

THIRD TRIMESTER REPORT

For 2019 - 2020

1 MARCH 2020 – 30 JUNE 2020



1. INTRODUCTION

This is Te Aka Matua o te Ture | Law Commission’s third Trimester report for 2019-20. This is supplied as required by the letter of expectations between the Minister Responsible for the Law Commission and the Commission dated 8 April 2019.

For most of the third trimester the Commission was working in the COVID-19 pandemic operating environment. Commission personnel were able to work effectively from home during the level 4 lockdown. All Commission personnel returned to the office by late May. The COVID pandemic and reliance on external parties with changed priorities meant the Commission was unable to deliver the previously agreed target of one final report. This was previously signaled as a high risk in the Commission’s letter to the Minister dated 21 May 2020.

2. SUMMARY OF LAW REFORM PROJECTS – AS AT 30 JUNE 2020

Project	Current status	Target dates ¹
Review of the Criminal Investigations (Bodily Samples) Act 1995	The final report is being drafted. Access to key external information and feedback was delayed due to COVID-19, resulting in a deferred completion date for the final	The target date for the final report is October 2020.
Review of Class Actions and Litigation Funding	The project is underway.	With the transition between lead Commissioners and the addition of a Preferred Approach Paper to the review process the Final report is now planned for May 2022.
Review of Succession Law	This project is underway.	Final report is planned for November 2021.
Review of the law relating to adults with impaired decision-making capacity	This project was referred to the Commission in July 2019. Due to resourcing constraints this project has not yet commenced.	N/A

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

No final reports were completed in the third trimester period.

3.2 Issues Papers

No Issues Papers were released during the third trimester period.

3.3 Timeliness of completion of reports and issues papers

The timeframe for completing the review of the Criminal Investigations (Bodily Samples) Act 1995 was extended to the 2020-2021 year due to the impact of the COVID pandemic and in particular the unavailability of feedback from key external parties.

3.4 Bills before the House

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).

The following information relates to Bills given Royal Assent in the third trimester of this year that relate (at least in part) to the Law Commission's earlier work:

- i. *Abortion Legislation Act 2020 (2020/6)* – Royal Assent 23 March 2020

The Bill was informed by the Law Commission's Ministerial briefing paper *Alternative approaches to abortion law* (NZLC MB4, 2018).

- ii. *Privacy Act 2020 (2020/31)* – Royal Assent 30 June 2020

The Act repeals and replaces the *Privacy Act 1993* as recommended by the Law Commission report *Review of the Privacy Act 1993: Review of the Law of Privacy Stage 4* (NZLC R132, 2011).

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 Ministry of Business Innovation and Employment (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). On 14 November 2019 MOH released a consultation document presenting options for modernising legislation relating to death, burial, cremation and funerals in New Zealand. Submissions close in October 2020.

4. RISKS FACING THE LAW COMMISSION

4.1 Budget bid

During the trimester the Commission was advised that its 2020-2021 budget bid was unsuccessful. In 2020-2021 the Commission will use its cash reserves as operating expenditure at a much faster rate than the four years planned, due to essential budgeted expenditure. The Commission’s unsustainable use of reserves to provide day to day operating expenditure has been previously disclosed to the Crown monitor. The current operating model of having only three Commissioners, as opposed to four, will temporarily slow the negative impact on reserves.

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

5. STATEMENT OF FORECAST SERVICE PERFORMANCE 2019-2020

Output Performance Measure		
Quantitative measures	Target for 2019/20	Third Trimester Result 2019-20
Measure – Publication of Final Reports	Target – 0*	No report provided. The target date for the Final Report in Review of the Criminal Investigations (Bodily Samples) Act 1995 is now October 2020. This is due to the impact of the COVID-19 pandemic.
Measure – Publication of Issues Papers	Target – 1- Issues paper posted to website	No issues paper posted on the website. Target has not been met, given the timeframes for Class Actions and Litigation Funding and Review of Succession Law, and that the review of the law relating to adults with impaired decision-making capacity is not yet underway because of resourcing constraints.
Measure – Ministerial briefing papers	Target – No ministerial briefing papers	
Measure – Management of the work programme	Target – within total revenue and reserves as agreed with the Minister	Achieved.

* Target adjusted due to COVID pandemic, as advised to the Minister 21 May 2020.

Qualitative measures	Target for 2019/20	Third Trimester Result 2019/20
Measure - High quality evidence-based analysis	Feedback from members of the Expert Advisory Group and other interested parties on references	Not applicable, see above, no report has been published in the relevant period.
Measure - Engagement and/or consultation	Feedback from members of the Expert Advisory Group and other interested parties on references	
Measure – Clear and understandable reports	Feedback from members of the Expert Advisory Group and other interested parties on references	
Measure – Independent and practicable recommendations	Feedback from members of the Expert Advisory Group and other interested parties on references	

6. FINANCIAL REPORTING

6.1 Draft Profit and Loss statement for the year to 30 June 2020:

Profit & Loss Law Commission For the 12 months ended 30 June 2020				
	Actual	Budget	Var NZD	Var %
Income				
Interest Income	\$16,328.82	\$54,000.00	-\$37,671.18	-69.76%
Other Income	\$70,872.17	\$0.00	\$70,872.17	
Revenue from Crown	\$3,993,000.00	\$3,993,000.00	\$0.00	0.0%
Sale of Publications	\$497.83	\$0.00	\$497.83	
Total Income	\$4,080,698.82	\$4,047,000.00	\$33,698.82	0.8327%
Less: Operating Expenses				
Communication and Consulta	\$15,758.30	\$36,000.00	-\$20,241.70	-56.23%
Depreciation and Amortisation	\$80,628.23	\$72,000.00	\$8,628.23	11.98%
Foreign Currency Gains and L	-\$31.62	\$0.00	-\$31.62	
General Expenses	\$492,998.97	\$277,752.00	\$215,246.97	77.5%
Library Costs	\$85,899.89	\$100,320.00	-\$14,420.11	-14.37%
Occupancy Costs	\$218,063.55	\$252,000.00	-\$33,936.45	-13.47%
Personnel Costs	\$2,583,442.57	\$3,313,230.00	-\$729,787.43	-22.03%
Project Costs	\$24,198.18	\$200,904.00	-\$176,705.82	-87.96%
Total Operating Expenses	\$3,500,958.07	\$4,252,206.00	-\$751,247.93	-17.7%
Net Surplus	\$579,740.75	-\$205,206.00	\$784,946.75	382.52%

6.2 Draft Balance Sheet as at 30 June 2020:

Balance Sheet Law Commission As at 30 June 2020		
	30 Jun 2020	30 Jun 2019
Assets		
Current Assets		
Accounts Receivable	\$266.69	\$23,435.21
Cash	\$2,568,990.45	\$1,888,756.99
GST	\$24,218.44	\$19,969.20
Prepayments	\$43,298.61	\$0.00
Total Current Assets	\$2,636,774.19	\$1,932,161.40
Non-current Assets		
Fixed Assets	\$465,199.85	\$531,560.85
Total Non-current Assets	\$465,199.85	\$531,560.85
Total Assets	\$3,101,974.04	\$2,463,722.25
Liabilities		
Current Liabilities		
Creditors and Provisions	\$154,027.79	\$85,184.32
Current Lease Incentive Provision	\$20,398.00	\$20,398.00
Employee Entitlements	\$206,767.29	\$196,701.76
Total Current Liabilities	\$381,193.08	\$302,284.08
Non-Current Liabilities		
Non-Current Lease Incentive Provision	\$118,988.41	\$139,386.37
Total Non-Current Liabilities	\$118,988.41	\$139,386.37
Total Liabilities	\$500,181.49	\$441,670.45
Net Assets	\$2,601,792.55	\$2,022,051.80
Equity		
Current Year Earnings	\$579,740.75	\$70,279.33
Retained Earnings	\$2,022,051.80	\$1,951,772.47
Total Equity	\$2,601,792.55	\$2,022,051.80