituting the words “given by post, delivery, or electronic transmission (for example, by fax or email)”. 30

- 80 Certified copies of Register to be evidence**
Section 30(2) of the principal Act is amended by omitting the words “, and sealed with the Registrar’s seal,”.
- Part 19**
Receiverships Act 1993 5
- 81 Receiverships Act 1993 called principal Act in this Part**
In this Part, the Receiverships Act 1993²⁰ is called “the principal Act”.
²⁰ 1993 No 122
- 82 Extinguishment of subordinate security interests** 10
Section 30A of the principal Act is amended by adding, as subsection (2), the following subsection:
“(2) If there is a surplus left after the receiver has disposed of the property, that surplus must be distributed according to the priorities set out in **section 30B** as if the subordinate security interests had not been extinguished.” 15
- 83 New sections 30B and 30C inserted**
The principal Act is amended by inserting, after section 30A, the following sections:
- “30B Priorities on distribution of surplus by receiver** 20
- “(1) A surplus representing the proceeds of personal property must be distributed according to the priorities set out in section 117 of the Personal Property Securities Act 1999. 20
- “(2) For the purpose of **subsection (1)**, references in section 117 of the Personal Property Securities Act 1999 to ‘secured party’ and ‘debtor’ must be read as references to ‘receiver’ and ‘grantor’ respectively. 25
- “(3) A surplus representing the proceeds of real property must be distributed in the following order:
- “(a) in payment of money owing under the following mortgages or encumbrances (if any) over the property, in their order of priority: 30
- “(i) registered mortgages or encumbrances:
“(ii) unregistered mortgages or encumbrances of which the receiver has actual notice:
- “(b) to the grantor, if anything is left after paying the mortgagees. 35

- “(4) If, in the case of a distribution of any surplus to a grantor, the grantor cannot be found after reasonable inquiry by the receiver, the provisions of section 102A of the Property Law Act 1952 apply as if references in that provision to ‘mortgagor’ and ‘mortgagee’ were references to ‘grantor’ and ‘receiver’ respectively. 5

“30C Surplus may be paid into court

- “(1) A receiver may pay a surplus referred to in **section 30A(2)** into court if there is a question as to who is entitled to receive payment according to the priorities in **section 30B(1) or (3)**. 10
- “(2) The surplus may only be paid out on an application by the receiver or by a person claiming an entitlement to the surplus.”

Part 20

Ship Registration Act 1992 15

84 Ship Registration Act 1992 called principal Act in this Part

In this Part, the Ship Registration Act 1992²¹ is called “the principal Act”. 20

²¹ 1992 No 89

85 Entitlement to register certain New Zealand-owned ships and other ships

Section 8 of the principal Act is amended by adding the following subsection:

- “(3) This section is subject to section 9.”

Part 21 25

Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

86 Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 called principal Act in this Part 30

In this Part, the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977²² is called “the principal Act”.

²² 1977 No 28

87 Interpretation

Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**low-water line** or **low-water mark** means the line representing the intersection with the shore of the plane of the Lowest Astronomical Tide (LAT) 5

“**Lowest Astronomical Tide (LAT)** means the lowest tide level which can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions”. 10

88 Official charts

(1) Section 31 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) For the purposes of this Act, in any proceedings in any court, the low-water line for any area depicted on the charts in the Territorial Limits Folio is sufficient evidence of the low-water line for that area.” 15

(2) Section 31 of the principal Act is amended by adding the following subsection:

“(4) In this section, **Territorial Limits Folio** means hydrographic information in any form, for example, in electronic form, defined and maintained by Land Information New Zealand for the purposes of maritime boundary definition.” 20

Part 22**Trade Marks Act 2002** 25**89 Trade Marks Act 2002 called principal Act in this Part**

In this Part, the Trade Marks Act 2002²³ is called “the principal Act”.

²³ 2002 No 49

90 New section 17 substituted

The principal Act is amended by repealing section 17, and substituting the following section: 30

“17 **Absolute grounds for not registering trade mark: general**

“(1) The Commissioner must not register as a trade mark or part of a trade mark any matter— 35

- “(a) the use of which would be likely to deceive or cause confusion; or
- “(b) the use of which is contrary to New Zealand law or would otherwise be disentitled to protection in any court; or 5
- “(c) the use or registration of which would, in the opinion of the Commissioner, be likely to offend a significant section of the community, including Māori.
- “(2) The Commissioner must not register a trade mark if the application is made in bad faith. 10
- “(3) Despite **subsection (1)(b)**, the Commissioner may register a trade mark even if use of the trade mark is restricted or prohibited under the Smoke-free Environments Act 1990.
Compare: 1953 No 66 s 16”.
- 91 Non-distinctive trade mark not registrable 15**
Section 18(1)(c) of the principal Act is amended by omitting the words “(unless the trade mark is a certification trade mark)”.
- 92 Registrability of identical or similar trade mark**
- (1) Section 25(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph: 20
- “(a) it is identical to a trade mark (**trade mark B**) belonging to a different owner and that is registered, or has priority under section 34 or section 36,—
- “(i) in respect of the same goods or services; or 25
- “(ii) in respect of goods or services that are similar to those goods and services, and its use is likely to deceive or confuse; or”.
- (2) Section 25(1)(b) of the principal Act is amended by inserting, after the expression “section 34”, the words “or section 36”. 30
- 93 Application: how made**
Section 32 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) A person claiming to be the owner of a trade mark or series of trade marks may, on payment of the prescribed fee (if any), apply in the prescribed manner (if any) for the registration of 35

the trade mark or series of trade marks used or proposed to be used in respect of the following:

- “(a) particular goods or services within 1 or more classes:
- “(b) particular goods and services within 1 or more classes.”

- 94 Commissioner’s requirements in relation to applications without priority** 5
Section 35(a) of the principal Act is amended by inserting, after the expression “section 34(1)”, the expression “or under section 36”.
- 95 Withdrawal, etc, of application** 10
Section 37(2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
“(b) an error or omission if, in the Commissioner’s opinion, the correction of the error or omission does not materially alter the meaning or scope of the application.” 15
- 96 Onus of proof for revocation of registration of trade mark for non-use**
Section 67(a) of the principal Act is amended by omitting the word “and”, and substituting the word “or”.
- 97 Presumption of validity of registration of trade mark** 20
Section 75(b) of the principal Act is amended by inserting, after the expression “17(1)”, the words “or (2)”.
- 98 Application for registration of licensee**
Section 83 of the principal Act is amended by repealing subsection (1), and substituting the following subsection: 25
“(1) A person who is not the owner of a trade mark may, with or without conditions, be registered as licensee of the trade mark in respect of—
“(a) any of the goods or services for which the trade mark is registered; or 30
“(b) if the trade mark is not registered but an application has been made, any of the goods or services to which the application relates.”

- 99 Cancellation of registration of licensee**
 Section 87 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
 “(1) The Commissioner must cancel the registration of a person as a licensee of a trade mark— 5
 “(a) in the case of registration as a licensee under **section 83(1)(a)**, if the trade mark is no longer registered; or
 “(b) in the case of registration as a licensee under **section 83(1)(b)**, if the application is withdrawn, abandoned, or rejected.” 10
- 100 Infringement where identical or similar sign used in course of trade**
 Section 89(1)(c) of the principal Act is amended by omitting the word “registered” in the second place where it appears, and substituting the word “registered,”. 15
- 101 Evidence of entries, documents, etc**
 Section 161(2) of the principal Act is amended by omitting the expression “165(2)”, and substituting the expression “181(2)”.
- 102 Contents of register** 20
 Section 182 of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
 “(b) the actual date of registration, the deemed date of registration, and the date of application in New Zealand.”.
- 103 Substitution of person other than applicant on notice of opposition** 25
 The heading to section 193 of the principal Act is amended by omitting the word “**applicant**”, and substituting the word “**opponent**”.
- 104 Certificate of validity of contested registration** 30
 Section 206 of the principal Act is amended by omitting the expression “165(2)”, and substituting the expression “165(1)”.

- 105 Status of trade marks registered before commencement of Act**
 Section 208 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:
- “(5) For the purposes of section 66(1)(b), the uninterrupted period of suspension of use is 5 years (not 3) if all the following apply:
- “(a) the trade mark was registered under the Trade Marks Act 1953; and
 - “(b) the trade mark is not a defensive trade mark; and
 - “(c) the uninterrupted period of suspension of use began within the period of 5 years before this Act came into force.”
- 106 New section 210 added**
 The principal Act is amended by adding the following section:
- “210 **Act not in force in Tokelau**
 This Act is not in force in Tokelau.”

Part 23

Valuers Act 1948

- 107 Valuers Act 1948 called principal Act in this Part**
 In this Part, the Valuers Act 1948²⁴ is called “the principal Act”.
- ²⁴ 1948 No 63
- 108 Interpretation**
 Section 2 of the principal Act is amended by omitting the definition of **Valuer-General**, and substituting the following definition:
- “**Valuer-General** means the Valuer-General appointed under the State Sector Act 1988.”

Part 24

Weights and Measures Act 1987

- 109 Weights and Measures Act 1987 called principal Act in this Part**
 In this Part, the Weights and Measures Act 1987²⁵ is called “the principal Act”.
- ²⁵ 1987 No 15

110 Inspectors' working standards

- (1) Section 7(2) of the principal Act is amended by inserting, after the words "working standards", the words ", except those that are used to determine a measure of volume and are constructed of glass,". 5
- (2) Section 7 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- "(2A) Inspectors' working standards that are used to determine a measure of volume and are constructed of glass must be verified by comparison with the district standards at intervals not exceeding 10 years." 10
- (3) This section only applies to Inspectors' working standards that are verified after this Act comes into force.

111 Accredited persons' working standards

- (1) Section 7A(2) of the principal Act is amended by inserting, after the words "this section", the words ", except those that are used to determine a measure of volume and are constructed of glass,". 15
- (2) Section 7A of the principal Act is amended by adding the following subsection: 20
- "(3) Every accredited person must, at intervals not exceeding 10 years, cause the standards maintained by that person under subsection (1) that are used to determine a measure of volume and are constructed of glass to be verified by reference to— 25
- "(a) the departmental standards; or
- "(b) any district standards; or
- "(c) the standards referred to in section 5(3)(a) or (b)."
- (3) This section only applies to standards maintained by an accredited person that are verified after this Act comes into force. 30

112 Offence to supply weight, measure, or number not in accordance with stated quantity

- (1) Section 16A(1) of the principal Act is amended by adding the following paragraph: 35
- "(d) in **subsections (4) and (5), required period** means the period beginning at the time when the package was made up and ending on the seventh day after the day the package was made up."
- (2) Section 16A(4) of the principal Act is amended by—

- (a) omitting the words “, at any time on the day the package was made up or during the period of 7 days beginning on the day after the day the package was made up,”; and
- (b) inserting in paragraph (a), after the word “was”, the words “, at all times during the required period,”; and 5
- (c) inserting in paragraph (b), after the word “was”, the words “, at all times during the required period,”; and
- (d) inserting in paragraph (c), after the words “inadequate packages”, the words “, at any time during the required period,”. 10
- (3) Section 16A(5) of the principal Act is amended by omitting the words “period specified in subsection (4)”, and substituting the words “required period”.
- 113 Duration and renewal of accreditation** 15
- (1) Section 30C(1) of the principal Act is amended by—
- (a) omitting the words “section 30D of this Act”, and substituting the words “sections 30D and **30DA**”; and
- (b) omitting the expression “1 year”, and substituting the expression “3 years”. 20
- (2) Subsection (1)(b) only applies to a letter of accreditation that is issued after this Act comes into force.
- (3) Section 30C(2) of the principal Act is amended by omitting the words “of this Act,”, and substituting the words “or is, at the time of application for its renewal, suspended under **section 30DA**,”. 25
- (4) Section 30C of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
- “(4) The Secretary must renew a letter of accreditation for a period of 3 years if the Secretary— 30
- “(a) receives an application for the renewal of that letter of accreditation under subsection (3); and
- “(b) receives payment of the prescribed fee (if any); and
- “(c) is satisfied that the applicant continues to meet the requirements for accreditation prescribed by regulations made under this Act.” 35
- (5) **Subsection (4)** only applies to an application for the renewal of a letter of accreditation that is received by the Secretary after this Act comes into force.

114 New sections 30DA and 30DB inserted

The principal Act is amended by inserting, after section 30D, the following sections:

“30DA Suspension of accreditation

- “(1) The Secretary may suspend the accreditation of any person as an accredited person if the Secretary is satisfied that the person— 5
- “(a) no longer meets all the requirements for accreditation prescribed by regulations made under this Act; or
 - “(b) has failed to comply with any condition imposed by the Secretary in respect of that person’s accreditation; or 10
 - “(c) has failed to exercise or perform the powers, functions, and duties of an accredited person to a satisfactory standard; or
 - “(d) has been convicted of an offence against section 32(fa). 15
- “(2) The Secretary may suspend the accreditation of any person whose name is specified in a letter of accreditation under section 30A(2) if the Secretary is satisfied that the person—
- “(a) has failed to comply with any condition imposed by the Secretary in respect of that letter of accreditation; or 20
 - “(b) has failed to exercise or perform the powers, functions, and duties of an accredited person to a satisfactory standard; or
 - “(c) has been convicted of an offence against section 32(fa).
- “(3) The Secretary may make a suspension under **subsection (1)** or **subsection (2)** for a period of no more than 28 days. 25
- “(4) The Secretary may at any time, of his or her own motion, revoke a suspension made under **subsection (1)** or **subsection (2)**.
- “(5) Every suspension under **subsection (1)** or **subsection (2)** must be communicated to the person concerned by notice in writing, which must state— 30
- “(a) the effect of the suspension; and
 - “(b) the reasons for the suspension; and
 - “(c) the date on which the suspension begins, which must be no earlier than the date on which the notice is deemed to have been received by that person; and 35
 - “(d) the period of the suspension.
- “(6) The Secretary is not obliged to give a person an opportunity to be heard before the Secretary suspends the accreditation of that person under **subsection (1)** or **subsection (2)**. 40

- “(7) For the purposes of **subsection (5)**,—
- “(a) a notice that is posted to a person’s last known business or residential address is deemed to be received by that person 3 working days after the date on which it is posted: 5
- “(b) a notice that is sent to a person at a fax number or electronic address is deemed to be received by that person on the working day following the day on which it is sent:
- “(c) a notice that is personally delivered to a person is deemed to be received by that person on the day on which it is delivered. 10
- “(8) Despite **subsection (7)**, a notice is not deemed to have been received if the person to whom it is posted or sent proves that it was not received, otherwise than through fault on that person’s part. 15

30DB Effect of suspension of accreditation

- “(1) A person is not an accredited person, for the purposes of this Act, for the period for which his or her accreditation is suspended. 20
- “(2) At the end of the period of suspension, the person’s accreditation is immediately revived unless—
- “(a) the accreditation has, during the period of suspension, expired, in which case that person may apply for the renewal of his or her letter of accreditation under section 30C; or 25
- “(b) the accreditation has been revoked under section 30D(1); or
- “(c) that person’s name has been removed from the letter of accreditation under section 30D(2).” 30

115 Appeals against decisions of Secretary

Section 30F(1) of the principal Act is amended by inserting, after the expression “section 30D”, the words “ or **section 30DA**”.

