

Inquiries Bill

Government Bill

Explanatory Note

General policy statement

Currently, Royal commissions and commissions of inquiry take place under the Commissions of Inquiry Act 1908 (the **1908 Act**), although the Royal prerogative is also relevant in the appointment of Royal commissions. Royal commissions and commissions of inquiry have tended to inquire into matters of significant public concern. Examples include the current Royal Commission on Auckland Governance and the Commission of Inquiry into the Collapse of the Viewing Platform at Cave Creek which reported in 1995.

A 2008 Law Commission report (*A New Inquiries Act* NZLC R102) concluded that the 1908 Act contained outdated and confusing provisions that had the potential to add cost and delay to commissions of inquiry and Royal commissions. It also noted that there is a need for a flexible form of statutory inquiry that Ministers can use for the less complex, discrete issues that require independent investigation. The Law Commission recommended that the 1908 Act be replaced with legislation that provided for forms of inquiry that recognised modern public law principles.

The purpose of this Bill is therefore to reform and modernise the law relating to inquiries, by—

- providing for the establishment of both public and government inquiries to inquire into matters of public importance; and

- recognising and providing for Royal commissions appointed under the Royal prerogative; and
- enabling public inquiries, government inquiries, and Royal commissions to be carried out effectively, efficiently, and fairly.

The Bill would repeal section 2 of the 1908 Act which provides for the appointment of commissions of inquiry, and section 15 which relates to Royal commissions. However, it would leave the remaining provisions of the 1908 Act in force for the time being. Over the years, the 1908 Act has been used as a means of giving inquisitorial powers to many other statutory bodies, (for example, the Waitangi Tribunal). It is intended that a review will take place of all the bodies that take powers from the 1908 Act to determine what law changes need to be made to enable the final repeal the Commission of Inquiry Act 1908.

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

Preliminary provisions

Clause 3 states the purpose of the Bill, which is to reform and modernise the law relating to inquiries by—

- providing for the establishment of both public and government inquiries to inquire into matters of public importance; and
- recognising and providing for Royal commissions established under the Royal prerogative; and
- enabling those inquiries to be carried out effectively, efficiently, and fairly.

Clause 4 contains definitions of terms used in the Bill.

Part 2

Establishment and membership of inquiry

Clause 6 provides for 3 forms of inquiry as follows:

- a Royal commission established under the Letters Patent constituting the office of Governor-General.
- a public inquiry established by the Governor-General by Order in Council to inquire into a matter of public importance:
- a government inquiry established by a Minister of the Crown by notice in the *Gazette* to inquire into a matter of public importance.

Clause 7 sets out the matters to be specified in the instrument establishing an inquiry.

Clause 8 specifies the circumstances when the Governor-General or the appointing Minister may remove a member of an inquiry from office.

Clause 9 specifies the options to address a vacancy in the membership of an inquiry. The appropriate Minister or appointing Minister may require the inquiry to continue, or a replacement member may be appointed, or the inquiry may be terminated.

Part 3

Duties, powers, immunities, and privileges

Clause 10 requires an inquiry and each of its members to act independently, impartially, and fairly.

Clause 11 provides that an inquiry has no power to determine the civil, criminal, or disciplinary liability of any person. However, an inquiry is not prevented from making findings of fault or recommendations that further steps be taken to determine liability.

Clause 12 requires an inquiry to prepare and present a final report to—

- the Governor-General, in the case of a public inquiry;
- the appointing Minister, in the case of a government inquiry.

Clause 13 provides for the Solicitor-General to appoint counsel to assist or advise an inquiry.

Clause 14 provides for an inquiry to conduct its inquiry as it considers appropriate, subject to the other provisions of the Bill and its terms

of reference. An inquiry must not act inconsistently with the rules of natural justice and must have regard to the need to avoid unnecessary delay or cost.

Clause 15 authorises an inquiry to forbid the publication of certain matters, to restrict public access to the inquiry, or to hold the inquiry in private. The clause lists criteria that an inquiry must take into account in deciding whether to make an order.

Clause 16 specifies the circumstances in which an inquiry may be postponed or temporarily suspended.

Clause 17 requires an inquiry to observe the rules of natural justice before making an adverse finding against any person in its report.

Clause 18 provides for an inquiry to designate any person to be a core participant in the inquiry. A person who is a core participant has the right to give evidence and make submissions to an inquiry.

Clause 19 provides for the chief executive of the relevant department, in response to a recommendation from an inquiry, to grant funding for legal assistance to specified persons required or wishing to appear before an inquiry or who have an interest in the inquiry.

Clause 20 deals with evidential matters.

Clause 21 authorises an inquiry to require the production of documents or the provision of information.

Clause 22 authorises an inquiry to delegate to an officer of the inquiry the powers of the inquiry under *clauses 20(b)* (taking evidence on oath or affirmation) and *21(b)* (examining any document or thing produced by a witness).

Clause 23 authorises an inquiry to order disclosure to any person participating in an inquiry any specified document, information, or thing that another person has produced before the inquiry.

Clause 24 authorises an inquiry to issue a witness summons requiring a person to attend and give evidence before the inquiry.

Clause 25 specifies how a witness summons is to be served on the person concerned.

Clause 26 provides for the payment of expenses of persons summoned to attend an inquiry.

Clause 27 confers immunity on an inquiry and its members from liability for anything done in performing the duties of the inquiry, unless done in bad faith.

Clause 28 confers on witnesses participating in an inquiry the same immunities and privileges as if they were appearing in civil proceedings.

Part 4

Sanctions and miscellaneous matters

Clause 29 authorises an inquiry to make an order awarding costs against a person if satisfied that the person has unduly lengthened or obstructed the inquiry or added undue cost to the inquiry.

Clause 30 provides for offences against the Bill.

Clause 31 provides a maximum penalty of a fine of \$10,000 for an offence against *clause 30*.

Clause 32 provides for proceedings by the Solicitor-General for contempt of an inquiry.

Clause 33 specifies the extent to which the Official Information Act 1982 applies, after an inquiry has made its report, to documents created or received by an inquiry.

Clause 34 provides that an inquiry is a public office for the purpose of the Public Records Act 2005 and specifies that all documents and things created or received by an inquiry are public records for the purposes of that Act.

Clause 35 provides for an inquiry to state a case to the High Court on any question of law arising in any matter before the inquiry.

Clause 36 is a procedural provision relating to judicial review proceedings of an inquiry.

Clause 37 requires the appropriate Minister of the Crown to commence, within 5 years after the commencement of the Bill, a review in relation to the entities referred to in *clause 39(b)* to consider what powers they require and what changes to the law are necessary.

Clause 38 repeals sections 2 and 15 of the Commissions of Inquiry Act 1908.

Clause 39 is a transitional provision which continues the application of the Commission of Inquiry Act 1908—

- to any commission of inquiry or Royal commission appointed under that Act that is in progress at the commencement of the Bill; and

- to any entity that is or may be established under an enactment enacted before the commencement of the Bill and that derives its powers from that Act.

The clause also provides that the Bill does not apply to a Royal commission that is still in progress at the commencement of the Bill.

Clause 40 makes the consequential amendments set out in *Schedule 2*.

Regulatory impact statement

Executive Summary

The Law Commission's report *A New Inquiries Act* NZLC R 102 reviewed the law governing commissions of inquiry, Royal commissions, and non-statutory ministerial inquiries. It concluded that inquiries play a key role in our democratic system. However, it considered that the Commissions of Inquiry Act 1908 (the **Act**) is outdated and that some of its provisions may contribute to the high cost of inquiries. It also concluded that the legislation is lacking because it fails to provide Ministers with a flexible form of statutory inquiry that they can use for the less complex, discrete issues that require independent investigation.

Consequently, it is proposed that the law relating to public inquiries should be reformed and modernised through a new Inquiries Act. The Act would provide for flexible, effective, and efficient inquiries that would take place within an appropriate legal framework. A draft Inquiries Bill was appended to the Law Commission's report.

Adequacy statement

The Department of Internal Affairs has reviewed this regulatory impact statement and considers that it fulfils the adequacy criteria.

Status quo and problem

Commissions of inquiry and Royal commissions are governed by the Commissions of Inquiry Act 1908. Among other things, the Act gives those inquiries powers to obtain information, sets out procedural provisions and provides protections for those taking part. How-

ever, the Act is outdated and has been amended many times, in a piecemeal manner. The following problems exist:

- The impact of some of its provisions is unclear. For example, the Act creates 3 classes of persons who are statutorily recognised as having standing before an inquiry. This approach is not replicated in any other jurisdictions. There is little validity in the distinction between these classes and participants' respective access to procedural rights and liability for costs requires amendment.
- While the Act generally enables a flexible approach to inquiries, some of its procedural provisions place unnecessary and potentially costly constraints on procedure. For example, the Act gives some participants rights of participation that go beyond what is required by natural justice. These provisions tend to emphasise an adversarial and legalistic approach to inquiries.
- In other instances, the Act is silent about modern principles and rules of public law, for example, in respect of access to information and natural justice.
- There has been a practice of giving many other investigatory and adjudicative bodies the powers of a commission of inquiry. This has led to a confused jurisprudence about the application of the Act and has further limited its effectiveness.

In addition, the Act has become constrained by the culture that has developed alongside it. Practice and the legalistic provisions of the Act have meant that Royal commissions and commissions of inquiry tend to become adversarial processes. As a result, they tend to take a long time and cost a great deal of money. These factors appear to have deterred their use in recent years.

A consequence is that many inquiries (ministerial inquiries) take place outside a statutory framework. They are often seen as a quick and cost-effective way to have an independent investigation, but do not have any powers to obtain information and rely on witness cooperation. They offer no immunities for those taking part and there is a lack of clarity around how other protections such as judicial review and the Official Information Act 1982 apply to them. This is unsatisfactory.

Objectives

The objective of the proposals is to—

- reform and modernise the law relating to public inquiries; and
- provide for flexible, effective, and efficient inquiries that will take place within an appropriate legal framework.

Alternative Options

No provision for statutory inquiries—repeal the Commissions of Inquiry Act 1908

One option is to remove legislative provision for one-off inquiries by repealing the 1908 Act. This option was rejected. Public inquiries, with statutory powers to obtain information, play a key role in our democratic system. They provide an independent response for matters of public importance which cannot adequately be dealt with by permanent investigatory or policy bodies. They can be essential tools for reassuring public confidence, providing a sense of accountability, finding out what happened, and developing new policy proposals. Their one-off nature means that they can be adapted to suit unique issues by their terms of reference, composition, budget, and procedure. In this way they provide an indispensable alternative to permanent agencies that may be limited in their inquiries by organisation practices, capped staffing levels and budgetary restraints. It is considered that there is an ongoing need for statutory public inquiries.

Amend the Commissions of Inquiry Act 1908

One option is to retain and amend the Commissions of Inquiry Act 1908. Its provisions could be amended to remove confusion, procedural constraints, and the emphasis on a legalistic approach to inquiries. Provisions could be added that would take account of modern public law principles and rules.

This option was rejected as it promises more of the piecemeal approach to reform. The Law Commission has made recommendations to amend or repeal nearly all of the existing provisions of the 1908 Act. It also suggests the removal of concepts that are key to the Act, such as parties. Generally, where an Act needs to be so substantially amended it is better to start again, and to replace the principal Act. The coherent whole that results is better than the conjoined product

of a process of amendment. In these circumstances, it is preferable that an entirely new Act be introduced.

In addition, the Law Commission concluded that new legislation is required to lay the basis for a fresh start and to promote a culture change, away from adversarial approaches to inquiries.

New legislation providing for one form of inquiry

Another option is to introduce new legislation that provides for one form of inquiry—a public inquiry—which would take over the ground of Royal commissions, commissions of inquiry, and ministerial inquiries.

All public inquiries would be appointed by the Governor-General by Order in Council. Public inquiry reports would all be tabled in Parliament. New legislation would contain provisions flexible enough to be adapted to suit smaller, less complex investigations that could be carried out with less formal procedures, as well as larger more formal inquiries.

This option was rejected. A number of agencies and organisations suggested that the requirement that all inquiries be appointed by the Governor-General by Order in Council would discourage the new Act's use for smaller inquiries. Where Ministers did not think a matter that required independent review warranted appointment in that manner, it was suggested that they would continue to establish inquiries outside the Act. Concerns were also raised about the proposal that all inquiry reports be tabled in Parliament. It was suggested that a Minister will from time to time wish to engage an independent person to inquire into an issue in his or her portfolio and that sometimes it was appropriate that such an inquiry report directly to the Minister. The weight of submissions received by the Law Commission was therefore that the new Act should provide that some statutory inquiries should be able to be established by and report directly to a Minister.

Preferred option

A new Inquiries Act

The preferred option is for a new Inquiries Act. The Act would provide for—

- Public inquiries, which would take over the ground previously inhabited by commissions of inquiry. They would be appointed by Order in Council. They would report to the Governor-General and their reports would be tabled in Parliament.
- Government inquiries, which would be simpler and quicker to establish. They would be appointed by and report directly to a Minister, and are designed to be used for smaller and more immediate issues where a quick and authoritative answer is required from an independent inquirer.

The provisions of the Act would also apply to Royal commissions, which are established by the Governor-General under the Letters Patent.

Public inquiries and government inquiries would differ in their manner of appointment and reporting. They would both have access to powers to obtain information and therefore to complete their tasks in an effective and efficient manner. In addition, appropriate protections would be in place for the inquirers and people taking part.

The new Act would set out modern rules relating to inquiry powers and procedure, public access, privileges and immunities, and participation, amongst other things.

The preferred option contains the following features:

- it provides for a statute that incorporates modern public law principles and rules and that recognises the realities of modern public administration:
- unlike the 1908 Act, the statute will place less emphasis on a legalistic and adversarial approach to inquiries while providing them with all the tools to effectively and efficiently fulfil their tasks:
- it provides for a more flexible legislative framework with different forms of inquiry, designed to be used for matters with different levels of complexity and public importance, where authoritative, independent answers are required.

Financial implications

It is difficult to assess the financial implications of these proposals since costs will be dependent on how many inquiries are set up in the future and on the nature and complexity of those inquiries.

However, the new Act would abandon elements of the existing legislation that emphasise a legalistic approach to inquiries. It will provide an opportunity for a fresh approach to the way inquiries are conducted in the future. If a change in the approach to inquiries is achieved under the new Act, there may be cost savings to government in the administration of inquiries, and to those who are required to participate in them.

In addition, there may be cost savings in respect of inquiries that would previously have been conducted outside a legislative framework. Under the new Act, such inquiries will now have access to the powers to enable them to conduct their tasks more effectively and efficiently.

While it is not possible to say whether more or fewer inquiries will take place in the future, certain elements of the proposed Act could impose additional financial and compliance costs. First, it is proposed that there be a statutory power for an inquiry to recommend to its overseeing department that funding for legal advice and representation be provided to participants in limited circumstances. This has taken place in the past as a matter of practice, and has tended to be funded from the inquiry's budget. However, express provision for funding under the Act is likely to lead to an increase in requests for funding. Depending on how the discretion is exercised, this could lead to an increase in costs.

Secondly, the Law Commission has recommended that the role of the Department of Internal Affairs in administering inquiries should be formalised. The Department has tended to oversee most commissions of inquiry, Royal commissions, and some non-statutory ministerial inquiries in the past.

The Department incurs costs in the set-up phase of inquiries and after the inquiry has completed its task but is not currently funded through baselines for these. One element of its role has been to administer the transfer of inquiry documentation to Archives New Zealand. The proposed Act would also formalise this role and would require

the Department, in consultation with the inquiry, to specify dates on which access to suppressed material should be allowed.

As a result, it is possible that the costs incurred by the Department will increase. It is proposed that these issues and their financial implications will be dealt with in a subsequent cabinet paper.

Royal commissions

Within the preferred option there are 2 further alternatives, relating to the retention or otherwise of a statutory form of Royal commission. At present, Royal commissions are appointed by the Governor-General by Order in Council, acting under the Letters Patent. Otherwise, all the provisions of the 1908 Act apply to them. Thus, presently, there are no significant legal distinctions between commissions of inquiry and Royal commissions.

The Law Commission concluded that the retention of Royal commissions would add unnecessary complexity to the inquiry landscape. It considered that the provisions of the new Act should not apply to Royal commissions. This, it hoped, would also assist in the aim of modernising the law relating to inquiries. It noted that statute law has now replaced the Royal prerogative in most areas and that there would be no legal distinction between its proposed public inquiry and Royal commissions.

This option would mean that, while Royal commissions could still be appointed under the Letters Patent, none of the provisions of the new Act would apply. If any Royal commissions were appointed in the future, they would operate as a form of non-statutory inquiry. It would be desirable, therefore, for the practice of appointing Royal commissions to cease.

The alternative view is that the new Act should apply to Royal commissions in a similar way as the 1908 Act does at present. In response to the Law Commission's draft report, the Department of Internal Affairs, Crown Law, and the Cabinet Office were in favour of retaining Royal commissions because they are perceived by the public to have added gravitas. One of the purposes of inquiries is to reassure the public that a matter is being given serious, independent consideration and there are some occasions where only the appointment of a Royal commission will provide that reassurance.

There is, therefore, a valid policy reason for retaining Royal commissions. It is therefore proposed that they should be included in the new Act in a similar manner to the existing position under the 1908 Act. Thus, Royal commissions would be appointed by the Governor-General in Council under the Letters Patent. In every other aspect they would be treated in the same way as public inquiries. All the powers and protections of the new Act would apply. The result would be that the new Act would allow for 3 forms of statutory inquiry.

There is no difference in respect of compliance costs between these 2 alternatives.

However, there is a risk that the culture change that the Law Commission hopes will result from the introduction of a new Act will be harder to achieve if Royal commissions are retained.

Consultation

The Law Commission consulted widely between 2006 and 2008. It met with and received written submissions from members of the public, past inquirers, those who have participated in inquiries, and the following government agencies (see also NZLC R 102, pp 7–8): Archives New Zealand, Cabinet Office, Crown Law, Department of Internal Affairs, Department of Prime Minister and Cabinet, Gambling Commission, Ministry of Justice, Ministry of Social Development, Office of the Auditor-General, Office of the Ombudsmen, State Services Commission, Statistics New Zealand, Transport Accident Investigation Commission, and The Treasury.

Particular concerns were raised in relation to the retention or otherwise of Royal commissions; and the need for a form of statutory inquiry that can be appointed by a Minister alone. As noted above, in response to these concerns it is proposed that the new Act should provide for 2 forms of inquiry, and that government inquiries should be appointed by a Minister alone. It is also proposed that the provisions of the new Act should apply to Royal commissions.

The following agencies have been consulted in respect of the Cabinet Paper and this regulatory impact statement: Archives New Zealand, Cabinet Office, Crown Law, Department of Internal Affairs, Department of Prime Minister and Cabinet, Ministry of Justice, State Services Commission, and The Treasury.

Hon Rick Barker

Inquiries Bill

Government Bill

Contents

		Page
1	Title	3
2	Commencement	3
Part 1		
Preliminary provisions		
3	Purpose	3
4	Interpretation	4
5	Act binds the Crown	5
Part 2		
Establishment and membership of inquiry		
6	Types of inquiry	5
7	Matters to be specified in instrument establishing inquiry	6
8	Removal from office	6
9	Vacancy in membership of inquiry	7
Part 3		
Duties, powers, immunities, and privileges		
<i>Duties and powers of inquiry generally</i>		
10	Inquiry must act independently, impartially, and fairly	7
11	Limits to scope of power of inquiry	8
<i>Reporting obligation</i>		
12	Reporting by inquiry	8
<i>Counsel assisting</i>		
13	Counsel to assist inquiry	8
	283—1	1

Inquiries Bill

	<i>Powers and duties of inquiry relating to procedure</i>	
14	Regulation of inquiry procedure	9
15	Power to impose restrictions on access to inquiry	9
16	Power to postpone or temporarily suspend inquiry	10
17	Application of principles of natural justice	11
	<i>Persons participating in inquiry</i>	
18	Designation of core participants	11
	<i>Legal assistance</i>	
19	Recommendation as to legal assistance	11
	<i>Evidential matters</i>	
20	Evidence	12
21	Powers to obtain information	13
22	Delegation	13
23	Disclosure of evidence	13
24	Power to summon witnesses	14
25	Service of summons to witnesses	14
26	Expenses of witnesses	14
	<i>Immunities and privileges</i>	
27	Immunity of inquiry	15
28	Immunities and privileges of witnesses and counsel	15
	Part 4	
	Sanctions and miscellaneous matters	
	Subpart 1—Sanctions able to be imposed by or on behalf of inquiry	
	<i>Orders for award of costs</i>	
29	Award of costs	16
	<i>Offences and penalties</i>	
30	Offences	16
31	Penalties	17
	<i>Contempt against inquiry</i>	
32	Contempt proceedings	17
	Subpart 2—Miscellaneous matters	
	<i>Official Information Act 1982 and Public Records Act 2005</i>	
33	Application of Official Information Act 1982	18

Inquiries Bill		Part 1 cl 3
34	Application of Public Records Act 2005	18
	<i>Court proceedings</i>	
35	Reference of questions of law to High Court	19
36	Inquiry to be cited in judicial review proceedings	19
	<i>Review required</i>	
37	Review of continuing application of Commissions of Inquiry Act 1908	19
	<i>Repeal, transitional provisions, and consequential amendments</i>	
38	Commissions of Inquiry Act 1908	20
39	Transitional provision	20
40	Consequential amendments to other Acts	20
	Schedule 1	21
	Acts under which entities have been, or may be, set up and to which Commissions of Inquiry Act 1908 applies	
	Schedule 2	24
	Consequential amendments to other enactments	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Inquiries Act **2008**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1

Preliminary provisions

- 3 Purpose**
- (1) The purpose of this Act is to reform and modernise the law relating to inquiries, by— 10
 - (a) providing for the establishment of both public and government inquiries to inquire into matters of public importance; and

- (b) recognising and providing for Royal commissions established under the Royal prerogative; and
 - (c) enabling those inquiries to be carried out effectively, efficiently, and fairly.
- (2) The Act therefore sets out, in relation to any inquiry to which this Act applies,— 5
- (a) how an inquiry is set up and its members are to be appointed; and
 - (b) the powers, duties, and privileges of an inquiry and the immunities that apply to the inquiry and its members; 10
and
 - (c) the protection available for witnesses and counsel appearing before an inquiry; and
 - (d) the principles governing the procedure of an inquiry, including those relating to evidential matters; and 15
 - (e) provision for recourse to the court by, or in relation to, an inquiry; and
 - (f) sanctions that may be applied by or on behalf of an inquiry.
- (3) The Act also makes provision for— 20
- (a) the repeal of sections 2 and 15 of the Commissions of Inquiry Act 1908, which provide, respectively, for the appointment of a commission of inquiry and the extension of that Act to commissions appointed under other Acts or under the Letters Patent; and 25
 - (b) the continuing application of the remaining provisions of the Commissions of Inquiry Act 1908 in specified circumstances.
- 4 Interpretation** 30
- In this Act, unless the context otherwise requires,—
- appointing Minister** means a Minister of the Crown who establishes a government inquiry under **section 6(3)**
- appropriate Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the relevant department 35
- core participant** has the meaning it is given in **section 18**

document has the same meaning that it is given in section 4(1) of the Evidence Act 2006

government inquiry means an inquiry established under **section 6(3)**

inquiry means both a public inquiry and a government inquiry, as provided for by **section 6** 5

member means a member of an inquiry established under **section 6**

officer of an inquiry means a person who is engaged to work for an inquiry 10

public inquiry—

- (a) means an inquiry established under **section 6(2)**; and
- (b) includes a Royal commission

relevant department means—

- (a) the Department of Internal Affairs; or 15
- (b) another department of State, if the other department is appointed, under the terms of reference for the inquiry, to be responsible for administrative matters relating to the inquiry.

5 Act binds the Crown 20
This Act binds the Crown.

Part 2

Establishment and membership of inquiry

- 6 Types of inquiry**
- (1) This Act applies to the following kinds of inquiry: 25
 - (a) Royal commissions established under the authority of the Letters Patent constituting the office of the Governor-General, and this Act applies to Royal commissions as if they were public inquiries:
 - (b) public inquiries, which are established in accordance with **subsection (2)**: 30
 - (c) government inquiries, which are established in accordance with **subsection (3)**.

- (2) The Governor-General may, by Order in Council, establish a public inquiry for the purpose of inquiring into, and reporting on, any matter of public importance.
- (3) A Minister may, by notice in the *Gazette*, establish a government inquiry for the purpose of inquiring into, and reporting on, any matter of public importance. 5
- 7 Matters to be specified in instrument establishing inquiry**
- (1) The matters set out in **subsection (2)** must be specified in the instrument made by the Governor-General in Council establishing a Royal commission, the Order in Council establishing a public inquiry, or the notice in the *Gazette* establishing a government inquiry. 10
- (2) The matters are—
- (a) the matter of public importance that is the subject of the inquiry; and 15
 - (b) 1 or more persons appointed to be members of the inquiry; and
 - (c) if more than 1 person is appointed to the inquiry, the person who is to be the chairperson of the inquiry; and
 - (d) the terms of reference for the inquiry, including any directions as to— 20
 - (i) the events or matters that are relevant to the inquiry; and
 - (ii) the dates, persons, and locations that are relevant to those events; and 25
 - (iii) whether any part or aspect of the inquiry is to be restricted from public access; and
 - (iv) the date by which the inquiry must complete its inquiry and submit a report under **section 12**; and 30
 - (v) any other administrative or procedural matters.
- 8 Removal from office**
- (1) The Governor-General may, by Order in Council, remove any member of a public inquiry from office.
- (2) The appointing Minister may, by notice in the *Gazette*, remove any member of a government inquiry from office. 35

- (3) A member of an inquiry may be removed under **subsection (1) or (2)**, as the case may be, only if the member—
- (a) has, since his or her appointment, been guilty of misconduct; or
 - (b) is unable to perform the functions of office; or 5
 - (c) has neglected his or her duty.
- 9 Vacancy in membership of inquiry**
- (1) If 1 or more members of an inquiry are, for any reason, unable to continue in office, the appropriate Minister or appointing Minister, as the case may be, must consult with any remaining members of the inquiry as to how the inquiry should proceed. 10
- (2) After consultation has been undertaken, as required by **subsection (1)**,—
- (a) the appropriate Minister or appointing Minister, as the case may be, may require the inquiry to continue to perform its functions, despite the vacancy in its membership; or 15
 - (b) a person may be appointed to be a replacement member, in accordance with **section 6**; or
 - (c) the inquiry may be terminated,— 20
 - (i) in the case of a public inquiry, by the Governor-General by Order in Council; or
 - (ii) in the case of a government inquiry, by the appointing Minister, by notice in the *Gazette*.
- (3) The power under **subsection (2)(a) or (b)** must not be exercised if to do so would be contrary to the principles of natural justice. 25

Part 3

Duties, powers, immunities, and privileges

Duties and powers of inquiry generally 30

- 10 Inquiry must act independently, impartially, and fairly**
In exercising its powers and performing its duties under this Act, an inquiry and each of its members must act independently, impartially, and fairly.

11 Limits to scope of power of inquiry

- (1) An inquiry has no power to determine the civil, criminal, or disciplinary liability of any person.
- (2) **Subsection (1)** does not prevent an inquiry, in exercising its powers and performing its duties under this Act, from making— 5
- (a) findings of fault; or
 - (b) recommendations that further steps be taken to determine liability.

Reporting obligation

10

12 Reporting by inquiry

- (1) Every inquiry must, in accordance with any requirements of the terms of reference for the inquiry, prepare a final report and present it,—
- (a) in the case of a public inquiry, to the Governor-General; and 15
 - (b) in the case of a government inquiry, to the appointing Minister.
- (2) The final report of an inquiry must set out—
- (a) the findings of the inquiry; and 20
 - (b) any recommendations of the inquiry.
- (3) The final report of a public inquiry must be presented by the appropriate Minister to the House of Representatives as soon as practicable after the inquiry has reported under **subsection (1)**. 25

*Counsel assisting***13 Counsel to assist inquiry**

- (1) If an inquiry considers it appropriate to do so, the inquiry may request the Solicitor-General to appoint counsel—
- (a) to assist the inquiry, either generally or in relation to a particular matter: 30
 - (b) to advise the inquiry on matters of law, procedure, or evidence.
- (2) The Solicitor-General must, after consulting the inquiry,—
- (a) appoint counsel; and 35
 - (b) set the terms and conditions of the appointment.

*Powers and duties of inquiry relating to
procedure*

14 Regulation of inquiry procedure

- (1) An inquiry may conduct its inquiry as it considers appropriate, unless otherwise specified— 5
- (a) by this Act; or
- (b) in the terms of reference of the inquiry.
- (2) In making a decision as to the procedure or conduct of an inquiry, an inquiry must— 10
- (a) not act inconsistently with the rules of natural justice; and
- (b) have regard to the need to avoid unnecessary delay or cost in relation to public funds, witnesses, or other persons participating in the inquiry.
- (3) Without limiting **subsections (1) and (2)**, an inquiry may determine matters such as— 15
- (a) whether to conduct interviews, and if so, who to interview:
- (b) whether to call witnesses, and if so, who to call:
- (c) whether to hold hearings in the course of its inquiry, and if so, when and where hearings are to be held: 20
- (d) whether to receive evidence or submissions from or on behalf of any person participating in the inquiry:
- (e) whether to receive oral or written evidence or submissions and the manner and form of the evidence or submissions: 25
- (f) whether to allow or restrict cross-examination of witnesses.

15 Power to impose restrictions on access to inquiry

- (1) An inquiry may, at any time, make orders to— 30
- (a) forbid publication of—
- (i) the whole or any part of any evidence or submissions presented to the inquiry:
- (ii) any report or account of the evidence or submissions: 35
- (iii) the name of any witness or any name or particulars likely to lead to the identification of a witness:

- (iv) any rulings of the inquiry:
- (b) restrict public access to any part or aspect of the inquiry:
- (c) hold the inquiry, or any part of it, in private.
- (2) Before making an order under **subsection (1)**, an inquiry must take into account the following criteria: 5
 - (a) the risk of prejudice to public confidence in the proceedings of the inquiry; and
 - (b) the need for the inquiry to ascertain the facts properly; and
 - (c) the extent to which public proceedings may prejudice 10
 - the security, defence, or economic interests of New Zealand; and
 - (d) the privacy interests of any individual; and
 - (e) whether it would interfere with the administration of justice, including any person's right to a fair trial, if an 15
 - order were not made under **subsection (1)**; and
 - (f) any other countervailing interests.
- (3) If the instrument that establishes an inquiry restricts any part or aspect of the inquiry from public access, the inquiry must make such orders under **subsection (1)** as are necessary to 20
 - give effect to the restrictions.

16 Power to postpone or temporarily suspend inquiry

- (1) An inquiry may, after consultation with the appropriate Minister or appointing Minister, as the case may be, postpone or temporarily suspend the inquiry if— 25
 - (a) another investigation is being, or is likely to be, carried out into matters relating to the inquiry; and
 - (b) the inquiry is satisfied that to commence or continue the inquiry would be likely to prejudice—
 - (i) the investigation referred to in **paragraph (a)**; or 30
 - (ii) any person interested in that investigation.
- (2) The inquiry must commence or continue when it is satisfied that to do so would no longer prejudice the other investigation or any person interested in it.

17 Application of principles of natural justice

An inquiry must not, in its report, make any finding that is adverse to any person (whether a natural person or a body corporate), unless the inquiry has—

- (a) taken all reasonable steps to— 5
 - (i) give that person reasonable notice of the intention to make the finding; and
 - (ii) disclose to that person the contents of the proposed finding, the relevant material relied on for that finding, and the reasons on which it is based; 10
and
 - (iii) give that person a reasonable opportunity to respond to the proposed finding; and
- (b) properly considered any response given under **paragraph (a)(iii)**. 15

Persons participating in inquiry

18 Designation of core participants

- (1) At any time an inquiry may, by written notice, designate any person to be a core participant in the inquiry.
- (2) In determining whether to designate a person as a core participant, an inquiry must consider whether that person— 20
 - (a) played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
 - (b) has a significant interest in a substantial aspect of the matters to which the inquiry relates: 25
 - (c) may be subject to explicit or serious criticism during the inquiry or in the report.
- (3) Every person designated as a core participant has the right to give evidence and make submissions to the inquiry, subject to any directions of that inquiry as to the manner in which 30
evidence is to be given and submissions made.

Legal assistance

19 Recommendation as to legal assistance

- (1) An inquiry may, at any time, make a recommendation to the chief executive of the relevant department that funding be 35

- granted for the purpose of providing legal assistance to 1 or more specified persons—
- (a) who wish, or who are required, to appear before the inquiry; or
 - (b) who have an interest in the inquiry. 5
- (2) In determining whether to make a recommendation under **subsection (1)**, the inquiry must consider—
- (a) the likelihood of hardship to a person if legal assistance is declined; and
 - (b) the nature and significance of the contribution that the person will, or is likely to, make to the inquiry; and 10
 - (c) the extent to which legal assistance is, or is likely to be, required to enable the inquiry to fulfil its purpose; and
 - (d) any other matters relating to the public interest.
- (3) If a recommendation is made under **subsection (1)**, the chief executive may— 15
- (a) grant funding for the legal assistance recommended under that subsection; and
 - (b) impose any conditions that he or she considers appropriate. 20
- (4) In this section, **legal assistance** means—
- (a) legal representation; or
 - (b) legal advice or help (for example, help with drafting submissions to an inquiry); or
 - (c) both. 25

Evidential matters

20 Evidence

An inquiry may, for the purposes of its inquiry,—

- (a) receive any evidence that, in its opinion, may assist it to deal effectively with the subject of the inquiry, whether or not the evidence would be admissible in a court of law; and 30
- (b) take evidence on oath or affirmation, and for that purpose an oath or affirmation may be administered by any member of the inquiry; and 35

- (c) permit a witness to give evidence by any means, including by written or electronic means, and require the witness to verify the evidence by oath or affirmation.

21 Powers to obtain information

An inquiry may, as it thinks appropriate for the purposes of the inquiry,— 5

- (a) require any person to—
 - (i) produce any documents or things in that person’s possession or control or copies of those documents or things: 10
 - (ii) allow copies or representations of those documents or things to be made:
 - (iii) provide information to the inquiry, in a form approved by the inquiry:
 - (iv) verify by statutory declaration any written information, copies of documents, or representations of things provided to the inquiry: 15
- (b) examine any document or thing that is produced by a witness:
- (c) examine any document or thing for which privilege or confidentiality is claimed, or refer the document or thing to an independent person or body, to determine whether— 20
 - (i) the person claiming privilege or confidentiality has a justifiable reason in maintaining the privilege or confidentiality; or 25
 - (ii) the document or thing should be disclosed.

22 Delegation

An inquiry may delegate in writing to an officer of the inquiry the powers of the inquiry under **sections 20(b) and 21(b)**. 30

23 Disclosure of evidence

- (1) An inquiry—
 - (a) may, on its own initiative or on the application of another person, order any person to disclose to any person participating in the inquiry any specified document, in- 35

- formation, or thing that the person has produced before the inquiry; but
- (b) must not make orders for general discovery.
- (2) An order given under **subsection (1)(a)** may impose appropriate terms and conditions in relation to— 5
- (a) any disclosure required under that subsection; and
- (b) the use that may be made of the information, documents, or things required to be disclosed.
- 24 Power to summon witnesses**
- (1) An inquiry may issue a witness summons in writing to any person, requiring that person to attend and give evidence before the inquiry. 10
- (2) The witness summons must state—
- (a) the place where, and the date and time when, the person is to attend; and 15
- (b) the documents or things in that person’s possession or control that he or she is required to produce to the inquiry; and
- (c) the person’s entitlement to be paid costs and travelling expenses, in accordance with **section 26**; and 20
- (d) the penalty for failing to attend.
- 25 Service of summons to witnesses**
- (1) Unless a witness has consented to service by another means, a summons must be served personally on that witness by delivering a sealed copy of the summons to the witness not later than 24 hours before the witness must attend the inquiry. 25
- (2) Despite **subsection (1)**, an inquiry may direct substituted service in accordance with the High Court Rules.
- 26 Expenses of witnesses**
- (1) Persons summoned to attend an inquiry as witnesses are entitled to be paid for their reasonable costs and travelling expenses, at the level determined by the inquiry. 30
- (2) The payment required by **subsection (1)** must be made, if the witness is summoned—
- (a) by an inquiry on its own initiative, by that inquiry; or 35

- (b) by an inquiry on the application of any person participating in the inquiry, by that person, unless the inquiry itself agrees to do so.

Immunities and privileges

- 27 Immunity of inquiry** 5
- (1) This section applies to an inquiry, each member of the inquiry, and an officer of an inquiry acting under a delegation made under **section 22**.
 - (2) Neither an inquiry nor any person to whom this section applies— 10
 - (a) is liable for anything done, reported, stated, or omitted in the exercise or intended exercise of the powers and performance or intended performance of the duties of the inquiry, unless the inquiry or person acted in bad faith; or 15
 - (b) may be compelled to give evidence in court or in any proceedings of a judicial nature in relation to the inquiry, unless leave of the court is granted to bring proceedings relating to an allegation of bad faith against the inquiry or any person to whom this section applies. 20
- 28 Immunities and privileges of witnesses and counsel**
- (1) Witnesses participating in an inquiry have the same immunities and privileges as if they were appearing in civil proceedings and the provisions of subpart 8 of Part 2 of the Evidence Act 2006 apply to the inquiry, to the extent that they are relevant, as if— 25
 - (a) the inquiry were a civil proceeding; and
 - (b) every reference to a Judge were a reference to an inquiry.
 - (2) Counsel appearing before an inquiry have the same immunities and privileges as they would have if appearing before a court. 30

Part 4

Sanctions and miscellaneous matters

Subpart 1—Sanctions able to be imposed by or on behalf of inquiry

Orders for award of costs 5

29 Award of costs

- (1) An inquiry may, on its own initiative or on the application of any person, by order make an award of costs against any person participating in, or summoned to appear before, the inquiry if it is satisfied that the conduct of the person against whom the order is made has unduly lengthened or obstructed the inquiry or has added undue cost to the inquiry. 10
- (2) **Subsection (1)** applies whether or not an inquiry holds any hearings.
- (3) An inquiry may— 15
- (a) set the award of costs at any level it thinks reasonable, having regard to all the circumstances; and
 - (b) require the costs to be paid, in whole or in part—
 - (i) to the inquiry; or
 - (ii) to 1 or more persons who participated in the inquiry; or 20
 - (iii) to both, in the proportion specified in the order.
- (4) An order for an award of costs made under this section, if filed in the registry of any court of competent jurisdiction, becomes enforceable as a judgment of that court in its civil jurisdiction. 25

Offences and penalties

30 Offences

- (1) Every person commits an offence who intentionally—
- (a) fails to attend the inquiry in accordance with the notice of summons: 30
 - (b) refuses to be sworn or to affirm and give evidence:
 - (c) fails to produce any document or thing required by order of the inquiry:
 - (d) destroys evidence or obstructs or hinders any person authorised to examine, copy, or make a representation of a document or thing required by order of an inquiry: 35

- (e) fails to comply with a procedural order or direction of an inquiry, including an order made under **section 15(1)**:
 - (f) disrupts the proceedings of an inquiry:
 - (g) prevents a witness from giving evidence or threatens or seeks to influence a witness before an inquiry: 5
 - (h) provides false or misleading information to an inquiry:
 - (i) threatens or intimidates an inquiry, a member of an inquiry, or an officer of an inquiry.
- (2) However, a person does not commit an offence under **subsection (1)(a) to (e)** if— 10
- (a) compliance would be prevented by a privilege or immunity that the person would have as a witness or counsel, were that person giving evidence or acting as counsel in civil proceedings before a court; or
 - (b) compliance is prevented by an enactment, rule of law, or order of a court prohibiting or restricting disclosure, or the manner of disclosure, of any document, information, or thing; or 15
 - (c) compliance would be likely to prejudice the maintenance of the law, including the prevention, detection, investigation, prosecution, or punishment of offences, including the right to a fair trial. 20

31 Penalties

Every person who commits an offence against **section 30(1)** is liable, on summary conviction, to a fine not exceeding \$10,000. 25

Contempt against inquiry

32 Contempt proceedings

- (1) The Solicitor-General, on his or her own initiative or at the request of an inquiry, may commence proceedings in the High Court for contempt of an inquiry. 30
- (2) In determining any proceedings commenced under **subsection (1)**, the court may make any orders that it considers necessary and just to enable the inquiry to fulfil its purpose.

Subpart 2—Miscellaneous matters

*Official Information Act 1982 and Public
Records Act 2005*

- 33 Application of Official Information Act 1982** 5
- (1) When an inquiry has reported in accordance with **section 12**, all documents created by the inquiry or received in the course of the inquiry are, except as set out in **subsection (2)**, official information for the purposes of the Official Information Act 1982.
- (2) However, the following are not official information for the purposes of the Official Information Act 1982: 10
- (a) any evidence or submissions subject to an order under **section 15(1)**:
- (b) any documents that relate to the internal deliberations of the inquiry and are— 15
- (i) created by a member of an inquiry in the course of the inquiry; or
- (ii) provided to the inquiry by an officer of the inquiry.
- 34 Application of Public Records Act 2005** 20
- (1) An inquiry is a public office for the purposes of the Public Records Act 2005.
- (2) All documents and things created by an inquiry or received in the course of an inquiry—
- (a) are public records for the purposes of the Public Records Act 2005; and 25
- (b) when the inquiry has reported in accordance with **section 12**, must be transferred by the relevant department, after consultation with the inquiry, to Archives New Zealand for management in accordance with the Public Records Act 2005. 30
- (3) If any documents or things are classified as restricted access records within the meaning of the Public Records Act 2005, the relevant department, after consultation with the inquiry, must specify the date on which that classification must be withdrawn. 35

*Court proceedings***35 Reference of questions of law to High Court**

- (1) An inquiry may, at any time, state a case to the High Court on any question of law arising in any matter before the inquiry.
- (2) If an inquiry exercises the power under **subsection (1)**, it may either— 5
- (a) continue the inquiry, pending the decision of the High Court; or
 - (b) adjourn the inquiry until that court has delivered its decision. 10
- (3) A question referred to the High Court under this section must be in the form of a case stated,—
- (a) as consulted on and agreed by the core participants and the members of the inquiry; or
 - (b) if there is no agreement or there are no core participants, as settled by the inquiry. 15
- (4) The decision of the High Court is final and binding on an inquiry and on all persons participating in the inquiry.

36 Inquiry to be cited in judicial review proceedings

In any application for judicial review of an inquiry under this Act, the inquiry, and not the chairperson or members of that inquiry, must be cited as the respondent. 20

*Review required***37 Review of continuing application of Commissions of Inquiry Act 1908**

- (1) Not later than 5 years after the commencement of this Act, the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act must ensure that a review is commenced, in relation to the entities referred to in **section 39(b)**, to consider— 25 30
- (a) what powers each entity requires to carry out its functions and duties; and
 - (b) what changes to the law are necessary to replace any powers an entity derives from the Commissions of Inquiry Act 1908. 35

- (2) The purpose of the review required by this section is to consider whether the remaining provisions of the Commissions of Inquiry Act 1908 can be repealed.

*Repeal, transitional provisions, and
consequential amendments*

5

38 Commissions of Inquiry Act 1908

Sections 2 and 15 of the Commissions of Inquiry Act 1908 are repealed.

39 Transitional provision

- (1) This Act does not apply to a Royal commission that has not completed its functions and obligations before the commencement of this Act. 10
- (2) The Commissions of Inquiry Act 1908 continues to apply to—
- (a) any commission of inquiry or Royal commission appointed under that Act that has not completed its functions and obligations before the commencement of this Act; and 15
 - (b) any entity that is or may be established under an enactment enacted before the commencement of this Act, including those listed in **Schedule 1**, and that derives powers from the Commissions of Inquiry Act 1908. 20

40 Consequential amendments to other Acts

The Acts specified in **Schedule 2** are amended in the manner indicated in that schedule.

Schedule 1 **s 39(2)(b)**

**Acts under which entities have been, or
may be, set up and to which Commissions
of Inquiry Act 1908 applies** **5**

Act under which commission of inquiry powers derived	Relevant provisions
Biosecurity Act 1993	cl 5 of Schedule 2
Broadcasting Act 1989	s 12
Cadastral Survey Act 2002	s 40
Charitable Trusts Act 1957	s 58
Companies (Bondholders Incorporation) Act 1934–35	s 12
Electricity Act 1992	s 136
Engineering Associates Act 1961	s 25
Environment Act 1986	s 16
Fire Service Act 1975	s 86
Fisheries Act 1996	ss 181, 221
Forest and Rural Fires Act 1977	ss 59, 64A
Gambling Act 2003	s 225
Hawke’s Bay Earthquake Act 1931	s 43
Hazardous Substances and New Organisms Act 1996	ss 3, 61
Health Act 1956	s 124
Health and Safety in Employment Act 1992	s 27
Immigration Act 1987	s 129P, cl 7 of Sched- ule 2, and cl 7 of Schedule 3C
Independent Police Conduct Authority Act 1988	s 23
Intellectual Disability (Compulsory Care and Rehabilita- tion) Act 2003	s 101
Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004	s 26
Land Drainage Act 1908	ss 15, 65
Land Drainage Amendment Act 1913	s 6
Land Drainage Amendment Act 1922	s 2
Land Valuation Proceedings Act 1948	s 19
Legal Services Act 2000	s 99
Local Government Act 2002	s 34, and cl 7 of Schedule 15

Act under which commission of inquiry powers derived	Relevant provisions
Maori Reserved Land Act 1955	s 74
Maritime Transport Act 1994	ss 58, 235, and cl 10 of Schedule 2
Mental Health (Compulsory Assessment and Treatment) Act 1992	ss 95, 104
Mortgagors and Lessees Rehabilitation Act 1936	s 24
New Zealand Public Health and Disability Act 2000	s 71
Niue Act 1966	s 75
Petroleum Demand Restraint Act 1981	s 4
Plumbers, Gasfitters, and Drainlayers Act 2006	s 118
Police Act 1958	s 12
Private Investigators and Security Guards Act 1974	s 10
Remuneration Authority Act 1977	s 25
Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915	s 38
Reserves and Other Lands Disposal and Public Bodies Empowering Act 1917	ss 61, 110, 129, and cl 9 of Schedule 5
Reserves and Other Lands Disposal and Public Bodies Empowering Act 1920	ss 91, 108
Resource Management Act 1991	s 41
River Boards Amendment Act 1913	s 4
Rotorua Borough Act 1922	s 10
Sale of Liquor Act 1989	s 110
Secondhand Dealers and Pawnbrokers Act 2004	s 27
Shipping Act 1987	s 5
Social Security Act 1964	s 12M
Soil Conservation and Rivers Control Act 1941	s 33A
Soil Conservation and Rivers Control Amendment Act 1946	s 9
State Sector Act 1988	ss 25, 26
Taupiri Drainage and River District Act 1929	ss 3, 11
Taxation Review Authorities Act 1994	s 15
Temporary Safeguard Authority Act 1987	s 4
Transport Accident Investigation Commission Act 1990	s 11
Treaty of Waitangi Act 1975	cl 8 of Schedule 2

Act under which commission of inquiry powers derived	Relevant provisions
Veterinarians Act 2005	s 48
War Pensions Act 1954	s 13

Schedule 2**s 40****Consequential amendments to other enactments**

Commissions of Inquiry Act 1908 (1908 No 25)	5
New section 2A: insert after section 2:	
“ 2A Application of this Act and relationship to Inquiries Act 2008	
This Act applies to—	
“(a) any entity that is or may be established under an enactment enacted before the commencement of the Inquiries Act 2008 (including those listed in Schedule 1 of that Act), and that derives powers from this Act; and	10
“(b) any commission of inquiry or Royal commission appointed under this Act that has not completed its functions and obligations before the commencement of the Inquiries Act 2008 .”	15
 Coroners Act 2006 (2006 No 38)	
Definition of other investigation authority in section 9: add:	
“(o) an inquiry to which section 6 of the Inquiries Act 2008 applies”.	20
 Health Practitioners Competence Assurance Act 2003 (2003 No 48)	
Definition of investigation in section 53: insert after paragraph (a):	
“(aa) an inquiry to which section 6 of the Inquiries Act 2008 applies:”.	25
Section 61(1): add:	
“(c) for the purposes of an inquiry to which section 6 of the Inquiries Act 2008 applies.”	
 Legal Services Act 2000 (2000 No 42)	30
Section 7(4): add:	
“(i) proceedings before an inquiry to which section 6 of the Inquiries Act 2008 applies.”	

Maori Language Act 1987 (1987 No 176)

Paragraph (c) of the definition of **legal proceedings** in section 2: repeal and substitute:

- “(c) proceedings to inquire into and report on any matter of particular interest to the Māori people or any tribe or group of Māori people before— 5
 - “(i) a commission of inquiry under the Commissions of Inquiry Act 1908; or
 - “(ii) a tribunal or other body having any of the powers of a commission of inquiry under any other enactment; or 10
 - “(iii) an inquiry to which **section 6** of the Inquiries Act **2008** applies”.

New Zealand Public Health and Disability Act 2000 (2000 No 91)

Clause 6(1) of Schedule 5: add: 15

- “(c) for the purposes of an inquiry to which **section 6** of the Inquiries Act **2008** applies.”

New Zealand Sign Language Act 2006 (2006 No 18)

Paragraph (c) of the definition of **legal proceedings** in section 4: repeal and substitute: 20

- “(c) proceedings to inquire into and report on any matter of particular interest to the Deaf community before—
 - “(i) a commission of inquiry under the Commissions of Inquiry Act 1908; or
 - “(ii) a tribunal or other body having any of the powers of a commission of inquiry under any other enactment; or 25
 - “(iii) an inquiry to which **section 6** of the Inquiries Act **2008** applies”.

Official Information Act 1982 (1982 No 156) 30

Definition of **official information** in section 2(1): insert after paragraph (h):

- “(ha) does not include—

Official Information Act 1982 (1982 No 156)—*continued*

“(i) evidence or submissions subject to an order made under **section 14(1)** of the Inquiries Act **2008**;
or

“(ii) documents referred to in **section 32(2)(b)** of the Inquiries Act **2008**; and”.

5

Section 2(6): insert after paragraph (e):

“(ea) an inquiry to which **section 6** of the Inquiries Act **2008** applies; or”.

Privacy Act 1993 (1993 No 28)

Paragraph (b) of the definition of **agency** in section 2(1): add:

10

“(xiv) an inquiry to which **section 6** of the Inquiries Act **2008** applies”.

Section 55(b): repeal and substitute:

“(b) evidence given or submissions made to—

“(i) a Royal Commission; or

15

“(ii) a commission of inquiry appointed by Order in Council under the Commissions of Inquiry Act 1908; or

“(iii) an inquiry to which **section 6** of the Inquiries Act **2008** applies,—

20

at any time before the report of the Royal Commission, commission of inquiry, or inquiry, as the case may be, has been published or, in the case of evidence given or submissions made in the course of a public hearing, at any time before the report has been presented to the Governor-General or appointing Minister, as the case may be; or”.

25

Transport Accident Investigation Commission Act 1990 (1990 No 99)

Definition of **proceedings** in section 14A: add “; and” and the following paragraph:

30

“(f) an inquiry to which **section 6** of the Inquiries Act **2008** applies.”

