MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Phil Twyford	**Portfolio**	Minister for Economic Development
Title of Cabinet paper	Regulatory Systems (Economic Development) Amendment Bill (No. 3)	**Date to be published**	9 September 2019

List of documents that have been proactively released		
Date	**Title**	**Author**
3/09/2019	*Regulatory Systems Amendment Bills: Policy Proposals - Paper*	*Office of the Minister for Economic Development*
3/09/2019	*Annex 1 RSB (3)*	*Papers prepared by MBIE*
3/09/2019	*Annex 2*	*Papers prepared by MBIE*
3/09/2019	*Annex 3*	*Papers prepared by MBIE*
3/09/2019	*DEV-19-MIN-0190 Minute*	*Cabinet Office*

Information redacted **YES / ~~NO~~** *(please select)*

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Constitutional Conventions

Free and Frank opinions

Confidential information entrusted to the Government

IN CONFIDENCE

OFFICE OF THE MINISTER FOR ECONOMIC DEVELOPMENT

The Chair

Cabinet Economic Development Committee

REGULATORY SYSTEMS (ECONOMIC DEVELOPMENT) AMENDMENT BILL (NO 3), REGULATORY SYSTEMS (IMMIGRATION AND WORKFORCE) AMENDMENT BILL (NO 3) AND REGULATORY SYSTEMS (BUILDING AND CONSTRUCTION) AMENDMENT BILL (NO 3) – POLICY PROPOSALS

Proposal

1. This paper seeks Cabinet's policy approvals for amendments to be included in the *Regulatory Systems (Economic Development) Amendment Bill (No 3)*, *Regulatory Systems (Immigration and Workforce) Amendment Bill (No 3)* and *Regulatory Systems (Building and Construction) Amendment Bill (No 3)* (the Bills) and for drafting instructions to be provided to the Parliamentary Counsel Office (PCO).

Executive Summary

2. The three Bills are omnibus bills to improve regulatory systems that the Ministry of Business, Innovation and Employment (MBIE) is responsible for. The Bills will make amendments to 24 statutes that fall under the Building and Construction, Commerce and Consumer Affairs, Immigration, and Workplace Relations and Safety portfolios.

3. The policy objective of the Bills is to maintain the effectiveness and efficiency of the regulatory systems established by the Acts and reduce the chance of regulatory failure.

4. Constitutional conventions

5. Under Standing Orders 269 and 269, the Business Committee may determine any two or more bills as cognate bills. Previous Business Committees have approved the Regulatory Systems Bill (1) and Regulatory Systems Bill (2) as cognate bills respectively.

6. I will be seeking Business Committee determination for these Bills in 2020 and have split the proposed amendments into parts that match the relevant select committee. These are:

6.1. Economic development (including commerce and consumer affairs) matters will be contained in the *Regulatory Systems (Economic Development) Amendment Bill (No 3)* and will be considered by the Economic Development, Science and Innovation Committee.

6.2. Immigration, workforce relations, and health and safety matters will be contained in the *Regulatory Systems (Immigration and Workforce) Amendment Bill (No 3)* and will be considered by the Education and Workforce Committee.

6.3. Building and construction matters will be contained in the *Regulatory Systems (Building and Construction) Amendment Bill (No 3)* and will be considered by the Transport and Infrastructure Committee.

7. If determined by the Business Committee as cognate, the Bills will have the full support of Opposition parties and the three Bills can be progressed through the Parliamentary process as one Bill.

Background

8. I seek Cabinet's approval of policy proposals for three omnibus bills amending legislation administered by MBIE for the Building and Construction, Commerce and Consumer Affairs, Immigration, and Workplace Relations and Safety portfolios.

9. The policy objective of the Bills is to maintain the effectiveness and efficiency of the regulatory systems established by the Acts being amended and to reduce the chance of regulatory failure. The amendments will achieve this by:

9.1. clarifying and updating statutory provisions in each Act amended to give effect to the purpose of that Act and its provisions;

9.2. addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation;

9.3. keeping the regulatory systems up to date and relevant; and

9.4. removing unnecessary compliance costs.

10. MBIE is focusing on ensuring its regulatory systems are performing to a high standard. MBIE's regulatory systems work programme identifies the best elements from individual systems and seeks to extend these practices across all of its regulatory systems. The work programme arises from the Chief Executive's responsibility to relevant Ministers, under section 32 of the *State Sector Act 1988*, for the stewardship of the legislation administered by MBIE.

11. The Bills are one part of the work programme for continuous improvement of regulatory systems. They provide a vehicle for smaller regulatory fixes to be progressed in a timely and cost-effective fashion, in order to deliver flow-on benefits to business and the wider economy.

12. Constitutional conventions

Cognate bills

13. In September 2016, the Business Committee agreed that the *Regulatory Systems Amendment Bill (No 1)* be split into three Bills. Those Bills were approved as omnibus bills and were considered as cognate bills under Standing Orders 263 and 269.

14. Since this determination in 2016, Regulatory System Amendment Bills have been packaged as omnibus bills to be considered as cognate bills. This means that bills are split into relevant parts to be considered by the appropriate select committee. This also means that during House debate time, the three bills are considered as one bill, thus using House time more efficiently.

15. Subject to Cabinet's approval of the policy proposals, in 2020 I will be seeking support from the Leader of the House and the Business Committee to approve the three Bills as omnibus bills to be considered as a cognate bill consistent with previous Regulatory Systems Amendment Bills.

Regulatory Systems Bill (No 3)

16. Table 1 shows the volume and diversity of the proposed amendments for the 24 Acts. The table lists the three omnibus Bills, the Acts within each Bill and the approximate total number of proposed amendments within each Bill.

Table 1: Outline of the Acts with number of proposed amendments for inclusion

Regulatory System Bill (No 3)	**Name and number of Acts**	**Approx # of proposed amendments**
Economic Development Amendment Bill (No 3)	*Auditor Regulation Act 2011* *Building Societies Act 1965* *Charitable Trusts Act 1957* *Companies Act 1993* *Credit Contracts and Consumer Finance Act 2003* *Financial Markets Conduct Act 2013* *Financial Reporting Act 2013* *Financial Service Providers (Registration and Dispute Resolution) Act 2008* *Friendly Societies and Credit Unions Act 1982* *Industrial and Provident Societies Act 1908* *Insolvency Act 2006* *Limited Partnerships Act 2008* *New Zealand Business Number Act 2016* *New Zealand Institute of Chartered Accountants Act 1996* *Personal Property Securities Act 1999* *Takeovers Act 1993* *Weights and Measures Act 1987* **(17 Acts)**	76

Regulatory System Bill (No 3)	Name and number of Acts	Approx # of proposed amendments
Immigration and Workforce Amendment Bill (No 3)	*Immigration Advisers Licensing Act 2007* *Employment Relations Act 2000* *Parental Leave and Employment Protection Act 1987* *Health and Safety at Work Act 2015* *Accident Compensation Act 2001* **(5 Acts)**	20
Building and Construction Amendment Bill (No 3)	*Building Act 2004* *Plumbers, Gasfitters and Drainlayers Act 2006* **(2 Acts)**	5

17. I am seeking approval of the proposed amendments as detailed in:

    17.1. Economic Development Amendment Bill (No 3) (Annex 1)

    17.2. Immigration and Workforce Amendment Bill (No 3) (Annex 2)

    17.3. Building and Construction Amendment Bill (No 3) (Annex 3).

Regulatory Systems (Economic Development) Amendment Bill (No 3)

18. For the Commerce and Consumer Affairs portfolio, I am seeking approval for changes to financial reporting, corporate governance, financial markets, and consumer statutes, along with repealing some redundant provisions. The changes are aimed at keeping the regulatory system up to date and addressing regulatory duplication, errors and inconsistencies (Annex 1).

19. Some particular proposals I would like to draw to your attention are:

Building Societies Act 1965

20. There are issues with the permissive criteria for registration of building societies under the *Building Societies Act 1965*. There are instances where offshore controlled firms, typically with no apparent presence in New Zealand, appear to have obtained registration in order to take advantage of New Zealand's reputation as a well-regulated jurisdiction. Alongside the Minister for Commerce and Consumer Affairs, I am recommending changes to the Building Societies Act so that a building society will, among other things, be required to be subject to some form of prudential regulation by the Reserve Bank of New Zealand.

Companies Act 1993 and Insolvency Act 2006: *Netting Agreements*

21. Stakeholders have raised concerns about a lack of clarity in the *Companies Act 1993* in relation to netting agreements, where a security interest has been granted before the agreement is entered into. I consider that an amendment to the relevant provisions is warranted, along with the equivalent provisions in the *Insolvency Act 2006*. However due to the highly technical nature of these provisions, I am also seeking Cabinet approval for MBIE to consult on the drafting of the relevant amendments with selected stakeholders. If stakeholders cannot agree on the substantive content of these amendments then they will be withdrawn.

New Zealand Business Number primary business data

22. Public consultation on the New Zealand Business Number (NZBN) Primary Business Data (PBD) was completed in June 2018. I am proposing an amendment to the *NZBN Act 2016* to give the NZBN Registrar the power to suppress public PBD for unincorporated entities, classes of such entities and classes of public PBD.

23. The purpose of the suppression power would be to protect the security and confidentiality of information and privacy of individuals, in line with the objectives of the NZBN Act.

24. Public PBD may need to be suppressed in order to protect an individual's safety or that of their family. Reasons for such suppression include:

    24.1. the business is engaged in activities that some people morally object to (eg animal testing, oil drilling or tobacco)

    24.2. an individual's occupation may give rise to personal safety concerns (eg doctors or psychologists working with violent offenders)

    24.3. an individual has court orders against another individual (eg domestic violence protection orders) and/or

    24.4. having the information public creates a serious risk of fraud, violence or intimidation.

Regulatory Systems (Immigration and Workforce) Amendment Bill (No 3)

Immigration Advisers Licensing Act 2007

25. In July 2014, the publicly released report *Review of the Regulation of Immigration Advice* concluded that a relatively high degree of regulation is justified through the *Immigration Advisers Licensing Act 2007* (the IALA), given the nature of any harm arising from unethical and incompetent adviser activity. The review made 14 recommendations involving a mix of legislative, regulatory and operational changes to improve the licensing system. Officials undertook a legislative review of the IALA in 2017 and proposed an additional amendment.

26. Stakeholder consultation with immigration advisers was held in 2017 and 2018. The responses received were generally supportive of the proposed changes as the changes seek to remove existing barriers to the effectiveness of the IALA and improve efficiency as well as clarifying legislative provisions to existing practice.

Employment Relations Act 2000

27. Key obligations relating to individual employment agreements are outlined in sections 63A to 65 of the *Employment Relations Act 2000* (the ERA). Section 63A highlights requirements when bargaining for an agreement, Section 64 requires employers to retain copies of agreements, and Section 65 outlines the required form and content of agreements.

28. These sections make it difficult for employers to understand their obligations. Redrafting them through the Regulatory Systems Bill (No 3) would enable full alignment with the policy intent and make the obligations and penalties much clearer and comprehensible for employers and employees.

Maximum infringement fines

29. In April 2016, a number of changes were made to the ERA to strengthen the enforcement of minimum employment standards [CAB Min (15) 8/9 refers].

30. One of these changes was to issue infringement notices for a failure to keep or produce records of employment agreements. The policy intent was to encourage compliance in this area and to effectively and efficiently address minor breaches that did not warrant referral to the Employment Relations Authority or Employment Court.

31. Free and frank opinions

32. As part of the process to make a breach of section 65(1)(a) an infringement offence, it was identified that the ERA does not provide for the prescription of maximum infringement fines. Although the ERA clearly prescribes *infringement fees*, it does not set maximum *infringement fines*.

33. I propose introducing a maximum infringement fine of $2,000 per infringement by making minor amendments to the ERA. The rationale is that a maximum fine set too high is likely to have a chilling effect on defendants who believe that they have legitimate grounds for requesting a hearing, which may impinge on their right to natural justice. Officials from the Ministry of Justice support the maximum fine set at this level and Business NZ has been consulted on the proposed amendments.

Accident Compensation Act 2001

34. There are five proposed amendments to the *Accident Compensation Act 2001* (the AC Act). These amendments are to:

34.1. enable ACC to use the latest employer filings to Inland Revenue, when determining a client's weekly compensation entitlement

34.2. align ACC's penalty rules with Inland Revenue's rules, by charging the one percent monthly interest rate from the date a levy invoice is due, rather than 30 days after the invoice is due

34.3. enable ACC to issue a single invoice to cover the Work, Earner's and Working Safer levies for a customer who has purchased CoverPlus Extra

34.4. exclude *Veteran's Support Act 2014* weekly compensation and weekly income compensation top-ups from abatement against ACC's weekly compensation payments

34.5. align the definitions of "moped" and "motorcycle" in the AC Act with the definitions in the *Land Transport Act 1998*.

Health and Safety at Work Act 2015

Enabling CoverPlus Extra

35. The amendment in the *Health and Safety at Work Act 2015* (the Act) and the *Health and Safety at Work (Rates of Funding) Levy Regulations 2016* (as needed) is a consequential amendment to enable CoverPlus Extra customers to receive one invoice for both ACC levies and the Working Safer levy, calculated based on their agreed level of cover.

Supporting the review of Mining Regulations

36. MBIE has completed an implementation review of regulations covering mining health and safety. This review tested whether the regulations are working effectively since being developed under urgency in 2013 (to implement changes following the Pike River mine tragedy), and considered whether to require quarries to have additional regulatory requirements.

37. The review has highlighted aspects of the regulatory framework that require minor and technical changes to the Act. This is to remove uncertainty for the sector and be consistent with the 2013 policy intent. The minor and technical matters are within the scope of a regulatory systems bill. They cover:

37.1. tourist mines

37.2. "sentinel incidents" in mines and quarries that require notification

37.3. the coverage of quarries by the Mining Board of Examiners

37.4. clarifying the definitions of mining, quarrying and tunnelling operations.

38. I would like to bring tourist mines and sentinel incident notifications to your attention. The remaining proposed amendments are presented in Annex 2.

Tourist mines

39. Tourist mines were intended to be covered by the mining health and safety regulatory framework. The regulatory review highlighted uncertainty about the extent to which the framework applies because there are different types of mining-related tourist activities that present very different risks to visitors and workers.

40. Changes to the definition of "tourist mining operation" in the Act will support upcoming regulatory proposals by clarifying the type of tourist mines the regime is aimed at, ie, tourist mining activity in a disused mine where mining-related principal hazards (that could cause a catastrophic event) still exist, such as the failure of faces or supports, potential for gas and explosion. This is because, if principal hazards do not exist, there is nothing warranting application of the mining regime. Changes to the definition will also clarify that where tourist activity is occurring alongside a mine's commercial extraction, an operation remains a commercial mine rather than a tourist mining operation.

"Sentinel incidents" in mines and quarries that require notification

41. I propose clarifying for mining and quarrying operators that "notifiable incidents" specified in the regulations that relate to "sentinel" incidents, ie the failure of safety critical equipment or systems but where no one was directly imminently exposed to danger, are covered by the event notification requirements in the Act (section 24).

42. Section 24 of the Act defines a range of specified workplace incidents that are unplanned or uncontrolled and expose workers or others to a serious risk to their health or safety from their imminent or immediate exposure to the incident. The list provides for further incidents to be declared "notifiable" by regulations.

43. Health and safety regulations covering mining (as well as petroleum, gas, pipelines, asbestos removal, and major hazard facilities) specify notifications of "sentinel" failures. Such notifications raise awareness and maintain vigilance by the regulator of the failure of systems intended to avoid catastrophic events. They are an important part of the regulation of such high-hazard activities. They predate the passing of the Act and the policy intent is clear.

44. The section 24 definition has created uncertainty as to whether a worker or other person has to be imminently and immediately exposed to risk from incidents in mines such as elevated gas levels. This has led to some underreporting to the regulator. Uncertainty and underreporting are undesirable as they undermine safety and the relationship between operators and regulator.

<u>Parental Leave and Employment Protection Act 1987</u>

45. The proposed amendments to the *Parental Leave and Employment Protection Act 1987* (the PLEPA) improve alignment between the legislation and the policy intent of the scheme by clarifying when applicants are eligible for paid parental leave and that certain applicants can take paid leave (eg annual leave) before paid parental leave period.

46. The minor and/or technical proposed changes to the PLEPA if agreed will address four issues:

    46.1 families with complex and/or uncertain circumstances may not be able to meet the time requirements for applications

    46.2 families with preterm babies are at risk that they will not receive their full paid parental leave entitlement

    46.3 employees who take authorised leave are at risk that they will become ineligible for their parental leave payments

    46.4 certain families with preterm babies are not able to take paid leave before they begin their paid parental leave period.

47. Amendments will have minimal fiscal impact on the appropriation, as I expect there will be an increase of up to ten additional approved applications for parental leave each year.

48. The proposed changes to the IALA, ERA Act, Health and Safety at Work Act and the PLEPA are attached in Annex 2.

Regulatory Systems (Building and Construction) Amendment Bill (No 3)

Building Act 2004

49. The proposed amendments under the *Building Act 2004* are to clarify that 'supervise' also relates to work undertaken without a building consent, enable the Building Practitioner Board to have capacity to handle complaints by increasing its size, and to make minor amendments to achieve the policy intent of the *Building (Pools) Amendment Act 2016*.

Plumbers, Gasfitters and Drainlayers Act 2006

50. The two proposed changes to the *Plumbers, Gasfitters and Drainlayers Act 2006* are to clarify that plumbing and drainlaying are distinct areas of work and to include earthworks and excavations associated with drainlaying (and done by people who are licenced drainlayers) within the definition of drainlaying. The Plumbers Gasfitters and Drainlayers Board agrees with the proposals to amend this Act.

51. The proposed changes to the *Building Act 2004* and the *Plumbers, Gasfitters and Drainlayers Act 2006* are attached in Annex 3.

Human Rights

52. There are no implications for the *New Zealand Bill of Rights Act 1990* or the *Human Rights Act 1993*.

Legislative Implications

53. The *Regulatory Systems Amendment Bill (No 3)* holds a category 5 in the 2019 Legislation Programme (instructions to PCO in 2019).

Regulatory Impact Analysis

54. RIA requirements do not apply to the proposals as the proposed changes are of a minor and/or technical nature.

Financial implication

55. The proposals have no or minimal financial implications.

Consultation

56. Accident Compensation Corporation, WorkSafe, New Zealand Transport Agency, Ministry of Transport, Commerce Commission, Financial Markets Authority, Companies Office (MBIE), Office of the Privacy Commissioner, Reserve Bank of New Zealand, Southland Building Society, Nelson Building Society, Insolvency and Trustee Service (MBIE), Ministry of Justice, Ministry of Foreign Affairs and Trade, Takeovers Panel, Building Practitioners Board and Plumbers Gasfitters and Drainlayers Board.

57. The New Zealand Law Society and registered immigration advisers were consulted during the development of the proposed amendments to the immigration licensing regime.

Publicity

58. Cabinet is asked to note that MBIE proposes to place this Cabinet paper on the MBIE website.

Recommendations

59. The Minister for Economic Development recommends that the Committee:

1. **Note** that the policy objective of the *Regulatory Systems Amendment Bill (No 3)* is to maintain the effectiveness and efficiency of the regulatory systems established by the Acts and so reduce the chance of regulatory failure;

2. **Agree** that the following amendments be included in the *Regulatory Systems Bill (3)* as detailed in the following:

    2.1 *Regulatory Systems (Economic Development) Amendment Bill (No 3)* (Annex 1)

    2.2 *Regulatory Systems (Immigration and Workforce) Amendment Bill (No 3)* (Annex 2)

    2.3 *Regulatory Systems (Building and Construction) Amendment Bill (No 3)* (Annex 3);

3. Constitutional conventions

4. **Invite** the Minister for Economic Development to issue drafting instructions to PCO in July 2019;

5. **Agree** that officials from the Ministry of Business, Innovation and Employment may consult with selected stakeholders on drafting of relevant amendments pertaining to netting agreements under the *Companies Act 1993*;

6. **Authorise** the Minister for Economic Development to make any necessary decisions on minor and technical matters that may arise during the drafting process, that are consistent with policy decisions, in consultation with the relevant portfolio Minister; and

7. **Note** that the Ministry of Business, Innovation and Employment will place this paper on its website, in accordance with the provisions of the *Official Information Act 1982.*

Authorised for lodgement

Hon Phil Twyford
Minister for Economic Development

_____ /_____ /_____

Annex 1: List of proposed amendments for Regulatory Systems (Economic Development) Amendment Bill (No 3):

No.	Provision	Status quo	Proposed change	Reason for change
			Auditor Regulation Act 2011	
1.	S52, s55 & s73	The Act places a number of reporting obligations on the FMA. These include: a plan on its intentions and oversight of auditor regulation (s52), a report on the effectiveness of each accredited body (s55) and reports on the quality reviews it has carried out (s73). These reports must be prepared every year.	Require the FMA to meet its reporting requirements at least once every four years. The proposed new timeframe would align with how often the FMA must conduct quality reviews under s65.	Reports do not change much from year to year, so annual reporting may not have its intended impact. If the content, or likely content, of plans or reports remains unchanged, the FMA currently has no flexibility to amend its reporting timeframes.
2.	S68: Quality review must include certain matters	Under s 68(1)(c), the FMA must undertake a quality review of the systems, policies and procedures of registered audit firms and licensed auditors in respect of: • compliance with this Act and other enactments that relate to the conduct of FMC audits • compliance with auditing and assurance standards • the quantity and quality of resources used • compliance with competence programmes.	Rather than setting out mandatory criteria, provide the FMA with discretion about the matters that must be reviewed as part of the quality review of the systems, policies and procedures of an audit firm or licensed auditor under s68(1)(c).	At present, there is no room for flexibility as to the FMA's approach to quality reviews of the systems, policies and procedures of auditors. Circumstances are likely to arise where the FMA should have flexibility, particularly as the audit regime matures. For example, it may be appropriate for the FMA to undertake thematic reviews and concentrate on particular aspects of audit quality that are of public interest or concern.

No.	Provision	Status quo	Proposed change	Reason for change
3.	S69: Offence to hinder, obstruct, or delay FMA	The FMA has various powers and functions under the Act, including the power to conduct quality reviews (s66) and to conduct investigations into audit quality (s75). It is an offence to hinder, obstruct, or delay the FMA in connection with the carrying out of a quality review undertaken under s66. However, there is no corresponding offence in respect of investigations into audit quality and other powers and functions of the FMA.	Extend the ambit of this provision so that it applies in all circumstances where the FMA has been hindered, obstructed, or delayed in the course of carrying out functions or powers under the Act, not just in circumstances where the relevant conduct occurs in the course of carrying out a quality review.	For consistency, any conduct that hinders, obstructs or delays the FMA in the exercise of any of its supervisory powers under the Act should be prohibited.
4.	S70: FMA may issue directions	The FMA has the power to issue directions to an audit firm or a licensed auditor requiring the firm or auditor to amend their systems, policies and procedures. However, at present, that power can only be exercised after the FMA has first conducted a quality review under s66.	Allow the FMA to issue direction orders in any instance where it considers that the systems, policies and procedures of an audit firm or licensed auditor require amendment, rather than only having that power available after conducting a quality review.	In some circumstances, it may be in the public interest for the FMA to direct the audit firm or licensed auditor to undertake specific actions rather than taking more drastic actions such as suspension or cancellation of a licence.
Building Societies Act 1965				
5.	S13: Mode of establishing society	Currently, for an entity to be registered as a building society, it is not required to satisfy the Registrar of Building Societies that it has at least one director	Amend the Act so that members wishing to be registered as a society would be required to show to the Registrar's satisfaction that:	There are instances where offshore controlled firms, typically with no apparent presence in New Zealand, appear to have obtained registration in order to take advantage of New Zealand's reputation as a well-regulated jurisdiction. This puts investors and New Zealand's reputation at risk.

No.	Provision	Status quo	Proposed change	Reason for change

		or officer who is either
		• living in New Zealand; or
		• living in an enforcement country and is director of a body corporate that is incorporated in that enforcement country.
		In addition, building societies registered in New Zealand might not offer any services here, nor have any New Zealand members. This means that there is no regulatory oversight (by the FMA or the RBNZ) of their activities.
			• they have a director who
			  ○ lives in New Zealand, or
			  ○ lives in an enforcement country and is a director or officer of a body corporate that that is incorporated in an enforcement country.
			• the society's principal place of business is New Zealand.
			• if they are not a registered bank, they will have an open NBOT regulated offer of debt securities and carry on the business of borrowing and lending at all times after they become registered under the Act
			• At least 70% of the building society's depositors would be required to be persons who are ordinarily resident in New Zealand, and these persons would be required to hold at least 70% of the building societies deposits by value.
			• The first 20 members of a building society would need to be natural persons who are ordinarily resident in New Zealand.
			
			Existing building societies will	

No.	Provision	Status quo	Proposed change	Reason for change
			have a 12 month transitional period in which to meet this test. New building societies will need to be meeting this test within 12 months of registration, or be deregistered.	
6.	S103: Duty to make annual return	Building societies have two filing obligations. Under S461H of the Financial Markets Conduct Act, financial statements must be filed with the Registrar within 4 months of the balance date. Under S103(1) of the Building Societies Act, annual returns must be filed in the first 3 months of each financial year.	Amend the filing requirements for annual returns to align with the timeframes in the Financial Markets Conduct Act.	Aligning the timeframes for filing will reduce compliance costs.
Charitable Trusts Act 1957				
7.	S10: Applications for incorporation	An application to incorporate a charitable trust must include the subscriber's address.	If a subscriber has email, include a requirement to provide their email address with their application.	Including an email address would allow the Registrar to be able to communicate with charitable trusts more quickly and support the improved online functionality of the register.
8.	S16: Change of name	The Registrar is unable to require a Board of a charitable trust to change its name if it is in contravention of the requirements for a charitable trust's name (S15) or if the name is offensive.	Allow the Registrar to require a board to change the name of a charitable trust if the name does not meet the criteria in S15 or the Registrar considers the name offensive. This may require an amendment to S15 to include an offensiveness criterion.	The charitable trusts register is being converted to a fully electronic register with online services for users. The changes will mean that charitable trusts are able to enter their information directly into the register. This is quicker and more efficient for users. However, it increases the risk that invalid names are entered on the register and need to be amended retrospectively.

No.	Provision	Status quo	Proposed change	Reason for change
9.	S26: Dissolution by Registrar	The Registrar must make a sworn declaration after a charitable trust is removed from or restored to the register.	Require the Registrar to give public notice when they remove or restore a charitable trust to the register.	The requirement on the Registrar to make a sworn declaration creates unnecessary compliance costs and is out of line with requirements for other similar entities.
10.	New: Acknowledging registration	Unlike other entities, charitable trusts are not required to provide an annual return. If a charitable trust is also a registered charity, they are captured by the reporting requirements in the Charities Act. There are around 24,000 charitable trusts. Around 8,000 charitable trusts are also registered charities.	Introduce an 'acknowledgement of registration' provision that requires charitable trusts that are not registered charities to confirm that their details are up to date and that the charitable trust is still operating. The Registrar would have discretion on how frequently this form would need to be completed. There would be at least one year between requests. We expect the form to be sent annually for the first two years, and then review whether it could be moved to a two yearly requirement. Allow for regulations to prescribe the content of the form. This information is likely to include the charitable trust's name, address details (including email) and trustees.	As there is no requirement on charitable trusts that are not also registered charities to complete an annual return, the public register may have inaccurate or out-of-date information. Currently, the Registrar is able to require charitable trusts to confirm if they are still operating, but this mechanism takes a long time to complete. There is no requirement on a charitable trust to advise the Registrar if its details have changed. The proposal would have minimal compliance costs on charitable trusts as the acknowledgement would be an online form. We anticipate that it would take 1-2 minutes to complete if there are no changes. No fee would be payable. If a charitable trust is a registered charity, then the reporting requirements in the Charities Act would apply, and they would not be required to complete an acknowledgement form.
11.	New: Correcting the register	The Act does not contain a provision allowing the Registrar to correct information on the register that is incorrect or out of date.	Allow the Registrar to alter the register to correct information.	We are changing the functionality of the register to allow charitable trusts to enter their information directly into the register. This increases the probability of mistakes being on the register (eg incorrect spellings).

No.	Provision	Status quo	Proposed change	Reason for change
			Companies Act 1993	
12.	S12 and s336: Application for registration	Applications to incorporate a New Zealand company or to register an overseas company must be signed by the applicant.	Remove the requirement for applications to be signed.	As applications are carried out online, a signature is not necessary. Applicants are required to confirm that they are authorised to make an application.
13.	S203: Recognition of overseas financial reporting systems S207A: Audit must be carried out in accordance with auditing and assurance standards	Where a registered overseas company wishes to file financial statements that are compliant with the law in their home jurisdiction, the Registrar is responsible for determining, upon receipt of the statements, whether the statements are fit for registration, and notify the overseas company accordingly Similar issues arise under S207A(2). This requires the Registrar to be satisfied that standards relating to auditing or assurance in the overseas company's home jurisdiction are substantially the same or sufficiently equivalent to NZ auditing and assurance standards, and to notify the overseas company accordingly.	Amend S203 to give the Registrar the ability to notify on its website the countries that it will accept financial statements from, on the grounds that those countries' financial reporting requirements are compliant with IFRS or US GAAP. Amend S207A(2) to give the Registrar the ability to notify on its website the countries that it will accept audit reports from, on the grounds that those countries' auditing and assurance standards are substantially the same or sufficiently equivalent to NZ standards.	The current provisions create the following difficulties: • As a NZ regulator, the Registrar may not be familiar with financial reporting law in other jurisdictions. • Companies in some jurisdictions have either no, or very limited, financial reporting obligations (the practice of most of those companies will be to prepare statements that comply with IFRS or US GAAP). • The wording of the legislation suggests that the Registrar is required to focus on the law of the home jurisdiction, whereas in reality the focus is always on the financial statements themselves.

No.	Provision	Status quo	Proposed change	Reason for change
14.	S207S: Auditor's fees and expenses	Auditors appointed under S207P to audit the financial statements of companies must have the method of fixing their fees approved by a majority of shareholders at an AGM under S207S of the Act.	Clarify that the procedure that must be followed for fixing auditor's fees under S207S is not necessary if the auditor has been automatically reappointed under S207T (and has had their fees fixed at a prior year's AGM).	Where an auditor from a prior year is automatically reappointed in accordance with the procedure set out in S207T, it is unnecessary for the manner of fixing that auditor's fees to be reconsidered again by the shareholders at a further AGM.
15.	S209: Obligation to make annual report available to shareholders	Companies are required each year to send shareholders a copy of their annual report or notice telling shareholders how they can access a copy of the annual report.	Amend S209 to give non-FMC reporting entities the option of making their annual report publicly available online and sending a one-off notice to shareholders asking if and how they would like to receive it.	Changes were made in 2016/17 to provide FMC reporting entities with a more streamlined process for making annual reports available to their shareholders. That process provides for FMC reporting entities to make their annual report publicly available online and send a one-off notice to shareholders asking if and how they would like to receive the annual report.
16.	S214: Annual return	Annual returns are required to be signed by a director, solicitor or accountant.	Remove the requirement for annual returns to be signed.	As annual returns are online documents, it is not necessary for them to be signed. The person making the annual return is required to provide authorisation to make the return.
17.	S239AK: Appointment by secured creditor	S239AK(2) requires that a resolution (relating to voluntary administration) is adopted if a majority representing 75% in value of the creditors or class of creditors vote in favour of the resolution.	Remove the reference to "class of creditors".	The reference to class voting creates difficulties as it can hamper the objectives of voluntary administration.

No.	Provision	Status quo	Proposed change	Reason for change
18.	S310B and s239AEH: Application of set off under netting agreement	The Companies Act includes provisions to ensure the enforceability of netting agreements if one party goes into liquidation or voluntary administration. A netting agreement is a contract whereby each party agrees to 'set off' amounts it owes against amounts owed to it. These arrangements are often used by parties in conjunction with derivative products to hedge against risks in their businesses.	Amend the legislation to be clearer that the netting provisions are intended to apply where a security interest is created after a netting agreement is entered into or the holder of an existing security interest agrees to the netting agreement being entered into.	It is important for participants to netting agreements to have certainty about whether they can rely on those agreements. It is not clear if the provisions in the Act apply when a security has also been granted.
19.	S328: Registrar may restore company on New Zealand register	A company may be removed from the register on the request of a shareholder, director or liquidator (S318(1)(d) and (e)). If the company is to be restored, then the person who made the request for removal must advertise the restoration (S328(3)(b)).	Amend the requirements on who must advertise the restoration of a company. Require the Registrar to notify the public of an application to restore a company (irrespective of who applied for the company to be removed).	As the Companies Office does not advertise the restoration, it is difficult to calculate when the statutory period for objection to a restoration commences. The Companies Office may receive an objection to restoration before it receives an application to restore. A liquidator may fail to go to the Court first to have their final report overturned. The Registrar will be required to restore the company, and then remove it straight away because the final report is still in effect.

No.	Provision	Status quo	Proposed change	Reason for change
20.	S333: Name to be reserved before carrying on business S336: Application for registration (overseas companies)	An overseas company is required to reserve its name before it applies to be registered in New Zealand. This is to ensure that: • there are not two or more overseas companies on the register with an identical or almost identical name • the company's name would not contravene an enactment • the company's name would not be offensive. However, proof of the company's incorporation in its home jurisdiction (which includes its incorporated name) is only provided to staff within the Companies Office when it applies to be registered, which might occur quite some time after a name was reserved.	Require overseas companies to provide evidence of their incorporation when they reserve their company name, instead of when they apply to be registered.	Because the reservation stage is the opportunity for the Companies Office to consider whether or not a name is suitable for an overseas company, the fact that evidence of incorporation only has to be provided later presents difficulties. For example, if the Registrar directs a company to change its name because of non-compliance with the Act, this will result in the company having a different name on the register to its legal name (ie the name it was incorporated under in its home jurisdiction).
21.	S357: Registrar and Deputy Registrars of Companies	The appointment of Deputy Registrars ensures business continuity and timely decision making in the exercise of the powers and functions of the Registrar. S357(2) provides for Deputy Registrars to exercise the powers, duties and functions of the Registrar under the	Allow Deputy Registrars to be appointed for the purposes of FR Act and the AR Act (and confirm that any powers, duties and functions of the Registrar under the AR Act may be exercised by a Deputy Registrar subject to the control of the Registrar).	There is a risk that any exercise of the Registrar's powers under the FR Act and the AR Act by someone other than the Registrar could be challenged, on the basis that the person does not have the power to act.

No.	Provision	Status quo	Proposed change	Reason for change
		Companies (CO) Act, Financial Reporting (FR) Act and Limited Partnership (LP) Act. S357(1) allows for the appointment of as many Deputy Registrars as is necessary for the purposes of the CO Act and LP Act. The FR Act is not included in S357(1). In addition, since July 2012 the Registrar of Companies has held certain powers under the Auditor Regulation (AR) Act. However, there is no reference to the AR Act in s357 of the CO Act.		
22.	New: Compromises with creditors	When a compromise is agreed to, it is placed on the Companies Register as a document filed against the company. This allows people who are doing business with the company to know that the company has (or has had) a compromise in place. There is a requirement to notify the Registrar of any changes to a compromise. This information is also publicly available.	Require a company to notify the Registrar when a compromise is terminated.	There is no public record when the compromise has terminated (either because it has run its course or the parties to the compromise have agreed to cancel it). This means that users of the register do not know what the status of the compromise is.

No.	Provision	Status quo	Proposed change	Reason for change
23.	Schedule 7, Cl 1(1)(e): Priority of payments to preferential creditors	Schedule 7 states that creditors providing funding to recover property of the bankrupt (typically via Court proceedings) receive priority over other unsecured creditors in respect of both the funding provided and their unsecured claim. Where two (or more) creditors provide funding, it is usually in their interests to agree between them that the proceeds of any property realised by the OA as a result of that funding (after payment of the OA's costs) should be shared between the creditors on that same basis. However, under schedule 7, the full amount of the funding creditors' debt must be paid first before reimbursement of funding is provided	Amend clause 1(1)(e) to provide that where more than one creditor protects, preserves the value of, or recovers property of the bankrupt for the benefit of the bankrupt's creditors by the payment of money or the giving of an indemnity, any preferential treatment must first be determined with reference to the value of the payment or indemnity, rather than being determined with reference to the underlying claims of C1 and C2.	The present position is potentially unfair to a funding creditor ('C1') in circumstances where the size of their debt is much smaller that their funding counterpart ('C2'), and the property recovered is insufficient to repay C1 and C2 in full. In those circumstances, the extent of C1's preference will be much larger than C2's preference, so there is the potential for C1 to receive repayment of greater proportion of the total sum they are owed than C2.
24.	Schedule 7, Cl 3: index-linked change to priority payments	Cl 3 specifies the maximum amount that former employees of a company in liquidation can receive as a preferential payment (currently $23,960) in the event of a distribution to creditors. Sub-clause 2 sets out a mandatory formula for adjusting this figure via Order in Council every 3 years.	Amend cl 3 so that the dollar amount will instead be automatically adjusted by publishing the maximum dollar amount in the *NZ Gazette* and on a secure internet site maintained by MBIE, within 4 months after the end of the adjustment period.	The requirement for making an Order in Council to adjust the figure is cumbersome. The legislation does not provide for any discretion in setting the figure, so there is no risk involved in automatically making the adjustment without seeking Cabinet approval and making an Order in Council. The proposed change will substantially reduce the amount of work needed every three years to give effect to the statutory requirement, including avoiding the need to seek Cabinet approval.

No.	Provision	Status quo	Proposed change	Reason for change
		The change is based on increases in average weekly earnings, calculated by reference to the Quarterly Employment Survey published by Stats New Zealand rounded to the nearest $20. The index adjustment must be made within 4 months after the end of the adjustment period.		
Credit Contracts and Consumer Finance Act 2003				
25.	New: Information sharing with the Financial Markets Authority (FMA)	The Commerce Commission is unable to share information with the FMA in relation to breaches of the Credit Contracts and Consumer Finance Act. It has this ability under the Fair Trading Act, and the FMA has the ability to share information with the Commission.	Provide the Commission with the ability to share information with the FMA in relation to investigations under the Credit Contracts and Consumer Finance Act.	There is an overlap between the Commerce Commission's regulation of consumer credit and the FMA's regulation of financial service providers. However, at present, the FMA may need to re-interview witnesses and compel information that the Commission already holds, if the source does not agree to this information being shared with the FMA.
26.	S83ZH: Extinguishing a creditor's security interest and subordinate security interests on sale	If consumer goods have been sold following repossession, the security interest of the creditor, and all subordinate security interests in the consumer goods and their proceeds are extinguished. This appears to be inconsistent with s45 of the Personal Property Securities Act 1999, which provides that a security interest in personal property (collateral) that is	Change the provision so that, if consumer goods have been sold following repossession, the security interests in the goods are extinguished, but security interests in respect of any proceeds continue. In addition, clarify that any surplus that is distributed should include any proceeds (not just the proceeds from the	In addition to the inconsistency with the Personal Property Securities Act, a potential issue with this provision is that the value of the sale of the repossessed good may not be sufficient to cover any unpaid amount owed to the creditor. However, because the creditor's security interest is extinguished after the good is sold, the creditor's claim for the remainder of the unpaid amount will be unsecured. The proposed change will reduce the risk of this situation occurring.

No.	Provision	Status quo	Proposed change	Reason for change
		dealt with or otherwise gives rise to proceeds continues, unless the secured party expressly or impliedly authorised the dealing, and extends to the proceeds.	sale).	
Financial Markets Conduct Act 2013				
27.	S73: Replacement Product Disclosure Statement	A replacement PDS may sometimes be lodged to update information in the original PDS or to correct an error. The Act requires that a replacement PDS must be dated on the day that it is lodged with the Registrar, whereas the original PDS must be dated no more than 5 days before it is lodged. The regulations also require the date of the PDS to be the date on which the board consents to the lodgement of the PDS.	Amend S73 to provide that a replacement PDS must be dated no more than 5 days before it is lodged. This is consistent with the requirement for original PDSs.	For replacement PDSs, the current requirements of the Act and regulations effectively mean that the board must consent to the lodgement of a PDS on the same day as it is lodged. This effectively forces the board to delegate approval of a replacement PDS, which undermines the rationale for requiring board approval in the first place.
28.	S216: Manner of keeping registers S222: Manner of inspection	Issuers of financial products must keep a register recording all those that hold the product. S216 requires that the register by kept in NZ. The register must be available for inspection at the place which it is kept.	Amend S216 so that the register must be kept in New Zealand, Australia or any other country prescribed in regulations for that purpose. Amend S222 so that the register must be available for inspection at the place notified by the issuer to the Registrar.	A register may be kept electronically in a data centre and accessed by the issuer through the internet. The data centre may not be in NZ. This should be permitted as long as investors in NZ can access the information on the register and authorities are able to directly access the register if issues arise (e.g. data is compromised).

No.	Provision	Status quo	Proposed change	Reason for change
29.	S461A: Financial Statements for registered schemes and funds	Registered managed investment schemes (e.g. KiwiSaver) are required to complete audited financial statements for each accounting period.	Amend S461A so that a manager need not comply if the scheme was established during the previous year, no financial products have been issued to members and the scheme has no liabilities.	Some newly formed schemes that have not had any members join or any liabilities in their first accounting period are being required to prepare financial statements with nil balances and have them audited.
30.	S462 When FMA may make stop orders S134: Changes to registration as particular type of registered scheme S195: Cancellation of registration	In 2016, NZ, signed a Memorandum of Cooperation with certain countries on the Establishment and Implementation of the Asia Region Funds Passport and regulations were recently made to implement the regime in New Zealand. A funds passport will allow a managed fund based in one jurisdiction to be offered more easily to investors in other participating jurisdictions. The Memorandum is an agreement amongst member countries to establish the Asia Region Funds Passport and to establish robust and practical arrangements for its implementation, operation and governance.	Add a regulation-making power to permit S462, S134 and S195 to be modified in order to allow NZ to give effect to international agreements (including this Memorandum).	When Cabinet authorisation was given to issue drafting instructions to give effect to the Memorandum it was envisaged that only regulations would be required to achieve this. Subsequently, the FMA and MBIE have identified that a small number of changes need to be made to the FMC Act 2013 to align the Financial Markets Conduct Act 2013 regime and the Memorandum. At present it is not possible to alter the application of the relevant provisions by regulation – and accordingly it is not possible to fully implement the Memorandum.

No.	Provision	Status quo	Proposed change	Reason for change
			Financial Reporting Act 2013	
31.	S45: Meaning of Large (company)	Whether or not an entity is "large" for the purposes of the Act must be determined with reference to the previous two accounting periods of that entity. It is common for a newly incorporated company to be formed and then used to acquire all (or substantially all) of the shares in an existing large company. Accordingly, a company in that position will not be "large" for at least two more accounting periods.	Amend S45 so that if any company acquires a controlling shareholding in another large company it is deemed to be "large".	Following the change in shareholding, the financial reporting obligations of the newly incorporated company should be consistent with existing companies on the register that have a similar structure (ie subsidiaries that meet the "large" threshold) and, therefore, the reporting obligations ought to rest on the new company that has acquired the controlling shareholding, not the recently acquired subsidiary, or subsidiaries.
32.	S36A: Power of Registrar of Companies to approve associations and auditors* S36B: Approved associations and persons must report to Registrar*	Audit reports for companies audited under the Act are able to be signed off by NZ audit firms. Audit reports are not able to be signed off by overseas audit firms because the Registrar does not have the power to approve them to do so. However, individual auditors (typically audit partners) of the overseas audit firm are able to sign off the audit report if	Allow the Registrar to approve overseas firms as qualified auditors under the Act, so that the firm, rather than one or more partners of the firm, is able to sign off audit reports, and report each year on the audits that have in fact been signed off. Some further work is required to identify appropriate criteria for the Registrar.	Of the approximately 350 individual auditors who have applied to the Registrar for approval under S36(1)(g) approximately 60 of those are from several overseas audit firms that have registered individual partners so that they can be compliant with the Act. If an overseas firm was instead able to be approved, this would enable the firm to file one annual report under S36B rather than individual partners of each of firm having to file their own report each year.

No.	Provision	Status quo	Proposed change	Reason for change
		authorised by the Registrar. As a result: • individual auditors must be approved under S36(1)(g) of the Act • individual auditors must also file a report with the Registrar under S36B to remain registered.		
33.	S46: Meaning of specified not-for-profit entity	There are four tiers of accounting standards for specified not-for-profit entities. Entities are able to report on a cash (rather than accrual) basis (under Tier 4) if their total operating payments in both of the two preceding periods are less than $125,000. However, the current definition of "specified not-for-profit entity" refers only to the total operating payments of the entity itself and does not envisage situations where the entity may control other entities.	Amend the meaning of specified not-for-profit entity so that it takes into account the operating payments of the entity, plus all other entities that are under its control.	The manner in which a group structures itself should not determine which tier of reporting it is in. It should be required to report in accordance a higher tier when the total operating payments of the entity and all of the entity it controls are aggregated exceed $125,000.

No.	Provision	Status quo	Proposed change	Reason for change
Financial Service Providers (Registration and Dispute Resolution) Act 2008				
34.	S34: Sharing information with other persons or bodies	The Registrar of Financial Service Providers is not authorised to update the financial service providers register to reflect updates on the NZBN register. This means that users may have to update their information on both the financial service providers register and the NZBN register.	Include the Registrar of NZBNs as a person that the Registrar of Financial Service Providers may share information with and allow the financial service providers register to be updated if it is inconsistent with the NZBN register.	The change will allow information to be shared between the NZBN and FSP registers. This will allow users to update their information on one register and have the changes flow through to the other register.
Friendly Societies and Credit Unions Act 1982				
35.	S70: Annual return	All friendly societies must file an annual return within three months of the end of the financial year. Some friendly societies may also be required to file financial statements under the Financial Markets Conduct Act within four months of the balance date.	Amend the annual return filing requirements to align with the timeframes for filing financial statements under the Financial Markets Conduct Act.	The different timeframes for filing annual returns and financial statements creates extra work for some friendly societies because they must file twice.
36.	S11: Societies which may be registered S100B: Incorporation of credit union	Before a friendly society is registered, or a credit union is incorporated, it is not required to satisfy the Registrar of Friendly Societies and Credit Unions that that the friendly society or credit union will have at least one officer who is living in New Zealand or an enforcement country.	Require a society registered under Part 2 or a credit union incorporated under Part 3 to have at least one officer who: • lives in New Zealand; or • lives in an enforcement country and is a director or officer of a body corporate that that is incorporated in an enforcement country.	It is very difficult for those responsible for the governance of a friendly society or credit union to be held accountable for any breaches of the FSCU Act (or other legislation) if they are not based in New Zealand or Australia.

No.	Provision	Status quo	Proposed change	Reason for change
37.	S140A: Notice of intention to remove from the register	The Registrar has grounds to de-register a credit union if: • the Registrar receives a request for de-registration that complies with the credit unions' rules; or • the credit union is in liquidation and no liquidator is acting, or the liquidator who is acting has failed to file a liquidator's final report following conclusion of the liquidation.	Amend S140A(1) to make clear that the responsibility for issuing the notice of intention to remove rests with the Registrar.	Unlike S319(1) of the Companies Act, it is unclear whether the Registrar is responsible for issuing the notice of intention to remove to any prescribed persons, or whether any person is able to issue that notice.
Industrial and Provident Societies Act 1908				
38.	S3D: Registers to be kept	S3D requires a register to be kept in the office of each district register.	Amend the requirements for keeping registers to align with an electronic, online register.	The register is being converted to a full electronic register with online services for users. As the register will be publicly available online, a copy does not need to be kept in the office.
39.	S6: Cancelling and suspension of registry	This section sets out the requirements for suspending and removing societies from the register.	Remove the requirement for the Registrar to obtain authorisation from the Governor-General to remove or suspend a society. Allow the Registrar to publish a notice electronically instead of in a newspaper, eg on a website.	The Registrar is required to obtain authorisation from the Governor-General to remove or suspend a society, except if the society requests its removal or it have ceased operating. This is inconsistent with the requirements in similar legislation and creates unnecessary compliance and delays. The Registrar is required to publish a notice in a newspaper as well as in the Gazette.
40.	S6: Cancelling and suspension of registry	One ground for suspension or removal requires the Registrar to show that the society has wilfully violated the Act.	Remove the 'wilful' element from the test.	The current test is subjective and difficult to prove.

No.	Provision	Status quo	Proposed change	Reason for change
41.	S7: Rules and Amendments	S7 sets out the requirements for the registration, amendment and access to the rules of a society.	Remove the requirements for: • the Registrar to confirm that they accept any amendments to the rules. • a society to provide a copy of the rules on demand by any person (these are available on the public register) • a society to provide a full set of its rules (not just the rule that has been amended) where there has been an amendment to the rules.	The requirements are out of date and do not reflect current practice in similar legislation. The changes should reduce unnecessary compliance for societies.
42.	New: Correcting the register	The Act does not allow the Registrar to correct information on the register that is incorrect or out of date.	Allow the Registrar to alter the register to correct and change information that is inconsistent with the NZBN register.	Moving to an online register will mean that societies are able to enter their information directly into the register. This increases the probability of mistakes being on the register (eg spelling mistakes). Allowing changes on the NZBN register to be reflected on the industrial and provident societies register will allow users to update one register and have the changes flow through to the other register.
			Insolvency Act 2006	
43.	S73: Assignee must call meeting of creditors	The Official Assignee (OA) must hold a meeting of creditors after a debtor is adjudicated bankrupt.	Amend S71 so that the Official Assignee "may" hold a meeting. Consequential changes will be required to S72 to S75.	In the great majority of the cases, meetings are dispensed with under S73 because they are unproductive and are often an avenue for confrontation and blame. The proposed change would save time by removing: • the need to dispense with the meetings • not having to hold a meeting (which occurs infrequently).

No.	Provision	Status quo	Proposed change	Reason for change
44.	S90: Number of persons for valid meeting	Under S83, only the OA has the power to call a creditors' meeting. S90 states that the OA and at least one creditor must be present. However, this appears to be inconsistent with S83, which makes it clear that persons other than the OA are able to chair a meeting and administer any oath that the OA could have administered if present.	Amend s90 to confirm that a meeting called by the OA is not invalid solely due to the fact that the OA is not present, provided a representative of the OA is present and that at least two creditors are present.	This change will allow a representative of the OA to attend and chair the meeting.
45.	S123: Assignee cannot claim interest in land if bankrupt remains in possession until discharge	Currently, the Assignee is unable to claim an interest in any land that: (a) is subject to a mortgage in favour of a third party; and (b) is registered in the bankrupt's name (either as sole proprietor or jointly with another person); and (c) the bankrupt has remained in possession of between the date of their adjudication and discharge. Despite the fact that the OA is unable to claim an interest in the land, it remains vested in the OA under S101, and does not re-vest in the bankrupt upon discharge.	Amend S123 to confirm that any land to which S122(1) of the Act applies will automatically re-vest in the bankrupt upon discharge, if the bankrupt has been making payments towards the mortgage between adjudication and discharge.	Under S101 and S123, land that remains in the bankrupt's name on discharge, which is subject to a mortgage that the bankrupt has been making payments towards between adjudication and discharge, cannot be dealt with by either the OA or the bankrupt unless either one of them applies to Court for a vesting order.

No.	Provision	Status quo	Proposed change	Reason for change
46.	S218: Assignee must not sell bankrupt's property before first creditors meeting	S218 prohibits the OA from selling any of the bankrupt's property before the date set for the first meeting of creditors. Except in very rare cases, meetings of creditors are dispensed with by the OA under S73. Most assets are sold without a meeting being held.	Repeal S218.	The change will help clarify that the OA has the power to sell assets at any stage of the bankruptcy.
47.	S255: Set-off under netting agreement	The netting provisions in the Insolvency Act are intended to largely mirror the equivalent provisions in the Companies Act.	Amend the definition of bilateral netting agreement to align with the definition in the Companies Act	This change will correct a drafting error in the definition of a bilateral netting agreement.
48.	S256: Set-off under netting agreement	This section is equivalent to S310B and S239AEH in the Companies Act. See item 19 above.	Amend S256 to reflect changes to s310B and S239AEH of the Companies Act. See item 19 above.	The equivalent sections in the Companies Act are to be amended to provide greater clarity about the application of netting when a security interest is granted.
49.	S267: Meaning of prescribed rate	S267 provides that, when calculating interest that has accrued on creditor claims since the date a person was adjudicated bankrupt, the interest rate to be used is the rate as defined in S12(3) of the *Interest on Money Claims Act 2016*. There is a very similar provision for calculating interest in respect of claims by creditors of companies placed in liquidation	Amend S267 of the Insolvency Act so that the method of calculating interest aligns with the method set out in S311 of the Companies Act.	Having two different methods of calculating interest under the Insolvency Act and Companies Act results in different outcomes for creditors of a bankrupt or liquidated company, who are owed exactly the same sum of money. Other than being anomalous, having two methods requires the OA to maintain different systems for calculating the amounts creditors are entitled to. This means there is greater chance of error, which creates uncertainty for creditors.

No.	Provision	Status quo	Proposed change	Reason for change
		in S311(2) of the *Companies Act 1993*. However, S311(4) states that calculation is dependent on Schedule 2 of the Interest on Money Claims Act.		
50.	S274: Priority of payments to preferential creditors	S274 states that creditors providing funding to recover property of the bankrupt (typically via court proceedings) receive priority over other unsecured creditors in respect of both the funding provided and their unsecured claim. Where two (or more) creditors provide funding, it is usually in the interests of those creditors to agree between themselves that the proceeds of any property realised by the OA as a result of that funding (after payment of the OA's costs) should be shared between the creditors on that same basis. However, under S274, the full amount of the funding for creditors' debt must be paid first, before reimbursement of funding.	Amend sS274(1)(c) to provide that where more than one creditor protects, preserves the value of, or recovers, property of the bankrupt for the benefit of the bankrupt's creditors by the payment of money or the giving of an indemnity, any preferential treatment must first be determined with reference to the value of the payment or indemnity, rather than being determined with reference to the underlying claims of C1 and C2.	The present position is potentially unfair to a funding creditor ('C1') in circumstances where the size of their debt is much smaller that their funding counterpart ('C2'), and the property recovered is insufficient to repay C1 and C2 in full. In those circumstances, C1's preference will be much larger than C2's preference, so there is the potential for C1 to receive repayment of a much greater proportion of the total sum they are owed.

No.	Provision	Status quo	Proposed change	Reason for change
51.	S276: index-linked change to priority payments	S276(1) sets out a figure for preferential claims by former employees of a person adjudicated bankrupt under the Insolvency Act (currently $23,960). Subsection 2 sets out a formula for adjusting this figure via Order in Council on a three-yearly basis, to reflect the percentage increase over the preceding 3-year period in average weekly earnings under the Quarterly Employment Survey published by Stats NZ.	Amend S276(1) so that the dollar amount will instead be automatically adjusted by publishing the maximum dollar amount in the *NZ Gazette* and on a secure internet site maintained by MBIE.	The requirement for an Order in Council is administratively cumbersome. The legislation does not provide for any discretion in setting the figure, so there is no possibility of the power to adjust the amount being abused.
52.	S276: index-linked change to priority payments	The index adjustment referred to in the previous item must be made within 3 months after the end of the adjustment period.	Change 3 months to 4 months after the end of the adjustment period.	This will make the deadline consistent with the 4 month period specified under the Companies Act.
53.	S290: Automatic discharge 3 years after the bankrupt files a statement of affairs	S290 states that a bankrupt is automatically discharged from bankruptcy 3 years after he or she files their statement of affairs. The timing of the filing of a statement of affairs by a debtor is critical.	Clarify that a statement of affairs is filed with the OA when it has been accepted by the Assignee. S46, S49 and S290 would have to be amended.	This change will remove the uncertainty around when a statement of affairs is filed with the OA.
54.	S295: When bankrupt must be examined concerning discharge	In order to summon a bankrupt to a public examination regarding an objection to discharge, the OA must wait until the automatic discharge period of 3 years has been met.	Allow the OA to challenge a discharge earlier.	This change will allow the OA to challenge an automatic discharge before the 3 years is reached. This would mean the bankruptcy is not extended any longer than necessary and would provide greater certainty to the bankrupt.

No.	Provision	Status quo	Proposed change	Reason for change
55.	S342: Form of application (summary instalment order) (SIO)	Under S342, a debtor's application for entry into an SIO must be in the prescribed form. S342(2)(c) states that the application must state the name and address of the debtor's proposed supervisor and annex written consent from that person.	Remove the requirement for the written consent of the debtor's proposed supervisor to be annexed.	This change will simplify the application process. In practice, the written consent of the SIO supervisor is merely a formality as the decision as to who will supervise the SIO will have been made before the application itself is made.
56.	S344: Summary instalment orders	S344 allows the OA to give additional orders in a summary instalment order to a debtor including to dispose of "goods" that are in the debtor's possession.	Amend S344(b) by replacing the word "goods" with "property".	This change will permit the OA to order the realisation of property such as shares or other financial instruments, which may have substantial value.
57.	New: Creditor's rights to inspect documents in a NAP	For bankruptcy, under s100 of the Act, creditors have the right to inspect certain documents and take copies of them. However, creditors do not have a similar right of inspection in respect of No Asset Procedures.	Amend subpart 3 of Part 5 of the Act by adding a provision similar to S100.	As a NAP is an alternative to bankruptcy, there should be consistency in terms of the information creditors are entitled to inspect during the course of the administration.
		Limited Partnerships Act 2008		
58.	S4: Interpretation	The meaning of Registrar includes a deputy registrar under the Companies Act. It does not include assistant registrars.	Amend S 4 to include assistant registrars. Consequentially amend S358 of the Companies Act to allow assistant registrars to exercise powers under the Limited Partnerships Act.	Allowing for assistant registers to also carry out delegated duties on behalf of the Registrar ensures business continuity and timely decision making in the exercise of the powers and functions of the Registrar.

No.	Provision	Status quo	Proposed change	Reason for change
			New Zealand Business Number Act 2016	
59.	S25: Public access to information in register	The Registrar has no ability to suppress "public" Primary Business Data. This can put individuals at risk.	Amend the Act to give the Registrar the power to suppress public Primary Business Data for unincorporated entities, for a class of such entities or a class of public Primary Business Data.	This change will protect the security and confidentiality of information and the privacy of individuals in line with the objectives of the NZBN Act 2016.
			New Zealand Institute of Chartered Accountants Act 1996	
60.	S2: Interpretation	The Registrar is defined in the Act as "the Registrar of Companies at Wellington".	Amend the interpretation of "Registrar" to mean the Registrar of Companies as defined in s2 of the Companies Act.	This change will remove an inconsistency between the NZICA Act and s357 of the Companies Act.
			Personal Property Securities Act 1999	
61.	S170: Removal of data from register	Users may enter into a payment arrangement with the Registrar allowing the user to pay their registration or renewal fee at a slightly later date. However, if the user defaults on their payment, the Registrar does not have the power to remove the registration.	Amend S170 to allow a registration to be removed from the register if payment is not made in accordance with an arrangement permitted by S143(b).	Removes potential for the user to effectively obtain a free registration.
62.	New: Registrar discretion to waive fees	Users are required to pay a fee beforehand to register a financing statement on the personal property securities register, or to search the register to see if a statement is registered. The payment system is a	Provide the Registrar with the discretion to waive the payment of fees in exceptional circumstances. This could be done through an empowering provision in the Act and using regulations to set out the circumstances and type	In the rare event of the payment system being unavailable, the Registrar has to make the register unavailable as users are unable to pay the fees required under statute. Given the volume of searches undertaken, unavailability of the register has a negative impact on users. This volume also means that creating agreements with users for a one off situation is administratively burdensome.

No.	Provision	Status quo	Proposed change	Reason for change
		separate system to the register. The Registrar is able to reach an agreement with users for payment to register a document to be made at a later time. There are no similar provisions for search fees.	of fees that can be waived.	
			Takeovers Act 1993	
63.	New: power for the Panel to publish documents on their website	The Panel receives documents from parties engaged in a Code-regulated transaction. If the Panel wants to publish the documents on its website, it must get the permission from the owner of the document. If it does not get permission, it would be in breach of the *Copyright Act 1994*. Many of these documents are already publicly available, as most Code-regulated transactions involve a company listed on the NZX. The NZX already requires these documents to be published on its website.	Provide the Panel with the power to publish documents it receives under the Takeovers Code on its website.	This change will facilitate the Panel's plans to build a publicly searchable database of takeovers documents as part of its education and transparency work. The database will benefit shareholders and potentially enable increased market commentary on unlisted Code company transactions.
64.	S2A (and consequential amendment to Rule 3A of the Takeovers Code in the Takeovers	The current definition of a "Code company" is any company that: • is a listed issuer that has financial products that confer voting rights quoted on a licensed market, or	Remove the "50 or more share parcels" test from the definition of a Code company. Instead, specify that for the purpose of determining the number of shareholders that a company has, any shareholders jointly	The purpose of introducing the "50 or more share parcels" test was to exclude small companies with over 50 shareholders on their share register, but with a number of shareholders jointly holding shares (ie fewer than 50 share parcels), from the Takeovers Code. The policy rationale for excluding small companies was that

No.	Provision	Status quo	Proposed change	Reason for change
	Regulations 2000)	• met the definition above within a period specified in the Code, or • has 50 or more shareholders and 50 or more share parcels. The "50 or more share parcels" test was introduced by the *Takeovers Amendment Act 2012*.	holding financial products that confer voting rights must be counted as one shareholder.	the compliance burden of the Code outweighs its benefit for these companies. However, "share parcels" is not defined in the Takeovers Act or Code and is potentially unclear. The proposed amendment would provide clarity about the definition of a Code company, while being consistent with the policy rationale above.
Weights and Measures Act 1987				
65.	S41: Regulations	S27 of the NZBN Act allows government agencies to access and use private primary business data (PBD) on the NZBN register if they have statutory authorisation to collect that information or permission from the NZBN entity. The Weights and Measures Act allows the Chief Executive of MBIE to appoint accredited persons to undertake specific functions under that Act.	Allow regulations to prescribe information that may be collected from persons applying for or renewing accreditation. The information required would include: • the legal entity's name • legal entity identifier (eg NZBN) • postal address, email, website and phone number.	The Act does not prescribe what information we can require an accredited person to provide to MBIE. This means MBIE is unable to automatically update records if a change is made to the accredited person's private PBD on the NZBN register (eg if an accredited person changes their address). Gaining each accredited person's permission to access this information is less efficient than having statutory authorisation to collect the information.

Annex 2: List of proposed amendments for Regulatory Systems (Immigration and Workforce) Amendment Bill (No 3):

Immigration Advisers Licensing Act 2007		
No	*Proposed amendments to the Act*	*Explanation*
1	Clarify that persons are prohibited from applying for a licence for the duration of a suspension order or the duration of an order preventing the person from reapplying for a licence made by the Tribunal.	Prevent persons who will inevitably be declined from applying for a licence.
2	Remove the 12 month stand down period preventing former Immigration NZ (INZ) officers from being licensed as immigration advisers.	Former INZ officers are required to meet the same standards regarding competence and fitness to be a licensed adviser as any other person. They are also required to follow the Code of Conduct including provisions regarding conflicts of interest.
3	Expand the persons subject to restrictions on being licensed to include a person convicted of an offence under the Act.	A conviction under the Act is a good indicator of the fitness of a person applying to be licensed as an immigration adviser.
4	Strengthen the Registrar's discretion to take into account other matters relevant to determining a person's fitness to be licensed.	Currently, the Registrar's power in relation to a fit and proper person to hold a licence is limited to specific prohibitions. The proposal widens the Registrar's powers in line with the Act and occupational regulation guidance.
5	Extend the circumstances in which the Registrar must cancel a licence where an adviser is no longer fit to be licensed according to sections 16 and 17 of the Act.	The Registrar could cancel a licence during the term of the licence rather than waiting for the term of the licence to expire (as is currently provided for in the Act).
6	Clarify that employees of a lawyer or a law firm are exempt from the requirement to be licensed.	Lawyers and employees of lawyers are exempt from the requirement to be licensed, as they are regulated by the Lawyers and Conveyancers Act 2006.
7	Modify interim court orders, which allow advisers to continue to provide immigration advice, to act as a stay on the relevant order or decision being appealed.	Treating the interim order as a stay will mean the immigration adviser cannot credit time spent waiting for the appeal to be determined as time spent with a suspended or cancelled licence, and will require the adviser to meet all licensing requirements.

Immigration Advisers Licensing Act 2007		
8	Increase the duration that a person can be prevented by the Tribunal from applying for a licence from two years to a specified period or an indefinite ban, and provide for a right for the person to apply to the Tribunal to vary such an order in certain circumstances.	This change would give the Tribunal more flexibility as to the time during which a person may not apply to be licensed - either for a set period or indefinitely.
9	Give a power to the Tribunal to vary a full licence to a limited or provisional licence.	Rather than cancelling a licence in its entirety, this change would allow the Tribunal to vary the immigration adviser's full licence to a provisional or limited licence.
10	Make changes to immigration advisers' and complainants' appeal rights to the District Court, by creating a right of appeal against the decision of the Tribunal to uphold a complaint or dismiss a complaint.	Extending the right of appeal against the decision of the Tribunal to uphold a complaint or dismiss a complaint will confer the jurisdiction of the District Court to confirm, vary or reverse all components of the decisions of the Tribunal.
11	Increase the Registrar's discretion as to the contents of the register of licensed immigration advisers.	Giving the Registrar discretion to include other information on the register will ensure that modifications can be made to the register without further changes to the legislation.
12	Clarify that the functions of the Registrar include prosecuting complaints at oral hearings before the Tribunal and clarify that the Registrar is a party to, and may prosecute, the complaint at an oral hearing before the Tribunal.	This will confirm the Authority's role with respect to the hearing of complaints currently before the Tribunal.
13	Simplify the process for making a complaint, so that a complainant can set out what happened, rather than having to cite specific legal grounds.	Currently, the Act requires that a complaint is framed as negligence, incompetence, incapacity, dishonest, misleading or a breach of the code of conduct. Simplifying the requirements will allow the Registrar and Tribunal to more easily consider if the complaint comes within the grounds for the complaint.
14	Remove the two-year stand down period preventing former INZ staff from being employed by the Authority.	Former INZ employees can bring expertise and experience to roles within the Authority to benefit the Authority and consumers of immigration advice. Potential conflicts of interest can be managed through the code of conduct for Authority (MBIE) employees.

Immigration Advisers Licensing Act 2007		
15	Ensure that INZ can refuse to accept or decline an application prepared by an unlicensed or non-exempt immigration adviser.	This will enable INZ to refuse to accept an application before a fee is taken or decline an application and INZ may consider refunding the application fee.

Employment Relations Act 2000		
No	*Proposed amendments to the Act*	*Explanation*
16	Redraft sections 63A to 65 of the Act in order to better reflect the original policy intent and clarify obligations regarding individual employment agreements.	The amendments will remove ambiguity in the current wording and better align with the original policy intent. This will provide greater clarity to employers and employees regarding their obligations.
17	Introduce a maximum infringement fine of $2,000 per infringement for infringement offences listed in the Act.	Although the Act clearly prescribes the infringement fee level for employment standards-related infringement offences, it does not currently provide for the prescription of maximum infringement fines. Amending the Act to clarify maximum infringement fines would align with best practice, provide clarity and certainty in the law, and ensure that fines are proportionate to the conduct.

Accident Compensation Act 2001		
No	*Proposed amendment to the Act*	*Explanation*
18	Enable ACC to use the latest employer filing to Inland Revenue when determining a client's weekly compensation.	This will assist ACC to process weekly compensation applications from claimants more quickly and efficiently using real payment information direct from Inland Revenue.
19	Align ACC's penalty rules with IR's rules, by charging the one percent monthly interest rate from the date a levy invoice is due, rather than 30 days after the payment is due.	ACC currently applies penalties if a payment is not received one month after the due date. This does not align with the normal practice of charging a penalty on the day after a payment is due (e.g. in the Tax Administration Act 1994). ACC's rules currently incentivise levy payers to delay payment until one month after an invoice is due and this is a common practice among many large employers.

Accident Compensation Act 2001		
20	Exclude Veterans' Support Act 2014 (VS Act) weekly compensation top-up from abatement against ACC's weekly compensation payments.	This will rectify an anomaly between VS Act and the Accident Compensation Act 2001. The proposed amendment will make clear that the VS Act weekly compensation and weekly income compensation payments are be excluded from abatement against ACC weekly compensation as current settings do not function as intended to ensure the effective interaction of the two entitlement systems.
21	Align the definitions of "moped" and "motorcycle" in the AC Act with the definitions in the Land Transport Act 1998 to ensure legal clarity.	This amendment addresses regulatory inconsistency between two different pieces of legislation.

Health and Safety at Work Act 2015		
No	*Proposed amendment to the Act*	*Explanation*
22	Amend the definition of "tourist mining operations" to clarify that they are different from commercial mining operations and exclude mine tourism that does not involve any principal hazards of mining.	Resolve confusion about the boundaries of tourist mining and support upcoming proposals in the review of the Mining Regulations Confidential information entrusted to the Government [redacted].
23	Amend the definition of "notifiable incidents" to clarify that incidents specified in regulations related to the failure of safety critical equipment or processes, but where no one was directly imminently exposed to danger, are covered by the event notification requirements in the principal Act.	Clarify the policy intent to require reporting of all such incidents to WorkSafe New Zealand as the regulator.
24	Clarify that the New Zealand Mining Board of Examiners' role includes functions related to quarries and alluvial mines, and amend that any future Board levy can be used to fund those functions.	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.
25	Amend the definitions of "mining operation" and "quarrying operation" so that secondary processing and stockpiles from mining or quarrying operations are included only when they occur within or contingent to a mine or quarry.	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.

Health and Safety at Work Act 2015		
26	Amend the definition of "quarrying operation" so that extracting aggregate solely for use on a farm, and extracting material alongside and associated with a particular roading, or other civil, commercial or residential construction project are excluded from the definition of "quarrying operation".	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.
27	Amend the definition of "tunnelling operations" so that it includes extraction of ground more broadly than "fill".	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.
28	Amend the definitions of mining and quarrying operators to clarify that they are "persons conducting a business or undertaking" (PCBUs) in terms of the principal Act.	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.
29	Enable ACC to issue a single invoice to cover the Work, Earners' and Working Safer levies for a customer who has purchased CoverPlus Extra.	This will assist in reducing the number of invoices for CoverPlus Extra customers, so that they are able to receive all their levies for a year in a single invoice. The proposal will improve administrative efficiency, customer experience and equity of levy collection.

Parental Leave and Employment Protection Act 1987		
30	Clarify that to be eligible for the paid parental leave entitlement, employees and self-employed persons other than the biological mother may stop work within a reasonable period of becoming the primary carer of a child under the age of six	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.
31	Clarify that any period for preterm baby payments are additional to and not counted in the calculations for the maximum period of parental leave or payments.	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.
32	Clarify that section 72A will apply to the parental leave payment threshold test for cases where the employee has taken a period of authorised leave, as it is necessary to establish whether they have worked a sufficient number of hours to be eligible for a parental leave payment.	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.

Parental Leave and Employment Protection Act 1987		
33	Clarify that a person who becomes entitled to a preterm baby payment and has not begun the parental leave payment period can take paid leave (eg annual leave) before the start of paid parental leave, aligning it with the treatment of all other employees.	Clarify and update statutory provisions to give effect to the purpose of the Act and to keep the regulatory system up to date and relevant.

Annex 3: List of proposed amendments for Regulatory Systems (Building and Construction) Amendment Bill (No 3):

Building Act 2004		
No	*Proposed amendments to the Act*	*Explanation*
1	Clarify that "supervise" also applies to work that does not require a building consent in the Building Act.	The definition of "supervise" in Section 7 of the Building Act, has two sub-sections that are joined with an 'and'. This means it could be implied, on a strict reading, that both conditions are required to be met before building work could be said to be supervised. The legislation states: ***supervise**, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work—* *(a) is performed competently; **and*** *(b) complies with the building consent under which it is carried out* There have been competing views in cases before the Building Practitioners (BP) Board around the effect of the Section 7 interpretation of "supervise", in relation to work that does not require a building consent. The BP Board's interpretation, and the assumed Parliamentary intention, is that a purpose of the Building Act is to ensure that all building work complies with the Building Code whether consented or not.
2	Enable the Building Practitioners (BP) Board to have capacity to handle complaints.	A mechanism for promoting consumer confidence in the building system is the Licensed Building Practitioners scheme complaints system: • Increase the BP Board by up to two members, to a maximum of 10 members, to increase the BP Board's capacity to handle complaints.
3	Achieve the policy intent of the Building (Pools) Amendment Act 2016	Repeal the transitional legislative section 450A of the Building Act 2004, as it is now redundant and confusing.

4	Amend Schedule 1 of the Building Act 2004 to ensure building consents are required for building work involving residential pool barriers (other than covers for small heated pools).	Schedule 1 of the Building Act 2004 provides for building work that is exempt from requiring a building consent. Schedule 1 was amended in September 2016 to allow some smaller low-risk pools to be built without consent (clause 21 of the Building Amendment Act 2016). However, this exemption inadvertently exempts the barriers to those pools as well. This was not an intended policy change. The policy intent of the amendments was to allow low-risk pools to be exempt from needing a consent, while still requiring a consent for all building work involving residential pool barriers. The only form of barrier to a pool which is not intended to require a building consent is the installation of a safety cover for a small heated pool e.g. a spa pool.
5	Clarify that a reference to "safety cover" under Schedule 1 of the Building Act 2004 means a safety cover that meets the requirements under the Building Code.	There is no definition of "safety cover" under the Act. MBIE has received queries about whether just any "cover" will meet the exemption and thus exempt the pool from the inspection requirements. This was not an intended policy change. The policy intent of the amendments was that only safety covers that meet Building Code requirements would be exempt from the inspection requirements in section 162D.
	Plumbers, Gasfitters and Drainlayers Act (PGD Act) 2006	
No	*Proposed amendment to the Act*	*Explanation*
6	Clarify that plumbing and drainlaying are distinct areas of work. The current definition of "drain" in section 4 is: **drain**— (a) means a pipe or series of pipes constructed or laid for the conveyance of foul water, stormwater, or industrial liquid	The Plumbers, Gasfitters and Drainlayers (PGD) Board has identified that some drainlayers have been doing what the PGD Board interprets as sanitary plumbing, without being licenced as plumbers. Sanitary plumbing is any work involved in fixing or unfixing any pipe, plumbing fixture or appliance including: any trap, waste or soil pipe, ventilation pipe or overflow pipe and any pipe that supplies or is intended to supply water. The policy intention of the definition of drainlaying is that the

	waste; but (b) does not include— (i) a pipe or series of pipes that is vested in or under the control of or maintained by the Crown or by a local authority; or (ii) an open jointed or perforated drain for the collection and removal of ground water or a downpipe for the conveyance of water from the roof of a building Amend the definition so that it reads : *drain-* (a) means a pipe or series of pipes constructed or laid for the conveyance of foul water, stormwater, or industrial liquid waste; but (b) does not include- any trap, waste or soil pipe, ventilation pipe, or overflow pipe connected with or intended to be connected with or accessory to any sanitary fixture or sanitary appliance (whether or not the sanitary fixture or sanitary appliance is there when the work is done);	trades are separate, and people need to be licenced and qualified for the trade that covers the work they are doing. The PGD Board has proposed making it clear under the PGD Act that there is no overlap between work that is "sanitary plumbing" and work that is "drainlaying".
7	Include earthworks and excavations associated with drainlaying (and done by people who are licenced drainlayers) within the definition of drainlaying	The definition of drainlaying does not currently include earthworks associated with drainlaying. Poor earthworks or excavation works can have health and safety implications. Currently the PGD Board is unable to take action in the case of poor work. The PGD Board has proposed that if a person is a drainlayer and doing earthworks associated with drainlaying, they should be required to perform them competently. Currently, if a drainlayer performs earthworks incompetently the PGD Board cannot deal with complaints about, or discipline the drainlayer.

		This proposal will not apply to all earthworks, just those carried out by people who are drainlayers. This amendment is justified based on the health and safety concerns and the inability of the PGD Board to hold practitioners accountable for poor work if the work does not fall within the definition of regulated drainlaying work.