

Reprint

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Environment Act 1986

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

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An Act to—

**(a) Provide for the establishment of the office of
Parliamentary Commissioner for the Environment:**

- (b) **Provide for the establishment of the Ministry for the Environment:**
- (c) **Ensure that, in the management of natural and physical resources, full and balanced account is taken of—**
 - (i) **The intrinsic values of ecosystems; and**
 - (ii) **All values which are placed by individuals and groups on the quality of the environment; and**
 - (iii) **The principles of the Treaty of Waitangi; and**
 - (iv) **The sustainability of natural and physical resources; and**
 - (v) **The needs of future generations**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Environment Act 1986.
- (2) This Act shall come into force on the 1st day of January 1987.

2 Interpretation

In this Act, unless the context otherwise requires,—

Commissioner means the Parliamentary Commissioner for the Environment appointed under this Act

Consent means an authorisation, permission, a licence, a permit, a right, and any other approval of any type whatsoever, capable of being granted under—

- (a) Any Act specified in the Schedule to this Act:
- (b) Any regulation, rule, Order in Council, Proclamation, notice, or bylaw in force under any of those Acts:
- (c) Any operative regional plan or district plan or proposed plan under the Resource Management Act 1991—

and which it is necessary to obtain before the lawful commencement of any undertaking or activity which may affect the environment

Consent: paragraph (c) was substituted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Contaminant, means any substance (including gases, liquids, solids, and micro-organisms) or energy (including radioactivity and electromagnetic radiation but excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—

- (a) Changes or has the potential, when discharged into water, to change the physical, chemical, or biological condition of that water; or
- (b) Changes or has the potential, when discharged onto or into land or into air, to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged:

Contaminant: this definition was substituted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Ecosystem means any system of interacting terrestrial or aquatic organisms within their natural and physical environment

Environment includes—

- (a) Ecosystems and their constituent parts including people and communities; and
- (b) All natural and physical resources; and
- (c) Those physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes; and
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:

Environment: paragraph (a) was amended, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69) by inserting the words "including people and communities".

Environment: paragraph (c) was substituted, and paragraph (d) was inserted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Hazardous substance means any substance which may impair human, plant, or animal health or may adversely affect the health or safety of any person or the environment, whether

or not contained in or forming part of any other substance or thing

Hazardous substance: this definition was substituted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Hazardous substance: this definition was substituted, as from 2 July 2001, by section 149 Hazardous Substances and New Organisms Act 1996 (1996 No 30). *See* Parts 11 to 16 of that Act (comprising sections 151 to 259) as to the transitional provisions. *See* clause 2 Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171).

Local authority has the same meaning as in section 5(1) of the Local Government Act 2002

Local authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Minister means the Minister for the Environment

Ministry means the Ministry for the Environment established under this Act

Natural hazard means any atmospheric or earth or water related occurrence (including erosion, volcanic activity, landslip, subsidence, sedimentation, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or the environment

Natural and physical resources includes water, air, soil, minerals, hydrocarbons, and energy, all forms of flora and fauna (whether native to New Zealand or introduced) and any building, structure, machine, device, or other facility made by people

Pollution means any process, whether natural or artificial, resulting in the introduction of any contaminant into the environment; and noise; and **pollutant** has a corresponding meaning

Pollution: this definition was amended, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69) by omitting the words “includes air pollution within the meaning of the Clean Air Act 1972, and”.

Public authority means—

- (a) A Minister of the Crown:
- (b) A Government department:
- (c) Any instrument of the Executive Government of New Zealand:
- (d) Any local authority:

Secretary means the Secretary for the Environment appointed in accordance with section 29 of this Act

Territorial sea means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

Territorial Sea: the reference to the “Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977” was substituted, as from 1 August 1996, for a reference to the “Territorial Sea and Exclusive Economic Zone Act 1977” pursuant to section 5(4) Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Treaty of Waitangi means the Treaty of Waitangi as set out in Schedule 1 to the Treaty of Waitangi Act 1975.

3 Act to bind the Crown

This Act shall bind the Crown.

Part 1

Parliamentary Commissioner for the Environment

Administrative provisions

4 Parliamentary Commissioner for the Environment

- (1) There shall be appointed, as an officer of Parliament, a Parliamentary Commissioner for the Environment.
- (2) Subject to section 8 of this Act, the Commissioner shall be appointed by the Governor-General on the recommendation of the House of Representatives.

5 Commissioner not to hold other offices

The Commissioner shall not be capable of being a member of Parliament or of a local authority, and shall not, without the approval of the Speaker of the House of Representatives in each particular case, hold any office of trust or profit or engage in any occupation for reward outside the duties of the Commissioner’s office.

6 Term of office of Commissioner

- (1) Except as otherwise provided in this Act, the Commissioner shall hold office for a term of 5 years, but may be reappointed from time to time.
- (2) Where the term for which the Commissioner has been appointed expires, the Commissioner, unless sooner resigning from office or removed from office, shall continue to hold office, by virtue of the appointment for the term that has expired, until—
 - (a) The Commissioner is reappointed; or
 - (b) A successor to the Commissioner is appointed.
- (3) The Commissioner may at any time resign from office by writing addressed to the Speaker of the House of Representatives, or to the Prime Minister if there is no Speaker or if the Speaker is absent from New Zealand.

7 Removal or suspension from office

- (1) Subject to subsection (2) of this section, the Commissioner may be removed or suspended from office only by the Governor-General, upon an address from the House of Representatives, for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct.
- (2) At any time when Parliament is not in session, the Commissioner may be suspended from office by the Governor-General in Council for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General in Council; but any such suspension shall not continue in force beyond the end of the 24th sitting day of the next ensuing session of Parliament, and the salary of the Commissioner shall continue to be paid notwithstanding the suspension.

Subsections (1) and (2) were amended, as from 1 January 2002, by section 70(1) Human Rights Amendment Act 2001 (2001 No 96), by substituting the words “inability to perform the functions of the office” for the word “disability”.

8 Filling of vacancy

- (1) If the Commissioner dies, or resigns from office, or is removed from office, the vacancy thereby created shall be filled as soon as practicable in accordance with this section.
- (2) Subject to subsection (3) of this section, a vacancy in the office of Commissioner shall be filled by the appointment of a Commissioner by the Governor-General on the recommendation of the House of Representatives.
- (3) If—
 - (a) A vacancy occurs while Parliament is not in session or exists at the close of a session; and
 - (b) The House of Representatives has not recommended an appointment to fill the vacancy—the vacancy, at any time before the commencement of the next ensuing session of Parliament, may be filled by the appointment of a successor by the Governor-General in Council.
- (4) Any appointment made under subsection (3) of this section shall lapse and the office shall again become vacant unless, before the end of the 24th sitting day of the House of Representatives following the date of the appointment, the House confirms the appointment.

9 Salary and allowances of Commissioner

- (1) There shall be paid to the Commissioner out of public money, without further appropriation than this section,—
 - (a) A salary at such rate as the Remuneration Authority from time to time determines; and
 - (b) Such allowances as are from time to time determined by the Remuneration Authority.
- (2) The salary of the Commissioner shall not be diminished during the continuance of the Commissioner's appointment.
- (3) Notwithstanding anything in subsection (1) of this section, there shall be paid to the Commissioner, in respect of time spent in travelling in the exercise of the Commissioner's functions, travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Commis-

sioner were a member of a **statutory Board** and the travelling were in the service of a statutory Board.

- (4) The Commissioner shall be entitled to such annual leave, sick leave, and other leave as may be determined by the Speaker of the House of Representatives.
- (5) The Commissioner shall not be regarded as being employed in the service of Her Majesty for the purposes of the State Sector Act 1988 by reason of appointment as the Commissioner.

The “State Services Act 1962” was repealed, as from 1 April 1988, by section 88(1) State Sector Act 1988 (1988 No 20).

Subsection (1) was amended, as from 1 July 1989, by section 86(1) Public Finance Act 1989 (1989 No 44) by substituting the words “public money” for the words “the Consolidated Account”.

Subsection (1) was amended, as from 1 April 2003, by section 4(1) Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54) by substituting the words “Remuneration Authority” for the words “Higher Salaries Commission” in both places where they appear.

Subsection (4) was substituted, as from 1 April 1988, by section 87 State Sector Act 1988 (1988 No 20).

10 Oath to be taken by Commissioner

- (1) Before entering upon the exercise of the duties of office the Commissioner shall take an oath that he or she will faithfully and impartially perform the duties of the office, and will not, except for the purposes of this Act, divulge any information received by the Commissioner under this Act.
- (2) The oath shall be administered by the Speaker or the Clerk of the House of Representatives.

11 Employees

- (1) The Commissioner may from time to time appoint such employees as may be necessary for the efficient carrying out of the Commissioner’s functions, powers, and duties under this Act.
- (2) The Commissioner is responsible for negotiating, under the Employment Relations Act 2000, every employment agreement applicable to employees appointed under this section.
- (3) The Commissioner shall operate a personnel policy that complies with the principle of being a good employer.

- (4) No person so employed shall be deemed to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988 by reason of that person's appointment under this section.

Section 11 was substituted, as from 1 April 1996, by section 2 Environment Amendment Act 1996 (1996 No 11).

Subsection (2) was substituted, as from 2 October 2000, by section 240 Employment Relations Act 2000 (2000 No 24).

12 Secondment of State servants to office of Commissioner

[Repealed]

This section was repealed, as from 1 April 1996, by section 3 Environment Amendment Act 1996 (1996 No 11).

13 Employment of consultants

- (1) The Commissioner may from time to time appoint any person with expert knowledge, or who is otherwise able to assist the Commissioner, to make such inquiries, conduct such research, and make such reports as the Commissioner considers will better enable the Commissioner to exercise and perform the Commissioner's powers and functions under this Act.
- (2) The Commissioner shall determine the terms and conditions under which any person is appointed under subsection (1) of this section.

Subsection (2) was substituted, as from 1 April 1996, by section 4 Environment Amendment Act 1996 (1996 No 11).

14 Speaker may require staff to be made available to select committees

At the request of any select committee of the House of Representatives, the Speaker of the House of Representatives may require the Commissioner to make available any officer or employee holding office under section 11 or section 12 of this Act or (with the person's consent) any person appointed under section 13 of this Act to advise the select committee.

15 Superannuation

For the purposes of the Government Superannuation Fund Act 1956, service as the Commissioner or as an officer or employee

appointed or seconded under section 11 or section 12 of this Act shall be deemed to be Government service.

Functions and powers

16 Functions of Commissioner

- (1) The functions of the Commissioner shall be—
- (a) With the objective of maintaining and improving the quality of the environment, to review from time to time the system of agencies and processes established by the Government to manage the allocation, use, and preservation of natural and physical resources, and to report the results of any such review to the House of Representatives and to such other bodies or persons as the Commissioner considers appropriate;
 - (b) Where the Commissioner considers it necessary, to investigate the effectiveness of environmental planning and environmental management carried out by public authorities, and advise them on any remedial action the Commissioner considers desirable;
 - (c) To—
 - (i) Investigate any matter in respect of which, in the Commissioner's opinion, the environment may be or has been adversely affected, whether through natural causes or as a result of the acts or omissions of any person or body, to an extent which the Commissioner considers warrants investigation; and
 - (ii) Advise, where necessary, the appropriate public authority and any other person or body the Commissioner thinks appropriate of the preventive measures or remedial action which the Commissioner considers should be taken; and
 - (iii) Report the results of the investigation to the House of Representatives;
 - (d) At the request of the House of Representatives or any select committee of the House of Representatives, to report to the House or committee on any petition, Bill, or other matter before the House or committee the sub-

- ject-matter of which may have a significant effect on the environment:
- (e) On the direction of the House of Representatives, to inquire into any matter that has had or may have a substantial and damaging effect on the environment, and to report the results of the inquiry to the House:
 - (f) To undertake and encourage the collection and dissemination of information relating to the environment:
 - (g) To encourage preventive measures and remedial actions for the protection of the environment.
- (2) For the purposes of any inquiry held under subsection (1)(e) of this section, the Commissioner shall have the same powers as are conferred on Commissions of Inquiry by section 4 and sections 4B to 9 of the Commissions of Inquiry Act 1908; and those sections shall apply to all persons involved in any capacity in any such inquiry as if it were an inquiry conducted by a Commission under that Act.
- (3) The Commissioner shall have, in relation to any such inquiry, and any report on the results of the inquiry, the same immunities and privileges as are possessed by a District Court Judge in the exercise of the Judge's civil jurisdiction.

17 Matters to which regard to be given

In the performance of the Commissioner's functions the Commissioner, where the Commissioner considers it appropriate, shall have regard, in particular but not exclusively, to—

- (a) The maintenance and restoration of ecosystems of importance, especially those supporting habitats or rare, threatened, or endangered species of flora or fauna:
- (b) Areas, landscapes, and structures of aesthetic, archaeological, cultural, historical, recreational, scenic, and scientific value:
- (c) Any land, water, sites, fishing grounds, or physical or cultural resources, or interests associated with such areas, which are part of the heritage of the tangata whenua and which contribute to their wellbeing:
- (d) The effects on communities of people of—
 - (i) Actual or proposed changes to natural and physical resources:

- (ii) The establishment or proposed establishment of new communities:
- (e) Whether any proposals, policies, or other matters, the consideration of which is within the Commissioner's functions, are likely to—
 - (i) Result in or increase pollution; or
 - (ii) Result in the occurrence, or increase the chances of occurrence, of natural hazards or hazardous substances; or
 - (iii) Result in the introduction of species or genotypes not previously present within New Zealand (including the territorial sea); or
 - (iv) Have features, the environmental effects of which are not certain, and the potential impact of which is such as to warrant further investigation in order to determine the environmental impact of the proposal, policy, or other matter; or
 - (v) Result in the allocation or depletion of any natural and physical resources in a way or at a rate that will prevent the renewal by natural processes of the resources or will not enable an orderly transition to other materials:
- (f) All reasonably foreseeable effects of any such proposal, policy, or other matter on the environment, whether adverse or beneficial, short term or long term, direct or indirect, or cumulative:
- (g) Alternative means or methods of implementing or providing for any such proposal, policy, or matter in all or any of its aspects, including the consideration, where appropriate, of alternative sites.

18 Powers of Commissioner

The Commissioner shall have such powers as may be necessary to enable the Commissioner to carry out the Commissioner's functions under this Act.

19 Power to obtain information

- (1) The Commissioner may from time to time require any person who in the Commissioner's opinion is able to give any infor-

mation relating to any matter which is being investigated or inquired into by the Commissioner to furnish to the Commissioner any such information and to produce any documents or papers or things which in the Commissioner's opinion relate to any such matter and which may be in the possession or under the control of that person.

- (2) The Commissioner may summon before the Commissioner and examine on oath any person who in the Commissioner's opinion is able to give any such information, and for that purpose may administer an oath. Every such examination by the Commissioner shall be deemed to be a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).
- (3) Any person who is bound by the provisions of any enactment (other than the State Sector Act 1988 and the Official Information Act 1982) to maintain secrecy in relation to any matter or not to disclose any matter shall not be required to—
 - (a) Supply any information to the Commissioner; or
 - (b) Answer any question put by the Commissioner; or
 - (c) Produce any document, paper, or thing to the Commissioner—if compliance with the requirement would be in breach of the obligation of secrecy or non-disclosure.
- (4) Every person shall have the same privileges in relation to the giving of information, the answering of questions, and the production of documents and papers and things in accordance with this section as witnesses have in any Court.
- (5) Except on the trial of any person for perjury within the meaning of the Crimes Act 1961 in respect of his or her sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Commissioner shall be admissible in evidence against any person in any Court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person.
- (6) No person shall be liable to prosecution for an offence against any enactment, other than this Act, by reason of compliance with any requirement of the Commissioner under this section.

- (7) Where any person is required by the Commissioner to attend before the Commissioner for the purposes of this section, that person shall be entitled to the same fees, allowances, and expenses as if he or she were a witness in a Court, and the provision of any regulations in force under the Summary Proceedings Act 1957 shall apply accordingly. For the purposes of this subsection the Commissioner shall have the powers of a Court under any such regulations to fix or disallow, in whole or in part, or increase the amounts payable thereunder.

Subsection (3) was amended, as from 1 April 1988, by section 90(a) State Sector Act 1988 (1988 No 20) by substituting the reference to the “State Services Act 1962” for a reference to the “State Sector Act 1988”.

20 Commissioner and staff to maintain secrecy, etc

- (1) The Commissioner and every person holding any office or appointment under the Commissioner shall be deemed for the purposes of sections 105 and 105A of the Crimes Act 1961 to be officials.
- (2) Except for purposes connected with the administration of this Act or with the carrying out of the provisions of this Act, the Commissioner and every person holding any office or appointment under the Commissioner shall maintain secrecy in respect of all matters that come to their knowledge in the exercise and performance of their powers and functions under this Act.
- (3) Every person holding any office or appointment under the Commissioner, before beginning to perform any official duty under this Act, shall take an oath, to be administered by the Commissioner, that he or she will not divulge any information received under this Act except for purposes connected with the administration of this Act or with the carrying out of the provisions of this Act.

21 Commissioner’s right to be heard in proceedings

- (1) In any proceedings in any way relating to or arising from the obtaining of, or any attempt to obtain, any consent, the Commissioner—

- (a) Shall have the right to be present and be heard solely for the purpose of calling evidence on any matter (including evidence in rebuttal) that should be taken in account in determining the proceedings:
 - (b) May examine, cross-examine, and re-examine witnesses:
 - (c) May be represented by counsel or by any duly authorised representative—
but shall have no greater rights than parties to the proceedings in respect of the calling of evidence or evidence in rebuttal, or in respect of the examination, cross-examination, and re-examination of witnesses.
- (2) Where the Commissioner appears in any proceedings pursuant to any of the provisions of subsection (1) of this section, the Court, Tribunal, or other body before which those proceedings are conducted, where it has power to award costs to or against parties to the proceedings, may make such order as it thinks just—
- (a) As to the payment by any party to the proceedings of the costs incurred by the Commissioner in so doing; or
 - (b) As to the payment by the Commissioner of any costs incurred by any party to the proceedings by reason of the Commissioner's so doing.
- (3) Where any costs are so awarded to the Commissioner, the Commissioner may recover them in the same manner as parties to the proceedings may recover costs awarded to them.

22 Delegation of functions and powers

- (1) The Commissioner may from time to time, either generally or in respect of a specified matter or class of matters and subject to such conditions and restrictions as the Commissioner thinks fit, by writing, delegate any of the Commissioner's functions and powers to an officer or employee of the Commissioner.
- (2) The Commissioner shall keep at the Commissioner's office a copy of every instrument by which a delegation under subsection (1) of this section is effected, and shall permit any person to inspect that instrument.
- (3) Notwithstanding subsection (1) of this section, the Commissioner shall not delegate the following powers or functions:

- (a) The power of delegation conferred by that subsection;
or
 - (b)
 - (c)
 - (d) The power to act as a Commission of Inquiry under section 16(2) of this Act; or
 - (e) The function of reporting to the House of Representatives.
- (4) Any delegation under this section may be made to—
- (a) A specified person; or
 - (b) A person of a specified class; or
 - (c) The holder for the time being of a specified office or appointment; or
 - (d) The holders for the time being of offices or appointments of a specified class.
- (5) Subject to any general or special directions given or conditions or restrictions imposed by the Commissioner, the person to whom any functions and powers are delegated may perform and exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (6) Where the Commissioner or any delegate of the Commissioner uses a written document to inform any other person of action taken by a delegate of the Commissioner, that written document—
- (a) Shall state that the action was taken by a delegate of the Commissioner; and
 - (b) Shall give the delegate's name and office; and
 - (c) Shall inform that other person that a copy of the instrument of delegation may be inspected at the office of the Commissioner.
- (7) Every delegation under this section shall be revocable at will, but any such revocation shall not take effect until it has been communicated to the delegate.
- (8) A delegation under this section shall not prevent the performance or exercise of any function or power by the Commissioner.

- (9) Until any such delegation is revoked, it shall continue in force according to its tenor. If the Commissioner by whom it was made ceases to hold office, it shall continue to have effect as if made by the Commissioner's successor.

Subsection (3)(b) and (c) were repealed, as from 1 April 1996, by section 5 Environmental Amendment Act 1996 (1996 No 11).

22A Proceedings privileged

- (1) This section applies to—
- (a) The Commissioner; and
 - (b) Every person engaged or employed in connection with the work of the Commissioner.
- (2) Subject to subsection (3) of this section—
- (a) No proceedings, civil or criminal, shall lie against any person to whom this section applies for anything he or she may do or report or say in the course of the exercise or intended exercise of his or her duties under this Act, unless it is shown that he or she acted in bad faith:
 - (b) No person to whom this section applies shall be required to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions.
- (3) Nothing in subsection (2) of this section applies in respect of proceedings for—
- (a) An offence against section 78 or section 78A(1) or section 105 or section 105A or section 105B of the Crimes Act 1961; or
 - (b) The offence of conspiring to commit an offence against section 78 or section 78A(1) or section 105 or section 105A or section 105B of the Crimes Act 1961; or
 - (c) The offence of attempting to commit an offence against section 78 or section 78A(1) or section 105 or section 105A or section 105B of the Crimes Act 1961.
- (4) Anything said or information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act shall be privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

- (5) For the purposes of clause 3 of Part 2 of Schedule 1 to the Defamation Act 1992, any report made under this Act by the Commissioner shall be deemed to be an official report made by a person holding an inquiry under the authority of the Parliament of New Zealand.

This section was inserted, as from 1 April 1996, by section 6 Environmental Amendment Act 1996 (1996 No 11).

23 Annual report

Without limiting the right of the Commissioner to report at any other time, the Commissioner shall in each year make a report to the House of Representatives on the performance of the Commissioner's functions under this Act and on any other matter the Commissioner considers appropriate.

24 Offences

Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$1,000 who—

- (a) Without lawful justification or excuse, wilfully obstructs, hinders, or resists the Commissioner or any other person in the exercise of his or her powers under this Part of this Act:
- (b) Without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commissioner or any other person under this Part of this Act:
- (c) Wilfully makes any false statement to or wilfully misleads or attempts to mislead the Commissioner or any other person in the exercise of his or her powers under this Part of this Act:
- (d) Represents directly or indirectly that he or she holds any authority under this Part of this Act when he or she does not hold that authority.

25 Money to be appropriated by Parliament for purposes of this Part of Act

Except as otherwise provided in this Part of this Act, all salaries and allowances and other expenditure payable or incurred under or in the administration of this Part of this

Act shall be payable out of money to be appropriated by Parliament for the purpose.

26 Audit

- (1) The House of Representatives shall appoint an auditor to audit the accounts of the Office of the Parliamentary Commissioner for the Environment.
- (2)
- (3) In carrying out the functions conferred by this section, the auditor shall have the same functions, duties, and powers as the Audit Office.

Section 26 was substituted, as from 31 March 1996, by section 7 Environment Amendment Act 1996 (1996 No 11).

Subsection (2) was repealed, as from 1 July 2001, by section 53 Public Audit Act 2001 (2001 No 10).

27 Amending Official Information Act 1982

[Repealed]

This section was repealed, as from 1 April 1987, by section 23(2)(f) Official Information Amendment Act 1987 (1987 No 8).

Part 2 Ministry for the Environment

28 Ministry for the Environment

- (1) There is hereby established a department of State to be called the Ministry for the Environment.
- (2) The Ministry shall be under the control of the Minister.

29 Secretary for the Environment

There shall from time to time be appointed, under the State Sector Act 1988, a Secretary for the Environment who shall be the administrative head of the Ministry and who shall advise and assist the Minister in the performance of the Minister's functions.

This section was amended, as from 1 April 1988, by section 90(a) State Sector Act 1988 (1988 No 20) by substituting the reference to the "State Services Act 1962" for a reference to the "State Sector Act 1988".

30 Other officers and employees of Ministry

There shall from time to time be appointed, under the State Sector Act 1988, such other officers and employees of the Ministry as may be necessary for the efficient carrying out of the functions of the Ministry.

This section was amended, as from 1 April 1988, by section 90(a) State Sector Act 1988 (1988 No 20) by substituting the reference to the “State Services Act 1962” for a reference to the “State Sector Act 1988”.

31 Functions of Ministry

The Ministry shall have the following functions:

- (a) To advise the Minister on all aspects of environmental administration, including—
 - (i) Policies for influencing the management of natural and physical resources and ecosystems so as to achieve the objectives of this Act:
 - (ii) Significant environmental impacts of public or private sector proposals, particularly those that are not adequately covered by legislative or other environmental assessment requirements currently in force:
 - (iii) Ways of ensuring that effective provision is made for public participation in environmental planning and policy formulation processes in order to assist decision making, particularly at the regional and local level:
- (b) To solicit and obtain information from any source, and to conduct and supervise research, so far as it is necessary for the formulation of advice to the Government on environmental policies:
- (c) To provide the Government, its agencies, and other public authorities with advice on—
 - (i) The application, operation, and effectiveness of the Acts specified in the Schedule to this Act in relation to the achievement of the objectives of this Act:
 - (ii) Procedures for the assessment and monitoring of environmental impacts:
 - (iii) Pollution control and the co-ordination of the management of pollutants in the environment:

- (iv) The identification and likelihood of natural hazards and the reduction of the effects of natural hazards:
- (v) The control of hazardous substances, including the management of the manufacture, storage, transport, and disposal of hazardous substances:
- (d) To facilitate and encourage the resolution of conflict in relation to policies and proposals which may affect the environment:
- (e) To provide and disseminate information and services to promote environmental policies, including environmental education and mechanisms for promoting effective public participation in environmental planning:
- (f) Generally to provide advice on matters relating to the environment:
- (g) to carry out any other functions that may be conferred on the Ministry by any enactment.

Paragraph (g) was inserted, as from 1 August 2003, by section 53 Climate Change Response Act 2002 (2002 No 40). See clause 2 Climate Change Response Act Commencement Order 2003 (SR 2003/151).

32 Matters to which regard to be given

In carrying out the Ministry's functions, every officer and employee of the Ministry, so far as is practicable, shall have regard to the matters set out in section 17(a) to (g) of this Act.

33 Committees

- (1) The Minister may from time to time appoint such committees comprising 1 or more members as the Minister thinks fit to advise or otherwise assist the Minister or the Secretary on such matters relating to the functions of the Minister or the Ministry as the Minister may specify.
- (2) Every member of a committee shall hold office at the pleasure of the Minister.
- (3) Subject to any directions given to it by the Minister, every committee may regulate its own procedure.
- (4) Every such committee is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

- (5) There may, if the Minister so directs, be paid to any member of a committee, out of money appropriated by Parliament for the purpose,—
- (a) Remuneration by way of fees, salary, or allowances in accordance with the Fees and Travelling Allowances Act 1951; and
 - (b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of such committee—
- and the provisions of that Act shall apply accordingly.
- (6) No person shall, by reason only of being a member of a committee, be regarded as being employed in the State services for the purposes of the State Sector Act 1988 or in the Government service for the purposes of the Government Superannuation Fund Act 1956.

Subsection (6) was amended, as from 1 April 1988, by section 90(a) State Sector Act 1988 (1988 No 20) by substituting the reference to the “State Services Act 1962” for a reference to the “State Sector Act 1988”.

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[Repealed]

Subsection (1) was amended, as from 20 November 1989, by section 2 Environment Amendment Act 1989 (1989 No 114) by substituting the words “financial year of the Ministry” for the words “calendar year”.

Section 34 was repealed, as from 25 January 2005, by section 37(1) Public Finance Amendment Act 2004 (2004 No 113).

35 Ombudsmen Act 1975 amended

Part 1 of Schedule 1 to the Ombudsmen Act 1975 is hereby amended by inserting, after the item relating to the Ministry of Energy, the following item:

“The Ministry for the Environment.”

Schedule
Acts under which consents may be granted

Sections 2, 31(c)(i)

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- The Antarctica Act 1960.
 - The Antarctica (Environmental Protection) Act 1994.
 - The Antarctic Marine Living Resources Act 1981.
 - The Atomic Energy Act 1945.
 - The Biosecurity Act 1993.
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 - The Conservation Act 1987.
 - The Continental Shelf Act 1964.
 - The Crown Minerals Act 1991.
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 - The Electricity Act 1992.
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 - The Fisheries Act 1983.
 - The Fisheries Act 1996.
 - The Forest and Rural Fires Act 1977.
 - The Forests Act 1949.
 - The Gas Act 1992.
 - Government Roding Powers Act 1989.
 -
 - The Harbours Act 1950.
 -
 - Hauraki Gulf Marine Park Act 2000.
 - The Hazardous Substances and New Organisms Act 1996.
 - The Health Act 1956.
 - The Historic Places Act 1993.
 -
 - The Land Act 1948.
 - The Local Government Act 1974.
 - The Local Government Act 2002
 -
 - The Marine Mammals Protection Act 1978.
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 - The Marine Reserves Act 1971.
 - The Maritime Transport Act 1994.

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- The National Parks Act 1980.
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- The Public Works Act 1981.
- The Radiation Protection Act 1965.
- The Reserves Act 1977.
- The Resource Management Act 1991.
- The Transport Act 1962: s 70AA
- The Wild Animal Control Act 1977.
- The Wildlife Act 1953.

Animals Act 1967: Omitted, as from 29 July 1998, with application to new organisms, by section 150(1) Hazardous Substances and New Organisms Act 1996 (1996 No 30). *See* clause 2 Hazardous Substances and New Organisms Act (New Organisms) Commencement Order 1998 (SR 1998/220). *See* Parts 11 to 16 of that Act (comprising sections 151 to 259) as to the transitional provisions. *See* clause 2 Hazardous Substances and New Organisms Act (New Organisms) Commencement Order 1998 (SR 1998/220). *See* clause 2 Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171) as to that amendment coming fully into force as from 2 July 2001.

Antarctica (Environmental Protection) Act 1994: Inserted, as from 23 January 1998, by section 56(1) Antarctica (Environmental Protection) Act 1994 (1994 No 119). *See* clause 2 Antarctica (Environmental Protection) Act 1994 (SR 1998/1).

Biosecurity Act 1993: Inserted, as from 1 October 1993, by section 168(1) Biosecurity Act 1993 (1993 No 95).

Clean Air Act 1972: Omitted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Coal Mines Act 1979: Omitted, as from 1 October 1991, by section 121 Crown Minerals Act 1991 (1991 No 70).

Conservation Act 1987: Inserted, as from 20 November 1989, by section 3 Environment Amendment Act 1989 (1989 No 114).

Crown Minerals Act 1991: Inserted, as from 1 October 1991, by section 121 Crown Minerals Act 1991 (1991 No 70).

Dangerous Goods Act 1974: Omitted, as from 2 July 2001, by section 150(1) Hazardous Substances and New Organisms Act 1996 (1996 No 30). *See* Parts 11 to 16 of that Act (comprising sections 151 to 259) as to the transitional provisions. *See* clause 2 Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171).

Electricity Act 1992: Inserted, as from 1 April 1993, by section 173(2) Electricity Act 1992 (1992 No 122).

Electric Power Boards Act 1925: Omitted, as from 7 October 1994, by section 96(1) Energy Companies Act 1992 (1992 No 56).

Electricity Act 1968: Omitted, as from 1 April 1993, by section 173(2) Electricity Act 1992 (1992 No 122).

Fisheries Act 1996: Inserted, as from 1 January 2005, by section 21(a) Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Gas Act 1992: Inserted, as from 1 April 1993, by section 58(2) Gas Act 1992 (1992 No 124).

Geothermal Energy Act 1953: Omitted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Schedule Government Roding Powers Act 1989: inserted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Hauraki Gulf Maritime Park Act 1967: Omitted, as from 19 July 1990, pursuant to section 41(c) Conservation Law Reform Act 1990 (1990 No 31).

Hauraki Gulf Marine Park Act 2000: inserted, as from 27 February 2000, by section 49 Hauraki Gulf Marine Park Act 2000 (2000 No 1).

Hazardous Substances and New Organisms Act 1996: this definition was inserted, as from 2 July 2001, by section 149 Hazardous Substances and New Organisms Act 1996 (1996 No 30). *See* Parts 11 to 16 of that Act (comprising sections 151 to 259) as to the transitional provisions. *See* clause 2 Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171).

Historic Places Act 1993: this was inserted, as from 1 July 1993, for the Historic Places Act 1980 pursuant to section 118(1) Historic Places Act 1993 (1993 No 38).

Iron and Steel Industry Act 1959: Omitted, as from 1 October 1991, pursuant to section 361(1) Resource Management Act 1991 (1991 No 69).

Local Government Act 2002: was inserted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Marine Farming Act 1971: Omitted, as from 1 January 2005, by section 21(b) Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Marine Pollution Act 1975: Omitted, as from 20 August 1998, by section 480 Maritime Transport Act 1994 (1994 No 104). *See* clause 2(e) Maritime Transport Act Commencement Order 1998 (SR 1998/206).

Maritime Transport Act 1994: Inserted, as from 20 August 1998, by section 480 Maritime Transport Act 1994 (1994 No 104). *See* clause 2(e) Maritime Transport Act Commencement Order 1998 (SR 1998/206).

Mining Act 1971: Omitted, as from 1 October 1991, by section 121 Crown Minerals Act 1991 (1991 No 70).

National Roads Act 1953: Omitted, as from 1 October 1989, by section 116(4) Transit New Zealand Act 1989 (1989 No 75).

Noise Control Act 1982: Omitted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Petroleum Act 1937: Omitted, as from 1 October 1991, by section 121 Crown Minerals Act 1991 (1991 No 70).

Pesticides Act 1979: Omitted, as from 2 July 2001, by section 150(1) Hazardous Substances and New Organisms Act 1996 (1996 No 30). *See* Parts 11 to 16 of that Act (comprising sections 151 to 259) as to the transitional provisions. *See* clause 2 Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171).

Plants Act 1970: Omitted, as from 29 July 1998, with application to new organisms, by section 150(1) Hazardous Substances and New Organisms Act 1996 (1996 No

30). *See* clause 2 Hazardous Substances and New Organisms Act (New Organisms) Commencement Order 1998 (SR 1998/220). *See* Parts 11 to 16 of that Act (comprising sections 151 to 259) as to the transitional provisions. *See* clause 2 Hazardous Substances and New Organisms Act (New Organisms) Commencement Order 1998 (SR 1998/220). *See* clause 2 Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171) as to that amendment coming fully into force as from 2 July 2001.

Resource Management Act 1991: Inserted, as from 1 October 1991, by section 362 of that Act.

Soil Conservation and Rivers Control Act 1941: Omitted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Schedule Transit New Zealand Act 1989: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Transit New Zealand Act 1989: Inserted, as from 1 October 1989, by section 116(4) Transit New Zealand Act 1989 (1989 No 75).

Section 70AA of the Transport Act 1962: Inserted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Town and Country Planning Act 1977: Omitted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

Toxic Substances Act 1979: Omitted, as from 2 July 2001, by section 150(1) Hazardous Substances and New Organisms Act 1996 (1996 No 30). *See* Parts 11 to 16 of that Act (comprising sections 151 to 259) as to the transitional provisions. *See* clause 2 Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171).

Water and Soil Conservation Act 1967: Omitted, as from 1 October 1991, by section 362 Resource Management Act 1991 (1991 No 69).

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Notes**1 General**

This is an eprint of the Environment Act 1986. It incorporates all the amendments to the Environment Act 1986 as at 1 August 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)
