

# **MEDIA RELEASE**

Hon Sir Grant Hammond KNZM  
President  
Law Commission

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## **RELEASE OF LAW COMMISSION ISSUES PAPER RELATING TO THE REVIEW OF THE JUDICATURE ACT 1908**

The Law Commission is calling for submissions in response to an Issues Paper published on its website today, *Review of the Judicature Act 1908 – towards a consolidated Courts Act*. The aim of the Commission’s review is to consolidate the legislation relating to the New Zealand trial and appellate courts into one clear, modern and coherent statute, by creating a new Courts Bill.

The President of the Commission, Sir Grant Hammond, says:

“Since it was enacted more than 100 years ago, the Judicature Act 1908 has been amended many times, and other acts dealing with the courts have been passed alongside it. As a result, the statutes relating to our courts have a distinctly patchwork quilt appearance, and there are gaps and overlaps in the legislation. People may have grave difficulty appreciating the picture as a whole, and even lawyers routinely have difficulty with some aspects of the relationships between various courts and jurisdictions.

The principal focus of the Law Commission’s review is on reorganisation, consolidation and modernisation to achieve greater accessibility and remove some areas of inefficiency.”

Although the Issues Paper is a discussion document, it does contain some preliminary proposals for reform, on which public comment and submissions are sought. Some of the matters discussed in the paper include the following:

1. In New Zealand there are presently 63 District Courts, each separately constituted. This gives rise to a variety of problems. A unified national District Court is proposed.
2. There has been concern for some time to achieve a greater degree of specialisation in the High Court. The Commission has put forward the idea of a panel system for the High Court, somewhat along the lines operating successfully in Victoria and New South Wales. In addition to their general jurisdiction High Court Judges could be allocated to specialist panels, for example in relation to commercial work, which will go some distance towards meeting the concerns of the commercial community without creating the heavy upfront cost of a standalone commercial court.
3. Inquiries to date suggest a general consensus that the present process for appointment of judges has delivered good outcomes in terms of the high calibre of appointees. But there is almost universal concern over the present lack of formality and transparency to the appointment process. The Commission suggests a transparent appointment process is fundamental to confidence in the judicial system and protects the integrity of the appointments process. The Issues Paper suggests improvements in this regard.
4. There has been increasing concern over the great inefficiencies introduced into courts by the activities of highly vexatious litigants and overly wasteful costs expenditure. The Commission calls for comment on a new graduated system for dealing with vexatious litigants; and provision for wasted costs orders in the civil sector (provision already exists in the criminal sector).
5. There is still provision in New Zealand law for jury trials in civil cases. The Commission asks whether the right to a civil jury trial in the High Court should be abolished, or at least limited (for instance by confining it to matters such as defamation).

The Commission will be consulting with the profession, the judiciary and the public and welcomes any comments or submissions on the Issues Paper. The closing date for submissions is **Friday 27 April 2012**. The Issues Paper is available from the Law Commission's website [www.lawcom.govt.nz](http://www.lawcom.govt.nz).

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For comment,  
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