

NEW ZEALAND



LIBERAL PARTY

WHAKARITENGA TURE O AOATEROA



CONSTITUTION OF NEW ZEALAND

NEW ZEALAND



LIBERAL PARTY

## FORWARD

29 February 2008

We offer this first draft of a Constitution for New Zealand to the Nation as the initial spreading of wings of a new Liberal Party—as in the rejuvenation of the Phoenix from the fire.

In the last two decades we as a Nation have borne the burden of two financial crises caused through the irresponsible overspending of both Labour and National Cabinets. In the last three years we have witnessed both Labour and National leadership abuse our trust and funds in their pursuit of power through naked ambition. And in the last year we have watched the Labour leadership enact laws that threaten our freedom of speech and wantonly misuse public money appropriated for Parliamentary duties as party political funds—with nothing but token opposition from the front bench of National.

Worse in our view has been the corruption of our Public Service, which has traditionally been a bastion of neutrality in the battlefield of politics. To see the very head of the Service cross the line and wilfully frustrate reasonable accountability means the situation has become grave.

We must act now to protect ourselves against further abuse of power.

Only a codified Constitution will do this. It will delimit the power the Prime Minister has by way of patronage over the Cabinet and through the Cabinet over the whole of the House of Representatives and into every Board of every government corporation.

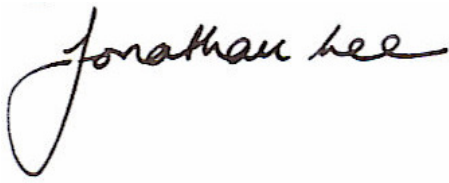
Our draft Constitution delimits such power by: first, reintroducing a second chamber—the Senate—with qualified and experience people free of patronage from vested interests and able to independently scrutinize legislation. Second, there will be independent boards of governors that will provide a buffer between Ministers and their Departments of State, able to provide much greater scrutiny than any Minister or even any Select Committee can achieve. Third, all appointments to the civil and military services will be separated from the Cabinet, along with the granting of honours. And lastly this will all be examined and protected by a Constitution Court with sharp eyes and real teeth.

We have not omitted our responsibility towards the outstanding grievances of Māori. This Constitution recognises the Treaty of Waitangi as our founding document, for without it we have no legitimate government. We acknowledge the needs of Māori are special and particular, and they have a right to our active protection. But we have also acknowledged that all other peoples: European, Pacific and Asian are similarly special, particular and equal. We want to celebrate our cultural differences but at the same time unite into one single and indivisible Nation, bonded by our mutual protection of life, equality and society.

Extensive use has been made of the constitutions of the United State, Germany, Ireland, Spain, Singapore to mention a few, as well as legislation here and overseas. You will also notice some familiar passages, not least of which is taken from President Abraham Lincoln's address at the battlefield of Gettysburg. In the final version we shall make all necessary accreditations.

We are a new political party but what we lack in numbers at this stage is more that compensated by our determination to occupy and dominate the centre ground with integrity, endeavour and prudence based on the principles of social democracy. We unequivocally reject the present managerial politics of left and right that appear to abandon any principles in the pursuit of power.

Join with us and consider this first draft of a Constitution; we like would to receive your constructive suggestions so that we can build it into a strong bastion of democracy government.



Jonathan Lee  
Party Convenor

P.S. There is no mention of HM The Queen; the President is quite deliberately described as the Head of the Government, not the State. Queen Elizabeth is greatly admired by many people— with just cause. The Irish retained the King, as King of Ireland, from the inauguration of the Free State in 1922 until 1937, when they passed a short Public Act adopting the President as Head of State. We wish the Queen a long and happy life but the end of her reign shall come, and we should be prepared for it, whatever the consensus of the People will be at that time.



NEW ZEALAND LIBERAL PARTY  
2 Fleet Street, PO Box 32-264 Devonport, North Shore City, Auckland  
Telephone: +64 (0)9 445 8660; Email: [reception@liberals.org.nz](mailto:reception@liberals.org.nz)  
Website: [www.liberals.org.nz](http://www.liberals.org.nz)

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All faults, errors, omissions are and will continue to be the exclusive responsibility of the New Zealand Liberal Party.

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Enacted by the People on the .....day of the month of ..... in the year .....

In operation as from the .....day of the month of ..... in the year .....

## PRELIMINARY

### Citation

This Constitution shall be cited as, 'The Constitution of New Zealand'.

### Interpretation—

**Absolute majority** means the majority of all the members whether present or not and whether they have abstained.

**Amendment** means changing, making additions or repealing.

**Anonymous donor or donation** means any donor or any donation for which there is no auditable account identifying the individual donor.

**Arms** mean dangerous or deadly weapons or objects that resemble such weapons that are likely to cause death or great bodily harm.

**Attorney** means a legally-qualified person who shall have been admitted at the bar of the High Court as a barrister and or a solicitor.

**Avoid** means reject, shun and let alone.

**Bill** means draft of a proposed law presented for approval to a legislative body, in other words one of the Houses of the Parliament.

**By leave** means without a dissenting voice or other objection but includes abstentions.

**Citizen** means a citizen of New Zealand or a person whose rights and obligations under this Constitution, the nature of which shall be one of citizenship.

**Civil disobedience** means the active refusal to obey certain laws, demands and commands of the Government without resorting to physical violence or duress.

**Classes of persons** means set, collection, group, or configuration containing members regarded as having certain attributes or traits in common: a kind or category: but does not mean a social class, caste or rank.

**Consolidated Public Fund** means the single fund into which all the revenues of the Government shall be held.

**Corruption** means the dysfunction of a Government system or institution in which public officials seek illegitimate personal or other gain through actions contrary to the public good as specified in this Constitution or indited codes of conduct, including but not limited to bribery, extortion, cronyism, nepotism, patronage, graft, vexation and embezzlement.

**Cost** means the economic and opportunity cost to the general wellbeing of the Nation as well as the monetary cost.

**Counter-intelligence** means protection against threats to the National Interest from espionage, sabotage and subversion, and includes serious crime.

**Defamation** means both libel (written) and slander (verbal) lawsuits concerning the publication of untruths concerning a person.

**Departments of State** means those Ministries, and Departments, and Branches of the Government with the pro tempore delegated authority from the Minister pro tempore responsible for the execution of the law and ensuing regulations.

**Direct support and under the control of** means the person or persons under such control shall obey all lawful orders and directions, and make best efforts to comply with all lawful requests from and of the person or persons authorised in law to issue and make such orders and requests. But it does not include those orders, directions or requests that shall be repugnant to this Constitution or unlawful, in which case such orders, directions or requests shall be documented and the perpetrator of the directive shall be duly informed, and no action shall be taken other than to directly inform the President in writing, and to take what

action shall be necessary and only necessary to protect this Constitution and the laws of New Zealand.

**Document** means a bounded physical representation of body of information designed with the capacity to communicate and may manifest symbolic, diagrammatic or sensory-representational information by any means.

**Donation (political)** means any money or in-kind service of good given over to political party, irrespective of whether such donation is or is not part of any subscription or levee or any other charge made by that political party on that person.

**Efficacious** means having the power to produce an intended effect by being both effective (operative, powerful and useful) and efficient (competent, economic and opportune).

**Ethnic peoples** or peoples means a body of persons sharing a common religion, culture, language, or inherited condition of life.

**Fee simple** means a private estate in real estate in which the owner shall have the right to control, use, and transfer the property at will.

**Felony** means a criminal offence with a maximum penalty of greater than one year imprisonment.

**Financial interest** means, in the case of the Government's financial interest, the Government owns all or part of the: equity or debt of the entity, or the Government buys services from the entity.

**Frank** means truthful and plain-spoken, neither dishonest nor devious.

**Free** in the context of free, full frank and opportune advice or information means independent and free from any undue influence or duress.

**Full** means complete and comprehensive, neither partial nor imprecise.

**Function** means the activity or endeavours directed by a purpose and which will achieve particular outcomes.

**Governor** means a member of a group of persons chosen to control or govern the affairs of an Government organisation, whether they are company directors or other forms of appointed directors or governors.

**Including** means including but not limited to.

**Infraction** means a minor or petty offence or violation less serious than a misdemeanour under criminal or civil law, not associated with the loss of liberty or social stigma.

**Intelligence** means the assessment of the strengths, weaknesses, opportunities and threats, and likely developments or intentions of the Nation's enemies, potential enemies and allies that affect or might affect the National Interest.

**Just cause** means a standard of reasonableness used to evaluate a person's actions in a given set of circumstances, such that when a person acts with just cause, their actions are based on reasonable grounds and committed in good faith.

**Justice**, when concerning the rank of a judge, means a judge of the Supreme Court or its courts of summary jurisdiction, and the High Court but not the High Court's courts of summary justice.

**Land** means a topographically distinct tract of immovable ground, soil and structures.

**Legislation** means both laws and regulations unless otherwise specified.

**Lurid curiosity** means shocking, sensationalist and vicarious, nosiness, prying or snooping

**Malfeasance, misfeasance and nonfeasance**, where—**malfeasance** means the commission of an act that shall be manifestly unlawful or completely wrongful that gives rise to or somehow contributes to the injury or otherwise harm of another person: **misfeasance** means the commission of an act that shall be not unlawful but improper and that gives rise to or somehow contributes to the injury or otherwise harm of another person: and **nonfeasance** means non-performance of an act that that gives rise to or somehow contributes to the injury or otherwise harm of another person.

**Manifesto** means a public declaration of principles, issues, strategic direction and intentions, usually but exclusively by political parties.

**Material** means objects and information.

**Member of the press** means a publisher, or editor (including sub-editors and the like) or reporter (including journalists, image-makers, sound recorders and the like) of news.

**Minister of the Cabinet or Government Minister** means any or all of the Prime Minister, Deputy Prime Minister, Minister, Deputy Minister or Associate Minister pro tempore responsible for any or all Ministries and Departments of the Government.

**Misdemeanour** means a criminal offence with a maximum penalty of less than or equal to one year imprisonment.

**National Interest** means the survival and security of the Nation including its culture.

**Natural resources** means material source of wealth with economic value, including cultural value, such as but not limited to, minerals, soil, air, water, flora and fauna—wild, cultivated and domesticated.

**Net worth** means the difference between total assets and current liabilities: the sum total of the assets of the Government minus the total amount owed to creditors.

**News** means factual information, or intelligence or opinion where reasonable deductions have been drawn from such information.

**Opportune** means relevant and prompt, neither discrete nor tardy.

**Outcome, output, goal or objective** means an achievement as a result of an endeavour that shall be or can be, and to varying extents: specified, measured, achieved, realistic with regard to likely available resources, and within a particular time.

**Partnership** means a relationship born of collaboration involving the making of informed decisions resulting from adequate consultation with each other, where partners exercise their duty to act honourably, reasonably and in good faith to achieve mutual benefit in maintaining a balance of interests.

**People** means a body of persons sharing a common religion, culture, language, identity, place of origin or inherited condition of life, including common ancestry, or any other common bond provided for by law.

**Person** means both natural person and incorporated bodies whether companies or societies.

**Person** means shall be an individual human being (a natural person) and a corporation or incorporated society with the rights and privileges of a natural person, unless otherwise specified.

**Piece** means a news report or story or article.

**Political campaign** means a movement and or promotion to achieve political goals and is not limited to the pre-election period.

**Political organisation** is any association that is concerned with, or involved in the political process, including everything from special interest groups that lobby politicians for change, to think tanks that propose policy alternatives, to political parties who run candidates for elections, to terrorist groups that use violence to achieve political goals.

**Political party** means a political organisation that seeks to attain political power within the Government, by participating in electoral campaigns, and may espouse a certain ideology and vision, but may also represent a coalition among disparate interests.

**Politics** is the process by which persons or political organisations make decisions that affect the Government or are intended to affect the Government, either directly or indirectly, such as through the support of the People.

**Powers, privileges and prerogatives** means the powers, authority and functions; the moveable and unmoveable property including funds; and special rights concerned with the particular appointment.

**Pre-election period** means the period between the time the Returning Officer announces there shall be an election and the time of the poll or the 90 days preceding a scheduled election, whichever shall be the shorter.

**Press** means any media for the dissemination and publication of news.

**Private information** means any information that a person can reasonably expect will not be made public and any information about the behaviour of a person that such a person would reasonably expect will not be observed or recorded.

**Pro tempore** means for the time being.

**Public figure** means a person by degrees is pervasively involved in public affairs, and also by varying aspect of their life is pervasively involved in public affairs, so that all persons by some degrees and by some aspect shall be public figures, but the converse shall be equally true: that all persons by some degrees and by some aspect shall be private figures.

**Public Interest** means the appropriate balance is achieved in any given set of circumstances between the weight of the greatest good for the greatest number weighed against the potential harm to any minority interest, which, given every person is in some aspect of their life part of a minority, may result in the greatest harm for the greatest number.

**Public monies** means monies appropriated from the Consolidated Public Fund.

**Purpose** means the direction at which an endeavour shall be directed but may not be able to be measured or be achievable within a specified time, or even necessarily achievable to the fullest extent.

**Real estate** means land, including all the natural resources and permanent buildings on it.

**Real value** means the nominal dollar value is adjusted each year for the change in the level of prices.

**Reasonable** means shall be just, rational, appropriate, ordinary or usual in the circumstances. It may refer to care, cause, compensation, doubt (in a criminal trial), time and a host of other actions or activities. In matters concerning negligence it shall be 'the reasonable person standard' where the standard of care shall be that of a reasonably prudent person would observe under a given set of circumstances, so that a person, who subscribes to such standards, can avoid liability for negligence. Similarly a reasonable act shall be that which might fairly and properly be required of an individual. It also means the act or other matter that shall be explained rationally demonstrating there shall be good reason or cause for such action or matter.

**Reduce remuneration** means such remuneration or conditions of engagement, whether pecuniary or not, shall not be reduced in real (as opposed to nominal) terms

**Religion** means a set of common beliefs and practices generally held by a group of people, often codified as prayer, ritual, and religious law: it also encompasses ancestral or cultural traditions, writings, history, and mythology, as well as personal faith and mystic experience, and refers to both the personal practices related to communal faith and to group rituals and communication stemming from shared conviction in a supernatural entity.

**Report in the negative** means a report that simply states whether or not the reporter shall have discovered any information that contradicts a claim.

**Rescue services** means those services involved in the rescue and protection of people and property from dangers including but not limited to fire and natural disaster.

**Resource** means the total means available for economic and political development, such as without limitation mineral wealth, air, people, knowledge and customs.

**Responsible Minister** means that Minister pro tempore responsible for the administration of an Act.

**Secret** means that information, irrespective of the administrative classification given to such information, held by the Government on behalf of the People, the revelation of which would materially harm the purpose and function of this Constitution, and which may only be revealed to such authorised persons who need to hold such information in order to conduct their role in the protection of this Constitution.

**Secretary of a Department of State** means the chief executive.

**Shall not be unreasonably withheld** means the withholding shall be for a good reason and that such reason shall be fully, frankly and opportunely given.

**Simple majority** means a majority of the votes cast.

**Special measures** with respect to peoples means those measures taken by the Government to protect the fundamental liberties of particular peoples that are best suited to their customs, traditions and laws but are not discriminatory in terms of special measures to protect other peoples in accordance with their customs, traditions and laws, and all measures shall be equal in terms of opportunity and outcome.

**Spouse** means someone to whom a person shall have made an intimate pledge by oath or deed in a relationship the nature of which shall be one of marriage but shall be not necessarily a registered

marriage or civil union, and where the titles, 'wife', 'husband' or 'partner' shall be appropriate.

**Stated** means as set out in statute.

**Summary court** means a court of law for the expeditious application of justice.

**Supernatural entity** means a being or an object, whether incorporeal or not, believed to have powers to affect the course of human and natural events, beyond that which can be established by science or reason.

**Territory** means an area of land or water over which there shall be a responsibility or interest of an authority.

**The law** means the laws of New Zealand

**The Nation** means this Constitution and this Constitution means the Nation: they shall be one and the same thing.

**The National interest or national security** means the survival and security of the Nation, including the preservation of its culture: it does not include the national pursuit of wealth, economic growth, or power. Moreover, National Interest means this Constitution and the Constitution means the National Interest: they shall be the one and the same thing.

**The People** means the Nation and the Nation means the People: they shall be one and the same thing.

**Thought** means any opinions, judgements, beliefs, feelings, views or other imaginations.

**Time of war** means a time when there shall be taking place an armed conflict in which the Nation shall be not a participant but in respect of which each of the Houses of the Parliament shall have resolved that, arising out of such armed conflict, a National emergency exists affecting the vital interests of the Nation.

**Time of war or armed rebellion** means such time after the termination of any war, or of any such armed conflict, or of an armed rebellion, as may elapse until each of the Houses of the Parliament shall have resolved that the National emergency occasioned by such war, armed conflict, or armed rebellion shall have ceased to exist.

**Traditional lands, territories and resources** means those lands, and territories, and resources by either tradition or custom were occupied, used or acquired by Māori up to the signing of the Treaty of Waitangi on 6<sup>th</sup> February 1840, and including any subsequent lawful agreement or binding arbitrated settlement of any disputed land, or territories, or resources.

**True social order** means an evolving system of institutions, pattern of interactions and customs that shall be faithful to this Constitution and capable of continually reproducing at least those conditions essential for its own existence. It refers to all those

facets of New Zealand society which shall be perpetual. These conditions not only include property, exchange of property-exchange and power relations but also cultural norms, communication relations and values.

**Undue influence** means any improper or wrongful constraint, machination, or urgency of persuasion, by which a person's will shall be overcome and they shall

be induced to do or refrain from an act which they would not do, or would do, if left to act freely, and where there shall be a presumption of undue influence by political parties and cultural associations.

**Vested interests** means those individuals, groups or associations within society that seek to maintain or control an existing system or activity from which they derive private benefit.

## PREAMBLE

### **We, the People of New Zealand—**

Recognising that the 1840 Treaty of Waitangi is the founding covenant of our Nation—an agreement between different people to create one Nation: that the New Zealand Nation has the right to sovereign Government, the protection of civil, human, cultural and property rights, including the right of self-management according to law: and confers on all New Zealanders the rights and privileges of citizenship:

Acknowledging the realisation of the covenant shall be progressive and that it involves the continuing development of the partnership between peoples of equal status, who have and will migrate to these islands: that the rights and privileges shall be actively protected and that aggrieved people have the right to seek redress from an independent arbitrator prescribed by law, and:

Seeking to promote the common welfare, with due observance of endeavour, prudence, justice and humanity, so that the dignity and freedom of the individual may be assured, true social order sustained, the unity of our Nation preserved, and concord established with other Nations:

Adopt, enact, and give to ourselves this Constitution.

## PART I THE NATION-STATE

### THE TREATY OF WAITANGI

#### Article 1

##### **Recognition of Māori as the indigenous people of New Zealand**

1. This Constitution recognises Māori as the indigenous people (tangata whenua) of New Zealand, who held absolute and independent sovereignty of the islands and seas of New Zealand prior to the Treaty of Waitangi.

2. This Constitution further recognises the Māori people ceded such sovereignty in return for the rule of law that enables the Government to govern and make laws through due constitutional process, while granting its protection of Māori as citizens holding chiefly domain (rangatiratanga) within their tribal sphere of influence (iwi takiwā) over their property, customs and spiritual beliefs.

#### Article 2

##### **Reconciliation with Māori**

1. The Nation profoundly regrets and apologises unreservedly that its Government in its dealings with Māori has acted unconscionably and in repeated breach of the Treaty of Waitangi by—failing to act in the utmost good faith in a manner consistent with the honour of the Nation:



denying Māori reasonable and expeditious redress for such breaches: and failing to protect Māori rangatiratanga over its lands, possessions and customs.

2. The Nation expresses its sincere remorse to Māori for the long and deep suffering and hardship caused, and for the harmful affects, including loss of opportunity, which resulted to the economic, cultural and spiritual welfare of Māori.

3. Despite such violation, the Nation recognises Māori have been loyal to the Nation, and as a whole have honoured their obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the Nation, especially, but not exclusively, in their active service and shedding of blood in all of the major conflicts to which New Zealand shall have sent troops. The Nation pays tribute to Māori loyalty and to the inestimable contribution made by Māori to the development of the Nation.

4. Accordingly, the Nation commands its Government to make its best efforts to reconcile these injustices so far as it shall be practicable, and, with due process for the settlement of grievances, to revitalize the process of reconciliation between Māori and all the other peoples of the New Zealand Nation.

5. The Nation further commands its Government to recognise, observe and provide for the enforcement or redress of treaties, agreements and other constructive arrangements concluded with Maori or their successors, and to honour and respect such treaties, agreements and other constructive arrangements.

### Article 3

#### Acknowledgement of unknowable interpretation

1. This Constitution acknowledges a unified interpretation of the preamble, articles and epilogue of the Māori and English versions of the Treaty of Waitangi is unfeasible and the intentions and understanding of the signatories at the time is now inaccessible, such that the principles of the Treaty shall be the basis of the living and evolving covenant between Māori and the Peoples—and between all the Peoples of the Nation—who have and will migrate to New Zealand.

2. Those principles of the Treaty shall be—

a. **The principle of government:** the right of the Government to govern and to make laws concurrent with the Government's obligation to govern in accordance with due constitutional process. It includes the exchange of sovereignty by Māori the People for the protection of the Government.

b. **The principle of self-management:** the Government guarantees to Maori the Government's active protection of Māori control and enjoyment of those established resources and taonga, both material and cultural, that it shall be their wish to retain, and the right for Māori to organise as they see fit and, under the law, in order to control the resources they own.

c. **The principle of equality:** the Government guarantees legal equality between Maori and other citizens of New Zealand such that all New Zealand citizens shall be equal before the law where the common law system is the basis for that equality, including those human rights accepted under international law. Social rights shall be enjoyed equally by Maori with all New Zealand citizens of whatever ethnic origin. Special measures may be employed for Māori to attain equal enjoyment of social benefits but only in as much as special measures may also be employed for the other ethnic peoples so that they may also attain equal enjoyment of such social benefits.

d. **The principle of cooperation:** the Government shall establish a fair basis for two or more ethnic peoples in one country, where duality and unity shall be significant: duality implies distinctive cultural development while unity implies common purpose and community. The relationship between community and distinctive development shall be governed by the requirement of cooperation, which shall be an obligation placed on all ethnic peoples. Reasonable cooperation shall occur when there has been consultation on major issues of common concern and such consultation has been in good faith, and where balance and common sense shall have been shown on all sides such that there shall be continuing development of the partnership.

e. **The principle of redress:** the Government accepts a responsibility to provide a process for the resolution of grievances arising from the Treaty and this Constitution. This process may involve the Courts, tribunals, or direct negotiation. The provision of redress, where entitlement shall be established, shall take account of its practical impact and of the need to avoid the creation of fresh injustice. When the Government demonstrates commitment to this process of redress, it does so in the expectation that it will result in reconciliation with Māori.

#### **Article 4**

##### **Supremacy of the Constitution**

1. This Constitution shall be the supreme law of New Zealand and any law enacted by Parliament after the commencement of this Constitution which shall be inconsistent with this Constitution is, to the extent of the inconsistency, void.

2. These provisions, along with the schedules comprise the entire Constitution of New Zealand representing the social contract between the Peoples of New Zealand and the Government and as such supersedes any and all other enacted constitutions, constitutional provisions and constitutional customs, either oral or written, with respect to the subject matter of this Constitution.

#### **SOVEREIGN AND INDIVISIBLE NATION**

#### **Article 5**

##### **Sovereignty**

The New Zealand People, in and over its islands and seas, affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government: to determine its relations with other states: and to develop its life, political, economic and cultural, in accordance with its own genius and traditions.

#### **Article 6**

##### **Indivisible Nation**

It shall be the firm will of the Nation, in harmony and friendship, to unite all the Peoples who share the territory of New Zealand into one indivisible Nation, in all the diversity of their identities and traditions, so that—

**The Islands and Seas shall be of the People, and the People shall be of the Islands and Seas; they shall be the same:**

**The People shall be the Nation and the Nation shall be the People; they shall be the same:**

**The Nation shall be this Constitution, and this Constitution shall be the Nation; they shall be the same:**

**The Islands and Seas, the People, the Nation, and this Constitution shall all be one and the same thing.**

#### **Article 7**

##### **Nationhood**

It shall be the entitlement and birthright of every person born in New Zealand, which includes its islands and seas, to be part of the New Zealand Nation. This shall be also the entitlement of all persons otherwise qualified in accordance with law to be citizens of the New Zealand state. Furthermore, the New Zealand Nation cherishes its special affinity with people of New Zealand ancestry living abroad who share its cultural identity and heritage.

#### **Article 8**

##### **Citation of the Nation**

The state shall be known in the Māori language as, ‘Aotearoa’ and in the New Zealand English language as, ‘New Zealand’.

#### **Article 9**

##### **The National Estate**

1. All natural resources, including without limitation the land, waters, minerals, air and all forms of potential energy, within the jurisdiction of the Nation established by this constitution and all royalties and franchises within that jurisdiction belong to the National Estate held in trust by the Government, and subject to all estates and interests for the time being lawfully vested in any person or body.

2. All land and all mines, minerals and waters which belonged to the state of New Zealand immediately before the coming into operation of this Constitution belong to the Nation to the same extent as they then belonged to the state of New Zealand.

3. In appropriating the National Estate or any revenues deprived from it, the Government shall have regard to the matters acknowledged in Article 3, in particular the understanding or otherwise Māori had regarding the ceding of sovereignty which vested the Nation with the ownership of the National Estate other than the fee simple of the Māori established estates and interests.

#### **Article 10**

##### **Citizenship**

1. On the coming into operation of this Constitution any person who was a citizen of New Zealand immediately before the coming into operation of this Constitution shall be a citizen of New Zealand under this Constitution.

2. The future acquisition and loss of New Zealand Nationality and citizenship shall be provided for by law.

3. No person may be excluded from New Zealand Nationality and citizenship by reason of the sex of such person.

4. Notwithstanding any other provision of this Constitution, a person born in New Zealand, which includes its islands and seas, who does not have, at the time of the birth of that person, at least one parent who shall be an New Zealand citizen or entitled to be a New Zealand citizen shall be not entitled to New Zealand citizenship or Nationality, unless provided for by law.

## PART II

### LANGUAGE, HONOURS AND EMBLEMS

#### Article 11

##### National language and official languages

1. The National language shall be the Māori language, provided that—
  - a. no person shall be obliged to use the National language;
  - b. no person shall be prohibited or prevented from using or from teaching or learning any other language: and
  - c. nothing in this article shall prejudice the right of the Government to preserve and sustain the use and study of the language of any other community in New Zealand.
2. Māori and New-Zealand English shall be for the time being the two official languages of New Zealand.
3. Provision may be made by law for additional official languages and for the exclusive use of either of the said languages for any one or more official purposes, either throughout the whole state or in any part.

#### Article 12

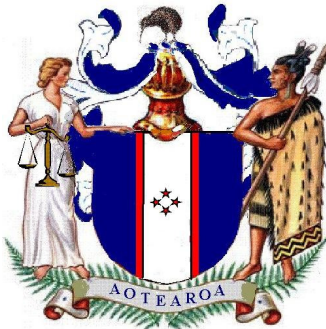
##### National insignia and anthem

1. The National standard (flag) shall be a blue field with a white pale bordered by red stripes with black borders in which there shall be a cluster of four centred outward-facing red five-pointed stars with black borders in the form of a cross—

*[The red, white and blue are a reference to the Flag of the United Tribes of New Zealand and the Blue Ensign. The black borders to the red strips is another reference to the Flag of the United Tribes, and, along with the black borders to the stars are a reminder of the past injustices in respect to the Treaty of Waitangi. The red stars are a reference to the red stars of the Blue Ensign of the Southern Cross but also to the four brightest stars of Matariki—the dawning of new era in New Zealand’s history. The four stars also represent the four peoples: Māori, European, Pacific and Asian, with one being first among equals as the Indigenous People in a circle of mutual protection. The three major parts: blue, white, blue, refer to liberty (of people and speech); equality (in law and democracy) and society (mutual benevolence and nationhood).]*



2. The National coat-of-arms shall be—



3. The National badge shall be—



4. The National anthem is 'God Defend New Zealand' [*No change*]

5. The protection and use of the National insignia and anthem shall be regulated in law.

### **Article 13**

#### **Order of Precedence**

1. There shall be an Order of Precedence which is set out in the First Schedule.

2. The Order of Precedence shall be a nominal and symbolic hierarchy of important positions within the Government. The order may be changed by the President but does not reflect the

presidential line of succession or the co-equal status of the Branches of Government under this Constitution, and shall be only to be used to indicate ceremonial protocol.

#### **Article 14**

##### **Order of Aotearoa**

1. There shall be one order of chivalry called, 'The Order of Aotearoa' with two divisions—
  - a. **The Division for Service** for those persons who in any field of endeavour, have rendered meritorious service to the Nation or who have become distinguished by their eminence, talents, contributions or other merits, particularly when such endeavours have not afforded other forms of recognition. The status of a person by right of birth, or by association, or by celebrity, or the accumulation of wealth, or charitable donations or donations or contributions of any other kind (other than that of time and ability) shall not be considerations.
  - b. **The Division for Valour** for the achievement of valorous deeds in the protection of the Nation and this Constitution and the protection of life.
2. The powers, privileges and prerogatives of the officers and members of the Order of Aotearoa are set out in Second Schedule of this Constitution.

### **PART III**

#### **PROTECTION OF SOVEREIGNTY**

#### **Article 15**

##### **No surrender of sovereignty**

There shall be—

- a. no surrender or transfer, either wholly or in part, of the sovereignty of the New Zealand as an independent Nation, whether by way of merger or incorporation with any other sovereign state or with any federation, confederation, country or territory or in any other manner whatsoever: and
- b. no relinquishment of control over the police, the armed forces, or any other coercive entity of state authorised by law—

unless such surrender, transfer or relinquishment shall have been supported at a National referendum by not less than two-thirds of the total number of votes cast by the electors registered under law.

#### **Article 16**

##### **Participation in international schemes**

1. Without in any way derogating from the force and effect of Article 15, nothing in that article shall be construed as precluding New Zealand or any New Zealand association, body or organisation from—
  - a. participating or co-operating in, or contributing towards, any scheme, venture, project, enterprise or undertaking of whatsoever nature, in conjunction or in concert with any other sovereign state or with any federation, confederation, country or countries or any association, body or organisation, where such scheme, venture, project, enterprise or undertaking confers, shall have the effect of conferring or shall be intended to confer, on New Zealand or any New Zealand association, body or organisation, any economic, financial, industrial, social,

cultural, educational or other benefit of any kind or is, or appears to be, advantageous in any way to New Zealand or any New Zealand association, body or organisation: or

b. entering into any treaty, agreement, contract, pact or other arrangement with any other sovereign state or with any federation, confederation, country or countries or any New Zealand association, body or organisation, where such treaty, agreement, contract, pact or arrangement provides for mutual or collective security or any other object or purpose whatsoever which is, or appears to be, beneficial or advantageous to New Zealand in any way.

## **Article 17**

### **International relations**

1. New Zealand affirms its devotion to the ideal of peace and friendly co-operation amongst Nations founded on international justice and morality.
2. New Zealand affirms its adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination.
3. New Zealand accepts the generally recognised principles of international law as its rule of conduct in its relations with other states in both peace and war.
4. The executive power of the Government in or in connection with its external relations shall in accordance with Article 16 of this Constitution be exercised by or on the authority of the Cabinet.
5. For the purpose of the exercise of any executive function of the Government in or in connection with its external relations, the Government may to such extent and subject to such conditions, if any, as may be determined by law, avail of or adopt any organ, instrument, or method of procedure used or adopted for the like purpose by the members of any group or league of Nations with which the Government shall be or becomes associated for the purpose of international co-operation in matters of common concern.
6. Every international agreement to which the Government becomes a party shall be laid before the House of Representatives.
7. The Government shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by the Parliament.
8. Sections 6 and 7 of this article shall apply to agreements or conventions of a technical and administrative character.
9. No international agreement shall be part of the domestic law of the Government unless as may be determined by the Parliament.
10. The Government may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law.
11. The Government ratifies all international treaties and agreements ratified and enacted at the time of the adoption of this Constitution.

**PART IV**  
**FUNDAMENTAL LIBERTIES**

**Article 18****Right to hold the Government accountable**

1. The Government governs and can only govern with the prior free informed consent of the People.

2. Every citizen over the age of 18 years of sound unimpaired mind shall have the right to chose the Government through democratic means by way of proportional representation in exercising their vote as provided for in this Constitution and in law.

3. Every citizen shall have the right to be informed of the qualifications, beliefs and or opinions, and intentions of those persons or political parties seeking office or power in the Government, and of the current and historical national and world affairs, and the opinions of people to and of such persons, parties, affairs in a fair, frank and opportune manner.

4. Every person shall have the right to information held by the Government and, when requested, such information shall be provided in a full, frank and opportune manner, unless withholding such information is in the Public Interest for stated reasons.

5. Every person shall have the right to—

a. Be informed in a free, frank and opportune manner of all facts and implications of any intention by the Government to take any action or enact any law or impose any regulation, or engage in any activity whatsoever that shall be or shall be likely to affect such person, unless such information will or shall be likely to pose a substantive risk to the national or public interest:

b. Petition the Government on any matters of fact or opinion regarding such intentions:

c. Be heard by the Government:

d. Have their opinions taken into consideration without bias and before a decision shall be taken.

6. When decisions shall be taken by the Government that affects or shall be likely to affect any person, such person shall have the right to be informed of—

a. The authority in law under which the decision was taken:

b. The issues taken into consideration, including—

i. All matters of fact and opinion, including any assumptions: and

ii. Any and all influences, whether due or undue, brought to bear on such decision and decision-makers: and

iii. the observance of the principles of equity and proportionality, and the avoidance of bias: and

c. The rationale for that decision and the relative weights given to such considerations in Subsection (b) above: and

d. The procedure by which the decision was taken: and



e. Any and all other matters that had a bearing on the decision, and whether or not such matters were determined in law, common law, Government codes of conduct or by precedents established by the Courts of Law.

7. Every person shall have the right to receive all information from the Government in clear plain language that can be understood by the common person in a full, frank and opportune manner.

8. Every person shall have the right to petition the Government for the redress of grievances.

9. The provisions in this article shall be provided for in law.

## **Article 19**

### **Liberty of the person**

1. No persons shall be deprived of their life or personal liberty, save in accordance with law.

2. When a complaint shall be made to the High Court or any of its judges that a person or persons shall be being unlawfully detained, the court shall inquire into the complaint and, unless satisfied that the detention shall be lawful, shall order them to be produced immediately before the court and release them.

3. When persons shall be arrested, they shall be informed as soon as reasonably practicable of the grounds of their arrest and shall be allowed to consult and be defended by an Attorney in Law of their choice.

4. When persons shall be arrested and not released, they shall, without unreasonable delay, and in any case within 72 hours (excluding the time of any necessary journey) be produced before a judge of the High Court and shall not be further detained in custody without the judge's authority, which shall be granted only when the a detainee shall have been charged with an offence against law and poses an unacceptable risk to—

- a. Actual or potential witnesses: or
- b. Actual or potential evidence: or
- c. Actual or potential jurors: or
- d. Inquiries stated by law-enforcement or intelligence agencies: or
- e. To themselves through the imbalance of their mind: or
- f. Peace and good order.

5. Sections 3 and 4 do not apply to an enemy alien or to any person arrested for contempt of Parliament pursuant to a warrant issued under the hand of either speaker of the Houses of Parliament.

## **Article 20**

### **Right to a fair trial**

1. Every person shall have the right to a fair trial according to natural justice, in particular—

- a. A person accused of a crime, or at risk of some form of loss, shall be given adequate notice about the proceedings, including any charges.
- b. The accused shall have adequate and confidential access to qualified legal counsel of their choice and the all evidence held by the prosecution.
- c. The accused may choose to be tried by either a jury of twelve citizens chosen by secret ballot or by a panel of judges, consisting of one or more judges.

- d. Any person making a decision shall declare any personal interest they may have in the proceedings and shall be unbiased and act in good faith, and can neither be one of the parties in the case nor have an interest in the outcome.
  - e. Proceedings shall be conducted in such a manner that shall be fair to all parties, allowing cross-examination of all witnesses, contradiction of opposing evidence and the right of reply to statements made.
  - f. All decision-makers shall take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations.
  - g. There shall be a presumption of innocence until guilt shall be proven beyond reasonable doubt in criminal cases and on the balance of probability in civil cases.
  - h. The judge may include directions for the jury on points of law and on matters that the jury should or shouldn't consider in deciding on their verdict.
  - i. Unanimous verdicts shall be required for the conviction of a criminal offence, while verdicts of at least three quarters shall be acceptable for a verdict of 'guilty', provided the jurors attest to the fact they have made best efforts to reach a unanimous verdict, otherwise the verdict shall be 'not-guilty'.
  - j. A jury shall not convict any person, when, in the jury's opinion the law against which the defendant is accused or the particular circumstances of the event that led to the accusation would make the application of that law repugnant to this Constitution.
  - k. Trials shall be held in public unless there is just cause otherwise in Section 7 of this article.
2. The conduct of trials shall be provided for in law.
  3. Trials and appeals shall be held as soon as reasonably practicable and not later than twelve months from the laying of a charge or the interval between an appeal and its hearing.
  4. Notwithstanding Section 3 of this article, when the twelve month period shall be exceeded, no case or defendant shall be stayed or discharged but the Constitutional Court shall make an inquiry into the causes of each delayed case.
  5. All punishments and damages shall be decided by judges: shall not be cruel: shall be in proportion to the offence and shall take into consideration mitigating and aggravating circumstances, including but not limited to offenders' state of mind and the affect of the crime on victims: the affect of the punishment on the offenders' children and dependents: and the need, wherever reasonably practicable, for the rehabilitation of the offender into society.
  6. Any damages, fines or confiscation of assets shall take into account any affect on the material welfare of persons born and not yet born, who shall be innocent parties and who it could be reasonably presumed would otherwise expect to inherit or otherwise benefit from those assets that shall be legitimately held by the offenders and which the offenders themselves inherited, even if such assets shall be held in trust and the offenders' denied their benefits in whole or in part.

### **Special Courts**

7. Notwithstanding Section 1 of this article, when there shall be a reasonable presumption the ordinary Courts shall be inadequate to secure the effective administration of justice, the preservation of peace and order, the protection of the National Interest and the protection of any jury, witnesses or evidence, application may be made to the High Court for trial in a Special Court.

8. Special Courts shall—

- a. Adhere whenever reasonably practicable to Section 1 of this article while taking into account the preservation of peace and order, and the protection of any jury, witnesses or evidence:
- b. Have the same rights of appeal as any other court (although the administration of such appeals may be modified to take into account the special nature of such cases), and
- c. The High Court shall, prior to the application of such application hearing, appoint one or more senior counsel (and any subsequent replacements when necessary) at the court's sole discretion to represent the accused, which shall be any counsel other than one that shall have or shall be representing the defendant or the prosecutor:

—as shall be provided for in law.

**Cost of defence**

9. No natural person shall bear the cost of their defence including legal representation beyond which the cost would affect defendants' enjoyment of their living expenses, House, chattels, primary mode of transport, reasonable retirement pension and savings of six months expenditure: or affect the material welfare of persons born and not yet born, who are not accused and who it could be reasonably presumed would otherwise expect to inherit or otherwise benefit from those assets that shall be legitimately held and inherited by the defendants, as shall be provided for in law.

10. When any person found not guilty of an allegation, they shall have all their reasonable costs paid for by the plaintiff, plus a reasonable daily rate of compensation for loss of liberty, plus reasonable compensation for loss earnings, reputation and disruption of children and dependents, plus a cumulative interest rate on all applicable costs and compensations which shall be at the respective rates defendants would reasonably expect to borrow the money to pay for their defence and the rate they would reasonably have expected to have earned on their compensation had it been saved, as shall be provided for in law.

11. No person shall be punished for an act or omission which was not punishable by law when it was done or made, and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.

12. Persons who have been convicted or acquitted of an offence shall not be tried again for the same offence except where the conviction or acquittal shall have been quashed and a retrial ordered by a court superior to that by which they were convicted or acquitted.

**Article 21**

**Slavery and forced labour prohibited**

1. No person shall be held in slavery.
2. All forms of forced labour shall be prohibited, but Parliament may by law provide for compulsory service for National Interest.
3. Every person shall have the right to withdraw their labour when employers have exercised undue influence in inducing employees into an employment contract or the employer shall be in material breach of the contract of employment or the parties have failed to agree on a contract, without fear of the loss of their employment position or sequestration of assets by the employer.
4. Notwithstanding Section 3 of this article, certain occupations, as shall be provided for in law, may be excluded from this right but the terms and conditions of their employment contract shall

be decided on every twelve months by an independent arbitrator or arbitrators established under the jurisdiction of the High Court and appointed by the President on the advice of the Chief Justice, the decision of which, unless the parties agree on the terms and conditions of the employment contract beforehand, shall be binding on and not subject to appeal by all parties.

5. Work incidental to the serving of a sentence of imprisonment imposed by a court of law shall not be taken to be forced labour within the meaning of this article.

6. No person shall be subject to undue influence to work at a level of complexity or efficiency, in conditions or for periods individually or cumulatively that pose an undue risk to a person's wellbeing, or to undertake tasks not previously agreed to, unless provided for in law.

## **Article 22**

### **Equal protection of the law**

1. All persons shall be equal before the law and entitled to the equal protection of the law.
2. Except as expressly authorised by this Constitution, there shall be no discrimination against citizens of New Zealand on the ground only of religious or ethical beliefs: political opinions: race or colour: descent, place of birth or Nationality: physical or mental disability or infirmity: marital or family status: personal association or family relationship, sex or sexual orientation: age in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.
3. This article does not invalidate or prohibit—
  - a. any provision regulating personal law: or
  - b. any provision or practice restricting office or employment connected with the affairs of any religion, or of an institution managed by a group professing any religion, to persons professing that religion.

## **Article 23**

### **Prohibition of banishment and freedom of movement**

1. No citizen of New Zealand shall be banished or excluded from New Zealand or rendered to another state.
2. No person shall be subject to rendition from New Zealand to another country unless New Zealand shall have received such a request for a Government of another state, and the High Court shall be satisfied there shall be substantive evidence to support charge against such persons for an infringement of the same of similar law of New Zealand, the person will be subject to the same or similar course of justice as New Zealand, and the maximum penalties for such offences shall be the same or similar to those of New Zealand including the absence of the death penalty.
3. No person shall be rendered to another state unless there shall be an extradition treaty with that state that protects such rendered persons from any infringements of their liberties that the High Court of New Zealand shall have not already considered in Section 2 of this article.
4. The provisions in Section 2 and 3 of the article shall be provided for in law.
5. Subject to any law relating to privacy, National security, public order, public health, course of justice or the punishment of offenders, every citizen of New Zealand shall have the right to move freely throughout, reside in any part of and leave New Zealand.

**Article 24****Freedom of speech, assembly and association**

1. All citizens of New Zealand have the right to—
  - a. Freedom of speech and expression:
  - b. Assemble peaceably without arms: and
  - c. Form associations and meet in association.

2. Despite Section 1 of this article, Parliament may by law impose on the rights conferred by the article such restrictions as it considers necessary or expedient in the interest of protecting the common welfare, including but not limited to the security of New Zealand, public order or morality and restrictions designed to protect the privileges of Parliament, to provide against contempt of court or incitement to any offence.

**Article 25****No right to bear arms**

1. Other than those Government agencies authorised by law to bear arms, no person shall have the right to bear or hold arms other than by privilege granted by the Government, and such privilege may be removed by due process of law.
2. Arms may be retained, exchanged and used only for the purpose of vermin control, hunting and target shooting, and dramatic productions, and only then under the direct control of a Government agency or indirectly through an association licensed by such an agency. The collection and or retention of arms, other than by a learned institution such as a museum, shall not be proper purposes.
3. All arms authorised under Section 2 of this article shall be individually physically inspected and accounted for, along with their logbooks, by an authorised person other than the owner, the owners' family or close associates, at least every four weeks, otherwise the privilege granted under Section 1 of this article and or the licence of such authorised association under Section 2 of this article shall be revoked.
4. Every weapon not used for its authorised purpose by the named persons authorised to use it at least once every six months shall have its licence revoked.
5. The nature, purpose, qualifications and means by which those arms to be permitted under Section 1 of this article shall be exchanged, obtained, held, transported, used and disposed of shall be regulated by law.
6. No person, other than those in Government agencies or those in such an association under the control of a Government agency authorised by law, shall be permitted to act alone or to associate in an organised and disciplined manner, whether bearing arms or not, or wear military-style uniforms, insignia or paraphernalia, or use encrypted communications that suggests or would reasonably be interpreted as suggesting a military and or criminal intent, as shall be provided for in law.

**Article 26****Freedom of religion**

1. Every person shall have the right to profess and practise their religion and to propagate it, subject to public order and prevalent social standards.

2. There shall be no state endorsed religion in New Zealand and no act by the Government shall endorse or endow any religion or religious belief but the Government shall show due consideration for religion.
3. Notwithstanding the general prohibitions in this section, the Government endorses—
  - a. religious ceremonies in the case of state funerals where such ceremony shall be in keeping with the beliefs of the persons being honoured and those imparting the honour.
  - b. the provision of state-funded chaplains for the administration of the religious needs of those persons in the Government's care, who would not otherwise have reasonable practicable access to chaplains of their religion. Such access shall be provided in law and such chaplains shall not propagate their religion within such state institutions.
4. The Government shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.
5. No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion.
6. No person shall be compelled to pay any tax the proceeds of which shall be specially allocated in whole or in part for the purposes of a religion.
7. Every religious group shall have the right to—
  - a. manage its own religious affairs:
  - b. establish and maintain institutions for religious or charitable purposes, including the right to establish and maintain institutions for the education of children and provide within such institutions instruction in its own religion: and
  - c. to acquire and own property and hold and administer it in accordance with law.
8. The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation.
9. Every person shall have the right not to undertake armed service for the Government on the grounds of conscience but may be required to undertake unarmed service as shall be provided for in law.
10. This article does not authorise any act contrary to any general law relating to National security, public order, public health or morality.

## **Article 27**

### **Private property**

1. Every person shall have the right to the private ownership of external goods.
2. The Government shall not pass any law attempting to abolish the right of private ownership or the general right to transfer, bequeath, and inherit property.
3. Regardless of the right in Section 1 of this article, such right shall be, in civil society, regulated by the principles of social justice which affords all persons and all peoples fair treatment and opportunity, and an impartial share of the benefits of society.
4. When the Government delimits by law the exercise of such property rights, it shall endeavour to reconcile property rights with the exigencies of the common good.

**Article 28****Freedom from poverty**

Every person shall have the right to have their indispensable physiological, safety, fellowship, esteem and self-actualisation requirements met, where necessary, with the support of the Government, in particular—

- a. Adequate access to food, clothing, water, sleep, shelter, warmth, recreation and exercise.
- b. Meaningful occupation.
- c. Security from the undue physical, psychological, moral, visual and auditory affliction, duress or influence of others, including invasion of interference by foreign powers.
- d. Security from the affects of risks people cannot avoid or remedy and have limited means to mitigate, such as but not limited to armed conflict, economic depression and natural disasters.
- e. Security from ill-health and accidental injury and the consequence of death.
- f. Protection of intimate relationships, such as children with their parents, siblings and grandparents: and between spouses.
- g. Protection of their self-esteem, confidence, and achievement, and the respect for others as well as the respect by others.
- h. Protection of their morality, creativity, naturalness, reasoning, tolerance, and understanding of their circumstances.

**Article 29****Right to education**

1. Every person shall have the right to be trained and educated with the skills and knowledge pertaining to their capabilities that equips them to participate in New Zealand society and engage in meaningful occupation.
2. The Government provides free education up to the age of eighteen years and afterwards ensures persons shall be able to afford all education and training that will reasonably lead to meaningful occupation.
3. The Government does not endorse religious instruction other than in Article 26 of this Constitution.
4. Notwithstanding anything in Section 3, the Government does endorse the academic study of religion and comparative religion, excluding theology or any subject matter that presupposes the acceptance of a supernatural entity.

**Article 30****Right to privacy**

1. Every person shall have a right to privacy concerning their legitimate affairs and the undisturbed enjoyment of their life, associations and possessions, as shall be provided for in law.
2. The privacy of each and every person's home and any and all immediate surrounding area delimited as part of the home (not including public land) shall be inviolable.
3. With regard to the collection, holding and dissemination of private information—

- a. Each agency of the Government shall only collect, hold, protect, share between state agencies, and publish such private information as shall be necessary to conduct its function in relation to this Constitution and no more.
  - b. Every person shall only collect, hold, protect, share and publish such private information as shall be necessary to conduct its contractual obligations as previously agreed with the owner of such information.
  - c. When imparting private information there is to be a presumption by the owner of such information that it is given up into the public domain, unless the receiver of such information has given their free, prior and informed consent to keep such information private.
  - d. The transmission of information between persons by whatever means is private to those persons, unless any or all such persons chooses to make such information public and provided there is no undertaking to keep such information private consistent with Subsection (c).
  - e. In collecting information in the public domain, which does not include private information held in a private domain but collected from the public domain, such collection shall neither intimidate or impede any person about their lawful business, nor infringe the privacy or private space of any person.
  - f. When private information shall have been obtained from the public domain without the consent of the owner, it shall remain private information and no amount of exchange or use or holding of such information shall make that information anything other than private.
  - g. Notwithstanding that information concerning a person (irrespective of the degree to which a person shall be a public figure) might be in the public domain, that information shall not be public information when such information would deprive that a person of their right to dignity or any other human right, or breach commonly accepted social standards, namely the common person would regard such information, if such information had concerned them, as being private even though it shall be in the public domain.
  - h. Notwithstanding the degree to which a person shall be a public figure, public information that shall be connected to a person but shall be not material and or shall be unlikely to be material to that aspect of such a person being a public figure shall be considered as private information in as much as it concerns that person.
  - i. Any private information, other than that protected by privilege in law, imparted to by one person to others without the prior agreement of all parties that the information shall be kept private, becomes public information, even then such information may be used by the recipients to protect their interest in a Court of Law or when required to reveal it by law.
  - j. Every holder of private information shall be obliged to reveal such information to the owner, when requested to and to change such information as requested by the owner, except where such information shall be disputed, in which case it shall be recorded as such.
  - k. Every holder of private information, other than their own, shall take all reasonable practicable measures to protect such information.
  - l. Private information that shall have been amalgamated or changed in such a way that it shall be not reasonably practicable to identify the owner may be used in the public domain.
4. With regard to ownership of property—
-



a. Property rights may be exchanged by agreement without undue influence but the seller in an exchange shall have an obligation to inform the buyer of all matters material to the value of the property that the seller knows or shall be reasonably expected to know at the time of the sale, other wise the seller shall be liable to the buyer for damages, and such information shall be full, frank and opportune and not to be misleading or likely to mislead.

b. When the Government in order to perform it functions under this Constitution shall be required to purchase private property, it shall promptly pay either in cash or promissory notes a fair market value with a full, frank and opportune disclosure of information material to the value, if necessary to an independent arbitrator agreed by both parties, the decision of which, including interest on any promissory notes, shall be binding and not subject to appeal.

5. The provisions in Section 2 and 3 of the article shall be provided for in law.

### **Article 31**

#### **Protection of the child**

1. The rights of the child are inviolable and inalienable.

2. When the parents for physical or moral reasons shall be unable to fulfil their role towards their children, the Government, as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child, including those rights of such children with respect to their ethnic or indigenous origin.

### **Article 32**

#### **Protection of citizens when abroad**

The Government shall have a duty to take all reasonable practicable measures to protect citizens' rights and privileges when such citizens shall be abroad.

### **Article 33**

#### **Protection of aliens**

1. The Government shall have a duty to protect the rights and privileges of resident and visiting aliens.

2. When the Nation shall be at war with particular country or countries, whether declared or not, New Zealand shall honour all international laws of conflict to which it shall be a signatory with respect to the treatment of combatant and non-combatant enemy aliens whether within the territory and seas of New Zealand or without.

3. The provisions in Section 1 and 2 of the article shall be provided for in law.

## **PART V**

### **OBLIGATIONS OF CITIZENS**

### **Article 34**

#### **Fidelity and loyalty**

Fidelity to the Nation and loyalty to the Government shall be fundamental duties of all citizens.

**Article 35****Refrain from undue disturbance of others**

Every citizen in their pursuit of happiness shall take all reasonably practical measures to ensure their actions and words do not unduly harm others.

**Article 36****National service**

When the Government shall have declared war or a state of emergency affecting the territory or otherwise the National Interest of New Zealand in whole or in part, every citizen between the ages of 18 and 65 years shall be obliged to serve the Nation and surrender to the Nation all assets save those necessary for life, when called on by the Government, as shall be provided for in law.

**Article 37****Obligation to hold the Government accountable**

Every citizen and resident alien eligible to vote shall have an obligation to hold the Government accountable and to that end shall register to vote and to exercise such vote in every general election and every by-election that affects them, as shall be regulated by law.

**Article 38****Jury service**

Every citizen over the age of 18 years shall have an obligation to serve on a jury when called on, as shall be provided for in law.

**Article 39****Provision of information and compliance with lawful requests of the Government**

Every citizen and resident or visiting alien (other than an alien with diplomatic immunity) shall to provide full, frank and opportune information and comply to any other lawful requirements when required to any official acting on behalf of the Government, and shall not without lawful justification or excuse—

- a. not wilfully obstruct, hinder, or resist such officials: or
- b. fail to comply with any lawful requirement of any official: or
- c. make any false statement to or misleads or attempts to mislead any official:

—or any other person in the exercise of their powers and in accordance with this Constitution or the law.

**Article 40****Pay taxes and any other monies owing to the Government**

Every citizen and resident or visiting alien (other than an alien with diplomatic immunity) shall be required to pay all taxes, levies and other monies owing to the Government, as shall be provided for in law.

**Article 41****Assistance**

Every citizen over the age of 18 years shall provide all reasonable practical assistance to, whether requested or not, and shall not obstruct or devise any obstruction, whether consisting of physically material or not, that impedes or endangers is likely to impede or endanger any

instrument of the Government acting in accordance with this Constitution, as shall be provided for in law.

#### **Article 42**

##### **Protection of minors and the infirm**

Every citizen, commensurate with such citizen's age, shall provide all reasonable practical protection from harm or a reasonable presumption of harm, including the provision of the immediate necessities of life, to any child, other minor below the age of 18 years or infirm persons, irrespective of whether such persons shall be related to or known to such citizens, or whether such persons request such protection.

#### **Article 43**

##### **Observance of the law**

Every citizen, resident or visiting alien shall have the obligation to observe this Constitution and the law.

## **PART VI**

### **RIGHTS OF MAORI AND ALL ETHNIC PEOPLES**

#### **Article 44**

##### **Protection of existing Māori rights**

Nothing in this Constitution shall be construed as diminishing or extinguishing the existing rights Māori as the indigenous people of New Zealand.

#### **Article 45**

##### **Equality of individuals, peoples and territorial integrity**

1. Nothing in this part of the Constitution shall be interpreted as implying for any people, group or person any right to engage in any activity or to perform any act contrary to this Constitution or construed as authorising or encouraging any action which would either deny or impair the Government's right to govern and make law, or dismember or impair, totally or in part, the territorial integrity or political unity of the sovereign and independent nation of New Zealand.

2. The exercise of the rights set out in this part shall be subject only to such limitations as are determined by law, and any such limitations shall have due regard for fundamental liberties of all persons, shall be non-discriminatory and shall be strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of all peoples equally and for meeting the just and most compelling requirements of a democratic society.

#### **Article 46**

##### **Recognition, observance and enforcement of treaties**

1. The Government shall recognise, observe and provide for the enforcement and redress of treaties, agreements and other constructive arrangements concluded with Maori or their successors, and to honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Constitution shall diminish or eliminate the rights of Māori contained in current treaties, agreements and other constructive arrangements, including the Treaty of Waitangi, or those Maori may acquire in the future, and all unresolved grievances concerning such treaties,

agreements and other constructive arrangements shall not be resolved by the adoption of this Constitution and remain unresolved until such time as the parties concerned have settled on a resolution.

#### **Article 47**

##### **Right to fundamental freedoms**

1. Māori shall have full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as provided for in this Constitution and in law.

##### *Equality and non-discrimination*

2. Māori are free and equal to all other peoples and individuals and are to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

##### *Freedom, peace and security*

3. Māori have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act injurious to any tribe (iwi), sub-tribe (hapū) or family (whānau) to another such group or association.

4. Māori are not to be subjected to forced assimilation or destruction of their culture, and the Government shall prevent, and provide redress for—

- a. Any action which has the aim or effect of depriving Māori of their integrity as distinct people, or of their cultural values or ethnic identity:
- b. Any action which has the aim or effect of dispossessing them of their traditional lands, territories or resources:
- c. Any form of forced population transfer, including forcibly being removed from their lands or territories, which has the aim or effect of violating or undermining any of their rights:
- d. Any form of forced assimilation or integration:
- e. Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

5. No relocation shall take place without the free, prior and informed consent of the Māori concerned and after agreement on just and fair compensation and, where practicable, with the option of return.

##### *Right to community and association*

6. Māori may belong to a community or any association in accordance with the traditions and customs of their communities.

##### *Improvement of economic and social conditions*

7. The Government shall take special measures to ensure continuing improvement of Māori economic and social conditions, in particular but without limitation the needs of Māori elders, women, youth, children and persons with disabilities.

#### **Article 48**

##### **Right to cultural traditions and heritage**

1. Māori may use, practise, develop, revitalise and transmit to future generations their cultural traditions, artefacts, beliefs and other treasures (taonga), including without limitation maintaining, protecting and developing the past, present and future manifestations of their cultures, such as among other matters their histories, languages, oral traditions, philosophies, writing and other

forms of recording, and literature, archaeological and historical sites, artefacts, designs, ceremonies, technologies, and visual and performing arts and literature, and spiritual beliefs, and to designate and retain their own names for communities, places and persons.

2. Māori may manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies: and maintain, protect, and have access in privacy to their religious and cultural sites: use and control of their ceremonial objects: and have the right to the repatriation of their human remains.

3. The Government shall enable the access to and repatriation of ceremonial objects and human remains in its possession and in the possession of other sovereign states through fair, transparent and effective mechanisms developed in conjunction with the Maori concerned.

#### *Media*

4. The Government shall ensure government-owned media duly reflects Māori cultural diversity, and, without prejudice shall ensure full freedom of expression, the Government shall encourage private-owned media to also adequately reflect such cultural diversity.

5. The Government shall reflect in education and public information, the dignity and diversity of Māori cultures, traditions, histories and aspirations.

#### *Education*

6. Māori may establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

7. The Government shall, in conjunction with Māori, take effective measures, in order for Māori, particularly children, including those living outside their communities, to have access, when practicable, to an education in their own culture and provided in their own language.

#### *Transitional medicines and practices*

8. Māori may retain their traditional medicines and maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals.

#### *Spiritual relationship with land*

9. Māori may maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

#### *Intellectual property*

10. Māori may maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also may maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

### **Article 49**

#### **Exercise of self-determination (rangatiratanga)**

1. Māori may maintain, promote and develop their distinct political, legal, economic, social and cultural institutions with the right to autonomy or self-government in matters relating to their

internal and local affairs, as well as ways and means for financing their autonomous functions with respect to their own means of subsistence and development and other economic activities; and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs in accordance with the law.

2. Māori may determine and develop priorities and strategies for exercising their right to development. In particular, Māori may be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as practicable, administer such programmes through their own institutions.

3. In exercising their right to develop such institutions in Section 1 of this article, Māori shall retain their right to participate fully, if they so choose, in the political, economic, social and cultural life of the Nation.

#### *Membership*

4. Māori may determine the identity, structures and select the membership of their own institutions, including without limitation iwi membership, in accordance with their customs, traditions and otherwise determined procedures. But no person shall be compelled to be such a member.

5. The exercise of any right under Section 4 of this article shall not impair the right of Māori individuals to obtain citizenship of the country in which they live without being compelled by the Government to renounce their New Zealand citizenship.

#### *Obligations of Māori to their associations*

6. Māori may determine the responsibilities of individual members of their communities and other associations to such communities or other associations.

#### *International relations*

7. Māori, in particular those divided by international borders, may maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across the National borders, and the Government, in consultation and cooperation with Māori, shall take facilitate the exercise and ensure the implementation of this right.

8. The Government shall assist Māori in accessing and participating in international forums and agencies for the protection of indigenous peoples.

### **Article 50**

#### **Participation in government**

1. Māori may participate in Government decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Māori decision-making institutions.

2. When adopting and implementing legislative or administrative measures that may affect Māori, the Government shall consult and cooperate in good faith with the Māori concerned through the Māori's own representative institutions in order to obtain their free, prior and informed consent but the want of such consent shall not prevent the adoption or implementation of such legislative or administrative measures, if in the opinion of the Government it is in the Public Interest to adopt or implement those measures.

3. The Government shall ensure Māori can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

**Article 51****Traditional land, territories and resources**

1. Māori may determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. The Government shall consult in good faith with the Māori concerned through their own representative institutions prior to the Government's approval of any project affecting Māori lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. The Government shall ensure appropriate measures are to be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact on Māori traditional land, territories and resources, and provide for just and fair redress for any such impact.

*Possession, tenure and enjoyment of land, territories and other resources*

4. Māori may own, use, develop and control the lands, territories and resources they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired, but this does not include those lands, territories and resources they have relinquished through lawful means, and the Government shall provide for recognition and protection of these lands, territories and resources in law, and such recognition and protection shall be conducted with due respect of and regard to the customs, traditions and land tenure systems of the Māori concerned.
5. The Government shall establish and implement, in conjunction with the Māori concerned, a fair, independent, impartial, open and transparent process, in which Māori may participate, giving due recognition to Māori laws, traditions, customs and land tenure systems, to recognise and adjudicate the rights of Māori pertaining to their traditional lands, territories and resources, including those which were traditionally owned or otherwise occupied or used.

*Protection of the lands*

6. Māori have the right to the conservation and protection of the environment and the productive capacity of their lands, territories and resources.
7. The Government shall ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Māori without their free, prior and informed consent, and the Government shall ensure there are such programmes as needed, and as developed and implemented by the peoples affected by such materials, are duly implemented for monitoring, maintaining and restoring the health of any affected Māori.

*Military activity*

8. Military activities shall not take place in the lands or territories of Māori, unless justified by a relevant public interest or otherwise freely agreed with or requested by the Māori concerned.
9. The Government shall undertake consultations in good faith with any Māori affected by military activity, through appropriate procedures and in particular through their representative institutions, and prior to using their lands or territories for military activities.

**Article 52****Redress of grievances**

1. Māori shall have access to due redress by means that may include restitution or, when this is not practicable, to just, fair and equitable compensation, developed in conjunction with such Māori, with respect to their traditional lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken: sold

or gifted, occupied: used or damaged, and all cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs through undue influence or duress, or misrepresentation, or any other unlawful means.

2. Unless otherwise freely agreed upon by the Māori concerned, compensation shall take the form of traditional lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

3. Māori who have been deprived of their means of subsistence and development, and who have been dispossessed of their political, economic, cultural and spiritual heritage, including without limitation their identity with tribe, sub-tribe or family, whether in the present or past generations, and whether through the direct cause of wrongdoing or as consequence of the neglect of due protection, shall be entitled to just and fair redress and restitution.

4. Māori shall have access to and prompt decision from, just and fair procedures for the resolution of grievances with the Government or other parties, including other peoples, as well as to effective remedies for all infringements of their collective rights. Any such process and decision arising from such a conflict shall give due consideration to the customs, traditions, rules and legal systems of the Māori concerned, as well as international human rights, and shall be in accordance with this Constitution and the law.

### **Article 53**

#### **Government obligation to protect Māori**

1. The Government, in consultation and cooperation with Māori, shall take all practicable measures, including legislative measures, to protect and promote these rights contained in this part of this Constitution, including without limitation access to financial and technical assistance from the Government and through international cooperation, for the enjoyment of the rights contained in this Constitution.

2. The Government shall, in consultation and cooperation with Māori, combat prejudice and eliminate discrimination and promote tolerance, understanding and good relations among Māori and all other Peoples of the Nation.

## **PART VII**

### **THE GOVERNMENT**

### **Article 54**

#### **Purpose of the Government**

1. In consideration for relinquishing certain liberties and accepting specific obligations, the People establish and maintain its Government to provide the Nation a healthy peaceful life for its inhabitants.

2. The only purpose for which power can be rightfully exercised over any member of the Nation shall be to prevent harm to others or to create a greater benefit for all that could not otherwise have been achieved without such society.

3. Consequently the purpose of the Government shall be the equal protection of life, liberty and society.



**Article 55****Powers of the Government**

1. All powers of Government—legislative, executive and judicial, derive from the People, whose right it shall be to designate the rulers of the Government and, in final appeal, to decide all questions of National policy, according to the requirements of the common good.
2. These powers of Government shall be exercisable only by or on the authority of the instruments of state established by this Constitution.

**Article 56****Duty of the Government to act in the Public Interest**

It shall be the duty of the Government, and each and every office-holder, officer and official to exercise their powers, privileges and prerogatives, to the best of their ability to discover the truth and create or apply the law in due consideration of the Public Interest—where the greatest good for the greatest number must be weighed against the potential harm to any minority interest, which, given every person is in some aspect of their life part of a minority, might result in the greatest harm for the greatest number.

**Article 57****Structure of the Government**

The Government shall consist of four branches—

1. **The legislative branch:** ‘The Parliament’, comprising two chambers—
  - a. The Senate: and
  - b. The House of Representatives.
2. **The executive branch:** the civil and military services, directed and overseen by a Cabinet of Ministers of State, and independent bodies with varying degrees of accountability.
3. **The judicial branch:** the courts of first instance (the High Court), the court of final appeal (the Supreme Court), and the Constitutional Court.
4. **The evaluation branch—**
  - a. The Auditor General, Constitutional Court, Environment Commissioner and Commissions of Inquiry:
  - b. The Press:
  - c. The People.

**PART VIII**  
**THE PEOPLE****Article 58****The People shall be the Government**

There shall be no Government of the Nation save other than that of the People, by the People and for the People.

**Article 59****Exercise of self-determination**

1. The People shall exercise their democratic right of self-determination through—
  - a. Directly electing of the President Article 76, the House of Representatives under Article 114, and community government bodies under Article 146:
  - b. Confirming or vetoing enactments to change this Constitution under Article 168:
  - c. Inducing the Government to take action with respect to resolutions passed by Citizens Initiated Referenda under Article 62:
  - d. Requiring officials to account for their actions through official information under Article 18 with an opportunity to publish those findings in an independent press Article 65:
  - e. Making complaints through the Auditor General under Article 95 and Constitutional Court under Article 158:
  - f. Petitioning the Government under Article 18, including the right to have particular enactments referred to the People for referendum under Article 126: and
  - g. Revoking officials and the House of Representatives through referenda under Article 63: and
  - h. Influencing political parties that select and support candidates for and officials in public office, including the Prime Minister and the Cabinet under Article 150.

**Article 60****National referenda for the amendment of this Constitution**

1. Every proposal for an amendment of this Constitution which shall be submitted by referendum to the decision of the People shall, for the purpose of Article 168 of this Constitution, be held to have been approved by the People, if, upon having been so submitted, a majority of the votes cast at such referendum shall have been cast in favour of its enactment into law and if the votes so cast for its enactment into law shall have amounted to not less than two thirds of the vote, otherwise the proposal shall be held to have been vetoed by the People.

**Article 61****Petitioning the Government**

Every person shall have the right to petition the Government in writing, provided such a petition shall be signed by at least one person, asking the Government to act on a matter of public policy or law, or to put right a local or private concern. When a petition shall have been presented to the Government, it shall be referred to the most appropriate Government instrument for consideration and provision of a full, frank and opportune written report, as shall be provided for in law.

**Article 62****Citizens' initiated referenda**

1. Every person being qualified to vote for the House of Representatives shall be eligible to petition the President to solicit the support of voters for a citizens' initiated referendum on any reasonable subject calling for some form of government action, and such a petition shall be prepared by an Attorney of the High Court.
2. There shall be an authorised format and process for soliciting and documenting the popular support for a citizens' initiated referendum, which shall use a motion of approved of by the President.

3. When a number of voters representing at least 5% of the registered voters for the constituency concerned have supported such an initiative, the President will duly cause such a referendum to occur.

4. Such referenda, other than those of revocation, shall be non-binding on the Government.

### **Article 63**

#### **Revocation of public officials**

1. All offices approved by the Senate or filled by popular vote shall be subject to revocation.

2. Every person being qualified to vote for the House of Representatives shall be eligible to petition the President to solicit the support of voters for a revocation referendum, provided such a petition including the charge and summary of evidence against the official shall have been prepared by any Attorney of the High Court.

3. When the President shall have received such a petition as in Section 2 of this article, they shall decide whether or not to approve it on a basis of probable cause, but the President's approval shall not be unreasonably withheld.

4. When there shall be more than one petition to the same or similar effect, the President shall facilitate their coordination but such coordination shall not unduly delay the process of any such referenda.

5. There shall be an authorised format and process for soliciting and documenting the popular support for a call to revoke an official that shall use verbatim the charge or charges against the official in the original petition.

6. Any a number of voters, representing at least 5% of the registered voters in the affected constituency in the case of an office filled by popular vote or 5% of the registered voters in the national electorate for an office approved by the Senate, who have signed a document requesting a referendum for the revocation of a named official or officials (including the President) may petition the President calling of a binding referendum to revoke the mandate of such official or officials.

7. The President shall approve or otherwise the petition in Section 6 of this article, but such approval shall not be unreasonably withheld, and, when they have approved such a petition, they shall duly cause a referendum to be held to the effect of that petition within 30 days.

8. When the resolve of the People, as reflected in the referendum, shall be such that two thirds of those who voted support the motion of the referendum, and the President shall have received a certified copy of the return of such referendum, the President shall immediately by their hand and seal order the official to be removed.

9. When the office concerned shall be that of the Prime Minister, the President shall dissolve the House of Representatives and cause a general election to be held within 30 days.

### **Article 64**

#### **Referenda eligibility, frequency and majority**

1. Every proposal, other than a motion to amend the Constitution, which shall be submitted by referendum to the decision of the People shall be held to have been approved by the People, when on having been so submitted a majority of the votes cast at such referendum shall have been cast in favour of its motion, and when the votes so cast shall have amounted to not less than one third of the votes.

2. Every person who shall have the right to vote at an election for members of Parliament shall have the right to vote at a referendum.
3. Referenda shall be held every two years concurrently with the general election, and the presidential and community government elections.
4. Subject to the provisions of Sections 1 to Section 3, referenda shall be regulated by law.

## **PART IX**

### **THE PRESS**

#### **Article 65**

##### **Free, independent and pluralistic press**

1. This Constitution affirms the active protection of an independent, pluralistic and free press shall be essential to the sustain the democratic, social, cultural and economic wellbeing of the Nation, where the press shall be—

- a. free to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers:
- b. independent from governmental, political or economic control or from control of materials and infrastructure essential for the production and dissemination of news and opinions: and
- c. protected from monopolies of any kind so that there shall be the greatest possible access to the widest possible range of news and opinion.

2. The Press shall take precedence only behind that of the President.

#### **Article 66**

##### **Objectivity**

The press shall report the news objectively, namely: based on observable phenomena, presented factually and uninfluenced by emotions or personal prejudices, and to that end it shall ensure—

- a. Unequivocal separation between news and opinion, namely in-house editorials and opinion pieces shall be clearly separated from news pieces, and news reporters and editorial staff shall be distinct.
- b. Unequivocal separation between advertisements and news, namely all advertisements shall be clearly identifiable as such.
- c. No conflicts of interest, namely there shall be no incentives to report a story with a given slant, including not taking bribes and not reporting on stories that affect the reporter's personal, economic or political interests.
- d. Competing points of view shall be balanced and fairly characterized.
- e. Persons who shall be the subject of adverse news stories shall be allowed a reasonable opportunity to respond to the adverse information before the story shall be published or broadcast.
- f. Interference with reporting by any entity, including censorship, shall be disclosed.

**Article 67****Sources**

The sources of information shall be protected and presented in an appropriate manner, namely—

- a. Sources of information that require anonymity shall be avoided, unless it can be demonstrated that for all practical purposes there shall be no other sources available:
- b. Notwithstanding Section (a) of this article, the identity of and information obtained from sources shall be privileged.
- c. Wherever practicable, reports shall contain an assessment of the reliability of sources based on corroborating information and or a summation of the recognised accuracy of information from the same source.
- d. There shall be accurate attribution of statements made by individual persons or other news media.
- e. Pictures, sound, and quotations shall not be presented in a misleading context or be deficient in context: and simulations, re-enactments, alterations, and artistic imaginings shall be avoided, unless it can be demonstrated that for all practical purposes there shall be no other means available to convey the information and such simulations, re-enactments, alterations, and artistic imaginings shall be clearly labelled as such.

**Article 68****Accuracy and standards for factual reporting**

1. Reporters shall be as accurate as reasonably practicable and take all practicable measures to use reliable sources of information.
2. Events with a single eyewitness shall be reported with attribution, while events with two or more independent eyewitnesses may be reported as fact, but controversial facts shall be reported with attribution.
3. Whenever practicable facts shall be checked independently of the reporter by another employee of the publisher:
4. When errors shall be discovered, corrections shall be published in such a prompt manner that the recipients of the incorrect information shall or shall be likely to receive the corrected version, and that corrected version shall clearly state the original information was incorrect.
5. Defendants before and at trial shall be referred to only as being *accused* of committing an offence in a criminal case or a breach in a civil case, until conviction, when their conviction may be reported as fact.
6. Reports concerning opinion surveys and statistical information shall follow generally accepted practice, namely to—
  - a. Communicate in precise terms any conclusions,
  - b. Contextualize the results,
  - c. Specify accuracy, including estimated error and methodological criticism or flaws: and
  - d. Avoid any distortion of proportionality in the use of graphics.

**Article 69****Defamation considerations**

1. No publisher, editor, or reporter shall be convicted of or liable for reporting the truth.
2. The Public Interest shall not be a justification for breaching the rights of any person to privacy in Article...?, and there shall be a presumption of no Public Interest unless it can be demonstrated there shall be overwhelming benefit to the common good of the People excluding any entertainment worth.
3. When publishers shall be unable or unwilling to defend defamation lawsuits against their reporters or editors, the Government, whether through the Constitutional Advocate or otherwise, shall ensure the protection of such members of the press, even when the plaintiff shall be the Government.

**Article 70****Harm limitation principle**

1. Notwithstanding, the rights to free-speech in Article 24, the press shall limit wherever practicable the risk of harm, namely that shall—
  - a. Demonstrate compassion for those who may be affected adversely by news coverage, especially when dealing with children and inexperienced sources or subjects.
  - b. Be considerate when seeking or using interviews from or imagery of those affected by tragedy or grief.
  - c. Recognise that collecting and reporting information may cause harm or distress, and the pursuit of the news shall be neither privileged in law nor in acceptable social behaviour.
  - d. Observe the right of each and every person to privacy under Article 30 and each and every person shall be only a public figure by degree and aspect, and private information shall not be published without the consent of the owner of such information.
  - e. Avoid pandering to lurid or idle curiosity by rejecting shocking, sensationalist and vicarious reports that stimulate or arouse or shall be likely to stimulate or arouse the vulgar or indecent tastes and desires of others or exploit or shall be likely to exploit their weaknesses for such tastes and desires, or which involve the prying into the legitimate private affairs of persons for no good reason.
  - f. Avoid identifying suspects or victims of crimes before the formal filing of charges in a Court of the First Instance and only then by leave of that Court, unless such a Judge of a Court of the First Instance, acting on the advice of the Police, gives leave for the identification of such suspects and or victims prior to the filing of charges in a Court of Law.
  - g. Avoid any reporting that will or shall be likely to jeopardise any person's right to a fair trial, unless a Judge of a Court of the First Instance, after hearing the counsel for both prosecution and defence, rules it shall be in the public interest that particular material aspects of the case may be reported on.

**Article 71****Censorship**

1. The creation, or publication, or viewing, or retaining, or transporting or transmitting, or exchanging of any material or information that shall be grossly repugnant to common decency shall be prohibited.
2. All material other than that covered by Section 1 of this article that shall be created, published retained, or transported or transmitted, or exchanged shall classified according to its suitability for consumption by varying ages of persons and all reasonable practicable measures shall be taken to ensure persons below the age deemed suitable shall be protected from that material.
3. The publication, or viewing, or retaining, or transporting or transmitting, or exchanging of state-secrets by persons not authorised to do so in law shall be prohibited, other than those necessary actions required to be taken by persons to protect any state-secrets that inadvertently come into their possession.
4. The Government shall not classify as a state-secret any material other than that which shall be required for the protection of the national or public interest, and the case of the public interest this shall be particular, and substantial, and demonstrable, and subject to verification by either the Auditor General or Constitutional Court.
5. The provisions in this article shall be regulated by law.

**Article 72****Duty of the Press to defend this Constitution**

1. Notwithstanding Article 70 and Article 71, every member of the press shall report any news in the defence of this Constitution, or of any person or persons protected by this Constitution, when the provisions in this Constitution or the rights afforded to such persons under this Constitution have or shall be likely to be grossly violated, in such a manner and at such a time as, in the circumstances as they believe them to be, reasonable to use.

**Article 73****Duty of the Government to protect the Press**

1. When protecting the Press, the Government shall ensure all publicly funded media shall be free of and independent from any political oversight that may directly or indirectly influence or shall be likely to influence the reporting or editorial stance of such media.
2. The Government shall foster and protect any representative associations, syndicates or trade unions of journalists, and associations of editors and publishers, and that such associations shall be responsible for the—
  - a. Education and training of journalists and managers and the availability of professional training institutions and courses.
  - b. Accreditation of journalists, editors and publishers, the establishment of codes of conduct and the enforcement of such codes of conduct.
  - c. Exchange and verification and dissemination of news.
  - d. Defence of members of the press from criminal and civil legal actions when such members have acted in accordance to their constitutional functions.
  - e. Identification and mitigation or removal of any economic impediments to the establishment of news media outlets, including restrictive import duties, tariffs and quotas for such things as

newsprint, printing equipment, and typesetting and word processing machinery, and any taxes on the sale of newspapers.

f. Identification and mitigation or removal of any statutory or regulatory impediments to the recognition and effective operation of trade unions or associations of journalists, editors and publishers.

g. Maintenance of a register of available funding from Government and other domestic and international agencies, the conditions attaching to the release of such funds, and the methods of applying for them, that would assist the development of the capabilities of the Press and its members.

## **PART X**

### **THE PRESIDENT**

#### **Article 74**

##### **Office of the President**

1. There shall be a president of the Government, the office of which shall be called, 'The President of New Zealand', and shall be addressed as, 'President', who shall be the embodiment of the New Zealand Nation and shall take precedence over all other persons in the Government and who shall exercise and perform the powers and functions conferred on the President by this Constitution and by law and by custom.

2. The President shall lead and be the leader of the Nation, namely—to congratulate the Nation in achievement, encourage it in adversity, console the Nation in grief: and warn the Nation of dangers, but they shall criticise neither the Nation nor the Government, and they shall avoid controversy and they shall act with high standards of neutrality at all times.

3. No person shall compass, imagine, invent, devise, or intend to deprive the President of the President's privileges and prerogatives as the leader of the Nation, except by the free, prior and informed leave of the President.

#### **Article 75**

##### **The Head of the Government**

1. The President shall be the supreme head of the Government and all its branches including without limitation Supreme Legislator of the Parliament: the Supreme Minister of the Cabinet, the Supreme Commissioner of the Public Service and all other civil services and commissions, the Supreme Commander of the Defence Force, President of the Order of Aotearoa, the Supreme Justice of the Courts, Inspector of Government Insignia and the Supreme Auditor, and all such titles and honours, powers, privileges and prerogatives that shall be rightfully those of the President, and which shall be bestowed on them by their predecessor at the inauguration of the President.

2. Notwithstanding the powers, privileges and prerogatives and functions conferred on the President by this Constitution or in law, the President shall not exercise such powers, privileges and prerogatives or perform such functions save only on the advice of the Council of State and as regulated by this Constitution, and in law and by custom.



**Article 76****Election and terms of the President**

1. Every Senator shall be eligible for election to the office of president, provided the 70<sup>th</sup> anniversary of their birthday shall be before the due date of the inauguration of the new President.
2. The election of the President shall be by the direct vote of the People—
  - a. The Presidential Commission shall solicit nominations from Senators.
  - b. The Presidential Commission shall pay for appropriate notification of candidature of such nominees in such newspapers as it determines at its own discretion and a letter to be sent to all Household containing at least one registered voter.
  - c. Other than Section 2(b) of this article, candidates for the election of the President shall not compass, imagine, invent, devise, or intend to directly or indirectly canvass support for their election.
  - d. The election shall be by secret ballot and on the system of proportional representation by means of the single transferable vote and shall take place on the Thursday of Week 48 in the November of the second year following a leap year.
  - e. The President elect shall take office at the State Opening of the Parliament in the next year following the election.
3. When taking office the President shall declare and subscribe the oaths of allegiance and of office contained in Third Schedule. When Presidents refuse or neglect to take such oaths, they shall be deemed to have vacated the office of the President.
4. When only one candidate shall be nominated for the office of president it shall not be necessary to proceed to a ballot for election.
5. Presidents hold office for four years from the date upon which they enter office, unless before the expiration of that period they die, or resign, or shall be removed from office, or become permanently incapacitated, such incapacity being established to the satisfaction of the Supreme Court consisting of not less than five judges.
6. A person who holds, or who shall have held, office as the President, shall be eligible for re-election to that office once, but only once.
7. No incumbent President shall not stand for election for any public office during their term of office.
8. The President shall not be a member of either House of the Parliament and shall not hold any other office or position of emolument
9. When a Senator shall be elected as the President, they shall be deemed to have vacated for the time being their seat in that House.
10. Subject to the provisions of this article, elections for the office of president shall be regulated by law.

**Article 77****Conditions of office**

1. Presidents enter office on Waitangi Day in the following February after their election, or, when the office of President shall be vacated under section 3, as soon as may be after the election.

2. The President shall be inaugurated into the office by taking and subscribing publicly, in the presence of members of both Houses of the Parliament, the Justices of the High Court, and other public personages, the oath of public office as set in Third Schedule of this Constitution.

3. The President shall not leave New Zealand during the term of office save without the prior written consent of the Council of State.

4. The President shall have an official residence in or near the City of Wellington.

5. The President shall receive such emoluments and allowances as may be determined by law, and such emoluments and allowances shall not be diminished during their term of office.

#### **Article 78**

##### **President to appoint Prime Minister and Cabinet**

1. The President shall, on the nomination of the House of Representatives, appoint the Prime Minister.

2. The President is, on the nomination of the Prime Minister with the previous approval of the House of Representatives in Section 1 of this article, to appoint the other ministers of the Cabinet.

3. The President shall, on the advice of the Prime Minister, accept the resignation or terminate the appointment of any minister of the Cabinet.

#### **Article 2**

##### **President to convene and dissolve Parliament**

1. The House of Representatives shall be summoned and dissolved by the President on the advice of the Prime Minister.

2. Presidents may at their absolute discretion refuse to dissolve Parliament on the advice of a Prime Minister, whom shall have ceased to retain the support of a majority in House of Representatives.

3. The President may at any time, after consultation with the Council of State, convene a meeting of either or both of the Houses of the Parliament.

4. Every Bill passed or deemed to have been passed by both Houses of the Parliament shall require the signature of the President for its enactment into law.

5. The President shall promulgate every law made by the Parliament.

#### **Article 79**

##### **Letters patent, commissions and warrants**

The President shall be the sole authority for the issuing and withdrawing of letters patent to those persons and bodies holding public office, including without limitation all commissions and warrants of the officers of the Defence Force and those of the Police Service.

#### **Article 80**

##### **Powers of commutation and pardon**

The right of pardon and the power to commute or remit punishment imposed by any court exercising criminal jurisdiction shall be vested in the President, but presidents shall be only to exercise such power on the advice of the Council of State, and such power of commutation or remission may also be conferred on other authorities by law.

**Article 81****Powers to address parliament and the Nation**

1. The President may, after consultation with the Council of State, communicate with the Houses of the Parliament by message or address on any matter of National or public importance.
2. The President may, after consultation with the Council of State, address a message to the Nation at any time on any such matter.
3. Every such message or address shall, however, have received the prior approval of the Council of State.

**Article 82****President not answerable to the Parliament**

1. The President shall not be answerable to either House of the Parliament or to any Court or any Commission of State for the exercise and performance of the powers and functions of their office or for any act done or purporting to be done by them in the exercise and performance of these powers and functions.
2. Notwithstanding Section 1 of this article, the behaviour of the President may, however, be brought under review in either Houses of the Parliament for the purposes of Article 85 of this Constitution, and subsequently by the Constitutional Court for the investigation of a charge under the said article.

**Article 83****Minorities**

It shall be the responsibility of the President to constantly to care for the interests of minorities in New Zealand and to receive advice on such matters from the Council of State. These minorities shall be namely without order of primacy—

- a. Children and their families, women, men:
- b. Racial, cultural and religious groups:
- c. The elderly:
- d. The physically and mentally infirm and disabled:
- e. Homosexual, lesbian and transgender groups:
- f. Any other minority interest group the President considers worthy.

**Article 84****Absence of the President**

1. When the President shall be absent, or shall be temporarily incapacitated, or their permanent incapacity shall be established as provided by Section ...? Of Article ...?, or in the event of their death, resignation, removal from office, or failure to exercise and perform the powers and functions of their office or any of them, or at any time at which the office of President may be vacant, the powers and functions conferred on the President by or under this Constitution shall be exercised and performed by the Vice President.
2. The provisions of this Constitution which relate to the exercise and performance by the President of the powers and functions conferred on the President by or under this Constitution shall, subject to the subsequent provisions of this section, apply to the exercise and performance of the said powers and functions under this article by the Vice President.

3. In the event of the failure of the President to exercise or perform any power or function which the President shall be by or under this Constitution required to exercise or perform within a specified time, the said power or function shall be exercised or performed under this article as soon as shall be practicable after the expiration of the time so specified.

4. The exercise of the powers in Section 3 of this article does not confer on the Vice President the right to exercise such powers and functions permanently but only for the exercise of such particular power or function.

## **Article 85**

### **Removal of the President**

1. The House of Representatives or the Senate may impeach the President before the Constitutional Court for the wilful violation of this Constitution, or of any other law. The motion of impeachment must be supported by either at least one quarter of the Members of the House of Representatives or one quarter of the votes of the Senate. The case for impeachment shall be presented before the Constitutional Court by the Constitutional Advocate.

2. When the Constitutional Court finds the President guilty of a wilful violation of this Constitution or of any other law, it may declare that he has forfeited his office. After the President has been impeached, the Court may issue an interim order preventing them from exercising their functions.

## **VICE PRESIDENT**

### **Article 86**

#### **Office of the Vice President**

1. There shall be a Vice President, the office of which shall be called, 'The Vice President of New Zealand', who shall be the deputy to the President and shall take precedence over all other persons in the Government except for the President and the President's spouse, and who shall exercise and perform the powers and functions conferred on the Vice President by this Constitution and by law.

2. The Vice President shall be addressed as, 'Vice President', unless acting for and or with the powers of the President, in which case they shall be addressed as, 'President'.

3. The Vice President shall be elected by the same but parallel process and at the same time as the President under Article 76. Candidates may stand for election for both President and Vice President but when elected President, their nomination for Vice President shall be withdrawn.

4. The conditions of the office of Vice President shall be consistent with Article 76.

5. The Vice President shall be not answerable to either House of Parliament consistent with Article 82.

6. The Vice President shall be Speaker of the Senate consistent with Article 110.

7. Subject to this Constitution, additional powers and functions may be conferred on the Vice President by law.

8. The process for removing the Vice President shall be the same as for the President in Article 85.

## THE COUNCIL OF STATE

### Article 87

#### Function and membership

1. There shall be a council called, 'The Council of State', to aid and counsel the President on all matters on which the President may consult such council in relation to the exercise and performance by the President of such of their powers and functions as shall be by this Constitution expressed to be exercisable and performable after consultation with the Council of State, and to exercise such other functions as shall be conferred on the council by this Constitution.
2. The Council of State shall consist of the following members—
  - a. As ex-officio members: the Vice President and Leader of the Senate: the Speaker of the House of Representatives and the Prime Minister: the Chief Justice of the Supreme Court and the President of the High Court: the President of the Press Association, The Leader of the Opposition in the House of Representatives and the Auditor General and the Attorney General.
  - b. Every person able and willing to act as a member of the Council of State who shall have held the office of President, or the office of Prime Minister, or the office of Chief Justice.
  - c. Notwithstanding Section 4a and 4b of this article, such other persons the President may at any time and from time to time by warrant under the President's hand and seal appoint, in the President's absolute discretion, the President may think fit, to be members of the Council of State, provided such persons so appointed as members of the Council of State shall not constitute more than one third of the number of the eligible members of the Council of State under Sections 2(a) and (b) of this article, or a majority at any one meeting of the Council of State.
3. Members of the Council of State at the first meeting which they attend as a member take and subscribe a declaration of office in form set out in Schedule ...?

### Article 88

#### Conduct of meetings

1. Meetings of the Council of State shall be convened by the President at such times and places as the President shall determine.
2. When the Council of State shall be sitting, the President shall preside but shall not vote.
3. Presidents do not exercise or perform any of the powers or functions which shall be by this Constitution expressed to be exercisable or performable by them after consultation with the Council of State unless, and on every occasion before so doing, they convened a meeting of the Council of State and the members present at such meeting shall have been heard by the President.
4. Resolutions shall be made by consensus and only when consensus cannot be achieved shall a vote be taken.
5. The deliberations of the Council of State shall be held secret, unless the President shall be impeached for not hearing or acting on the advice of the Council contrary to this Constitution.

## PRESIDENTIAL COMMISSION

### Article 89

#### Purpose and function of the Commission

1. The President shall be the non-executive president of a commission called, 'The Presidential Commission', the purpose of which is to nominate suitably qualified and competent people for appointment to public office and honours with the least practicable risk of political patronage and or the patronage of vested interests within society.
2. The functions of the Commission shall be to—
  - a. Nominate persons for appointments to the senior echelons of Government service called, 'Presidential Appointments', to the Senate for its confirmation:
  - b. Identify and develop the National capacity of persons capable of making high quality contributions to the governance of Government bodies with regard to those peoples and interest groups under represented in the governance of Government instruments:
  - c. Provide codes of conduct and best-practice guidelines for those holding positions of governance in the Government and those in similar positions in non-Government bodies responsible for providing Government services:
  - d. Monitor and review the performance of Presidential Appointees and the effectiveness, efficiency and economy of governance systems within Government and those of entities providing Government services:
  - e. Investigate stated misbehaviour and incapacity and make recommendations for the remedy of such misbehaviour or incapacity:
  - f. Seek nominations and make nominations itself for honours and decorations for the Order of Aotearoa, and maintain the Nation's Roll of Honour as set out in Schedule ...?:
  - g. Advise the Government on all matters of National ceremony and protocol.
  - h. Advise the President on the administration of presidential petitions, including those nominating persons for appointments and honours.
3. The Council of State shall comprise the Board of Governance for the Commission.
4. The President's Chief of Staff shall be the chief executive of the Presidential Commission, the Presidential Household and the Secretariat of the Council of State and shall also hold the office of, 'The Chief Herald' in respect to the Order of Aotearoa.
5. The Chief of Staff shall request from the Cabinet all necessary powers, privileges and prerogatives necessary for the President to fulfil their purpose and functions, known as 'The Civil List', and such powers, privileges and prerogatives shall not be unreasonably refused.
6. The Chief of Staff shall report to the House of Representatives on all Civil List matters.

### Article 90

#### Presidential Appointments

1. The Commission shall seek and receive nominations for all appointments to—
  - a. Governance positions (other than employees but including Commissioners of State) called, 'governors' over Government bodies or any bodies that the Government shall have a right to appoint persons in a governance position: and

- b. Ambassadors and consuls representing New Zealand: and
  - c. Commissioners of State, and any and all other Government commissions: and
  - d. The Secretaries of the Principle Departments of Sate and any and all Deputy Secretaries or Assistant Secretaries of Puisne Department of State, and the chief executives of Government bodies or any bodies that the Government shall have a right to appoint persons to executive positions that do not have a governance board and where such chief executives have the sole discretion to engage all other employees: and
  - e. Judges of the courts of first instance and of final appeal and their courts of summary jurisdiction subject to Article 159: and
  - f. All appointments to the Order of Aotearoa: and
  - g. All other appointments the President so authorizes.
2. The Commission shall conduct a fair, reasonable and opportune process for seeking nominations and selection of those nominees to be recommended for appointment. Such processes shall be transparent, rationale and accountable. However, the private information, including nominees' names and number of nominees: examination: investigation, deliberation and resolutions of the Commission regarding individual nominees shall be held secret, except for the message sent to Vice President, as Speaker of the Senate, which shall include the name and relevant biographical information of the nominee. The process shall include—
- a. Evaluating each Presidential Appointment in terms of the needs of the appointment, the governing board or commission or any other group the Presidential Appointment will interact with, and those of the purpose and function of the entity. And identify the desired attributes, including qualifications, experience and character, together with their relative weightings:
  - b. Advertising and searching for and maintaining its own database of those persons who are likely candidates for Presidential Appointments:
  - c. Developing the pool of candidates with regard to those minorities and people under represented in Presidential Appointments that meet the stated minimum required standards:
  - d. Ensuring each and every nominee has agreed to their nomination, if they have not nominated themselves, but the Commission shall keep secret the identity or numbers of those who have nominated such nominees:
  - e. Short-listing candidates, where appropriate, for examination and investigation on the basis of objective criteria and a minimum measurable standard:
  - f. Selecting in principle the nominee or nominees by drawing of lots from those that attain the minimum required standard, subject to the approval of the Board of Governance:
  - g. Agreeing with the nominee, where appropriate, the terms and conditions of their engagement in principle, subject to confirmation by the Senate:
  - h. Obtaining the approval or otherwise of the Board of Governance, which shall only have the power to review the process not the nomination:
3. Nothing in the conduct or composition of the Presidential Commission shall directly or indirectly infringe the rights of any person or people under this Constitution, and neither favour nor disadvantage anyone on the basis of their wealth, birthright or status in any association (other than provided for in this Constitution), or donation made, promised or prospected, but have only due regard for the weighted attributes resulting from the evaluation of the Appointment.
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4. Each and every person who has been nominated for a Presidential Appointment is to be informed in writing of the result of the process and, provided such nominees wish and at their own behest, shall be provided with a report on the reasons and rationale for their non-selection.

#### **Nominations for the Order of Aotearoa**

1. When the board, sitting as the Council of State, has approved the nomination for the Order of Aotearoa, the President on receiving a certified copy of the resolution shall issue the letters patent under their own hand and seal.

#### **Nominations for Presidential Appointments**

1. When the Commission shall have selected a single nominee for each Presidential Appointment, the President shall forward such Presidential Nominations to the Vice President.

2. When the Vice President receives Presidential Nominations from the Commission, as specified in Section 1 of this article, the Vice President shall cause the Senate to decide which nominees to examine and for a committee to examine such nominees and to table a report in that House as soon as reasonably practical. Such examinations and reports shall be held in and made public, unless there shall be good reason otherwise (and that reason made public) but the deliberations shall be held in private and kept secret.

3. When the Vice President receives a recommendation for a Presidential Appointment from the Committee of the Senate, as specified in Section 2 of this article, they shall cause the Senate to resolve its support or otherwise of the Committee's recommendations, and a majority of the vote of the Senate shall be required for the approval of each Presidential Appointment but the Senate may vote on more than one Presidential Appointment at one time.

4. When the Senate has resolved to confirm a Presidential Nominee, the Speaker of the Senate shall send a certified copy of that resolution to the President.

5. When the President receives the certified copy of the Senate's resolution, they shall issue the letters patent under their own hand and seal.

6. All appointees shall be citizens, and suitably qualified and experienced in all leadership, legal, financial, organisational design and management, investigative, risk management and technical matters relating to their duties and functions.

7. Every person appointed a commissioner under this article shall make and subscribe the declarations and oaths of allegiance and office in Third Schedule to this Constitution.

8. Presidential appointees shall conduct their affairs so that, apart from infractions, their conduct to be beyond reproach.

### **Article 91**

#### **Revocation of Presidential Appointees**

1. Any Presidential Appointee may resign from office by placing a letter of resignation in the hands of the President, provided such person has not been cited in a motion for impeachment in the House of Representatives, in which case that person may not resign until that impeachment process is complete.

2. Presidential Appointees may be impeached by the same process as that for the President under Article 85.



## COMMISSIONERS OF STATE

### Article 92

#### Commissioners of State

1. There shall be Commissioners of State, the role of which shall be such that it shall be fitting their appointment and removal shall be independent of the Cabinet with no Responsible Minister of State.

2. The following shall be appointed Commissioners of State, the—

- a. Attorney General:
- b. Auditor General:
- c. Chief of the Defence Force:
- d. Commissioner of Parliament:
- e. Electoral Commissioner:
- f. Environment Commissioner:
- g. Governor of the Reserve Bank:
- h. Public Service Commissioner:

—and others whom may be appointed by statute in accordance with this Constitution.

3. The Attorney General and Auditor General shall serve on the Council of State.

### Article 93

#### Resources, and terms and conditions

1. The Commissioners of State may make reasonable requests to the Cabinet for all powers, privileges and prerogatives necessary for the performance of their duties and functions described in this Constitution, and such powers, privileges and prerogatives shall not be unreasonably withheld.

2. Each and every Commissioner of State shall—

- a. have all necessary powers to enter premises, obtain documents and question persons that have or shall be likely to have information required in the performance of such Commissioners' duties and functions under this Constitution.
- b. have an organisation to support them in their duties and functions, overseen by a governance board of between six and eight people and over which the Commissioners shall preside as executive chairpersons and with which the Commissioners will consult and consider the views of in all decisions consistent with good governance practice.
- c. liaise with each other on all matters of mutual responsibility and interest, and, when they shall be unable to agree one who shall lead an activity or investigation, the Commissioners shall inform the President, who shall decide the matter.

3. The Commissioners of State shall make such administrative and financial reports to the House of Representatives at stated periods as shall be provided for in law, and may be examined by committees of either House of the Parliament jointly or severally in the same manner as a Department of State.

4. All those persons employed by the Commissioners of State and any person providing services directly or indirectly for the Commissioners of State shall adhere to the codes of conduct of the civil services of the Government.

5. Subject to this Constitution, the terms and conditions of the Commissioners of State and their powers, privileges and prerogatives shall be provided for and regulated by and in law, but shall not be altered in real value to the incumbents' disadvantage during their continuance in office, without the leave of that Commissioner of State.

#### **Article 94**

##### **Attorney General**

1. There shall be a chief Government Attorney at Law called 'The Attorney General', who shall be a suitably qualified Senior Counsel of the High Court.

2. The Attorney General shall advise the Government on such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to them by the President, the Cabinet and the Commissioners of State and to discharge the functions conferred on them by or under this Constitution according to law.

3. The Attorney General shall have sole power, exercisable at their discretion, to institute, conduct or discontinue any proceedings for any offence and all such proceedings shall be brought in the name of, 'The People of New Zealand', and such power may be delegated by the Attorney General to such authorised persons as shall be provided for in law.

4. The Attorney General shall attend the meetings of the Cabinet but shall not be a member of the Cabinet, and shall not be a Minister, and shall have no vote in the Cabinet.

#### **Article 95**

##### **Auditor General**

1. There shall be a Commissioner of State called, 'The Auditor General', who shall be the chief adviser to the Government on matters of audit and control, and shall control on behalf of the Government all disbursements to ensure such payments shall be lawful and shall provide independent assurance to the President that all activities, including disbursement of moneys, administered by or under the authority of the President shall be operating and accounting for their performance, in accordance with the intentions of the People as determined by this Constitution and in law.

2. The Auditor General shall not authorise any expenditure whatsoever of public monies unless the Auditor General shall be satisfied that the outcomes for which such monies shall be being appropriated have been properly specified and shall be adequately measurable, and the systems of accountability meet the commonly accepted standards of accounting.

3. The Auditor General shall be responsible for the monitoring of and investigation into and make recommendations concerning the misuse of all and any public monies by any and all parts of the Government and any service provided by entities where the Government shall have a controlling interest or shall be a provider of services paid for by public monies, but shall hand over the authority of such investigations to the Office of Constitutional Investigation on the discovery of any substantive evidence of matters repugnant to this Constitution.

4. Notwithstanding that the lead of any investigation may be the responsibility of the Office of Constitutional Investigation in Section 3 of this article, the Auditor General shall report concerning each and every such event and generally as to whether there shall be any systemic or any other failure by the Government to fulfil its purpose and functions as determined by this

Constitution and in law, and how such failures can be avoided, remedied or mitigated in the future.

## **Article 96**

### **Chief of the Defence Force**

1. There shall be a Commissioner of State for the military services of the Government, called, 'Chief of the Defence Force', who shall be the chief adviser to the Government on matters concerning the provision of military services to the Government and shall be responsible for the employment, development, remuneration and discharge of Military Servants, and the codes of conduct for all such persons that have a contract for and of service for military purposes, including any other person who is subject to military discipline whether or not such services are provided under contract.

2. The Chief of the Defence Force shall also under the operational command of the Ministry of the Exterior or one of such Ministry's puisne Departments of State but when acting as the Chief of the Defence Force with regard to Military servants as described in Section 1 of this article shall act independently as the Chairperson of the Defence Force Board of Governors, which may be the same board as the Ministry of the Exterior or one of that Ministry's puisne Departments of State for the time being responsible for Defence Force, without the presence of Ministers or any other representative of a political party but with the presence and voting members: the Chiefs-of-Staff of the Navy, Army and Air Force.

## **Article 97**

### **Commissioner of Parliament**

*[Under review]*

## **Article 98**

### **The Electoral Commissioner**

There shall be an office for the management of elections, referenda and polls and the oversight of political parties, called, 'The Electoral Commissioner', who shall be responsible for all matters relating to the election of public offices, including but not limited to advice on and or provision of—

- a. Electoral systems:
- b. Representation boundaries:
- c. Enrolment and or registration of voters:
- d. Conduct of general and by-elections:
- e. Referenda of the People:
- f. Polling of the People:
- g. Registration and regulation of political parties:

## **Article 99**

### **Environment Commissioner**

There shall be a Presidential Commissioner who shall be the Government's chief adviser on the relationship of the Nation and its environment called, 'The Environment Commissioner', the functions of which shall—

- a. Examine the affect human activity shall be having on natural resources.

- b. Assess the current and future National requirements of such resources.
- c. Make recommendations to Government concerning the use and abuse of such resources for the sustainability of the Nation's welfare.
- d. Evidence of any criminal activity shall be given to the police, and, in cases not involving criminality, the Environment Commissioner may with any complainant's consent, instruct independent attorneys to initiate civil proceedings at the Government's expense against either the Government or a person or persons including corporations for the abuse of the environment which directly or indirectly affects the Nation or persons, and there shall be no other reasonable means by which to obtain justice. Such proceedings shall be at the Commissioner's absolute discretion, who may settle any case, and which shall be brought in the name of the Environment Commissioner.

### **Article 100**

#### **The Governor of the Reserve Bank**

*[Under review]*

### **Article 101**

#### **The Public Service Commissioner**

1. There shall be a Commissioner of State for the civil services of the Government, called, 'The Public Service Commissioner', who shall be the chief adviser to the Government on matters concerning the provision of civil services to the Government and from the Government to the People, and shall be responsible for the employment, development, remuneration and discharge of Public Servants, and the codes of conduct for all such employees and contractors of entities where the Government shall have a controlling interest or where such entities shall be providing services paid for or subsidised by public monies, and the structure and systems of the state services.
2. The Public Service Commissioner shall also be the Secretary of State for the Cabinet Office but when acting as the Public Service Commissioner shall act independently as the Chairperson of the Public Service Board of Governors, which shall be the same board as the Cabinet Office without the presence of Ministers or any other representative of a political party.

### **Article 102**

#### **Presidential Commissions of Inquiries and Commissioners of Inquiry**

1. The President may appoint Presidential Commissions of Inquiry, each consisting of a Presidential Jury and presided over by a Commissioner of State called, 'Commissioners of Inquiry'. Such Commissions shall be responsible for conducting the most important inquiries into significant events affecting the Nation as a whole or in part, other than matters under consideration or investigation by the Constitutional Court.
2. Presidential Juries are to be selected by lot from the electoral roll. The President may by leave of the Council of State, appoint a Presidential Commission without a Presidential Jury for stated reasons.
3. Commissioners of Inquiry shall be appointed by the President after being nominated by the Chief Justice, and shall hold no other office or position of emolument, unless seconded from the Supreme or High Courts.
4. The President shall grant letters patent for the Commissioners of Inquiry that establish the powers and terms of reference for each and every such Inquiry, and such letters patent shall have the force of law.

5. The Police Service and other investigative services of the Government, other than the Office of Constitutional Investigation, may be employed by such Commissioners of Inquiry for the discovery of evidence.

6. The Attorney General, if not appointed to represent any Commissioner of Inquiry, and the Constitutional Advocate shall have the right but not the obligation to be heard at the opening and closing of any hearings, call witnesses and submit evidence, and to cross-examine all other witnesses.

7. At any time the Constitutional Court may at its own volition call in any matters being considered or investigated by any and all Commissioners of Inquiry.

8. The final draft of any Commissioners of State' report shall be tabled in both Houses of Parliament at the same time.

9. The President shall discharge the Juries and Commissioners of Inquiry after any joint committee of Parliament shall have examined the final draft report and the Commissioners have addressed any queries or objections, and the final report shall have been submitted to the President.

## **PART XI**

### **THE LEGISLATURE**

#### **Article 103**

##### **The structure of the legislative branch**

The legislative branch of the Government shall consist of—

- a. A bicameral national parliament comprising two Houses—
  - i. The House of Senators: and
  - ii. The House of Representatives:and subordinated to the Parliament,
- b. Community authorities.

#### **THE PARLIAMENT**

#### **Article 104**

##### **Composition and power**

1. The national parliament shall be called and known, and shall be in this Constitution generally referred to as, 'The Parliament'.

2. Both Houses of the Parliament shall sit in or near the City of Wellington or in such other place as each House may from time to time determine for itself.

3. The sole and exclusive power of making laws for the Government shall be vested in the Parliament; no other legislative authority shall have power to make laws for the Nation.

**Article 105****Creation of subordinate legislatures**

1. Provision may however be made by law for the creation or recognition of subordinate legislatures and for the powers and functions of these legislatures.
2. The Parliament may provide for the establishment or recognition of representing branches of the social and economic life of the People, including territorial, tribal, functional or vocational authorities.
3. The rights, powers and duties, and its relation to the Parliament and to the other branches of the Government shall be established in law.

**Article 106****Limits to legislation**

1. The Parliament shall not enact any law which shall be in any respect repugnant to this Constitution or any provision of this Constitution.
2. Every law enacted by the Parliament which shall be in any respect repugnant to this Constitution or to any provision of this Constitution, shall, but to the extent only of such repugnancy, shall be invalid, as determined by the Constitutional Court.
3. The Parliament shall not declare actions to be infringements of the law which were not so at the date of their commission.
4. The Parliament shall not enact any law providing for the imposition of the death penalty.

**Article 107****Sole right to raise coercive forces**

1. The right to raise and maintain forces with the capacity to coerce in the name of the President and on behalf of the People, and to continue to raise and maintain such forces, either in New Zealand or elsewhere, whether such forces shall be military or civilian and whether armed or not, shall be vested exclusively in the Parliament, and no coercive force, other than forces with the capacity to coerce (whether military or civilian and whether armed or not) raised and maintained by the Parliament, shall be raised or maintained for any purpose whatsoever.

**Article 108****Sessions**

1. The Parliament shall hold at least one session every year.
2. Sittings of each House of the Parliament shall be public.
3. Notwithstanding Section 2 of this article, in cases of special emergency, either House may hold a private sitting with the assent of two-thirds of the members present.
4. The House of Representatives shall elect from its members its own Speaker and Deputy Speaker and the Senate its Deputy Speaker, and shall prescribe their powers and duties.
5. The remuneration of the Speaker and Deputy Speakers of each House shall be determined by law.
6. Each House shall make its own rules and standing orders, with power to attach penalties for their infringement, and shall have power to ensure freedom of debate, to protect its official documents and the private papers of its members, and to protect itself and its members against

any person or persons interfering with, molesting or attempting to corrupt its members in the exercise of their duties.

7. All questions in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present and voting other than the Speaker or presiding member.

8. The Speaker or presiding member shall have and exercise a casting vote in the case of an equality of votes.

9. The number of members necessary to constitute a meeting of either House for the exercise of its powers shall be determined by its standing orders.

10. All official reports and publications of the Parliament or of either House of the Parliament and utterances made in either House wherever published shall be privileged.

11. The members of each House of the Parliament shall, except in case of treason as defined in this Constitution, felony or breach of the peace, be privileged from arrest in going to and returning from, and while within the precincts of, either House, and shall not, in respect of any utterance in either House, be acquiescent to any court or any authority other than the House itself.

12. No person may be at the same time a member of both Houses of the Parliament, and, if any persons who shall be already a member of either House become a member of the other House, they shall immediately be deemed to have vacated their first seat.

13. The Parliament may make provision by law for the payment of allowances to the members of each House in respect of their duties as public representatives and for the grant to them of free travelling and such other facilities (if any) in connection with those duties as the Parliament may determine.

## **THE HOUSE OF SENATORS**

### **Article 109**

#### **Principle purpose**

1. There shall be a House of the Parliament called, 'The House of Senators', or alternatively and equally 'The Senate', the number of sitting members of which shall not more than half the maximum number of members of the House of Representatives.

2. Each Senator shall have one vote.

3. The principle purpose of the Senate shall represent the characteristics of the social and economic life of the People, with the specific functions of—

a. Scrutinising legislation passed by the House of Representatives to ensure it is consistent with this Constitution:

b. Requesting, receiving, examining and reporting on both oral and written submissions from persons and expert witnesses concerning Bills and petitions received by the Parliament and referred to the Senate:

c. Consulting with and reporting the views of interest groups, with particular reference to the ethnic peoples of the Nation in a culturally appropriate manner:

d. Investigating and reporting on matters that threaten the wellbeing of this Constitution:

e. Initiating any new legislation the Senate believes shall be needed to protect this Constitution:

f. Examining and confirming (or otherwise) all recommendations of the Presidential Commission, including those to the Senate.

4. In as much as the Principle of Cooperation in Article 32.d requires reasonable cooperation for consultation between the Government and the Peoples on major issues of common concern, the purpose and functions of the Senate shall be the fulfilment of that Principle with respect to the enactment of legislation by the Parliament, when done.

5. The Senate shall revise each and all the constituencies of the House of Representatives at least once in every 12 years, with due regard to changes in distribution of the population, but any alterations in the constituencies shall not take effect during the life of Parliament sitting when such revision shall be made.

### **Article 110**

#### **Officers of the Senate**

1. The Vice President shall be the Speaker of the Senate, but shall have no vote, unless the votes shall be equally divided.

2. The Senate shall choose its other officers, including but not limited to a deputy speaker, to be called, 'The Deputy Speaker of the Senate' when sitting, otherwise, 'The Leader of the Senate', who shall act as the speaker with the full rights of the Vice President, except the Deputy Speaker may exercise a vote, plus an additional vote in the event all votes shall be equally divided. The Deputy Speaker shall take the place of the Vice President in the temporary absence of the Vice President, or when the Vice President exercises the office of President.

### **Article 111**

#### **Election and terms of Senators**

1. The members of the Senate shall be elected to represent the various ethnic peoples of the Nation, the vocations and minority interests as provided by law.

2. Nominees for the Senate shall be eminent persons capable and willing to serve in the Parliament, and to be eligible for membership of the Senate, such persons shall be eligible to become a member of the House of Representatives, and shall be neither to be a non-discharged bankrupt nor a non-discharged felon.

3. The members of the Senate shall be indirectly elected, namely—

a. The Presidential Commission shall solicit nominations for the Senate, conduct those enquires the Commissioners deem necessary at their sole discretion to verify nominees' qualifications and shall refer the nominations, their qualifications and any report in the negative to the Vice President.

b. Once a year at intervals of not less than nine months, a committee of the Senate, chaired by the Vice President and comprising of such members of the Senate as to include the Leader of the Senate, shall determine the number of vacant seats of the Senate.

c. The Vice President shall be refer the nominations and the number of vacant seats to all sitting Senators and to the Speaker of the House of Representatives for referral to all the members of that House of the Parliament.

d. When the recipients of the nominations have had sufficient time to assimilate the nominations, the Vice President shall cause an election for the number of vacant seats of the



Senate, which shall be held on the system of proportional representation by means of the single transferable vote and by secret ballot with each member of the Parliament voting according to their conscience.

e. The Senators elect shall take up their office within 90 days of the election, by declaring the oaths of allegiance and office in the presence of the President at the State Opening of the annual session of the Parliament, and Senators elect who decline or neglect to make such declaration shall be deemed to have vacated their office other than by leave of the President.

4. In soliciting and considering nominations for the Senate, the Presidential Commission shall have due regard to the appropriate balance of representation in—

a. The ethnic peoples of and within the Nation, including without limitation: the Māori, European, Pacific and Asian communities:

b. The vocations including without limitation:

i. the arts and sciences:

ii. primary industry and rural associations:

iii. commerce and industry, including without limitation the:

iv. vocational associations including without limitation organised labour and the legal, medical, ecclesiastical accountancy and engineering professions:

v. public administration, including without limitation national and community elected public offices, Government and non-Government service: and

vi. minority interests as set out in Article 83.

c. Demographics including without limitation gender between women and men, and age.

5. The Presidential Commission shall not to take into consideration neither territorial representation nor the representation of political parties, both of which shall be the responsibilities of the House of Representatives.

6. All Senators shall, unless they resign or become disqualified, continue to hold office until the end of the Parliamentary session in the year of their 75<sup>th</sup> anniversary of their birthday, after which they shall retain all the privileges and prerogatives of Senators but may not sit other than at the State Opening of the Parliament and other State Occasions.

7. The President and Vice President shall not sit as Senators during their term of office.

8. All Justices of the Supreme Court and its courts of summary jurisdiction shall be appointed ex officio Senators with all the privileges and prerogatives of Senators on the second anniversary of their taking office, but may not sit as Senators until they have retired or resigned from the bench of such courts.

9. All Senators shall be Senators of the Order of Aotearoa and all Senators of the Order of Aotearoa shall be members of the Senate; they shall be one and the same.

10. Casual vacancies in the Senate shall be only to be filled in the manner prescribed in Section 5. of this article.

11. Sitting Senators may hold other positions of emolument, provided all such interests shall be registered with the Commissioner of Parliament.

12. Notwithstanding Section 13 of this article, Senators shall be remunerated in such a way as to protect their independence in both the present and the future, in accordance with their circumstances.

13. All matters concerning the nomination, election and remuneration shall be held secret but may be subject to inspection by such Commissioners of State that have a duty to inspect such information, and such information as shall be necessary may be revealed in the course of any impeachment hearing.

14. Senators may retire from sitting by placing in the hands of the President such letter of retirement but may not renounce their powers, privileges and prerogatives unless they are renouncing their citizenship at the same time.

15. Senators may be impeached by the same process as that for the President under Article 85.

16. Subject to the provisions of this article, elections: powers, privileges and prerogatives: and impeachment of the members of the Senate shall be established in law.

## **Article 112**

### **Independence of Senators**

1. Notwithstanding the role of Senators in consulting the ethnic peoples of the Nation and reporting on and taking into account such consultations, submissions and petitions, Senators shall not act for any constituency or interested party but shall act independently according to their own conscience in the exercise of their functions and subject only to this Constitution, legislation, common law and existing social standards, and shall not be subject to any undue influence.

2. When a Senator shall be a member of a political party or any other association, there shall be a presumption of undue influence by that political party or association, such that in any impeachment the onus of proof shall be on such political party or association to disprove undue influence on such a Senator.

3. All instances of undue influence or duress on Senators shall be repugnant to this Constitution.

4. It shall be a duty of every Senator to uphold this Constitution and strike down any statute or action or omission that shall be repugnant to the Constitution by—

- a. Protecting minority rights, regardless of the sentiments of the day, such that the constitutional democracy as defined in this Constitution shall be nobler than that of unadorned majority rule: and
- b. Without undue protection or promotion of minority interests beyond the intentions of this Constitution: so that
- c. Government shall have due regard to the Public Interest.

## **HOUSE OF REPRESENTATIVES**

### **Article 113**

#### **Voter qualifications**

1. Every citizen without distinction of sex who shall have reached the age of eighteen years, and who shall be not placed under disability or incapacity by this Constitution or by law, shall be eligible for membership of the House of Representatives.

2. All citizens, and such other persons in the Government as may be determined by law, without distinction of sex who have reached the age of eighteen years who shall not be disqualified by law and comply with the provisions of the law relating to the election of members of the House of Representatives, shall have the right to vote at an election for members of the House of Representatives.

3. No law shall be enacted placing any citizen under disability or incapacity for membership of the House of Representatives on the ground of discrimination, including by sex, race, religion, or disability, or disqualifying any citizen or other person from voting at an election for members of the House of Representatives on such grounds.

4. No voter may exercise more than one vote at an election for the House of Representatives, and the voting shall be by secret ballot.

#### **Article 114**

##### **Method of election and constituencies**

1. The House of Representatives shall be composed of members who either represent territorial constituencies determined by law, called, 'Parliamentary Constituency Representatives' ('PCR'), or their political parties, called, 'Political Representatives' ('PPR').

2. The number of members shall from time to time be fixed by law, but the total number of territorial-constituency members of the House of Representatives shall not be fixed at less than 100 members, or at more than 500 members.

3. The ratio between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as it shall be practicable, be the same throughout the country.

4. The members shall be elected by means of mixed-member proportional representation, where the overall total of members of any one political party in the House of Representatives shall as near as reasonably practicable reflect the overall proportion of votes received by that party in the country as a whole using the Sainte-Laguë formula: and the territorial constituency members shall be elected by means of single transferable votes.

5. No law shall be enacted that enables number of members to be returned for any territorial constituency to be less than three.

6. Each member of the House of Representatives shall have one vote.

#### **Article 115**

##### **Appropriation of public monies for parliamentary purposes**

1. All public monies appropriated for the purpose of representing the views of political parties and constituents to the House of Representatives, and for representing the views of the House of Representatives including the Cabinet to such Constituencies and political parties shall be used exclusively for such purposes and for any other parliamentary purposes as regulated by law and for no other purposes.

2. It shall be repugnant to this Constitution for any public monies to be appropriated or used for any purpose that promotes a political party or an incumbent candidate or is likely to promote such a political party or such a candidate, even if such purpose does not directly solicit votes or directly profile such a political party or such a candidate, other than those public monies appropriated for political parties in Article 151.

**Article 116****Sessions**

1. The House of Representatives shall be summoned and dissolved as provided by Section 1 of Article 2 of this Constitution.
2. A general election for members of the House of Representatives shall take place not later than 30 days after the dissolution of the House of Representatives.
3. The same House of Representatives shall not continue for a longer period than four years from the date of its first meeting.
4. A general election for the House of Representatives shall be held on the Thursday of Week 48 in the November of a leap year and the House of Representatives shall meet no later than the end of the following February.
5. When the President approves of the dissolution of the House of Representatives before 30 days from the next due general election for the House of Representatives, a general election shall be held on the last Thursday within thirty days the President's approval. The House of Representatives meets within 30 days from the polling day.
6. Subject to the provisions of this article, elections for membership of Parliament, including the filling of casual vacancies, shall be regulated in accordance with law.

**Article 117****Fiscal resolutions and votes**

1. As soon as possible after the presentation to the House of Representatives under Article 118 of this Constitution of the estimates of receipts and the estimates of expenditure of the Government for any financial year, the House of Representatives shall consider such estimates.
2. Save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the financial resolutions of each year shall be enacted within that year.
3. The House of Representatives shall not pass any vote or resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys unless the purpose of the appropriation shall have been recommended to the House of Representatives by a message from the Cabinet signed by the Prime Minister.

**LEGISLATION****Article 118****Passage of legislation between the Houses of the Parliament**

1. Every Bill initiated in and passed by the House of Representatives shall be sent to the Senate and may, unless it be a money Bill, be amended in the Senate, and the House of Representatives shall consider any such amendment.
2. A Bill other than a Supply Bill may be initiated in the Senate, and if passed by the Senate, shall be introduced in the House of Representatives.
3. A Bill initiated in the Senate if amended in the House of Representatives shall be considered as a Bill initiated in the House of Representatives.
4. A Bill passed by either House and accepted by the other House shall be deemed to have been passed by both Houses.

## Article 119

### Principles of lawmaking

In proposing and making law the following principles shall apply—

a. **Efficiency.** Adopt and maintain only laws and regulations for which the costs on the Nation shall be justified by the benefits to the Nation, and that such laws and regulations achieve objectives at the lowest cost, taking into consideration all practicable alternative approaches to making laws and regulation through—

i. *Consideration of alternatives to laws and regulation:* statutory and regulatory design should include an identification and assessment of the most feasible statutory and regulatory and non-statutory and regulatory alternatives to addressing the problem.

ii. *Minimum necessary laws and regulation:* when Government intervention shall be desirable, statutory and regulatory measures should be the minimum required, and least distorting, in achieving the desired outcomes.

iii. *Statutory and regulatory benefits outweigh costs:* in general, proposals with the greatest net benefit to the Nation should be selected and implemented.

iv. *Reasonable compliance cost:* the compliance burden imposed on the Nation by laws and regulation should be reasonable and fair compared to the expected statutory and regulatory benefit.

v. *Minimal fiscal impact:* regulators should develop statutory and regulatory measures in a way that minimises the financial impact of administration and enforcement by the Government.

vi. *Minimal adverse impact on standing:* laws and regulation should be designed to have a minimal negative impact on the Nation's standing, involving among others the ability of the Nation to compete for resources including human resources.

vii. *International compatibility:* where appropriate, statutory and regulatory measures or standards should be compatible with relevant international or internationally accepted standards or practices ensuring the protection afforded to the People of New Zealand shall be comparable with international standards of good practice. But nothing shall prevent or deter statutory and regulatory measures from being unique, when such measures shall be better suited to the social, economic and cultural needs of the Nation.

b. **Effectiveness.** Laws and regulation should be designed to achieve the desired policy outcome through—

i. *Reasonable compliance rate:* statutory and regulatory measures shall contain compliance strategies that ensure the greatest degree of compliance at the lowest possible cost to all parties, and effects of any incentives shall be made explicit in any statutory and regulatory proposal.

ii. *Compatibility with the general body of law,* including the statute which the measure amends, statutes which apply to such measure, and the general body of the law of statutory interpretation.

iii. *Compliance with basic principles of this Constitution and the law,* including New Zealand's international obligations.

iv. *Performance-based requirements that specify outcomes* rather than inputs should be used, unless prescriptive requirements shall be unavoidable.

v. *Flexibility of laws and regulation and standards*: statutory and regulatory measures shall be capable of revision to enable such measures to be adjusted and updated as circumstances require.

vi. *Review laws and regulations systematically* to ensure such measures continue to meet their intended objectives efficiently and effectively.

c. **Transparency.** The laws and regulation making process shall be transparent to both the decision-makers and those affected by laws and regulation through—

i. *Problem adequately defined*: identifying the nature and extent of the problem shall be a key step in the process of evaluating the need for Government action, such that the problem definition may itself suggest potential solutions and eliminate others clearly not suitable. The need for Government action shall be at the very least to avoid the failure of the functions of Government defined in this Constitution by continuing to identify the root-causes of failure, and at each stage stochastically evaluating the impact or cost of failure, the probability of failure occurring and the probability of achieving an solution until the cost and probability of avoiding, remedying or mitigating such failure shall be acceptable. Such an analysis shall include any and all assumptions and an evaluation of the correlations between variables and their causal links, if any.

ii. *Clear identification of the purpose, functions and outcomes of laws and regulation*: the policy goal should be clearly specified against the problem and have a clear link to Government functions.

iii. *Cost-benefit analysis*: statutory and regulatory proposals shall be subject to a systematic review of the costs and benefits.

iv. *Risk assessment*: statutory and regulatory proposals shall be themselves subject to a risk or failure-avoidance evaluation which should be as detailed as shall be appropriate in the circumstances.

v. *Public consultation* should occur as widely as shall be reasonably practicable, given the circumstances, in the policy development process.

vi. *Direct approaches to problem*: in general, adopting a direct approach aimed at the root cause of an identified problem will ensure that a more effective and efficient outcome shall be achieved, compared to an indirect response.

d. **Clarity.** Statutory and regulatory processes and requirements shall be as understandable and accessible as practicable for the greatest number of people through—

i. *Eliminating unnecessary complexity in the achievement the statutory and regulatory objective.*

ii. *Plain language drafting*: wherever practicable statutory and regulatory measures shall be drafted in plain language to improve reduce uncertainty and to enable those persons affected to better understand the implications of such statutory and regulatory measures.

iii. *Executive and judicial discretion should be kept to a minimum*, in order to reduce discrepancies between Government regulators, reducing uncertainty and compliance costs.

iv. *Educating the People as to their statutory and regulatory rights and obligations shall be fundamental in ensuring the purpose of the Government shall be achieved.*

e. **Equity.** Laws and regulation shall be fair and treat those persons affected equitably through—

i. *Obligations, standards, and sanctions* shall be designed in such a way that they can be imposed impartially and consistently.

ii. *Laws and regulations shall be consistent with and not repugnant to this Constitution*, and protect the rights and obligations of the People.

iii. *Persons in like circumstances shall be treated in a similar manner*, similarly, people in disparate circumstances shall be treated differently but in such a manner that outcomes defined in this Constitution for each and every citizen shall be equal under law.

iv. *The test of good law and regulation shall be that such statutory and regulatory measures provide the greatest good for the greatest number persons without unduly jeopardising the welfare of any minority.*

## **Article 120**

### **Supply Bills**

1. Supply Bills shall be initiated in the House of Representatives only.
2. Every Supply Bill passed by the House of Representatives shall be sent to the Senate for the Senate's recommendations.
3. Every Supply Bill sent to the Senate for the Senate's recommendations is, at the expiration of a period not longer than 21 days after it shall have been sent to the Senate, to be returned to the House of Representatives, which may accept or reject all or any of the recommendations of the Senate.
4. If such Supply Bill shall be not returned by the Senate to the House of Representatives within such 21 days or shall be returned within such 21 days with recommendations which the House of Representatives does not accept, it shall be deemed to have been passed by both Houses at the expiration of the said 21 days.
5. Notwithstanding Section 4 of this article, the House of Representatives shall invite and receive public submissions on money Bills or any budgetary proposals concerning the appropriation or expenditure of public money made by any Minister of the Cabinet, and such submissions shall receive written responses before the House of Representatives may pass any Supply Bill or any Bill resulting from any budgetary proposal.
6. When, for whatever reason, any Supply Bill is not enacted into law in time to authorise the payment of the existing liabilities of the Government or the collection of the existing tax revenues, the Auditor General shall allow such expenditure and such collection up to the same amounts for the same period as the next preceding financial year, plus an allowance for the relevant inflation index until such time as such Supply Bills are enacted.

## **Article 121**

### **Certification of Bills as Supply Bills**

1. A Supply Bill means a Bill which contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation: the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges: supply: the appropriation, receipt, custody, issue or

audit of accounts of public money: the raising or guarantee of any loan or the repayment thereof: matters subordinate and incidental to these matters or any of them.

2. The definitions of the expressions 'taxation', 'public money' and loan' respectively in Section 1 of this article do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

3. The Speaker of the House of Representatives shall certify any Bill which, in their opinion, shall be a Supply Bill to be a Supply Bill, and their certificate shall, subject to the subsequent provisions of this article, be final and conclusive.

4. The Senate, by a resolution, passed at a sitting at which not less than half the sitting members shall be present, may refer the matter to the Constitutional Court, and the Constitutional Court shall make its decision within 21 days from the reference.

## **Article 122**

### **Time for consideration of Bills**

1. This article applies to every Bill passed by the House of Representatives and sent to the Senate other than a Supply Bill or a Bill the time for the consideration of which by the Senate shall have been abridged under Article 123 of this Constitution.

2. Whenever a Bill to which this article applies shall be within the stated period defined in Section 1 of this article shall be either rejected by the Senate or passed by the Senate with amendments to which the House of Representatives does not agree or shall be neither passed (with or without amendment) nor rejected by the Senate within the stated period, the Bill shall, if the House of Representatives so resolves following either the next general election for the House of Representatives or a referral of such a Bill to the People after the expiration of the stated period be deemed to have been passed by both Houses of the Parliament on the day on which the resolution shall be passed.

3. The stated period shall be the period of 90 days commencing on the day on which the Bill shall be first sent by the House of Representatives to the Senate or any longer period agreed upon in respect of the Bill by both Houses of the Parliament.

4. The preceding section of this article shall apply to a Bill which shall be initiated in and passed by the Senate, amended by the House of Representatives, and accordingly deemed to have been initiated in the House of Representatives.

5. For the purpose of this application the stated period shall in relation to such a Bill commence on the day on which the Bill shall be first sent to the Senate after having been amended by the House of Representatives.

## **Article 123**

### **Abridged consideration of Bills**

1. If and whenever on the passage by Parliament of any Bill, other than a Bill expressed to be a Bill containing a proposal to amend the Constitution, the Prime Minister certifies by messages in writing addressed to the President and to the Speaker of each of the Houses of the Parliament that, in the opinion of the Cabinet, the Bill shall be urgent and immediately necessary for the preservation of the public peace and security, or by reason of the existence of a public emergency, whether domestic or international, the time for the consideration of such Bill by the Senate shall, if the House of Representatives so resolves and if the President, after consultation with the Council of State, concurs, be abridged to such period as shall be specified in the resolution.



2. Where a Bill, the time for the consideration of which by the Senate shall have been abridged under this article—

a. is, in the case of a Bill which shall be not a money Bill, rejected by the Senate or passed by the Senate with amendments to which the House of Representatives does not agree or neither passed nor rejected by the Senate: or

b. is, in the case of a money Bill, either returned by the Senate to the House of Representatives with recommendations which the House of Representatives does not accept or shall be not returned by the Senate to the House of Representatives within the period specified in the resolution:

—the Bill shall be deemed to have been passed by both Houses of the Parliament at the expiration of that period.

3. When a Bill, the time for the consideration of which by the Senate shall have been abridged under this article, becomes law, it shall remain in force for a period of ninety days from the date of its enactment and no longer unless, before the expiration of that period, both Houses shall have agreed that such law shall remain in force for a longer period and the longer period so agreed upon shall have been specified in resolutions passed by both Houses.

#### **Article 124**

##### **Signing and promulgation of laws**

1. As soon as any Bill, other than a Bill expressed to be a Bill containing a proposal for the amendment of this Constitution, shall have been passed or deemed to have been passed by both Houses of the Parliament, the Prime Minister shall present it to the President for their signature and for promulgation by the President as a law in accordance with the provisions of this article.

2. Save as otherwise provided by this Constitution, every Bill so presented to the President for their signature and for promulgation by them as a law shall be signed by the President not earlier than the fifth and not later than the seventh day after the date on which the Bill shall have been presented to them.

3. At the request of the Cabinet, with the prior concurrence of the Senate, the President may sign any Bill the subject of such request on a date which shall be earlier than the fifth day after such date as specified before.

4. Every Bill, the time for the consideration of which by the Senate shall have been abridged under Article 123 of this Constitution, shall be signed by the President on the day on which such Bill shall be presented to them for signature and promulgation as a law.

5. Every Bill becomes law as on and from the day on which it shall be signed by the President under this Constitution, and shall, unless the contrary intention appears, come into operation on that day.

6. Every Bill signed by the President under this Constitution shall be promulgated by them as a law by the publication through their direction of a notice in the Government gazette stating that the Bill shall have become law.

7. Every Bill shall be signed by the President in the text in which it was passed or deemed to have been passed by both Houses of the Parliament, and if a Bill shall be so passed or deemed to have been passed in any official language, the President shall sign the text of the Bill in all official languages.

8. When the President signs the text of a Bill in only one of the official languages, an official translation shall be issued in any other official language.

9. As soon as may be after the signature and promulgation of a Bill as a law, the text of such law which was signed by the President or, when the President shall have signed the text of such law in each of the official languages, both the signed texts shall be enrolled for record in the office of the Registrar of the Supreme Court, and the text, or all the texts, so enrolled shall be conclusive evidence of the provisions of such law.

10. When there shall be a conflict between the texts of a law enrolled under this article in any the official languages, the texts shall be referred to the Supreme Court by Presidents for resolution.

11. It shall be lawful for the Prime Minister, from time to time as occasion appears to them to require, to cause the preparation under their supervision a text (in all official languages) of this Constitution as then in force embodying all amendments.

12. A copy of every text so prepared under Section 11 of f this article, when authenticated by the signatures of the Prime Minister and the Chief Justice, shall be signed by the President and shall be enrolled for record in the office of the Registrar of the Supreme Court.

13. When the copy so signed under Section 12 of this article and enrolled which shall be for the time being the latest text so prepared shall, upon such enrolment, be conclusive evidence of this Constitution as at the date of such enrolment and shall for that purpose supersede all texts of this Constitution of which copies were so enrolled.

14. When there shall be a conflict between the texts of any copy of this Constitution enrolled under this Section 13, these texts shall be referred to the Supreme Court by the President for resolution.

## **Article 125**

### **Reference of Bills to the Constitutional Court**

1. This article applies to any Bill passed or deemed to have been passed by both Houses of the Parliament other than a money Bill, or a Bill expressed to be a Bill containing a proposal to amend the Constitution, or a Bill the time for the consideration of which by the Senate shall have been abridged under Article 123 of this Constitution.

2. The President may, on the advice of the Council of State, refer any Bill to which this article applies to the Constitutional Court for a decision on the question as to whether such Bill or any specified provision or provisions of such Bill shall be or shall be repugnant to this Constitution or to any provision of it.

3. Every such reference shall be made not later than the seventh day after the date on which such Bill shall have been presented by the Prime Minister to the President for their signature.

4. The President shall not sign any Bill that shall be the subject of a reference to the Supreme Court under this article, pending the pronouncement of the decision of the court.

5. The Constitutional Court consisting of not less than five judges shall consider every question referred to it by the President under this article for a decision, and, having heard arguments by or on behalf of the Attorney General in support of the legislation and by the Constitutional Advocate, shall pronounce its decision on such question in open court as soon as may be, and in any case not later than 60 days after the date of such referral.

6. The decision of the majority of the Justices of the Constitutional Court is, for the purposes of this article, to be the decision of the Court and shall be pronounced by such one of those Justices

as the Court shall direct, and no other opinion, whether assenting or dissenting, shall be pronounced nor shall the existence of any such other opinion be disclosed.

7. When in every case in which the Constitutional Court decides that any provision of a Bill the subject of a referral to the Constitutional Court under this article shall be repugnant to this Constitution or to any provision of it, the President shall decline to sign such bill.

8. When, in the case of a Bill to which Article 126, of this Constitution applies, a petition shall have been addressed to the President under that article, that article shall be complied with.

9. In every other case, the President shall sign the Bill as soon as may be after the date on which the decision of the Constitutional Court shall have been pronounced.

## **Article 126**

### **Reference of Bills to the People**

1. This article applies to any Bill, other than a Bill expressed to be a Bill containing a proposal for the amendment of this Constitution, which shall have been deemed, by virtue of Article ...?, to have been passed by both Houses of the Parliament.

2. A simple majority of the members of the Senate and not less than one-third of the members of the House of Representatives may by a joint petition addressed to the President by them under this article request the President to decline to sign and promulgate as a law any Bill to which this article applies on the ground that the Bill contains a proposal of such National importance that the will of the People ought to be ascertained.

3. Every such petition shall be in writing and shall be signed by the petitioners whose signatures shall be verified in the manner prescribed by law.

4. Every such petition shall contain a statement of the particular ground or grounds on which the request shall be based, and shall be presented to the President not later than four days after the date on which the Bill shall have been deemed to have been passed by both Houses of the Parliament.

5. When in receipt of a petition addressed to them under this article, the President shall directly consider such petition and shall, on the advice of the Council of State, pronounce their decision on the matter not later than 10 days after the date on which the Bill to which such petition relates shall have been deemed to have been passed by both Houses of the Parliament.

6. When the Bill or any provision of it shall be or shall have been referred to the Constitutional Court under Article 125 of this Constitution, it shall not be obligatory on the President to consider the petition unless or until the Supreme Court shall have pronounced a decision on such reference to the effect that the said Bill or the said provision shall be not repugnant to this Constitution or to any provision of it, and, if a decision to that effect shall be pronounced by the Supreme Court, it shall not be obligatory on Presidents to pronounce their decision on the petition before the expiration of six days after the day on which the decision of the Supreme Court to the effect aforesaid shall be pronounced.

7. When the President decides that a Bill that shall be the subject of a petition under this article contains a proposal of such National importance that the will of the People on the matter ought to be ascertained, they shall inform the Prime Minister and the speaker of each House of Parliament accordingly in writing under their hand and seal and shall decline to sign and promulgate such Bill as a law unless and until the proposal shall have been approved either

a. by the People at a referendum in accordance with the provisions of Section 2 of Article 47 of this Constitution within a period of eighteen months from the date of the Presidents' decision, or

b. by a resolution of the House of Representatives passed within the said period after a dissolution and re-assembly of the House of Representatives.

8. When a proposal contained in a Bill that shall be the subject of a petition under this article shall have been approved either by the People or by a resolution of the House of Representatives in accordance with the provisions of this section, such Bill shall as soon as may be after such approval be presented to the President for their signature and promulgation by them as a law and the Presidents shall sign the Bill and duly promulgate it as a law, otherwise the President shall refer such Bill back to the Prime Minister.

9. When the President decides that a Bill that shall be the subject of a petition under this article does not contain a proposal of such National importance that the will of the People ought to be ascertained, he shall inform the Prime Minister and the speaker of each House of Parliament accordingly in writing under their hand and seal, and such Bill shall be signed by the President not later than 11 days after the date on which the Bill shall have been deemed to have been passed by both Houses of Parliament and shall be duly promulgated by them as a law.

10. When the Senate shall have refused to pass a Bill referred to it from the House of Representatives or shall have made alterations to the provisions of such a Bill that shall be unacceptable to the House of Representatives, the House of Representatives may resolve to refer that Bill or those provisions to the People under this article.

## PART XII

### THE EXECUTIVE

#### Article 127

##### Structure of the executive branch of Government

1. The executive branch of the Government shall consist of—

a. The Cabinet which shall consist of the Prime Minister and the other Ministers, and may include other Deputy Ministers:

b. The civil services of the Government, including the Public Service and state services:

c. The military services of the Government: and

d. Community government.

2. The powers, privileges and prerogatives of the executive shall be consistent with this Constitution and regulated by law.

## THE CABINET

### Article 128

#### Executive power of Government

1. The executive power of the Government shall, subject to the provisions of this Constitution, be exercised by or on the authority of the Cabinet.
2. The Cabinet may recommend regulations for the approval of the President as shall be provided for in law.
3. The Cabinet prepares estimates of the receipts and estimates of the expenditure of the Government for each financial year, and shall present them to the House of Representatives for its consideration.
4. The following matters shall be regulated in accordance with law, namely, the organisation of, and distribution of business among, departments of state, the designation of members of the Cabinet to be the ministers for the time being in charge of the said departments, the discharge of the functions of the office of members of the Cabinet during their temporary absence or incapacity, and the remuneration of the members of the Cabinet.
5. Each and every Act of Parliament shall be assigned to one and only one Minister in the Cabinet who shall be pro tempore responsible for the execution of that Act, and such Ministers may delegate such authority under that Act as their prerogative shall be allowed under that Act but cannot delegate the responsibility for the execution of that Act.
6. The delegation of the powers, privileges and prerogatives of each Minister shall be by the hand and seal of the President in letters patent.

### Article 129

#### Power to wage war

1. War shall not be declared and the Government shall not participate in any war save with the assent of the House of Representatives.
2. When faced with actual invasion, the Cabinet may take whatever steps it may consider necessary for the protection of the Nation, and the House of Representatives, if not sitting, shall be summoned to meet at the earliest practicable date.
3. Nothing in this Constitution other than Article ...? Shall be invoked to invalidate any law enacted by Parliament which shall be expressed to be for the purpose of securing the public safety and the preservation of the Nation in time of war or armed rebellion, or to nullify any act done or purporting to be done in time of war or armed rebellion in pursuance of any such law.

### Article 130

#### Prime Minister and Deputy Prime Minister

1. The head of the Cabinet shall appointed by the hand and seal of the President, shall be called, 'The Prime Minister', and shall be addressed as, 'Prime Minister'.
2. The Prime Minister shall keep the President regularly informed on matters of domestic and international affairs and executive policy, and shall meet with the President for this purpose at all reasonably practicable the times and places determined by the President.
3. When the Prime Minister ceases to retain the support of a majority in the House of Representatives, namely either a specific vote of support or a vote on a money Bill, they shall

resign from office, unless on the Prime Minister's advice the President dissolves the House of Representatives and on the reassembly of the House of Representatives after the dissolution, the Prime Minister secures the support of a majority of that House of Parliament.

4. The Prime Minister shall nominate a member of the Cabinet to be their deputy called, 'The Deputy Prime Minister' and addressed as, 'Minister', unless exercising the powers of prime minister, when they shall be addressed as, 'Prime Minister'.

5. When the Prime Minister dies or becomes permanently incapacitated, the Deputy Prime Minister shall act for all purposes in the place of the Prime Minister until a new Prime Minister shall be appointed.

6. When the Prime Minister shall be temporarily absent, the Deputy Prime Minister shall also to act for or in the place of the Prime Minister during such temporary absence.

7. When the Deputy Prime Minister acts for or in the place of the Prime Minister, they shall obtain the prior written consent of the President, who shall not unreasonably withhold such consent.

8. The Prime Minister and Deputy Prime Minister may resign from office at any time by placing their resignation in the hands of the President.

### Article 131

#### Appointment and tenure Ministers of State

1. The members of the Cabinet shall be nominated by the Prime Minister and appointed with letters patent by the President. They shall be called, 'The Minister of [*the portfolio for which they shall be for the time being responsible*]', and shall be addressed as, 'Minister'.

2. The Cabinet shall consist of not less than seven and not more than 15 members, who shall be appointed by the President in accordance with the provisions of this Constitution.

3. The Departments of State shall administered by seven Ministries (which shall be themselves Departments of State) comprising—

Ministries	Departments	State sector bodies
In cabinet	Principle areas of responsibility without limitation	
(a)	(b)	(c)
	Civil and military services, including without limitation the Public Service, the Armed Forces and the Police.	Corporate bodies not necessarily owned or controlled by the Government
(i) <b>Cabinet Office</b>	Secretariat; policy coordination; intelligence coordination and analysis; structure of executive; public and state services; trans-sector interests; Māori, Pacific, Asian and European:	Ministerial commissions: Government commercial enterprises and other entities: schools, universities: hospitals
(ii) <b>The Treasury</b>	Finance; treasury; tax policy; monetary policy, cash management; macro-economic policy; investment	

- (iii) **Social Welfare** Social development; healthcare; culture, income etc. support; housing; sport and recreation; gambling
- (iv) **Commerce** Energy; tourism; primary industries; vocational standards; industry regulation; commercial law; consumer affairs; enterprise; applied R&D;
- (v) **Interior** Immigration; law reform; police, border control; immigration; naturalisation; court administration; corrections; internal intelligence; tax collection; local Government; environment; parliamentary services; Presidential and Parliamentary services; statistics; civil defence
- (vi) **Exterior** Diplomatic service; trade negotiation; defence force; overseas aid; external intelligence
- (vii) **Education** Early childhood; pre-school, primary; intermediate; secondary; tertiary; theoretical research; vocational development

4. Each ministry shall have one Minister supported by Associate Ministers responsible for departments, of which two may be Deputy Ministers.

5. All Prime Ministers, Deputy Prime Ministers, Ministers, Deputy and Associate Ministers shall be Ministers of the Cabinet but only Prime Ministers, Deputy Prime Ministers, Ministers and Deputy Ministers shall be Ministers in the Cabinet with attendance, speaking and voting rights.

6. The Cabinet shall have seven committees corresponding to the names and areas of responsibility of the Ministries in Section 3 (a) of this article, except for the Cabinet committee, in Section 3(a)(i), which shall be called , ‘The Coordination Committee’. All Ministers of the Cabinet shall have attendance, speaking and voting rights at such committees but all decisions shall be confirmed by resolutions of the Cabinet.

7. The chairperson of each of the Cabinet Committees shall be the Minister for the time being responsible for such ministry.

8. The members of the Cabinet shall be members of the House of Representatives but every member of the Cabinet shall have the right to be heard in both Houses of the Parliament.

9. Any other members of the Cabinet may resign from office by placing their resignation in the hands of the Prime Minister for submission to the President.

10. When advised by the Prime Minister, the President shall accept the resignation of any member of the Cabinet irrespective of whether such Ministers have rendered any such resignation to the Prime Minister.

11. When the Prime Minister at any time resigns from office, the other members of the Cabinet shall be deemed also to have resigned from office, but the Prime Minister and the other members of the Cabinet shall continue to carry on their duties until their successors shall have been appointed.

12. The following matters shall be regulated in accordance with law, namely, the organisation of, and distribution of business among, ministries and departments of state, the designation of members of the Cabinet to be the Ministers in charge of the said ministries and departments, the discharge of the functions of the office of a member of the Cabinet during their temporary absence or incapacity, and the remuneration of the members of the Cabinet.

13. The members of the Cabinet in office at the date of the dissolution of Parliament shall continue to hold office until their successors shall have been appointed.

#### **Article 132**

##### **Collective responsibility**

1. The Cabinet shall be responsible to the House of Representatives but each member of the Cabinet may be examined by a committee of either House of Parliament or by any joint committee of both Houses.

2. The Cabinet meets and acts as a collective authority, and shall be collectively responsible for the ministries and other departments of state administered by the members of the Cabinet.

3. The confidentiality of discussions at meetings of the Cabinet shall be respected in all circumstances save only where the High Court determines that disclosure should be made in respect of a particular matter—

- a. in the interests of the administration of justice by a court, or
- b. by virtue of an overriding public interest, pursuant to an application in that behalf by a tribunal appointed by the Cabinet or a minister of the Cabinet on the authority of the Houses of the Parliament to inquire into a matter stated by them to be of public importance.

#### **Article 133**

##### **Ministerial responsibility**

1. Each Minister of the Government bears the ultimate responsibility for the actions or omissions of their Ministry or Department, namely when waste, corruption, or any other stated misbehaviour shall be found to have occurred within a Ministry or Department of the Government, the Minister shall be responsible even when such Minister shall have no knowledge of such actions or omissions.

2. Ministers may be impeached by the same process as that for the President in Article 85

#### **CIVIL SERVICES**

#### **Article 134**

##### **The structure of the civil services**

The civil services of the Government shall consist of—

- a. The Public Service:
- b. The incorporated entities wholly owned or controlled by the Government:
- c. The incorporated entities wholly owned but not controlled by the Government:
- d. The incorporated and unincorporated entities neither owned nor controlled by the Government but which provide services either to the Government or on behalf of the Government.



**Article 135****Boards of Governance**

1. There shall be Boards of Governance for all civil service organisations including the Departments of State, commissions and corporations, and their subsidiaries, and any other entity wholly owned by the Government or in which the Government has a financial interest.

2. The Boards of Governance shall have all the powers, privileges and prerogatives delegated to it from the Responsible Minister defined in law that are necessary for its purpose and functions, and such Responsible Minister may revoke such delegations with just cause.

*Purpose and functions of the Boards of Governance*

3. The purpose of all Boards of Governance shall be to enhance the value of the entity's contribution to the welfare of the Nation as expressed in law, with due regard to effectiveness, efficiency and economy.

4. The functions of the Boards of Governance shall include—

- a. Oversight of the entity including its strategic direction, conduct and accountability.
- b. Reviewing and approving overall performance and financial objectives for the entity.
- c. Approving strategies and plans for the entity and all its subsidiaries and joint ventures to achieve these goals.
- d. Approving key management recommendations, including new services and or products, major capital expenditure, acquisitions, divestments, restructuring and funding.
- e. Approving financial plans and annual budgets.
- f. Monitoring implementation of strategy, business performance and results and ensuring appropriate resources shall be available.
- g. Appointing, rewarding and determining the duration of the appointment of the chief executive and ratifying the appointments of those senior executives that report to the chief executive, including the chief financial officer and corporate counsel.
- h. Delimiting the delegations of authority given to the chief executive and management.
- i. Reviewing the performance of the chief executive and senior management.
- j. Reviewing and verifying systems of risk management, including failure-avoidance analysis, and internal compliance and control, codes of conduct and legal compliance.
- k. Conducting inquiries into performance failures and any other matter the board sees fit.
  - l. Reviewing sustainability performance and overseeing occupational health and safety, and environmental management and performance.
- m. Approving and monitoring financial reporting and reporting to equity owners on the entity's direction and performance.
- n. Meeting legal requirements and ensuring that the entity acts responsibly and ethically and prudently manages business risks and its assets.

5. When the chief executive and senior manager positions are Presidential Appointments, the board shall work in conjunction with the Presidential Commission, with the board making the final nomination under the observance of the Presidential Commission, for ratification by the Senate. Any Senator who is a Board Governor shall not vote on such a matter in the Senate.

6. When the chief executive or any other Presidential Appointee that reports to a Board of Governance has lost the confidence of their Board of Governance and does not resign, the Board shall suspend that Presidential Appointee and the Responsible Minister shall, with the approval of the Cabinet, move in the House of Representatives for the impeachment of that Presidential Appointee.

7. When the Responsible Minister declines to move for the impeachment of a Presidential Appointee that has lost confidence in the Board of Governance with just cause and the Board Governors do not resign, such Responsible Minister shall move in the House of Representatives to impeach each and every Board Governor.

*Composition, appointment and terms of Board Governors*

8. The Boards of Governance shall consist of not less than five and not greater than 11 suitably qualified and experienced persons, one of which shall preside but shall not vote unless the votes are even. Unless otherwise specified in this Constitution, in law or in the constitution of the entity, the presiding person, or chairperson, shall be elected by the members of the board.

9. Each board members shall be called, 'Board Governor', shall have one vote but the chairperson shall be their best efforts to reach decisions on the basis of consensus with due regard to minority views. Only when consensus cannot be achieved, may a vote be taken.

10. When the Government has the right to appoint members of Boards of Governance, they shall be nominated by the Presidential Commission, subject to confirmation by the Senate and appointment by the President. Such members may also be impeached, tried and removed by the same due process as that for other Presidential Appointees and by revocation by the People.

11. Chief executives, including the Secretaries of the Departments of State, shall not be Board Governors of their entities but shall report to such boards. Despite this, such chief executives may be Board Governors of other Government entities, including those boards of subsidiary entities that report to the same board as that of the chief executive, as ex officio Board Governors, along with other members of the senior board.

12. Senators may be appointed to Boards of Governance but members of the House of Representatives shall not be other than as Ministers, and when Board Governors are elected to the House of Representatives, they shall be deemed to have resigned and the position shall be declared vacant at the time such persons take their office in the House of Representatives.

13. Each Board Governor shall serve for fixed terms of four years, during which their powers, privileges and prerogatives shall not be diminished in real value, but each Board Governor may be reappointed through a due contestable process of the Presidential Commission. Half the Board Governors shall take their office at the same time as the President and half at the same time as the new House of Representatives takes office.

14. Each Board Governor shall be required to make an oath of allegiance and office, and failure to do so within 30 days of appointment shall void that appointment and all other Government appointments held by that person, and those positions shall be declared vacant and such person shall be ineligible to be appointed to any Government appointment for a period of not less than four years from the date such offices were due to be taken.

15. Provision may be made in statute for there to be Board Governors to be elected by the People but these shall not number more than one third of the total number of Board Governors for such boards. Such elections shall take place at the same time as that for the President.

16. Each Board Governor shall act independently with a fiduciary duty to the entity over which they govern but they shall have regard to the resolutions of the Cabinet, and written directives or instructions from their Responsible Minister or Ministers, including the Minister of the Treasury, and they shall take into consideration any petitions or views of the People and employees (and the agents of the employees' vocational associations). Every Board Governor shall act with regard to commonly accepted standards of governance practice and any codes of conduct issued by the Presidential Commission.

17. Each Board Governor may hold other positions of emolument but each and every conflict of interest is to be registered with the Presidential Commission and declared to the Board. The remuneration of Board Governors shall not be reduced in real value during any continuous period in office.

18. Each Board Governor shall have access to all premises and all information (including the right to question any employee), and the powers, privileges and prerogatives (including access to independent legal advice) necessary to fulfil their functions, including insurance that indemnifies them from such legal costs incurred in any defence against legal actions resulting from any act or omissions regarding their duties and functions as Board Governors.

*Boards of Governance and impeachment*

19. Any and all Board Governors may be impeached for stated misbehaviour, including malfeasance, misfeasance and nonfeasance.

20. When the Responsible Minister revokes any or all delegated powers, privileges and prerogatives from a Board of Governance and the any of Board Governors do not resign, the Minister, with the approval of the Cabinet, may move in the House of Representatives to impeach each and every Board Governor of such a Board of Governance. The Attorney General shall represent the Cabinet.

21. When Boards of Governance cease to have confidence in their chairperson with just cause, they may revoke the office holder—

a. When such chairperson has been elected by the Board Governors, they may revoke the chairperson by a vote of two thirds of the votes after a motion to remove such chairperson has been supported by at least one quarter of the votes and there has been at least 72 hours between such votes; and the Board of Governance may petition the Constitutional Court if the second vote supports impeachment as well, and after the second vote, vote a new chairperson into office: or

b. When a Commissioner of State is the chairperson, they shall petition the Constitutional Court for such a chairperson's impeachment, after the second vote as in Subsection 21a of this article: or

c. When the chairperson is the Responsible Minister, they shall first petition the Prime Minister for the impeachment of the chairperson by a motion in the House of Representatives, after the second vote as in Sub-Section 21a of this article: or

d. When the Prime Minister unwilling or unable to act within 30 days of such a petition in subsection 21c of this article, such Boards of Governance may petition the Leader of the Opposition for the impeachment of the chairperson by a motion in the House of Representatives.

22. When a Board of Governance ceases to have confidence in one or more of its members other than the chairperson it may impeach such members by the process given in Section 21a of this article.

23. In all cases of impeachment under Sections 20 to 22, the Attorney General shall represent the Minister of the Cabinet, the Commissioner of State or the majority of a Board of Governance (unless such a Board of Governance is contesting a Minister of the Cabinet) and the Constitutional Advocate shall represent the other party whether that party shall be the plaintiff or the defendant.

*Boards of Governance to be provided for in law*

24. The provisions of the Boards of Governance in this article shall be provided for in law, including the delimitation of the executive powers of the chairpersons of Boards of Governance, and the filling of casual vacancies.

**Secretaries of the Departments of State**

1. There shall be Secretaries of State for the Departments of State, who shall be the chief executives of such Departments. Each Secretary of State may have up to three Deputy Secretaries of State, and may be assisted by any number of Assistant Secretaries of State, each of which may be chief executives of their own puisne departments or branches or other subsidiary designated entities.

2. The purpose of the Secretaries is to implement the will of the People as expressed in law using the powers, privileges and prerogatives in such laws including the appropriations of public monies, as delegated to them by their Boards of Governance.

3. The Secretaries of State may further delegate and revoke their powers, privileges and prerogatives according the delimitations resolved by their Boards of Governance and in law.

4. The Secretaries of State shall be responsible for providing their Responsible Ministers and their Boards of Governance with advice on the implementation of the law, including any need for revision of existing laws and the adoption of new laws, and to assist the Responsible Minister in the preparation of recommendations to the Cabinet on such matters, including supporting analysis.

5. The Secretaries of State shall employ such number of Public Servants, agents and contractor as is necessary to fulfil the requirements of the law, with due regard to effectiveness, efficiency and economy.

**Article 136**

**The Public Service**

1. There shall be a professional Public Service which will consist of the Departments of State and any other Government organisation that is not a corporation, including the employees of Commissions.

2. The Chief Public Servant shall be the President, who shall preside over the Board of Governance. The Board. Of Governance of the Public Service shall be that of the Cabinet Office, and the chief executive of the Public Service shall be the Public Service Commissioner, who shall also be the Secretary of State for the Cabinet Office.

3. The Secretaries of State of the Departments shall employ Public Servants and will be responsible for their remuneration and other terms and conditions of employment, development and discharge, under the guidelines of and in consultation with the Public Service Commissioner. Such Public Servants may be transferred between Departments of State with absolute continuity

of service, and the Public Service Commissioner is to be make best efforts to maintain continuity of service for Public Servants.

4. From time to time, there may be divisions of the Public Service, such as an Education Service.

5. No Public Servant shall have their terms and conditions of employment reduced in real value, unless it is by way of punishment after due process for stated misbehaviour. However, if, with their prior informed consent, such Public Servants accept a less responsible appointment for less remuneration but they shall be paid the money value of a minimum of three months of the differential. The minimum redundancy payment for a Public Servant shall be the money value three months of their employment remunerations conditions and all redundancy payments will take into consideration the likely time it will take to find alternative employment and the costs of any likely relocation.

6. Certain Public Servants, including intelligence and security officers, officials and contractors may be exempt particular elements of the Public Service Codes of Conduct, and no secret agent of the intelligence and security agencies or police informer shall be deemed to be a Public Servant.

7. The provisions of this article and that of the Public Service Commissioner shall be provided for in law.

### **Article 137**

#### **The civil services other than the Public Service**

1. There may be various corporations owned by the Government for the provision of Government services to the People, where such independence from the directions of the Cabinet, the legal structure of such incorporation, and the profit or operating surplus, with the directors' discretion to retain liquid assets for reinvestment, provides the necessary incentives for continuous improvement of such Government services.

2. The Boards of Directors of such corporations shall be appointed by the Presidential Commission, and which shall elect their own chairperson.

3. All directions and instructions made to the Boards of Directors of Government Corporations by their Responsible Ministers shall be published in the Government Gazette.

4. The terms and conditions of such Boards of Directors shall be the same as those of the Boards of Governance for the Departments of State.

5. Board Directors of Government Corporations may also be Board Governors and such Board Directors may be Board Governors, including Public Servants.

6. The Board Directors and employees of Government Corporations and all Directors and employees of firms providing Government services under contract shall be subject to such codes of conduct and other guidelines provided by the Presidential Commission, Public Service Commissioner, Auditor General and any other office of Government as provided for in law.

### **Article 138**

#### **Independence of Civil Servants**

1. Nothing in this Constitution or in law, shall prevent a Civil Servant, whether a Public Servant or an employee of a Government Corporation or a Government contractor from exercising their duty of care to act independently in the free, frank and opportune application of the law with due regard to fundamental liberties of all persons contained in this Constitution, including—

- a. the maintenance of order in relation to any person or group of persons: and

- b. the enforcement of the law in relation to any person or group of persons: and
  - c. the investigation and prosecution of offences: and
  - d. decisions concerning individual employees.
2. Each and every Civil Servant shall make an oath of allegiance and of service in The Third Schedule of this Constitution.
3. Each and every Civil Servant shall have a duty to report any act or omission in due regard to the defence of this Constitution, or of any person or persons protected by this Constitution, when the provisions in this Constitution or the rights afforded to such persons under this Constitution have or shall be likely to be substantively violated, in such a manner and at such a time as, in the circumstances as they believe them to be, reasonable to use.
4. Any Civil Servant contemplating a report under Section 3 of this article shall take into consideration those channels of communications relating to such matters that are established by their Departments of State or Government Corporation or firm. Despite this, when there is just cause not to use such channels or not to wait until such channels have been fully utilized, then those Government Servants may make such reports to the Press in accordance with Section 3 of this article. The information provided to the Reporter and the identity of the Source shall be privileged under Article 67.
5. However, nothing in this article shall protect any Civil Servant or any other person from a charge of treason.

### **Article 139**

#### **Law enforcement**

1. The power to raise any police service with the power to coerce in the name of the President and on behalf of the People under Article ...?, shall be only to be exercised for the purposes of—
- a. crime prevention:
  - b. keeping the peace and maintaining public safety:
  - c. law enforcement, the anticipation, detection, investigation and prosecution of criminal offences:
  - d. community support and reassurance:
  - e. national security:
  - f. participation in policing activities outside New Zealand:
  - g. support for the rehabilitation of offenders:
  - h. emergency management:
2. In matters of investigation and prosecution of offences, the policing officials shall have as their singular purpose the establishment of the truth and shall make their best efforts in discovering that truth through corroborative evidence.
3. All policing officers and officials shall be Public Servants, although some such officers and officials may pro tempore be assigned to the Defence Force for policing duties.

**Article 140****Intelligence and security agencies**

1. The power to raise and maintain intelligence and security agencies in the name of the President and on behalf of the People under Article 107 shall be only to be exercised for the purpose the protection of the National Interest, including the Nation's influence aboard and its economic development.

2. It shall be the functions of the intelligence and security agencies to obtain information and perform other tasks relating to—

a. Intelligence, namely the assessment of the strengths, weaknesses, opportunities and threats, and likely developments or intentions of the Nation's enemies, potential enemies and allies: and

b. Counter-intelligence (in this context 'security'), namely the protection against threats to the National Interest and the economic development of the Nation from espionage, sabotage and subversion, including serious crime: and

c. Covert or clandestine operations concerning the actions and intentions of such persons or entities specified in Subsections a and b above, both in New Zealand and aboard:

*Board of Governance*

3. There shall be a Board of Governance for the intelligence and security agencies, presided over by the Prime Minister and containing the Ministers for the Interior and Exterior, and at least three independent Board Governors. No resolution of the Board of Governance shall be valid, unless the number of votes of the independent Board Governors outnumbers the votes of the Cabinet Ministers, irrespective of whether such independent or Ministerial votes are for or against such resolution.

*Director of Intelligence*

4. There shall be a senior public servant responsible for intelligence and counter-intelligence (in the context of intelligence 'security') called, 'The Director of Intelligence', who shall be the chief executive to the Intelligence and Security Board of Governance. The Director of Intelligence shall be the chief adviser to the Government on matters relating to intelligence and security operations.

5. The Director of Intelligence shall have overall operational control of all intelligence and security agencies and shall be responsible all the intelligence and security programmes and capabilities of the Government, and their development, and their effectiveness, efficiency and economy.

6. The Director of Intelligence shall ensure—

a. There are arrangements for securing that no information is obtained by the intelligence and security agencies except so far as necessary for the proper discharge of their purpose and functions and that no information is disclosed by it except so far as necessary—

i. For that purpose:

ii. In the national interest:

iii. For the purpose of the prevention or detection of serious crime: or

iv. For the purpose of any criminal proceedings: and

b. the intelligence and security agencies do not take any action to further the interests of any New Zealand political party.

7. The Director of Intelligence shall chair the Intelligence and Security Officials Committee.

*Intelligence and Security Officials Committee*

8. There shall be an Intelligence and Security Officials Committee (ISOC), the purpose of which shall produce definitive top-level all-source assessments for the Cabinet and senior officials, and—

- a. agree, for approval by the Cabinet, the requirements and priorities which direct the collection work of the intelligence and security agencies:
- b. evaluate the performance of such intelligence and security agencies and present regular summaries to the Cabinet.

*Functions of intelligence and security agencies*

9. In fulfilling their purpose in section 1 of this article, the intelligence and security agencies shall have collectively the following functions—

- a. To gather foreign intelligence, in accordance with the foreign intelligence requirements of the Cabinet:
- b. To provide reports on foreign intelligence to ISOC and any person or office holder, whether in New Zealand or abroad, authorised by the Minister:
- c. To advise ISOC of new areas of potential relevance to intelligence and security:
- d. To advise Ministers, where ISOC shall be satisfied that it shall be necessary or desirable to do so, in respect of matters relevant to intelligence and security, so far as those matters relate to Departments of State and other entities of Government of which such Ministers shall be in charge:
- e. To advise any of the following persons on protective measures that shall be directly or indirectly relevant to security—
  - i. Ministers or Secretaries of Departments of State
  - ii. Public authorities:
  - iii. Any person who, the ISOC shall have resolved, should receive the advice:
- f. To conduct inquiries into whether particular individuals should be granted security clearances, and to make appropriate recommendations based on those inquiries and to make recommendations in respect of matters of citizenship and immigration to the extent that those matters shall be relevant to security:
- g. To co-operate as far as practicable and necessary with such civil and military services and other public authorities in New Zealand and abroad as shall be capable of assisting the intelligence and security agencies in the performance of these functions:
- h. To conduct such covert operations as shall be necessary to protect the National Interest:

10. It shall be not a function of any intelligence and security agency to enforce measures for security or the law.

*Authorisation of certain actions*

11. All covert and clandestine operations whether domestic or abroad shall have that puts at risk the fundamental liberties of persons in New Zealand or abroad in all cases in which the Government shall have a duty to protect such liberties, shall have such a warrant approved by the Constitutional Court, which shall decide such matters on the basis of probable cause in the Public



Interest (in the case of an investigation) and the balance of probability in the Public Interest (in the case of an act), and who may appoint the Constitutional Advocate and other special Attorneys to examine the arguments for and against, but such hearings shall be held in private and all matters shall be kept secret.

12. Warrants: general—

a. No act by a intelligence and security agency shall be unlawful with respect to property and privacy, if it is authorised by a warrant issued by the Constitutional Court under this section.

b. The Constitutional Court may, on an application made by the Director of Intelligence issue a warrant under this section authorising the taking of such action as is specified in the warrant in respect of any property so specified or in respect of privacy so specified if the Constitutional Court—

i. Thinks it necessary for the action to be taken on the ground that it is likely to be of substantial value in assisting that particular intelligence and security agency or those agencies in carrying out its functions.

ii. Is satisfied that what the action the Director of Intelligence seeks to achieve cannot reasonably be achieved by other means: and

iii. Is satisfied that satisfactory arrangements are in force with respect to the disclosure of information obtained by virtue of this section and that any information obtained under the warrant will be subject to the arrangements of this article.

13. A warrant shall not be issued except—

a. Under the hand of the Constitutional Court: or

b. In an urgent case where the Constitutional Court has expressly authorised its issue and a statement of that fact is endorsed on it, under the hand of a senior official of the Constitutional Court.

c. A warrant shall, unless renewed, cease to have effect—

i. If the warrant was under the hand of the Constitutional Court, at the end of the period of six months beginning with the day on which it was issued: and

ii. In any other case, at the end of the period ending with the second working day following that day.

d. If at any time before the day on which a warrant would cease to have effect the Constitutional Court considers it necessary for the warrant to continue to have effect for the purpose for which it was issued, it may by an instrument under its hand renew it for a period of six months beginning with that day.

e. The Constitutional Court shall cancel a warrant if it is satisfied that the action authorised by it is no longer necessary.

14. With respect to the authorisation of acts outside New Zealand—

a. If, apart from this section, a person would be liable in New Zealand for any act done outside the New Zealand, they shall not be so liable if the act is one which is authorised to be done by virtue of an authorisation given by the Constitutional Court. In this subsection, 'liable in New Zealand' means liable under the criminal or civil law of New Zealand.

b. The Constitutional Court shall not give an authorisation under this section unless it is satisfied that—

i. Any acts which may be done in reliance on the authorisation or, as the case may be, the operation in the course of which the acts may be done will be necessary for the proper discharge of a function of the particular intelligence and security agency or agencies concerned: and

ii. There are satisfactory arrangements in force to secure that—

(1) Nothing will be done in reliance on the authorisation beyond what is necessary for the proper discharge of a function of the intelligence and security agency concerned: and

(2) In so far as any acts may be done in reliance on the authorisation, their nature and likely consequences will be reasonable, having regard to the purposes for which they are carried out: and

iii. There are satisfactory arrangements in force with respect to the disclosure of information obtained by virtue of this section and that any information obtained by virtue of anything done in reliance on the authorisation will be subject to those arrangements.

c. Without prejudice to the generality of the power of the Constitutional Court to give an authorisation under this section, such an authorisation—

i. May relate to a particular act or acts, to acts of a description specified in the authorisation or to acts undertaken in the course of an operation so specified:

ii. May be limited to a particular person or persons of a description so specified: and

iii. May be subject to conditions so specified.

d. An authorisation shall not be given under this section except—

i. Under the hand of the Constitutional Court: or

ii. In an urgent case where the Constitutional Court has expressly authorised it to be given and a statement of that fact is endorsed on it, under the hand of a senior official of the Constitutional Court.

e. An authorisation shall, unless renewed cease to have effect—

i. If the authorisation was given under the hand of the Constitutional Court, at the end of the period of six months beginning with the day on which it was given:

ii. In any other case, at the end of the period ending with the second working day following the day on which it was given.

f. If at any time before the day on which an authorisation would cease to have effect the Constitutional Court considers it necessary for the authorisation to continue to have effect for the purpose for which it was given, it may by an instrument under its hand renew it for a period of six months beginning with that day.

g. The Constitutional Court shall cancel an authorisation if he is satisfied that any act authorised by it is no longer necessary.

*Inspection, examination and investigation*

15. All intelligence and security agencies shall be subject to inspection and examination by—

- a. The Auditor General, who shall report to a special joint committee of the Senate and House of Representatives, which shall represent the views of all of the principal political parties individually and the minor political parties collectively:
- b. The Constitutional Court, which may respond to any petitions it may receive or conduct any investigation where it believes there is probable cause for such an investigation.
- c. All such examinations, inspections and investigations shall have due regard to the operationally sensitive matters relating to the collection and sources of information.

16. The provisions in this article shall be regulated by law.

## **MILITARY SERVICES**

### **Article 141**

#### **The Defence Force**

1. The power to raise armed forces in the name of the President and on behalf of the People under Article ...?, shall be only to be exercised for the purposes of—

- a. The defence of the islands and seas of New Zealand, and of any area for the defence of which New Zealand shall be responsible under law.
- b. The protection of the National Interest of New Zealand, whether with the islands and seas of New Zealand or elsewhere.
- c. The contribution of forces under collective security treaties, agreements, or arrangements enacted into law.
- d. The contribution of forces to, or for any of the purposes of, the United Nations, or in association with other organisations or States and in accordance with the principles of the Charter of the United Nations.
- e. The provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency in accordance with Article ...?
- f. The provision of any public service.

—as regulated by law.

2. In fulfilling its purposes in Section 1 of this article, the Defence Force shall governed by each and every international law and conventions of armed conflict with due regard to the victims of such armed conflict that shall have been enacted into National law.

## **PART XIII**

### **PUBLIC FINANCE**

### **Article 142**

1. The Cabinet shall pursue its policy objectives concerning the finance of the Government (public finance) in accordance with the following principles of responsible fiscal management—

- a. managing prudently the fiscal risks facing the Government: and

- b. pursuing policies that shall be consistent with a reasonable degree of predictability about the level and stability of tax rates for future years: and
  - c. reducing total debt to prudent levels so as to provide a buffer against factors that may impact adversely on the level of total debt in the future by ensuring that, until those levels have been achieved, total operating expenses in each financial year shall be less than total operating revenues in the same financial year: and
  - d. when prudent levels of total debt have been achieved, maintaining those levels by ensuring that, on average, over a reasonable period of time, total operating expenses do not exceed total operating revenues: and
  - e. achieving and maintaining levels of total net worth that provide a reserve against factors that may impact adversely on total net worth in the future: and
  - f. when the total net worth shall be greater than the prudent reserve returning such excess monies to the People through tax reduction, or increase overseas aid, or a combination of both.
2. However, the Cabinet may depart from the principles of responsible fiscal management when—
- a. the departure from those principles shall be temporary: and
  - b. the Minister of Public Finance, in accordance with this article, states—
    - i. The reasons for the departure from those principles:
    - ii. The extent of the departure from those principles: and
    - iii. The approach the cabinet intends to take to return to those principles: and
    - iv. The period of time that the cabinet expects to take to return to those principles.
3. The maximum level of taxation by the Government, including all bodies with delegated authority from the Government to impose taxes, shall not exceed 40 percent relative to the gross domestic product of the nation.
4. The level of prudent reserves in Section 1(a) of this article shall include the same stochastic analysis contained in Article 119.
5. No statutory or regulatory proposal shall be made without specifying the likely and possible fiscal impact on the Government finances and the economy as a whole.

### **Article 143**

#### **Appropriation of Public Monies**

The means by which public monies may be appropriated are set out in Part 1 of the Fourth Schedule.

### **Article 144**

#### **Financial statements and reports**

The financial statements and reports required under this Constitution are set out in Part 2 of Fourth Schedule.

**Article 145****Financial transactions other than appropriation**

The types of financial transactions other than appropriations that the Government may conduct and the levels of delegated authority are set out in Part 3 of the Fourth Schedule.

**PART XIV**  
**COMMUNITY GOVERNMENT**

**Article 146****Community democratic forums**

1. This Constitution recognises the role of the Government in providing a forum for the democratic representation of local communities, in exercising and performing within and between community bodies, and between such community bodies and the National bodies of the Government powers and functions conferred by law and in promoting the interests of such communities.

2. There shall be such directly elected local authorities as may be determined by law and their powers and functions shall, subject to the provisions of this Constitution, be so determined and shall be exercised and performed in accordance with law.

3. Elections for members of such community bodies shall be held in accordance with law not later than the end of the fourth year after the year in which they were last held.

4. A general election for community bodies shall take place on the Thursday of Week 48 in the second November following a leap year, and the first meeting shall take place by the end of the following February, otherwise in each and every case where such bodies have not met, there shall be another general election.

5. Persons eligible for membership of the House of Representatives shall be eligible to become a member of community bodies but shall be registered for the particular constituency for which they seek election.

6. Every election of the members of community bodies shall be held on the system of proportional representation by means of the single transferable vote, and by secret ballot.

7. All members of community bodies shall, unless they die, resign, or become disqualified, continue to hold office until the time their successors take office (which may include themselves if they shall be re-elected) subsequent to the next following poll after their election or nomination.

8. In the period from and including the Pre-election Period and the time such elected members take their office, the incumbent members of community bodies shall take neither any action other than to maintain existing services of such community bodies nor, in the Pre-election Period, any action as a community body or member of such a body that shall be or shall be likely to appear as electioneering in either directly or indirectly publicising the achievements of such bodies since the last following election, the present issues facing such bodies and whatever plans such bodies have for dealing with such issues for the period until the next following election.

9. Casual vacancies in the membership of local authorities referred to in Section 2 of this article shall be duly filled in accordance with law.

10. Every person who shall have the right to vote at an election for members of Parliament and such other persons as may be determined by law shall have the right to vote at an election for members of such community bodies provided they shall be registered in the corresponding constituency, as shall be determined by law.

11. Notwithstanding Sections 3 to 6 inclusive of this article, when the delegation of any powers of the Government concern community bodies exclusively within an ethnic people, and Parliament shall have taken into consideration the traditions and customs of governance of such ethnic peoples and the exigencies of New Zealand as a democratic state with universal suffrage as espoused by this Constitution, such legislation may vary the process of appointment such public offices.

12. Whenever practicable, local government authorities shall establish consultative chambers for the referral of proposed legislative and executive activities to the local peoples of the authorities' territory, ensuring the principle of cooperation shall be fulfilled.

13. Subject to the provisions of this article, elections of the members of community bodies shall be regulated by law.

14. The National Parliament shall have the right to legislate on any and all community matters if and to the extent that the establishment of equal living conditions throughout the Nation or the maintenance of legal or economic unity renders National legislation necessary in the Public Interest.

## **PART XV**

### **POLITICAL PARTIES**

#### **Article 147**

1. There shall be multiple political parties that will contest the democratic election of the House of Representatives from which the Cabinet shall be appointed.
2. Such political parties may also contest elections to community government.

#### **Article 148**

##### **Purpose and functions**

1. The term political party shall include any—
  - a. Association that seeks to attain political power within the Government, by participating in electoral campaigns in support of any candidate, and may espouse a certain ideology and vision, but may also represent a coalition among disparate interests.
  - b. Independent candidates, alliances or coalitions of parties, and political movements other than parties: and
  - c. Leaders, officials, candidates, members, agents, and representatives of any association, the nature of which is one of a political party, whether registered as a political party or not.

##### *Purpose and functions of political parties*

2. The purpose of each and every political party shall be to ensure the Government has the informed consent of the People through a democratic multiparty elections that—

- a. as a result of being informed through the electoral campaign of the policies and qualities of all political parties and candidates, voters are able to make an informed choice: and
  - b. voters are able to vote freely, without interference, fear, undue influence or bribery.
3. The functions of each and every political party shall be to—
- a. Frame the issues, through their manifestoes and policy statements, and put the issues to the electorate, and influence the content of the election argument.
  - b. Recruit the personnel of the Cabinet and the primary initiator of legislation—the House of Representatives—by selecting candidates, and guiding voters in their choice, and choose the political leaders of the Nation who will hold office after an election.
  - c. Hold the Government accountable by offering an alternative choice, when the governing party has failed to deliver on its election promises, or displays improper standards of competence and integrity, voters shall be able but not compelled to vote for an opposition party.
  - d. Provide a link between the People and their Government, enabling citizens to influence the policies of the Government.
4. All parties shall ensure that—
- a. The purpose and functions shall be endorsed:
  - b. the elections will be recognised as expressing the credible free-choice of the voters: and
  - c. the result of that choice will be respected by all.

## **Article 149**

### **Constitution and statement of intent**

1. Each and every political party shall have a constitution and a statement of intent that shall be made available to the People at no charge.
2. The constitution for all political parties shall contain—
  - a. Definitions
  - b. Statutory functions and powers.
  - c. Organisational structure—
    - i. General meetings.
    - ii. Governing council (if any).
    - iii. Executive board (if any).
    - iv. Committees (if any).
  - d. President, Deputy and Vice Presidents and other officers.
  - e. Secretary (chief executive).
  - f. Auditor.
  - g. Full membership
    - i. Membership is voluntary.
    - ii. The way in which persons cease to be members—

- (1) Resignation.
  - (2) withdrawal of membership.
  - h. Other types of membership
    - i. Honorary members.
    - ii. Associate members.
  - i. Conduct of meetings.
    - i. Convening meetings.
    - ii. Business of meetings.
    - iii. Voting.
  - j. Selection and ranking of officers, leaders, executives and candidates.
  - k. Grievance and disciplinary procedures.
  - l. Financial year.
  - m. Accounts.
  - n. Other reports.
  - o. Property.
  - p. Power to borrow and give security.
  - q. Funds and funding.
  - r. Subscriptions and levies.
  - s. Process of Constitution modification.
3. Each and every statement of intent shall contain—
- a. **Statement by the party president** that shall be a strategic overview of the expectation of the party over the medium term.
  - b. **Statement by the party's political leader** on political matters.
  - c. **Statement by the party's Secretary** on administrative matters.
  - d. **Nature and scope of purpose and functions**
  - e. **Strategic direction**: the specific impacts, outcomes and objectives.
  - f. **Operating intentions**: the measures to perform functions and achieve objectives and how success will be demonstrated.
  - g. **Risk management**: identification of potential causes of failure and the measures to avoid, remedy or mitigate the impact of such failure.
  - h. **Organisational health and capability**: the measures to ensure the sustainability of the party, including human resources and capital expenditure.
  - i. **Additional information**: any other matters that are reasonably necessary to achieve an understanding of the party's operating intentions and direction.
  - j. **Additional statutory reporting requirements**



**Article 150****Political party constitutional matters***Membership*

1. All persons who are eligible to vote in the election of the House of Representatives shall be eligible to be members of a political party, provided that—
  - a. such persons give their prior informed consent to being a member:
  - b. pay such subscriptions in advance as required by the political party, of which the minimum shall be \$1.00:
2. No political party shall refuse to admit an eligible person membership of that political party, provided such person is not a member of any other registered political party.
3. Any person who is a member of a political party may resign such membership by giving written notice of their resignation to the designated Secretary of that political party.
4. Any political party may with just cause and through due process withdraw the membership of any party member for stated misbehaviour, provided such withdrawal is for a fair and reasonable time, which shall not be indefinite.
5. Any person who has had their membership withdrawn from each and every political party shall forfeit their right to be a member of any or all political parties until such time as they are eligible to re-apply for any or all such political parties.

*Selection of officers, executives and candidates*

6. Each and every constitution shall explain how officers, executives and candidates are selected and ranked, and how casual vacancies will be filled. Such selection, ranking and filling shall be by democratic means, unless there is just cause to employ some other method according to ethnic custom and or tradition, but all methods of selection, ranking and filling shall be prescribed, fair and reasonable, transparent and accountable.
7. Only those members who are eligible to vote in the election of the House of Representatives shall be eligible to participate in the selection, ranking and filling of casual vacancies with respect to candidates.

*Incorporation*

8. Each and every political party shall be incorporated.
9. When a political party is liquidated, all residual net assets of each an every political party shall belong to the Government.

**Article 151****Funding and regulation**

1. The Government shall fund political parties by:
  - a. Loans to political parties—
    - i. at an equivalent commercial rate of interest for a loan secured against cashflow:
    - ii. secured against the assets of such political parties:
    - iii. for any amount up to the next preceding annual Government grant of such political party:
    - iv. Loans to be repaid over four years.

b. Annual grants from an annual fund equivalent to the total number of enrolled voters times the gross adult minimum hourly wage, such that each political party receives the equivalent of the political party's share of the actual-poll at the next preceding general election of the House of Representatives for the next following year and for each subsequent year the political party's share of a sample-poll conducted on the anniversary of such general election until the next actual-poll, up to a maximum of one third. The minimum grant shall be 1%. All grants shall be paid monthly.

2. There shall be a fair and reasonable phased initiating Government grant along with development assistance and evaluation to enable an association with the minimum fifteen members required to form an incorporated society to enable such persons to prepare a constitution and a statement of intent with projected cashflows and appropriation for funds and recruit a minimum 0.1% of the total number of enrolled voters.

3. When a political party has properly constituted and registered after achieving the threshold number referred to in Section 2 of this article, such political party shall qualify for the minimum grant referred to in Section 1.b. of this article.

4. When any political party fails to achieve at least 1% in any of the next five preceding actual or sample polls or its membership drops below the threshold for two consecutive quarters all Government grants shall stop and such political parties shall be given due notice to repay any Government loans within 30 days.

*Regulations and enforcement*

5. The registration, activities, reporting and funding of political parties shall be regulated by the Electoral Commission, which shall approve all fair and reasonable appropriations of funds.

*Disclosure of and ceilings on revenue*

6. All political parties shall disclose individual sources of funds that exceed 1% of total annual revenue of the preceding next year in the *Electoral Bulletin*.

7. No donation from any single anonymous source shall exceed 1,000 times the gross adult minimum hourly wage, and any amount of money in excess of these amounts shall be given over to the Electoral Commission:

8. Any and all anonymous donations that exceed 5% of total annual revenue of the preceding next year shall be given over to the Electoral Commission:

9. The total amount of donations from foreign sources, not including enrolled voters resident abroad, shall not exceed 5% of total annual revenue of the preceding next year shall be given over to the Electoral Commission:

10. No single donor shall contribute more than 1,000 times the gross adult minimum hourly wage and no political party shall raise more than 100,000 times the gross adult minimum hourly wage in any financial year, and any amount of money in excess of these amounts shall be given over to the Electoral Commission:

11. Each and every corporation that makes any donation shall declare the amount and the donee political party such corporates' annual accounts

*Bans on sources of revenue*

12. There shall be no donations, whether in cash or in kind, from—

a. Government-owned corporations where the Government ownership exceeds 5% of the equity or those corporations, firms or any other entities that receiving Government payments,

subsidies or loans totalling greater than 5% of such corporations, firms or other entities' revenue during such corporations, firms or other entities' next preceding financial year.

b. The Press, whether Publishers, Editors or Reporters unless such donations are disclosed in each and every such Publishers', Editors' or Reporters' publications at least once and by the political party concerned, and as an interest by each Reporter in each and every subsequent published article concerning or like to be interpreted as concerning political matters in the 12 next following months from the time of the donation.

c. Any person, corporation or any other entity in the name of any other person, corporation or any other entity:

d. Any corporation or business firm without the prior informed resolution of shareholders or members or partners.

e. Any and all banks registered with the Reserve Bank of New Zealand:

f. Any and all charitable entities, whether registered with the Government as charities or not.

g. Any and all donors which expect or receive or any benefit in return for either the donor or a close associate of such donor, or where it may be reasonably inferred there was an expectation of such a benefit, other than any general benefit to the Public Interest.

h. Any and all fundraisers the commission or fees of which are greater than 25% of the donation.

i. Any and all corporations and business firms that received greater than 5% of their revenue in the next preceding financial year from gambling or prostitution or where there is probable cause to believe such donations were obtained unlawfully:

j. Foreign governments and any corporation with more than 5% ownership by a foreign government or foreign government subsidiaries

13. Donations by labour unions or any other entity shall have the same limit on their maximum donation in any financial year as any other corporation but may collect for individual persons, provided such persons' limits are not exceed and such donations have prior informed and freely given consent, and a proper record of such donations is given over to the political party concerned.

14. All donations in kind, other than personal time and personal transport, shall be disclosed at their cash value.

*Disclosure of and ceilings on expenditure*

15. All expenditure shall be fair and reasonable and duly accounted for.

16. The accounts of all political parties that receive funds from the Government shall be audited by the Auditor General, who shall apply the same standards as those for Departments of State.

17. The same reporting procedures shall apply as those for Departments of State but political parties shall not be subject to any particular instructions from the Responsible Minister of the Treasury that do not apply to all Departments of State, and such reports shall be tabled in and examined by the Senate.

18. Each and every candidate shall spend more than 1,000 times the minimum adult hourly wage on direct disbursements, other than personal transport and personal accommodation costs, and any one party may not exceed 100,000 times the minimum adult hourly wage in the pre-election period in any and all elections.

*Public funding*

19. The Electoral Commission Funds may be used for—

- a. Political education of the People with regard to political systems, and the rights and obligations of citizens:
- b. Promoting political participation by youth:
- c. Facilitate participation by members in policy development and the selection and ranking of candidates:
- d. Research activities and policy development
- e. Consultation with the People
- f. Creation and maintenance of and Internet website:
- g. Liaison with foreign affiliated and other political associations
- h. Promotion of political ideas to the People
- i. Training and development of party members

*Media access by political parties*

20. There shall be free equal access to political parties in bands of greater than 33.33%, greater than 5%, and the remainder, of the next preceding actual or sample poll to press advertising, radio, television and direct mail.

21. The Electoral Commission shall also mail to each Household a copy of the *Electoral Bulletin* from time to time to inform voters of schedules and other relevant matters concerning elections, which may also be used to promote political parties' manifestos.

*Tax implications*

22. Political parties shall not be subject to income tax, but shall be subject to Goods and Services Tax: there shall be no distribution of any operating surpluses other than giving over the net assets to the Electoral Commission in the event of liquidation.

23. Tax deductions shall be allowable any and all donations to political parties.

**Article 152****Conduct of political parties***Compliance with this Constitution*

1. Each and every political party shall protect this Constitution by—

- a. prohibiting their leaders, officials, candidates and members from infringing this Constitution:
- b. taking all reasonable practicable measures to discourage any type of conduct by their supporters which would, if undertaken by a party official, candidate or member, be in breach of this Constitution: and
- c. not abusing the right to complain about violations of this Constitution, nor make false, frivolous or vexatious complaints.

2. The officers and other leaders of any party shall direct its party's officials, candidates, members and supporters to observe this Constitution, the law and any and all regulations, and shall take all other necessary steps to ensure compliance.

*Campaign management*

3. Each and every political party shall—
  - a. respect the right and freedom of all other parties to campaign, and to disseminate their political ideas and principles without fear:
  - b. conduct itself in a manner that respects the rights of other parties, and respects the rights of all voters and other persons and Peoples of the Nation:
  - c. respect the freedom of the Press:
  - d. ensure reasonable freedom of access by all parties to all potential voters: and
  - e. encourage and enable potential voters wishing to participate in related political activities have the freedom to do so.
4. Each and every political party shall not compass, imagine, invent, or devise to—
  - a. harass or obstruct Press Reporters who are engaged in their professional activities: disrupt, destroy or frustrate the campaign efforts of any other political party:
  - b. prevent the distribution of handbills and leaflets, and the display of posters, of other political parties and candidates:
  - c. deface or destroy the posters of other political parties and candidates:
  - d. prevent any other political party from holding rallies, meetings, marches or demonstrations:
  - e. seek to prevent any person from attending the political rallies of another party: or
  - f. permit its supporters to do anything prohibited by this Constitution.

*The election process*

5. Each and every political party shall—
  - a. co-operate with Electoral Commission officials in order to ensure—
    - i. peaceful and orderly polling: and
    - ii. complete freedom for voters to exercise their franchise without being subjected to any annoyance or obstructions:
  - b. ensure the safety and security of Electoral Commission officials before, during and after the polls:
  - c. respect and co-operate with official or accredited election observers: and
  - d. maintain and aid in maintaining the secrecy of the voting.
6. Each and every political party shall not compass, imagine, invent, or devise to—
  - a. procure votes by forcible occupation of polling stations or through unlawful activities in the polling stations:
  - b. interfere without just cause or in bad faith with the duties of Electoral Commission officials, political parties and candidates:
  - c. prevent, delay or otherwise obstruct any other political party from holding rallies, meetings, marches or demonstrations:
  - d. prevent any person from attending the political rallies of another political party: or

*Political symbols*

7. Each and every political party shall not compass, imagine, invent, or devise to—
- a. imitate the symbols of another political party:
  - b. steal, disfigure or destroy political or campaign materials of another political party: or

*Intimidation and violence*

8. Each and every political party shall protect against intimidation, in any form, and shall—
- a. issue directives expressly forbidding its officials, candidates, members and supporters to intimidate any person at any time:
  - b. take all reasonable practicable measures to influence every and all persons against violence or threats of violence, and against any acts of vandalism or public disorder committed or threatened by their officials, candidates, members or supporters: and
  - c. respect all other persons and political parties, and their property.
9. The officers and other leaders of each and every political party shall instruct the their party's officials, candidates, members and supporters that no weapon of any kind, including any traditional weapon, may be brought to any political rally, meeting, march or other demonstration.
- a. engage in or permit any kind of violent activity to demonstrate political party strength or to prove supremacy:
  - b. cause damage to any public or private property: or

*Abuse of position*

10. Each and every political party shall not compass, imagine, invent, or devise to—
- a. abuse or is likely to be interpreted as abuse of any position of power, privilege, prerogative or influence for a campaign purpose, by offering a reward, or threatening a penalty, or directing or requesting or by any other means: or
  - b. use or is likely to be interpreted as the use of official state, provincial, municipal or any other Government resources for campaign purposes.
11. In this section, 'power, privilege, prerogative or influence' includes a position of family, religious, governmental, police, military or traditional authority.
12. In this section, 'Government resources' includes the publication of manifestos that support or are likely to be interpreted as supporting incumbent candidates or political parties, even though such manifestos do not explicitly solicit votes or profile such candidates or political parties.

*Corrupt practices*

13. Each and every political party shall not compass, imagine, invent, or devise to—
- a. coerce or offer monetary or any other kinds of inducements to persons to vote for or against a particular political party or candidate, or to abstain from voting:
  - b. coerce or offer monetary or any other kinds of inducements to persons to stand or not to stand as candidates, or to withdraw or not to withdraw their candidacies: or
  - c. procure the support or assistance of any official or Government civil or military servant to promote or hinder the election of a candidate.

*Continued Communications*

14. Each and every political party shall take all reasonable practicable measures to maintain communications with other political parties.

15. A national committee shall be established by the Electoral Commission to function as a forum for discussion of issues of common concern regarding all and any electoral campaign, of which there shall be sub-committees for each state, provincial and municipal election campaign, and such committees shall comprise representatives of—

- a. officials from the Electoral Commission, including the chairperson and convenor:
- b. contesting candidates: and
- c. political parties.

**Article 153****Unconstitutional political parties**

Parties that, by reason of their aims, conduct or the behaviour of their adherents, seek to undermine or abolish the free democratic basic order or to endanger the existence of the Nation shall be unconstitutional, and the Constitutional Court shall rule on the question of unconstitutionality, and determine what penalties are appropriate, if any, including disbarment.

**PART XVI  
THE JUDICARY****Article 154****Administration of justice**

15. Justice shall be administered in courts of law established by law through judges appointed in the manner provided for by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public.

16. The purpose of the of the courts shall ensure individual persons, classes of persons, ethnic peoples and the Government experience justice in dispute resolution, where justice shall be defined as equitable and efficacious dispute resolution, in which the rights and obligations of and between the Government, peoples and individuals shall be balanced in accordance with this Constitution, statute and regulation, common law, and existing social standards (including the customary beliefs of ethnic peoples).

17. The courts shall comprise of courts of first instance and courts of appeal.

**Article 155****Chief Justice**

1. There shall be a head of the judiciary called the 'Chief Justice', who shall be a suitably qualified and experienced Justice of the Supreme Court.

2. The Chief Justice shall be responsible for the operation of the judicial branch of the Government, the development of judges, and the appointment, development and discharge of attorneys, other than the Attorney General.

3. The Chief Justice shall be elected by the College of Justices pursuant to Article ...?

**Article 156****Courts of first instance**

18. The Courts of First Instance shall include a High Court invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal.

19. Save as otherwise provided by this article, the jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of this Constitution, and no such question shall be raised (whether by pleading, argument or otherwise) in any court established under this or any other article of this Constitution other than the High Court or the Supreme Court.

20. No court whatever shall have jurisdiction to question the validity of a law, or any provision of a law, the Bill for which shall have been referred to the Supreme Court by the President under **Error! Reference source not found.** Of this Constitution, or to question the validity of a provision of a law where the corresponding provision in the Bill for such law shall have been referred to the Supreme Court by the President under **Error! Reference source not found.**

21. The courts of first instance shall include summary courts of local and limited jurisdiction with a right of appeal as shall be provided for in law, including without limitation: employment, environment, criminal and civil trials, family, youth and Māori-land matters.

**Article 157****Courts of appeal**

22. The courts of appeal shall include summary courts of appeal with limited jurisdiction and a right of appeal as shall be provided for in law.

23. The court of final appeal shall be called, 'The Supreme Court of New Zealand'.

24. The president of the Supreme Court shall be called, 'The Chief Justice'.

25. The Supreme Court shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court, and shall also have appellate jurisdiction from such decisions of other courts as may be prescribed by law.

26. No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this Constitution.

27. The decision of the Supreme Court on a question as to the validity of a law having regard to the provisions of this Constitution shall be pronounced by such one of the judges of that court as that court shall direct, and no other opinion on such question, whether assenting or dissenting, shall be pronounced, nor shall the existence of any such other opinion be disclosed.

28. The decision of the Supreme Court shall in all cases be final and conclusive.

**Article 158****Constitutional Court**

29. There shall be a Court of law called, 'The Constitutional Court', the purpose of which is to ensure that all Government organisations observe this Constitution in respecting the free democratic order of New Zealand society, particularly in the application of the fundamental rights and liberties.



30. While all Government organisations shall be obliged to comply with this Constitution, when any and all conflicts arise, the jurisdiction of the Constitutional Court may be invoked. Its decision shall be final and all other institutions of the Government shall be bound by its case law.

31. The Constitutional Court shall declare a law in whole or in part unconstitutional, when such law is repugnant to this Constitution, and such law shall then be void in whole or in that part. Its sole review standard shall be this Constitution and any issues of political expediency shall not be considered and shall not play any part as far as the Constitutional Court shall be concerned. Notwithstanding this, the Constitutional Court shall determine the constitutional framework for political decision-making.

32. This Constitution asserts that the delimitation of Government's power is a substantive feature of the rule of law.

33. The Constitutional Court shall rule—

a. On the interpretation of this Constitution in the event of disputes concerning the extent of the rights and duties of a Government organisation or of other parties vested with rights of their own by this Constitution or by the rules of procedure of a Government organisation:

b. In the event of disagreements or doubts respecting the formal or substantive compatibility of National law or community law with this Constitution, or the compatibility of community law with other National law, on application of the National Government, of a community government, or of one third of the Members of either of the Houses of the Parliament:

c. In the event of disagreements whether a law meets the requirements of Section ...? of Article ...? in necessitating the priority of National law over that of community law:

d. In the event of disagreements respecting the rights and duties of the National Government and Community Government, especially in the execution of National law by the Community Government and in the exercise of National oversight:

e. On other disputes involving public law between the National and the Community Government, between different Community Governments, or within a Community Government, unless there is recourse to another Court:

f. On constitutional complaints, which may be filed by any person alleging that one of their basic rights or one of rights or obligations been infringed by any Government organisation by malfeasance or misfeasance or nonfeasance:

g. On constitutional complaints filed by municipalities or peoples on the ground that their right to self-government under Article ...? has been infringed by a law:

h. On whether a rule of international law is an integral part of National law and whether it directly creates rights and duties for New Zealand citizens:

i. In the other instances provided for in this Constitution.

j. The Constitutional Court shall also rule on such other matters as may be assigned to it by a National law.

34. The Constitutional Court shall not serve as a Court of appeal from Courts of First Instance or from the Supreme Court on any violation of law. Its jurisdiction shall limited to constitutional matters, the integrity of this Constitution and the immediate compliance of any Government instrument or organisation in any detail.

35. There shall be not less than three and not more than seven Justices of the Constitutional Court who shall be nominated by the Presidential Commission and elected by the Justices of the High Court and Courts of Final Appeal in accordance with Article ...?. Other suitably qualified judges may be appointed temporarily by leave of the Justices of the Constitutional Court for particular investigations. All Justices of the Constitutional Court shall have the powers, privileges and prerogatives of judges of the High Court.

36. The Constitutional Court may sit in either plenary session or in panels and where the defendant so elects shall use a jury.

37. The Constitutional Court shall include summary courts of limited jurisdiction with a right of appeal to the Constitutional Court as shall be provided for in law. The judges for such Courts shall be nominated by the Presidential Commission and elected by the Constitutional Court in accordance to Article...?. Such judges shall have the same powers, privileges and prerogatives as the Courts of Summary Jurisdiction of the High Court.

38. In matters concerning State Secrets and privacy, the Constitutional Court may hear evidence in private and all such proceedings shall be privileged. The Constitutional Court may initiate any Constitutional Investigation, whether in response to a petition or whether it believes there is probable cause for such an investigation within the Constitutional Court's jurisdiction.

#### **Constitutional Advocate**

39. There shall be a Constitutional Advocate who shall be responsible for advising and representing petitioners, either as individual cases or class actions, to the Constitutional Court, who shall be nominated by the Presidential Commission in conjunction with the Justices of the Constitutional Court and confirmed by the Senate. Any person who shall be an Attorney at Law may be nominated for the office of the Constitutional Advocate, and the Constitutional Advocate may be impeached by the same means as that for other officials in Article ...?

40. The Constitutional Advocate shall be an officer of the Constitutional Court and may be assisted by any number of Deputy and Assistant Constitutional Advocates.

41. The Constitutional Advocate may appoint such other suitably qualified attorneys and request additional investigations by the Office of Constitutional Investigations, and such requests shall not be unreasonably refused.

42. When investigating allegations of improper Government activity, the Constitutional Advocate shall actively protect the interests of the petitioner in rigorously discovering the truth without relying on the knowledge or understanding of such matters by the petitioner.

43. The Constitutional Advocate may request from the Constitutional Court such additional powers, privileges and prerogatives as they believe necessary to fulfil their functions and such powers, privileges and prerogatives shall not be unreasonably refused.

#### **Office of Constitutional Investigations**

44. There shall be an Office of Constitutional Investigations, headed by a Chief Constitutional Investigator, assisted by any number of Deputy and Assistant Constitutional Investigators, all of which shall have such powers, privileges and prerogatives as shall be necessary, for the singular purpose of discovering the truth by gathering evidence through—

- a. entering any premise and any place or objects that contains information or other evidence:
- b. acquiring documents and any other information and or evidence:
- c. questioning and or detaining any person or persons, provided such detention shall not exceed 72 hours without that person or those persons being charged with a offence:

—and at any time, pursuant to their purpose and on the production of a warrant from a Constitutional Court, which shall be granted where there shall be probable cause to believe there may be evidence of improper Government malfeasance, misfeasance and nonfeasance, or plots, imaginations, inventions, plans, or intentions in contravention of or repugnant to this Constitution or any law, and all such evidence and information shall be kept secure in accordance with any and all risk to the Public and National Interest.

#### **Criminal and or civil proceedings**

45. When considering cases of the infringement of a person's or persons' rights under this Constitution, the Constitutional Advocate may elect to pursue a civil or criminal action against the Government organisation and or officials concerned. In the case of a criminal action, defendant may chose for trial by jury as in the High Court a Court of its Summary Jurisdiction.

#### **Jurisdiction**

46. When the Constitutional Court discovers evidence of matters that would ordinarily be the responsibility of Commissioners of State, it may chose at its own volition to give over all information to such Commissioners and invite them to lead the investigation but the Constitutional Court shall make the decision and its decision shall be final.

#### *Matters concerning the Police Service, and intelligence and security agencies*

47. Notwithstanding, Section ...? Of this article, when dealing with complaints or petitions and other matters of inspection concerning the police and the intelligence and security agencies, any investigation and or prosecutions shall be conducted by the Office of Constitutional Investigations and the Constitutional Advocate.

48. All deaths or serious injuries of persons caused by or when in the care of any coercive power vested in the Government or where the Government had a duty of care such deaths or injuries shall be promptly investigated by the Office of Constitutional Investigations, regardless of whether there shall have or shall have not been a petition.

49. The Constitutional Court shall retain a complete register of all persons detained by the state and shall immediately investigate any instance where such persons shall be detained or subject to conditions while detained that shall be or appear likely to be unlawful.

#### **Findings and redress**

50. When the Constitutional Court finds against the defendant, it shall have all the powers of the High Court for redress, both civil and criminal. It may also make recommendations to the President for the prevention of similar failures, including if necessary changes to legislation.

#### **Immunity from prosecution and disciplinary action**

51. When the Constitutional Court believes that the truth of the events concerning a petition or an investigation can only be brought to light by offering immunity from prosecution or other disciplinary action to those officials involved, and it considers such discovery shall be in the interest of protecting this Constitution, it may so rule.

#### **General**

52. The Constitutional Court shall not be located in the Wellington region.

53. The provisions in this article shall be provided for in law.

#### **Article 159**

#### **Appointment and election of judges**

54. The Presidential Commission shall seek applications for and within the judiciary and all candidates shall be nominated by two Justices.

55. The judges shall be elected by means of single transferable votes in a secret ballot.
56. Every Justice may vote in the election of a judge or senior counsel, and each Justice shall have one vote.
57. Candidates for judicial appointments shall not compass, imagine, invent, devise, or intend to canvass or otherwise solicit votes either directly or indirectly, otherwise they shall be impeached.
58. The nominations for attorneys, whether barristers or solicitors, who shall be awarded the accolade of, 'Senior Counsel' (SC) shall be sort by and made to the Presidential Commission and such candidates shall be elected by a process consistent with Sections 55 to 57 inclusive of this article.
59. Other than the names of the successful candidates, all other matters shall be held secret.
60. The Presidential Commission in consultation with the Chief Justice may nominate such Judicial Commissioners as necessary to advise judges on technical matters.
61. The Presidential Commission in consultation with the Chief Justice may nominate such eminent jurists from foreign and international jurisdictions, with particular expertise in constitutional and common law and other relevant matters pertinent to particular cases to sit with the Supreme Court with the right to vote.
62. All appointments to the judiciary at the rank if Justice and Judicial Commissioner shall be confirmed by the Senate.
63. All judicial appointments, including lay justices, and Senior Counsel shall be made by the President under the President's hand and seal.
64. Every person appointed a judge under this Constitution shall make and subscribe the declaration of public office in Schedule ...? And such declaration shall be made and subscribed by the Chief Justice and by each of the other Justices and Judicial Commissioners in the presence of the President, and the judges of every other court in the presence of the Chief Justice or the senior available Justice of the Supreme Court in open court.
65. The declaration shall be made and subscribed by judges before entering upon their duties as judges, and in any case not later than 10 days after the date of their appointment or such later date as may be determined by the President.
66. Judges who decline or neglect to make such declaration shall be deemed to have vacated their office.
67. Justices shall use the appellation, 'Justice', and may use such appellation for life, and in person shall be addressed as, 'Judge'. When appointed to the Senate, the appellation 'Justice' shall take precedence but shall be only to be used when the person shall be sitting as a judge, and the two appellations shall not be used conjointly.
68. Judges of other courts, including coroners, excluding lay justices, of shall use the appellation and shall be addressed as, 'Judge': while temporary or lay justices shall be only to be referred to as, 'Judge' when sitting as such.

#### **Article 160**

##### **Temporary judges**

69. The President on the advice of the Council of State may appoint any Justice of the Supreme Court's court of summary jurisdiction or the High Court to be a temporary justice of the Supreme Court to hear named cases.

70. The Chief Justice on the advice of the Supreme Court may appoint Justices Pro Tempore of the High Court from suitably qualified persons to hear named cases.

71. The Chief Justice on the advice of the Supreme Court and the President of the High Court may appoint temporary Judges Pro Tempore to any of the High Court's courts of summary jurisdiction from suitably qualified persons to hear named cases or for a specified period.

72. When sitting, Justices and Judges Pro Tempore shall exercise the full powers, privileges and prerogatives of Justices and Judges.

73. Such appointments in Sections 1 to 3 of this article shall not be or likely to appear to be of a permanent nature.

74. Any member of the judiciary who does not directly accept such a summons under Sections 1 and 2 of this article shall be deemed to have had their office revoked and may not be admitted to the High Court or practice law as an attorney for a period of not less than five years.

75. Any attorney, whether solicitor or barrister, who shall have been admitted at the bar to the High Court, when called on to act as a temporary judge under Section 3 of this article and does not directly accept a such summons shall be immediately disbarred by the Chief Justice and shall not be readmitted to the High Court for a period of not less than four years during which period they may not practice the law.

76. The provisions of this article shall be provided for in law.

#### **Article 161**

##### **Judicial conduct and interpretation**

77. All judges shall act independently according to their own conscience in the exercise of their judicial functions and subject only to this Constitution, legislation, common law and existing social standards, and shall not be subject to any undue influence.

78. It shall be a function of the judiciary to uphold this constitution and strike down any statute or action that shall be repugnant to the Constitution. Notwithstanding the sentiments of the day, the judiciary shall uphold the law and protect minority rights such that the constitutional democracy as defined in this Constitution shall be nobler than that of unadorned majority rule.

79. Notwithstanding Section 2 of this article, judicial interpretation of this Constitution or the law shall be limited to the intentions of the Constitution and, in the case of statutes and regulations, the intentions of Parliament, without undue protection or promotion of minority interests.

80. No judge shall actively and knowingly subvert, misuse, grossly misinterpret, ignore, or otherwise flout this Constitution, the law and or legal precedence due to personal opinion, be that opinion ideological, religious, philosophical, or other.

#### **Article 162**

##### **Conduct and removal of judiciary**

81. No judge shall be eligible to be a member of either House of Parliament or to hold any other office or position of emolument.

82. Judges shall not be removed from office except for stated misbehaviour, excluding infractions, or incapacity, and then only upon resolutions passed by either House of the Parliament impeaching the judges on the basis of probable cause for trial by the Constitutional Court, under Article ...?.

83. The Prime Minister promptly notifies the President of any such resolutions passed by the House of Representatives and sends the President a copy of every such resolution certified by the Speaker of the House of Representatives.

84. Every Justice shall be tried by the full House of the Senate presided over by the Chief Justice (who shall not vote) unless the Chief Justice shall be implicated, when it shall be a Justice of the Supreme Court appointed by the President.

85. All judges other than Justices shall be tried by a committee of the Senate presided over by the Chief Justice or another Justice appointed by the President.

86. When any indictment pursuant to Sections 5 or 6 of this article shall be supported by an absolute majority, the Chief Justice shall immediately notify the President in writing.

87. When the President receives such notification, they shall immediately, by an order under their hand and seal, remove the judge from office.

88. The remuneration of judges shall not be reduced in real value during their continuance in office.

### **Article 163**

#### **Attorneys at Law**

89. There shall be Attorneys at Law who shall be called at the bar of the High Court to be officers of the High Court and who shall perform a substantive role within the judiciary in the application of justice for the Nation.

90. At all times Attorneys shall represent the Court, and anything, including any event, or any issue, or any object, or any imagination, or any plot, or any knowledge, or any other matter, revealed to them shall be as if such matter has been revealed to the Court.

91. The single purpose of an Attorney shall be to assist the Court in establishing the truth in each and every case, and they shall achieve this by ensuring all possible evidence bearing on any matter before the Court is discovered, declared and presented in a full, frank and opportune manner, and all reasonable arguments, explanations and opinions are similarly discovered, declared and presented in a full, frank and opportune manner, whether such Attorneys are acting for the plaintiff or for the defendant.

92. No amount of cunning by any or all Attorneys on behalf of the interests of any or all clients shall excuse this duty of any or all Attorneys to the Court as officers of that Court, and each and every failure to do so shall be repugnant to this Constitution.

#### *Access to Attorneys and legal services*

93. All persons shall be entitled to call upon the assistance of an Attorney of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.

94. The Government shall ensure that efficient procedures and responsive mechanisms for effective and equal access to Attorneys shall be provided for all persons within its territory and subject to its jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or any other status.

95. The Government shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of Attorneys shall cooperate in the organisation and provision of services, facilities and other resources.

96. The Government and professional associations of Attorneys shall promote programmes to inform the public about their rights and duties under the law and the important role of Attorneys in protecting their fundamental freedoms. Special attention shall be given to assisting the poor and other disadvantaged persons so as to enable them to assert their rights and where necessary call upon the assistance of Attorneys.

*Special safeguards in criminal justice matters*

97. The Government shall ensure that all persons shall be immediately informed by the competent authority of their right to be assisted by an Attorney of their own choice upon arrest or detention or when charged with a criminal offence.

98. Any such persons who do not have an Attorney shall, in all cases in which the interests of justice so require, be entitled to have an Attorney of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

99. The Government shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to an Attorney, and in any case not later than 48 hours from the time of arrest or detention.

100. All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with an Attorney, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.

*Qualifications and training*

101. The Government, professional associations of Attorneys and educational institutions shall ensure that Attorneys have appropriate education and training and be made aware of the ideals and ethical duties of the Attorney and of human rights and fundamental freedoms recognised by National and international law.

102. The Government, professional associations of Attorneys and educational institutions shall ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or any other status, except that the requirement, that an Attorney must be a citizen of New Zealand or of a status the nature of which is one of citizenship, shall not be considered discriminatory.

103. Where there exist peoples, communities or regions whose needs for legal services are not met, particularly where such peoples have distinct cultures, traditions or languages or have been the victims of past discrimination, including Māori, the Government, professional associations of Attorneys and educational institutions should take special measures to provide opportunities for candidates from these peoples to enter the legal profession and should ensure that they receive training appropriate to the needs of their people.

*Duties and responsibilities*

104. Attorneys shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.

105. The duties of Attorneys towards their clients shall include—

- a. Advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients:
- b. Assisting clients in every appropriate way, and taking legal action to protect their interests:

c. Assisting clients before courts, tribunals or administrative authorities, where appropriate.

106. Attorneys, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognised by National and international law and shall at all times act independently and diligently in accordance with the law and recognised standards and ethics of the legal profession.

107. Other than Attorneys' duty to the Court, they shall always loyally respect the interests of their clients.

108. Attorneys may hold other positions of emolument than that of practicing Attorneys and offer services to clients other than advice on the law, provided all conflicts of interest are declared prior, and clients or any other person that will be or is likely to be affected has given their prior informed consent. However, no Attorney shall offer any other services than advice on the law, unless each and every Attorney offering such other advice or providing such other services is properly qualified and experienced in any and all such matters, and a member of any and all appropriate professional association, and holds suitable indemnity insurance for any and all such advice or services.

*Guarantees for the functioning of Attorneys*

109. The Government shall ensure that Attorneys shall—

- a. Be able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference:
- b. Be able to travel and to consult with their clients freely both within their own country and abroad: and
- c. Not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics.

110. Where the security of Attorneys is threatened as a result of discharging their functions, they shall be adequately safeguarded by the Government's authorities.

111. Attorneys shall not be identified with their clients or their clients' causes as a result of discharging their functions.

112. No Court or administrative authority before which the right to counsel is recognised shall refuse to recognise the right of an Attorney to appear before it for their clients, unless that Attorney has been disqualified in accordance with law, and practice, and in conformity with these principles.

113. Attorneys shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a Court, tribunal or other legal or administrative authority.

114. It is the duty of the competent Government authorities to ensure Attorneys shall have access to appropriate information, files and documents in their possession or control in sufficient time to enable Attorneys to provide effective legal assistance to their clients. Such access shall be provided at the earliest appropriate time.

115. The Government shall recognise and respect that all communications and consultations between Attorneys and their clients within their professional relationship shall be confidential.

*Freedom of expression and association*



116. Attorneys like other citizens shall be entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation. In exercising these rights, Attorneys shall always conduct themselves in accordance with the law and the recognised standards and ethics of the legal profession.

*Professional associations of Attorneys*

117. Attorneys shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.

118. Professional associations of Attorneys shall cooperate with the Government to ensure that everyone has effective and equal access to legal services and that Attorneys shall be able, without improper interference, to counsel and assist their clients in accordance with the law and recognised professional standards and ethics.

*Disciplinary proceedings*

119. Codes of professional conduct for Attorneys shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognised international standards and norms.

120. Charges or complaints made against Attorneys in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Attorneys shall have the right to a fair hearing, including the right to be assisted by an Attorney of their choice.

121. Disciplinary proceedings against Attorneys shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a Court, and shall be subject to an independent judicial review.

122. All disciplinary proceedings shall be determined in accordance with this Constitution of professional conduct and other recognised standards and ethics of the legal profession and in the light of these principles.

**Article 164**

**Number of judges and distribution of jurisdiction**

123. Subject to the provisions of this Constitution relating to the courts, the following matters shall be regulated in accordance with law, namely—

- a. The number of judges of the Supreme Court, the Court of Appeal and of the High Court, the remuneration, age of retirement and pensions of such judges,
- b. The number of the judges of all other courts, and their terms of appointment, and
- c. The constitution and organisation of the courts, the distribution of jurisdiction and business among the courts and judges, and all matters of procedure.

124. Nothing in this Constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature, in matters other than criminal matters, by any person or body of persons duly authorised by law to exercise such functions and powers, notwithstanding that such person or such body of persons shall be not a judge or a court appointed or established as such under this Constitution.

**Article 165****Trial of offences**

1. No person shall be tried on any criminal charge save in due course of law.
2. Special courts may be established by law for the trial of offences in cases where it may be determined in accordance with such law that the ordinary courts shall be inadequate to secure the effective administration of justice, and the preservation of public peace and order.
3. The constitution, powers, jurisdiction and procedure of such special courts shall be prescribed by law.
4. Military tribunals may be established for the trial of offences against military law alleged to have been committed by persons while subject to military law and also to deal with a state of war or armed rebellion.
5. A member of the Defence Force not on active service shall not be tried by any court-martial or other military tribunal for an offence cognisable by the New Zealand civil courts unless such offence shall be within the jurisdiction of any New Zealand court-martial or other New Zealand military tribunal under any New Zealand law for the enforcement of military discipline.
6. Notwithstanding Section 5 of this article, when serving outside the jurisdiction of New Zealand courts, no member of the Defence Force shall be tried by a local court unless such a member shall have been subject to extradition from New Zealand jurisdiction, but such members may be tried by a local New Zealand administered court-martial or other military tribunal for any offence against the nearest equivalent New Zealand law, and when found guilty shall serve all punishment within New Zealand.
7. Save in the case of the trial of offences under Sections 2, 3 or 4 of this article, no person shall be tried on any criminal charge without a jury, unless such persons of their own free will shall be willing to relinquish such right.
8. When a person who shall have not relinquish their right to a jury trial shall be found guilty of a charge, the preponderance of evidence shall be taken into account in assessing the punitive element of any punishment or damages, and all accused shall be advised of this prior to their decision under Section 8 of this article.
9. The provisions of Articles ...? And ...?35 of this Constitution shall not apply to any court or tribunal set up under Section 3 or 4 of this article...?

**Article 166****Trials in New Zealand for offences committed abroad**

1. Any person may be charged with and tried for any offence under New Zealand law in New Zealand, even though such alleged offence occurred outside the jurisdiction of New Zealand.
2. No person may be charged with and tried for any offence in New Zealand for any alleged offence that occurred outside the jurisdiction of New Zealand and is not an offence under New Zealand law.

**Article 167****Offences against the Constitution**

1. **Treason** consists only in levying war against the Government in armed rebellion, or assisting any state or person or inciting or conspiring with any person to levy war against the Government, or attempting by force of arms or other violent means to overthrow the organs of Government

established by this Constitution, or taking part or being concerned in or inciting or conspiring with any person to make or to take part or be concerned in any such attempt.

2. **Constitutional felony** consists of any person whatsoever, within the New Zealand or without, through malfeasance, misfeasance and nonfeasance, or the compassing, imagining, inventing, devising, or intending to engage in any malfeasance, misfeasance and nonfeasance that injures or is likely to injure this Constitution and the liberties it protects or the justice it provides.

3. A conviction of treason or constitutional felony carries a maximum penalty of life imprisonment without parole and or the sequestration of all assets.

4. Notwithstanding Sections 2 and 3 of this article, it shall be not treason felony or misdemeanour for persons or associations to engage in any protest, advocacy, or dissent, or any withdrawal or restriction of employment service or opportunity for such service in whole or in part (other than provided for in Section ...? Of Article ...?), or any form of civil disobedience.

## PART XVII MISCELLANEOUS PROVISIONS

### Article 168

#### **Amendment of the Constitution**

5. Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this article.

6. Every proposal for an amendment of this Constitution shall be initiated in Parliament as a Bill, and when it shall have passed by both Houses of Parliament, shall be shall be submitted by referendum to the decision of the People in accordance with the law for the time being in force relating to the referendum.

7. Any Bill seeking to amend any provision in this Constitution shall not be passed by the Parliament unless it shall have been supported by the votes of not less than two-thirds of the total number of the elected members of both Houses of Parliament and it shall have also been supported at a National Referendum by not less than two-thirds of the total number of votes cast by the electors registered under law.

8. Every such Bill shall be expressed to be, 'An act to amend the Constitution'.

9. A Bill containing a proposal or proposals for the amendment of this Constitution shall not contain any other proposal.

10. A Bill containing a proposal for the amendment of this Constitution shall be signed by the President immediately on the President being satisfied that the provisions of this article have been complied with and that such proposal shall have been duly approved by the People in accordance with the provisions of Section 3 of this article and shall be duly promulgated by the President as a law.

### Article 169

#### **Government revenues to form one fund**

All revenues of the Government arising from whatever source is, subject to such exception as may be provided by law, to form one fund, and shall be appropriated for the purposes and in the manner and subject to the charges and liabilities determined and imposed by law.

**Article 170****Reasonable determination**

When reaching or explaining a reasonable decision or any other such determination, any and all Government officials take account of:

- a. the authority under which such determination is taken and the consistency of the application of such authority: and
- b. the rationale in reaching the determination including all the material considerations and their relative substantive weights, and (where applicable) what matters were irrelevant, immaterial or insubstantial, and the reasons, in the view of the official that the affect of the decision is in the Public Interest, and the consistency or such rationale and weightings in similar instances: and
- c. whether the procedure in reaching the decision conforms to the generally accepted standards of natural justice applicable to the circumstances in which the determination is made: and
- d. whether there is a duty of care towards the person or persons concerned.

**Article 171****Authorised reprints of the Constitution**

1. The President may, from time to time, authorise the Attorney-General to cause to be printed and published an up-to-date reprint of the Constitution of the New Zealand, incorporating all amendments in force at the date of such authorisation.
2. Any reprint of the Constitution, printed and published under Section 1 of this article, shall be deemed to be and shall be, without any question whatsoever in all courts of justice and for all purposes whatsoever, the authentic text of the Constitution of the New Zealand in force as from the date specified in that reprint until superseded by the next or subsequent reprint.
3. In the preparation and compilation of any reprint under Section 1 of this article, the Attorney-General shall have, with the necessary modifications, the powers provided for in law.
4. In the preparation and compilation of the consolidated reprint under Section 1 of this article, the Attorney-General shall have the power at Attorney-General's discretion to do all things necessitated by, or consequential upon, the exercise of the powers conferred upon the Attorney-General by this article or which may be necessary or expedient for the perfecting of the consolidated reprint of the Constitution of the New Zealand.

**Article 172****Right to sue and be sued**

The Government of New Zealand may sue, be sued and sue itself in any civil court.

**Article 173****National days and public holidays**

5. In any given calendar year there shall be 11 public holidays, including 10 seasonal whole days and two half-days to mark the National Days, as set out in Schedule ...?—

- a. **Public holidays**—
  - i. First and second summer long weekends:
  - ii. Autumn long weekend:

iii. Winter long weekend:

iv. Spring long weekend

—where the Friday and the next following Monday shall be public holidays and which shall coincide with the middle weekend of the school holidays: and

v. Observance Day, whether religious or secular, as specified in Section 8 of this article.

**b. National Days—**

i. Waitangi Day, and

ii. ANZAC Day

—both of which occur on the first Monday of the school term nearest the actual days of 6<sup>th</sup> February and 25<sup>th</sup> April respectively.

6. One the morning of a National Day up to 1.00 pm, every person shall be entitled to but shall be not obliged to take the morning until midday as a half day of their annual leave entitlement. Schools shall use the mornings to mark the occasion accordingly—

a. Waitangi Day shall be a time to reflect on the history, current state of and aspirations for the social contract between the ethnic peoples, and between such peoples and the Government, that make up the Nation. Whenever reasonably practicable, new National Flags shall be broken-out and worn flags disposed of with dignity. All school children shall recite the whole or part of the oath contained in Schedule ...?, depending on whether they shall be citizens of New Zealand.

b. ANZAC Day shall be a time for reflection of the cost of war, the value of peace and the resolution of conflict without hostility. Whenever reasonably practical, a moment of silence of up to a minute will be maintained by every person just after sunrise at 7.00 am on ANZAC Day, during which time the National Flag shall dipped to half-mast by way of salute, in commemoration for all those who have suffered in the defence of liberty, justice and society.

7. The Māori, Pacific, Asian and European holidays shall be opportunities to celebrate these peoples various cultures and every person shall be entitled to but shall not be obliged to take such days as part of their annual leave entitlement.

8. Every person shall be entitled to reserve one day a year for their own religious observance and, when this falls on working day, this shall be a statutory religious Observance Day as part of that person's annual entitlement. Every person shall declare their religious observance day on commencing their employment, otherwise the 1<sup>st</sup> January shall be reserved in default as that person's secular Observance Day with the same entitlement as for a religious Observance Day.

9. The provisions in this article shall be provided for in law.

#### **Article 174**

##### **Oaths of observance, subjugation, and allegiance**

10. The following persons shall take the particular oaths as set in Schedule ...?—

a. The oath of allegiance by all school children and staff on Waitangi Day as set out in Sub-section (b)(i) of the Schedule:

b. The oath allegiance by all persons on being granted citizenship as set out in Sub-section (b)(i) of the Schedule:

- c. The oath of allegiance followed immediately by the oath of office by all persons on taking up any public office as set out in Sub-sections (b)(i) and (b)(ii) of the Schedule:
- d. The oath of allegiance immediately followed by the oath required of those entering the Defence Force, Police Service and any other public service that either involves coercive powers, or face tremendous perils and adverse conditions as set out in Sub-sections (b)(i) and (b)(iii) of the Schedule:
- e. The oath of allegiance immediately followed by the oath required of those entering public service, whether as members of the civil service, or Government entity, or private entity providing a Government service as set out in Sub-sections (b)(i) and (b)(iv) of the Schedule.

11. Each and every person taking an oath may by their own free will without any undue influence other than they shall be advised of the option before taking the oath, may add the words, "So help me God." At the end of the single or combined oaths.

### **Article 175**

#### **Management of the National Estate**

12. Provision may be made by law for the management of the property which belongs to the Government by virtue of this **Error! Reference source not found.** And for the control of the alienation, whether temporary or permanent, of that property.

13. Provision may also be made by law for the management of the National Estate, including without limitation land, mines, minerals and waters acquired by the Government after the coming into operation of this Constitution and for the control of the alienation, whether temporary or permanent, of such property so acquired.

14. When the Government wishes to make any alienation of natural resources or disturbance of the enjoyment of the estates and interests vested in any person or body, it shall seek the free, prior and informed consent of such persons or bodies and negotiate in good faith an agreement on just and fair compensation and, where practicable, with the option of return for such persons or bodies.

15. Notwithstanding Section 5 of this article, when such agreement cannot be reached in a reasonable practicable time, such agreement shall be achieved by way of mutually acceptable independent arbitration that shall be final and binding on all parties, or, when there shall be no mutually acceptable independent arbitrator, by an independent arbitrator appointed by a Justice of the High Court.

## **PART XVIII**

### **GENERAL PROVISIONS**

### **Article 176**

#### **Numbering of weeks**

The numbering the full weeks in a calendar year in this Constitution shall be from the first Sunday on or next following the first day of January.

**Article 177****Article signing**

The article signing, including headings and numbers, in this Constitution shall be inserted for convenience of reference and shall not part of this Constitution, and such signing shall not be considered in interpreting the meaning of any provision of this Constitution.

**Article 178****Singular and plural terms**

The use of singular terms in this Constitution shall be also to include the plural of the term and the use of the plural term shall be also to include the singular of the term, unless the context clearly requires a different connotation.

**Article 179****Limitation of waivers**

The failure of a person or body to insist on the strict adherence to any provision of this Constitution on any occasion shall not be considered a waiver or subsequently deprive that person or body of the right to insist on the strict adherence to that provision or any other provision of this Constitution.

**Article 180****Enforceability**

When any provision of the Constitution shall be determined to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

**Article 181****References to New Zealand**

When there is just cause to distinguish the title of an Office of State from a similar title of a foreign state for a particular event, the term, ‘... of New Zealand’ or, ‘The New Zealand ... ‘ may be added for the duration of that event, otherwise the standard title shall be used.

**Article 182****Use of titles**

1. Other than those titles prescribed in this Constitution and those other customary titles, the ordinary title a person in the New Zealand English language shall be Mister (Mr) for a man at or over the age of 18 years and Mistress (Mrs) (“Mis’ess”) for a woman at or over the age of 18 years, irrespective of such woman’s marital status, [or at the request of any such woman, Ms (“Miž”)], and Miss for a girl and Master (Mtr) for boy, who are less than 18 years of age.
2. All military servants shall address each other, whether such persons are superior or puisne by their rank or the accepted abbreviation of that rank, such as Brigadier General as ‘General’.
3. No person shall use any title to which they are not eligible or that misleads or is likely to mislead any other person as to the status or qualifications of such title users.

**PART XIX**  
**TRANSITIONAL ARRANGEMENTS**

**Article 183****Transfer of all powers, rights and prerogatives**

4. All powers, functions, rights and prerogatives whatsoever exercisable in or in respect of the state of New Zealand immediately before the date of the operation of this Constitution, whether in virtue of the Constitution then in force or otherwise, by the authority in which the executive power of state of New Zealand was then vested shall be declared to belong to the People.

5. It shall be enacted that, save to the extent to which provision shall be made by this Constitution or may subsequently be made by law for the exercise of any such power, function, right or prerogative by any of the organs established by this Constitution, the said powers, functions, rights and prerogatives shall not be exercised or be capable of being exercised in or in respect of the Nation save only by or on the authority of the Government.

6. The Government shall be the successor of the previous Government of New Zealand as regards all property, assets, rights and liabilities.

**Article 184****Recognition and appointment of Senators**

All ordinary members of the Order of New Zealand, Knights Grand Companion or Principle Companions of the New Zealand Order of Merit who are willing and able to become Senators, whether sitting or not, may on their application to and by leave of the President (or Governor General prior to their appointment to be the President) be appointed to the Order of Aotearoa as Senators.

**Article 185****Continuation of laws**

Subject to this article, all existing laws shall continue in force on and after the commencement of this Constitution and all laws which have not been brought into force by the date of the commencement of this Constitution may, subject to this article, be brought into force on or after its commencement, but all such laws shall, subject to this article, be construed as from the commencement of this Constitution with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.

**Article 186****Existing standing orders**

The Standing Orders of the House of Representatives which shall be in force immediately before the commencement of this Constitution are, subject to amendment or revocation, to be the Standing Orders of the House of Representatives.

**Article 187****Public officers to continue in office**

Subject to the provisions of this Constitution, every person, who immediately before the commencement of this Constitution holds a public office, shall be on its commencement continue to hold the like office in the public service.



**Article 188****Terms of service of persons who continue in office**

1. Except where other provision shall be made by this Constitution, any person who holds any office as from the commencement of this Constitution by virtue of having been the holder of any office immediately before its commencement is, as from its commencement, to be entitled to the same terms of service as were applicable to them immediately before its commencement, and those terms, in so far as they relate to remuneration, shall not be altered to their disadvantage during their continuance in the public service.
2. For the purposes of this article, in so far as the terms of service of any person depend on their option, any terms for which they opt shall be taken to be more advantageous to them than any for which they might have opted.

**Article 189****Person holding office of Governor General to be President pro tempore**

1. Notwithstanding Article 76, the person holding the office of Governor General immediately prior to the commencement of this Constitution shall assume the office of President until such time an elected president enters office.
2. When the Governor General or the initial President resigns, the office of president shall be assumed by the Chief Justice until such time an elected president enters office.

**Article 190****Modifications of Constitution in transition**

3. This Constitution shall have effect subject to the following modifications—
  - a. the initial term of the House of Representatives shall be for ...
  - b. the initial term of the Senate shall be ...
  - c. the initial terms of the Board Governors shall be for...

**FIRST SCHEDULE****THE ORDER OF PRECEDENCE**

1. The President or (whilst acting in the place of the President) the Vice President or the officer administering the Government, and spouse
2. The Vice President and the Speaker of the Senate and spouse
3. Members of the Council of State (including Leader of the Senate, Speaker of the House of Representatives, Prime Minister, Chief Justice, President of the High Court, The President of the Press Association, Attorney General, the Auditor General, the Public Service Commissioner and the Chief of the Defence Force)
4. Governors of Regional Councils, Mayors of District Council and Heads of other governing bodies with delegated authority (when in their territories)
5. The Deputy Prime Minister
6. Ministers of the Cabinet (ordered by ministerial rank)
7. Former Governors-General and Presidents and or their spouses
8. Judges of the Supreme Court
9. President and puisne Justices of the Court of Appeal (and other Courts of Law with summary jurisdiction of the Supreme Court)
10. President and puisne Justices of the Constitutional Court
11. Justices of the High Court
12. Presidents of the Courts of Law with summary jurisdiction of the High Court
13. The Dean of the Diplomatic Corps
14. Ambassadors and High Commissioners in New Zealand, according to date of presentation of Letters of Credence or of assumption of duty, and Foreign Ministers and Envoys, as advised by order of precedence advised by the Ministry of the Exterior
15. Consuls-General & Consuls of countries without diplomatic representation in New Zealand
16. Members of the Senate by order of seniority
17. The Shadow Cabinet of the Opposition in the House of Representatives (ordered by shadow ministerial rank)
18. Members of the House of Representatives by order of seniority
19. Charges d’Affaires
20. Former Prime Ministers (who are not Senators)
21. Former Ministers of the Cabinet (who are not Senators)
22. The Commissioners of State
23. Secretaries of the Civil Departments of State

24. Chiefs of Staff of the Defence Forces
25. Governors of Regional Councils, Mayors of District Council and Heads of other governing bodies with delegated authority (when outside their territories or on national occasions)
26. Heads of religious denominations in New Zealand
27. Knights of the Order of Aotearoa followed by the Knights of the various orders and Knights Bachelor by order of precedence advised by the Ministry of the Interior.

**SECOND SCHEDULE****THE ORDER OF AOTEAROA****The Division of Service**

1. There shall be five designations of the Order of Aotearoa—
  - a. Senator (Sen),
  - b. Knight (KtA),
  - c. Commander (CmdrA),
  - d. Officer (OffA),
  - e. Fellow (FelA).
2. Persons appointed Senator shall use the appellation, ‘Senator’, which shall take precedent over all other appellations, save only for those of President and Vice President that shall be appellations only for the period the person holds the office. The appellation of Senator shall be for life, regardless of whether the holder shall be sitting member of the Senate.
3. Persons appointed as Knights may be women or men, and shall use the appellations of ‘Sir’, in the case of men, and ‘Dame’, in the case of women, before their given name, there being no other distinction in the title of Knight.
4. The current female spouse of a Senator or Knight, may use the courtesy title of ‘Lady’ and the current male spouse, ‘Gentleman’ before the surname, provided they use the Senator’s or Knight’s surname or the family-name. Former spouses shall have no entitlement to use such courtesy titles.
5. Hereditary titles of nobility shall not be conferred by the Government and the designations of the Order of Aotearoa shall be held for the life of the recipient only and shall not be designations of nobility.
6. The Order of Aotearoa’s designations shall have priority over all other previous orders of chivalry but all holders of such designations shall hold honorary equivalent designations of The Order of Aotearoa (including the use of any appellation), including all Knights Bachelor previously without an order of chivalry, as approved by the President and such approval shall not unreasonably withheld.
7. Honorary designations, without appellations, may be granted to non-citizens and citizens may hold foreign chivalric designations by leave of the President, and such leave shall not be unreasonably withheld, but no citizen may use a foreign chivalric or aristocratic appellation unless such citizen shall be also a citizen of the foreign state concerned.
8. The Presidential Commission shall seek and receive nominations for membership of the Order, and the President shall approve such nominations on the advice of the Council of State.
9. Those persons who by the eminence of their position shall granted, if not already granted, the ex-officio designation of Knight of the Order of Aotearoa—
  - a. Members of the Council of State:

- b. Justices of the Supreme Court and any of its Courts of Summary Jurisdiction, Constitutional Court, and the High Court:
- c. Speaker of the House of Representatives:
- d. The Prime Minister:
- e. The Leader of the Opposition:
- f. Commissioners of State (excluding Commissioners of Inquiry):
- g. Secretaries of the Principle Departments of State and the Chiefs of Staff of the Defence Force.

—on first practicable opportunity on or following the second anniversary of their taking office.

### The Division of Valour

There shall be four designations of valour, according to the achievement of service deeds for the protection of this Constitution or the protection of life, without regard to the military or civilian status of the perpetrator or their rank or any other social status—

Designation:	For gallant achievement in the protection of the Constitution:	For brave achievement in the protection of life:
First: <b>Cross</b>	The Victorian Cross	The Life Cross
Second: <b>Star</b>	The Constitution Star	The Life Star
Third: <b>Decoration</b>	The Constitution Decoration	The Life Decoration
Fourth: <b>Medal</b>	The Constitution Medal	The Life Medal

### General provisions

10. Announcements of awards shall be made twice a year on the Fridays of the Waitangi Weekend holiday at the end of January and the Winter Weekend holiday at the beginning of July.

11. Persons may be awarded designations in both Divisions and in exceptional circumstances may be awarded designations in both Divisions for the same act.

12. Members of the Order of Aotearoa and persons holding designations of valour may be tried of stated misbehaviour by the Senate and, if found guilty on the basis of the balance of probability by a majority of the vote, shall have their designations removed by order of the President under their hand and seal.

13. The officers of the order shall be the president, who shall be the President, the secretary and registrar, who shall be the secretary of the Council of State, and the herald, who shall be called 'The Herald of Arms'.

### The Chief Herald of Arms

14. The Chief Herald of Arms shall be the principal advisor to the Government on all matters of honours, ceremony, heraldry and chivalry, including—

- a. **Honours:** Receive nominations, investigate and make recommendations to the President with respect to granting civil and military honours, including all awards, decorations and

medals for outstanding service, bravery and gallantry, and campaigns, and maintain the National Roll of Honour of those persons killed or otherwise have died while in the military service (and the civil service on the battlefield) of the Nation, and advise the President on communication with the families of the dead, and maintain the graves of and other memorials to those persons who have died or been wounded (mentally or physically) in the service of the Nation:

b. **Ceremonial:** to advise the Government on all matters of ceremony, and to attend The Head of State on such occasions as may from time to time be directed by the President. This usually involves the Inauguration of the President and other High Offices of State, the State Opening of Parliament, Investitures and Divestitures of the Order of Aotearoa, the State Order of Precedence and all matters concerning protocol foreign and domestic. At such occasions the Herald of Arms shall perform the traditional functions of Master of Ceremonies and heralding the achievements:

c. **Heraldic or Armorial:** to advise the President on the granting of arms, and the Government generally on heraldic and certain allied matters: and to advise on technical aspects of distinctive New Zealand motifs which it shall be desired be incorporated in any grant:

15. The Chief Herald of Arms shall be the Deputy Inspector of Government of Insignia, including all Government standards, banners, colours, badges and other devices and motifs, and shall be the Principle of the New Zealand College of Arms, and shall represent New Zealand in matters concerning any other orders of chivalry and foreign colleges of arms.

16. The Chief Herald of Arms may be supported by other Heralds of Arms, who, when acting for the Chief Herald, shall act with all the powers, privileges and prerogatives of the Chief Herald.

17. The Government arms and other insignia, including those of any Government or Public Office, granted by the President shall have priority in New Zealand over any other arms, registered trademarks and similar devices that may be designed or used by any person.

18. The insignia, uniforms and all matters relating to the Order of Aotearoa shall be regulated by law.

## THIRD SCHEDULE

## PUBLIC OFFICE DECLARATIONS &amp; OATHS

PERSON/S REQUIRED TO TAKE OATH	REQUIRED OATHS
(a)	(b)
(i) <b>Oath of allegiance and to be reaffirmed before taking any oath of public office or service</b>	<p>“I call on those present to witness that I, [full name.....], solemnly and sincerely promise and declare— I understand, acknowledge and accept—</p> <p style="padding-left: 40px;">the protection of my rights and privileges given to me by the Constitution of Aotearoa/New Zealand: and</p> <p style="padding-left: 40px;">the duty and obligation by me for the protection of the Peoples constituting the sovereign and indivisible Nation of Aotearoa/New Zealand:</p> <p>and that—</p> <p>I will observe its Constitution, laws and traditions for the defence of liberty, justice and society for all: [and</p> <p>I absolutely and entirely subjugate all loyalty to any foreign sovereign or state or country to that end: so that</p> <p>I will be a loyal and faithful citizen with true allegiance to the Nation of Aotearoa/New Zealand]*”.</p> <p><i>* to be omitted by school children not holding New Zealand citizenship</i></p>
(ii) <b>Oath of office</b>	<p>“I [further] call on all those present to witness that I, [full name.....], solemnly and sincerely promise and declare</p> <p>I will duly and faithfully to the best of my knowledge and power execute my duties in the office of [name of office.....]</p> <p>faithfully and conscientiously in accordance with the constitution, the law, and usages of Aotearoa/New Zealand, without fear or favour, affection or ill-will towards any person until I am legally discharged: and</p> <p>I will not divulge any secrets revealed to me, other than required by law: and</p> <p>I will dedicate my abilities to the service and welfare of the People of Aotearoa/New Zealand.”</p>

PERSON/S REQUIRED TO TAKE OATH	REQUIRED OATHS
(a)	(b)
<p>(iii) <b>Oath required of members of the armed forces, police and other services with coercive powers and which may face tremendous perils and adverse conditions.</b></p>	<p>“I [further] call on those present here to witness that  I, [<i>full name</i>.....],  will faithfully serve in the [<i>name of force, service or other organisation</i>.....], and  understanding, acknowledging and accepting—  the tremendous perils I may face:  the arduous conditions I may have to endure:  the demanding duties I will be expected to perform:  and the high standards of conduct to which I will be held accountable:  solemnly and sincerely promise and declare that—  I will to the best of my knowledge and power duly execute my duties faithfully and conscientiously in accordance with the Constitution, the law, and traditions of Aotearoa/New Zealand, without fear or favour, affection or ill-will towards any person: and  I will, according to such law, obey all orders of the President of Aotearoa/New Zealand and those of the officers appointed over me until I am lawfully discharged:  I will not divulge any secrets revealed to me, other than required by law: and  I will dedicate my abilities to the service and welfare of the People of Aotearoa/New Zealand”.</p>



PERSON/S REQUIRED TO TAKE OATH	REQUIRED OATHS
(a)	(b)
<p>(iv) <b>Oath required of those entering public service, whether as members of the civil service, or Government entity, or private entity providing a Government service.</b></p>	<p>“I [further] call on those present here to witness that  I, [full name.....],  will faithfully serve in the [name of force, service or other organisation.....], and  understanding, acknowledging and accepting—  the demanding duties I will be expected to perform,  and the high standards of conduct to which I will be held accountable,  solemnly and sincerely promise and declare that—  I will to the best of my knowledge and power duly execute my duties faithfully and conscientiously in accordance with the Constitution, the law, and traditions of Aotearoa/New Zealand, without fear or favour, affection or ill-will towards any person, until I am legally discharged: and  I will not divulge any secrets revealed to me, other than required by law: and  I will dedicate my abilities to the service and welfare of the People of Aotearoa/New Zealand”.</p>
<p>(v) <b>Optional addition to the oaths above for those that of their own free will wish to attest to God.</b></p>	<p>‘So help me God’.</p>
<p>(vi) When taking an oath individually the person making the oath shall choose of their own free will to use either ‘Aotearoa’ or ‘New Zealand’.</p> <p>(vii) When taking an oath collectively, ‘Aotearoa’ shall be used unless by leave of those making the oath, ‘New Zealand’ shall be preferred, but whichever term shall be chosen, it shall be used consistently throughout the oaths taken.</p> <p>(viii) When taking an oath the person making such oath shall wherever practicable stand and raise their right hand (or left hand if the right shall be impaired) and wherever practicable to place their other hand on a triangularly folded National Flag.</p> <p>(ix) Every person, prior to taking an oath, shall be invited without any undue influence to attest to God at the end of the oath or oaths, if they so wish and choose to do so of their own free will.</p>	

**FOURTH SCHEDULE****PUBLIC FINANCE****PART I****APPROPRIATION OF PUBLIC MONIES**

[*under review*]

**PART II****GOVERNMENT FINANCIAL REPORTS AND STATEMENTS****Interpretation**

If the context requires, references in this Schedule to total debt, total operating expenses, total operating revenues, and total net worth shall be references to the total fiscal aggregates of the forecast financial statements prepared in accordance with the fiscal forecasts.

**Prudent fiscal management** means that there is less than 99.9% chance of Government's operating costs will exceed the sum of its net assets and its borrowing capacity.

**Reasonable degree of predictability** means the rationale provided is rational and reasonable by the commonly accepted standards of those whose business it is to provide the same or similar predictions, and at the specified confidence intervals (not exceeding 99.9%) such predictions are not irrational or meaningless.

**Reporting Government entity** means the consolidated accounts of the all the instruments of the Government.

**Minister** means the Minister *pro tempore* responsible for Government finance and the Treasury.

**Article 1****Fiscal Strategy Report**

1. The Minister shall, in each financial year, present to the House of Representatives a report on the Cabinet's fiscal strategy immediately after they shall have delivered the Budget for the financial year to which the report relates.

2. The contents of the Fiscal Strategy Report shall—

*Long-term objectives*

a. state the Cabinet's long-term objectives for fiscal policy and, in particular, for the following variables—

i. total operating expenses:

ii. total operating revenues:

iii. the balance between total operating expenses and total operating revenues:

iv. the level of total debt:

v. the level of total net worth: and

- b. explain how those long-term objectives accord with the principles of responsible fiscal management: and
- c. state the period to which those long-term objectives relate (which shall be a period of 10 or more consecutive financial years commencing with the financial year to which the Fiscal Strategy Report relates).
- d. assess the consistency of the long-term objectives—
  - i. with the long-term objectives in the most recent Fiscal Strategy Report: or
  - ii. when the long-term objectives in the most recent Fiscal Strategy Report were amended in the Budget Policy Statement most recently prepared Budget Policy Statement, with the long-term objectives stated in the statement: and
  - iii. when the long-term objectives are not consistent with the long-term objectives in the most recent Fiscal Strategy Report or in the Budget Policy Statement most recently prepared Budget Policy Statement, justify the departure of the long-term objectives from the long-term objectives in the most recent Fiscal Strategy Report or in the statement.

**Contents of Fiscal Strategy Report: short-term intentions**

1. The Fiscal Strategy Report shall, for the financial year to which the report relates and at least the next two financial years, indicate explicitly, by the use of ranges, ratios, or other means, the Cabinet's short-term intentions for each of the variables in its long-term objectives.

2. The Fiscal Strategy Report shall—

- i. assess the consistency of the short-term intentions with—
    - (1) the principles of responsible fiscal management: and
    - (2) the long-term objectives referred to in section 26J(1)(a): and
  - ii. when those short-term intentions shall not consistent with the principles of responsible fiscal management or with the long-term objectives or with both, state—
    - (1) the reasons for the departure of those short-term intentions from those principles or from those long-term objectives or from both: and
    - (2) the approach the Cabinet intends to take to ensure that those short-term intentions become consistent with those principles and those long-term objectives: and
    - (3) the period of time that shall be expected to elapse before those short-term intentions become consistent with those principles and those long-term objectives.
- b. assess the consistency of the short-term intentions—
- i. with the short-term intentions indicated in the most recent Fiscal Strategy Report: or
  - ii. when the short-term intentions indicated in the most recent Fiscal Strategy Report were amended in the Budget Policy Statement most recently prepared under section Budget Policy Statement, with the short-term intentions indicated in the statement: and
  - iii. when the short-term intentions are not consistent with the short-term intentions in the most recent Fiscal Strategy Report or in the Budget Policy Statement most recently prepared under section Budget Policy Statement, justify the departure of the short-term intentions from the short-term intentions in the most recent Fiscal Strategy Report or in the statement.

- c. an assessment of the extent to which the Economic And Fiscal Update prepared is consistent with the short-term intentions: and, when the Economic And Fiscal Update departs from those short-term intentions, an explanation of the reasons for the departure.
- d. scenarios that—
  - i. contain projections of trends in the long-term variables specified (which projections shall illustrate, for stated substantive assumptions, likely future progress towards achieving the long-term objectives referred to in that section): and
  - ii. explain the reasons for any significant differences from previous scenarios: and
  - iii. an assessment of the consistency of the scenarios with the long-term objectives: and
  - iv. if the scenarios depart from the long-term objectives, an explanation of the reasons for the departure.
- e. The projections shall relate to the period to which the long-term objectives relate (which shall be a period of 10 or more consecutive financial years commencing with the financial year to which the Fiscal Strategy Report relates):
- f. Notwithstanding, the use of scenarios, the report shall provide a stochastic analysis that combines all scenarios, their variables and the correlations between them to provide confidence intervals for all such projections.

## **Article 2**

### **Budget Policy Statement**

1. The Minister shall present to the House of Representatives a Budget Policy Statement—
  - a. not later than 31 March in each financial year: or
  - b. when the House of Representatives is not in session on 31 March and a Budget Policy Statement has not been presented in that financial year, as soon as possible after the commencement of the next session of the House of Representatives.
2. The Budget Policy Statement shall, for the financial year commencing on 1 July after the statement shall be presented, state the broad strategic priorities by which the Cabinet will be guided in preparing the Budget for that financial year, including—
  - a. the overarching policy goals that will guide the Cabinet's Budget decisions: and
  - b. the policy areas that the Cabinet will focus on in that year: and
  - c. how the Budget for that year accords with the short-term intentions referred to in the most recent Fiscal Strategy Report or the amended short-term intentions.
3. The Budget Policy Statement shall—
  - a. when the long-term objectives have changed from those stated in the most recent Fiscal Strategy Report, indicate those amended long-term objectives and explain how they accord with the principles of responsible fiscal management: and
  - b. if the short-term intentions have changed from those indicated in the most recent Fiscal Strategy Report, indicate those amended short-term intentions and explain how they accord with the principles of responsible fiscal management and the long-term objectives in the most recent Fiscal Strategy Report or the amended long-term objectives.

**Article 3****Long-Term Fiscal Statement**

1. At intervals not exceeding 4 years—
  - a. the Treasury shall prepare a statement on the long-term fiscal position: and
  - b. the Minister shall present each statement to the Senate and the House of Representatives.
2. The statement shall—
  - a. relate to the next following 40 or more consecutive financial years commencing with the financial year in which the statement shall be prepared: and
  - b. be accompanied by—
    - i. a Statement of Responsibility signed by the Secretary stating that the Treasury has, in preparing the statement, used its best independent judgments about the risks and the outlook: and
    - ii. a account of all significant assumptions underlying any projections included in the statement, including their correlations.
  - c. Provide confidence intervals for all projections together with their distribution of possible outcomes.

**Article 4****Economic and Fiscal Update**

1. The Minister shall present to the House of Representatives an Economic and Fiscal Update prepared by the Treasury for each financial year.
2. The Minister shall present the Economic and Fiscal Update immediately after they shall have delivered the Budget for the financial year to which the update relates.
3. The update shall—
  - a. contain economic and fiscal forecasts that relate to—
    - i. the financial year to which the update relates: and
    - ii. each of the next two financial years: and
    - iii. contain a Statement of Tax Policy Changes: and
    - iv. be accompanied by a Statement of Responsibility.
4. The update shall state—
  - a. the day on which the contents of the update were finalised: or
  - b. the days on which the contents of different specified aspects of the update were finalised.

*Economic forecasts*

5. The economic forecasts contained in the Economic and Fiscal shall, for each of the three financial years to which they relate, include forecasts with their distribution so of outcomes of movements in New Zealand's—
  - a. gross domestic product (including the major components of gross domestic product):
  - b. consumer prices:

- c. unemployment and employment:
- d. current account position of the balance of payments.

6. The economic forecasts shall also include a statement of all significant assumptions underlying the forecasts, including all relevant correlations.

*Fiscal forecasts*

7. The fiscal forecasts contained in the Economic and Fiscal Update prepared under shall, for each of the three financial years to which they relate, include forecast financial statements, and—

- a. a statement of borrowings that reflects the forecast borrowing activities for each of those financial years:
- b. any other statements that shall be necessary to fairly reflect—
  - i. the forecast financial operations for each of those financial years: and
  - ii. the forecast financial position at the end of each of those financial years: and
- c. a statement of commitments from the most recent monthly financial statements of the Government: and
- d. a statement of specific fiscal risks of the Government as at the day on which the forecast financial statements shall be finalised—
  - i. that sets out specific fiscal risks that relate to—
    - (1) the Cabinet decisions and other circumstances required to be incorporated in the Economic and Fiscal Update: and
    - (2) any other contingent liabilities (including any guarantees or indemnities given under this Constitution or any law): and
    - (3) that discloses the rules used to determine what shall be and shall be not a fiscal risk: and
    - (4) a statement of all significant accounting policies, including any changes from the accounting policies contained in the Annual Financial Statements of the Government most recently presented to the House of Representatives: and
    - (5) in relation to each forecast financial statement required by—
      - (a) comparative budgeted and estimated actual figures for the financial year immediately before the first of the financial years to which the fiscal forecasts relate: and
      - (b) comparative actual figures for the financial year that shall be 2 years before the first of the financial years to which the fiscal forecasts relate: and
  - I a statement of all significant assumptions underlying the fiscal forecasts: and
  - (d) a statement that shows the sensitivity of the fiscal aggregates to changes in economic conditions.

8. The baseline for the fiscal forecasts shall be for the same reporting Government entity as the Annual Financial Statements of the Government for the first of the financial years to which the fiscal forecasts relate.

**Article 5****Annual Statement of Tax Policy Changes**

1. The Statement of Tax Policy Changes contained in the Economic and Fiscal Update shall set out—
  - a. a summary and quantitative assessment of tax policy changes that have resulted in a substantive and material change to the tax revenue forecasts for the financial year to which the update relates and at least the next two financial years: and
  - b. the basis for determining whether or not a particular tax policy change should be included in that summary.
2. In this article, a tax policy change includes—
  - a. a change in tax legislation that shall have been enacted since the most recent Statement of Tax Policy Changes: and
  - b. a proposed change in tax legislation that shall have been approved by the Cabinet, whether set out in a Bill that shall have been introduced into the House of Representatives or otherwise.

**Article 6****Half-year Economic and Fiscal Update**

1. The Minister shall, not earlier than 1 November nor later than 31 December in each financial year—
    - a. arrange to be published a half-year Economic and Fiscal Update prepared by the Treasury: and
    - b. present the update to the House of Representatives.
  2. However, when a half-year Economic and Fiscal Update shall have not been presented by 31 December in a financial year because Parliament shall have not been in session since the date that the update was published, the Minister shall present the Half-Year Economic and Fiscal Update to the Senate, and, if the Senate is not in session, as soon as possible after the next following meeting of the House of Representatives.
  3. The Half-Year Economic and Fiscal Update shall—
    - a. include the information required to be included in the Economic and Fiscal Update, except that—
      - i. the reference to estimated actual figures shall be read as if it were a reference to actual figures: and
      - ii. the actual figures shall not required: and
      - iii. be accompanied by a Statement of Responsibility.
  4. However, the Minister shall be not required to arrange the publication of the Half-Year Economic and Fiscal Update in any financial year, if, in the period of that financial year beginning on 1 October and ending on 31 December, a Pre-Election Economic and Fiscal Update—
    - a. shall have been published: or
    - b. shall be required to be published under that section.
-

**Article 7****Pre-election Economic and Fiscal Update**

1. The Minister shall neither earlier than 30 working days, nor later than 20 working days before the day appointed as polling day in relation to any general election of members of the House of Representatives, arrange to be published a Pre-Election Economic and Fiscal Update prepared by the Treasury.
2. The Pre-Election Economic and Fiscal Update shall,—
  - a. include the information required to be included in the Economic and Fiscal Update: and
  - b. be accompanied by a Statement of Responsibility.
3. If, before the day on which a Pre-Election Economic and Fiscal Update shall be required to be published under this section, the Annual Financial Statements of the Government for the financial year immediately before the first of the financial years to which the fiscal forecasts relate have been presented to the House of Representatives or published—
  - a. the reference to estimated actual figures shall be read as if it were a reference to actual figures: and
  - b. the actual figures shall not required.
4. If the day of the dissolution of the House of Representatives shall be less than 30 working days before the day appointed as polling day in relation to the general election of members of the House of Representatives, the Minister shall arrange for the Pre-Election Economic and Fiscal Update required under this section to be published not later than 10 working days after the day of the dissolution of the House of Representatives.
5. The Minister shall, as soon as possible after the next meeting of Parliament, present to the House of Representatives a copy of the update published under this section.

**Article 8****Disclosure requirements for Economic and Fiscal Updates**

1. There shall be a disclosure of policy decisions and other circumstances that may influence future fiscal situation.
2. An Economic and Fiscal Update shall incorporate, to the fullest extent practicable, all Cabinet decisions and all other circumstances that may have a material and substantive effect on the fiscal and economic outlook—
  - a. When the fiscal implications of Cabinet decisions and other circumstances referred to in Section 1 of this article can be quantified for particular years with reasonable certainty by the day on which the forecast financial statements shall be finalised, the quantified fiscal implications of those Cabinet decisions and other circumstances shall be included in the forecast financial statements: or
  - b. When the fiscal implications of Cabinet decisions and other circumstances referred to in Section 1 of this article cannot be quantified for or assigned to particular years with reasonable certainty by the day on which the forecast financial statements shall be finalised, those Cabinet decisions and other circumstances shall be disclosed in the Statement Of Specific Fiscal Risks of the Cabinet.

*Limits on disclosure requirements*



3. The requirement to disclose shall not apply to a decision, circumstance, or statement if the Minister, together with any other Minister designated for the purpose of this section, determines that—

a. to incorporate that decision, circumstance, or statement in an Economic and Fiscal Update shall be likely—

i. to prejudice the substantial economic interests of New Zealand: or

ii. to prejudice the security or defence of New Zealand or the international relations of the Government: or

iii. to compromise the Cabinet in a material way in negotiation, litigation, or commercial activity: or

iv. to result in material loss of value to the Government's assets: and

b. there shall be no reasonable or prudent way the Cabinet can avoid this prejudice, compromise, or material loss—

i. in the case of a circumstance, by making a decision before the day on which the forecast financial statements shall be finalised: or

ii. in the case of a decision or circumstance, by incorporating in the update the fiscal implications of that decision or circumstance, or the nature of that decision or circumstance, but without reference to its fiscal implications: or

iii. in the case of a statement, by incorporating that statement in the update.

## **Article 9**

### **Statement of Responsibility**

1. The Statement of Responsibility required by this Constitution shall be signed by—

a. the Minister: and

b. any other Minister designated by the Prime Minister: and

c. the Secretary of the Treasury.

2. The Statement of Responsibility shall comprise—

a. a statement by the Minister, and any other Minister designated for the purpose of this paragraph, that the following matters have been communicated to the Secretary—

i. all policy decisions with material economic or fiscal implications that the Cabinet shall have made before the day on which the contents of an Economic and Fiscal Update or of the relevant aspect of the update were finalised: and

ii. all other circumstances with material economic or fiscal implications of which the Minister and that other Minister (if any) were aware before that day: and

b. a statement by the Secretary that the Treasury shall have supplied to the Minister, and to any other Minister designated for the purpose of this paragraph, an Economic and Fiscal Update—

i. that incorporates the fiscal and economic implications of the decisions and circumstances referred to in paragraph (a): but

- ii. that does not incorporate any decisions, circumstances, or statements that the Minister and any other Minister designated have determined under that section should not be incorporated in that update: and
  - c. a statement of the responsibility of the Minister, and of any other Minister designated for all or any of the purposes of this paragraph and paragraphs (a) and (b)—
    - i. for the integrity of the disclosures contained in the update: and
    - ii. for the consistency with the requirements of this part of the information contained in the update: and
    - iii. for the omission from the update of any decision, circumstance, or statement.
- 3. The statement shall be accompanied by a statement that the Economic and Fiscal Update shall have been prepared by the Treasury—
  - a. using its best independent judgments: and
  - b. on the basis of economic and fiscal information available to it before the day on which the contents of the update or the relevant aspect of the update were finalised.

## **Article 10**

### **Annual Financial Statements of Government**

1. The Treasury shall, as soon as practicable after the end of each financial year, prepare annual consolidated financial statements for the Government for that financial year.
2. The Annual Financial Statements of the Government shall—
  - (a) be prepared in accordance with generally accepted accounting practice: and
  - (b) include the forecast financial statements, for comparison with the actual financial statements: and
  - (c) include, in addition to those financial statements required by generally accepted accounting practice,—
    - (i) a statement of borrowings that reflects the borrowing activities for that year, including budgeted figures for that year and comparative actual figures for the previous financial year:
    - (ii) a statement of unappropriated expenses and capital expenditure:
    - (iii) a statement of emergency expenses and capital expenditure:
    - (iv) a statement of trust money administered by the Departments of State, Offices of Parliament and any other Government instruments, where the Government is the trustee:
    - (v) any additional information and explanations needed to fairly reflect the consolidated financial operations of the Government for the financial year and its consolidated financial position at the end of that year.
3. The Annual Financial Statements of the Government shall include the Government's interests in—
  - (a) all Departments of State and other Government organisations that are not body corporate and have no other identity than that of the Government:

- (b) all corporations that are wholly owned by the Government:
- (c) all other Government interests in corporations not wholly owned by the Government:
- (d) the Reserve Bank of New Zealand:
- (e) any other entity whose financial statements shall be consolidated into the financial statements of the Government to comply with generally accepted accounting practice.

## **Article 11**

### **Responsibility for the Annual Financial Statements of the Government**

1. Every Annual Financial Statement shall be accompanied by a Statement Of Responsibility signed by the Minister, any other Minister designated by the Prime Minister and the Secretary of the Treasury.
2. The statement of responsibility shall comprise—
  - (a) A Statement of The Responsibility of the Minister, and of any other Minister designated by the Prime Minister for the purpose of this paragraph, for the integrity of the financial statements: and
  - (b) A Statement of The Responsibility of the Treasury for establishing and maintaining a system of internal control designed to provide reasonable assurance that the transactions recorded are within statutory authority and properly record the use of all public financial resources by the Government: and
  - (c) A statement by the Secretary that the Treasury has prepared the financial statements in accordance with generally accepted accounting practice: and
  - (d) a statement that, in the opinion of the Minister, and of any other Minister designated by the Prime Minister for the purpose of this section, the financial statements fairly reflect the consolidated financial position and operations of the Government for the reporting period.

## **Article 12**

### **Annual financial statements shall be presented to House of Representatives**

1. The Treasury shall forward the Annual Financial Statements of the Government and the audit report to the Minister.
2. The Minister shall present the Annual Financial Statements and the Audit Report, together with the Statement Of Responsibility, to the House of Representatives—
  - (a) not later than 10 working days after the Treasury receives the Audit Report: or
  - (b) when the House of Representatives is not in session, as soon as possible after the commencement of the next session of the House of Representatives.
3. The Minister shall arrange for the Annual Financial Statements, the audit report, and the statement of responsibility to be published—
  - (a) as soon as practicable after they have been presented to the House of Representatives: but
  - (b) in any case, not later than 15 working days after the Audit Report is provided to the Treasury.

## **Article 13**

### **Monthly financial statements of Government**

1. The Treasury shall, as soon as practicable after the end of each month (except the first 2 months and the last month) in each financial year, prepare consolidated financial statements for the Government for the period of the financial year to the end of the month concerned.
2. The monthly financial statements shall—
  - (a) be prepared in accordance with generally accepted accounting practice: and
  - (b) include, in addition to those financial statements required by generally accepted accounting practice—
    - (i) a statement of borrowings that reflects the borrowing activities for the period of the financial year to the end of the month concerned:
    - (ii) any additional information and explanations needed to fairly reflect the consolidated financial operations of the Government for the period of the financial year to the end of the month concerned and the consolidated financial position at the end of that month:
    - (iii) in relation to the financial statements required by generally accepted accounting practice and the statement required by Section 2(a)(i)—
      - (1) budgeted figures for the period of the financial year to the end of the month concerned:
      - (2) comparative actual figures for the period of the previous financial year to the end of the corresponding month.
3. The monthly financial statements prepared under Section 1 shall be for the same Government as the Annual Financial Statements prepared under section 27 for the financial year to which the monthly financial statements relate.
4. The Minister shall arrange for the monthly financial statements to be published not later than,—
  - (a) in the case of the financial statements to the end of November, the last day of January in the following year: and
  - (b) in the case of the financial statements to the end of December, the last day of February in the following year: and
  - (c) in any other case, 6 weeks after the end of the period to which they relate.

#### **Article 14**

##### **Additional reports in relation to non-departmental appropriations**

1. This section applies if, in any financial year, an Appropriation Act—
  - (a) lists an appropriation or a class of outputs within an appropriation for which expenses or capital expenditure are to be incurred other than by Departments of State or the Offices of the Parliament: and
  - (b) states that the appropriation or class of outputs is, in whole or part, subject to this section.
2. The Minister responsible for each appropriation or class of outputs shall, within 3 months of the end of that financial year, prepare and present to the House of Representatives a report that complies with subsection (3).
3. The report shall include—

- (a) a statement of service performance prepared in accordance with generally accepted accounting practice in relation to that appropriation or class of outputs that compares the service performance that was achieved with the service performance that was forecast to be achieved: or
  - (b) if the type and scope of the appropriation is such that a statement of service performance is inappropriate, a statement of the results produced or achieved in relation to that appropriation that compares those results with the results that were forecast to be produced or achieved from the expenses or capital expenditure.
4. The report shall also compare the actual expenses or capital expenditure incurred in relation to that appropriation or class of outputs with the expenses or capital expenditure that were appropriated or forecast to be incurred.
5. Notwithstanding Section 3, the report shall not need to include a statement of service performance in relation to a part of an appropriation or a class of outputs on which another entity is required to report in its statement of service performance if an Appropriation Act that lists the appropriation or class of outputs so provides.
6. The Minister responsible for the appropriation or class of outputs shall arrange for the report to be published if he or she is requested to do so by the Minister.

#### **Article 15**

##### **Publication, inspection, and purchase of financial statements of Government**

1. The Minister shall, in respect of the annual and monthly consolidated financial statements for the Government required by sections 27 and 31A of this Act, arrange for publication in the Gazette of a notice—
- (a) Indicating, where the financial statements are published in advance of or without being laid before the House of Representatives, that the financial statements have been published: and
  - (b) Showing where copies of the financial statements are available for inspection free of charge: and
  - (c) Showing where copies of the financial statements are available for purchase.
2. The Secretary shall, for at least 6 months after the date of the publication of the notice required by Section 1 of this article, cause copies of the financial statements of the Government referred to in that notice to be available—
- (a) For inspection by members of the public free of charge: and
  - (b) For purchase by members of the public.

#### **GENERAL PROVISIONS**

##### **Article 16**

##### **Generally accepted accounting practice**

All financial statements and forecast financial statements included in reports and revisions of such reports required under this Constitution and in law shall be prepared in accordance with generally accepted accounting practice.

**Article 17****Auditor-General to be auditor of the Government**

1. For the purposes of this Constitution, the Government is a public corporation and the Auditor-General is its auditor.

**Article 18****Audit report**

1. The Treasury shall forward financial statements of the Government to the Auditor-General not later than the end of the second month following the end of the financial year to which those statements relate.

2. The Auditor-General shall—

- (a) audit all the financial statements of the Government: and
- (b) provide an audit report on those statements to the Treasury within 30 days after receiving them.

**Article 19****Publication of financial statements and reports**

1. All financial reports and statements, other than those regarding the intelligence and security agencies, shall be published and notice given to the People of such publication in the *Gazette*. And such notice shall indicate where copies of the report, statement, or update shall be available—

- (i) for inspection by members of the public free of charge at the place where the notice indicated they will be available, which shall include downloadable versions via the Internet, with accessible data: and
- (ii) for purchase by members of the public at the place where the notice indicated they would be available: and
- (iii) indicate whether the statement or update shall have been published in advance of being presented to the House of Representatives.

The Secretary shall, for at least 6 months after the date of the publication of the notice, arrange for copies of the report, statement, or update referred to in that notice to be available—

- (a) for inspection by members of the public free of charge: and
- (b) for purchase by members of the public.

**Article 20****Power of Secretary of the Treasury to act independently and obtain information**

1. In all matters relating to the management, accounting, predicting and reporting of fiscal matters concerning the Government, the Secretary of the Treasury is to act independently with a duty of care to act with watchfulness, attention, caution and prudence that a reasonable person with the skill and judgment of someone in high public office with responsibility for Public Monies, and taking into consideration all predictable matters and all foreseeable matters that cannot be predicted that such a person would be expected to, and according to commonly accepted standards of practice for the same or similar circumstances.

2. When the Minister directs the Secretary of the Treasury contrary to the Secretary's judgement and advice in Section 1 of this article, the Minister shall to put such directions in writing and the Secretary shall report separately from but adjacent to that required by the Minister.
3. The Secretary may request any Department of State or any instrument of Government, or any entity that manages an asset or liability of the Government, to supply to the Secretary any information that shall be necessary to enable the preparation of any financial statements, fiscal forecasts and projections, and any other matters pertaining to the management of and accounting for the use of Public Monies.
4. A request under Section 3 of this article—
  - (a) shall be in writing: and
  - (b) may state the date by which and the manner in which, the information requested shall be provided.
5. If a date is stated under Section 3(b), that date shall be reasonable having regard to the time limits prescribed by this Constitution for presenting to the House of Representatives, or for publishing, the report or update for which the information shall be being requested.
6. All those entities specified in Section 3 of this article to which such request is made shall comply with that request.

### **PART III**

#### **FINANCIAL TRANSACTIONS OTHER THAN APPROPRIATIONS**

*[under review]*

## FIFTH SCHEDULE

## STATUTORY PUBLIC HOLIDAYS AND NATIONAL DAYS

	Public holiday	Calendar weeks	School weeks
	(a)	(b)	I
(i)	<b>Second summer long weekend</b>	Friday, Week 3 and Monday, Week 4	Penultimate weekend of summer holiday
(ii)	<b>Waitangi Day</b> <i>(am only)</i>	Monday, Week 5	<b>Summer term</b> Start of summer term, Week 1
(iii)	<b>Asian weekend</b>	Monday, Week 10	
(iv)	<i>[Reserved]</i>	Friday, Week 14	
(v)	<b>Autumn long weekend</b>	Friday, Week 15 and Monday, Week 16	Middle weekend of autumn holiday
(vi)	<b>ANZAC Day</b> <i>(am only)</i>	Monday, Week 17	<b>Autumn term</b> Start of autumn term, Week 1
(vii)	<b>Māori weekend</b>	Monday, Week 22	
(viii)	<i>[Reserved]</i>	Friday, Week 26	
(ix)	<b>Winter long weekend</b>	Friday, Week 27 and Monday, Week 28	Middle weekend of winter holiday
(x)	<i>[Reserved]</i>	Monday, Week 29	<b>Winter term</b> Start of winter term, Week 1
(xi)	<b>European weekend</b>	Monday, Week 34	
(xii)	<i>[Reserved]</i>	Friday, Week 38	
(xiii)	<b>Spring long weekend</b>	Friday, Week 39 and Monday, Week 40	Middle weekend of spring holiday
(xiv)	<i>[Reserved]</i>	Monday, Week 41	<b>Spring term</b> Start of spring term, Week 1
(xv)	<b>Pacific weekend</b>	Monday, Week 46	
(xvii)	<i>[Reserved]</i>	Friday, Week 50	
(xviii)	<b>First summer long weekend</b>	Friday, Week 51 and Monday, Week 52	Second weekend of summer holiday



**READER'S NOTES**