

New Zealand Productivity Commission Bill

Government Bill

Explanatory note

General policy statement

This Bill establishes the New Zealand Productivity Commission (the **Commission**) as an independent Crown entity with the purpose of improving productivity in both the public and private sectors in a way that is directed at supporting the overall well-being of New Zealanders.

The Commission will be an independent agency with both specialised internal investigative capacity and a mandate to undertake inquiries and regulatory reviews. The Commission will provide an alternative source of policy advice on opportunities to significantly improve economic performance through addressing constraints and exploiting opportunities.

The Commission will, on the basis of terms of reference issued by the responsible Minister in conjunction with the relevant portfolio Ministers,—

- hold inquiries into productivity related matters:
- conduct *ex post* reviews of regulatory regimes:
- conduct reviews of the efficiency and effectiveness of regulatory agencies:

- undertake *ex ante* regulatory impact analyses of a small number of specific regulatory proposals.

In addition, the Commission will, on its own volition but as secondary functions,—

- undertake and publish its own research into productivity-related matters to build its institutional knowledge;
- promote public understanding of productivity-related matters.

The scope of productivity-related inquiries, reviews, and research undertaken by the Commission encompasses matters relating to the private sector, the public sector and the economy as a whole, including, without limitation, matters relating to labour, natural resources including sustainability, management and worker skills, industry including industry development, innovation activity and entrepreneurship, competition, investment, infrastructure, international linkages including foreign investment and flows of people and knowledge, legislative or administrative action (whether existing or proposed) including taxation.

The Commission will be governed by 3 to 4 Commissioners. Reports produced by the Commission will be tabled in the House of Representatives.

Regulatory impact statement

The Treasury produced a regulatory impact statement on 18 February 2010 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

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

Part 1

Preliminary provisions

Clauses 3 to 5 deal with the following preliminary matters:

- the purpose of the Bill, which is to establish the New Zealand Productivity Commission and state its functions and powers (*clause 3*);
- the meaning of certain terms used in the Bill (*clause 4*);
- the Act binding the Crown (*clause 5*).

Part 2

Substantive provisions

Establishment of Commission

Clause 6 establishes the Commission.

Clause 7 sets out the purpose of the Commission.

Clause 8 provides that the Commission is a Crown entity for the purposes of the Crown Entities Act 2004.

Commission's functions

Clause 9 provides for the Commission's functions. These are,—

- on referral to the Commission by the Minister responsible for the administration of the Act in conjunction with the Ministers responsible for portfolios relevant to the reference, to—
 - hold inquiries into productivity-related matters referred to it, and report to the referring Ministers about these;
 - conduct reviews of existing regulatory regimes and agencies, including their efficiency and effectiveness;
 - undertake regulatory impact analyses of specified regulatory proposals; and
- on its own initiative, to—
 - undertake and publish research about productivity-related matters to develop its institutional knowledge and support its inquiry and review functions; and
 - promote understanding of productivity-related matters.

Clause 9(2) requires the Commission to act independently when performing its functions.

Commission membership

Clause 10 provides that the Commission consists of no fewer than 3, but not more than 4, members and that they are members of a board for the purposes of the Crown Entities Act 2004.

Conduct of Commission's work

Clause 11 requires the Commission to perform its functions according to a work programme determined by the responsible Minister and to make that work programme publicly available.

Clause 12 relates to the terms of reference for inquiries, reviews, and regulatory impact analyses undertaken by the Commission. It—

- requires the Commission to act in accordance with the terms of reference set by the referring Ministers in carrying out those functions:
- deals with what the terms of reference may include:
- requires the Commission to make all terms of reference it receives publicly available.

Clause 13 provides that the Commission may determine its own procedures for undertaking its work (subject to particular requirements in the other provisions of the Bill).

Clause 14 requires the Commission to submit a copy of its report on each matter referred to it under *clause 9* to the responsible Minister and each other referring Minister. It also requires the responsible Minister to present a copy of the report to the House of Representatives as soon as practicable after the Minister receives it.

Clause 15 requires the Commission to make each report publicly available, but only after the report has been presented to the House of Representatives. This does not prevent the Commission from publishing a draft report (*subclause (3)*).

Clause 16 permits the Government Statistician to release certain information to the Commission for the purposes of its research. The effect of *subclause (2)* is that this permission is subject to the same restrictions and safeguards that would apply to the release of such information to a government department.

Clause 17 provides for the amendment of other Acts, as set out in the Schedule. The amendments—

- add the New Zealand Productivity Commission to *Part 3 of Schedule 1* of the Crown Entities Act 2004 (which names independent Crown entities):
 - add the New Zealand Productivity Commission to *Part 2 of Schedule 1* of the Ombudsmen Act 1975.
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Hon Bill English

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the New Zealand Productivity Commission Act **2010**.

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

The purpose of this Act is to—

- (a) establish the Commission as a Crown entity for the purposes of section 7 of the Crown Entities Act 2004; and
- (b) state the Commission's functions and powers.

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4 Interpretation

In this Act, unless the context otherwise requires,—

Commission means the New Zealand Productivity Commission established by **section 6**

productivity-related matter means any matter relating to productivity, or improving productivity, in the private sector, the public sector, or the economy as a whole

publicly available, in relation to a document or information, means that the document or information is available at all rea-

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sonable times, free of charge, on an Internet site maintained by, or on behalf of, the Commission

referring Ministers has the meaning given to it by **section 9(1)(a)**

responsible Minister means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is the person for the time being responsible for the administration of this Act. 5

5 Act binds the Crown

This Act binds the Crown. 10

Part 2

Substantive provisions

Establishment of Commission

6 Commission established

The New Zealand Productivity Commission is established. 15

7 Purpose of Commission

The principal purpose of the Commission is to provide advice to the Government on improving productivity in a way that is directed to supporting the overall well-being of New Zealanders. 20

8 Commission is Crown entity

- (1) The Commission is a Crown entity for the purposes of the Crown Entities Act 2004.
- (2) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise. 25

Commission's functions

9 Commission's functions

- (1) The functions of the Commission are,—
 - (a) on referral to the Commission by the responsible Minister in conjunction with the relevant portfolio Ministers (collectively, the **referring Ministers**), to— 30

- (i) hold inquiries into and report to the referring Ministers about productivity-related matters that are referred to it; and
- (ii) conduct reviews of existing regulatory regimes and agencies, including their efficiency and effectiveness; and 5
- (iii) undertake regulatory impact analyses of specified regulatory proposals; and
- (b) on its own initiative, to—
 - (i) undertake and publish research about productivity-related matters in order to develop its institutional knowledge and support its inquiry and review functions; and 10
 - (ii) promote public understanding of productivity-related matters. 15
- (2) Except as expressly provided in this or any other Act, the Commission must act independently in performing its functions and duties and exercising its powers under—
 - (a) this Act; and
 - (b) any other Act that expressly provides for the functions, powers, or duties of the Commission (other than the Crown Entities Act 2004). 20

Commission membership

10 Members of Commission

- (1) The Commission must have no fewer than 3, and not more than 4, members. 25
- (2) Members of the Commission are a board for the purposes of the Crown Entities Act 2004.

Conduct of Commission's work

11 Commission work programme

- (1) The Commission must perform its functions in accordance with a work programme determined by the responsible Minister. 30
- (2) The Commission must ensure that a copy of the work programme is publicly available. 35

12 Terms of reference

- (1) In carrying out its functions under **section 9(1)(a)**, the Commission must act in accordance with the terms of reference set by the referring Ministers for each inquiry, review, and regulatory impact analysis. 5
- (2) The terms of reference may, without limitation, specify—
- (a) the scope of the inquiry, review, or regulatory impact analysis to be undertaken; and
 - (b) requirements concerning consultation; and
 - (c) matters relating to the Commission working jointly with other agencies (including overseas agencies) concerned with improving productivity; and 10
 - (d) procedures the Commission must follow; and
 - (e) the date by which the Commission must submit its report on the inquiry, review, or analysis. 15
- (3) The Commission must ensure that the terms of reference for each inquiry, review, and regulatory impact analysis are publicly available as soon as practicable after the Commission receives them.

13 Commission's procedures 20

- (1) The Commission may determine its own procedures for the performance of its functions.
- (2) **Subsection (1)** is subject to **sections 9(2), 12, 14, and 15**.

14 Submission and presentation of reports

- (1) The Commission must submit a copy of its report on each inquiry, review, and regulatory impact analysis referred to it under **section 9(1)(a)** to the responsible Minister and each other referring Minister. 25
- (2) The responsible Minister must present a copy of the report to the House of Representatives as soon as practicable after the Minister receives it. 30

15 Publication of reports

- (1) The Commission must make every report submitted in accordance with **section 14(1)** publicly available.

- (2) However, no report may be made publicly available until it has been presented to the House of Representatives by the responsible Minister.
- (3) Nothing in this section prevents the Commission from publishing a draft report. 5

Miscellaneous provisions and amendments to other Acts

16 Access to statistical information

- (1) Despite anything in the Statistics Act 1975, the Government Statistician may disclose individual schedules (as referred to in section 37C of the Statistics Act 1975) to any member of the Commission solely for bona fide research or statistical purposes pursuant to the functions of the Commission. 10
- (2) Section 37C(2) to (4) of the Statistics Act 1975 apply as if disclosure authorised by this section were disclosure to a government department under section 37C of that Act. 15

17 Amendments to other Acts

The enactments in the Schedule are amended in the manner indicated in that schedule.

Schedule

s 17

Amendments to other Acts

Crown Entities Act 2004 (2004 No 115)

Part 3 of Schedule 1: insert in its appropriate alphabetical order “New Zealand Productivity Commission”.

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Ombudsmen Act 1975 (1975 No 9)

Part 2 of Schedule 1: insert in its appropriate alphabetical order “New Zealand Productivity Commission”.