

FIRST TRIMESTER REPORT

For 2020 - 2021

1 JULY 2020 – 31 OCTOBER 2020



1. INTRODUCTION

This is the first trimester report for 2020-21 for Te Aka Matua o te Ture | Law Commission (the Commission). This is supplied as required by the letter of expectations between the Minister Responsible for the Law Commission and the Commission dated 20 April 2020.

The first trimester of 2020-21 was an intense period of work activity. This activity culminated with the delivery of the final report on the Review of Criminal Investigations (Bodily Samples) Act 1995 to the (caretaker) Minister on 30 October 2020. Other projects are making good progress and remain on track as reported on below.

2. SUMMARY OF LAW REFORM PROJECTS – AS AT 31 OCTOBER 2020

Project	Current status	Target dates ¹
Review of the Criminal Investigations (Bodily Samples) Act 1995	The final report has been completed. This was presented to the (caretaker) Minister on 30 October 2020 and published on 24	The target date of 30 October 2020 for the final report was met.
Review of Class Actions and Litigation Funding	This project is underway.	An issues paper will be published in trimester two of 2020-21. The final report is planned for May 2021.
Review of Succession Law	This project is underway.	An issues paper will be published in April 2021. The final report is planned for November
Review of the Law Relating to Adults with Impaired Decision-making Capacity	This project is underway	Terms of Reference are being scoped.
Review of Surrogacy Law	This project is underway.	Terms of Reference are being scoped.

¹ **Target date** is the date of a resolution by the Law Commission's Board that a final report is approved to go to the Minister, or a paper approved for online release on the Law Commission website. It does not mean a report will have been tabled in Parliament and does not necessarily mean the report will have been printed.

3. LAW REFORM PROGRAMME

3.1 Final reports

One final report was completed in the first trimester period.

3.2 Issues papers

No issues papers were released during the first trimester period.

3.3 Timeliness of completion of reports and issues papers

All issues papers for 2020-21 remain on schedule for delivery within the agreed timeframes.

3.4 Bills before the House

(a) The following information relates to Bills before the House that relate (at least in part) to the Law Commission's earlier work:

- i. *Births, Deaths, Marriages, and Relationships Registration Bill 296-2* (Introduced 10 August 2017; Select Committee report 10 August 2018; awaiting second reading).

The Bill responds to three discrete issues raised by the Law Commission report *Burials and Cremations* (NZLC R134, 2015).

- ii. *Sexual Violence Legislation Bill 185-2* (Introduced 11 November 2019; first reading 14 November 2019; Select Committee report 9 June 2020; awaiting second reading).

The Bill responds to some of the recommendations in the Law Commission reports *The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes* (NZLC R136, 2015) and *The Second Review of the Evidence Act 2006 – Te Arotake i te Evidence Act 2006* (NZLC R142, 2019).

(b) The following information relates, at least in part, to the Commission's earlier work:

- i. Incorporated societies law – The Ministry of Business Innovation and Employment (MBIE) is reviewing the *Incorporated Societies Act 1908* to implement the Law Commission report *A New Act for Incorporated Societies* (NZLC R129, 2013). A draft Bill is awaiting consideration by Cabinet.
- ii. Insurance contract law – A MBIE review is underway and aims to address some of the issues raised by the Law Commission reports *Some Insurance Law Problems* (NZLC R46) and *Life Insurance* (NZLC R87, 2004). An exposure draft Bill for consultation is expected to be released in 2020.
- iii. Burial and cremation law – The Ministry of Health (MOH) and Department of Internal Affairs are working to improve the death certification processes used by health professionals and funeral directors, following the Law Commission's report *Death, Burial and Cremation: a New Law for*

Contemporary New Zealand (NZLC R134, 2015). MOH released a consultation document in November 2019 presenting options for modernising legislation relating to death, burial, cremation and funerals in New Zealand. Submissions closed in October 2020.

4. RISKS FACING THE LAW COMMISSION

4.1 Budget bid

During the trimester the Commission commenced a budget bid for 2021-22. This will be finalised and submitted during the second trimester period. The increased budget is to enable the continued implementation of the Commission's strategic plan. If the bid fails, the Commission will continue to run down reserve funds, with potential insolvency by 2022-23.

Within the constraints of the existing financial operating environment the Commission will endeavour to deliver an effective and efficient law reform work programme.

4.2 Minimum Commissioners

Due to budget constraints the Commission continues to operate with the statutory minimum number of Commissioners (three). Two Commissioners have terms that are expiring within the next six months: one on 8 February 2021 and one on 15 May 2021. These Commissioners must be replaced or their terms extended. If not, the Commission will be in breach of its operating legislation, the Law Commission Act. Commissioners are appointed by the Governor-General on the recommendation of the responsible Minister.

5. STATEMENT OF FORECAST SERVICE PERFORMANCE 2020-21

Measure	How	Planned 2020-21	Actual 2020-21 (year-to-date)
Consideration of substantive legal and policy issues			
High quality evidence-based legal and policy analysis	Survey of independent experts ²	Agree	Survey in progress ³ for final report on Criminal Investigations (Bodily Samples) Act 1995
Recognition of te ao Māori	Survey of Māori Liaison Committee and independent experts	Agree	Survey in progress for final report on Criminal Investigations (Bodily Samples) Act 1995
Clear and understandable consultation papers, reports or other advice	Survey of independent experts	Agree	Survey in progress for final report on Criminal Investigations (Bodily Samples) Act 1995
Independent and practicable recommendations	Survey of independent experts	Agree	Survey in progress for final report on Criminal Investigations (Bodily Samples) Act 1995
Consultation			
The number of submissions received	The percentage of target submissions per project	100%	100%
The number of consultation meetings held	The percentage of target consultation meetings per project	100%	100%

² Survey of members of the Expert Advisory Group (EAG) that is established for each reference. Each member of an EAG is chosen for their independence and expertise, amongst other matters, and is appointed on a voluntary basis.

³ The survey questions (including definitions for measures) have been developed for the 2020-2021 year. Survey respondents are able to respond to the questions by selecting answers from a sliding scale and by providing comments.

Measure	How	Planned 2020-21	Actual 2020-21 (year-to-date)
Timely production of consultation papers, reports and other advice			
The number of consultation or other papers, reports or advice	The number of published consultation or other papers, reports and advice	3	1
Reports or advice produced in timeframe agreed with the Responsible Minister	The date the report or advice is sent to the Responsible Minister	100%	100%
Long-term influence			
The number of community engagements	The number of community engagements (such as presentations, interviews and published articles)	5	1
References to the Commission's work	The number of references to the Commission's reports or advice in court decisions	60	27 year to date (judicial)
	The number of references to the Commission's reports or advice in Parliamentary debates and committee reports, academic publications and other media	500	108 (other) year to date
Implementation of reports or other advice	The percentage implementation of reports and advice over the previous 10-year period	60%	60%

6. FINANCIAL REPORTING

6.1 Draft Profit and Loss statement for the year to 31 October 2020

Profit & Loss
Law Commission
For the year to 31 October 2020

	YTD Actual	YTD Budget	Variance
Income			
Interest Income	\$596.17	\$9,000.00	-\$8,403.83
Other Income	\$0.00	\$9,000.00	-\$9,000.00
Revenue from Crown	\$1,631,000.00	\$1,331,000.00	\$300,000.00
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Total Income	\$1,631,596.17	\$1,349,000.00	\$282,596.17
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Communication and Consultancy	\$4,500.97	\$12,668.00	-\$8,167.03
Depreciation and Amortisation	\$26,551.74	\$27,710.00	-\$1,158.26
FX Gains and Losses	-\$17.12	\$0.00	-\$17.12
General Expenses	\$84,806.73	\$125,240.00	-\$40,433.27
Library Costs	\$32,651.03	\$43,232.00	-\$10,580.97
Occupancy Costs	\$78,459.36	\$84,360.00	-\$5,900.64
Personnel Costs	\$959,417.59	\$1,002,140.00	-\$42,722.41
Project Costs	\$71,608.17	\$165,000.00	-\$93,391.83
Total Operating Expenses	\$1,257,978.47	\$1,460,350.00	-\$202,371.53
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Net Surplus	\$373,617.70	-\$111,350.00	\$484,967.70

6.2 Draft Balance Sheet as at 31 October 2020

Balance Sheet Law Commission As at 31 October 2020

	31 Oct 2020	31 Oct 2019
Assets		
Current Assets		
Accounts Receivable	\$136.59	-\$8.71
Cash	\$2,933,718.25	\$2,074,195.60
GST	-\$13,207.61	\$23,288.10
Prepayments	\$97,729.77	\$54,416.26
Total Current Assets	\$3,018,377.00	\$2,151,891.25
Non-current Assets		
Fixed Assets	\$452,023.11	\$504,791.45
Total Non-current Assets	\$452,023.11	\$504,791.45
Total Assets	\$3,470,400.11	\$2,656,682.70
Liabilities		
Current Liabilities		
Creditors and Provisions	\$119,517.00	\$91,998.29
Current Lease Incentive Provision	\$20,398.00	\$20,398.00
Employee Entitlements	\$231,800.66	\$191,471.35
Total Current Liabilities	\$371,715.66	\$303,867.64
Non-Current Liabilities		
Non-Current Lease Incentive Provision	\$112,189.09	\$132,587.05
Total Non-Current Liabilities	\$112,189.09	\$132,587.05
Total Liabilities	\$483,904.75	\$436,454.69
Net Assets	\$2,986,495.36	\$2,220,228.01
Equity		
Current Year Earnings	\$373,617.70	\$198,114.21
Retained Earnings	\$2,612,877.66	\$2,022,113.80
Total Equity	\$2,986,495.36	\$2,220,228.01