

MEDIA RELEASE

4 December 2020

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LAW COMMISSION SEEKING VIEWS ON CLASS ACTIONS AND LITIGATION FUNDING

Should Aotearoa New Zealand have class actions and commercial litigation funding? If so, how should they be regulated? Te Aka Matua o te Ture | Law Commission has today released an Issues Paper discussing these issues and is now seeking public feedback. Submissions are open until 11 March 2021.

Aotearoa New Zealand does not currently have a class actions regime as exists in many other countries. Instead, claims that might be brought as class actions in other countries are brought under the “representative actions rule”. Recent examples include the case brought against Southern Response by Mr and Mrs Ross.

“Our preliminary view is that Aotearoa New Zealand needs a statutory class actions regime” said Commission President Amokura Kawharu, lead commissioner on the class actions and litigation funding review. “Aotearoa New Zealand’s representative actions rule dates back to 1882 and we don’t think it’s sufficient for modern group litigation.”

While litigation funders are increasing their presence in Aotearoa New Zealand, we do not have any specific regulation of litigation funding. Historically the law has prohibited litigation funding, however access to justice considerations may mean it has an increasingly important role to play.

“Our initial view is that litigation funding is desirable in principle and should be permitted in Aotearoa New Zealand, so long as certain concerns can be addressed” said Ms Kawharu.

“In our view, class actions and litigation can improve access to justice. But there are risks and costs with both and these need to be carefully managed” said Ms Kawharu.

The Commission’s Issues Paper invites feedback on 60 questions on class actions and litigation funding. It will consider all the submissions and comments it receives before making a final view on whether to recommend class actions and litigation funding. If the Commission confirms its current view that a statutory class actions regime and regulation of litigation funding are desirable, it will develop its proposals for these and may provide a further opportunity for consultation. Its final report on class actions and litigation funding is due in the first half of 2022.

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BACKGROUND:

Te Aka Matua o te Ture | Law Commission is an Independent Crown Entity operating under its own statute, the Law Commission Act 1985. It reports to the Minister responsible for the Law Commission. The Commission's statutory purpose is to "promote the systematic review, reform and development of the law of New Zealand". The Law Commission receives its work programme for reform and development work as references from the responsible Minister under section 7 of the Law Commission Act and from Parliament. Visit lawcom.govt.nz for more information.

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This media release and the full publication are available from our website at:
www.lawcom.govt.nz/our-projects/class-actions-and-litigation-funding

