

Walking Access Bill

Government Bill

As reported from the Local Government and
Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Walking Access Bill and recommends that it be passed with the amendments shown.

Introduction

The Walking Access Bill establishes the New Zealand Walking Access Commission, which will be a Crown entity with the status of a Crown agent under the Crown Entities Act 2004. The Commission will facilitate and fund the negotiation of new public access across land, lead and co-ordinate the provision of public access to the outdoors, provide information about the whereabouts of existing public access, and provide a code of responsible conduct for the guidance of the public and landholders in respect of recreational access to the outdoors.

The bill arises from extensive public consultation on walking access, which found a need for an independent body to co-ordinate and extend walking access to rivers, lakes, and other public lands.

The bill re-enacts, in large measure, the provisions of the New Zealand Walkways Act 1990, but transfers to the Commission the present roles in respect of walkways of the Minister of Conservation, the Director-General of Conservation, the New Zealand Conservation Authority, and Conservation Boards. The bill does not interfere with private property rights. Public access to private land remains subject to negotiation and agreement with landholders. The Commission will be monitored by the Ministry of Agriculture and Forestry.

We recommend a number of changes to the bill as introduced. This commentary addresses the major issues considered and the recommended amendments. It does not discuss minor and technical amendments.

Submissions received

We received 136 submissions on the bill representing a range of interests, including farming, outdoor recreation, conservation societies, local government, and iwi. The main issues and concerns raised by submitters were

- the focus on walking access to the exclusion of other types (such as access with firearms, and for dogs, bicycles, or motor vehicles)
- the consequences of the creation of walkways over unformed legal roads
- the extent of the offence provisions.

Purpose of the bill

Some submitters suggested that it needs to distinguish more clearly between the wider objective of encouraging and coordinating the improvement of walking access, and the establishment of walkways. We recommend re-ordering clause 3 to distinguish these purposes more clearly.

We recommend the insertion of the words, “free, certain, enduring, and practical,” in place of the words “safe, and unimpeded,” in clause 3(a). This would align the statement of access principles more closely with the recommendations of the Walking Access Consultation Panel.

Some submitters were concerned at the bill's focus on walking access as distinct from other forms of recreational access. However, we wish to emphasise that under clause 10(1)(i), forms of access other than walkways will be considered by the Commission subject to negotiation. Indeed, walkways are just one form of walking access. We recommend the insertion of new clause 3(c)(ii) to make it clear that types of access that may be associated with walking ("such as access with firearms, dogs, bicycles, or motor vehicles,") are included in the purpose of the Commission and also in its objective (clause 9).

Interpretation

Some submitters expressed concern that the definition of "private land" in the bill included formed roads. The definition it provides of "private land" excludes an unformed legal road, but not a formed legal road. It was claimed that this would mean that a walkway could be made over a formed road, which would exclude public access to the road, including access by adjoining landowners. We recommend amending the definition of "private land" in clause 4 to clarify that it does not include public roads.

One submitter suggested amending the definition of "landholder" to make it clear that this includes the administering authority for public land. We agree that the term "landholder" applies to such authorities as it is used in the bill, and recommend amendment to define the term "landholder" as including the administering authority for public land.

Board of Commission

Clause 8 provides that members of the Commission constitute its board. Some submitters expressed concern that the bill does not provide criteria, a process, or a specified term for the appointment of board members. It was also suggested that board members should represent a more diverse range of recreational organisations, or possess explicit relevant knowledge, skills, or experience, and that Māori representation should be increased.

Clause 7 provides that the Commission is a Crown entity under the Crown Entities Act 2004. This Act includes governance rules concerning Crown entities and provides a complete code for appointing members of Crown entities and for the accountability of Crown entities. We are not in favour of requiring the representation of specified

recreational or regional organisations, which would require a board of inordinate size and could lead to sectoral advocacy.

Objectives, functions, and priorities of the Commission

Clause 10 outlines the various functions of the Commission. We recommend re-ordering them more logically, grouping together those of a more general nature and those of specific application to walkways. The order of the functions does not have any implications for their importance or priority, but we believe a more systematic structure would make for a better appreciation of the functions of the Commission. We recommend that the clause begin with the broader core functions of the proposed Commission, such as negotiating access, providing leadership on access issues, and compiling and publishing maps and information for the general public.

Clause 10(1)(g) of the bill deals with the compliance regime regarding walkways. To make it clear that this provision has no more general application to walking access, we recommend the deletion of clause 10(1)(g) and the insertion of new clause 10(1)(o) which specifies that the compliance regime relates only to walkways.

Some submitters, including Local Government New Zealand, requested specific reference to the need for working relationships between the Crown and local authorities. We recommend the insertion of the words “in collaboration with local authorities,” into clause 10(1)(b).

Submitters also proposed that the bill should provide an explicit function and priority for compiling maps of access, and that in some cases the maps should be in digital form and accessible on a website. We agree that a specific provision should be made for mapping to be an explicit function of the Commission, and recommend that clause 10(1)(c) be amended accordingly.

Several submitters mentioned the need for signposting of access. This is intended to be one of the activities funded and promoted by the Commission, and we recommend that clause 10(1)(j) be amended by inserting a reference to signposting.

Dispute resolution authority

A core policy in the bill proposes achieving new access over private land by negotiation and agreement, and not compulsion. Some sub-

mitters argued that the Commission should be empowered to institute arbitration where negotiation or mediation regarding access fails. However, the majority of the Walking Access Consultation Panel was of the view that an arbitration process would conflict with widely expressed concern for property rights. We recommend that the words “a court, tribunal, or other dispute resolution body” replace the words “an appropriate authority” in clause 10(1)(e), to make it clear that resolution could be reached through a range of organisations.

Substitution of access

Some submitters asked that the bill provide for the relocation of existing legal access rights to a more useful place, especially regarding unformed legal roads, which may be of limited value for access. We agree this is desirable in principle. However, previous investigations have determined that while possible, it would be very difficult to implement, particularly because it would be likely to require the creation of new access over private land. It might be possible in some instances to negotiate a solution that included stopping an unformed legal road. Such a process would be legally complex, however, especially if land ownership involved more than one person, and because it is not possible to create new unformed legal road. New access could be negotiated (under clause 29 of the bill) as an easement, a lease or a purchase, or, with the co-operation of local authorities, an access or esplanade strip.

Protection of sites of Māori cultural significance

Te Rūnanga o Ngāi Tahu consider that permission should be required from tangata whenua before information pertaining to wahi tapu, mahinga kai sites, and other sites of cultural significance can be published. We agree that it is important to consider sensitivities associated with sites of cultural significance. Accordingly, we recommend that new clause 10(2) be inserted in the bill to require the Commission to take account of any cultural sensitivities of which it is aware, before deciding whether to indicate a site’s location on a map.

Te Rūnanga O Ngāi Tahu also proposed that the Code of Responsible Conduct set out in clauses 15 to 22 should include information on tikanga Māori, Māori relationships with land and waterways, and the standard of behaviour to be observed by walkers in places of cul-

tural significance. We agree that this bill should provide guidance on tikanga Māori, and therefore recommend the insertion of new clause 16(1)(bb) to include reference to information on these issues.

Priorities for walking access over private land

Clause 11 of the bill as introduced specifies the priorities for walking access over private land. We recommend that the clause be reworded as a set of considerations, which the Commission must take into account when determining its priorities for negotiating access over private land. The recommended wording should provide the Commission with more flexibility and scope for negotiating walking access.

Some submitters suggested that additional matters should be included in clause 11, including access to non-water-margins, conservation land, areas of scenic and recreational value, and public resources such as sports fish and game. Accordingly, we recommend amendment of subparagraph 11(d), and the insertion of new subparagraphs, 11(e), 11(f), and 11(g).

Realignment of water margin reserves

Submitters also suggested that the bill should include a measure to allow existing water margin reserves that have been affected by erosion to be restored. Such margins take various legal forms, most of which specify a fixed position. In the event that the water margin is eroded, these fixed reserves are liable to become inaccessible. While it would be desirable for these reserves to be restored to rejoin the water margin, the matter is legally difficult and has implications for the property rights of surrounding landowners. We were advised that any realignment should be undertaken in a way that respects the property rights of the surrounding landowners, through negotiation and agreement case by case. The bill does not provide for automatic realignment; but the provision in clause 11(d) regarding the desirability of continuous walking access over land adjoining the coast, rivers, or lakes, is a pertinent consideration for the Commission to take into account.

Government Superannuation Fund

Clauses 12, 13, and 14 contain provisions relating to the Commission's employees and the Government Superannuation Fund. As they are standard administrative provisions, we recommend that they be relocated to the Miscellaneous Provisions part of the bill as new clauses 76A, 76B, and 76C.

Proposal to declare walkway over public land

Clause 23 provides that if the Commission considers that any public land should be made available for use as a walkway, it may propose to declare the land a walkway. Sometimes only part of a particular area of public land might be affected by such a declaration. We recommend that clause 23 be amended to make this clear.

Power to make walkways on unformed legal roads

Clause 25 of the bill as introduced provides for a walkway to be made on unformed legal road. This would continue the existing provision in the New Zealand Walkways Act 1990. Many submitters expressed concern that this would remove existing rights of access and restrict activities such as access with firearms, dogs, bicycles, or motor vehicles that would otherwise be lawful on the road. They appear to have assumed that this provision would result in the widespread creation of walkways on unformed legal roads.

Walkways provide a designated and named route ready for use by the public; and they also provide protection to users of walkways from uses that may be incompatible with walking. Such a route may traverse both public and private land and the designation of such a route as a single walkway with uniform rules of use is of benefit to users.

We have been advised that to date there has been only one instance of a walkway being made on part of an unformed legal road.

As the power to create walkways over unformed legal road is not critical to the success of the walkways regime, we recommend that clause 25 be deleted.

Naming and notification of walkways

One submitter suggested that tangata whenua should be consulted on the names of any walkways in their area. We agree that if a walkway is to be established the tangata whenua should be consulted, as well as any other relevant parties. We therefore recommend the insertion of new clauses 26A(2) and 32A(2) to require that when assigning a name to a walkway over either public or private land, the Commission must take into account the views of hapū or iwi that have manawhenua (customary authority over land) in the area where the walkway is located, and also the views of any other persons or organisations that it considers have an interest in the naming of the walkway.

We also recommend the insertion of new clauses 27(3) and 33(3) to provide that, in addition to publication of a notice in the *Gazette*, the Commission should be required to publicly notify the creation of a new walkway in a daily or other newspaper circulating in the relevant area, and to publicise the declaration of a new walkway to draw it to public attention. We recommend this change because we do not consider notification in the *Gazette* to be sufficient to notify the general public.

Negotiation of walkway over private land

Under clause 29, the Commission may negotiate an agreement with the landholder for an easement or lease over private land for use as a walkway. Some submitters propose that the purchase of land for walkways should be an option, in addition to easement or lease. We consider it possible that in some circumstances the Commission may wish to purchase land for a walkway, and that clause 29 should be amended to provide for this option.

There appeared to be some misinterpretation of the word “acquire” in this clause as referring to compulsory acquisition of private land. The word “acquire” in this context is not intended to carry this meaning, so we recommend an amendment to remove this term.

Limitation on liability of landholders

Clause 37 of the bill as introduced limits the liability of landholders for loss or damage suffered by a person using a walkway on their land, under the Occupier’s Liability Act 1962. Some submitters sug-

gested that this exemption be extended to cover all forms of walking access. We agree that a landholder of private land should not be liable for loss or damage suffered by a person using any form of walking access on their land. We recommend the deletion of these provisions in clause 37 and their relocation to the more appropriate Miscellaneous Provisions subpart of the bill, under new clause 67A, which exempts landholders of private land from liability for loss or damage suffered by persons using any form of walking access dealt with by the bill.

Appointment of controlling authorities

Clause 38(1) provides that the Commission may appoint a department, local authority, public body, or statutory officer to be the controlling authority of a walkway. Under clause 38(2), the Commission may also review or revoke an appointment made under clause 38(1). Clause 38(3) provides that before appointing a department under subsection (1) or revoking the appointment of a department under subsection (2), the Commission must obtain the consent of the Minister responsible for the department. Submitters suggested that the term “statutory officer” is too wide, and could include persons who were not appropriate controlling authorities of walkways. We agree that the term “statutory officer” may not be consistent with the intention of the clause to enable the appointment of a controlling authority. We therefore recommend the deletion of the word “statutory officer” in clause 38(1) and the insertion of the term “Commissioner of Crown Lands.”

Clause 38(4) provides that a local authority of a district or region may be appointed as the controlling authority of a walkway, whether that walkway is situated within or outside the local authority’s district. It was submitted that before a local authority is appointed as a controlling authority in such circumstances, both local authorities should be consulted. The provision is designed to deal with a situation where a walkway traverses the district of more than one local authority. We therefore recommend the deletion of “whether that walkway is situated within or outside the local authority’s district” and its replacement with “despite any part of the walkway being located within the district or region (as the case may be) of another local authority, but only if the Commission first consults both local authorities”, in clause 38(4). We also agree that the clause needs to provide for regional

councils. We therefore recommend the insertion of the words “of a district or region” in place of “district” in clause 38(4).

Functions and powers of controlling authorities

Clause 40 sets out the functions and powers of controlling authorities. Subsection 2 provides that a controlling authority of a walkway has the power to do anything that is reasonably necessary or desirable to enable it to carry out its functions. It was submitted that before any activity or function under clause 40 is undertaken by a controlling authority, the consent of the landholder should be obtained; and that the action should be consistent with any easement or lease that has been acquired. We were advised that any concerns of the landholder in respect of potential activities or structures on the walkway should be specified as conditions of an easement or lease. We agree that an amendment is needed to ensure that the powers under this provision were consistent with the easement or lease that provided for the walkway to be made on private land.

In respect of walkways on public land, a similar issue arises in relation to conditions of the administering authority’s consent to the walkway. We recommend that clause 40(2) be amended to require that the exercise of the controlling authority’s powers under this clause be consistent with the terms of the lease, easement, or consent to the walkway.

Clause 40(2) empowers a controlling authority to establish facilities or structures on land adjacent to a walkway, including camping grounds, huts, hotels, accommodation houses, or other facilities or amenities. Several submitters expressed concern that this would allow controlling authorities to exercise powers beyond the footprint of the walkway. We agree that the establishment of any structure or facility on land adjoining any walkway should be subject to the agreement of the relevant landholder or administering authority, and therefore recommend the insertion of new clause 40(3)(b).

Clause 40(2)(b) and (c) require the Commission to approve the establishment of facilities or amenities on walkways and any charges for the facilities or amenities. In addition, clause 40(3) makes controlling authorities responsible to the Commission when discharging their functions and powers. The Department of Conservation advised us that this requirement would add an unnecessary compliance cost

to its operations and result in two agencies with overlapping responsibilities to the Commission and the Minister of Conservation. We therefore recommend deleting the requirement in clauses 40(2)(b) and (c) for the Commission to approve charges, and clause 40(3), which provides that the controlling authorities are responsible to the Commission.

Public notification of closure of walkway

Clause 42 specifies how the closure of a walkway must be notified to the public. We consider that the prescribed method of notification in daily newspapers is too restrictive, and that the Commission should be given the discretion to use whatever medium of communication it deems to be the most effective. We therefore recommend amendment to clause 42(1)(b) to extend the range of newspapers that may be used for public notification of the closure of walkways. We also recommend the insertion of new clause 42(1)(c) to provide that the Commission must also notify the public by whatever other means it considers to be effective.

Revocation of notice declaring a walkway

Clause 43 provides that the Commission may revoke the declaration of a walkway in whole or part by notice in the *Gazette*. It was suggested that once gazetted, a walkway should be irrevocable; or, alternatively, that there should be constraints on the power to revoke a walkway. We were advised that the revocation of a walkway on public land does not affect the status of the underlying public land. There could be circumstances under which a walkway should be revoked, such as the expiry of a lease or easement underlying the walkway in the case of a walkway on private land. Or physical changes to the landscape could make the use of the walkway dangerous, or the walkway impassable. Other circumstances could include rationalisation of priorities that mean that the walkway would not be maintained to a standard consistent with the expectation of users or the use made of the walkway does not justify the costs of maintenance. We agree that a provision could be added to the effect that revocation would be conditional on the walkway being no longer suitable or available for use as a walkway, on the grounds of the availability of the underlying land, protection of the environment, public safety, or the Commission

and the controlling authority agreeing that it is no longer appropriate to retain the walkway.

We recommend amendment to clause 43(1) to provide that a walkway may be revoked by the Commission only if the land on which the walkway is located is no longer suitable or if the Commission and the controlling authority agree that it is no longer appropriate to retain the walkway. We also recommend the insertion of new clause 43(1A) to specify some of the conditions that could necessitate the revocation of a walkway.

Surrender of easements and leases

Clause 45 provides that if a revocation relates to a walkway over private land, the Commission must ensure that the relevant easement or lease is surrendered, and that the surrender is registered. We were concerned that this clause refers only to walkways declared under section 33 and not existing walkways made under the New Zealand Walkways Act 1990. We believe that reference to existing walkways should be included in this clause so that if an existing walkway were revoked under section 43, the Commission would be required to ensure that the easement or lease relating to the former walkway was surrendered and that this action was registered. We recommend amendment to clause 45 to include reference to existing walkways over private land made under the New Zealand Walkways Act.

Bylaws

Clause 69 specifies the requirements that would apply when a controlling authority made a bylaw. The bill as introduced provides that a bylaw can be made by a controlling authority that is not a local authority by resolution of the controlling authority and if it is signed by two authorised members. We were concerned about the lack of accountability in this process, and recommend the insertion of new clause 69(3)(b)(ii)(A). Under this subclause, a controlling authority could make a bylaw only once it had taken into account the views of any of persons and organisations it considered to be representative of the people likely to be substantially affected by the proposed bylaw.

Green Party minority view

The Green Party remains unconvinced that the bill fairly balances the rights of private property with the rights of public access to public land and resources.

We have long advocated a Commission with powers beyond voluntary negotiation. If the public has rights to land and resources, then there must be an authority with the power to uphold those rights against unreasonable exclusion and exclusive capture. The bill establishes a Commission to facilitate and negotiate, but not to arbitrate. While we support the amendment to specify in 10(1)(e) that the Commission can refer disputes to “a court, tribunal, or other dispute resolution body,” we are unconvinced that the public rights of access are sufficiently enshrined in law relative to well-entrenched private property rights. This bill was a chance to enshrine public rights, but it fails to do this.

Recognising the weakness of the bill in relation to clarifying and implementing public access rights, the establishment of a Commission is in danger of being a toothless bureaucracy. The problem the Commission is established to solve is the growing number of access conflicts around the country, where private and public rights clash and negotiation has not been possible to date. This bill fails to give the Commission the statutory tools to make the hard calls to resolve these, and all the supplementary functions— the strategies, glossy brochures, mapping, information and education, advice provision and administration – leave little time or resources to focus on the real problem of securing reasonable public access to public land and resources. The Commission cannot provide leadership when it has no power to lead, and the bill is a massive back-track on earlier Government policy of enshrining public rights and completing the Queen’s Chain.

The 10-year review period is also unjustifiably long. An initial short review period of two years followed by five-yearly reviews would give more confidence in the Commission’s work.

The bill is a step forward, albeit a pitifully weak one. The code of conduct, additional focus, and resourcing for negotiating access, a Commissioner to build relationships with landowners and land users, and improved mapping and information, will be meaningless if the bill does not enshrine public rights and the Commission does not have

the ability to resolve the tough access issues that have promoted the need for legislation.

Appendix

Committee process

The Walking Access Bill was referred to the committee on 15 April 2008. The closing date for submissions was 21 May 2008. We received and considered 136 submissions from interested groups and individuals, of which 38 were heard.

We received advice from the Ministry of Agriculture and Forestry and the Department of Conservation.

Committee membership

Moana Mackey (Chairperson)

John Carter (Deputy Chairperson)

Hon David Benson-Pope

Mark Blumsky

Jacqui Dean

Hon Marian Hobbs

Dr Russel Norman (from 1 July 2008)

Su'a William Sio

Hon Dr Nick Smith

Mētīria Turei (until 1 July 2008)

Eric Roy replaced Hon Dr Nick Smith for this item of business.

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Damien O'Connor

Walking Access Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Walking Access 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

The purpose of this Act is— 10

(a) to provide the New Zealand public with ~~safe, unimpeded~~ free, certain, enduring, and practical walking access to the outdoors (~~such as including~~ around the coast and lakes, along rivers, and to public resources) so that the public can enjoy the outdoors; and 15

(b) ~~to provide for walkways to be declared over public and private land; and~~

(c) to establish the New Zealand Walking Access Commission with responsibility for leading and supporting the negotiation, establishment, maintenance, and improvement of— 20

(i) walking access (including walkways, which are one form of walking access) over public and private land; and

(ii) types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles. 25

(d) to make the Commission responsible for declaring and administering walkways and for encouraging and co-ordinating improvement of walking access and associated activities. 30

4 Interpretation

In this Act, unless the context otherwise requires,—

- administering authority** means any Minister, department, local authority, or public body, or ~~statutory officer~~ the Commissioner of Crown Lands, that owns, controls, or administers any public land
- board** means the board of the Commission 5
- board member** means a member of the board
- cadastre** has the same meaning as in section 4 of the Cadastral Survey Act 2002
- chief executive** has the same meaning as in section 4 of the Cadastral Survey Act 2002 10
- closed walkway** means a walkway that is closed under **section 41**
- code of responsible conduct** or **code** means the code of responsible conduct issued under **section 20**
- controlling authority** means a body that— 15
- (a) is appointed as a controlling authority under **section 38**; or
- (b) becomes a controlling authority under **section 39**
- Crown** has the same meaning as in section 2(1) of the Public Finance Act 1989 20
- department** means a department of State specified in Schedule 1 of the State Sector Act 1988
- enforcement officer**—
- (a) means an enforcement officer appointed under **section 46** and warranted under **section 49**; and 25
- (b) includes a person described in **section 47**
- firearm**—
- (a) has the same meaning as in section 2 of the Arms Act 1983; but
- (b) includes anything from which a shot, bullet, missile, or other projectile can be discharged (~~whether or not by force of explosive~~) other than by force of explosive 30
- foreshore** means the marine area that is bounded,—
- (a) on the landward side, by the line of mean high water springs; and 35
- (b) on the seaward side, by the line of mean low water springs

honorary enforcement officer means an honorary enforcement officer appointed under **section 48** and warranted under **section 49**

in writing means printed, typewritten, or otherwise visibly represented, copied, or reproduced, including by fax, email, or other electronic means

lake means a body of fresh water that is entirely or nearly surrounded by land

landholder—

- (a) means the owner or occupier of land; and
- (b) includes any employee or other person acting under the authority of the owner or occupier; and
- (c) includes the administering authority of public land

local authority has the same meaning as in section 5(1) of the Local Government Act 2002

Maori freehold land has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

Maori Land Court means the court continued by section 6 of Te Ture Whenua Maori Act 1993

Minister means the Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

New Zealand Walking Access Commission or **Commission** means the New Zealand Walking Access Commission established by **section 6**

occupier, in relation to land, means a person who has a right to occupy the land under a lease

offence means an offence against a provision of this Act or any regulation or bylaw made under this Act

personal mobility device means—

(a) ~~has the same meaning as **mobility device** in section 2(1) of the Land Transport Act 1998; but~~

(b) ~~includes a device that—~~a vehicle that—

- (i) is designed; and constructed, or is adapted, for use by persons who require mobility assistance due to a physical or neurological impairment; and
- (ii) is powered by hand or by a motor that has a maximum power output not exceeding 1 500 W; or

(c) a vehicle that has been declared under section 168A(1) of the Land Transport Act 1998 to be a mobility device

private land means—

(a) any land (other than an unformed legal road) that is held in fee simple by any person other than the Crown: 5

(b) any Māori land (within the meaning of section 4 of Te Ture Whenua Maori Act 1993):

(c) any land (other than an unformed legal road) that is held by a person under a lease or licence granted to that person by the Crown 10

private land—

(a) means—

(i) any land that is held in fee simple by any person other than the Crown:

(ii) any Maori land (within the meaning of section 4 of Te Ture Whenua Maori Act 1993): 15

(iii) any land that is held by a person under a lease or licence granted to the person by the Crown; but

(b) does not include any road

public land means any land that is not private land— 20

(a) means any land that is not private land; but

(b) does not include any road

register has the same meaning as in section 2 of the Land Transfer Act 1952

Registrar-General means the Registrar-General of Land appointed in accordance with section 4 of the Land Transfer Act 1952 25

river means a continuously or intermittently flowing body of fresh water, and includes a stream or modified watercourse

road— 30

(a) means a formed or unformed road; but

(b) does not include a private road (within the meaning of section 315(1) of the Local Government Act 1974)

Sport and Recreation New Zealand means the agency established by section 7 of the Sport and Recreation New Zealand Act 2002 35

structure—

(a) includes—

- (i) a bridge, fence, gate, shelter, or stile; and
- (ii) a boundary marker, hoarding, marker, notice, poster, or sign; but
- (b) does not include a bivouac, a tent, or a temporary structure erected for temporary shelter 5

Surveyor-General means the Surveyor-General appointed in accordance with section 5 of the Cadastral Survey Act 2002
vehicle—

- (a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; but 10
- (b) does not include—
 - (i) a pram or pushchair:
 - (ii) a personal mobility device

walking access means the right of any member of the public to gain access to the New Zealand outdoors by— 15

- (a) passing or repassing on foot over a walkway or other land over which the public has rights of access; and
- (b) performing any activity that is reasonably incidental to that passing or repassing

walkway— 20

- (a) means any walkway declared under **section 27 or 33**; and
- (b) includes any part of a walkway; and
- (c) includes any walkway, established or administered under the New Zealand Walkways Act 1990, that was in existence immediately before this Act came into force. 25

- (2) ~~In this Act, **dog**, **livestock**, **noxious weed**, **obstructs**, **plant**, **take**, and **wildlife** have the meanings set out in **section 57(4) or 59(4)**, as the case may be.~~ 30

5 Act binds the Crown

This Act binds the Crown.

Part 2

New Zealand Walking Access Commission

Subpart 1—Establishment, objective, and functions of Commission

Establishment of Commission 5

6 New Zealand Walking Access Commission established

This section establishes the New Zealand Walking Access Commission.

7 Commission is Crown entity

- (1) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004. 10
- (2) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.

8 Board of Commission

- (1) The Commission consists of no fewer than 5, and no more than 8, members. 15
- (2) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.
- (3) The Minister must, after consultation with the Minister of Māori Affairs, appoint at least 1 member who has a knowledge of tikanga Māori (Māori customary values and practices). 20

Objective, functions, and priorities of Commission

9 Objective of Commission

The objective of the Commission is to lead and support the negotiation, establishment, maintenance, and improvement of walking access and types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles. 25

10 Functions of Commission

- (1) In meeting its objective under **section 9**, the Commission has the following functions: 30

-
- (a) providing national leadership on walking access by—
- (i) preparing and administering a national strategy; and
 - (ii) co-ordinating walking access among relevant stakeholders and central and local government organisations, including Sport and Recreation New Zealand: 5
- (b) providing local and regional leadership on, and co-ordination of, walking access in collaboration with local authorities: 10
- (c) compiling, holding, and publishing maps and information about land over which members of the public have walking access:
- (d) providing advice on walking access to the Minister or any other person: 15
- (e) facilitating resolution of disputes about walking access, including initiating negotiations about disputed issues, mediating disputes, and referring disputes to ~~an appropriate authority~~ a court, tribunal, or other dispute resolution body: 20
- ~~(f) creating and administering walkways under this Act, with planning and supervision focused at a local level:~~
- ~~(g) monitoring the compliance with, and enforcement of, this Act:~~
- (h) negotiating with landholders to ~~acquire walking access (other than walkways) over land~~ obtain walking access (including walkways, which are one form of walking access) over public or private land: 25
- (i) negotiating rights in addition to any walking access that is ~~acquired~~ obtained, such as the right to ~~carry firearms~~ or of access with firearms, dogs, bicycles, or motor vehicles: 30
- (j) administering a fund to finance the activities of the Commission, or any other person, in ~~acquiring~~ obtaining, developing, improving, maintaining, ~~and~~ administering, and signposting walking access over any land: 35
- (k) receiving and managing private funding, contributions, or sponsorship for the promotion of walking access:

- (l) researching, educating the public about, and participating in topics and programmes related to walking access:
- (m) developing, promoting, and maintaining the code of responsible conduct:
- (n) administering walkways under this Act, with planning and supervision focused at a local level: 5
- (o) monitoring the compliance with, and enforcement of, this Act in relation to walkways.
- (2) If the Commission is aware that a site is culturally sensitive, it must consider whether it is appropriate to publish a map or information indicating the location of the site before doing so. 10

11 Consideration of priorities for walking access over private land

In considering its priorities for negotiating walking access over private land, the Commission may give priority to obtaining must take into account the desirability of walking access— 15

- (a) over land on the coast where there is not already walking access over the foreshore or the land adjoining the foreshore on its landward side: 20
- (b) over land adjoining rivers or lakes where there is not already walking access over the land:
- (c) to parts of the coast, rivers, or lakes to which there is not already walking access:
- (d) to replace being continuous over land adjoining the coast, rivers, or lakes (for example, by replacing walking access that has become obstructed (for example, by being submerged beneath a body of water): 25
- (e) to conservation areas (within the meaning of section 2(1) of the Conservation Act 1987): 30
- (f) to areas of scenic or recreational value:
- (g) to sports fish (within the meaning of section 2(1) of the Conservation Act 1987) and game (within the meaning of section 2(1) of the Wildlife Act 1953).
- (e) over any other land that the Minister notifies to the Commission. 35

*Government Superannuation Fund***12 Current contributors to Government Superannuation Fund**

- (1) This section applies to any person who, immediately before being employed by the Commission, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956. 5
- (2) A person to whom **subsection (1)** applies is, for the purposes of the Government Superannuation Fund Act 1956, deemed to be employed in the Government service, and that Act applies to the person as if his or her service as an employee of the Commission were Government service. 10
- (3) A person ceases to be deemed to be employed in the Government service when that person ceases to be employed by the Commission. 15

13 No entitlement to recommence contributions to Government Superannuation Fund

Section 12 does not entitle a person to become a contributor to the Government Superannuation Fund if the person has (since being employed by the Commission) ceased to be a contributor. 20

14 Commission is controlling authority

For the purposes of applying the Government Superannuation Fund Act 1956 to a person referred to in **section 12**, the Commission is the controlling authority in relation to that person. 25

Subpart 2—Code of responsible conduct

15 Purpose and status of code

The purpose of **sections 16 to 22** is to provide for the development and issue of a code of responsible conduct in relation to walking access for the general guidance of— 30

(a) users of walking access; and

(b) landholders of land on which walking access is located; and

(c) landholders of land ~~adjacent to~~adjoining land on which walking access is located; and 35

- (d) controlling authorities of walkways.

16 Contents of code

- (1) The code may include all or any of the following:
- (a) summaries of benefits conferred and obligations imposed, by this Act or any other enactment, on members of the public and relevant landholders in relation to walking access: 5
 - (b) recommendations on the standards of behaviour to be observed by users of walking access and relevant landholders, including in relation to sites of cultural significance: 10
 - (ba) information about the administration of walkways under this Act, including conditions on the use of walkways and the powers of enforcement officers in relation to walkways: 15
 - (bb) information about tikanga Māori (Māori customary values and practices) and Māori relationships with land and waterways:
 - (c) any other information that the Commission considers would be useful for users of walking access and relevant landholders. 20
- (2) The code may make recommendations that are specific to a local area or a region.

17 Preparation of draft code

The Commission must prepare a draft code as soon as practicable after the commencement of this Act. 25

18 Notice of draft code to public

- (1) The Commission must, by any means it thinks appropriate,—
- (a) give notice of the draft code to the public; and
 - (b) invite members of the public to comment on the draft code. 30
- (2) The Commission must ensure that—
- (a) the notice is widely published; and
 - (b) the draft code is readily available to members of the public; and 35

- (c) a reasonable period of time is allowed for members of the public to comment on the draft code.
- (3) The Commission must consider each comment it receives under this section.
- 19 Matters to be considered** 5
- (1) Before issuing a code under **section 20**, the Commission must—
- (a) reconsider the content of the draft code; and
- (b) be satisfied that the recommendations on standards of behaviour (if any) are appropriate. 10
- (2) In complying with **subsection (1)**, the Commission must have regard to—
- (a) any comments about the code received by the Commission; and
- (b) the purpose of this Act; and 15
- (c) any other matters that the Commission thinks are relevant to its considerations.
- 20 Issue of code**
- The Commission may issue the code at a time, and in a manner and form, that the Commission thinks appropriate. 20
- 21 Amendment or revocation of code**
- (1) The Commission may, at any time,—
- (a) amend the code; or
- (b) revoke the code and substitute another code.
- (2) **Sections 17 to 20** apply, with all necessary modifications, to amendments to, or the revocation and substitution of, the code under **subsection (1)**. 25
- (3) However, **sections 17 to 20** do not apply to minor amendments that do not materially affect the code.
- 22 Availability of code** 30
- The Commission must ensure that copies of the code are readily available to members of the public—
- (a) for inspection; and
- (b) for purchase at a reasonable price.

Part 3
Walkways: Establishment and
administration

Subpart 1—Establishment and
administration of walkways

5

Establishment of walkways over public land

23 Proposal to declare walkway over public land

If the Commission considers that all or part of any public land should be made available for use as a walkway, it may propose to declare all or that part of the land (as the case may be) to be a walkway.

10

24 Administering authority must consent to authority's consent required for walkway over public land

(1) If the Commission proposes to declare any public land to be a walkway, it must obtain the written consent of the administering authority of the land to do so.

15

(2) If the administering authority consents to the declaration of the walkway, it may impose any conditions in relation to the walkway when granting consent.

25 Public consultation and local authority consent required if public land is unformed legal road

20

(1) This section applies if the Commission proposes to declare any public land to be a walkway and the land is or includes an unformed legal road.

(2) The Commission must consult the public on the proposed declaration by—

25

(a) giving notice of the proposed declaration to the public using any means it thinks appropriate, and inviting members of the public to comment on it; and

(b) making the proposed declaration readily available to members of the public; and

30

(c) allowing a reasonable period of time for members of the public to comment on the proposed declaration; and

(d) considering each comment received under this subsection.

35

- (3) The Commission must also obtain the written consent of the local authority in whose district the land is located, after first—
- (a) providing the local authority with any comments received under **subsection (2)**; and
 - (b) allowing the local authority a reasonable period of time to consider the comments. 5
- (4) In deciding whether to consent to a proposed declaration, a local authority must consider each comment provided to it under **subsection (3)(a)**.
- (5) If the local authority consents to the declaration of the walkway, it may impose any conditions in relation to the walkway when granting consent. 10
- (6) If the local authority consents to the declaration of the walkway, the landholders with legal frontage on, or direct access to, the unformed legal road retain the right to use the unformed legal road for the same purposes and to the same extent as if the walkway had not been declared. 15

26 Plan of walkway over public land

- (1) Any public land that is to be declared a walkway must be defined on a plan. 20
- (2) The plan must define the land in accordance with rules made by the Surveyor-General under section 49 of the Cadastral Survey Act 2002, unless the Surveyor-General grants an exemption or specifies alternative requirements in accordance with section 47(5) of that Act. 25
- (3) The plan must be lodged with the chief executive and recorded in the cadastre.

26A Name of walkway over public land

- (1) The Commission must assign a distinctive name to a walkway over public land. 30
- (2) In assigning the name, the Commission must take into account the views (if any) of—
- (a) hapū or iwi that have manawhenua (customary authority over land) in the area in which the walkway is located; and 35

- (b) any other persons or organisations that the Commission considers representative of persons who have an interest in the naming of the walkway.

27 Declaration of walkway over public land

- (1) The Commission may, after complying with **sections 24 to 26A** in respect of a proposal to declare public land to be a walkway, publish a notice in the *Gazette*—
- (a) declaring the land to be a walkway; and
 - (b) assigning a distinctive name to the walkway; and
 - (c) specifying any conditions imposed in relation to the walkway by the Commission or by the administering authority ~~or local authority~~ when granting consent to the walkway.
- (2) The declaration of a walkway by a notice published under **subsection (1)** takes effect—
- (a) on the date specified in the notice; or
 - (b) if no date is specified, on the date of notification in the *Gazette*.
- (3) The Commission must, as soon as practicable after declaring the walkway, publicly notify the declaration—
- (a) in a daily or other newspaper circulating in the area in which the walkway is located; and
 - (b) if the Commission thinks it desirable in the circumstances, by any other method of giving public notice.

28 Registration of notice declaring walkway over public land

- (1) If public land that is declared to be a walkway is subject to the Land Transfer Act 1952, the Commission must lodge with the Registrar-General a copy of the *Gazette* notice referred to in **section 27(1)**.
- (2) The Registrar-General must record the particulars of the *Gazette* notice in the register.

Establishment of walkways over private land

29 Negotiation of walkway over private land

- If the Commission considers that all or part of any private land should be made available for use as a walkway, it may nego-

tiated with the landholder to acquire an easement or lease over the land for use as a walkway.

If the Commission considers that all or part of any private land should be made available for use as a walkway, it may negotiate an agreement with the landholder for—

- (a) an easement or lease over all or that part of the land (as the case may be) for use as a walkway; or
- (b) the purchase of any land that includes all or that part of the land (as the case may be) proposed for use as a walkway.

30 Maori freehold land

(1) If the Commission proposes to negotiate under **section 29** for an easement or lease over, or the purchase of, Maori freehold land; for use as a walkway, it must do so—

- (a) in the case of Maori freehold land vested in the trustees of a trust constituted under Part 12 of Te Ture Whenua Maori Act 1993, with the trustees of that trust; and
- (b) in the case of Maori freehold land vested in a Maori incorporation; (within the meaning of Te Ture Whenua Maori Act 1993), with that incorporation; and
- (c) in the case of Maori freehold land vested other than in trustees or an incorporation referred to in **paragraph (a) or (b)**, with the sole owner, joint tenants, or owners in common of that land, as the case may be; and
- (d) in the case of Maori freehold land owned, vested, or held in any other capacity, with the person in whose name the land is registered.

~~(2) The provisions of Te Ture Whenua Maori Act 1993 apply to any easement or lease acquired for use as a walkway over Māori freehold land.~~

(2) The provisions of Te Ture Whenua Maori Act 1993 apply to—

- (a) any easement or lease obtained over Maori freehold land for use as a walkway; and
- (b) any purchase of Maori freehold land that includes land proposed for use as a walkway.

31 Plan of walkway over private land

(+) An easement or lease acquired under **section 29** must be supported by a plan that defines the land over which the easement or lease is granted.

(1) Any private land that is to be declared a walkway must be defined on a plan. 5

(2) The plan must define the land in accordance with rules made by the Surveyor-General under section 49 of the Cadastral Survey Act 2002, unless the Surveyor-General grants an exemption or specifies alternative requirements in accordance with section 47(5) of that Act. 10

(3) The plan must be lodged with the chief executive and recorded in the cadastre.

(4) To avoid doubt, this section and **section 32** do not override the requirements under any other Act that apply to the transfer of the fee simple estate in, or the lease of, only part of the land held in a computer register. 15

32 Registration of easement or lease over private land, lease, or transfer

(1) The Commission must lodge with the Registrar-General an easement or lease acquired under **section 29** in a form registrable under the Land Transfer Act 1952, in a form registrable under the Land Transfer Act 1952,— 20

(a) an easement or lease obtained under **section 29**; or

(b) a transfer to the Commission of the fee simple estate in land purchased under **section 29**. 25

(2) ~~On receipt of the easement or lease, the Registrar-General must register the easement or lease.~~

(2) The Registrar-General must register the easement, lease, or transfer upon receiving it. 30

32A Name of walkway over private land

(1) The Commission must assign a distinctive name to a walkway over private land.

(2) In assigning the name, the Commission must take into account the views (if any) of— 35

- (a) hapū or iwi that have manawhenua (customary authority over land) in the area in which the walkway is located; and
- (b) any other persons or organisations that the Commission considers representative of persons who have an interest in the naming of the walkway. 5

33 Declaration of walkway over private land

(1AA) This section applies to private land proposed for use as a walkway and in respect of which the Commission has complied with **sections 29 to 32A** (either by obtaining an easement or lease over, or by purchasing land that includes, the land proposed for use as a walkway). 10

- (1) If the Commission acquires and registers an easement or lease over private land in accordance with **sections 29 to 32**, it must The Commission must publish a notice in the *Gazette*— 15
 - (a) declaring the land to be a walkway; and
 - (b) assigning a distinctive name to the walkway; and
 - (c) specifying any conditions imposed under the easement or lease (if any) in relation to the walkway.
- (2) The declaration of a walkway by a notice published under **sub-section (1)** takes effect— 20
 - (a) on the date specified in the notice; or
 - (b) if no date is specified, on the date of notification in the *Gazette*.
- (3) The Commission must, as soon as practicable after declaring the walkway, publicly notify the declaration— 25
 - (a) in a daily or other newspaper circulating in the area in which the walkway is located; and
 - (b) if the Commission thinks it desirable in the circumstances, by any other method of giving public notice. 30

34 Registration of notice declaring walkway over private land

- (1) The Commission must lodge with the Registrar-General a copy of the *Gazette* notice referred to in **section 33(1)**.
- (2) The Registrar-General must record the particulars of the *Gazette* notice in the register. 35

*Powers of Commission in relation to walkways***35 Powers of Commission in relation to walkways**

(1) The Commission's powers in relation to walkways include the power to—

- (a) make any arrangements that the Commission considers necessary or desirable to make a walkway reasonably accessible to members of the public: 5
- (b) approve the establishment of camping grounds, huts, hostels, accommodation houses, or other facilities or amenities on or adjacent to walkways: 10
- (c) approve charges for the use of facilities or amenities on walkways:
- (d) promote, supervise, or control activities of committees appointed, or organisations approved, by the Commission for the establishment or enjoyment of walkways by the public: 15
- (e) monitor controlling authorities in the exercise of their powers and performance of their functions:
- (f) provide for enforcement under **Part 4**.

(2) Before giving its approval under **subsection (1)(b) or (c)**, the Commission must obtain written consent for those matters from the landholder of the land on which the walkway is located, unless the terms of the easement or lease acquired under **section 29** provide for those matters: 20

Subpart 2—Rights of public and liability
of landholders powers of Commission in
relation to walkways 25

36 Rights of public to use walkways

(1) Members of the public may, at any time and without charge,—

- (a) pass or repass over any walkway on foot; and 30
- (b) perform any activity that is reasonably incidental to that passing or repassing.

(2) **Subsection (1)** does not prevent any member of the public who requires mobility assistance due to a physical or neurological impairment from using a personal mobility device on a walkway. 35

(3) **Subsections (1) and (2)** are subject to—

- (a) the provisions of this Act and any other enactment relating to the administration or control of public land; and
- (b) any conditions referred to in **section 27(1)(c) or 33(1)(c)** imposed in relation to a walkway.

- 37 Limitation on liability of landholders** 5
- (1) A landholder is not liable for any loss or damage suffered by a person using a walkway on that landholder's land.
 - (2) The liability referred to in **subsection (1)**—
 - (a) means liability under—
 - (i) the Occupiers' Liability Act 1962; or 10
 - (ii) any common law rule referred to in section 3 of that Act; and
 - (b) includes liability for both compensatory and exemplary damages.
 - (3) However, **subsection (1)** does not apply to any loss or damage caused by the landholder's deliberate act or omission. 15

37A Powers of Commission in relation to walkways

The Commission's powers in relation to walkways include the power to—

- (a) make any arrangements that the Commission considers necessary or desirable to make a walkway reasonably accessible to members of the public; 20
- (b) promote, supervise, or control activities of committees appointed, or organisations approved, by the Commission for the establishment or enjoyment of walkways by the public; 25
- (c) monitor controlling authorities in the exercise of their powers and performance of their functions;
- (d) provide for enforcement under **Part 4**.

Subpart 3—Controlling authorities of walkways 30

38 Appointment of controlling authorities

- (1) The Commission may appoint a department, local authority, or public body, or ~~statutory officer~~ the Commissioner of Crown Lands, to be the controlling authority of a walkway. 35

- (2) The Commission may, at any time, review an appointment made under **subsection (1)** and, if the Commission thinks fit, revoke the appointment.
- (3) However, before appointing a department under **subsection (1)** or revoking the appointment of a department under **subsection (2)**, the Commission must obtain the consent of the Minister responsible for the department. 5
- (4) A local authority of a district or region may be appointed as the controlling authority of a walkway; ~~whether that walkway is situated within or outside the local authority's district~~ despite any part of the walkway being located within the district or region (as the case may be) of another local authority, but only if the Commission first consults both local authorities. 10
- (5) This section is subject to **section 39**.

39 Appointment of controlling authorities for walkways on public land 15

- (1) If public land has been declared to be a walkway under **section 27**, the administering authority of the land is the controlling authority for the walkway.
- (2) However, if the administering authority advises the Commission, in writing, that it does not consent to becoming the controlling authority,— 20
- (a) **subsection (1)** does not apply; and
- (b) the Commission may appoint a controlling authority in accordance with **section 38**. 25
- (3) If there is no controlling authority under this section or **section 38**, the Commission is the controlling authority.
- (4) To avoid doubt, if the Commission becomes the controlling authority under **subsection (3)**, the Commission may subsequently, in accordance with **section 38**, appoint another person to be the controlling authority in place of the Commission. 30

40 Functions and powers of controlling authorities

- (1) A controlling authority of a walkway has the following functions:
- (a) erecting and maintaining poles, markers, or other suitable indicators to mark the line of the walkway: 35

- (b) erecting and maintaining, at the controlling authority's discretion,—
- (i) any stiles, fences, or other structures that are necessary or desirable to enable members of the public to use the walkway: 5
 - (ii) notices warning members of the public who use the walkway not to trespass on any land ~~adjacent to~~ adjoining the walkway:
- (c) providing for the proper control and use of the walkway: 10
- (d) generally promoting and maintaining the walkway for the pleasure, safety, and welfare of members of the public. 10
- (2) A controlling authority of a walkway has the power to do anything that is reasonably necessary or desirable to enable it to carry out its functions, including— 15
- (a) developing, improving, and maintaining the walkway: 15
 - (b) establishing any camping grounds, huts, hostels, accommodation houses, or other facilities or amenities; ~~as approved by the Commission, on or adjacent to the walkway or land adjoining the walkway:~~ 20
 - (c) imposing charges; ~~as approved by the Commission,~~ for the use of facilities or amenities ~~on the walkway:~~ 20
 - (d) spending money in the discharge of its functions and powers in respect of the walkway, as long as the controlling authority is not prohibited from doing so by another enactment or any rule of law. 25
- (3) ~~In discharging its functions and powers under **subsections (1) and (2)**, a controlling authority is responsible to the Commission:~~
- (3) A controlling authority may establish, or impose a charge for, facilities or amenities on a walkway or land adjoining a walkway only if— 30
- (a) it is not inconsistent with any conditions imposed in relation to the walkway; and
 - (b) either— 35
 - (i) it is provided for by the easement or lease relating to the walkway (if any), but only in the case of facilities or amenities on the walkway; or

- (ii) the controlling authority obtains the written consent of the landholder of the land on which the facilities or amenities are, or are proposed to be, located.

Subpart 4—Closure and revocation of walkways 5

41 Closure of walkways

- (1) A controlling authority may close a walkway if it is satisfied on reasonable grounds that the walkway should be closed— 10
- (a) for safety reasons; or
 - (b) during an emergency; or
 - (c) for maintenance or development work on the walkway; or
 - (d) at the request of the landholder of land ~~adjacent to~~ adjoining the walkway. 15
- (2) A controlling authority must close a walkway if it considers that the closure is necessary to comply with a condition ~~referred to in section 27(1)(c) or 33(1)(c)~~ imposed in relation to the walkway.
- (3) A walkway must not be closed for any longer than the controlling authority considers necessary. 20
- (4) A controlling authority—
- (a) must notify the Commission of a closure— 25
 - (i) in advance of the closure (if advance notice is reasonably practicable); or
 - (ii) immediately after the closure (if advance notice is not reasonably practicable); and
 - (b) must notify members of the public of a closure in accordance with **section 42.**

42 Public notification of closure of walkway 30

- (1) A closure must be publicly notified—
- (a) by signs erected at all points at which the closed walkway could be entered; and
 - (b) ~~by notice in at least 1~~ daily or other newspaper circulating in the area in which the walkway is ~~situated~~ located; and 35

- (c) if the controlling authority thinks it desirable in the circumstances, by any other method of giving public notice.
- (2) All signs and notices under **subsection (1)** must specify—
- (a) the name of the walkway; and 5
 - (b) the period during with the walkway will be closed; and
 - (c) that it is an offence to enter the walkway during the period of closure; and
 - (d) the reason for the closure.
- (3) A closure is not invalid merely because a notice required under **subsection (1)(b)**—
- (a) was not published; or
 - (b) was published late; or
 - (c) did not contain the information required by **subsection (2).** 15
- 43 Revocation of notice declaring walkway**
- (1) The Commission may revoke, in whole or in part, any declaration of a walkway ~~made under **section 27 or 33.**~~ but only if—
- (a) the land on which the walkway is located is no longer suitable or available for use as a walkway; or 20
 - (b) the Commission and the controlling authority of the walkway agree that it is no longer appropriate to retain the walkway.
- (1A) Land may become unsuitable or unavailable for use as a walkway for any reason, including because of—
- (a) the expiry of the easement or lease over the land; or
 - (b) a condition imposed in relation to the walkway; or
 - (c) the need to protect the environment; or
 - (d) the need for public safety. 30
- (2) A revocation under **subsection (1)**—
- (a) must be notified in the *Gazette*; and
 - (b) takes effect—
 - (i) on the date specified in the notice; or
 - (ii) if no date is specified, on the date of notification 35
in the *Gazette*.

- (3) The Commission must, as soon as practicable after revoking a walkway, publicly notify the revocation—
- (a) in a daily or other newspaper circulating in the area in which the walkway was located; and
- (b) if the Commission thinks it desirable in the circumstances, by any other method of giving public notice. 5
- 44 Registration of notice revoking walkway**
- (1) If a walkway is revoked under **section 43** in respect of land that is subject to the Land Transfer Act 1952, the Commission must lodge with the Registrar-General a copy of the *Gazette* notice referred to in **section 43(2)**. 10
- (2) The Registrar-General must record the particulars of the *Gazette* notice in the register.
- 45 Surrender of easements and leases**
- If a walkway declared under **section 33** over private land is revoked under **section 43**, the Commission must ensure that, as soon as is reasonably practicable,—
- (a) the easement or lease relating to the former walkway (if any) is surrendered; and
- (b) the surrender is registered. 20

Part 4

Compliance and enforcement, and miscellaneous provisions

Subpart 1—Enforcement officers and their powers in relation to walkways 25

Appointment and removal

- 46 Appointment and removal of enforcement officers**
- (1) The Commission may, by written notice, appoint as enforcement officers—
- (a) people who are suitably qualified and trained: 30
- (b) on the recommendation of a controlling authority, officers of the controlling authority who are suitably qualified and trained.
- (2) An enforcement officer—

- (a) is appointed for a term not exceeding 3 years, but may be reappointed:
- (b) may be removed from office by the Commission, by written notice, for inability to perform the functions of the office, legal incapacity, neglect of duty, or misconduct, proved to the satisfaction of the Commission: 5
- (c) may at any time resign office by written notice to the Commission.
- (3) An enforcement officer appointed under **subsection (1)** is not to be regarded as employed in the service of the Crown 10 for the purposes of the Government Superannuation Fund Act 1956 or the State Sector Act 1988 just because the person is an enforcement officer.
- 47 Other persons also enforcement officers under this Act** 15
The following persons are, by right of office, also enforcement officers for the purposes of this Act:
- (a) every sworn member of the police; and
- (b) every fish and game ranger and warranted officer, within the meaning of section 2(1) of the Conservation Act 1987. 20
- 48 Appointment and removal of honorary enforcement officers**
- (1) The Commission may, by written notice, appoint fit and proper people who are suitably qualified and trained to be honorary enforcement officers. 25
- (2) An honorary enforcement officer—
- (a) is appointed for a term not exceeding 3 years, but may be reappointed; and
- (b) may be removed from office by the Commission, by written notice, if the Commission considers for any reason that the person is no longer a fit and proper person to be an honorary enforcement officer; and 30
- (c) may at any time resign office by written notice to the Commission.
- (3) The Commission may reimburse an honorary enforcement officer for reasonable expenses incurred while performing his or her duties under this Act if the Commission— 35

- (a) has authorised the officer to incur expenses up to a specified amount; and
- (b) has subsequently approved those expenses.
- (4) An honorary enforcement officer is not to be regarded as employed in the service of the Crown for the purposes of the Government Superannuation Fund Act 1956 or the State Sector Act 1988 just because the person is an honorary enforcement officer. 5
- 49 Warrants of appointment**
- (1) The Commission must issue a written warrant to— 10
- (a) every enforcement officer appointed under **section 46(1)**; and
- (b) every honorary enforcement officer appointed under **section 48(1)**.
- (2) A warrant of appointment must state— 15
- (a) the powers the officer may exercise under **sections 53 and 54**; and
- (b) the area or areas in relation to which the officer may exercise the powers, or that the officer may exercise the powers throughout New Zealand. 20
- 50 Surrender of warrant**
- On the termination of the appointment of an enforcement officer or honorary enforcement officer, the officer must surrender to the Commission—
- (a) his or her warrant issued under **section 49**; and 25
- (b) any article of uniform, badge of office, or equipment issued to the officer.
- Powers of enforcement officers and honorary enforcement officers*
- 51 Exercise of powers** 30
- (1) Before an enforcement officer or honorary enforcement officer exercises his or her powers under this Part, the officer must produce his or her warrant of appointment (unless it would be impracticable to do so).

- (2) It is sufficient evidence that a person is an officer under this Part if the person produces—
- (a) his or her warrant of appointment as an enforcement officer or honorary enforcement officer; or
 - (b) evidence that the officer holds an office described in **section 47.** 5
- (3) An enforcement officer or honorary enforcement officer exercising a power under this Part may call on any person in the vicinity for assistance, and the person called upon is authorised to assist the officer, as long as the person acts under the direction and supervision of the officer. 10

52 Use of dog or vehicle

An enforcement officer or honorary enforcement officer exercising a power under this Part may enter onto a walkway with a vehicle or a dog if the officer believes, on reasonable grounds, that the vehicle or dog is necessary for the purposes of exercising the power. 15

53 Power to interfere to prevent or stop offending

An enforcement officer or honorary enforcement officer may— 20

- (a) summarily interfere to prevent an offence; and
- (b) require a person whom he or she believes on reasonable grounds to be committing, or to be about to commit, an offence, to stop doing an act.

54 Power to require personal details 25

If an enforcement officer or honorary enforcement officer believes, on reasonable grounds, that a person has committed, is committing, or is about to commit, an offence, the enforcement officer may require ~~that~~the person— 30

- (a) to give his or her full name, residential address, and date of birth; and
- (b) to produce evidence of his or her full name, residential address, and date of birth.

55 Protection of persons acting under authority of this Part

A person who does, or omits to do, an act in the course of performing a duty or exercising a power under this Part is under no civil or criminal liability for that act or omission unless the person acts, or omits to act, in bad faith or without reasonable grounds. 5

Subpart 2—Offences and penalties in
relation to walkways

56 How proceedings commenced

- (1) Despite section 14 of the Summary Proceedings Act 1957, proceedings for offences are commenced by laying an information under that Act not later than 1 year after the commission of the offence. 10
- (2) Any person, including the Commission, an enforcement officer, or an honorary enforcement officer, may lay an information. 15

Offences

57 Strict liability offences

- (1) Every person commits an offence who, without lawful authority under this Act (for example, under **section 58(2)**) or under any other enactment,— 20
- (a) takes any plant (other than a noxious weed) ~~from~~ growing on or adjacent to a walkway ~~or from land adjacent to a walkway~~; or
- (b) has in his or her possession a firearm while on a walkway; or 25
- (c) discharges a firearm on, adjacent to, or across a walkway ~~or on land adjacent to a walkway~~; or
- (d) brings a horse or dog onto, or has control of a horse or dog on, a walkway; or 30
- (e) sets a net, trap, or snare, or places poison or explosives, on or adjacent to a walkway ~~or on land adjacent to a walkway~~ (except a net or trap set for the purposes of fishing in a water body or lake adjacent to a walkway); or 35

- (f) lights a fire on a walkway (other than in a fireplace provided by the controlling authority responsible for the walkway); or
- (g) having lit a fire on a walkway in a fireplace provided by the controlling authority, fails to extinguish the fire before leaving the walkway; or 5
- (h) uses a vehicle on a walkway; or
- (i) erects a structure on or over a walkway.
- (2) The onus is on the defendant to prove that at the time of the alleged offence an activity is authorised. 10
- (3) In prosecuting an offence against **subsection (1)**, the prosecution does not need to prove that the defendant—
- (a) intentionally or recklessly committed the offence; or
- (b) knew that the offence occurred ~~in~~ on or in relation to a walkway. 15
- (4) In this section,—
- dog** does not include a ~~companion dog or guide dog, within the meaning of section 2(1) of the Conservation Act 1987~~ disability assist dog within the meaning of section 2 of the Dog Control Act 1996 20
- noxious weed** means any plant specified as a pest in a pest management strategy made under Part 5 of the Biosecurity Act 1993
- plant**—
- (a) means any member of the plant kingdom and any part of or seed or spore from any plant; and 25
- (b) includes any algae, bacteria, or fungi
- take**, in relation to all or part of a plant ~~on land on which a walkway is located or land adjacent to that land~~, includes cut, damage, destroy, disturb, remove, transplant, uplift, and uproot,— 30
- (a) by any means; and
- (b) whether or not the plant or part of it is removed from, or subsequently returned alive or dead to, the land on which it grew. 35

58 Defences to strict liability offences

- (1) It is a defence to an offence against **section 57(1)** if the defendant proves—
- (a) that the defendant took all reasonable steps to ensure that the offence was not committed; or 5
 - (b) that the act or omission of the defendant took place or occurred in an emergency and was consistent with providing for the safety and welfare of a person.
- (2) A person is not guilty of an offence against **section 57(1)** in relation to a walkway if ~~that~~ the person— 10
- (a) was at the time the landholder of the land on which the walkway is located; or
 - (b) did that thing—
 - (i) with the permission of the landholder of ~~the relevant~~ that land; or 15
 - (ii) in accordance with an agreement between the landholder of ~~the relevant~~ that land and the controlling authority of the walkway.
- (3) The defences set out in this section do not limit any other defences that may be available. 20

59 Offences requiring knowledge, intent, or recklessness

- (1) Every person commits an offence who, without authority from the landholder on whose land a walkway is located or, if relevant, the landholder of the land adjacent to the walkway,—
- (a) ~~enters or remains on the walkway if the walkway is closed under **section 41**; or~~ 25
 - (a) enters or remains on the walkway if the walkway—
 - (i) is closed under **section 41**; or
 - (ii) was closed under section 28 of the New Zealand Walkways Act 1990 and remains closed; or 30
 - (b) ~~interferes with or disturbs livestock or wildlife on or adjacent to the walkway or on land adjacent to the walkway; or~~
 - (c) ~~damages, destroys, or alters a structure that is on or over, or adjacent to the walkway or on land adjacent to the walkway.~~ 35
- (2) Every person commits an offence who—
- (a) obstructs walking access on or over a walkway; or

- (b) after being required to remove an obstruction that is on or over a walkway by an enforcement officer or honorary enforcement officer, fails to remove the obstruction; or
- (c) makes a false report that an offence against **section 57** or this section has been committed; or 5
- (d) annoys, disturbs, or endangers—
- (i) any person using a walkway; or
 - (ii) an enforcement officer, an honorary enforcement officer, or the landholder on whose land a walkway is located or whose land is adjacent to adjoins a walkway; or 10
- (e) obstructs, threatens, or attempts to intimidate—
- (i) the landholder on whose land a walkway is located or whose land is adjacent to adjoins a walkway; or 15
 - (ii) a person using a walkway; or
- (f) fails to comply with a requirement of an enforcement officer or honorary enforcement officer acting under **section 54**; or 20
- (g) impersonates or falsely represents himself or herself to be an enforcement officer or honorary enforcement officer or a person acting under the instructions of an officer; or
- (h) ~~while an enforcement officer or honorary enforcement officer is acting in the exercise of his or her powers or in the discharge of his or her duties under this Part, obstructs, resists, threatens, or attempts to intimidate the officer or any person acting under the instructions of the officer, or uses language that is abusive or threatening to the officer or assisting person, or behaves in a threatening manner to the officer or assisting person.~~ 25
- (h) while an enforcement officer or honorary enforcement officer is acting in the exercise of his or her powers or in the discharge of his or her duties under this Part,— 30
- (i) obstructs, resists, threatens, or attempts to intimidate the officer or any person acting under the instructions of the officer; or 35

- (ii) uses language that is abusive or threatening to the officer or assisting person; or
- (iii) behaves in a threatening manner to the officer or assisting person.
- (3) In prosecuting an offence against **subsection (1) or (2)**, the prosecution must prove that the defendant knowingly, intentionally, or recklessly committed the offence. 5
- (4) In this section,—
- livestock** has the same meaning as in section 2(1) of the Conservation Act 1987 10
- obstructs** includes erecting a false or misleading notice or sign on or adjacent to any walkway or adjacent land
- wildlife** has the same meaning as in section 2(1) of the Wildlife Act 1953.
- 59A Not offence if authorised by regulations** 15
- A person is not guilty of an offence against this Act if the act or omission of the person is authorised by regulations made under this Act.
- 60 Relationship with offence provisions in other enactments** 20
- If there is an inconsistency between an offence under this Act ~~relating to the administration or control of public land~~ and an offence under any other enactment ~~relating~~, in relation to the administration or control of public land, the provisions of that other enactment prevail.
- Penalties* 25
- 61 Penalties**
- (1) A person who commits an offence against **section 57** is liable on summary conviction to a fine not exceeding \$5,000.
- (2) A person who commits an offence against **section 59** is liable on summary conviction to a fine not exceeding \$10,000. 30
- 62 Penalties for continuing offences**
- A person who commits an offence against **section 59(2)(b)** is liable, in addition to the penalty for the offence, to a fine not

exceeding \$100 for each day or part of a day that the offence continues after he or she has been required to stop the offence.

63 Penalties for bodies corporate

A body corporate that commits an offence against **section 57** or **59** is liable on summary conviction to a fine not exceeding 5 5 times the maximum fine otherwise provided for the offence.

64 Liability of directors and managers

If a body corporate is convicted of an offence, every director and every person concerned in the management of the body is guilty of the same offence, if the prosecution proves— 10

- (a) that the act or omission that constituted the offence took place or occurred with the director's or the manager's authority, permission, or consent; or
- (b) that the director or the manager knew or could reasonably be expected to have known that the offence was 15 committed, was being committed, or was about to be committed, and failed to take all reasonable steps to prevent or stop it.

65 Sentence of community work

A court may sentence a person who commits an offence 20 against **section 57 or 59** to a ~~community-based sentence, whether or not the offence is punishable by imprisonment;~~ sentence of community work, and the provisions of subpart 2 of Part 2 of the Sentencing Act 2002 apply accordingly.

66 Offenders liable for loss, damage, or costs 25

- (1) A person convicted of an offence under this Part is liable, in addition to the penalty for the offence, for any loss, damage, and expenses arising from, or caused by, the act or omission constituting the offence, including (as the case may be)— 30
- (a) the full market value of any thing removed from a walkway or from land ~~adjacent to~~ adjoining a walkway; and
 - (b) the reasonable costs—
 - (i) of returning any animals or plants to the walkway or to land ~~adjacent to~~ adjoining the walkway; and

- (ii) of repairing any damage done to the walkway or to land ~~adjacent to~~ adjoining the walkway; and
- (c) all necessary and reasonable actions required to—
- (i) remedy any loss caused by the offence; or
- (ii) prevent an offence. 5
- (2) In assessing an amount payable under **subsection (1)**, the court may take into account the salaries, wages, and incidental expenses incurred in investigating the act constituting the offence or in remedying any loss or damage caused by the offence. 10
- (3) An amount payable under **subsection (1)** may be awarded by the court in fixing a penalty and is recoverable in the same manner as a fine.
- 67 Evidence in proceedings**
- (1) In any proceedings for an offence, a certificate, lease, licence, map, plan, or copy certified as true by the Commission, the Director-General of Conservation, or the chief executive (or an officer authorised by the Commission, the Director-General of Conservation, or the chief executive) is sufficient evidence of its contents— 15
- (a) without production of the original records; and
- (b) without the personal attendance of the certifying officer or proof of his or her signature. 20
- (2) **Subsection (1)** applies unless the defendant adduces evidence to the contrary and the interests of justice require the attendance of the certifying officer. 25

Subpart 3—Miscellaneous provisions

Liability of landholders in relation to walking access

- 67A Limitation on liability of landholders** 30
- (1) A landholder is not liable for any loss or damage suffered by a person using—
- (a) walking access on the landholder's land, in the case of private land; or
- (b) a walkway on the landholder's land, in the case of public land. 35

- (2) The liability referred to in **subsection (1)**—
- (a) means liability under—
- (i) the Occupiers' Liability Act 1962; or
- (ii) any common law rule referred to in section 3 of that Act; and 5
- (b) includes liability for both compensatory and exemplary damages.
- (3) However, **subsection (1)** does not apply to any loss or damage caused by the landholder's deliberate act or omission.
- Regulations and bylaws in relation to walkways* 10
- 68 Regulations**
- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- (a) providing for the maintenance of good order on walkways: 15
- (b) providing for the conditions under which the public may enter, remain on, or use any walkway:
- (c) prescribing conditions applying and charges payable in respect of the use of facilities on any walkway:
- (d) providing for strict liability offences in the event of a breach of any regulation and prescribing penalties, not exceeding \$1,000, for those offences: 20
- (e) providing for any other matters contemplated by or necessary to give full effect to this Act and for its due administration. 25
- (2) Regulations made under this section may apply—
- (a) throughout New Zealand; or
- (b) to an area specified in the regulations; or
- (c) to any walkway specified in the regulations.
- 69 Bylaws** 30
- (1) A controlling authority (other than a department that is a controlling authority) may make bylaws for 1 or both of the following purposes:
- (a) providing for the maintenance of good order on walkways: 35

- (b) providing for the conditions under which the public may use any walkway.
- (2) Bylaws apply to any walkway—
- (a) over which the controlling authority has jurisdiction; and 5
- (b) that is specified in the bylaws.
- (3) Bylaws made under **subsection (1)**—
- (a) must not be inconsistent with this Act or any regulations made under **section 68**; and
- (b) must be made,— 10
- (i) if the controlling authority is a local authority, in accordance with section 156(1) of the Local Government Act 2002, as if they were made under that Act; or
- (ii) if the controlling authority is not a local authority,— ~~by resolution of the controlling authority and signed by at least 2 members of the controlling authority who are authorised to do so.~~ 15
- (A) only after the controlling authority has taken into account the views (if any) of the persons or organisations that it considers representative of the interests of persons likely to be substantially affected by the bylaws; and 20
- (B) by resolution of the controlling authority and signed by at least 2 members of the controlling authority who are authorised to do so. 25
- (4) Despite anything to the contrary in this Act or in any other enactment, the controlling authority must not delegate the power conferred by **subsection (1)**. 30
- (5) A person who fails to comply with any bylaw made under this section contravenes this subsection and is liable, on summary conviction, to a fine not exceeding \$1,000.
- 70 Bylaws to be approved by Commission** 35
- (1) Bylaws made under **section 69** do not come into force until they have been—
- (a) approved by the Commission; and

- (b) published in the *Gazette*.
- (2) Publication under **subsection (1)(b)** is, in the absence of proof to the contrary, evidence that the bylaws have been properly made and approved under this Part.
- (3) Despite the requirement for approval and publication of a bylaw by the Commission under **subsection (1)**, a controlling authority may, by resolution that is publicly notified, make minor changes to, or correct errors in, a bylaw, but only if the changes or corrections do not affect—
- (a) an existing right, interest, title, immunity, or duty of any person to whom the bylaw applies; or
- (b) an existing status or capacity of any person to whom the bylaw applies.
- (4) In this section and **section 71**, **publicly notify** means to give notice—
- (a) in a daily or other newspaper circulating in the area where in which the walkway is located; and
- (b) if the controlling authority thinks it desirable in the circumstances, by any other method of giving public notice.

71 Responsibility of controlling authority to make bylaws available

The controlling authority responsible for making a bylaw under **section 69** must, as soon as practicable after the bylaw is in force under **section 70(1)**,—

- (a) publicly notify the bylaw; and
- (b) ensure that copies of the bylaw are held and may be inspected and purchased—
- (i) at the office of the controlling authority; and
- (ii) if the controlling authority is not a local authority, at the office of ~~the~~every local authority in whose district or region the walkway is located.

71A Certain other requirements do not apply to bylaws

Section 157 of the Local Government Act 2002 does not apply to a bylaw made by a local authority under **section 69**.

*Transitional provisions***72 Existing controlling authorities of walkways to continue**

(1) An entity that, immediately before the commencement of this Act, is a controlling authority appointed under section 11 of the New Zealand Walkways Act 1990 is to be treated as a controlling authority ~~under~~appointed under **section 38** of this Act. 5

(2) If an administering authority or the Minister of Conservation is, immediately before the commencement of this Act, still deemed to be a controlling authority under section 11(3) or (4) of the New Zealand Walkways Act 1990, the administering authority or the Minister is to be treated as having become a controlling authority under **section 39** of this Act. 10

73 Easements, leases, and agreements to vest in Commission

(1) On the commencement of this Act, all easements, leases, and agreements entered into for the purposes of the New Zealand Walkways Act 1990 and in existence immediately before the commencement of this Act vest in the Commission. 15

(1A) If an enactment provides for an easement to be granted or provided to the Crown under the New Zealand Walkways Act 1990, and the easement has not been granted or provided on the commencement of this Act, it must instead be granted or provided to the Commission as grantee. 20

(1B) However, the Crown and the Commission are, together and separately, subject to any obligation or liability to which — 25

(a) the Crown was subject, immediately before the commencement of this Act, under an easement, lease, or agreement referred to in **subsection (1)**; and

(b) the Commission is subject under an easement referred to in **subsection (1A)** when that easement is granted or provided to the Commission. 30

(1C) The Crown is not in breach of any obligation referred to in **subsection (1B)** as long as it takes all reasonable steps to satisfy the obligation.

(2) **Subsections (1) and (1A)** ~~has~~have effect whether or not any enactment, deed, or agreement permits, ~~the vesting~~ or requires consent to ~~the vesting~~, those matters. 35

- (3) This section is subject to **section 74**.

74 Agreements made under New Zealand Walkways Act 1990

- (1) This section applies to all agreements—
- (a) made under section 16(1)(a) of the New Zealand Walkways Act 1990; and
 - (b) that were in existence immediately before the commencement of this Act.
- (2) The agreements referred to in **subsection (1)** are administered by the Minister of Conservation. 10
- ~~(3) To avoid doubt, **subsection (2)** does not apply to negotiations—~~
- ~~(a) commenced for the purpose of reaching an agreement under section 16(1)(a) of the New Zealand Walkways Act 1990; but~~ 15
 - ~~(b) not concluded before the commencement of this Act.~~

75 Grants and gifts to Commission

- (1) All money received under section 18 of the New Zealand Walkways Act 1990 and held in the Department of Conservation Grants and Gifts Trust Account (a Trust Bank Account established under section 67 of the Public Finance Act 1989) immediately before the commencement of this Act—
- (a) vests in the Commission; and
 - (b) must be applied for the purposes for which the money was granted or gifted. 25
- (2) The vesting referred to in **subsection (1)(a)** occurs on the commencement of this Act.

76 Liability of Commission

- (1) The Commission is not liable for acts or omissions of any person under the New Zealand Walkways Act 1990. 30
- (2) However, a proceeding commenced under the New Zealand Walkways Act 1990 that, immediately before the commencement of this Act, is pending by or against the Director-General of Conservation may be carried on, completed, or enforced by

or against the Director-General of Conservation as if that Act had not been repealed.

*Government Superannuation Fund in relation
to Commission*

- 76A** **Current contributors to Government Superannuation Fund** 5
- (1) This section applies to any person who, immediately before being employed by the Commission, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956. 10
- (2) A person to whom **subsection (1)** applies is, for the purposes of the Government Superannuation Fund Act 1956, deemed to be employed in the Government service, and that Act applies to the person as if his or her service as an employee of the Commission were Government service. 15
- (3) A person ceases to be deemed to be employed in the Government service when that person ceases to be employed by the Commission.
- 76B** **No entitlement to recommence contributions to Government Superannuation Fund** 20
- Section 76A** does not entitle a person to become a contributor to the Government Superannuation Fund if the person has (since being employed by the Commission) ceased to be a contributor.
- 76C** **Commission is controlling authority** 25
- For the purposes of applying the Government Superannuation Fund Act 1956 to a person referred to in **section 76A**, the Commission is the controlling authority in relation to that person.
- Review of Act* 30
- 77** **Minister must review Act**
- (1) The Minister must, as soon as is reasonably practicable after the expiry of the period of 10 years from the commencement of this Act,—

-
- (a) prepare the terms of reference for a review of the Act, after consultation with the Commission; and
 - (b) commence a review in accordance with those terms of reference to consider—
 - (i) the need for this Act; and 5
 - (ii) its operation and effectiveness; and
 - (iii) whether any amendments to this Act are necessary or desirable.
- (2) Within 11 years of the commencement of this Act, the Minister must— 10
- (a) report on the findings of the review and any recommendations relating to this Act; and
 - (b) present a copy of the report to the House of Representatives.

Repeal and amendments 15

78 New Zealand Walkways Act 1990 repealed

The New Zealand Walkways Act 1990 (1990 No 32) is repealed.

79 Acts amended

The Acts specified in the **Schedule** are amended in the manner indicated in that schedule. 20

Schedule Acts amended

s 79

Consequential amendments to Acts

Conservation Act 1987 (1987 No 65)

- Definition of **walkway** in section 2(1): repeal. 5
- Section 6B(1): omit “the New Zealand Walkways Act 1990,” in each place where it appears.
- Section 6B(1)(f): repeal.
- Section 6M(1)(e): repeal.
- Section 17C(1): omit “the New Zealand Walkways Act 1990,”. 10
- Section 17D(1): omit “the New Zealand Walkways Act 1990,”.
- Section 26ZS(1)(e): repeal.
- Item relating to the New Zealand Walkways Act 1990 in Schedule 1: omit.

Crown Entities Act 2004 (2004 No 115)

15

Part 1 of Schedule 1: insert the following item in its appropriate alphabetical order:

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	S 161	S 162	S 163	S 164	
New Zealand Walking Access Commission					✓

Crown Pastoral Land Act 1998 (1998 No 65)

- Paragraph (a) of the definition of **protective mechanism** in section 2: omit “section 8 of the New Zealand Walkways Act 1990” and substitute “**sections 29 to 32 of the Walking Access Act 2008**”. 20
- Heading above section 59: omit “*of Minister of Conservation*”.
- Heading to section 59: omit “**of Minister of Conservation**”.

Consequential amendments to Acts—*continued*
Crown Pastoral Land Act 1998 (1998 No 65)—*continued*

Section 59(a): omit “Reserves Act 1977,” and substitute “Reserves Act 1977 or”.

Section 59(a): omit “or section 8 of the New Zealand Walkways Act 1990”.

Section 59: add as **subsection (2)**: 5
 “(2) Without the prior written consent of the New Zealand Walking Access Commission (established by **section 6 of the Walking Access Act 2008**), a substantive proposal may not designate any land as land to be disposed of subject to the creation of an easement under **sections 29 to 32 of the Walking Access Act 2008**.” 10

Section 80(3): omit “section 8 of the New Zealand Walkways Act 1990” and substitute “**sections 29 to 32 of the Walking Access Act 2008**”.

Section 80(3)(a)(ii): omit “Director-General of Conservation” and substitute “New Zealand Walking Access Commission (established by **section 6** of that Act)”. 15

Section 80(3)(b): repeal and substitute:
 “(b) the New Zealand Walking Access Commission must promptly do all acts necessary to enable the creation of the easement.” 20

Hauraki Gulf Marine Park Act 2000 (2000 No 1)

Section 11(1)(h): repeal.

Item relating to the New Zealand Walkways Act 1990 in Schedule 1: omit. 25

Schedule 1: insert in its appropriate alphabetical order “**Walking Access Act 2008**”.

Litter Act 1979 (1979 No 41)

Paragraph (1) of the definition of **public place** in section 2(1): omit “section 2 of the New Zealand Walkways Act 1975” and substitute “**section 4 of the Walking Access Act 2008**”. 30

Walking Access Bill

Consequential amendments to Acts—*continued*
Litter Act 1979 (1979 No 41)—*continued*

Section 6(1)(f): repeal and substitute:

“(f) every enforcement officer and honorary enforcement officer within the meaning of the **Walking Access Act 2008** while that officer is acting in the exercise of his or her powers and the discharge of his or her duties on any walkway:”.

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Ombudsmen Act 1975 (1975 No 9)

Part 2 of Schedule 1: insert the following item in its appropriate alphabetical order:

“New Zealand Walking Access Commission”.

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Summit Road (Canterbury) Protection Act 2001 (2001 No 3(L))

Definition of **walkway** in section 4(1): repeal and substitute:

“**walkway** has the same meaning as in **section 4 of the Walking Access Act 2008**”.

Legislative history

8 April 2008
15 April 2008

Introduction (Bill 208–1)
First reading and referral to Local Government and Environment Committee

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