

SECOND TRIMESTER REPORT

For 2020 - 2021

**1 NOVEMBER 2020 – 28 FEBRUARY
2021**



1. INTRODUCTION

This is the second 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.

Work published during trimester two was the Class Actions and Litigation Funding Issues Paper in early December 2020. Other projects continue to make good progress and remain on track as reported on below.

2. SUMMARY OF LAW REFORM PROJECTS – AS AT 28 FEBRUARY 2021

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 November 2020.	The target date of 30 October 2020 for the final report was met.
Review of Class Actions and Litigation Funding	The issues paper was published on 4 December 2020. The project continues.	The target date for publishing an issues paper in trimester two of 2020-21 was met. The final report is planned for May 2022.
Review of Succession Law	This project is underway.	An issues paper will be published in April 2021. The final report is planned for November 2021.

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.

Review of the Law Relating to Adult Decision-making Capacity	This project is underway.	Terms of Reference are being scoped.
Review of Surrogacy Law	The project is underway	Terms of Reference are being scoped.

3. LAW REFORM PROGRAMME

3.1 Final reports

One final report is due in 2020-21. The final report on the review of the Criminal Investigations (Bodily Samples) Act 1995 was completed in the first trimester period.

3.2 Issues papers

Two issues paper are due in 2020-21. The issues paper on Class Actions and Litigation Funding was published during this trimester period.

3.3 Timeliness of completion of reports and issues papers

The final issues paper due for 2020-21 remains on schedule for delivery within the agreed timeframe.

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; second reading 25 February 2021, awaiting Committee stage).

The Bill responds to several 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 mid-2021.
 - 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 TE AKA MATUA O TE TURE

4.1 Budget

On the advice of the Ministry of Justice, the Commission did not make a budget bid for 2021-22. As a result of ongoing cost pressures and future budget uncertainty, the Commission is adopting a conservative position. There is a risk that the Commission will not be able to fully deliver on its strategic objectives as initially envisaged.

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). One Commissioner has a term expiring within the next two months: on 15 May 2021. The Minister of Justice has supported the extension of for the term of another Commissioner for one year, to 9 February 2022. These Commissioners must be replaced or have their terms extended, or they must agree to remain at the Commission until a replacement Commissioner is appointed. If none of these three actions occurs, the Commission will be in breach of its operating legislation, the Law Commission Act 1985. Commissioners are appointed by the Governor-General on the recommendation of the responsible Minister, the Minister of Justice.

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	Achieved ³
Recognition of te ao Māori	Survey of Māori Liaison Committee and independent experts	Agree	Partially Achieved ⁴
Clear and understandable consultation papers, reports or other advice	Survey of independent experts	Agree	Achieved
Independent and practicable recommendations	Survey of independent experts	Agree	Achieved
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 Survey completed for the final report on Criminal Investigations (Bodily Samples) Act 1995. The survey questions (including definitions for measures) have been developed for the 2020-2021 year. Survey respondents were able to respond to the questions by selecting answers from a sliding scale and by providing comments.

⁴ The survey of independent experts has been completed but the Māori Liaison Committee will be surveyed closer to the end of the financial year.

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	2
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	11
References to the Commission's work	The number of references to the Commission's reports or advice in court decisions	60	48 year to date
	The number of references to the Commission's reports or advice in Parliamentary debates and committee reports, academic publications and other media	500	281 year to date
Implementation of reports or other advice	The percentage implementation of reports and advice over the previous 10-year period	60%	Under development

6. FINANCIAL REPORTING

6.1 Draft Profit and Loss statement for the year to 28 February 2021

Profit & Loss
Law Commission
For the year to 28 February 2021

	YTD Actual	YTD Budget	Variance
Income			
Interest Income	\$1,210	\$18,000	-\$16,790
Other Income	\$1,350	\$18,000	-\$16,650
Revenue from Crown	\$2,962,000	\$2,662,000	\$300,000
Total Income	\$2,964,560	\$2,698,000	\$266,560
Communication and Consultancy	\$9,557	\$25,336	-\$15,779
Depreciation and Amortisation	\$54,807	\$56,252	-\$1,445
FX Gains and Losses	-\$17	-	-\$17
General Expenses	\$174,870	\$253,480	-\$78,610
Library Costs	\$70,101	\$86,464	-\$16,363
Occupancy Costs	\$156,919	\$168,720	-\$11,801
Personnel Costs	\$1,889,111	\$2,004,280	-\$115,169
Project Costs	\$105,961	\$329,996	-\$224,035
Total Operating Expenses	\$2,461,309	\$2,924,528	-\$463,219
Net Surplus	\$503,251	-\$226,528	\$729,779

6.2 Draft Balance Sheet as at 28 February 2021

Balance Sheet Law Commission As at 28 February 2021

	28 Feb 2021	28 Feb 2020
<i>Assets</i>		
Current Assets		
Accounts Receivable	\$442	\$4,328
Cash	\$3,081,081	\$2,322,600
GST	\$9,270	\$17,190
Prepayments	\$38,208	\$48,523
Total Current Assets	\$3,129,001	\$2,392,641
Non-current Assets		
Fixed Assets	\$435,550	\$478,201
Total Non-current Assets	\$435,550	\$478,201
Total Assets	\$3,564,551	\$2,870,842
<i>Liabilities</i>		
Current Liabilities		
Creditors and Provisions	\$47,232	\$61,328
Current Lease Incentive Provision	\$20,398	\$20,398
Employee Entitlements	\$275,446	\$226,304
Total Current Liabilities	\$343,076	\$308,030
Non-Current Liabilities		
Non-Current Lease Incentive Provision	\$105,390	\$125,788
Total Non-Current Liabilities	\$105,390	\$125,788
Total Liabilities	\$448,466	\$433,818
Net Assets	\$3,116,085	\$2,437,024
<i>Equity</i>		
Current Year Earnings	\$503,251	\$414,910
Retained Earnings	\$2,612,834	\$2,022,114
Total Equity	\$3,116,085	\$2,437,024