

Disability (United Nations Convention on the Rights of Persons with Disabilities) Bill

Government Bill

Explanatory note

General policy statement

The purpose of this Bill is to—

- amend legislative provisions that are inconsistent with the United Nations Convention on the Rights of Persons with Disabilities (the **Convention**); and
- amend the Human Rights Act 1993 to clarify the scope of its provisions enabling a person to refuse to accommodate a person's disability in certain areas of activity.

These amendments will enable New Zealand to ratify the Convention.

New Zealand signed the Convention on the opening day for signing in March 2007. The Convention came into force in May 2008, when the Convention received its 20th ratification by a State Party.

Historically, New Zealand has set a high standard for ratification of international human rights treaties and will ratify only when the Government is satisfied that our laws, policies, and practices are not inconsistent with the treaty at issue. Government agencies have assessed that their policies and practice do not present any incon-

sistency issues but that a number of domestic enactments required amendment before ratification could proceed.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill is to come into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to Human Rights Act

Overview

The purpose of these amendments is to ensure that Part 2 of the Human Rights Act 1993 (the **HRA**) is consistent with the reasonable accommodation requirements of the Convention.

Under Article 2 of the Convention, **reasonable accommodation** means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

Clause 3 provides that clauses 4 to 9 amend the HRA.

Clause 4 amends section 36 of the HRA to clarify that partnerships are required to reasonably accommodate persons with disabilities (both in relation to the provision of special services and facilities to enable persons with a disability to take advantage of the rights conferred by section 36 and in relation to the mitigation of risks posed by any person with a disability that would otherwise prevent that person from being able to take advantage of those rights).

Clause 5 amends section 37 of the HRA in a similar way.

Clause 6 amends section 39 of the HRA to clarify that for the purposes of deciding whether different treatment of a person with a disability is permissible an authority or body must,—

- if relevant, take account of whether a disabled person could perform the required duties if he or she was provided with special services or facilities that could reasonably be provided by an employer or by any other relevant person; and

- if relevant, take account of whether a risk of harm posed by a disabled person could be reduced to a normal level, without unreasonable disruption to an employer or to any other relevant person.

Clause 7 amends section 41 of the HRA to ensure that vocational training bodies are obliged, in their provision of training, facilities for training, or opportunities for training, to provide special services or facilities for persons with disabilities, unless those special services or facilities cannot reasonably be provided in the circumstances.

Clause 8 amends section 56 of the HRA to require that persons dealing in health, housing, and accommodation are required to provide special services or facilities for people with disabilities, unless these special services or facilities cannot reasonably be provided in the circumstances.

Clause 9 amends section 60 of the HRA to ensure that educational establishments are required to provide reasonable accommodation in relation to all the actions prohibited by section 53 of the HRA.

Part 2

Amendments to other Statutes

Overview

The amendments to other statutes are principally concerned with disqualification from certain public or fiduciary offices. Many statutes provide for automatic disqualification on grounds such as bankruptcy or criminal conviction. Another common ground is where a person is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1993 (the **MHCATA**), ie, where the person has “an abnormal state of mind ... of such a degree that it poses a serious danger to the health or safety of that person or of others, or seriously diminishes the capacity of that person to take care of himself or herself”. These provisions are concerned with automatic disqualification (some statutes also create a power to remove people on other grounds). The amendments in Part 2 of the Bill amend certain statutes either to do away with automatic disqualification for mental disorder, or to replace it with a test based on the exercise of certain powers under the Protection of Personal and Property Rights Act 1988 (the **PPRA**). Those powers are exercisable where a person lacks the mental capacity to decide a matter (or

the ability to communicate decisions). In relation to certain statutes, the amendments also ensure that the exercise of powers under section 30 of the PPPRA (which relates to urgent property orders) does not of itself lead to automatic exclusion from public or fiduciary office.

Clause 10 amends section 7 of the Community Trusts Act 1999. Section 7 prohibits certain people from being appointed or holding office as a trustee of a community trust. The amendment removes the prohibition for people who are mentally disordered within the meaning of the MHCATA.

Clause 11 amends sections 103, 104, 171, and 174 of the Education Act 1989—

- Section 103 prohibits certain people from being appointed, elected, or co-opted as a trustee of a school board. The amendment removes the prohibition for people who are mentally disordered within the meaning of the MHCATA.
- Section 104 specifies the circumstances in which the office of a trustee of a school board automatically becomes vacant. One circumstance is where a property order is made in respect of a trustee under the PPPRA. The amendment relaxes this rule so that, where an urgent order is made under section 30 of the PPPRA, the person is merely suspended from office. An urgent order only lasts for a maximum of 3 months. If the trustee subsequently becomes subject to a final order under section 31 of the PPPRA, the office would become vacant at that point. Otherwise, the suspension would cease when the urgent order lapsed.
- Section 171(6) prohibits certain people from being appointed, elected, or co-opted as a member of the council of a tertiary institution. The amendment removes the prohibition for people who are subject to an inpatient order or who are special patients under the MHCATA (ie, people who are detained under the MHCATA) and replaces it with a prohibition for people who are subject to a property order under the PPPRA, or subject to a personal order under that Act that reflects adversely on their competence to manage their own affairs. The new prohibitions are intended to make section 171 more consistent with section 103.

- Section 174(3) sets out the grounds on which the council of a tertiary institution may dismiss one of its members. The amendment removes the ground based on a member becoming mentally disordered within the meaning of the MHCATA and replaces it with a test based on a person becoming subject to a property order under the PPPRA, or to a personal order under that Act that reflects adversely on the member's competence to manage their own affairs. In the case of an urgent property order under section 30 of the PPPRA, the council is entitled to suspend the member while the order continues.

Clause 12 amends sections 2, 8, 15, 16AA, 22, and 25 of the Juries Act 1981—

- Section 8 prohibits certain people from serving on a jury. The amendment removes the prohibition for people with a mental disorder (but retains the prohibition for people with an intellectual disability).
- Section 15 sets out the grounds on which the Registrar may excuse a person from jury service. One of the grounds is physical disability. The amendment extends this ground to cover any disability (physical or mental). The definition of physical disability in section 2 is revised accordingly.
- Section 16AA allows a Judge to discharge the jury summons of a person with a physical disability. The amendment extends this power to cover a person with any disability.
- Section 22 allows a Judge to discharge a juror after the jury is constituted. One of the grounds is that the juror is not capable of acting effectively as a juror because of physical disability. The amendment extends this ground to cover any disability.
- Section 25 sets out the grounds on which a party to proceedings may challenge the selection of a juror. One of the grounds is physical disability. The amendment again extends this to cover any disability.

Clause 13 amends Schedule 7 of the Local Government Act 2002. Clause 5 of Schedule 7 provides that the office of a member of a local authority becomes vacant automatically on the occurrence of certain events. One of those events is where a member becomes mentally disordered within the meaning of the MHCATA. The amendment replaces that test with one where a member becomes subject to a

property order under section 31 of the PPPRA. New clause 4A of Schedule 7 provides that a member is suspended while the member is subject to an urgent property order under section 30 of the PPPRA. *Clause 14* amends section 14 of the Maori Trust Boards Act 1955. Section 14(3) prohibits certain people from being appointed as a member of a Maori Trust Board. The amendment removes the prohibition for people who are mentally disordered within the meaning of the MHCATA and replaces it with a prohibition for people who are subject to a personal order or a property order under the PPPRA or for whom a trustee corporation is acting as manager under section 32 or 33 of that Act.

Clause 15 amends clause 4 of Schedule 2 of the Maritime Transport Act 1994. Clause 4 of Schedule 2 provides that the person appointed as the Maritime Appeal Authority must cease to hold office on the occurrence of certain events. One of those events is where the person becomes mentally disordered within the meaning of the MHCATA. The amendment removes that test. Clause 4 of Schedule 2 also allows the Minister to remove the person from office if they become incapable of performing their functions due to disability. New clause 4A of Schedule 2 inserts a definition of disability mirroring the one in the Human Rights Act 1993.

Clause 16 amends sections 24 and 42 of the Motor Vehicle Sales Act 2003. Section 24 lists the cases where an individual is automatically disqualified from registration as a trader. The amendment removes the case where a person is subject to a compulsory treatment order under Part 2 of the MHCATA. Section 42 requires the Registrar to cancel a person's registration in certain circumstances. The amendment of section 42 removes the requirement to cancel a person's registration where the person is made subject to an urgent property order under the PPPRA.

Clause 17 amends section 30 of the Mutual Insurance Act 1955. Section 30(10) provides for the office of director of the Board of Directors to be vacated automatically in certain cases. The amendment of section 30(10) removes the case where a person becomes mentally disordered within the meaning of the MHCATA and the case where a person becomes subject to an urgent property order under section 30 of the PPPRA. New subsection (10A) provides for a director to be suspended if an urgent property order is made in respect of the director.

Clause 18 amends sections 5 and 7 of the New Zealand Council for Educational Research Act 1972. Section 5 prohibits certain people from being appointed as members of the Council. The prohibitions include one for people who are mentally disordered within the meaning of the MHCATA. The amendment replaces that with a test based on the making of a property order under section 30 or 31 of the PPPRA. Section 7 provides for the office of a member to be vacated automatically in certain circumstances. The amendment of section 7 ensures that the office of a member who becomes subject to an urgent property order under section 30 of the PPPRA is not vacated automatically. Instead, the member is suspended while the order remains in force.

Clause 19 amends section 19 of the New Zealand Superannuation and Retirement Income Act 2001. Section 19(6)(b) gives the chief executive a discretion to pay a lower rate of superannuation to hospital patients having regard to their capacity to appreciate the payments. The amendment removes that discretion.

Clause 20 amends sections 59 and 61 of the Public Trust Act 2001. Section 59(3) provides that, where Public Trust is acting as co-trustee, decisions about the separate investment of estate money may only be taken with the consent of the co-trustees—but ignoring any co-trustee who is a special patient or subject to an inpatient order under the MHCATA, ie, any co-trustee who is detained under the MHCATA. The amendment removes that proviso, and replaces it with a proviso for any co-trustee whose property is managed under the PPPRA. Section 61 makes similar provision in relation to decisions about investments in group investment funds, and is amended similarly.

Clause 21 amends sections 46 and 58 of the Reserve Bank of New Zealand Act 1989. Section 46 prohibits a person from being appointed or continuing to hold office as Governor or Deputy Governor of the Reserve Bank on certain grounds. Those grounds include where the person is mentally disordered within the meaning of the MHCATA. The amendment removes that ground. Section 58 makes similar provision about non-executive directors of the Reserve Bank, and is amended similarly.

Clause 22 amends section 29 of the River Boards Act 1908. Section 29 prohibits certain people from being elected to or remaining

in office as a member of a River Board. The amendment removes the prohibition for those who are detained under the MHCATA.

Clause 23 amends sections 200, 201, 219V and 219W of the Sale of Liquor Act 1989. Section 200 prohibits certain people from being elected or appointed or from remaining as members of a licensing trust. The amendment removes the prohibition for those who are mentally disordered within the meaning of the MHCATA and replaces it with a prohibition for those who are subject to a property order under section 30 or 31 of the PPPRA. However, the amendment does not stop a person remaining a member merely because an urgent property order is made in respect of them under section 30 of the PPPRA. Instead, the member is suspended while the order remains in force (see the amendment to section 201). Section 219W prohibits certain people from being elected or holding office as trustees of a community trust established under the 1989 Act. The amendment removes the prohibition for those who are subject to a compulsory treatment order or who are a special patient under the MHCATA. Section 219V(4) treats a trustee who becomes incapable of holding office by virtue of section 219W as having resigned. The amendment to section 219V ensures that a person who becomes subject to an urgent property order is not treated as having resigned but, instead, his office is suspended while the order remains in force.

Clause 24 amends section 75 of the Social Security Act 1964. Section 75(4) gives the chief executive a discretion to pay a lower rate of benefit to a hospital patient having regard to the patient's capacity to appreciate the payments. The amendment removes that discretion.

Clause 25 amends sections 54 and 55 of the Soil Conservation and Rivers Control Act 1941. Section 54 prohibits certain people from being elected or appointed as a member of a Catchment Board. The amendment removes the prohibition for people who are detained under the MHCATA and replaces it with a prohibition for people who are subject to a property order under section 30 or 31 of the PPPRA. Section 55 provides for the office of a Catchment Board member to become vacant automatically if the member is detained under the MHCATA. The amendment replaces that test with a test based on the member's inability to perform their duties due to disability. Disability is defined by reference to the Human Rights Act 1993. Those who become subject to a property order under section 31 of the PPPRA are automatically disqualified.

Clause 26 amends section 5 of the Taranaki Scholarships Trust Board Act 1957. Section 5 provides for the office of an elected or appointed member of the Taranaki Scholarships Trust Board to be vacated automatically on various grounds. The grounds include where the member becomes mentally disordered within the meaning of the MHCATA. The amendment replaces that ground with one where the member becomes subject to a property order under section 31 of the PPPRA or has a manager appointed in respect of all or part of their property under section 32 or 33 of that Act.

Clause 27 amends sections 210 and 272 of Te Ture Whenua Maori Act 1993. Section 210 defines a **person under disability** for the purposes of Part 12 of the Act (which deals with trusts). The amendment removes from the definition a person who is mentally disordered within the meaning of the MHCATA. However, this amendment does not apply to a kai tiaki trust constituted before the Bill comes into force. Section 272 prohibits certain people from being appointed or elected or from holding office as a member of a committee of management of a Maori incorporation. The amendment removes the prohibition for those who are subject to a compulsory treatment order under the MHCATA and replaces it with a prohibition for those who are subject to a personal order or a property order under the PPPRA or for whom a trustee corporation is acting as manager under section 32 or 33 of that Act. However, if an urgent property order is made in respect of a member, the member does not automatically cease to hold office. Instead, the member's office is suspended while the order remains in force.

Clause 28 amends section 15 of the Trustee Act 1956. Section 15(1)(j) requires a notice to be given to all interested persons of full age and full mental capacity if a trustee wishes to appropriate any part of property vested in him or her in or towards satisfaction of a legacy. The amendment extends the notice requirement to include all interested persons, whether or not of full age or full mental capacity.

Clause 29 amends section 4 of the Waitangi National Trust Board Act 1932. The effect of the amendment is to remove the provision by which a representative member of the Board vacates office automatically if he or she becomes mentally defective and detained under mental health legislation. Instead, the office is vacated if he or she becomes subject to a property order under section 31 of the PPPRA.

Part 3

Amendments to regulations

Clause 30 amends rule 37 of the Child Support Rules 1992. Rule 37 allows for service on the carer of a person who is mentally disordered (within the meaning of the MHCATA) or on any person with whom the mentally disordered person resides. The amendment removes this rule and allows instead for service on the carer of a person who poses a serious danger to the health or safety of others or on any person with whom the dangerous person resides.

Clause 31 amends regulations 12 and 13 of the Freshwater Fish Farming Regulations 1983. These regulations allow the manager of a licensee's estate appointed under the Mental Health Act 1969 or the Aged and Infirm Persons Protection Act 1912 to transfer and operate a licence in certain circumstances. The amendment replaces the reference to a manager under those Acts with a reference to a manager appointed under the PPPRA.

Clause 32 amends regulation 17 of the Weights and Measures Regulations 1999. Regulation 17 disqualifies a person from accreditation if he or she is, among other things, mentally disordered within the meaning of the MHCATA. The amendment removes that ground of disqualification.

Minister of Finance's statement on consultation on the proposed amendment to the New Zealand Superannuation and Retirement Income Act 2001 in the Disability (United Nations Convention on the Rights of Persons with Disabilities) Bill

Introduction

Section 73 of the New Zealand Superannuation and Retirement Income Act 2001 (the **Act**) provides that the Minister must, on the introduction into the House of Representatives of a government Bill that proposes an amendment to the Act, bring to the attention of the House the consultation process that was followed in the formulation of the proposed amendment. The term **Minister**, for the purposes of section 73, is defined in section 5 of the Act as the Minister of Finance.

That statement must include (without limitation)—

- (a) whether consultation has taken place with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act);
- (b) whether consultation has taken place with the Guardians (to the extent that the amendment relates to Part 2 of the Act);
- (c) the results of the consultation.

The Disability (United Nations Convention on the Rights of Persons with Disabilities) Bill (the **Bill**) proposes one minor amendment to Part 1 of the Act. It does not propose to amend Part 2, Part 3, Part 4 or any of the schedules of the Act.

The Bill will repeal section 19(6)(b) of the Act. Under section 19, the rate of New Zealand superannuation payable to a patient in a public hospital who has been hospitalised for more than 13 weeks is reduced to the hospital rate. Section 19(6)(b) provides the Ministry of Social Development's Chief Executive with a discretion to pay a lower rate than the hospital rate having regard to the patient's capacity to appreciate the payments. This provision is considered to be inconsistent with the rights set out in the Convention. It is also rarely, if ever, used and therefore may be repealed without consequence.

Consultation

On 17 April 2008, the Minister for Disability Issues consulted with either the Leader, or the Disability Issues Spokespersons, of ACT New Zealand, the Green Party, the Maori Party, the National Party, New Zealand First, the Progressive Party, and United Future New Zealand, advising them of the government's intention to table a National Interest Analysis, which proposes New Zealand ratify the United Nations Convention on the Rights of Persons with Disabilities (the **Convention**) and to possibly introduce a Bill to remove minor legislative inconsistencies with the Convention. This consultation did not include specific consideration of the proposed minor amendment to Part 1 of the Act as the relevant inconsistency had not been identified at this time.

Further consultation with parties is unnecessary at this stage as the amendment is technical and has no practical consequence. Neither is consultation with the Guardians of New Zealand Superannuation required as the Bill does not amend Part 2 of the Act.

The Ministry of Social Development (responsible for administration of Part 1 of the Act), the Ministry of Justice, and the Treasury support the proposed amendment to the Act.

Hon Ruth Dyson

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act **2008**.

2 Commencement

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

Part 1**Amendments to Human Rights Act 1993** 5**3 Amendments to Human Rights Act 1993**

Sections 4 to 9 amend the Human Rights Act 1993.

4 Partnerships

(1) Section 36 is amended by inserting the following subsection after subsection (2): 10

“(2A) It is unlawful for a firm, or for persons jointly promoting the formation of a firm, to fail to provide special services or facilities that could reasonably be provided by the firm, or those persons, in the circumstances and that, if provided, would enable a person with a disability— 15

“(a) to be accepted as a partner and remain in partnership; or

“(b) to be offered the same terms and conditions as a partner (including terms and conditions as to status in the firm or entitlements to shares in capital or profits) that are made available to other members or prospective members of the firm.” 20

(2) Section 36 is amended by repealing subsection (3) and substituting the following subsections:

“(3) Nothing in this section prevents the fixing of reasonable terms and conditions in relation to a partner or prospective partner, who by reason of disability or age— 25

“(a) has a restricted capacity to participate or continue to participate in the partnership, that cannot be restored to normal by the provision of any special services or facilities required to be provided under **subsection (2A)**; or 30

“(b) requires special conditions if he or she is to participate or continue to participate in the partnership, even if any special services or facilities required to be provided under **subsection (2A)** are provided.

“(4) Nothing in this section applies in respect of a person with a disability, if the disability of the person is such that— 35

- “(a) there would be a risk of harm to that person or others, including the risk of infecting others with an illness if that person were to accept or remain in partnership or be given the same terms and conditions as a partner (including terms and conditions as to status in the firm or entitlement to shares in capital or profits) that were made available to other members or prospective members of the firm; and 5
- “(b) it is not reasonable to take that risk.
- “(5) **Subsection (4)** does not apply if the firm, or persons jointly promoting the formation of a firm, could, without unreasonable disruption, take reasonable measures to reduce the risk to a normal level.” 10
- 5 Organisations of employees or employers and professional and trade associations 15**
- (1) Section 37 is amended by inserting the following subsection after subsection (1):
- “(1A) It is unlawful for an organisation to which this section applies, or for any person acting or purporting to act on behalf of any such organisation, to fail to provide special services or facilities that could reasonably be provided by the organisation in the circumstances and that, if provided, would enable a person with a disability to— 20
- “(a) be accepted and remain in membership; or
- “(b) be given equal access to benefits, facilities, or services provided by the organisation (including the right to stand for election and hold office).” 25
- (2) Section 37 is amended by inserting the following subsections after subsection (2):
- “(2A) Nothing in this section applies in respect of a person with a disability, if the disability of the person is such that— 30
- “(a) there would be a risk of harm to that person or others, including the risk of infecting others with an illness if that person were to accept or remain in membership or be given equal access to benefits, facilities, or services provided by the organisation (including the right to stand for election and hold office); and 35
- “(b) it is not reasonable to take that risk.

“(2B) **Subsection (2A)** does not apply if the organisation could, without unreasonable disruption, take reasonable measures to reduce the risk to a normal level.”

6 Exceptions in relation to qualifying bodies

Section 39 is amended by inserting the following subsection 5
after subsection (2):

“(2A) For the purposes of applying subsection (2)(a) and (b), an authority or body referred to in section 38 must,—

“(a) in the case of subsection (2)(a), take account of whether a disabled person could perform the required duties if he 10
or she was provided with special services or facilities that could reasonably be provided by an employer or by any other relevant person:

“(b) in the case of subsection (2)(b), take account of whether the risk of harm referred to in that paragraph could be 15
reduced to a normal level, without unreasonable disruption to an employer or to any other relevant person.”

7 Exceptions in relation to vocational training bodies

Section 41 is amended by adding the following subsections:

“(7) Nothing in section 40 makes it unlawful to fail to provide special services or facilities designed for a specified purpose if those special services or facilities cannot reasonably be provided in the circumstances. 20

“(8) In **subsection (7)**, a **specified purpose** means 1 or more of the following purposes: 25

“(a) to enable a person with a disability to undergo and remain in training; or

“(b) to provide a person with a disability with facilities or opportunities for training; or

“(c) to provide a person with a disability with facilities or opportunities for training on no less favourable terms and conditions than would otherwise be made available.” 30

8 Further exception in relation to disability

Section 56 is amended by adding the following subsection:

“(3) Nothing in section 53 makes it unlawful to fail to provide special services or facilities designed to make accommodation 35

suitable for occupation by a person with a disability, if those special services or facilities cannot reasonably be provided in the circumstances.”

- 9 Further exceptions in relation to disability**
- Section 60(1) is amended by— 5
- (a) omitting “of this Act makes it unlawful to refuse admission to an educational establishment” and substituting “applies”; and
 - (b) omitting “that establishment” and substituting “an establishment referred to in that section”. 10

Part 2

Amendments to other Statutes

Amendment to Community Trusts Act 1999

- 10 Amendment to Community Trusts Act 1999**
- (1) This section amends the Community Trusts Act 1999. 15
 - (2) Section 7(f) is repealed.

Amendments to Education Act 1989

- 11 Amendments to Education Act 1989**
- (1) This section amends the Education Act 1989.
 - (2) Section 103(1)(b) is repealed. 20
 - (3) Section 104 is amended by inserting the following subsection after subsection (1):
 - “(1A) If a property order is made in respect of a trustee under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders),— 25
 - “(a) subsection (1)(d) does not apply to the trustee by virtue only of the making of that order; but
 - “(b) while the order remains in force, the trustee is deemed to have been granted leave of absence by the Board and is not capable of acting as a trustee during that period.” 30
 - (4) Section 171(6) is amended by repealing paragraph (b) and substituting the following paragraphs:
 - “(b) the person is subject to a property order under the Protection of Personal and Property Rights Act 1988; or

- “(ba) the person is a person in respect of whom a personal order has been made under that Act that reflects adversely on his or her—
- “(i) competence to manage his or her own affairs in relation to his or her property; or 5
- “(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of his or her personal care and welfare; or”.
- (5) Section 174(3) is amended by repealing paragraph (b) and substituting the following paragraphs: 10
- “(b) becomes subject to a property order under the Protection of Personal and Property Rights Act 1988 (other than an order under section 30 of that Act); or
- “(ba) becomes subject to a personal order under that Act that reflects adversely on his or her— 15
- “(i) competence to manage his or her own affairs in relation to his or her property; or
- “(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of his or her personal care and welfare; or”.
- (6) Section 174 is amended by inserting the following subsections after subsection (3): 20
- “(3A) The Council may, by resolution, suspend a member of the Council (other than the chief executive) as a member if the member becomes subject to a property order made under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders). 25
- “(3B) If a member is suspended under **subsection (3A)**,—
- “(a) the suspension has effect as if the member had been granted leave of absence; and 30
- “(b) the member is not capable of acting as a member during the period of suspension; and
- “(c) the suspension continues until the property order made under section 30 of the Protection of Personal and Property Rights Act 1988 ceases to be in force (but this does not affect any powers of the Council under subsection (3) in respect of the member).” 35
- (7) Section 174(4) is amended by inserting “or suspending” after “dismissing”.

Amendments to Juries Act 1981

12 Amendments to Juries Act 1981

- (1) This section amends the Juries Act 1981.
- (2) The definition of **physical disability** in section 2 is repealed.
- (3) Section 2 is amended by inserting the following definition in 5
its appropriate alphabetical order:
“**disability** includes visual or aural impairment”.
- (4) Section 8(i) is repealed.
- (5) Section 15(1)(aa) is amended by omitting “physical”.
- (6) The heading to section 16AA is amended by omitting “**phys-** 10
ical”.
- (7) Section 16AA(1) is amended by omitting “physical”.
- (8) Section 22(1)(b) is amended by omitting “physical”.
- (9) Section 25(1)(b) is amended by omitting “physical”.

Amendments to Local Government Act 2002 15

13 Amendments to Local Government Act 2002

- (1) This section amends the Local Government Act 2002.
- (2) Schedule 7 is amended by inserting the following clause after
clause 4:
“**4A Suspension of members** 20
“(1) A person’s office as member of a local authority is suspended
while the person is subject to a property order made under
section 30 of the Protection of Personal and Property Rights
Act 1988 (which relates to temporary orders).
“(2) If **subclause (1)** applies,— 25
“(a) the person is deemed to have been granted leave of ab-
sence and is not capable of acting as a member during
the period of suspension; and
“(b) the person may not do an act as a member while on leave
of absence under **paragraph (a)**.” 30
(3) Clause 5(1) of Schedule 7 is amended by repealing paragraph
(b) and substituting the following paragraph:
“(b) becomes subject to a property order made under section
31 of the Protection of Personal and Property Rights Act
1988; or” 35

- (4) The amendments made by **subsections (2) and (3)** do not limit the power of a District Court under clause 2 of Schedule 7 of the Local Government Act 2002.

Amendment to Maori Trust Boards Act 1955

- 14 Amendment to Maori Trust Boards Act 1955** 5
- (1) This section amends the Maori Trust Boards Act 1955.
- (2) Section 14(3) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) a person who is subject to a personal order or a property order made under the Protection of Personal and Property Rights Act 1988 or for whom a trustee corporation is acting as manager under section 32 or 33 of that Act; or” 10

Amendments to Maritime Transport Act 1994

- 15 Amendments to Maritime Transport Act 1994** 15
- (1) This section amends the Maritime Transport Act 1994.
- (2) Clause 4(b) of Schedule 2 is amended by omitting “; or” and substituting “,—”.
- (3) Clause 4(c) of Schedule 2 is repealed.
- (4) Schedule 2 is amended by inserting the following clause after clause 4: 20
- “4A. For the purposes of clause 4, **disability** has the meaning given by section 21(1)(h) of the Human Rights Act 1993.”

Amendments to Motor Vehicle Sales Act 2003

- 16 Amendments to Motor Vehicle Sales Act 2003** 25
- (1) This section amends the Motor Vehicle Sales Act 2003.
- (2) Section 24(1) is repealed.
- (3) Section 42 is amended by inserting the following subsection after subsection (1):
- “(1A) Subsection (1)(c) does not apply in respect of a motor vehicle trader who is disqualified from registration by virtue only of the making of a property order under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders).” 30

Amendments to Mutual Insurance Act 1955

17 Amendments to Mutual Insurance Act 1955

- (1) This section amends the Mutual Insurance Act 1955.
- (2) Section 30(10)(d) is amended by—
- (a) omitting “a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or becomes”; and
 - (b) inserting “(other than an order under section 30 of that Act)” after “1988”.
- (3) Section 30 is amended by inserting the following subsection after subsection (10):
- “(10A) A person’s office as director is suspended while the director is subject to a property order made under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders) and, during that period,—
- “(a) the person is deemed to have been granted leave of absence by the Board; and
 - “(b) the person is not capable of acting as a director.”

*Amendments to New Zealand Council for
Educational Research Act 1972*

20

**18 Amendments to New Zealand Council for Educational
Research Act 1972**

- (1) This section amends the New Zealand Council for Educational Research Act 1972.
- (2) Section 5 is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) a person who is subject to a property order made under section 30 or 31 of the Protection of Personal and Property Rights Act 1988:”.
- (3) Section 7 is amended by inserting the following subsection after subsection (1):
- “(1A) If a property order is made in respect of a member under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders),—
- “(a) subsection (1)(c) does not apply to the member by virtue only of the making of that order; but

“(b) while the order remains in force, the member is deemed to have been granted leave of absence and is not capable of acting as a member during that period.”

*Amendments to New Zealand Superannuation
and Retirement Income Act 2001* 5

**19 Amendments to New Zealand Superannuation and
Retirement Income Act 2001**

- (1) This section amends the New Zealand Superannuation and Retirement Income Act 2001.
- (2) Section 19(6)(a) is amended by omitting “; or”. 10
- (3) Section 19(6)(b) is repealed.

Amendments to Public Trust Act 2001

20 Amendments to Public Trust Act 2001

- (1) This section amends the Public Trust Act 2001.
- (2) Section 59(3) is amended by repealing paragraph (b) and substituting the following paragraph: 15
 - “(b) is neither subject to a property order made under section 30 or 31 of the Protection of Personal and Property Rights Act 1988 nor a person for whom a trustee corporation is acting as manager under section 32 or 33 of that Act.” 20
- (3) Section 61(4) is amended by repealing paragraph (b) and substituting the following paragraph:
 - “(b) is neither subject to a property order made under section 30 or 31 of the Protection of Personal and Property Rights Act 1988 nor a person for whom a trustee corporation is acting as manager under section 32 or 33 of that Act.” 25

*Amendments to Reserve Bank of New Zealand
Act 1989* 30

21 Amendments to Reserve Bank of New Zealand Act 1989

- (1) This section amends the Reserve Bank of New Zealand Act 1989.
- (2) Section 46(1)(j) is amended by omitting “; or”.

- (3) Section 46(1)(k) is repealed.
- (4) Section 58(i) is repealed.

Amendments to River Boards Act 1908

22 Amendments to River Boards Act 1908

- (1) This section amends the River Boards Act 1908. 5
- (2) Section 29(1)(b) is repealed.
- (3) Section 29(2) is amended by omitting “subsection (1)(a)” and substituting “subsection (1)”.

Amendments to Sale of Liquor Act 1989

23 Amendments to Sale of Liquor Act 1989 10

- (1) This section amends the Sale of Liquor Act 1989.
- (2) Section 200(1) is amended by repealing paragraph (e) and substituting the following paragraph:
 - “(e) a person who is subject to a property order made under section 30 or 31 of the Protection of Personal and Property Rights Act 1988.” 15
- (3) Section 201 is amended by adding the following subsection as subsection (2):
 - “(2) If a property order is made in respect of a member under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders),—
 - “(a) subsection (1)(d) does not apply to the member by virtue only of the making of that order; but
 - “(b) while the order remains in force, the member is deemed to have been granted leave of absence and is not capable of acting as a member of the licensing trust during that period.” 25
- (4) Section 219V is amended by inserting the following subsection after subsection (4):
 - “(4A) If a property order is made in respect of a trustee under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders),—
 - “(a) subsection (4) does not apply to the trustee by virtue only of the making of that order; but30

- “(b) while the order remains in force, the trustee is deemed to have been granted leave of absence and is not capable of acting as a trustee of the community trust during that period.”
- (5) Section 219W(e) is repealed. 5

Amendments to Social Security Act 1964

24 Amendments to Social Security Act 1964

- (1) This section amends the Social Security Act 1964.
- (2) Section 75(4)(a) is amended by omitting “; or”.
- (3) Section 75(4)(b) is repealed. 10

*Amendments to Soil Conservation and Rivers
Control Act 1941*

**25 Amendments to Soil Conservation and Rivers Control
Act 1941**

- (1) This section amends the Soil Conservation and Rivers Control Act 1941. 15
- (2) Section 54 is amended by repealing paragraph (c) and substituting the following paragraph:
“(c) any person who is subject to a property order made under section 30 or 31 of the Protection of Personal and Property Rights Act 1988.” 20
- (3) Section 55(1) is amended by repealing paragraph (c) and substituting the following paragraph:
“(c) is or becomes, due to disability, unable to carry out his or her duties as a member; or”. 25
- (4) Section 55 is amended by adding the following subsection:
“(4) For the purposes of **subsection (1)**—
“(a) **disability** has the meaning given by section 21(1)(h) of the Human Rights Act 1993; and
“(b) a person who becomes subject to a property order made under section 31 of the Protection of Personal and Property Rights Act 1988 is to be treated as falling within **subsection (1)(c)** (whether or not the person has a disability).” 30

*Amendment to Taranaki Scholarships Trust
Board Act 1957*

26 Amendment to Taranaki Scholarships Trust Board Act 1957

- (1) This section amends the Taranaki Scholarships Trust Board Act 1957. 5
- (2) Section 5(1) is amended by repealing paragraph (d) and substituting the following paragraph:
- “(d) becomes subject to a property order made under section 31 of the Protection of Personal and Property Rights Act 1988 or becomes a person for whom a trustee corporation is acting as manager under section 32 or 33 of that Act; or”. 10

Amendments to Te Ture Whenua Maori Act 1993

27 Amendments to Te Ture Whenua Maori Act 1993 15

- (1) This section amends Te Ture Whenua Maori Act 1993.
- (2) The definition of **person under disability** in section 210 is amending by repealing paragraph (b).
- (3) Section 272(2) is amended by repealing paragraph (a) and substituting the following paragraph: 20
- “(a) a person who is subject to a personal order or a property order made under the Protection of Personal and Property Rights Act 1988 or for whom a trustee corporation is acting as manager under section 32 or 33 of that Act; or”. 25
- (4) Section 272 is amended by adding the following subsections:
- “(3) However, if a property order is made in respect of a member of a committee of management under section 30 of the Protection of Personal and Property Rights Act 1988,—
- “(a) the member does not cease to hold office as a member of the committee by virtue only of the making of that order; but 30
- “(b) while that order remains in force, the member is suspended from office.
- “(4) A member who is suspended from office under **subsection (3)**— 35
- “(a) is deemed to have been granted leave of absence; and

“(b) is not capable of acting as a member of the committee during the period of suspension.”

- (5) **Subsection (2)** of this section does not apply to a kai tiaki trust constituted under Part 12 of the Te Ture Whenua Maori Act 1993 before the commencement of this section. 5

Amendment to Trustee Act 1956

28 Amendment to Trustee Act 1956

- (1) This section amends the Trustee Act 1956.
- (2) The first proviso to section 15(1)(j) is amended by omitting “of full age and full mental capacity”. 10

Amendments to Waitangi National Trust Board Act 1932

29 Amendments to Waitangi National Trust Board Act 1932

- (1) This section amends the Waitangi National Trust Board Act 1932. 15
- (2) Section 4 is amended by adding the following subsection as subsection (2):
- “(2) However, the deed or declaration of trust has effect for these purposes as if, in place of paragraph (c) of clause 8, there were substituted the following paragraph: 20
- “ ‘(c) become subject to a property order made under section 31 of the Protection of Personal and Property Rights Act 1988; or’ ”.

Part 3

Amendments to Regulations 25

Amendment to Child Support Rules 1992

30 Amendment to Child Support Rules 1992

- (1) This section amends the Child Support Rules 1992.
- (2) Rule 37 is amended by—
- (a) omitting “is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992” and substituting “poses a serious danger to the health or safety of others”; and 30

- (b) omitting “the mentally disordered person” and substituting “the respondent”.

*Amendments to Freshwater Fish Farming
Regulations 1983*

- 31 Amendments to Freshwater Fish Farming Regulations 1983** 5
- (1) This section amends the Freshwater Fish Farming Regulations 1983.
- (2) Regulation 12(1) is amended by revoking paragraphs (c) and (d) and substituting the following paragraph: 10
- “(c) the manager under any of sections 30 to 33 of the Protection of Personal and Property Rights Act 1988 of the property of a licensee (or of part of it, if the licence relates to that part); or”.
- (3) Regulation 13(1) is amended by revoking paragraphs (b) and (c) and substituting the following paragraph: 15
- “(b) the manager under any of sections 30 to 33 of the Protection of Personal and Property Rights Act 1988 of the property of a licensee (or of part of it, if the licence relates to that part); or”.
- 20

*Amendment to Weights and Measures
Regulations 1999*

- 32 Amendment to Weights and Measures Regulations 1999**
- (1) This section amends the Weights and Measures Regulations 1999. 25
- (2) Regulation 17(1)(b)(iv) is revoked.