

Te Arotake Tuatoru i te Evidence Act 2006 | The Third Review of the Evidence Act 2006

TERMS OF REFERENCE

Te Aka Matua o te Ture | Law Commission will undertake a review of the Evidence Act 2006 (the Act) in accordance with section 202 of the Act.

This will be the Commission's third review of the Act. The first review was completed in 2013 and the second review was completed in 2019. This will also likely be the Commission's final review of the Act under section 202, as the Statutes Amendment Bill 2021, currently before Parliament, seeks to repeal section 202 from the Act.

Scope of the review

In accordance with section 202 of the Act, the Commission will consider:

- the operation of the provisions of the Act in civil and criminal proceedings, with a particular focus on the operation of the Act since the Commission's second review; and
- whether repeal or amendment of any provisions of the Act are necessary or desirable.

The Commission will publish an issues paper for public consultation in mid-2023. The issues paper will explore issues with the operation of the Evidence Act and options for reform. Some key areas that the issues paper will address include:

- the admissibility of defendants' statements in criminal proceedings (ss 27-30);
- the process for determining the admissibility of improperly obtained evidence in criminal proceedings (s 30);
- the admissibility of statements allegedly made by defendants to fellow prisoners and other incentivised witnesses; and
- the admissibility of propensity evidence offered by the prosecution about defendants (s 43).

The review will include consideration of te Tiriti o Waitangi | the Treaty of Waitangi, ao Māori perspectives on evidence and any matters of particular concern to Māori.

This review will not consider amendments to the Act made by the Sexual Violence Legislation Act 2021 given the recency of those amendments.

The Commission is required to report to the Minister in February 2024.

