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# LAW COMMISSION

## TE AKA MATUA O TE TURE

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### MEDIA RELEASE

21 November 2012

Hon Sir Grant Hammond KNZM  
President  
Law Commission

## LAW COMMISSION INVITES SUBMISSIONS ON JOINT AND SEVERAL LIABILITY

The Law Commission today released its Issues Paper discussing and calling for submissions on its Review of Joint and Several Liability.

In New Zealand, civil liability is governed by the principle of joint and several liability. This rule provides that where two or more people are liable for the same loss, then each defendant will be potentially liable for the whole of the loss.

The joint and several liability principle has been controversial in recent years, particularly as a result of the leaky homes crisis and financial crises.

Defendants in these cases have argued that a fairer system of allocating liability would be the proportionate system. Under this system each defendant is liable for the share of the loss the Court finds just, based on their comparative responsibility for the loss.

The proportionate liability system applies in Australia, with some variations between different States.

The Issues Paper analyses both systems of liability, and also considers a variety of modifications to the existing system. The Commissioner in charge of the reference, Dr Wayne Mapp, said:

“The system of allocating liability has been controversial in recent years. The Issues Paper will provide the opportunity for interested parties to give their considered view on the best way forward.”

The Law Commission is now seeking views on the options for reforming the system of liability, and also for the advantages of the status quo. The closing date for submissions is **Thursday 31 January 2013**.

-ENDS-

**For further information and comment, contact: Dr Wayne Mapp, Law Commission, tel (04) 914 4844 or 021 799 767, [wmapp@lawcom.govt.nz](mailto:wmapp@lawcom.govt.nz)**

This media release and a copy of the publication is available from our website at <http://www.lawcom.govt.nz/project/review-joint-and-several-liability>