

## APPENDIX 1

### Law Commission: Processes for Project Selection and Government Response to Reports (CO (07) 4)

#### Key points

- The government has revised the processes for selecting Law Commission projects and responding to Law Commission reports on government references. This circular sets out the new processes and confirms existing processes that still apply to projects initiated by the Law Commission.
- Cabinet will select government-referred projects for the annual Law Commission work programme by considering a paper prepared by the Minister Responsible for the Law Commission proposing possible projects supported by the relevant portfolio Ministers.
- Once agreed by Cabinet, departmental resources should be made available to work on the projects selected. Close collaboration is expected between the Law Commission and relevant government agencies during the life of Law Commission projects, in an endeavour to reach consensus.
- The government will determine its position on Law Commission reports on government references by considering a Cabinet paper submitted by the relevant portfolio Minister. The paper will be prepared by the Law Commission (unless otherwise directed by the Minister) and will reflect interagency consultation.
- The Minister Responsible for the Law Commission is required to present all Law Commission reports to the House of Representatives and publish those reports in accordance with section 16 of the Law Commission Act 1985. The current administrative arrangements supporting this process will continue.
- If Cabinet decides to accept the Law Commission's recommendations, with the result that a Bill is required, the Bill will be prepared with no further need for the government to present a response to the House of Representatives.
- If, however, Cabinet rejects the Law Commission's recommendations, or the government is responding to a self-initiated Law Commission project other than by introducing a draft Bill, the government will still be required to present to the House of Representatives a response to a Law Commission report within six months.
- A place on the annual Legislation Programme still needs to be sought at the earliest opportunity for a proposed Bill resulting from Law Commission recommendations.

## **Introduction**

1. Cabinet has recently made decisions revising aspects of the interaction between the Law Commission and executive government.
2. Projects for the Law Commission may be proposed by any Minister or by the Law Commission in consultation with its stakeholders. This circular, which replaces Cabinet Office circular CO (01) 13, sets out new processes for:
  - 2.1 selecting projects referred to the Law Commission by the government (government references);
  - 2.2 the government to respond to Law Commission reports resulting from either government references or projects initiated by the Law Commission (self-initiated projects).
3. The processes in this circular apply to reports in the Law Commission's report series. They do not apply to reports in the Law Commission preliminary paper series, study paper series, or annual reports.

## **Projects referred to the Law Commission by the government**

### *Process for selecting Law Commission projects*

4. Cabinet will be asked to agree to government references on the Law Commission's work programme on an annual basis. This process will be initiated each year by the Minister Responsible for the Law Commission (MRLC) writing to all Ministers inviting suitable proposals with a view to settling the work programme by the end of June<sup>1</sup>. To allow for adequate scoping and costing of potential projects, early correspondence with and engagement by Ministers will be desirable.
5. Following consultation with Ministers, the MRLC will submit a paper to Cabinet proposing possible projects for the Law Commission. Only projects supported by the relevant portfolio Ministers should be contained in the Cabinet paper. The resource implications for the relevant departments in working with the Law Commission on a particular project are to be described in the initial Cabinet paper.

### *Collaboration between agencies on government references to the Law Commission*

6. If Cabinet approves a project, departmental resources should be made available to work on the project so that officials are kept in touch with the development of the project and can provide advice on it. This may include the provision of Parliamentary Counsel Office legislative drafting assistance, if the nature of the report is such that it would be appropriate to append a draft Bill to it. The extent to which the Parliamentary Counsel Office will provide assistance at this stage will be considered by the government on a case by case basis.

7. There should be close collaboration between the Law Commission and relevant government agencies during the life of Law Commission projects, in an endeavour to reach a consensus. Any differences of opinion should be clearly identified and discussed during the project.

*Presentation of Law Commission reports to the government and the House*

8. After the Law Commission has completed a report, it will submit the report to the MRLC and the relevant portfolio Minister and seek the portfolio Minister's initial views.
9. The Minister Responsible for the Law Commission is required to present all Law Commission reports to the House of Representatives (the House) and publish reports in accordance with section 16 of the Law Commission Act 1985. Once a report has been presented to the House, or 20 working days after an advance copy of the report has been forwarded to the MRLC and the relevant portfolio Minister, the Law Commission will, as it does now, publish the report. This 20 working day period is to allow the government time to prepare its initial views for conveying to the Law Commission and more widely as appropriate.
10. After the MRLC has presented the Law Commission report to the House, the office of the MRLC will send the Cabinet Office a copy of the report, and inform the Cabinet Office of:
  - 10.1 the date on which the report was presented to the House;
  - 10.2 which portfolio Minister is responsible for preparing a Cabinet paper.
11. The Cabinet Office, as part of its monitoring function, will monitor the progress of responses to Law Commission reports.

*Cabinet consideration of Law Commission recommendations*

12. Once a portfolio Minister has received a Law Commission report, a draft Cabinet paper will be promptly prepared reflecting the views of the Minister and all relevant agencies, and incorporating split recommendations where there is no consensus. Unless the Minister directs otherwise, the Law Commission will prepare the draft Cabinet paper on the Minister's behalf.
13. When the relevant Minister is satisfied with the draft Cabinet paper, he or she will submit the paper to a Cabinet committee seeking Cabinet's approval for the recommendations to the extent that the Minister considers appropriate.
14. If Cabinet accepts the recommendations, with the effect that a Bill will be required, it will add the Bill to the Legislation Programme with an appropriate priority. If a Bill ready for introduction is not already appended to the Law Commission report, Cabinet may invite either the Minister or the Law Commission (as considered by Cabinet to be appropriate in the particular case) to issue drafting instructions to the Parliamentary Counsel Office. The Bill that

ensues will be introduced in the normal way in the name of the portfolio Minister.

*Government response may be required*

15. Where Cabinet accepts the Law Commission's recommendations, there will be no need for a formal government response to the Law Commission report to be presented to the House.
16. If Cabinet rejects the recommendations, the government will continue to be required to formally respond (as it is at present), by way of a paper presented to the House within six months of the presentation of the Law Commission's report to the House. This process is set out in paragraphs 21 to 23.

**Projects initiated by the Law Commission**

17. It remains open to the Law Commission to initiate projects itself.
18. In the case of Law Commission reports on such projects, the government continues to be required to respond to the recommendations within six months of the presentation of the Law Commission report to the House, either by presenting a response to the House or by introducing a Bill within that six-month period.
19. If the Law Commission report raises matters that require policy decisions to be taken by Cabinet, a paper will need to be submitted to the appropriate Cabinet committee prior to the consideration of a proposed government response or Bill by the Cabinet Legislation Committee. The process for presenting a response to the House is set out in paragraphs 21 to 23.

**Process where government response to be presented to House**

20. The government will still be required to present to the House a response to a Law Commission report in two circumstances:
  - 20.1 if Cabinet rejects the Law Commission's recommendations on a government reference; or
  - 20.2 if the government responds to self-initiated Law Commission projects other than by introducing a draft Bill within six months of the presentation of the Law Commission's report to the House.
21. A government response must be presented to the House within six months from the time that the Law Commission presents its report to the House.
22. Where a government response is required to a Law Commission report, the relevant Minister must seek Cabinet approval for the text of the government response by submitting the response, with a Cabinet paper, to the Cabinet Legislation Committee and Cabinet. Template documents showing the standard format for a government response and the Cabinet Legislation Committee paper are attached as Appendices 1 and 2. The template will need to be adapted to match the format of the particular Law Commission

recommendations. It may be appropriate to summarise or cluster key recommendations together when drafting the government response.

23. Once approved by Cabinet, the office of the Minister concerned must arrange the presentation of the government response by delivering it to the Clerk of the House of Representatives in the usual way.

#### **Place on annual Legislation Programme still required**

24. A place on the annual Legislation Programme is still required for proposals for Bills that emerge as a result of the government accepting Law Commission recommendations. Ministers should submit proposals for Bills to be incorporated into the annual Legislation Programme, either as part of the annual process (if the prospect of a Bill is known at that stage) or as part of the Cabinet paper seeking agreement to the Law Commission's recommendations. The normal processes for obtaining a place on the Legislation Programme are set out in Chapter 5 of the Cabinet Manual, the legislation procedures in the Cabinet Office Step By Step Guide (CabGuide), and the relevant annual circular.

Diane Morcom  
Secretary of the Cabinet

1. For the 2007/08 year, this process will be concluded by the end of September 2007.

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#### **Appendix 1 (of original document)**

Below is the format for recommendations for a paper seeking approval by LEG of the government response to a Law Commission report.

#### **The Minister of xx recommends that the Cabinet Legislation Committee:**

1. note that on xx *date*], the Minister Responsible for the Law Commission presented the Law Commission's report entitled xx to the House;
2. note that the Law Commission recommended that the government:  
  
xx [*summarise key recommendations of Law Commission's report*];

3. note that on xx *[date]*,  
  
xx *[summarise any relevant policy decisions taken with appropriate minute references]*;
4. note the submission of the Minister of xx and in particular his/her advice that:  
  
xx *[summarise main points of the proposed government response]*;
5. approve the proposed government response, attached to this submission, to the report of the Law Commission entitled xx;
6. note that the government response must be presented to the House by xx *[date specified in the Cabinet Office request for response]*;
7. invite the Minister of xx to present the government response to the House.

**Note:** The above format is set out on the basis of prior approval of the relevant policy issue. If necessary, the proposed government response could be prepared and considered by a policy committee at the same time as the policy is considered. In that case, the above recommendations should be adapted and added to the policy paper. There would then be no need for the proposed government response to be considered by LEG.

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## **Appendix 2 (of original document)**

### **GOVERNMENT RESPONSE TO LAW COMMISSION REPORT ON [title]**

#### **Presented to the House of Representatives**

**GOVERNMENT RESPONSE TO LAW COMMISSION REPORT ON [title – as on cover page]**

### **Introduction**

#### **An opening remark such as:**

“The government has carefully considered the Law Commission’s report on xx”.

or

“The government welcomes the Law Commission’s report which represents a major contribution to the development of policy on xx”.

**A sentence stating:**

“The government responds to the report in accordance with Cabinet Office circular CO (07) 4”.

**Any general statements or explanations of the nature and content of the response, such as:**

“The government has taken (or intends to take) action on the majority of the Commission’s recommendations”.

or

“The government has taken action on certain of the Commission’s recommendations, but is as yet unable to respond positively on the recommendations dealing with xx because xx”.

or

“The government has carefully considered the Commission’s recommendations and has identified the need for further work on the issues raised. The government priority for this further work, relative to other higher priorities, means that significant progress on this work is unlikely to be made within the next xx.”

**Law Commission Report and Government Response**

**Law Commission Report**

[Summarise key recommendations of Law Commission’s report].

**Response**

List key recommendations of report and response in turn.

[For each recommendation or group of recommendations: State response. This should be concise and informative. Responses should be framed in terms of how “the government” responds to the issue, with references to the responsibilities of and action taken by particular Ministers/departments as appropriate].

**Conclusion**

Brief summary of overall response.

## APPENDIX 2

### Professional Staff

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<b>BROWNING, Claire</b>	Senior Legal & Policy Advisor
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<b>HAYWARD, Rachel</b>	Senior Legal & Policy Advisor
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<b>PREBBLE, Zoë</b>	Legal & Policy Advisor
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<b>THOMPSON, Margaret</b>	Special Projects Adviser
<b>WILSON, Marion (secondment from Veteran's Affairs New Zealand)</b>	Senior Legal & Policy Advisor



### Law Commission's Current Projects

#### Admissibility of Previous Convictions

1. Following a number of high profile trials in relation to alleged criminal offending by police, the Law Commission reviewed existing rules of evidence around admissibility of previous convictions, similar offending, and bad character. In particular, the Commission considered the extent to which the Court is made aware of the prior convictions of an accused, any other allegation of similar offending by the accused, and any other evidence of the accused's bad character. The Hon Justice McGechan worked with the Law Commission on this project.
2. This Report has been tabled in the House.<sup>1</sup> The Report's only recommendation was that the Law Commission continue to monitor the propensity provisions of the Evidence Act 2006 and report back to the Minister of Justice by 28 February 2010. The Report required no other action on the part of the government, although it did suggest that there is a need for further inquiry into whether the adversarial system should be modified or replaced with some alternative model, either for sex offences or for some wider class of offences.

#### Civil List Act 1979

3. The Civil List Act 1979 has not been reviewed for many years and is out of date in a number of respects. The statute provides for the remuneration for the Governor-General and annuities for former Governors-General; remuneration of Ministers, Parliamentary Under-Secretaries, and Members of Parliament; annuities for former Prime Ministers; and authority for appropriation for these purposes.

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<sup>1</sup> New Zealand Law Commission *Disclosure to Court of Defendants' Previous Convictions, Similar Offending, and Bad Character* (NZLC R103, Wellington, 2008).

4. An Issues Paper was published on 29 July 2008.<sup>2</sup> A final Report, accompanied by a draft Bill, will be finished before Christmas 2008 and available to be tabled in the New Year.

#### **Criminal Defences: Insanity and Infanticide**

5. A review of the defence of insanity will look at the application of the defence in practice, the problems with the current formulation and operation of the defence, whether the defence should be retained, and if so how decisions about the release of special patients who have been acquitted on grounds of insanity should be made. Further work on the partial defence of infanticide will also be included in this review. The review has had some work done on it but is on the back burner at present due to other priorities.

#### **Criminal Procedure (Simplification)**

6. This is a large collaborative project with the Ministry of Justice, Parliamentary Counsel Office, and other justice agencies. Its purpose is to draft legislation incorporating provisions from the Crimes Act 1961, the District Courts Act 1947, and the Summary Proceedings Act 1957 into a comprehensive, plain-language criminal procedure statute. It is designed to improve the fairness and efficiency of court processes and to reduce court delays. The project will build on recommendations from related Commission work including the Study Paper, *Simplification of Criminal Procedure Legislation* (NZLC SP7, Wellington, 2001), and the Report, *Criminal Pre-Trial Processes: Justice Through Efficiency* (NZLC R89, Wellington, 2005). This is a complicated project with five work streams. A special paper on Name Suppression will be published. Pilot projects testing selected new criminal procedures are underway in the Tauranga and Manukau District Courts. It is likely that consultation on draft legislation will commence in mid-2009.

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<sup>2</sup> New Zealand Law Commission *Review of the Civil List Act 1979* (NZLC IP8, Wellington, 2008).

## **Evidence Act 2006**

7. The Evidence Act 2006 requires the Law Commission to review the operation of the Act on a five-yearly basis.<sup>3</sup> This work has started and will be ongoing.

## **Land Transfer Act 1952**

8. The Law Commission is reviewing the Land Transfer Act 1952 with a view to modernising and updating it. It will not review the fundamentals of the Torrens system. It will look at discrete aspects of the current Act and land transfer system with a view to removing anomalies and recommending improvements. An Issues Paper on this subject was published in October 2008.

## **Limitation Act 1950**

9. This Act sets out rules limiting the time within which court actions may be brought. In most cases it is six years, although there are exceptions to allow for various special situations. The law has become very complex and increasingly unsatisfactory. There have been many calls for reform.
10. Over the years the Law Commission has produced three reports on the subject. It has done much work over 2007 and 2008, and has involved members of the practising profession in discussions. Rt Hon Justice Blanchard, a Supreme Court judge, has chaired a committee on the subject. At the end of 2007 an exposure draft of a Bill was published. More work was done taking into account feedback on the draft. A new Bill is almost complete. It takes a new approach to the subject, and contains important new provisions to give an extension of time to people who discover relevant facts late in the day, with an overall "long stop" period. The Bill should be ready to go to Cabinet in late 2008.

## **Maximum Penalties**

11. This project is a review of the maximum penalties contained in the five major criminal statutes. These statutes are the Crimes Act 1961, Misuse of Drugs Act 1975, Land Transport Act 1998, Arms Act 1983, and Summary Offences Act 1981. The project will recommend changes to correct existing penalty

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<sup>3</sup> Evidence Act 2006, s 202.

anomalies and to reflect changes in the rules relating to the automatic release of offenders. The project will take account of sentencing guidelines developed by the Sentencing Council. This project requires the development and application of a particular methodology for classifying offence seriousness.

12. While a lot of difficult methodological work has been done on this project, it will not be completed until at least half way through 2009.

#### **Misuse of Drugs Act 1975**

13. The Minister of Health asked the Law Commission to review the Misuse of Drugs Act 1975 and the penalties imposed under it. This includes consideration of the way in which the statute should reflect the Government's overall drug policy, the Act's alignment with other cognate statutes, the structure of offences, and the effectiveness of the current classification system. The Commission is working with officials from the Ministries of Health and Justice on this review.
14. Considerable work has been done on this project. The Commission is aiming to have an Issues Paper published by about the end of March 2009.

#### **Official Information Act 1982**

15. The Law Commission is to report on the law and practice relating to the Official Information Act 1982 and, in particular, to make recommendations on any changes necessary to improve the working of the Act. This project will get underway shortly.

#### **Part 8 of the Crimes Act 1961**

16. This is a review of the whole of Part 8 of the Crimes Act (which deals with offences against the person) and associated assault provisions in other statutes. There are numerous overlapping and, in some cases, duplicative offence provisions that have developed over time in an ad hoc way. They often contain widely different maximum penalties that consequently give little guide as to the penalty that is appropriate in the worst class of case. The project is intended to rationalise and reduce the number of offences. The structure of offences will be designed to clearly reflect differences in seriousness and

culpability and to leave other matters of aggravation or mitigation to the sentencing stage.

### **Presentation of New Zealand Statute Law Part 1**

17. Public access to law is critically important. This project is concerned with access to Acts of Parliament. Currently there are problems with both finding and understanding the law. Acts are not arranged according to subject matter. Law on the same matter may be scattered throughout several Acts; sometimes provisions are located in places where no-one would think to look for them. Moreover, amendments and accretions over a long period of years – sometimes more than a century – can make some Acts very complex and difficult to follow.
18. The Commission has completed its report on this subject and it is ready for presentation and publication. Its main recommendations are that there be an index of Acts, and that there be instituted an ongoing programme of revision of Acts whereby old Acts would be progressively redrafted and made more coherent. It proposes an expedited parliamentary process for the enactment of revised Acts.

### **Presentation of New Zealand Statute Law Part 2**

19. This project deals with the revision of an old and out of date statute, the Statutes Drafting and Compilation Act 1920. This is the governing statute of the Parliamentary Counsel Office.
20. This is not a major project but the statute needs to be cleaned up. Due to the limited ambit of interest in this project, an Issues Paper is not being produced but the final Report should be out in March 2009.

### **Prerogative Writs**

21. This project examined the possibility of simplifying the expression and content of the law of judicial review in the Judicature Amendment Act 1972 and Part 7 of the High Court Rules. The focus of this review was procedural; it did not examine the grounds of judicial review or work towards a statutory restatement of the circumstances in which the Court may exercise its supervisory role. An

Issues Paper was published in August 2008,<sup>4</sup> and submissions on it were due by 30 September 2008. The Commission has decided to drop the project due to lack of support for it.

## Privacy

22. There are four distinct components of this large project. The first stage of the project was an analysis and overview of privacy values, changes arising from technology, international trends, and the implications of all these factors for the concept of privacy in New Zealand. Stage 1 resulted in a 2008 Study Paper, *Privacy Concepts and Issues*.<sup>5</sup> The Study Paper provides a background for the project's other stages and does not contain recommendations.
23. The second stage of the project examined the law concerning public registers in light of privacy considerations and emerging technology. This stage of the project has been completed, and a Report was published in 2008.<sup>6</sup> The Law Commission recommended that the process of preparing and submitting a Cabinet paper should take place once stage 4 of the review, regarding the Privacy Act 1993, is completed, to allow proper consideration of all the privacy issues in a coordinated manner. Thus, Cabinet decisions on the public register recommendations have been deferred. A Stage 4 Issues Paper should be issued in mid-2009.
24. Stage 3 of the project deals with the adequacy of New Zealand's civil and criminal law to deal with invasions of privacy. Currently New Zealand has piecemeal coverage via a number of unrelated and inconsistent statutes, and judge-made case law. This overlays the lower-level modes of enforcement through the Privacy Commissioner, Broadcasting Standards Authority, and Press Council. There is incomplete protection. In particular, there is very little control over surveillance (through such things as concealed cameras). While there is a tort of invasion of privacy by publishing private facts about someone, it is a new branch of the law, and its scope and content are very unclear.

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<sup>4</sup> New Zealand Law Commission *Review of Prerogative Writs* (NZLC IP9, Wellington, 2008).

<sup>5</sup> New Zealand Law Commission *Privacy Concepts and Issues: Review of the Law of Privacy Stage 1* (NZLC SP19, Wellington, 2008).

<sup>6</sup> New Zealand Law Commission *Public Registers: Review of the Law of Privacy Stage 2* (NZLC R101, Wellington, 2008).

25. The Commission's goal is to produce a coherent and effective set of protections. This will involve deciding on an appropriate balance between civil and criminal law, and between what is appropriate for enforcement in the courts and what is appropriate for other, lower-level, types of enforcement. Among other things, it will consider the law relating to the powers of Private Investigators. An Issues Paper will be published early in 2009.

### **Private Schools**

26. The law relating to private schools is contained in the Education Act 1989, but has been carried over from earlier legislation. Much of it has not been revised since 1920.
27. The language is antiquated, and the criteria for registration and deregistration are open-ended: they include terms like "efficient" and "suitable". As a result the legislation provides little guidance for anyone: the Ministry of Education, the Education Review Office, and, perhaps most importantly, the schools themselves. It also appears that, despite the open-ended language of the legislation, there are matters it does not cover. For example, if there were to be widespread abuse of children in a school, it is not at all clear that that would be a ground for closing it down as the legislation currently stands.
28. Overall the quality of private schools in New Zealand is very good, and there are no obvious endemic problems. The Commission is therefore not anticipating far-reaching reform. Instead, any reform is likely to focus on the modernisation of language, and putting in place more protections than currently exist in the unlikely, but still possible, event, of serious problems arising in a small number of schools.
29. The research has been done, and an Issues Paper has been completed. It will be published by the end of 2008.

### **Public Safety and Security**

30. This project arose out of events concerning a decision made by the Solicitor-General not to authorise prosecutions under the Terrorism Suppression Act

2002. It involves a review of the relevant offences in the Crimes Act 1961, the Arms Act 1983, and other relevant legislation. The project focuses on conduct of individuals that create risk to, or public concern about, the preservation of public safety and security. The project takes into account the need to ensure an appropriate balance between the preservation of public safety and security and the maintenance of individual rights and freedoms.

31. An Issues Paper will be published in the first half of 2009.

#### **Sale of Liquor Act 1989**

32. This project is a comprehensive and wide-ranging review of New Zealand's liquor laws. Broadly, the project is to:
  - (a) examine and evaluate the current laws and policies relating to the sale, supply, and consumption of liquor in New Zealand; and
  - (b) consider and formulate for the consideration of Government and Parliament a revised policy framework covering the principles that should regulate the sale, supply, and consumption of liquor in New Zealand having regard to present and future social conditions and needs.
33. The review's Terms of Reference also identify a number of specific issues for particular consideration. These issues include, for example, the proliferation of specific outlets and the effect this has on consumption; how the licensing system should be structured and who should be responsible for which aspects of licensing decisions; the age at which liquor can be purchased; and the health effects of alcohol use and the ways to ameliorate these adverse effects.
34. This major project will take two years or more and consume heavy resources, particularly in view of the need to carry out extensive public consultation. It will be undertaken collaboratively with relevant agencies, including the Ministry of Health, Ministry of Justice, New Zealand Police, and Alcohol Advisory Council.



## **Search and Surveillance**

35. This project is one of the largest that the Commission has undertaken. It resulted in the publication in June 2007 of a 500 page Report<sup>7</sup> that has recently culminated in the introduction of a 242 clause Search and Surveillance Bill into the House.
36. The Commission and the Ministry of Justice are now working with regulatory agencies to determine the extent to which their regulatory inspection powers ought to be subject to the generic procedural provisions in the Bill. In the event that Parliament decides to reinstate this Bill, it may be desirable for this SOP to be prepared and tabled before the Select Committee invites public submissions on the Bill.

## **Trusts and Charitable Trusts**

37. The Commission will consider the law relating to trusts and charitable trusts in New Zealand and will review the existing legislation, which has not been systematically examined for many years. It will recommend new legislation to replace the Trustee Act 1956 and the Charitable Trusts Act 1957. It will also examine the Trustee Companies Act 1967.

## **Unified Tribunals Framework**

38. New Zealand has a proliferation of tribunals. They have grown up in an ad hoc manner over a long period of time. Some of them seldom meet, others have a lot of business. There are unacceptable variations in their procedures and in the rights of appeal from them. The way members of some tribunals are appointed, and the training and resources available to them, are unsatisfactory. In some instances the perception of independence is less than desirable. There is sometimes not enough information available about what particular tribunals do and how they operate, or indeed about their very existence. There is an overall lack of coherence and leadership.

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<sup>7</sup> New Zealand Law Commission *Search and Surveillance Powers* (NZLC R97, Wellington, 2007).

39. The Commission is working jointly with the Ministry of Justice to rationalise tribunals and provide a coherent structure. In early 2008, the Commission published an Issues Paper. During 2008, the two agencies have worked together to devise a new tribunal structure with leadership in the person of a Principal Judge. In July 2008, Cabinet authorised the issue of a Public Consultation Paper which set out the proposed model for reform.
40. The Commission has prepared a Study Paper, setting out the reasoning which led to this model, and pointing the way forward. It includes suggestions about the principles on which comprehensive new legislation should be based, and a set of guidelines for the establishment of new tribunals in future. It has been printed, and is ready for release. Much detailed implementation work will remain to be done, most of it by the Ministry.

### **Victims Compensation**

41. This project reviews and assesses the adequacy of existing schemes of compensation and reparation for victims of crime. It attempts to identify any gaps in the current scheme and develop options as to how those gaps may be addressed. The project will consider the Justice and Electoral Select Committee's Report, *Inquiry into Victims' Rights*,<sup>8</sup> and the approach of similar jurisdictions. An Issues Paper on this subject has been published.<sup>9</sup>

### **War Pensions Act 1954**

42. This project is examining the language and scheme of the War Pensions Act 1954 in an attempt to update and modernise it. It focuses on the Act's administration and operation with a view to streamlining some of the processes and management of pensions.
43. A lengthy Issues Paper on this project was published in July 2008,<sup>10</sup> with submissions due on 28 November 2008. It is likely this project will lead to two new Acts, a revised War Pensions Act 1954, and an Act setting out a new

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<sup>8</sup> Justice and Electoral Committee "Inquiry into Victims' Rights" [18 December 2007] AHJR I.7C.

<sup>9</sup> New Zealand Law Commission *Compensating Crime Victims* (NZLC, IP11, Wellington 2008).

<sup>10</sup> New Zealand Law Commission *Towards a New Veterans' Entitlements Scheme: A Discussion paper on a Review of the War Pensions Act 1954* (NZLC IP7, Wellington 2008).

scheme for later veterans. The Commission is conducting an extensive series of consultations around 11 RSAs throughout New Zealand during October and November 2008. The final Report is not likely to be published until the second half of 2009.