

**Reprint  
as at 28 September 2017**



## **Environment Act 1986**

Public Act      1986 No 127  
Date of assent    18 December 1986  
Commencement    see section 1(2)

### **Contents**

	Page
Title	2
1 Short Title and commencement	3
2 Interpretation	3
3 Act to bind the Crown	5

### **Part 1**

#### **Parliamentary Commissioner for the Environment**

##### *Administrative provisions*

4 Parliamentary Commissioner for the Environment	5
5 Commissioner not to hold other offices	5
6 Term of office of Commissioner	5
7 Removal or suspension from office	6
8 Filling of vacancy	6
9 Salary and allowances of Commissioner	7
10 Oath to be taken by Commissioner	7
11 Employees	7
12 Secondment of State servants to office of Commissioner	8
<i>[Repealed]</i>	

---

#### **Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry for the Environment.**

13	Employment of consultants	8
14	Speaker may require staff to be made available to select committees	8
15	Superannuation	8
	<i>Functions and powers</i>	
16	Functions of Commissioner	9
17	Matters to which regard to be given	10
18	Powers of Commissioner	11
19	Power to obtain information	11
20	Commissioner and staff to maintain secrecy, etc	12
21	Commissioner's right to be heard in proceedings	12
22	Delegation of functions and powers	13
22A	Proceedings privileged	14
23	Annual report	15
24	Offences	15
25	Money to be appropriated by Parliament for purposes of this Part	16
26	Audit	16
27	Amending Official Information Act 1982 <i>[Repealed]</i>	16

## Part 2

### Ministry for the Environment

28	Ministry for the Environment	16
29	Secretary for the Environment	16
30	Other officers and employees of Ministry	16
31	Functions of Ministry	17
32	Matters to which regard to be given	18
33	Committees	18
34	Annual report <i>[Repealed]</i>	18
35	Ombudsmen Act 1975 amended	18

## Schedule

### Acts under which consents may be granted

#### 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**

## **1 Short Title and commencement**

- (1) This Act may be cited as the Environment Act 1986.
- (2) This Act shall come into force on 1 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:
- (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

**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

**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) or which are affected by those matters

**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

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

**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

**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

**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

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

Section 2 **consent** paragraph (c): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 2 **contaminant**: substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 2 **environment** paragraph (a): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 2 **environment** paragraph (c): substituted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 2 **environment** paragraph (d): added, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 2 **hazardous substance**: substituted, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Section 2 **local authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2 **pollution**: amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 2 **territorial sea**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

### **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, 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), 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.

Section 7(1): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 7(2): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

## **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), 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) 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), 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 Commissioner 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.

Section 9(1): amended (with effect on 1 July 1989), on 26 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

Section 9(1)(a): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 9(1)(b): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 9(4): substituted, on 1 April 1988, by section 87 of the State Sector Act 1988 (1988 No 20).

Section 9(5): amended, on 1 April 1988, pursuant to section 88(2) of the 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: substituted, on 1 April 1996, by section 2 of the Environment Amendment Act 1996 (1996 No 11).

Section 11(2): substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

## **12 Secondment of State servants to office of Commissioner**

*[Repealed]*

Section 12: repealed, on 1 April 1996, by section 3 of the 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).

Section 13(2): substituted, on 1 April 1996, by section 4 of the 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 or (with the person's consent) any person appointed under section 13 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 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 subject 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), 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 well-being:
- (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 information 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 Criminal Procedure Act 2011 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.

Section 19(3): amended, on 1 April 1988, pursuant to section 88(2) of the State Sector Act 1988 (1988 No 20).

Section 19(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **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), 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) is effected, and shall permit any person to inspect that instrument.
- (3) Notwithstanding subsection (1), the Commissioner shall not delegate the following powers or functions:
  - (a) the power of delegation conferred by that subsection; or
  - (b) *[Repealed]*
  - (c) *[Repealed]*
  - (d) the power to act as a commission of inquiry under section 16(2); 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.

Section 22(3)(b): repealed, on 1 April 1996, by section 5 of the Environment Amendment Act 1996 (1996 No 11).

Section 22(3)(c): repealed, on 1 April 1996, by section 5 of the Environment 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)—
- (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) applies in respect of proceedings for—
- (a) an offence against section 78, 78AA(1), 78A(1), 105, 105A, or 105B of the Crimes Act 1961; or
  - (b) the offence of conspiring to commit an offence against section 78, 78AA(1), 78A(1), 105, 105A, or 105B of the Crimes Act 1961; or

- (c) the offence of attempting to commit an offence against section 78, 78AA(1), 78A(1), 105, 105A, or 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 of 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.

Section 22A: inserted, on 1 April 1996, by section 6 of the Environment Amendment Act 1996 (1996 No 11).

Section 22A(3)(a): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 22A(3)(b): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 22A(3)(c): amended, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

## **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 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:
- (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:
- (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:
- (d) represents directly or indirectly that he or she holds any authority under this Part when he or she does not hold that authority.

Section 24: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

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

Except as otherwise provided in this Part, all salaries and allowances and other expenditure payable or incurred under or in the administration of this Part 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) *[Repealed]*

(3) In carrying out the functions conferred by this section, the auditor shall have the same functions, duties, and powers as the Auditor-General.

Section 26: substituted, on 1 April 1996, by section 7 of the Environment Amendment Act 1996 (1996 No 11).

Section 26(2): repealed, on 1 July 2001, by section 53 of the Public Audit Act 2001 (2001 No 10).

Section 26(3): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

**27 Amending Official Information Act 1982**

*[Repealed]*

Section 27: repealed, on 1 April 1987, by section 23(2)(f) of the 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.

Section 29: amended, on 1 April 1988, pursuant to section 88(2) of the State Sector Act 1988 (1988 No 20).

**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.

Section 30: amended, on 1 April 1988, pursuant to section 88(2) of the State Sector Act 1988 (1988 No 20).

### **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 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.

Section 31(g): added, on 1 August 2003, by section 53 of the Climate Change Response Act 2002 (2002 No 40).

### **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).

### **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.

Section 33(6): amended, on 1 April 1988, pursuant to section 88(2) of the State Sector Act 1988 (1988 No 20).

### **34 Annual report**

*[Repealed]*

Section 34: repealed, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

### **35 Ombudsmen Act 1975 amended**

*Amendment(s) incorporated in the Act(s).*

---

**Schedule**  
**Acts under which consents may be granted**

ss 2, 31(c)(i)

Antarctica Act 1960  
Antarctica (Environmental Protection) Act 1994  
Antarctic Marine Living Resources Act 1981  
Atomic Energy Act 1945  
Biosecurity Act 1993  
Conservation Act 1987  
Continental Shelf Act 1964  
Crown Minerals Act 1991  
Electricity Act 1992  
Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012  
Fisheries Act 1983  
Fisheries Act 1996  
Forest and Rural Fires Act 1977  
Forests Act 1949  
Gas Act 1992  
Government Roding Powers Act 1989  
Harbours Act 1950  
Hauraki Gulf Maritime Park Act 1967  
Hauraki Gulf Marine Park Act 2000  
Hazardous Substances and New Organisms Act 1996  
Health Act 1956  
Heritage New Zealand Pouhere Taonga Act 2014  
Iron and Steel Industry Act 1959  
Land Act 1948  
Local Government Act 1974  
Local Government Act 2002  
Marine Mammals Protection Act 1978  
Marine Reserves Act 1971  
Maritime Transport Act 1994  
National Parks Act 1980  
Public Works Act 1981  
Radiation Safety Act 2016

Reserves Act 1977

Resource Management Act 1991

Transport Act 1962: section 70AA

Wild Animal Control Act 1977

Wildlife Act 1953

Schedule Animals Act 1967: repealed, on 29 July 1998, by section 150(1) of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Schedule Antarctica (Environmental Protection) Act 1994: inserted, on 23 January 1998, by section 56(1) of the Antarctica (Environmental Protection) Act 1994 (1994 No 119).

Schedule Biosecurity Act 1993: inserted, on 1 October 1993, by section 168(1) of the Biosecurity Act 1993 (1993 No 95).

Schedule Clean Air Act 1972: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Schedule Coal Mines Act 1979: repealed, on 1 October 1991, by section 121 of the Crown Minerals Act 1991 (1991 No 70).

Schedule Conservation Act 1987: inserted, on 20 November 1989, by section 3 of the Environment Amendment Act 1989 (1989 No 114).

Schedule Crown Minerals Act 1991: inserted, on 1 October 1991, by section 121 of the Crown Minerals Act 1991 (1991 No 70).

Schedule Dangerous Goods Act 1974: repealed, on 2 July 2001, by section 150(1) of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Schedule Electric Power Boards Act 1925: repealed, on 7 October 1994, by section 96(1) of the Energy Companies Act 1992 (1992 No 56).

Schedule Electricity Act 1968: repealed, on 1 April 1993, by section 173(2) of the Electricity Act 1992 (1992 No 122).

Schedule Electricity Act 1992: inserted, on 1 April 1993, by section 173(2) of the Electricity Act 1992 (1992 No 122).

Schedule Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012: inserted, on 28 June 2013, by section 173 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Schedule Fisheries Act 1996: inserted, on 1 January 2005, by section 21(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Schedule Gas Act 1992: inserted, on 1 April 1993, by section 58(2) of the Gas Act 1992 (1992 No 124).

Schedule Geothermal Energy Act 1953: repealed, on 1 October 1991, by section 362 of the 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).

Schedule Hauraki Gulf Marine Park Act 2000: inserted, on 27 February 2000, by section 49 of the Hauraki Gulf Marine Park Act 2000 (2000 No 1).

Schedule Hazardous Substances and New Organisms Act 1996: inserted, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Schedule Heritage New Zealand Pouhere Taonga Act 2014: inserted, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Schedule Historic Places Act 1980: repealed, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

- Schedule Local Government Act 2002: inserted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).
- Schedule Marine Farming Act 1971: repealed, on 1 January 2005, by section 21(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).
- Schedule Marine Pollution Act 1974: repealed, on 20 August 1998, by section 480 of the Maritime Transport Act 1994 (1994 No 104).
- Schedule Maritime Transport Act 1994: inserted, on 20 August 1998, by section 480 of the Maritime Transport Act 1994 (1994 No 104).
- Schedule Mining Act 1971: repealed, on 1 October 1991, by section 121 of the Crown Minerals Act 1991 (1991 No 70).
- Schedule National Roads Act 1953: repealed, on 1 October 1989, by section 116(4) of the Transit New Zealand Act 1989 (1989 No 75).
- Schedule Noise Control Act 1982: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).
- Schedule Pesticides Act 1979: repealed, on 2 July 2001, by section 150(1) of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).
- Schedule Petroleum Act 1937: repealed, on 1 October 1991, by section 121 of the Crown Minerals Act 1991 (1991 No 70).
- Schedule Plants Act 1970: repealed, on 29 July 1998, by section 150(1) of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).
- Schedule Radiation Protection Act 1965: repealed, on 7 March 2017, by section 99 of the Radiation Safety Act 2016 (2016 No 6).
- Schedule Radiation Safety Act 2016: inserted, on 7 March 2017, by section 99 of the Radiation Safety Act 2016 (2016 No 6).
- Schedule Resource Management Act 1991: inserted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).
- Schedule Soil Conservation and Rivers Control Act 1941: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).
- Schedule Town and Country Planning Act 1977: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).
- Schedule Toxic Substances Act 1979: repealed, on 2 July 2001, by section 150(1) of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).
- 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).
- Schedule Transport Act 1962: section 70AA: inserted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).
- Schedule Water and Soil Conservation Act 1967: repealed, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

## Reprints notes

### 1 *General*

This is a reprint of the Environment Act 1986 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Intelligence and Security Act 2017 (2017 No 10): section 335

Radiation Safety Act 2016 (2016 No 6): section 99

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72): section 173

Criminal Procedure Act 2011 (2011 No 81): section 413

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

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Fisheries Amendment Act (No 3) 2004 (2004 No 104): section 21

Local Government Act 2002 (2002 No 84): section 262

Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54): section 4(1)

Climate Change Response Act 2002 (2002 No 40): section 53

Human Rights Amendment Act 2001 (2001 No 96): section 70(1)

Public Audit Act 2001 (2001 No 10): sections 52, 53

Employment Relations Act 2000 (2000 No 24): section 240

Hauraki Gulf Marine Park Act 2000 (2000 No 1): section 49

Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74): section 5(4)

Hazardous Substances and New Organisms Act 1996 (1996 No 30): sections 149, 150(1)

Environment Amendment Act 1996 (1996 No 11)

Antarctica (Environmental Protection) Act 1994 (1994 No 119): section 56(1)

Maritime Transport Act 1994 (1994 No 104): section 480

Biosecurity Act 1993 (1993 No 95): section 168(1)

Gas Act 1992 (1992 No 124): section 58(2)  
Electricity Act 1992 (1992 No 122): section 173(2)  
Energy Companies Act 1992 (1992 No 56): section 96(1)  
Crown Minerals Act 1991 (1991 No 70): section 121  
Resource Management Act 1991 (1991 No 69): section 362  
Environment Amendment Act 1989 (1989 No 114)  
Transit New Zealand Act 1989 (1989 No 75): section 116(4)  
Public Finance Act 1989 (1989 No 44): section 86(1)  
State Sector Act 1988 (1988 No 20): sections 87, 88(2)  
Official Information Amendment Act 1987 (1987 No 8): section 23(2)(f)