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LAW·COMMISSION  
TE·AKA·MATUA·O·TE·TURE

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*Report of the*

LAW COMMISSION  
Te Aka Matua o te Ture

*for the year ended 30 June 2003*

*Presented to the House of Representatives under  
section 17 of the Law Commission Act 1985 and  
section 44A of the Public Finance Act 1989*

*August 2003*  
Wellington, New Zealand

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This report is also available on the Internet at the Commission's  
website: <http://www.lawcom.govt.nz>

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29 August 2003

Dear Minister

I have the honour to submit to you the report of the Law Commission for the year ended 30 June 2003.

This report is prepared under section 17 of the Law Commission Act 1985 and section 44A of the Public Finance Act 1989.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Bruce Robertson'. The signature is fluid and cursive, with a long horizontal stroke at the end that extends to the right.

*J Bruce Robertson*  
President

*The Hon Lianne Dalziel*  
Minister Responsible for the  
Law Commission  
Parliament Buildings  
Wellington



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# The Law Commission: Te Aka Matua o te Ture Directory

THE LAW COMMISSION is an independent, publicly funded, central advisory body established by statute to undertake the systematic review, reform and development of the law of New Zealand. Its purpose is to help achieve law that is just, principled, and accessible, and that reflects the heritage and aspirations of the peoples of New Zealand.

In developing its proposals, the Commission recognises the Treaty of Waitangi as the founding document of New Zealand, and takes account of community and international experience.

The members of the Law Commission as at 30 June 2003, appointed under section 9 of the Law Commission Act 1985, are:

The Hon Justice J Bruce Robertson – President  
Judge Patrick Keane  
Professor Ngatata Love QSO JP  
Frances Joychild  
Richard Clarke QC

## ADDRESS DETAILS

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Information about the Law Commission and its work is available via the Internet from the Commission's website at:  
<http://www.lawcom.govt.nz>.

## FUNDING

The Law Commission is funded from money appropriated by Parliament through Vote:Justice.

## MĀORI COMMITTEE

The Māori Committee to the Law Commission assists the Commission in identifying projects to advance te ao Māori, and helps the Commission in implementing te ao Māori in its work. The current members are:

Sir Graham Latimer (Chairman)

Hon Justice ET Durie

Professor Mason Durie CNZM

Adjunct Professor Michael JA Brown CNZM Hon LLD (Auckland)

Te Atawhai / Archie Tairaoa

Jacqui Te Kani CNZM

Shane Jones

Chief Judge JV Williams

Tumu Te Heuheu

Rawiri Te Whare (alternate to Tumu Te Heuheu)

Neville Baker.

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# President's report

## THE HON JUSTICE J BRUCE ROBERTSON

THE YEAR UNDER REVIEW has been dominated by, and at times has felt almost submerged in, the “Structure of the Courts” review. Although this has been a mammoth undertaking, we have endeavoured to maintain our interests and involvement in other areas at the same time.

We produced the study paper *Liability for Loss Resulting from the Development, Supply, or Use of Genetically Modified Organisms* (NZLC SP14). This was a follow on from the work of the Royal Commission on Genetic Modification. The fundamental issue we were asked to investigate was:

The adequacy of current statute and common law for dealing with issues of liability for loss from genetically modified organisms. If the current law is not considered adequate, what options exist for specific liability regimes and what are their advantages and disadvantages?

We determined that two particular issues arose:

- are there new challenges presented by GMOs that are not adequately dealt with by the existing liability regime and any regime?
- if there are gaps in our liability regime, are those gaps specific to GMOs?

We concluded that, at its heart, the issue required first order policy decisions to be made before legal arrangements could be proposed. It was our view that these core decisions should not be made by lawyers because the issues require the widest possible debate and community involvement.

The Commission was requested to do further work, but we were of the view that we had provided all the assistance we responsibly and sensibly could. Further work would have required skills that were different from those possessed within the Commission.

During the year, we issued the study paper *Treaty of Waitangi Claims: Addressing the Post-Settlement Phase* (NZLC SP13). This was an advisory report for Te Puni Kōkiri, the Office of Treaty Settlements

and the Chief Judge of the Māori Land Court. It is an area in which we would anticipate being requested to do further work because the issues raised are of fundamental importance. There is a value in guidelines being available for those who are the recipients of Treaty of Waitangi settlements to make use of as they see fit.

Following a major report by the Law Commission on Arbitration in 1991, Parliament enacted the Arbitration Act 1996. This year we published the report *Improving the Arbitration Act 1996* (NZLC R83) that focused on issues that had emerged from that enactment and responded to other issues that have arisen in the international arena. There is ongoing work with regard to possible statutory amendments arising from our recommendations.

The final report *Dispute Resolution in the Family Court* (NZLC R82) was published earlier in the year. Commissioner Vivienne Ullrich QC and senior researcher Helen Colebrook undertook the principal work in this area. Shortly after its release, Ms Ullrich was appointed as a District Court Judge with a Family Court warrant. During her two years with the Commission, Vivienne gave leadership in the family law sector and made active and important contributions to other parts of our work. Steps are currently underway for Ms Ullrich's replacement at the Commission.

The report is a major resource for the consideration of future directions in the Family Court, an institution that has developed and gained in importance in the last two decades with which we are proud to have been able to assist.

It was the beginning of 2003 before new Commissioners were available for the two vacancies left by Commissioners whose terms had expired in the first part of 2002. This had an adverse effect on our ability to progress some projects, but we were extraordinarily fortunate to engage the services of Neville Trendle who recently retired as Assistant Commissioner of Police. Neville has been involved on a half-time basis, as if a Commissioner, and is providing sustained and valuable contributions in many areas.

The two new Commissioners – Ms Frances Joychild and Mr Richard Clarke QC – have brought new and exciting dimensions to the talent, skill and experience available within the Commission.

Not only has the court review been huge, it has been of special significance because of the approach adopted to it, namely that the courts are so critical to our constitution and democracy that the views and perspectives of all citizens and sectors are relevant and important. The consultative process has, at times, been fraught because, understandably, there is resistance to the possibility of

changing that with which particular groups are familiar and comfortable. However, our determination and general climate of goodwill has enabled progress to be made and a productive dialogue was initiated and has been sustained. We have operated this exercise throughout on the basis of “no surprises or secrets”. Workshops, individual meetings, hui and informal gatherings have been our regular diet. Even as we move to the conclusion of this work, we continue to advise and seek response from interested stakeholders on our current thinking about directions for change.

Preliminary work is underway on a reference on the “Life Insurance Act 1908”. Work has also commenced on the “Status as a Parent” project. We have, again, been able to turn to unfinished business with regard to “Search and Search Warrants”. We anticipate progressing the “Privacy” reference during the forthcoming year.

Although our relationships have been excellent with the Ministry of Justice, the Department for Courts, Te Puni Kōkiri, the Parliamentary Counsel Office and other government departments and agencies working in the same areas as we are, we remain concerned that there are still reports and recommendations of the Commission that have not been responded to by Government. We are not unaware of the pressures on the legislative programme, but the problems addressed by Sir Geoffrey Palmer, in his review of the Law Commission, remain to be satisfactorily resolved. We are conscious of the efforts of those who advise Executive Government with regard to action on some important reports from the early 1990s that have not been implemented, as well as progressing more recent work.

Immediately after Easter 2004 we will host the biennial Conference of Australasian Law Reform Agencies, which is a large but exciting challenge. His Excellency Neroni Slade, Jane Diplock AO and Sir Geoffrey Palmer will be among the line up of national and international speakers.

This work is made possible and sustained by the high competency of staff in all parts of our operation. Bala Benjamin continues as the Executive Manager, maintaining the highest standards in our administrative operation. The courts project has been managed by Margaret Thompson, who is on secondment from the Department for Courts, and whose commitment, professionalism and determination have made the enterprise possible. At both senior and junior levels we have excellent researchers and we continue to be well served by our administrative, information technology and support staff. An organisation with about 30 people inevitably involves substantial interdependence and the overall level of

commitment and dedication of our staff has enabled significant work to be undertaken.

The Commission remains as a unique body in the New Zealand landscape. The fact that we do not fall easily within conventional arrangements can be disconcerting for some and can create a degree of discomfort for others. The Commission has a dedicated and clear duty to keep the law under review and, after consultation and study, to make recommendations for specific reforms. If we are to fulfil our potential we must be willing to ask the hard questions, to challenge existing structures and deep-rooted preconceptions and, then, without inhibition or constraint, be willing to recommend new, and better ways in which our system can operate. To do otherwise is to fail to respond to our duty.

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# The Commissioners

## CURRENT COMMISSIONERS

### **Hon Justice J Bruce Robertson**

**J**USTICE ROBERTSON began a five-year term as President of the Law Commission on 1 May 2001. He was appointed a High Court Judge in 1987 sitting in Auckland. He has been a member of the Criminal Appeal Division of the New Zealand Court of Appeal since 1996 and has regularly presided in the Court of Appeal of Vanuatu.

Justice Robertson graduated BA, LLB from the University of Otago. As a Harkness Fellow of the Commonwealth Fund of New York he completed an LLM at the University of Virginia in the early 1970s. He has been awarded an Honorary Doctorate of Laws from Otago where he was both a part-time lecturer and a Council member for almost 20 years. For six years he was Pro-Chancellor.

He was a partner in the Dunedin law firm Ross Dowling Marquet & Griffin and is a former President of the Otago District Law Society, served on the Council of Legal Education, and was, for 10 years, President of the Legal Research Foundation. He is a founding member of the Legislation Advisory Committee.

He is the consulting Editor of both *Adams on Criminal Law* and the New Zealand Law Society's *Introduction to Advocacy*.

### **Judge Patrick Keane**

Judge Keane began a three-year term as a Law Commissioner on 1 May 2001. In 1987, he was appointed a District Court Judge and a Taxation Review Authority. He has held Family Court warrant and currently holds a trial warrant. He has been a partner in two law firms, Izard Weston & Co and Watts & Patterson (or, as it became, Rudd Watts & Stone). He has also been a Crown Counsel.

## **Professor Ngatata Love QSO JP**

Professor Love began a three-year term as a part-time Law Commissioner on 1 May 2001. He works part-time as a Professor in the School of Management at Victoria University of Wellington and is an Emeritus Professor of Massey University, Palmerston North. He was formally the Chief Executive of Te Puni Kōkiri. From 1973 to 1995, Dr Love held a number of academic posts at Massey University. He served as Dean of the Faculty of Business Studies between 1986 and 1995. Dr Love provides the Law Commission with specialist knowledge on Māori issues and policy practices in the public sector.

## **Frances Joychild**

Frances Joychild was appointed a full-time Law Commissioner for a term of three years from 10 February 2003. She graduated LLM (Hons) from Auckland University in 1998. At the time of her appointment, she had been a barrister sole in private practice for five years, specialising in civil litigation, including public law, human rights, privacy and employment law.

Prior to entering private practice, Ms Joychild was employed by the Human Rights Commission for 16 years, the last 10 of which she spent as legal adviser and counsel to the Human Rights Commission and Proceedings Commissioner. She has been the updating author of *Brooker's Human Rights Law* since 2001.

## **Richard Clarke QC**

Richard Clarke was appointed as a part-time Law Commissioner for a term of three years from 21 January 2003. He was a parliamentary counsel in the Parliamentary Counsel Office from 1975 to 1981, and from 1981 until 1999 was a commercial partner in Rudd Watts & Stone and Chapman Tripp Sheffield Young respectively. He has been in practice as a barrister sole since 1999 and was appointed as a Queen's Counsel in 2002. He has been chairman of the Legislation Advisory Committee since 1999.

## **FORMER COMMISSIONER**

## **Vivienne Ullrich QC**

Ms Ullrich resigned with effect from 1 May 2003 to take up a position as a District Court Judge in the Family Court.

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## The year under review

THE COMMISSION published papers and reports in the areas of arbitration, family court dispute resolution, genetic modification, post-settlement assets arising out of Treaty of Waitangi settlements and the courts structure.

The first publication was a study paper released on 19 August 2002 entitled *Treaty of Waitangi Claims: Addressing the Post-Settlement Phase: An Advisory Report for Te Puni Kōkiri, the Office of Treaty Settlements and the Chief Judge of the Māori Land Court* (NZLC SP13).

The study paper arose from a request from the Minister Responsible for the Law Commission. The Commission was asked to inquire into and report on whether there is a need for administrative or legislative changes to address problems that have arisen in the period leading up to, and in the course of, the implementation of Treaty of Waitangi settlements.

The Commission advocated combining the best elements of New Zealand's domestic law with relevant elements of tikanga Māori to provide a commercially and culturally successful entity for settlement groups who have the responsibility for holding and administering newly acquired assets that have been received as part of settlements for breaches of the principles of the Treaty of Waitangi.

In Study Paper 13, the Law Commission suggested that a statutory regime should be established to allow for the creation of such entities and a model that would have adaptable rules that could be adopted by settlement groups.

The Commission argued that such entities would derive legitimacy from the Māori community by conforming with societal expectations, in particular tikanga Māori. In conformity with current practice, four core features would need to be included in the constitution of the entity: stewardship, accountability, transparency and dispute resolution.

When disputes arose, recourse to the courts should be the last, rather than the only, option. If recourse to the courts was to be an

available option, it should then be to a forum that was best placed to deal with Māori issues and that allowed members of the group to settle disputes between themselves, in a manner with which Māori are comfortable.

While the Commission expressed no preference, this process could be by way of a domestic tribunal set up by the group itself and/or could utilise the skills of Māori Land Court judges sitting with pūkenga (experts in tikanga and whakapapa) in a mediation, or perhaps ultimately, in an adjudication role.

As a result of short timeframes, limited consultation with Māori took place, and hence the Commission considered this paper as the first, and not the last, word on the subject.

This was followed by another study paper *Liability for Loss Resulting from the Development, Supply, or Use of Genetically Modified Organisms* (NZLC SP14) which was also released in August 2002.

In Study Paper 14 the Commission noted that a key problem with liability for damage caused by genetic modification is that it is difficult to assess the level of risk posed, or the size of the potential damage. Given these uncertainties, the increasing use of genetic modification in New Zealand may cause damage that cannot be covered under any liability regime. Government will have to decide how responsibility for any risks of the new technology is to be apportioned among the industry, individuals and the State.

The second preliminary paper in the Commission's three-stage review of the court system was released in December 2002 – *Seeking Solutions: Options for Change to the New Zealand Court System* (NZLC PP52). It discussed the day-to-day reality for people using the courts in the context of national and international issues, and trends in court reform.

The paper contains the following suggestions for making the courts more accessible to all:

- more support and assistance to people who appear in court, especially those without lawyers;
- appointment times for court appearances;
- increased use of registrars so more can be done outside the courtroom and throughout the day;
- introduce an independent State prosecution service;
- make mediation compulsory for all cases going to court or, alternatively, use sanctions such as cost orders to encourage parties to attempt mediation before going to court;
- wholesale reform of civil procedure with redrafted court rules;



- increased specialisation for hearing commercial cases;
- widen the jurisdiction of the Māori Land Court;
- make the processes and administration of tribunals more independent and consistent.

Other ideas included making legal information more easily available, and simplifying language. Possible changes to the way cases are managed included introduction of a new court below the District Court, and changes to the appeal structure below the proposed new Supreme Court.

*Seeking Solutions* focused on how things might be improved. It looked, in particular, at the parts of the system that most people use – the “high volume” criminal and civil areas.

A positive development, which was already in train in response to the Commission’s first paper *Striking the Balance: A Review of the New Zealand Court System*, has been the Department for Courts working with the Commission to pilot a list court process in the Wellington District Court next year.

The Commission’s first report for the year 2003 was *Improving the Arbitration Act 1996* (NZLC R83), which was released in February.

In its preliminary paper, NZLC PP46, on the subject of arbitration, the Commission raised some specific (and important) problems identified in the operation of the Arbitration Act 1996. In the report, the Commission recommends solutions to the problems after carefully considering the submissions received. In particular, it recommends that arbitration hearings take place in private, subject to certain conditions. But, when it is necessary for parties to an arbitral proceeding to have recourse to courts of general jurisdiction, it should be one of open process except where a judge concludes that the private interests of the parties outweigh the interests in disclosure in a particular case. On the question of whether perverse findings of fact, or findings based on no evidence, constitute “error of law” for the purpose of clause 5(1)(c) of the Second Schedule of the Act, it recommends that the Act be amended to state expressly that it does not, by changing the definition of the term “error of law”.

This was followed by *Dispute Resolution in the Family Court* (NZLC R82), which was released in April 2003.

Most New Zealanders would agree that the well-being of families is crucial to a functioning society. How well we, as a nation, value and support families can be gauged by the level of support we give to

families and institutions whose work is to support families in times of difficulty. One such institution is the Family Court.

In recent times, some have criticised the Family Court saying that it is biased against men, matters take too long to resolve, the professionals involved with the Court are trained inadequately, and that children and families suffer as a result. These views were reflected in some of the submissions received by the Law Commission.

It is, perhaps, inevitable that the Family Court will be criticised. The Court deals on a day-to-day basis with families in crisis. When families can't resolve disputes themselves, judges are left to make extremely difficult decisions, with far-reaching consequences. Few people are happy with such personal matters being decided by someone else, and all parties can feel that they have lost out.

The Commission believes that the Family Court offers New Zealanders a good service, but that it can be improved. Working from the principle that the best and most feasible solutions are generally those that people generate themselves, the Law Commission recommends a number of ways to improve the conciliation services offered by the Family Court:

- Giving families better information about the Court, its services and processes so that their expectations of the Court are realistic and to help them use the Court's services wisely and appropriately.
- Extending the Family Court conciliation services by making counselling available to all Family Court parties, including children, and by developing services that recognise cultural diversity.
- Offering education sessions for parents who are separating and their children.
- Introducing professional mediation services as a means of resolving disputes short of a decision made by a judge.

When families cannot solve their problems through conciliation, or where there is violence or the risk of harm to a child, and the Family Court needs to intervene, it should do so as efficiently as possible. In the Law Commission's view, for the Family Court to perform well it should:

- Provide a fair and just process for parties.
- Resolve disputes as quickly as possible.
- Make urgent interim orders where necessary.
- Keep pace with social change.
- Recognise differing cultural values.

- Provide opportunities for children’s views to be heard, including making sure that children’s legal interests are represented in court.
- Provide Court users with assistance from empathetic, well-qualified and properly trained Court staff and professionals.
- Provide information and seek professional assistance from report writers and Child, Youth and Family Services (CYFS) to inform Court decisions, when required.
- Liaise effectively with individuals and community groups that help families.

The Law Commission believes that these changes will ensure that the Family Court can provide services that are relevant, necessary and, perhaps, even welcomed by families needing a helping hand.

All these publications are available from the Commission or can be downloaded free-of-charge from our website at [www.lawcom.govt.nz](http://www.lawcom.govt.nz).

## ADVISORY SERVICES TO OTHER STATE AGENCIES

For details please refer page 31.

## CORPORATE SERVICES

### **Finance**

The Government funding received for the year was less than in previous years because the Commission voluntarily forewent a sum equivalent to one month of funding. Because we operated for almost seven months of the financial year with only four Commissioners the expenditure on personnel costs was substantially lower than the budget. Consequently, the work produced was less than what was budgeted for, which resulted in under expenditure on project costs. Overall, we finished the year with an operating deficit substantially lower than the budget.

### **Changes in staff**

During the year the following staff members left the Commission:

- Kerry Davis
- Michael Josling
- Simon Karipa
- Marcus McMillan
- Barbara McPhee

- Patricia Sarr (returned to the Ministry of Justice)
- Barbara Sutton

During the year the following joined the Commission:

- Julia de Bres
- Rosalind Brown
- Raewyn Champion
- Jacki Eves (seconded from the Office of the Auditor-General)
- Susan Hall
- Joanna Hayward
- Rachael James
- Alexander Schumacher
- Victoria Stace.

## Commissioners and staff



*From left to right, standing:* Jacqueline Kitchen, Bala Benjamin, Janet November, Frances Joychild, Christine Kleingeld, Victoria Stace, Margaret Thompson, Alison Girvan, Richard Clarke, Gloria Hakiwai, Bruce Robertson, Susan Hall, Chris Waight, Rachel Hayward, Neville Trendle, Elizabeth Craig, Robert Ludbrook, Rachael James.

*From left to right, seated:* Marilyn Cameron, Colleen Gurney, Alexander Schumacher, Raewyn Champion, Ngatata Love, Patrick Keane, Brenda Speak, Julia de Bres.

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# Financial statements for the year ended 30 June 2003

## STATEMENT OF RESPONSIBILITY

**T**HE COMMISSION accepts responsibility for the preparation of the financial statements and the judgments used herein.

The Commission accepts responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of its financial and non-financial reporting.

In the opinion of the Commission the annual financial statements for the year ended 30 June 2003 fairly reflect the financial position and operations of the Law Commission.

*Hon Justice Robertson*  
President

*B Benjamin*  
Executive Manager

29 August 2003

29 August 2003

# STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2003

## **Reporting entity**

The Law Commission is a Crown entity established by the Law Commission Act 1985.

The Financial Statements have been prepared in accordance with section 17 of the Law Commission Act.

## **Measurement base**

The financial statements have been prepared on an historical basis, modified by the revaluation of library collections, furniture and fittings, and office equipment.

## **Accounting policies**

The following particular accounting policies that materially affect the measurement of financial performance and financial position have been applied:

### 1 *Budget figures*

The budget figures are those approved by the Commission at the beginning of the financial year.

The budgets have been prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Commission for the preparation of the financial statements.

### 2 *Revenue*

The Commission derives revenue through the provision of outputs to the Crown, from the sale of its publications to third parties and income from investments. Such revenue is recognised when earned and is reported in the financial period to which it relates.

### 3 *Goods and Services Tax (GST)*

All items in the financial statements are exclusive of GST, with the exception of receivables and payables, which are stated with GST included.

### 4 *Taxation*

The Law Commission is a public authority in terms of the Income Tax Act 1994 and consequently is exempt from income tax.

## 5 *Fixed assets*

All fixed assets are initially recorded at cost. Library collections are valued every four years to fair value. Library collections were last revalued as at 30 June 2000 by independent valuer, Steph Lambert of Lambert's Library Services. Furniture and fittings and office equipment were revalued for the first time as at 30 June 2001 to fair value by independent valuer, Rolle Limited. Changes in revaluation are charged to the Asset Revaluation Reserve account. When this results in a debit balance in the reserve account, the balance is expensed in the Statement of Financial Performance.

## 6 *Depreciation*

Depreciation is provided on a straight-line basis on all fixed assets at a rate that will write off the cost (or valuation) of the assets to their residual value over their useful lives.

The useful lives and associated depreciation rates of major classes of assets have been estimated as follows.

	Estimated useful life (years)	Rate of depreciation (%)
Computer equipment	3	33.3
Furniture and fittings	5	20
Office equipment	3	33.3
Computer software	3	33.3
Library collections	4	25

## 7 *Investments*

Investments are stated at the lower of cost and net realisable value.

## 8 *Leases Operating leases*

Leases, where the lessor effectively retains substantially all the risks and benefits of ownership of the leased items, are classified as operating leases. Operating lease expenses are recognised on a systematic basis over the period of the lease.

## 9 *Statement of cash flows*

*Cash* means cash balances on hand, held in bank accounts, demand deposits and other highly liquid investments, in which the Commission invests as part of its day-to-day cash management.

*Operating activities* include all activities other than investing and financing activities. The cash inflows include receipts from the sale of goods and services and other sources of revenue that support the



Law Commission's operating activities. Cash outflows include payments made to employees, suppliers and for taxes.

*Investing activities* are those activities relating to the acquisition and disposal of non-current assets.

*Financing activities* comprise the change in equity of the Commission.

#### 10 *Cost of service statements*

The cost of service statements report the net cost of outputs of the Law Commission.

##### *Cost allocation policy*

Direct costs identifiable against specific projects are charged directly to those projects. Indirect costs are charged to specific projects in proportion to the direct labour hours recorded against those projects.

##### *Criteria for direct and indirect costs*

"Direct costs" are those costs directly attributable to a specific project.

"Indirect costs" are those costs that cannot be identified in an economically feasible manner with a specific project.

##### *Cost drivers for allocation of indirect costs*

The cost of goods and services not directly charged to projects is allocated as overheads using the direct labour hours recorded against projects.

#### 11 *Financial instruments*

The Law Commission is a party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short-term deposits, debtors and creditors. All financial instruments are recognised in the Statement of Financial Position. Revenue and expenses in relation to financial instruments are recognised in the Statement of Financial Performance.

#### 12 *Receivables*

Accounts receivable are stated at their estimated realisable value after providing for doubtful and uncollectable debts.

#### 13 *Employee entitlements*

Provision is made in respect of the Commission's liability for annual leave. It is calculated on an actual entitlement basis at current rates

of pay and is expected to be settled within 12 months of reporting date.

14 *Change in accounting policies*

The regularity of revaluing the library collections has been changed from every three years to every four years. There have been no other changes in accounting policies since the date of the last audited financial statements.

The effect of this change is that the revaluation of the library collections, and the consequent financial implications, will be recorded in the financial statements next year.

All policies, other than the one noted above, have been applied on a basis consistent with the previous year.

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STATEMENT OF FINANCIAL PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2003

		2003	2002	2003
	Note	Actual	Actual	Budget
		\$	\$	\$
<b>REVENUE</b>				
Government grant	8	2,727,111	2,975,111	2,727,185
Interest		93,937	95,056	40,000
Sale of publications		21,561	21,315	10,000
Surplus on sale of fixed assets		249	6,256	0
Sundry income		461	2,500	0
<b>Total operating revenue</b>		<b>2,843,319</b>	<b>3,100,238</b>	<b>2,777,185</b>
<b>EXPENDITURE</b>				
Personnel costs		1,751,518	1,732,534	2,271,037
Project costs		343,687	344,984	494,460
Library costs		51,465	44,070	54,500
Administration costs	1	625,573	559,162	616,684
Depreciation	2	254,150	426,430	301,526
<b>Total expenditure</b>		<b>3,026,393</b>	<b>3,107,180</b>	<b>3,738,207</b>
<b>Net surplus (deficit) for the period</b>		<b>(183,074)</b>	<b>(6,942)</b>	<b>(961,022)</b>

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The accompanying accounting policies and notes form part of these financial statements.

STATEMENT OF MOVEMENTS IN EQUITY  
FOR THE YEAR ENDED 30 JUNE 2003

	2003	2002	2003
	Actual	Actual	Budget
	\$	\$	\$
<b>Equity at the beginning of the year</b>	1,817,944	1,824,886	1,564,872
<b>Surplus and revaluations</b>			
Net surplus (deficit) for the year	(183,074)	(6,942)	(961,022)
<b>Total recognised revenues and expenses for the year</b>	(183,074)	(6,942)	(961,022)
<b>Equity at the end of the year</b>	1,634,870	1,817,944	603,850

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The accompanying accounting policies and notes form part of these financial statements.

STATEMENT OF FINANCIAL POSITION AS  
AT 30 JUNE 2003

	Note	2003 Actual \$	2002 Actual \$	2003 Budget \$
<b>PUBLIC EQUITY</b>				
Accumulated funds		1,476,151	1,659,225	603,850
Revaluation reserve – furniture and fittings		150,049	150,049	150,049
Revaluation reserve – office equipment		8,670	8,670	8,670
<b>Total Public equity</b>		<u>1,634,870</u>	<u>1,817,944</u>	<u>762,569</u>
<b>Represented by:</b>				
<b>CURRENT ASSETS</b>				
Cash and bank		13,975	21,762	17,997
Bank – call deposit – Bank of New Zealand		135,000	117,000	70,000
Short-term investments – Bank of New Zealand		1,250,000	1,400,000	400,000
Receivables and prepayments	3	33,027	38,277	23,000
<b>Total current assets</b>		<u>1,432,002</u>	<u>1,577,039</u>	<u>510,997</u>
<b>NON-CURRENT ASSETS</b>				
<b>Fixed assets</b>	4	<u>458,250</u>	<u>474,215</u>	<u>476,572</u>
<b>Total non-current assets</b>		<u>458,250</u>	<u>474,215</u>	<u>476,572</u>
<b>Total assets</b>		<u>1,890,252</u>	<u>2,051,254</u>	<u>987,569</u>
<b>CURRENT LIABILITIES</b>				
Payables and accruals	5	255,382	233,310	225,000
<b>Total current liabilities</b>		<u>255,382</u>	<u>233,310</u>	<u>225,000</u>
<b>Total liabilities</b>		<u>255,382</u>	<u>233,310</u>	<u>225,000</u>
<b>NET ASSETS</b>		<u>1,634,870</u>	<u>1,817,944</u>	<u>762,569</u>

*Hon Justice Robertson*  
President

*B Benjamin*  
Executive Manager

The accompanying accounting policies and notes form part of these financial statements.

# STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2003

		2003 Actual \$	2002 Actual \$	2003 Budget \$
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>				
<b>Cash was provided from:</b>				
Government grant		2,727,111	2,975,111	2,727,185
Interest received		95,756	97,337	44,000
Customers		21,169	20,960	18,000
Sundry income		461	2,500	0
		2,844,497	3,095,908	2,789,185
<b>Cash was applied to:</b>				
Payments to employees		(1,682,339)	(1,513,607)	(2,171,042)
Payments to suppliers		(1,059,755)	(1,156,932)	(1,340,639)
Net Goods and Services Tax		(4,254)	5,761	0
		(2,746,348)	(2,664,778)	(3,511,681)
<b>Net cash inflow (outflow) from operating activities</b>	10	98,149	431,130	(722,496)
<b>CASH FLOW FROM INVESTING ACTIVITIES</b>				
<b>Cash was provided from:</b>				
Sale of fixed assets		1,591	7,071	0
		1,591	7,071	0
<b>Cash was applied to:</b>				
Purchase of fixed assets		(239,527)	(320,029)	(331,645)
		(239,527)	(320,029)	(331,645)
<b>Net cash inflow (outflow) from investing activities</b>		(237,936)	(312,958)	(331,645)

	2003 Actual \$	2002 Actual \$	2003 Budget \$
<b>NET INCREASE (DECREASE) IN CASH HELD</b>	(139,787)	118,172	(1,054,141)
<b>Plus opening cash balance:</b>			
Bank of New Zealand – current account	21,762	3,590	2,138
Bank of New Zealand – call account	117,000	267,000	540,000
Bank of New Zealand – short-term deposits	1,400,000	1,150,000	1,000,000
	<u>1,538,762</u>	<u>1,420,590</u>	<u>1,542,138</u>
<b>CLOSING CASH BALANCE</b>	<u>1,398,975</u>	<u>1,538,762</u>	<u>487,997</u>
<b>Made up of:</b>			
Bank of New Zealand – current account	13,975	21,762	17,997
Bank of New Zealand – call account	135,000	117,000	70,000
Bank of New Zealand – short-term deposits	1,250,000	1,400,000	400,000
	<u>1,398,975</u>	<u>1,538,762</u>	<u>487,997</u>

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The accompanying accounting policies and notes form part of these financial statements.

# NOTES TO FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2003

## 1 Administration costs include

	30 June 2003	30 June 2002
	\$	\$
Fees paid to Auditors:		
– External audit	8,500	8,500
Increase (decrease) in provision for doubtful debts	0	222
Rental expenses on operating leases	12,755	11,585
Rent and rates on office accommodation	417,117	399,667

## 2 Depreciation on:

	30 June 2003	30 June 2002
	\$	\$
Computer equipment	61,370	68,906
Furniture and fittings	35,604	31,629
Office equipment	15,787	14,913
Computer software	26,670	66,500
Library collections	114,719	244,482
<b>Total</b>	<b>254,150</b>	<b>426,430</b>

## 3 Receivables and prepayments

	30 June 2003	30 June 2002
	\$	\$
Sundry debtors	4,270	5,643
GST receivable	15,304	11,050
Trade debtors	502	556
Less: Provision for doubtful debts	(222)	(222)
Prepayments	13,173	21,250
<b>Total</b>	<b>33,027</b>	<b>38,277</b>



## 4 Fixed assets

	Cost	Valuation	Accumulated depreciation	Net book value 30 June 2003	Net book value 30 June 2002
	\$	\$	\$	\$	\$
Computer equipment	205,414	0	146,461	58,953	111,851
Furniture and fittings	17,765	158,144	66,388	109,521	126,515
Office equipment	11,603	35,537	30,549	16,591	29,870
Computer software	367,472	0	321,864	45,608	15,501
Library collections	719,054	307,057	798,534	227,577	190,478
<b>Total</b>	<b>1,321,308</b>	<b>500,738</b>	<b>1,363,796</b>	<b>458,250</b>	<b>474,215</b>

## 5 Payables and accruals

	30 June 2003	30 June 2002
	\$	\$
Suppliers of goods and services	68,351	59,833
Employee entitlements	125,458	101,315
Accrued expenses	28,604	56,976
Other creditors	32,969	15,186
<b>Total</b>	<b>255,382</b>	<b>233,310</b>

## 6 Commitments

### *Capital expenditure commitments*

There are no commitments for capital expenditure at balance date (30 June 2002, \$Nil).

### *Lease commitments*

Commitments for non-cancellable leases on rental office accommodation (until 30 June 2007) and office equipment (until 24 July 2004 and 24 January 2006):

	30 June 2003	30 June 2002
	\$	\$
Less than one year	398,153	391,302
Between 1–2 years	391,386	391,302
Between 2–5 years	773,618	1,144,450
Over 5 years	0	0

## **7 Contingent liabilities and assets**

There are no material contingent liabilities or assets as at balance date (30 June 2002, \$Nil).

## **8 Related party information**

The Law Commission is a Crown owned entity. The Commission received from the Ministry of Justice \$2,727,111 as grant for the financial year (year ended 30 June 2002, \$2,975,111).

## **9 Financial instruments**

### *Fair value*

The fair value of financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

### *Credit risk*

Credit risk is the risk that an outside party will not be able to meet its obligations to the Commission.

Financial Assets that potentially subject the Commission to a concentration of credit risk consist principally of cash, short-term deposits and receivables.

The cash and short-term deposits are placed with the Bank of New Zealand, a high-quality bank.

The concentration of credit risk with respect to receivables is limited by its small value and the relatively large number of customers involved.

The Commission does not have exposure to interest rate or currency risks.

There is a letter of credit for \$60,000 in favour of Datacom Employer Services for the purpose of guaranteeing funds to direct credit staff salaries fortnightly (30 June 2002, \$60,000).

## 10 Reconciliation of net surplus to net cash inflow from operating activities

	2003	2002	2003
	Actual	Actual	Budget
	\$	\$	\$
Reported surplus (deficit)	(183,074)	(6,942)	(961,022)
Add (less) non cash items:			
Depreciation	254,150	426,430	301,526
Add (less) movements in working capital:			
Decrease in receivable and prepayments	5,250	2,148	12,000
Increase in payables and accruals	22,072	15,750	(75,000)
Add (less) surplus on fixed assets sales shown under investing activities	(249)	(6,256)	0
Net cash inflow (outflow) from operating activities	<u>98,149</u>	<u>431,130</u>	<u>(722,496)</u>

## 11 Remuneration of the Chief Executive

In terms of the Law Commission Act 1985, the President of the Commission is the Chief Executive. The current President is a High Court Judge and is paid by the Department for Courts as a High Court Judge. In accordance with the formula agreed with the Ministry of Justice, the Commission reimbursed \$128,564 on account of this. The amount does not represent the actual remuneration received by the President. In determining the amount, consideration has been given to the fact that he has sat in the Court of Appeal from time to time.

## 12 Remuneration of Commissioners and Staff

Remuneration range \$	Number of Commissioners and employees	
	30 June 2003	30 June 2002
Between 110,001 and 120,000	0	1
Between 120,001 and 130,000	1	0
Between 150,001 and 160,000	0	1
Between 170,001 and 180,000	0	1
Between 180,001 and 190,000	1	0

Included in the above numbers is a Commissioner, who is a District Court Judge and paid by the Department for Courts as a District Court Judge. The Commission reimbursed \$186,886 on account of this. The amount does not represent the actual remuneration

received by the Judge. In determining the amount, consideration has been given to the fact that the Judge carried out some Court related functions during the year.

Total remuneration of all Commissioners including the judges was \$518,048 (30 June 2002, \$639,914).

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# Statement of Service Performance for the year ended 30 June 2003

## OUTPUT CLASS: POLICY ADVICE

Budgeted expenditure: \$3,738,207

Actual expenditure: \$3,026,393

## QUALITY

All outputs and other work completed by the end of the year met the quality standards set out on pages 33 and 34, to the extent applicable.

## QUANTITY AND TIMELINESS

The work produced by the Commission is set out in the annual work programme submitted to the Minister Responsible for the Law Commission under section 7(1) of the Law Commission Act 1985. The work programme is subject to revision from time to time.

The statement of service performance reports the outputs produced during the financial year as compared with those established in the annual work programme agreed in the Memorandum of Understanding with the Minister Responsible for the Law Commission.

### Public Law

Output	Planned	Actual
Review of the Structure of the Courts		
– Preliminary paper	30 October 2002	Preliminary Paper NZLC PP52 published in December 2002

<b>Output</b>	<b>Planned</b>	<b>Actual</b>
Privacy Law Review – Report		Awaiting amended terms of reference from the Minister

## **Common Law**

<b>Output</b>	<b>Planned</b>	<b>Actual</b>
Genetic Modification Liability – Study Paper		Study Paper NZLC SP14 published in August 2002

## **Criminal Law**

<b>Output</b>	<b>Planned</b>	<b>Actual</b>
Entry, Search and Seizure – Report		Work has commenced on final report, which includes examination of the adequacy of current powers in the light of modern technology
Status Hearings Review – Report	December 2003	Working with the Ministry of Justice on empirical research

## **Commercial Law**

<b>Output</b>	<b>Planned</b>	<b>Actual</b>
Arbitration – Report		NZLC R83 released in March 2003
Review of the Life Insurance Act 1908	Included in the programme during the year	Working towards preliminary paper to be published in late 2003

## Family Law

Output	Planned	Actual
Review of Family Court Dispute Resolution – Report	October 2002	NZLC R82 released in April 2003
Status of Parenthood	Included in the programme during the year	Working towards preliminary paper to be published in late 2003

## Te ao Māori

Output	Planned	Actual
After Settlement Assets Project (ASAP) – Study Paper	July 2002	NZLC SP13 published in August 2002

## Advisory work

The Commission provided advice to various state agencies on the following topics:

- criminal defences
- feasibility of piloting an in-house legal practice
- review of eligibility of legal aid.

## Follow-up work

The Commission carried out follow-up work on the following Law Commission reports and study papers:

- *Acquittal Following the Perversion of the Course of Justice* NZLC R70
- *Evidence* NZLC R55
- *Simplification of Criminal Procedure Legislation* NZLC SP7.

## Work in progress

As at the balance date, 30 June 2003, the following projects were in progress:

- Final report on the Structure of the Courts
- Final report on Entry, Search and Seizure
- Status of Parenthood
- Review of Status Hearings
- Review of Life Insurance Act 1908.

## COSTS

Project	Budget \$	Actual \$
Public Law	2,708,076	2,323,625
Common Law	30,246	24,701
Criminal Law	356,585	204,571
Commercial Law	90,251	32,697
Family Law	463,269	391,247
Te ao Māori	30,750	23,242
Advisory Work, Submissions and Follow-up Work	59,030	26,310
<b>Total</b>	<b>3,738,207</b>	<b>3,026,393</b>

## PERFORMANCE STANDARDS

### Background

#### *Functions of the Commission*

The Law Commission Act 1985 stipulates four key activities for the Law Commission. These are:

- to systematically review the law of New Zealand (section 5(1)(a));
- to recommend reform and development of the law of New Zealand (section 5(1)(b));
- to advise on the review of the law of New Zealand conducted by a department or other organisation or on resulting proposals (section 5(1)(c)); and
- to advise the Minister Responsible for the Law Commission on ways in which the law of New Zealand can be made as understandable and accessible as is practicable (section 5(1)(d)).

#### *Work programme*

The Commission's yearly programme is made up of:

- references from the Minister Responsible for the Law Commission in terms of section 7 of the Law Commission Act 1985;
- projects selected by the Commission on its own initiative (but in practice usually in consultation with the Minister Responsible for the Law Commission (section 5 of the Law Commission Act 1985)); and
- projects selected at the request of other State agencies (section 5 of the Law Commission Act 1985).



## Outputs

The Commission's key outputs usually appear in published form. There are four types of publications:

- *Preliminary papers.* For each project the Commission usually publishes a discussion paper on which interested parties are invited to make submissions.
- *Reports.* In most cases a report will follow a preliminary paper. Reports are produced after taking into account the submissions made by the interested parties. Reports will contain recommendations for law changes and/or new laws. In some cases they will include draft legislation. Reports are tabled in Parliament by the Minister Responsible for the Law Commission or the Portfolio Minister.
- *Miscellaneous papers.* Miscellaneous papers contain the findings of the research done on specific subjects that are considered important.
- *Study papers.* These are mainly advice given to other government agencies on specific matters and studies on subjects of a general nature.

## Performance standards

The performance of the Commission is measured against the following four standards: quality, quantity, timeliness and cost.

### Quality

Quality is achieved by ensuring the following:

- *Purpose.* The purpose will be clearly identified and focused on remedying the mischief to which it is addressed.
- *Logic.* All argument will be logical and supported by facts, and explain any assumptions made.
- *Accurate research.* The paper will be supported by research that is thorough, accurate and takes account of all relevant material.
- *Practicality.* The paper will consider questions of practicality, especially issues of implementation, cost, technical feasibility, timing, and consistency with other Commission policies.
- *Consultation.* Advice and recommendations will be the result of appropriate consultation with interested parties, and all reasonable objections will be identified. All submissions will be carefully considered before the final report.
- *Peer review.* In many cases, selected external experts will review the papers.
- *Internal review.* Each publication will be subjected to rigorous and critical review by all the Commissioners.

- *Presentation.* The paper will be written in as clear a manner as accepted legal phrasing allows.

### *Quantity*

The outputs listed in the work programme will be achieved.

### *Timeliness*

Timeliness will be achieved by meeting the reporting dates set in the work programme. However, unless the Commission is expressly called upon to meet a particular timeframe, reporting dates are arrived at for the internal purposes of the Commission in relation to such matters as workflow control. Predicted dates can, in practice, be exceeded for a number of reasons, which include such factors as setting aside a particular project to meet a more urgent subsequent deadline and unforeseeable developments in the topic under discussion.

### *Cost*

Each project will be completed within the budgeted cost.

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**Audit New Zealand**

## REPORT OF THE AUDITOR-GENERAL

### TO THE READERS OF THE FINANCIAL STATEMENTS OF THE LAW COMMISSION FOR THE YEAR ENDED 30 JUNE 2003

We have audited the financial statements on pages 15 to 34. The financial statements provide information about the past financial and service performance of the Law Commission and its financial position as at 30 June 2003. This information is stated in accordance with the accounting policies set out on pages 15 to 18.

#### **Responsibilities of the Members of the Law Commission**

The Public Finance Act 1989 requires the Members of the Law Commission to prepare financial statements in accordance with generally accepted accounting practice in New Zealand that fairly reflect the financial position of the Law Commission as at 30 June 2003, the results of its operations and cash flows and service performance achievements for the year ended on that date.

#### **Auditor's responsibilities**

Section 15 of the Public Audit Act 2001 and section 43(1) of the Public Finance Act 1989 require the Auditor-General to audit the financial statements presented by the Law Commission. It is the responsibility of the Auditor-General to express an independent opinion on the financial statements and report that opinion to you.

The Auditor-General has appointed HC Lim, of Audit New Zealand, to undertake the audit.

#### **Basis of opinion**

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgements made by Members of the Law Commission in the preparation of the financial statements; and

- whether the accounting policies are appropriate to the Law Commission's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with the Auditing Standards published by the Auditor-General, which incorporate the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

Other than in our capacity as auditor acting on behalf of the Auditor-General, we have no relationship with or interests in the Law Commission.

### **Unqualified opinion**

We have obtained all the information and explanations we have required.

In our opinion the financial statements of the Law Commission on pages 15 to 34:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
  - the Law Commission's financial position as at 30 June 2003;
  - the results of its operations and cash flows for the year ended on that date; and
  - its service performance achievements in relation to the performance targets and other measures adopted for the year ended on that date.

Our audit was completed on 29 August 2003 and our unqualified opinion is expressed as at that date.

*HC Lim*  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand

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APPENDIX A  
Members and staff of the  
Law Commission as at  
30 June 2003

MEMBERS OF THE LAW COMMISSION

The Hon Justice J Bruce Robertson – President

Judge Patrick Keane

Professor Ngatata Love QSO JP

Frances Joychild

Richard Clarke QC

STAFF OF THE LAW COMMISSION

Executive Manager

Bala Benjamin

Senior Legal Researchers

Helen Colebrook

Susan Hall

Joanna Hayward

Rachel Hayward

Margaret Thompson  
(seconded from the  
Department for Courts)

Victoria Stace

Janet November

Legal Researchers

Julia de Bres

Elizabeth Craig

Jacki Eves (seconded  
from the Office of  
the Auditor-General)

Library Manager

Serials Librarian

Student Library Assistant

Secretaries

Receptionist/Assistant Publications  
Officer

Systems Administrator

Administration and Library Assistant

Finance and Administration Assistant

Rachael James

Claire Phillips

Alexander Schumacher

Judith Porter

Jacqueline Kitchen

Rosalind Brown

Raewyn Champion

Gloria Hakiwai

Christine Kleingeld

Colleen Gurney

Brenda Speak

Marilyn Cameron

Chris Waight



## APPENDIX B

# Law Commission publications as at 30 June 2003

### REPORT SERIES

No	Name	Released	Outcome
NZLC R1	Imperial Legislation in Force in New Zealand	March 1987	Largely implemented by the Imperial Laws Application Act 1988 and associated legislation
NZLC R2	Annual Report	1987	
NZLC R3	The Accident Compensation Scheme: Interim Report on Aspects of Funding	November 1987	Considered in preparing the Accident Rehabilitation and Compensation Insurance Act 1992 and some recommendations reflected in its provisions
NZLC R4	Personal Injury: Prevention and Recovery (Report on the Accident Compensation Scheme)	May 1988	Considered also in connection with reviews of the Accident Rehabilitation and Compensation Insurance Act 1992 and implementing regulations undertaken in 1994
NZLC R5	Annual Report	1988	
NZLC R6	Limitation Defences in Civil Proceedings	October 1988	One recommendation enacted in section 91 of the Building Act 1991

No	Name	Released	Outcome
NZLC R7	The Structure of the Courts	March 1989	Substantial effect given to the Commission's recommendations in the various enactments passed to reform the jurisdiction of the courts in 1991 and 1992
NZLC R8	A Personal Property Securities Act for New Zealand	April 1989	Implemented by the Personal Property Securities Act 1999
NZLC R9	Company Law: Reform and Restatement	June 1989	Companies Act 1993, Receiverships Act 1993 and amendments to the Property Law Act 1952 and the Companies Act 1955 entered into force on 1 July 1994
NZLC R10	Annual Report	1989	
NZLC R11	Legislation and its Interpretation: Statutory Publications Bill	September 1989	Implemented in part by the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publications Act 1989
NZLC R12	First Report on Emergencies: Use of the Armed Forces	February 1990	Implemented in the Defence Act 1990
NZLC R13	Intellectual Property: The Context for Reform	March 1990	For use as a resource. No law changes recommended
NZLC R14	Criminal Procedure: Part One: Disclosure and Committal	June 1990	Being considered in the Committal Hearings and Criminal Disclosure Bill
NZLC R15	Annual Report	1990	
NZLC R16	Company Law Reform: Transition and Revision	September 1990	A supplement to NZLC R9



No	Name	Released	Outcome
NZLC R17	A New Interpretation Act: To Avoid “Prolixity and Tautology”	December 1990	Recommendations form the basis of the Interpretation Act 1999
NZLC R18	Aspects of Damages: Employment Contracts and the Rule in <i>Addis v Gramophone Co</i>	March 1991	Implemented almost in entirety by the Employment Contracts Act 1991
NZLC R19	Aspects of Damages: The Rules in <i>Bain v Fothergill</i> and <i>Joyner v Weeks</i>	May 1991	Abolition of the rule in <i>Bain v Fothergill</i> implemented by the Property Law Amendment Act 1994 Problems with the rule in <i>Joyner v Weeks</i> partially addressed in <i>Māori Trustee v Rogross Farms Ltd</i> [1994] 3 NZLR 410 (CA) Implemented by the Arbitration Act 1996
NZLC R20	Arbitration	October 1991	
NZLC R21	Annual Report	1991	
NZLC R22	Final Report on Emergencies	December 1991	A supplement to NZLC R12
NZLC R23	The United Nations Convention on Contracts for the International Sale of Goods: New Zealand’s Proposed Acceptance	June 1992	Materially influenced the Biosecurity Act 1993 Implemented by the Sale of Goods (United Nations Convention) Act 1994
NZLC R24	Annual Report	1992	
NZLC R25	Contract Statutes Review	May 1993	Some recommendations included in the Statutes Amendment Bill 2001

No	Name	Released	Outcome
NZLC R26	Annual Report	1993	
NZLC R27	The Format of Legislation	December 1993	Adopted by Chief Parliamentary Counsel
NZLC R28	Aspects of Damages: The Award of Interest on Money Claims	May 1994	Recommendations not implemented
NZLC R29	A New Property Law Act	June 1994	Policy work to resume at the Ministry of Justice soon
NZLC R30	Community Safety: Mental Health and Criminal Justice Issues	August 1994	Included in the Criminal Justice Amendment Bill (No 7) and the Intellectual Disability (Compulsory Care) Bill
NZLC R31	Police Questioning	October 1994	No action
NZLC R32	Annual Report	1994	
NZLC R33	Annual Report	1995	
NZLC R34	A New Zealand Guide to International Law and its Sources	May 1996	For use as a resource – no law changes recommended
NZLC R35	Legislation Manual: Structure and Style	May 1996	For use as a resource Proposals on structure and style substantially adopted by the Parliamentary Counsel Office and are in widespread use
NZLC R36	Annual Report	1996	

No	Name	Released	Outcome
NZLC R37	Crown Liability and Judicial Immunity: A Response to <i>Baigent's case</i> and <i>Harvey v Derrick</i>	May 1997	Recommendations as to <i>Baigent's case</i> accepted Implemented in part by section 26 Interpretation Act 1999
NZLC R38	Succession Law: Homicidal Heirs	July 1997	No action
NZLC R39	Succession Law: A Succession (Adjustment) Act	August 1997	Some issues addressed in the Property (Relationships) Bill 2001
NZLC R40	Review of the Official Information Act 1982	October 1997	Some proposals have been included in the Statutes Amendment Bill (No 3)
NZLC R41	Succession Law: A Succession (Wills) Act	October 1997	No action
NZLC R42	Evidence Law: Witness Anonymity	October 1997	Largely implemented by the Evidence (Witness Anonymity) Act 1997
NZLC R43	Annual Report	1997	
NZLC R44	Habeas Corpus: Procedure	November 1997	Implemented by Habeas Corpus Act 2001
NZLC R45	The Treaty Making Process: Reform and the Role of Parliament	December 1997	Partially implemented by changes to Standing Orders
NZLC R46	Some Insurance Law Problems	May 1998	No action
NZLC R47	Apportionment of Civil Liability	May 1998	No action
NZLC R48	Annual Report	September 1998	

No	Name	Released	Outcome
NZLC R49	Compensating the Wrongly Convicted (1998)	September 1998	Implemented by adoption of new Cabinet policy (prerogative)
NZLC R50	Electronic Commerce Part One: A Guide for the Legal and Business Community	October 1998	Followed by Part Two No recommendations for law changes made but basis for law reform to accommodate needs of electronic commerce explored and submissions invited: see further NZLC R58
NZLC R51	Dishonestly Procuring Valuable Benefits	December 1998	The result recommended achieved in a different way by the Crimes Amendment Bill (No 6) 1999 reported back in July 2001
NZLC R52	Cross-Border Insolvency: Should New Zealand Adopt the UNCITRAL Model Law on Cross-Border Insolvency?	February 1999	Considered in the model law on cross border insolvencies likely to be introduced in late 2003
NZLC R53	Justice: The Experiences of Māori Women Te Tikanga o te Ture: Te Mātauranga o ngā Wāhine Māori e pa ana ki tēnei	April 1999	No specific measure proposed
NZLC R54	Computer Misuse	May 1999	Most recommendations included in the Crimes Amendment Bill (No 6) 1999
NZLC R55	Evidence	August 1999	Early implementation indicated
NZLC R56	Annual Report	September 1999	
NZLC R57	Retirement Villages	September 1999	Recommendations considered in the Retirement Villages Bill due for its second reading in Parliament

No	Name	Released	Outcome
NZLC R58	Electronic Commerce Part Two: A Basic Legal Framework	November 1999	Recommendations reflected in Electronic Transactions Act 2002
NZLC R59	Shared Ownership of Land	November 1999	No action
NZLC R60	Costs in Criminal Cases	May 2000	No action proposed in the report
NZLC R61	Tidying the Limitation Act	July 2000	No action
NZLC R62	Coroners	August 2000	Recommendations to be considered for a Coroner's Bill
NZLC R63	Annual Report 2000	August 2000	
NZLC R64	Defaming Politicians: A Response to <i>Lange v Atkinson</i>	August 2000	No action
NZLC R65	Adoption and Its Alternatives: A Different Approach and a New Framework	September 2000	An inter-agency working group has been considering the recommendations A Bill is expected in 2003
NZLC R66	Criminal Prosecution	October 2000	Early implementation indicated
NZLC R67	Tax and Privilege: Legal Professional Privilege and the Commissioner of Inland Revenue's Powers to Obtain Information	October 2000	Submissions have been received on a Government discussion paper IRD hoping to introduce legislation in late 2003
NZLC R68	Electronic Commerce Part Three: Remaining Issues	December 2000	Many of the issues identified are being progressed through legislation

No	Name	Released	Outcome
NZLC R69	Juries in Criminal Trials	February 2001	A legislative bid has been made for a Crime Amendment (Miscellaneous) Bill A Bill is being drafted
NZLC R70	Acquittal Following Perversion of the Course of Justice	March 2001	A legislative bid has been made for a Crime Amendment (Miscellaneous) Bill A Bill is being drafted
NZLC R71	Misuse of Enduring Powers of Attorney	April 2001	No action
NZLC R72	Subsiding Litigation	May 2001	To be included in the Lawyers and Conveyancers Bill
NZLC R73	Some Criminal Defences with Particular Reference to Battered Defendants	May 2001	Policy work in progress at the Ministry of Justice
NZLC R74	Minority Buy-Outs	August 2001	Under consideration by the Ministry of Economic Development
NZLC R75	Annual Report	August 2001	
NZLC R76	Proof of Disputed Facts on Sentence	December 2001	Incorporated in the Sentencing Act 2002
NZLC R77	The Future of the Joint Family Homes Act	January 2002	No action
NZLC R78	General Discovery	February 2002	No Government action expected Recommendations were made to the High Court Rules Committee

No	Name	Released	Outcome
NZLC R79	Some Problems in the Law of Trusts	May 2002	No action
NZLC R80	Protections Some Disadvantaged People May Need	April 2002	No action
NZLC R81	Annual Report	August 2002	
NZLC R82	Dispute Resolution in the Family Court	April 2003	Government response to be tabled in October 2003
NZLC R83	Improving the Arbitration Act 1996	February 2003	Government response to be tabled in October 2003

## PRELIMINARY PAPER SERIES

No	Name	Released	Outcome
NZLC PP1	Legislation and its Interpretation: The Acts Interpretation Act 1924 and Related Legislation	June 1987	Followed by report NZLC R17
NZLC PP2	The Accident Compensation Scheme	September 1987	Followed by reports NZLC R3 and NZLC R4
NZLC PP3	The Limitation Act 1950	September 1987	Followed by report NZLC R6
NZLC PP4	The Structure of the Courts	December 1987	Followed by report NZLC R7
NZLC PP5	Company Law	December 1987	Followed by reports NZLC R9 and NZLC R16

No	Name	Released	Outcome
NZLC PP6	Reform of Personal Property Security Law (report by Prof JH Farrar and MA O'Regan)	1988	Followed by report NZLC R8
NZLC PP7	Arbitration	November 1988	Followed by report NZLC R20
NZLC PP8	Legislation and its Interpretation	December 1988	Followed by report NZLC R17
NZLC PP9	The Treaty of Waitangi and Māori Fisheries – Mataitai Nga Tikanga Māori me te Tiriti o Waitangi	March 1989	For use as a resource Reference withdrawn by the Minister of Justice at the Law Commission's request
NZLC PP10	Hearsay Evidence	June 1989	Followed by report NZLC R55
NZLC PP11	"Unfair" Contracts	September 1990	No further consideration is intended
NZLC PP12	The Prosecution of Offences	November 1990	Followed by discussion paper NZLC PP28
NZLC PP13	Evidence Law: Principles for Reform	April 1991	Followed by report NZLC R55
NZLC PP14	Evidence Law: Codification	April 1991	Followed by report NZLC R55
NZLC PP15	Evidence Law: Hearsay	April 1991	Followed by report NZLC R55
NZLC PP16	The Property Law Act 1952	July 1991	Followed by report NZLC R29
NZLC PP17	Aspects of Damages: Interest on Debts and Damages	November 1991	Followed by report NZLC R28



No	Name	Released	Outcome
NZLC PP18	Evidence Law: Expert Evidence and Opinion Evidence	December 1991	Followed by report NZLC R55
NZLC PP19	Apportionment of Civil Liability	March 1992	Followed by report NZLC R47
NZLC PP20	Tenure and Estates in Land	June 1992	No further consideration is intended
NZLC PP21	Criminal Evidence: Police Questioning	September 1993	Followed by report NZLC R31
NZLC PP22	Evidence Law: Documentary Evidence and Judicial Notice	May 1994	Followed by report NZLC R55
NZLC PP23	Evidence Law: Privilege	May 1994	Followed by report NZLC R55
NZLC PP24	Succession Law: Testamentary Claims	August 1996	Followed by reports NZLC R38, NZLC R39, and NZLC R41
NZLC PP25	The Privilege Against Self-Incrimination	September 1996	Followed by report NZLC R55
NZLC PP26	The Evidence of Children and Other Vulnerable Witnesses	October 1996	Followed by report NZLC R55
NZLC PP27	Evidence Law: Character and Credibility	February 1997	Followed by report NZLC R55
NZLC PP28	Criminal Prosecution	March 1997	Followed by report NZLC R66
NZLC PP29	Evidence Law: Witness Anonymity	September 1997	Followed by report NZLC R42

No	Name	Released	Outcome
NZLC PP30	Repeal of the Contracts Enforcement Act 1956	December 1997	Deferred
NZLC PP31	Compensation for Wrongful Conviction or Prosecution	April 1998	Followed by report NZLC R49
NZLC PP32	Juries in Criminal Trials: Part One	July 1998	Followed by Juries in Criminal Trials: Part Two NZLC PP37 and report NZLC R69
NZLC PP33	Defaming Politicians: A Response to <i>Lange v Atkinson</i>	September 1998	Followed by report NZLC R64
NZLC PP34	Retirement Villages	October 1998	Followed by report NZLC R57
NZLC PP35	Shared Ownership of Land	January 1999	Followed by report NZLC R59
NZLC PP36	Coroners: A Review	August 1999	Followed by report NZLC R62
NZLC PP37	Juries in Criminal Trials: Part Two	November 1999	Followed by report NZLC R69
NZLC PP38	Adoption: Options for Reform	October 1999	Followed by report NZLC R65
NZLC PP39	Limitation of Civil Actions	February 2000	Followed by report NZLC R61
NZLC PP40	Misuse of Enduring Powers of Attorney	May 2000	Followed by report NZLC R71
NZLC PP41	Battered Defendants: Victims of Domestic Violence Who Offend	August 2000	Followed by report NZLC R73

No	Name	Released	Outcome
NZLC PP42	Acquittal Following Perversion of the Course of Justice: A Response to <i>R v Moore</i>	September 2000	Followed by report NZLC R70
NZLC PP43	Subsidiising Litigation	December 2000	Followed by report NZLC R72
NZLC PP44	The Future of the Joint Family Homes Act	August 2001	Followed by report NZLC R77
NZLC PP45	Reforming the Rules of General Discovery	September 2001	Followed by report NZLC R78
NZLC PP46	Improving the Arbitration Act 1996	September 2001	Followed by report NZLC R83
NZLC PP47	Family Court Dispute Resolution	January 2002	Followed by report NZLC R82
NZLC PP48	Some Problems in the Law of Trusts	January 2002	Followed by report NZLC R79
NZLC PP49	Protecting Personal Information from Disclosure	February 2002	Final report to be issued
NZLC PP50	Entry, Search and Seizure	April 2002	Final report to be issued
NZLC PP51	Striking the Balance: Your Opportunity to Have Your Say on the New Zealand Court System	May 2002	Followed by options paper NZLC PP52 Final report to be issued
NZLC PP52	Seeking Solutions: Options for Change to the New Zealand Court System	December 2002	Final report to be issued

## STUDY PAPER SERIES

No	Name	Released	Outcome
NZLC SP1	Women's Access to Legal Services	June 1999	No specific measures proposed
NZLC SP2	Priority Debts in the Distribution of Insolvent Estates: An Advisory Report to the Ministry of Commerce	October 1999	Awaits completion of the Ministry of Economic Development's review of insolvency law
NZLC SP3	Protecting Construction Contractors	November 1999	Adopted in Construction Contracts Bill currently before Parliament
NZLC SP4	Recognising Same-Sex Relationships	December 1999	Submission to the Ministry of Justice – no further Law Commission action required
NZLC SP5	International Trade Conventions	November 2000	Resource only
NZLC SP6	To Bind their Kings in Chains: An Advisory Report to the Ministry of Justice	December 2000	Reflected in provisions of Crown Organisations (Criminal Liability) Bill
NZLC SP7	Simplification of Criminal Procedure Legislation: An Advisory Report to the Ministry of Justice	January 2001	Under consideration by the Ministry of Justice

No	Name	Released	Outcome
NZLC SP8	Determining Representation Rights under Te Ture Whenua Māori Act 1993: An Advisory Report for Te Puni Kōkiri	March 2001	Under consideration
NZLC SP9	Māori Custom and Values in New Zealand Law	March 2001	Resource only
NZLC SP10	Mandatory Orders Against the Crown and Tidying Judicial Review	March 2001	No action
NZLC SP11	Insolvency Law Reform: Promoting Trust and Confidence: An Advisory Report to the Ministry of Economic Development	May 2001	Considered by the Ministry of Economic Development in the review of insolvency law
NZLC SP12	Electronic Technology and Police Investigations	February 2002	Advice to the Ministry of Justice
NZLC SP13	Treaty of Waitangi Claims: Addressing the Post-Settlement Phase: An Advisory Report for Te Puni Kōkiri, the Office of Treaty Settlements and the Chief Judge of the Māori Land Court	August 2002	Advice to the Ministry for Māori Development

No	Name	Released	Outcome
NZLC SP14	Liability for Loss Resulting from the August 2002 Development, Supply, or Use of Genetically Modified Organisms	August 2002	Advice to the Minister

### MISCELLANEOUS PAPER SERIES

No	Name	Released	Outcome
NZLC MP1	What Should Happen to your Property when you Die?	August 1996	Preliminary to NZLC R39 and NZLC R41
NZLC MP2	Succession Law: Wills Reforms	October 1996	Preliminary to NZLC R39 and NZLC R41
NZLC MP3	Information about Lawyers' Fees	October 1996	Preliminary to NZLC SP1
NZLC MP4	Women's Access to Legal Information	March 1997	Preliminary to NZLC SP1
NZLC MP5	The Law of Parliamentary Privilege	December 1996	Resource only
NZLC MP6	The Taking into Account of Te Ao Māori in Relation to Reform of the Law of Succession	July 1996	Resource only
NZLC MP7	Strategic Business Plan 1996/97	December 1996	Resource only
NZLC MP8	Women's Access to Civil Legal Aid	March 1997	Preliminary to NZLC SP1

No	Name	Released	Outcome
NZLC MP9	Women's Access to Legal Advice and Representation	April 1997	Preliminary to NZLC SP1
NZLC MP10	Lawyers' Costs in Family Law Disputes	June 1997	Preliminary to NZLC SP1
NZLC MP11	The Education and Training of Law Students and Lawyers	September 1997	Preliminary to NZLC SP1
NZLC MP12	Costs in Criminal Cases	November 1997	Followed by report NZLC R60
NZLC MP13	Aspects of Memory	August 1999	Resource only