

State Sector Management Bill

Government Bill

As reported from the Education and Science
Committee

Commentary

Recommendation

The Education and Science Committee has examined the State Sector Management Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill seeks to provide for the amalgamation of the Ministry of Research, Science and Technology and the Foundation for Research, Science and Technology into a new Ministry of Science and Innovation, and to amalgamate the National Library and Archives New Zealand into the Department of Internal Affairs. The bill would repeal the Foundation for Research, Science and Technology Act 1990 and replace it with legislation providing for boards to make decisions on funding for research, science and technology. These boards would handle the contestable part of RS&T funding, that is, the part for which allocation decisions need to be made. The legislation would also provide for any transfers of staff from the existing agencies to the new agencies. The bill would amend the National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Act 2003 and the Public

Records Act 2005, and would make consequential amendments to various other pieces of legislation.

This commentary covers the major amendments that we recommend.

Research, science and technology legislation

Allocation of funding

We recommend amending clause 7(2) by replacing both uses of “RS&T” with “research, science, or technology, or related activities”, and deleting paragraph (g). While the meaning of “RS&T funding” is defined by clause 5, “RS&T” is not defined in the bill. “Research”, “science”, and “technology” are not defined, but are used elsewhere in the bill with their ordinary and natural meanings; “related activities” would have the same effect as paragraph (g). We believe that this amendment would aid interpretation of the legislation.

Referral of proposals to boards

We recommend amending clause 9 so that when the chief executive of the Ministry refers a proposal to a funding board, the board may request, and be provided with, any information that the Ministry holds relating to the proposal. Such information might include independent advice that had been received by the Ministry, but the board could not require the Ministry to seek such advice. We believe that this would allow a board to ensure that it had all the relevant and available information before it when considering any funding proposal.

Reconsideration of funding decisions

We recommend deleting clause 11, which provides that a board can reconsider a funding decision referred back to it by the chief executive of the Ministry, a referring Minister, or a referring chief executive. We are concerned about the possible misuse of this provision, as there would be no limit on how many times a funding decision could be referred for reconsideration.

Delegation of functions

We recommend amending clause 12 to limit the ways a board could delegate its functions. The bill as introduced provides that a board

could, with the approval of the Minister, delegate any of its functions or powers to the chief executive of the Ministry, or to any other person (who was not an employee of the State services) approved by the Minister. We consider that the breadth of this provision might allow a board to avoid exercising its decision-making function. We considered recommending that clause 12 be deleted, but believe that modifying the clause as recommended would produce the best outcome.

Transfer of functions

We recommend deleting clause 15, which provides for the transfer of functions from the former department and the Foundation to the new Ministry. The functions and responsibilities of the new Ministry will be set in the same way as those of other departments, so this clause is not needed.

Amendments to National Library legislation

Continuation of Alexander Turnbull Library

We recommend deleting clause 27(2), which would have required that the collections of the Alexander Turnbull Library remain in the custody of “the department” (that is, of Internal Affairs) at all times, rather than “the National Library”, as is now the case. We understand that this deletion would avoid problems concerning the custody of the collections of the Alexander Turnbull Library.

Amendments to Public Records legislation

We recommend deleting clauses 47, 48(1), 50, 52, 54, 55, 57, and 58. The Public Records Act 2005 defines “Archives New Zealand” as both the department of State with that name, and as the national repository. The bill as introduced seeks to amend the definition by removing reference to Archives New Zealand as a department of State, but continues to define Archives New Zealand as the repository referred to in section 9 of the Act. The bill includes many clauses that would change references to Archives New Zealand to references to the Department of Internal Affairs. Where the original reference is to Archives New Zealand, the department, we agree with the change;

but where the original reference is to Archives New Zealand, the repository, we consider that it should remain.

Provisions relating to boards, chairpersons, and members

Removal of members

We recommend inserting new subclause 6(4) into Schedule 1. This would not change the effect of the bill, but would alert the Minister to the necessity of properly considering the matter, and of complying with the principles of natural justice, when removing a member of a board.

Fees and allowances

We recommend amending clause 29 of Schedule 1. The bill as introduced provides for fees and allowances to be paid in accordance with the Fees and Travelling Allowances Act 1951. The amended clause provides for the fees framework (which is determined by the Government from time to time) to be used, as this is a more modern regime.

Amendment to Income Tax Act 2007

We recommend amending the amendment to the Income Tax Act 2007 set out in Schedule 2 to clarify that funding for “activities” in Section 7 of the State Sector Management Act would constitute income under the Income Tax Act 2007.

New Zealand Labour Party minority view

The Labour Party opposes the parts of this bill that deal with the merger of Archives New Zealand and the National Library into the Department of Internal Affairs. We believe that this merger will undermine vital components of our constitutional and democratic infrastructure by reducing their independence, the influence of the Chief Archivist and National Librarian and the confidence of the New Zealand public in these institutions.

What is more, no evidence was brought before the committee that these changes will do anything to provide the New Zealand public with better services in terms of archives or library. Both agen-

cies have been described in Cabinet papers as being “well regarded and successful institutions”. This begs the question “if it ain’t broke, why fix it?” No clear evidence of financial savings or other efficiency gains were provided to the committee. In the statements from Government Ministers about the merger much has been made of the gains to be made in the digitalisation projects of the agencies if they are merged. Aside from the fact that this case has not actually been made, this is only one aspect of the ongoing work of both Archives and Library. In short the merger is not necessary, will not generate better services, and seems to be driven by an ideological desire to reduce the number of Government agencies.

Archives New Zealand plays a key constitutional role in ensuring that documents of Government are retained and are available for scrutiny. They provide the ultimate accountability of Government. In order to undertake this role properly it is important that there is a degree of independence for the institution and the Chief Archivist. The proposed merger will compromise that independence by taking away Archives New Zealand’s identity, distributing its functions within the Department of Internal Affairs and reducing the Chief Archivist to being a third-tier manager in the department who, while an employee of the chief executive, does not report directly to them nor are they part of the executive leadership team. There is now no guarantee that there will be direct access between the Chief Archivist and the Minister, and a reduced ability for the Chief Archivist to publicly report on the activities of the Archives.

In the committee we were told the experience of the 1990s when Archives was part of the Department of Internal Affairs. Submitters, including two former Chief Archivists, spoke of the negative effect on the health of the Archives. In essence Archives became lost in a larger department with other priorities. It was subject to the whim of chief executives, who while for the most part sympathetic to Archives simply were not able to give it attention. Where the chief executive was less well disposed to the Archives the result was so negative it led to litigation. As one submitter noted “the past management of the archives function has an unfortunate history, characterised by arrested development, lack of resourcing, poor understanding, litigation, rancour and distrust”. Another commented that “thousands of unique items that have relevance today have been lost by fire, water, vermin and indifference”.

From a Labour Party point of view we believe that there is scope to consider what is the best position for Archives New Zealand in the State sector framework that will ensure independence and efficiency. There are a number of options for this including being a stand-alone department as it is now, a variety of Crown entity models or having the Chief Archivist as an Officer of Parliament. On return to Government we will investigate the best model, and move to give Archives New Zealand the independence it needs and deserves.

Many of the same issues raised in terms of Archives New Zealand are also a factor for the National Library. The independence and influence of the National Librarian is diminished by them being a third-tier manager in the Department of Internal Affairs, with no direct line to the chief executive, and not being part of the executive leadership team. As with the Archivist they will not have guaranteed access to the Minister, and the ability to report directly to Parliament is diminished. The Chief Librarian (head of the Alexander Turnbull Library) is even further down the pecking order in the proposed Department of Internal Affairs structure.

A particular concern raised during the submission process was the potential damage to the reputation and image of the Alexander Turnbull Library. The holdings of the Alexander Turnbull Library are private collections donated to a trusted repository. Public confidence in the Alexander Turnbull is essential, and it was the view of a number of submitters that this will be undermined by integration into the Department of Internal Affairs. A number of submitters felt that the international reputation of both the National Library and the Alexander Turnbull Library would be negatively effected by the merger.

Again, many submitters felt that existing structures created through the 2003 National Library Act were working well both in terms of the National Library and the Alexander Turnbull Library.

The Government has attempted to justify the merger by pointing to international examples of archives and library being part of merged arrangements. The experience in Canada of a merged archives and library has been described by many users, including the Canadian Historical Association, as leading to a decline in services. In other countries such as the UK and Australia their arrangements have a far greater degree of independence and direct reporting to Ministers built in.

In summary, the merger of Archives New Zealand and the National Library into the Department of Internal Affairs that is facilitated by parts of this bill is a retrograde step. It takes us back from a recent period of stability, clarity, and independence to a situation characterised by a lack of identity and respect for the role of these institutions. The independence of these two institutions is a positive for our constitutional, democratic, historical, and cultural life. This bill undermines that independence.

Furthermore, the Government has completely failed to make a case to justify the changes, even on their own criteria of efficiency. While there may be a case for some sharing of services between Government agencies, a wholesale merger of this sort that has such negative consequences can not be justified.

The Labour Party believes that Part Two and Part Three of this bill should not proceed.

Green Party minority view

The Green Party opposes the parts of this bill that merge Archives New Zealand, the National Library (and the Alexander Turnbull Library) in the Department of Internal Affairs.

The Green Party believes this bill could have a disastrous effect on both the National Library and Archives New Zealand. These two institutions are so important, not only for the present generation but also for future generations of New Zealanders.

Archives New Zealand and the National Library were separated from the Department of Internal Affairs just under a decade ago because, from submitters' accounts, the system was cumbersome and did not work well. The Green Party notes that the Cabinet paper that proposed this merger acknowledged that these are "well regarded and successful institutions". We share some submitters' concerns that this process has been driven out of an ideological motivation to reduce the number of governmental departments rather than a desire for good archival or library outcomes.

Sharing technology and digitisation, bureaucratic efficiencies and cost savings were presented as arguments in favour of proceeding with this bill. No evidence or robust analysis why this particular and very disruptive structural solution was needed to achieve essentially financial and technological policy aims was presented.

The Green Party shares many submitters' concerns on impairing the statutory independence of the National Librarian and Chief Archivist by placing them in a Government department's bureaucracy, reducing their access to Ministers, and playing proactive roles as advocates for their important constitutional and societal roles.

The Green Party believes this is a retrograde step that is just an ideological solution looking for a problem.

Appendix

Committee process

The State Sector Management Bill was referred to the committee on 7 September 2010. The closing date for submissions was 6 October 2010. We received and considered 31 submissions from interested groups and individuals. We heard 22 submissions.

We received advice from the State Services Commission, Archives New Zealand, the Department of Internal Affairs, the Foundation for Research, Science and Technology, the Ministry of Research, Science and Technology, and the National Library of New Zealand.

Committee membership

Allan Peachey (Chairperson)

Catherine Delahunty

Hon Sir Roger Douglas (to 8 September 2010)

Jo Goodhew

Colin King

Hon Trevor Mallard

Sue Moroney

Hon Heather Roy (from 8 September 2010)

David Shearer

Louise Upston

Gareth Hughes replaced Catherine Delahunty for this item of business.

State Sector Management Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Tony Ryall

State Sector Management Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the State Sector Management Act **2010**.

2 Commencement

This Act comes into force on 1 February 2011.

Part 1 Provisions relating to research, science, and technology

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3 Purpose

The purpose of **this Part** is—

- (a) to establish boards to make independent funding decisions in respect of the allocation of specified ~~funds~~ expenditures appropriated for the purposes of research, science, or technology, or related activities: 10
- (b) to repeal the Foundation for Research, Science, and Technology Act 1990:
- (c) to provide for the transfer of ~~functions~~, employees, assets, and liabilities from the Foundation for Research, Science, and Technology to a new department of State: 15
- (d) to provide for the transfer of ~~functions and~~ employees from the former department to a new department of State:
- (e) to provide for savings in relation to contracts with the Foundation for Research, Science, and Technology, consequential amendments, and other savings and transitional matters. 20

4 Interpretation

In **this Part**, unless the context otherwise requires,— 25

board means a board established under **section 10(1)**

chief executive means the chief executive of the Ministry

employee has the same meaning as in section 2 of the State Sector Act 1988

former department means the Ministry of Research, Science, and Technology 30

Foundation means the Foundation for Research, Science, and Technology established by section 4 of the Foundation for Research, Science, and Technology Act 1990

member,—

- (a) in relation to a board ~~established under section 10(1)~~, means a member of that board; and
- (b) for the purposes of **section 13**, means a member of the Foundation

5

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of **this Part**

Ministry means the department that is, with the authority of the Prime Minister, for the time being responsible for administration of **this Part**

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~~**outputs** means goods or services, and includes knowledge and information has the same meaning as it has in section 2(1) of the Public Finance Act 1989, and also includes knowledge and information~~

15

~~**RS&T funding** means the expenses authorised by non-departmental appropriations within the meaning of Part 1 of the Public Finance Act 1989 for research, science, or technology, or related activities~~

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specified RS&T funding has the meaning set out in **section 5**

State services has the same meaning as it has in section 2 of the State Sector Act 1988.

5 Meaning of specified RS&T funding 25

(1) In **this Part**, **specified RS&T funding**—

- (a) means RS&T funding in a vote administered by the Ministry in respect of which a decision on rationing a limited amount of that funding is required to be made, in accordance with criteria published under **section 8(1)**,—
 - (i) between eligible proposals, as to which should receive an allocation; and
 - (ii) in response to an individual proposal, as to the amount (if any) to be allocated; but

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- (b) does not include RS&T funding in a vote administered by the Ministry that is subject to a separate decision-making process.
- (2) For the purpose of **subsection (1)(b)**, the Minister must, by notice published in the *Gazette*, identify any RS&T funding in a vote administered by the Ministry that is subject to a separate decision-making process. 5

6 Part binds the Crown

This Part binds the Crown.

Subpart 1—Allocation of funding

10

Purposes

7 Purposes for which specified RS&T funding may be allocated

- (1) Specified RS&T funding may be allocated for research, science, or technology, or related activities, for the benefit of New Zealand. 15
- (2) The activities referred to in **subsection (1)** include (but are not limited to) any activity that—
- (a) is likely to increase knowledge or understanding of the physical, biological, or social environment; or 20
- (b) is likely to contribute to New Zealand’s economic growth; or
- (c) is likely to develop, maintain, or increase skills or scientific or technological expertise that is of particular importance to New Zealand; or 25
- (d) is unlikely to be funded, or adequately funded, from non-governmental sources; or
- (e) facilitates RS&T research, science, or technology, or related activities; or
- (f) promotes or facilitates the application of RS&T re- 30
search, science, or technology, or related activities; or
- ~~(g) promotes or facilitates the application of technological developments.~~

*Criteria for assessing RS&T funding***8 Minister to set, and boards to adhere to, criteria**

- (1) The Minister must from time to time, by notice given to each board and published in the *Gazette*, set criteria for the assessment of proposals for specified RS&T funding. 5
- (2) A board must carry out its functions under **section 10(4)(a)** in accordance with the criteria set under **subsection (1)**.
- (3) Nothing in **subsection (1)** authorises the Minister to—
- (a) give a direction in respect of the production, by a particular person, of outputs relating to research, science, or technology, or related activities; 10
- (b) direct a board to allocate funds to or for the benefit of a particular person.

*Decision making on specified RS&T funding***9 ~~Ministry~~ Chief executive to refer proposals to boards** 15

- (1) On any occasion when decisions on the allocation of specified RS&T funding are to be made, the chief executive must refer the proposals concerned to the appropriate board to make funding decisions in accordance with **section 10(4)(a) and (5)**. 20
- (2) A board may request that the chief executive provide the board with all information, or any specified information, that relates to the proposal.
- (3) If the Ministry holds the information requested, the chief executive must provide that information to the board. 25
- (4) In this section, **information** includes, but is not limited to,—
- (a) independent advice received by the Ministry; and
- (b) confirmation as to whether or not the proposal has been independently considered.

Boards 30**10 Establishment, functions, and duties of boards**

- (1) The Minister must—
- (a) establish, by notice published in the *Gazette*, 1 or more boards; and
- (b) appoint members of those boards; and 35

- (c) appoint a member of each board as the chairperson of that board.
- (2) Before establishing a board, the Minister must consult with any other Minister of the Crown whose area of responsibility, in the Minister's opinion, includes an interest in the allocation of specified RS&T funding. 5
- (3) The Minister may specify that a board is to make funding decisions on proposals for specified RS&T funding in relation to 1 or more areas of research, science, or technology, or related activities, specified in— 10
- (a) the notice establishing the board under **subsection (1)(a)**; or
- (b) a notice given to the board for the purpose and published in the *Gazette*.
- (4) The functions of a board established under **subsection (1)(a)** are,— 15
- (a) in relation to ~~its~~ the areas of research, science, or technology, or related activities (if any) specified under **subsection (3)**, to make funding decisions on proposals for specified RS&T funding referred to it by the chief executive; and 20
- (b) with the prior approval of the Minister, to make decisions on proposals for allocation of RS&T funding that are referred to it—
- (i) by any other Minister of the Crown (a **referring Minister**); or 25
- (ii) by the administrative head (however called) of any of the State services (a **referring chief executive**).
- (5) In performing its functions, a board must act,— 30
- (a) in relation to its functions under **subsection (4)(a)**, in accordance with—
- (i) the purposes in **section 7**; and
- (ii) **section 8(2)**; and
- (b) in relation to its functions under **subsection (4)(b)**, in accordance with criteria specified by the referring Minister or, as the case requires, the referring chief executive; and 35

- (c) on information presented to the board by the chief executive or, as the case requires, by the referring Minister or referring chief executive; and
- (d) in an independent, fair, and transparent manner.
- (6) For the purpose of giving effect to the decision, a board must record any funding decision it makes in the performance of its functions in writing and provide that decision to the chief executive or, as the case requires, the referring Minister or referring chief executive. 5
- (7) The Ministry must supply all secretarial and administrative services required to enable a board to carry out its functions. 10
- (8) **Schedule 1** applies to boards and to the members and chairpersons of those boards.

11 Board may reconsider funding decisions

- ~~(1) A board may, on referral in writing by the chief executive or, as the case requires, a referring Minister or a referring chief executive setting out the reasons for the referral, reconsider any funding decision it has made in the performance of its functions, and, following that reconsideration,—~~ 15
- ~~(a) may confirm, vary, or revoke the decision; and~~ 20
- ~~(b) if it revokes the decision, may make a new funding decision or decisions in relation to the RS&T funding that was the subject of the revoked decision.~~
- ~~(2) In reconsidering a funding decision, the board must—~~
- ~~(a) take account of the reasons for the referral; and~~ 25
- ~~(b) act in accordance with—~~
- ~~(i) section 10(5)(a) or, as appropriate, section 10(5)(b); and~~
- ~~(ii) section 10(5)(c) and (d).~~
- ~~(3) Section 10(6) applies to any decision of the board under sub-section (1) as if it were a funding decision.~~ 30

12 Board may delegate functions

- (1) With the approval of and within any limits set by the Minister, a board may, either generally or particularly and by resolution, delegate its functions under **section 10(4)** or powers under **section 11** to— 35

- (a) the chief executive; or
- (b) any other person (not being an employee in the State services) approved by the Minister.
- (2) If functions ~~or powers~~ are delegated to the chief executive under **subsection (1)**,— 5
- (a) the chief executive is not responsible to the Minister for the performance or exercise of those functions ~~or powers~~ but must act independently; and
- (b) the chief executive may delegate those functions ~~or powers~~ to employees or holders of specified offices in the Ministry under section 41 of the State Sector Act 1988. 10
- (3) A person to whom functions ~~or powers~~ are delegated under **subsection (1) or (2)(b)** must perform ~~or exercise~~ them in accordance with **section 10(5) and (6)** ~~or, as the case requires, section 44~~; and those provisions apply with all necessary modifications as if references to a board were references to that person. 15
- (4) No delegation under **subsection (1) or (2)(b)** affects the responsibility of the board for the actions of any person acting under the delegation. 20
- (5) A board must not make a delegation under this section unless satisfied that,—
- (a) given the nature of the decision to be made by the delegate and the level of funding involved, the delegation will result in a more efficient and effective decision-making process than if the board had made the decision; and 25
- (b) if necessary, conditions are imposed upon the delegation that will enable the board to verify that the delegate has complied with the requirements of **section 10**. 30

Subpart 2—Abolition of Foundation and transfer of assets, liabilities, ~~functions~~, and

staff from Foundation, and ~~functions and~~
staff from former department, to Ministry

13 Abolition of Foundation

- (1) On the commencement of **this Part**, the Foundation is abolished. 5
- (2) Every member of the Foundation vacates office on the commencement of **this Part** and is not entitled to any compensation or other benefit in respect of loss of office.

14 Foundation for Research, Science, and Technology Act 1990 repealed 10

The Foundation for Research, Science, and Technology Act 1990 (1990 No 72) is repealed.

15 Transfer of functions of former department and Foundation to Ministry

- (1) ~~On the commencement of **this Part**,—~~ 15
- (a) ~~the functions and responsibilities of the former department and of the Foundation become the functions and responsibilities of the Ministry; and~~
- (b) ~~the functions and responsibilities of the chief executives of the former department and of the Foundation become the functions and responsibilities of the chief executive of the Ministry.~~ 20
- (2) ~~To avoid doubt, nothing in **subsection (1)** applies to functions and responsibilities of the Foundation or its chief executive that no longer require to be performed as a result of the repeal of the Foundation for Research, Science, and Technology Act 1990.~~ 25

16 Vesting of assets and liabilities of Foundation

- (1) On the commencement of **this Part**,— 30
- (a) all property belonging to the Foundation vests in the Crown as assets of the Ministry; and
- (b) all information held by the Foundation is held by the Ministry; and
- (c) all money payable to or by the Foundation becomes payable to or by the Ministry; and 35

- (d) all rights, liabilities, contracts, entitlements, and engagements of the Foundation become the rights, liabilities, contracts, entitlements, and engagements of the Crown acting through the Ministry; and
- (e) anything done, or omitted to be done, or that is to be done by, or in relation to, the Foundation must be treated as having been done, or having been omitted to be done, or to be done by, or in relation to, the Ministry; and
- (f) proceedings commenced, continued, or enforced by or against the Foundation must instead be commenced, continued, or enforced by or against the Crown in respect of the Ministry without amendment to the proceedings; and
- (g) a matter or thing that would have, but for this section, been completed by the Foundation, must be completed by the Ministry.
- (2) To avoid doubt, the ~~dissolution~~ abolition of the Foundation does not, of itself, affect any of the following matters:
- (a) any decision made, or anything done or omitted to be done, by the Foundation in relation to the performance of the Foundation's functions and duties or the exercise of its powers under any enactment;
- (b) any proceedings commenced by or against the Foundation;
- (c) any other matter or thing arising out of the Foundation's performance, or purported performance, of the Foundation's functions and duties, or the exercise, or purported exercise, of its powers under any enactment.
- (3) The ~~dissolution~~ abolition of the Foundation and the transfer of its property, rights, and obligations to the Crown or the Ministry—
- (a) is not to be treated as placing a person in breach of, or default under, any contract, or in breach of trust, or in breach of confidence, or as otherwise making the person guilty of a civil wrong; and
- (b) is not to be treated as entitling a person to—
- (i) terminate, or cancel, or modify a contract, agreement, or arrangement; or

- (ii) enforce or accelerate the performance of an obligation; or
- (iii) require the performance of an obligation not otherwise arising for performance; and
- (c) does not release any surety wholly or in part from all or any obligation; and 5
- (d) does not invalidate or discharge any contract or security.

17 Transfer of employees of Foundation to Ministry

- (1) Every person who was, immediately before the commencement of **this Part**, an employee in the Foundation becomes, on the commencement of **this Part**, an employee in the Ministry on the same terms and conditions of employment as applied to that employee immediately before that commencement. 10
- (2) An employee referred to in **subsection (1)** is not entitled to receive any payment or other benefit on the ground that his or her position in the Foundation has ceased to exist. 15

18 Transfer of employees of former department to Ministry

- (1) Every person who was, immediately before the commencement of **this Part**, an employee in the former department becomes, on the commencement of **this Part**, an employee in the Ministry on the same terms and conditions of employment as applied to that employee immediately before that commencement. 20
- (2) An employee referred to in **subsection (1)** is not entitled to receive any payment or other benefit on the ground that his or her position in the former department has ceased to exist. 25
- (3) To avoid doubt, any collective agreement that was in force immediately before the commencement of **this Part** continues in force, and the following persons are bound by, and entitled to enforce, that agreement: 30
 - (a) any employee referred to in **subsection (1)** who was, immediately before the commencement of **this Part**, bound by, and entitled to enforce, that agreement; and
 - (b) the chief executive.

19 Transferred employees

- (1) The terms and conditions of employment of a transferred employee immediately before the commencement of **this Part** continue to apply in relation to that employee until—
- (a) those terms and conditions are varied by agreement between the transferred employee and the Ministry; or 5
 - (b) the transferred employee accepts a subsequent appointment with the Ministry.
- (2) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a transferred employee,—
- (a) the employment agreement of that employee is to be treated as unbroken; and
 - (b) the employee's period of service with the former department or the Foundation, and every other period of service of that employee that is recognised by the former department or the Foundation as continuous service, is to be treated as a period of service with the Ministry. 15
- (3) To avoid doubt, the employment of a transferred employee by the Ministry does not—
- (a) constitute new employment for the purposes of the KiwiSaver Act 2006; or
 - (b) treat that employee as a new employee for the purposes of the Employment Relations Act 2000. 20
- (4) In this section, **transferred employee** means a person who becomes an employee of the Ministry under **section 17 or 18**. 25

20 Consequential amendments

The enactments specified in **Schedule 2** are amended in the manner indicated in that schedule. 30

Part 2
Amendments to National Library of
New Zealand (Te Puna Mātauranga o
Aotearoa) Act 2003

- 21 Principal Act amended** 5
This Part amends the National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Act 2003.
- Subpart 1—Amendments to principal Act
- 22 Purpose** 10
 Section 3 is amended by repealing paragraph (c) and substituting the following paragraph:
 “(c) continue the mutually supportive roles of the National Librarian and the Chief Librarian; and”.
- 23 Interpretation** 15
 (1) Section 4 is amended by repealing the definition of **Minister** and substituting the following definition:
 “**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act” 20
 (2) The definition of **National Library** in section 4 is amended by omitting “the department of State known as”.
 (3) Section 4 is amended by inserting the following definitions in their appropriate alphabetical order:
 “**chief executive** means the chief executive of the department 25
 “**department** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.
- 24 National Librarian** 30
 Section 8 is amended by repealing subsections (2) and (3) and substituting the following subsection:
 “(2) The National Librarian is the person for the time being appointed to that office by the chief executive under the State Sector Act 1988.”

25 Functions and powers of National Librarian

(1) Section 9 is amended by inserting the following subsection before subsection (1):

“(1AA) The National Librarian has all the powers necessary to perform and carry out the functions, ~~responsibilities~~, and duties imposed on the National Librarian by or under this Act.” 5

(2) Section 9(2)(b) is repealed.

(3) Section 9 is amended by repealing subsection (3) and substituting the following subsection:

“(3) The National Librarian must not transfer the custody or use of any documents held by the National Library to any authority or other person, or remove any documents from the collections, without the approval of the Minister.” 10

26 New section 9A inserted

The following section is inserted after section 9: 15

“9A Delegations by National Librarian

“(1) The National Librarian may, either generally or particularly, delegate to an employee in the department all or any of the National Librarian’s functions, duties, or powers under this Act except the power to delegate. 20

“(2) A delegation—

“(a) must be in writing; and

“(b) may be made subject to any restrictions and conditions the National Librarian thinks fit; and

“(c) is revocable at any time, in writing; and 25

“(d) does not prevent the performance or exercise of a function, duty, or power by the National Librarian.

“(3) A person to whom any functions, duties, or powers are delegated may perform and exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation. 30

“(4) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

“(5) This section is subject to the limitations specified in sections 13(3) and **14**.” 35

27 Continuation of Alexander Turnbull Library

Section 11 is amended by inserting the following subsection after subsection (2):

“(2A) The chief executive, in consultation with the National Librarian, must provide— 5

“(a) separate and suitable accommodation in a national library building for the collections of the Alexander Turnbull Library; and

“(b) for the development of the research collections and the services of the Alexander Turnbull Library, particularly in the fields of New Zealand and Pacific studies and rare books.” 10

(2) ~~Subsection 11(3) is amended by omitting “the National Library” and substituting “the department”.~~

28 Chief Librarian of Alexander Turnbull Library

15

(1) Section 13(2) is amended by omitting “National Librarian” and substituting “chief executive, on the recommendation of the National Librarian,”.

(2) Section 13(3)(b) is amended by—

(a) omitting “the National Library” and substituting “the department”; and 20

(b) omitting “the National Librarian” and substituting “the chief executive, in consultation with the National Librarian,”; and

(c) adding “in accordance with **section 9A**”. 25

(3) Section 13 is amended by repealing subsection (4) and substituting the following subsection:

“(4) The person holding office as Chief Librarian immediately before the commencement of **Part 2 of the State Sector Management Act 2010** continues to hold that office on the commencement of that **Part** on the same terms and conditions, to the extent that those terms and conditions are consistent with the Chief Librarian being an employee in the department.” 30

29 New section 14 substituted

Section 14 is repealed and the following section substituted: 35

- “14 Functions, duties, and powers of Chief Librarian**
The Chief Librarian must perform any functions or duties, and exercise any powers, delegated to him or her under **section 9A** for preserving, protecting, developing, and making accessible the collections of the Alexander Turnbull Library.” 5
- 30 Documents may be made available for public exhibition**
Section 15(1) ~~is~~ and (2)(f) are amended by omitting “section 14” and substituting in each case “**section 9A**”.
- ~~(2) Section 15(2)(f) is amended by omitting “section 14” and substituting “**section 9A**”.~~ 10
- 31 Reports**
Section 19(1) ~~is~~ and (2)(a) are amended by omitting “section 14” and substituting in each case “**section 9A**”.
- ~~(2) Section 19(2)(a) is amended by omitting “section 14” and substituting “**section 9A**”.~~ 15
- 32 Administration**
Section 21(2) is amended by omitting “The National Library” and substituting “The department”.
- 33 Administration**
Section 28 is amended by omitting “The National Library” and substituting “The department”. 20
- 34 Use of public documents in National Library**
Section 34 is amended by repealing subsection (2) and substituting the following subsection:
- ~~“(2) For the purposes of carrying out his or her duties, the National Librarian and any employee, contractor, or agent of the chief executive may possess, copy, store in electronic form (whether offline or online), and use any copy of a deposited document.”~~ 25

Subpart 2—Transfer of employees of
National Library and related matters

35 Transfer of National Library employees to department

- (1) Sections 30E, 30F, and 30G of the State Sector Act 1988 apply to every person who was, immediately before the commencement of **this Part**, an employee in the National Library. 5
- (2) For the purposes of **subsection (1)**, sections 30E, 30F, and 30G of the State Sector Act 1988 apply as if they had been declared to apply by Order in Council under section 30C of that Act. 10

36 Consequential amendments

The enactments specified in **Schedule 3** are amended in the manner indicated in that schedule.

Part 3

Amendments to Public Records Act 2005 15

37 Principal Act amended

This Part amends the Public Records Act 2005.

Subpart 1—Amendments to principal Act

38 Interpretation

- (1) Section 4 is amended by repealing the definition of **Archives New Zealand** and substituting the following definition: 20
“**Archives New Zealand** means the repository referred to in section 9”.
- (2) Section 4 is amended by repealing the definition of **Minister** and substituting the following definition: 25
“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.
- (3) Section 4 is amended by inserting the following definitions in their appropriate alphabetical order: 30
“**chief executive** means the chief executive of the department

“**department** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.

- 39 Continuation of Archives New Zealand** 5
Section 9(2) is repealed.
- 40 Chief Archivist**
Section 10 is amended by repealing subsections (2) and (3) and substituting the following subsection:
“(2) The Chief Archivist is the person for the time being appointed to that office by the chief executive under the State Sector Act 1988.” 10
- 41 New section 12 substituted**
Section 12 is repealed and the following section substituted:
“**12 Chief Archivist to act independently** 15
In relation to the performance of his or her functions and duties and to the exercise of his or her powers under sections 11(1)(b) and (d), 20(1), and 30, the Chief Archivist—
“(a) must act independently in exercising his or her professional judgement; and
“(b) is not subject to direction from either the Minister or the chief executive.” 20
- 42 Delegations by Chief Archivist**
Section 13(1) is amended by omitting “of Archives New Zealand” and substituting “in the department”.
- 43 Function of Archives Council** 25
Section 15(1)(a)(v) is amended by omitting “Archives New Zealand” and substituting “the recordkeeping practices of the Chief Archivist”.
- 44 Administrative matters** 30
Section 16(2) is amended by omitting “Archives New Zealand” and substituting “The department”.

- 45 Registers**
Section 19(2) is amended by omitting “at Archives New Zealand”.
- 46 Authority to dispose of public records**
(1) Section 20(3) is amended by omitting “Archives New Zealand” and substituting “the Chief Archivist in relation to his or her functions, duties, and powers under this Act” 5
(2) Section 20(4) is amended by omitting “of Archives New Zealand” and substituting “referred to in subsection (3)”.
- 47 Mandatory transfer of public records** 10
(1) Section 21(1) is amended by repealing paragraph (a) and substituting the following paragraph:
“~~(a) to the possession of the department and the control of the Chief Archivist, or~~”
(2) Section 21(2)(b) is amended by repealing subparagraph (i) and substituting the following subparagraph: 15
“~~(i) the possession of the department and the control of the Chief Archivist, or~~”
- 48 Deferred transfer of public records**
(1) Section 22(3)(a) is amended by omitting “the control of the Chief Archivist and the possession of Archives New Zealand” and substituting “the possession of the department and the control of the Chief Archivist” 20
Section 22(5)(b) is amended by omitting “Archives New Zealand” and substituting “the department”. 25
- 49 Discharge of public records**
Section 25(1)(f) is amended by omitting “of Archives New Zealand” and substituting “in the department”.
- 50 Approval of repositories**
Section 26(2)(d) is amended by omitting “Archives New Zealand, another approved repository” and substituting “the department, an approved repository” 30

51 Audit of Archives New Zealand

- (1) The heading to section 34 is amended by omitting “Archives New Zealand” and substituting “recordkeeping practices of Chief Archivist”.
- (2) Section 34(1) is amended by omitting “Archives New Zealand” and substituting “the recordkeeping practices of the Chief Archivist”.

52 Prescribed records

~~Section 38(4)(a) is amended by omitting “Archives New Zealand” and substituting “the department”.~~ 10

53 Basis for determining access status

Section 44(6) is amended by omitting “Archives New Zealand” and substituting “The department”.

54 Public inspection of open access records

~~Section 47 is amended by omitting “Archives New Zealand” and substituting “the department”.~~ 15

55 Application of Official Information Act 1982

~~Section 58 is amended by omitting “Archives New Zealand” and substituting “the department”.~~

56 Protection of names 20

Section 60(2) is amended by omitting “Archives New Zealand” and substituting “the department”.

57 Savings

~~Section 64(2)(b) is amended by omitting “Archives New Zealand” and substituting “the department”.~~ 25

58 Transitional provisions

- (1) ~~Section 65(2)(g) is amended by omitting “Archives New Zealand” and substituting “the department”.~~
- (2) ~~Section 65(2)(h) is amended by omitting “Archives New Zealand” and substituting “the department”.~~ 30

Subpart 2—Transfer of employees of
Archives New Zealand and related matters

**59 Transfer of Archives New Zealand employees to
department**

- (1) Sections 30E, 30F, and 30G of the State Sector Act 1988 apply 5
to every person who was, immediately before the commence-
ment of **this Part**, an employee in Archives New Zealand.
- (2) For the purposes of **subsection (1)**, sections 30E, 30F, and
30G of the State Sector Act 1988 apply as if they had been 10
declared to apply by Order in Council under section 30C of
that Act.

60 Consequential amendments

The enactments specified in **Schedule 4** are amended in the
manner indicated in that schedule.

Schedule 1**s 10(8)****Provisions relating to boards,
chairpersons, and members****1 Method of appointment**

- (1) The Minister appoints or reappoints a member of a board ~~es~~ 5
~~established under section 10~~, and a chairperson of that board,
by giving written notice to the member concerned.
- (2) A notice under **subclause (1)** must—
- (a) state the date on which the appointment takes effect,
which must not be earlier than the date on which the 10
notice is received; and
- (b) in the case of the appointment of a member, state the
term of the appointment.

2 Membership of boards and criteria for appointment

- (1) A board ~~established under section 10~~ may have any number 15
of members that the Minister in his or her discretion decides.
- (2) The Minister may only appoint as a member a person who, in
the Minister's opinion, has the appropriate knowledge, skills,
and experience to assist the board to perform its functions.

3 Validity of members' acts 20

The acts of a person as a member or chairperson of a board are
valid even though—

- (a) a defect existed in the appointment of the person; or
- (b) the occasion for the person acting, or for his or her ap-
pointment, had not arisen or had ended. 25

4 Validity of appointments

- (1) The appointment of a person as a member or chairperson of
a board is not invalid only because a defect existed in the ap-
pointment of the person.
- (2) This section does not apply to a defect in the qualifications for 30
appointment of a member.

5 Term of office

- (1) A member of a board holds office for 3 years or any shorter
period stated in the notice of appointment.

- (2) A member may be reappointed.
- (3) A member continues in office despite the expiry of his or her term of office until—
- (a) the member is reappointed; or
 - (b) the member's successor is appointed; or 5
 - (c) the Minister informs the member by written notice (with a copy to the board) that the member is not to be reappointed and no successor is to be appointed at that time.

6 Removal of members

- (1) The Minister may, at any time ~~and~~, in accordance with **clause 17(3) or 24(2)**, or entirely at his or her discretion, remove a member of a board from office. 10
- (2) The removal must be made by written notice to the member (with a copy to the board).
- (3) The notice must state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received. 15
- (4) To avoid doubt, the Minister may not remove a member unless the Minister has properly considered the matter and complied with the principles of natural justice. 20

7 Resignation of member

- (1) A member of a board may resign from office by written notice to the Minister (with a copy to the board) signed by the member.
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice. 25

Chairpersons of boards

8 Term of appointment of chairperson

- The chairperson of a board holds that office until—
- (a) he or she resigns that office; or 30
 - (b) he or she is removed from it by the Minister; or
 - (c) he or she ceases to hold office as a member; or
 - (d) the term of office that may have been specified on appointment expires, unless the member is reappointed for a further term. 35

9 Resignation of chairperson

- (1) The chairperson of a board may, without resigning as a member, resign that office by written notice to the Minister (with a copy to the board).
- (2) The notice of resignation must state the date on which the resignation takes effect. 5

10 Removal of chairperson

- (1) The Minister may, after consultation with the person concerned, remove a chairperson of a board from that office with or without also removing that person as a member by written notice to the person (with a copy to the board). 10
- (2) The notice of removal must state the date on which the removal takes effect.

No compensation for loss of office

- 11 No compensation for loss of office** 15
- A member or chairperson of a board is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member or chairperson, as the case may be.

Procedure of boards 20

12 Procedure of board

A board may regulate its own procedure.

13 Meetings

- (1) A board or its chairperson must appoint the times and places of meetings of the board, and give notice of those meetings to each member not present when the appointment is made. 25
- (2) The chairperson must preside at a meeting if the chairperson is present and not interested (as defined in **clause 23(5)**) in the matter.
- (3) If the chairperson is not present, or is interested in the matter, the board must appoint one of its members to preside. 30
- (4) No business may be transacted at a meeting of the board if a quorum is not present.

-
- (5) For the purposes of **subclause (4)** and **clause 14**, **quorum** means—
- (a) half the number of members (if the board has an even number of members); or
 - (b) a majority of the members (if the board has an odd number of members); or
 - (c) both members (if the board has only 2 members).
- (6) Each member has 1 vote and, in addition to his or her general vote, the chairperson has a casting vote in the case of an equality of votes.
- (7) A resolution of the board is passed if it is agreed to by all members present without dissent or if a majority of the votes cast on it are in favour of it.
- 14 Methods of holding meetings**
- A meeting of a board may be held—
- (a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or
 - (b) by means of audio, audio and visual, or electronic communication provided that—
 - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- 15 Unanimous written resolutions**
- (1) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all members is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.

16 Subcommittees

- (1) A board may, by resolution, appoint subcommittees comprising 1 or more of its members—
- (a) to advise it on any matters relating to the board's functions ~~or powers~~ that are referred to the subcommittee by the board; or
 - (b) to perform ~~or exercise~~ any of the board's functions ~~and powers~~ that are delegated to the subcommittee.
- (2) A subcommittee is subject in all things to the control of the board that appointed it, and must carry out all general or special directions given to it by the board in relation to it or its affairs.
- (3) A board may, by resolution, discharge or reconstitute any subcommittee appointed by it.
- (4) A subcommittee to whom a board delegates its functions ~~or powers~~ under **subclause (1)(b)** may perform those functions ~~or powers~~ in the like manner and to the same effect as if the board had performed them.

Collective duties of board and members

- 17 Collective duties of board and members** 20
- (1) The duties of a board and the members of the board under **section 10** are owed to the Minister.
- ~~(2) A member must not contravene, or cause or agree to the board's contravention of, section 10.~~
- (3) If the members of a board ~~does~~ not comply with any of its ~~their~~ collective duties, all or any of the members may be removed from office. 25
- (4) However, **subclause (3)** does not apply to a member if—
- (a) he or she did not know and could not reasonably be expected to have known that the duty was to be or was being breached; or
 - (b) he or she took all reasonable steps in the circumstances to prevent the duty being breached. 30
- (5) A member is not liable for a breach of a duty under **section 10**, except for being removed from office as provided for in **subclause (3)**. 35

- (6) This clause does not affect any other ground for removing a member from office.

Individual duties of members

18 Duty to comply with this Part

A member must not contravene, or cause the contravention of, or agree to the board contravening, **section 10** or this schedule. 5

19 Duty to act with honesty and integrity

A member must, when acting as a member, act with honesty and integrity. 10

20 Duty to act in good faith

A member must, when acting as a member, act in good faith.

21 Duty to act with reasonable care, diligence, and skill

A member must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)— 15

- (a) the nature of the board; and
- (b) the nature of the action; and
- (c) the position of the member and the nature of the responsibilities undertaken by him or her. 20

22 Duty not to disclose information

- (1) A member who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of, or act on, that information, except— 25

- (a) in the performance of the board's functions; or
- (b) as required or permitted by law; or
- (c) in accordance with **subclause (2)**; or
- (d) in complying with the requirement for members to disclose interests. 30

- (2) A member may disclose, make use of, or act on the information if—

- (a) the member is first authorised to do so by the board or by the Minister; and
- (b) the disclosure, use, or act in question will not, or will be unlikely to, prejudice the board.

23 Duty to disclose conflict of interest

5

- (1) A member who is interested in a matter relating to the board must disclose details of the nature and extent of the interest (including any monetary value of the interest)—
 - (a) to the chairperson of the board; and
 - (b) in an interests register kept by the board. 10
- (2) Disclosure under **subclause (1)** must be made as soon as practicable after the member becomes aware that he or she is interested.
- (3) A member who is interested in a matter relating to the board, must not vote or take part in any discussion or decision of the board relating to the matter. 15
- (4) In this clause, **matter** means the board's performance of its functions under **section 10**.
- (5) For the purposes of this clause, a person is **interested** in a matter if he or she— 20
 - (a) may derive a financial benefit from the matter; or
 - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
 - (c) may have a financial interest in a person to whom the matter relates; or 25
 - (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - (e) is otherwise directly or indirectly interested in the matter. 30
- (6) However, a person is not interested in a matter—
 - (a) because he or she receives insurance cover, remuneration, or other benefits authorised under this Act ~~or another Act~~, or 35
 - (b) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him

or her in carrying out his or her responsibilities under this Act ~~or another Act~~.

24 Accountability for individual duties

- (1) The duties of the members of a board under **clauses 18 to 23** (individual duties) are duties owed to the Minister. 5
- (2) If a member does not comply with his or her individual duties, that member may be removed from office.
- (3) Except as provided in **subclause (2)**, a member is not liable for a breach of an individual duty under this Act.
- (4) This section does not affect any other ground for removing a member from office. 10
- (5) **Subclause (3)** does not affect anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach.

Immunities and insurance

15

25 Immunity from civil liability

- (1) A member is not liable, in respect of an excluded act or omission,—
 - (a) to the Minister, unless it is also a breach of an individual duty under any of **clauses 18 to 23**: 20
 - (b) to any other person.
- (2) Nothing in this section affects—
 - (a) the liability of any person that is not a civil liability:
 - (b) the right of any person to apply, in accordance with the law, for judicial review. 25

26 Insurance for liability of member, office holder, or employee

The chief executive may effect insurance cover for a member in relation to his or her acts or omissions, except an act done or omission made that is—

30

- (a) in bad faith:
- (b) not in the performance or intended performance of the board's functions.

27 Breach of insurance limits

- (1) A member who is insured by the chief executive in breach of this Act must repay to the chief executive the cost of providing or effecting that insurance cover, to the extent that the insurance cover exceeds that which could have been provided or effected under this Act. 5
- (2) The chief executive may recover the amount as a debt due in a court of competent jurisdiction.

28 Definitions for protections from liability

In **clauses 25 to 27**,— 10

effect insurance includes pay, whether directly or indirectly, the costs of the insurance

excluded act or omission means an act or omission by the member in good faith and in performance or intended performance of the board's functions 15

member includes a person who was a member at any time after the commencement of **Part 1** but who is no longer a member.

Fees and allowances

~~29 Board to be statutory board~~ 20

~~(1) A board is declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.~~

~~(2) There may, if the Minister so directs, be paid to the members of a board, out of the Ministry's bank account from money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and that Act applies accordingly. 25~~

29 Fees and allowances 30

(1) The members of a board are entitled to be paid, in accordance with the fees framework,—

(a) fees as determined by the Minister; and

(b) reimbursing allowances or actual and reasonable expenses incurred in undertaking the functions and duties of the board. 35

- (2) In **subclause (1)**, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.
-

Schedule 2**s 20****Consequential amendments****Atomic Energy Act 1945 (1945 No 41)**

Definition of **Minister of Research, Science, and Technology** in section 2: omit “the Foundation for Research, Science, and Technology Act 1990” and substitute “**Part 1** of the State Sector Management Act **2010**”. 5

Building Research Levy Act 1969 (1969 No 23)

Definition of **Chief Executive** in section 2: omit “Ministry of Research, Science, and Technology” and substitute “Ministry (within the meaning of **Part 1** of the State Sector Management Act **2010**)”. 10

Crown Entities Act 2004 (2004 No 115)

Item relating to the Foundation for Research, Science, and Technology in Part 1 of Schedule 1: omit.

Item relating to the Foundation for Research, Science, and Technology Act 1990 in Schedule 6: omit. 15

Crown Research Institutes Act 1992 (1992 No 47)

Section 20(4): repeal.

Education Act 1989 (1989 No 80)

Section 202(c): repeal. 20

Finance Act (No 2) 1994 (1994 No 134)

Section 2: repeal.

Heavy Engineering Research Levy Act 1978 (1978 No 81)

Definition of **chief executive** in section 2: omit “Ministry of Research, Science, and Technology” and substitute “Ministry (within the meaning of **Part 1** of the State Sector Management Act **2010**)”. 25

Income Tax Act 2007 (2007 No 97)

Section CV 6: repeal and substitute:

Income Tax Act 2007 (2007 No 97)—*continued***“CV 6 Crown Research Institutes***“Income*

~~“(1) An amount that a Crown Research Institute derives is income of the institute if the amount is for the purpose of producing outputs relating to public good science and technology.”~~ 5

“(1) An amount that a Crown Research Institute derives is income of the institute if the amount is provided to the institute for the purposes of—

“(a) any 1 or more of the activities listed in **section 7** of the State Sector Management Act **2010**; or 10

“(b) producing outputs relating to public good science and technology.”

“Meaning

“(2) In this section, **public good science and technology** means science or technology— 15

“(a) that is likely to increase knowledge or understanding of the physical, biological, or social environment; or

“(b) that is likely to develop, maintain, or increase skills or scientific or technological expertise that is of particular importance to New Zealand; or 20

“(c) that may be of benefit to New Zealand, but is unlikely to be funded, or adequately funded, from non-governmental sources.

“Defined in this Act: amount, Crown Research Institute, income.

“Compare: 2004 No 35 s CV 2”. 25

Land Transport Act 1998 (1998 No 110)

Definition of **Science Minister** in section 2(1): omit “the Foundation for Research, Science, and Technology Act 1990” and substitute “**Part 1** of the State Sector Management Act **2010**”.

Ombudsmen Act 1975 (1975 No 9) 30

Item relating to the Ministry of Research, Science, and Technology in Part 1 of Schedule 1: omit.

Item relating to the Foundation for Research, Science, and Technology in Part 2 of Schedule 1: omit.

Public Bodies Contracts Act 1959 (1959 No 98)

Item relating to the Foundation for Research, Science, and Technology in Part 2 of Schedule 1: omit.

State Sector Act 1988 (1988 No 20)

Item relating to the Ministry of Research, Science, and Technology in Schedule 1: omit.

Schedule 3
Consequential amendments

s 36

Films, Videos, and Publications Classification Act 1993 (1993 No 94)

Section 131(4)(k): omit “of the National Library Department” and substitute “in the department responsible for the administration of that Act”. 5

Official Information Act 1982 (1982 No 156)

Paragraph (e)(ii) of the definition of **official information** in section 2(1): insert “Te Puna Mātauranga o Aotearoa” after “National Library of New Zealand”. 10

Item relating to National Library of New Zealand in Schedule 1: omit.

Ombudsmen Act 1975 (1975 No 9)

Item relating to the National Library Department in Part 1 of Schedule 1: omit. 15

State Sector Act 1988 (1988 No 20)

Item relating to National Library of New Zealand Te Puna Mātauranga o Aotearoa in Schedule 1: omit.

Schedule 4**s 60****Consequential amendments****Independent Police Conduct Authority Act 1988 (1988 No 2)**

Section 32(4): omit “by Archives New Zealand (Te Rua Mahara o te Kāwanatanga) or by or in” and substitute “in the department responsible for the administration of the Public Records Act 2005 or to a person employed by or in”. 5

~~Section 32(4): omit “by or in” and substitute “to a person employed by or in”.~~

Ombudsmen Act 1975 (1975 No 9)

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Item relating to Archives New Zealand in Part 1 of Schedule 1: omit.
Item relating to Archives New Zealand (Te Rua Mahara o te Kāwanatanga) in Part 1 of Schedule 1: omit.

State Sector Act 1988 (1988 No 20)

Item relating to Archives New Zealand (Te Rua Mahara o te Kāwanatanga) in Schedule 1: omit. 15

Statistics Act 1975 (1975 No 1)

Section 21(2A): omit “of Archives New Zealand” and substitute “in the department responsible for the administration of the Public Records Act 2005”. 20

Section 21(2A): omit “section 37(2), must” and substitute “section 37(2) must”.

Tax Administration Act 1994 (1994 No 166)

Section 87(5)(e): omit “by Archives New Zealand (Te Rua Mahara o te Kāwanatanga) or by or in” and substitute “in the department responsible for the administration of the Public Records Act 2005 or a person employed by or in”. 25

~~Section 87(5)(e): omit “by or in” and substitute “a person employed by or in”.~~

State Sector Management Bill

Legislative history

24 August 2010
7 September 2010

Introduction (193–1)
First reading and referral to Education and Science
Committee
