



## **Economic and Social Council**

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### **Committee on Economic, Social and Cultural Rights**

## **Implementation of the International Covenant on Economic, Social and Cultural Rights**

**Third periodic reports submitted by States parties under  
articles 16 and 17 of the Covenant**

**New Zealand<sup>\*</sup>, <sup>\*\*</sup>**

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annexes may be consulted in the files of the Secretariat.

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## I. Introduction

1. The Government of New Zealand is pleased to present its third periodic report to the United Nations Committee on Economic, Social and Cultural Rights ('the Committee'). This report supplements the Initial Report submitted in 1990 (E/1990/5/Add.5) and the Second Report submitted in 2001 (E/1990/6/Add.33). Reference should also be made to the core document on New Zealand (HRI/CORE/1/Add.33).
2. This report is submitted in accordance with articles 16 and 17 of the International Covenant on Economic, Social, and Cultural Rights (the Covenant), and the Revised general guidelines (E/C.12/1991/1), and covers the period from January 1998 to December 2007 (the "reporting period"). It focuses on the key legislative developments, policies and outcomes. The report does not duplicate information appearing in the two previous reports to the Committee, where the information remains the same.
3. Supporting information referred to in this report may be found in the Annex. Copies of documents referred to in this report are available to the Committee on request. In addition, information about Parliament, the Courts and Government activity may be found at [www.govt.nz](http://www.govt.nz). Legislation referred to in this report is available at [www.legislation.govt.nz](http://www.legislation.govt.nz).
4. Individuals and groups (including those representative of Māori and Pacific Island communities) who were identified as having a particular interest in economic, social and cultural rights, had the opportunity to comment on a draft version of this report in September 2008. Sixteen submissions were received and the comments contained in these submissions were considered in the preparation of the final report.
5. This report supplements, and should be read in conjunction with, New Zealand's:
  - (a) Fifth periodic report to the Human Rights Committee (CCPR/C/NZL/5);
  - (b) Fifteenth, sixteenth and seventeenth consolidated periodic report to the Committee on the Elimination of Racial Discrimination (CERD/C/NZL/17);
  - (c) Sixth periodic report under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/NZL/6);
  - (d) Fifth periodic report under the Convention against Torture (CAT/C/NZL/5);and
  - (e) Third and fourth consolidated periodic reports under the Convention on the Rights of the Child recently submitted.

## II. General

6. During the reporting period, New Zealand has undertaken a number of initiatives that have consolidated New Zealand's implementation of the rights contained in the Covenant, including:
  - (a) An overall decrease in unemployment, particularly for Māori and Pacific Island peoples;
  - (b) The better protection of the rights of workers through the enactment of the Employment Relations Act 2000, and other employment related initiatives;
  - (c) Improved access to paid parental leave through the enactment of the Parental Leave and Employment Protection (Paid Parental Leave) Act 2002;

(d) Supporting the needs of persons with disabilities in terms of employment and access to healthcare and education through the adoption of the New Zealand Disability Strategy in 2001 and the signing of the UN Convention on the Rights of Persons with Disabilities;

(e) Amending the Human Rights Act 1993 to remove the exemption for certain government activities and make most government activity subject to the single discrimination standard under the New Zealand Bill of Rights Act 1990 (the 'Bill of Rights Act');

(f) The development and implementation of various measures to reduce domestic violence;

(g) The initiation of various changes aimed at better targeting accommodation assistance to those most in need and increasing the number of state houses;

(h) The development of the Working for Families scheme which has assisted lower-income families with dependent children moving into or remaining in employment;

(i) The introduction of the Civil Union Act 2004 and the Relationships (Statutory References) Act 2005, and the extension of the relationship property regime to de facto couples; and

(j) The development and implementation of the new education curriculum to better meet the needs of the diversifying student population in New Zealand.

## **1. Political and judicial structure**

7. For comprehensive information on New Zealand's political and judicial structure, the Committee is referred to the Core Document, and the fifth periodic ICCPR report. Information on developments within the structure is included below.

### **(a) Treaty of Waitangi**

8. The Treaty of Waitangi of 1840 (the "Treaty") remains a document of significant constitutional and historical importance for New Zealand and it is the basis for an ongoing relationship between the Crown and Māori.

9. Treaty references have been incorporated in more than thirty pieces of legislation. These articulate the responsibilities of government or local government.

10. New Zealand has undertaken various initiatives to enhance understanding and promote educated debate about the place of the Treaty in the constitutional arrangements of New Zealand. Examples of this include the Treaty of Waitangi Information Programme between 2003 and 2006, various symposia, and community dialogue workshops facilitated by the Human Rights Commission.

11. Settlements of Māori claims under the Treaty are continuing. New Zealand's fifteenth, sixteenth and seventeenth consolidated periodic report to the Committee on the Elimination of Racial Discrimination contains information on the Treaty and the Waitangi Tribunal at paragraphs 28 to 38. The recent fifth periodic ICCPR report also contains relevant information about settlement of Treaty claims at paragraphs 429 to 434 under article 27 of ICCPR.

### **(b) Mixed member proportional electoral system**

12. The mixed member proportional electoral system has resulted in a broader representation in the make up of Parliament. Following the 2005 election, of the 121 seats,

21 were held by Māori, 3 by people of Pacific Island descent and 2 by people of Asian descent. The representation of women in Parliament increased from 21 percent in 1993 to 33 percent after the 2005 election. The percentage of Māori representation in Parliament (17.3 percent) exceeded the percentage of Māori in the total population at the 2001 census (14.7 percent). The resultant Cabinet was similarly diverse, with a female Prime Minister and a number of female Cabinet ministers.

## **2. General legal framework within which human rights are protected**

13. New Zealand has taken significant steps to develop and strengthen mechanisms and institutions in the human rights area during the reporting period. The Committee is referred to paragraphs 57–80 of New Zealand’s fifth periodic ICCPR report.

### **(a) New Zealand Action Plan for Human Rights**

14. The Committee is referred to paragraphs 82–88 of New Zealand’s fifth periodic ICCPR report.

### **(b) Ombudsmen**

15. The Ombudsmen have a general role under the Ombudsmen Act 1975 to investigate complaints of maladministration resulting from actions or omissions on the part of public authorities in New Zealand. Some of these public authorities are charged with the responsibility of giving effect to the rights described in the Covenant.

16. The Ombudsmen also have a more specific responsibility, which is to investigate and review complaints from those who have sought information from public authorities that are subject to the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987. While the right to information is not articulated as a freestanding right in the Covenant, it has been within the Universal Declaration of Human Rights, and the ICCPR. The Committee’s General Comments (for example No. 14 and No. 15 in respect of the right to health and the right to water) enunciate information accessibility as a key component of Covenant rights.

17. The purposes of the Official Information Act include the principle of accountability and the ability of people to participate ‘in the making and administration of laws and policies’. The Ombudsmen provide an avenue of enforcement for people seeking information relevant to Covenant rights.

## **III. Information relating to implementation of the Covenant**

### **Response to the Committee’s comments on New Zealand’s second report: Justiciability**

18. New Zealand acknowledges the fundamental importance of economic, social and cultural rights, and assures the Committee that the indivisibility of human rights is a principle of paramount importance to New Zealand.

19. Noting General Comment No. 9 (E/C.12/1998/24), New Zealand is a dualist jurisdiction in which international instruments do not have direct domestic effect, but are instead implemented through legislation and other measures. As the Committee has noted,

it is for each state party to determine how the Covenant is to be given effect in national law.<sup>1</sup> The Committee is referred to New Zealand's Core Document paragraphs 89 onwards. Additionally, this report and previous reports set out the range of means by which the Covenant is given effect in New Zealand.

20. Noting the Committee's observation that judicial remedies may often be necessary in practice for the effective protection of rights under the Covenant, New Zealand observes that:

(a) There are remedies available in New Zealand law in respect of Covenant rights;

(b) Wherever possible, national legislation is interpreted and applied consistently with international obligations; and

(c) There is a broad range of non-judicial and quasi-judicial mechanisms for the implementation of Covenant rights (the Committee is referred to paragraphs 95 to 114 of the Core Document).

21. Covenant rights can be enforced by an individual in New Zealand in three ways, as discussed below. In addition to these, the Courts have broad powers of judicial review of the exercise of statutory powers (itself widely defined).

*Direct enforcement of general rights*

22. New Zealand's human rights legislative framework explicitly provides for certain general rights directly, and provide a direct means of enforcement through specialist tribunals or in the Court. Examples of this are in the Human Rights Act and the Bill of Rights Act. Rights that fall within this category include rights to be free from discrimination on the grounds of sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status or sexual orientation; rights of minorities to enjoy their culture, profess and practice their religion and to use their language; rights to manifest religion or belief, and freedoms of expression, assembly and association.

23. The Human Rights Act makes Covenant rights justiciable in respect of discrimination in the enjoyment of the rights, on any of the 13 prohibited grounds listed in the paragraph above. In addition, the Courts have recognised the availability of direct action through the courts for damages and other remedies, as well as judicial review, for breaches of these types of rights.

24. Targeted legislation specifically implements numerous rights in the Convention, such as rights relating to education, conditions of employment, equal pay, parental leave, environment, family law, health, housing, copyright protection, and social security. The scope and range of the rights covered by targeted legislation is extensive, as are the types of action available to enforce these rights. The range includes:

(a) Criminal sanctions and regulatory enforcement measures;

(b) Complaint and investigative processes and specialist tribunal proceedings;

(c) Direct individual action for the delivery of a specific benefit or other statutory obligation or protection;

(d) Actions for damages or other remedial orders (as above);

judicial review (see below).

<sup>1</sup> General comment No. 9, para. 5.

25. The Covenant has been invoked in proceedings before the New Zealand courts on a range of matters including employment and housing: see, for example, *Air New Zealand Ltd v. Kippenberger* [2000] 1 NZLR 418 and *Lawson v. Housing New Zealand* [1997] 2 NZLR 474. Claims concerning economic, social and cultural rights are more often, however, pursued by reference to the relevant legislative scheme, including through specialised administrative procedures.

#### *Judicial review*

26. An application for judicial review may be considered for any exercise, refusal to exercise, or proposed or purported exercise by any person of a statutory power. “Statutory power” is widely defined and includes (but is not limited to) the power or right to make regulations and rules, and to exercise a statutory power of decision. Judicial review in the context of Covenant rights will be focussed primarily on the rights as expressed in the particular statute, but, where applicable, the Court will also have regard to the Convention.

#### *Legislative incorporation*

27. Several pieces of legislation directly incorporate the concept of promoting economic, social and cultural well-being as an explicit part of the statutory framework. In this type of legislation, the applicable principles in the Covenant will be directly relevant to the interpretation and implementation of the statute. Examples include:

(a) The Education Act 1989 (the object of provisions relating to tertiary education includes the “development of cultural and intellectual life” and “sustainable economic and social development of the nation”);

(b) The Energy Efficiency and Conservation Act 2000 (sustainability principles include a direction to take into account the “social, economic, and cultural well-being” of “people and communities”);

(c) The Environment Act 1986 (the definition of ‘environment’ contains a reference to the social, economic, aesthetic and cultural conditions affecting or affected by the environment);

(d) The Local Government Act 2002 (the purpose of local government includes “to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.”);

(e) The Resource Management Act 1991 (the purpose of the Act includes promoting the sustainable management of resources “which enables people and communities to provide for [...] social, economic, and cultural well-being...”).

## **Article 1**

### **The right of self-determination**

28. The Committee is referred to paragraphs 55–56 of New Zealand’s fifth periodic ICCPR report and to the information regarding Tokelau set out at the end of this report.

## **Article 2**

### **Obligations of States parties and the right to non-discrimination**

#### **1. Progressive implementation**

29. New Zealand is committed to the progressive realisation of the rights recognised under the Covenant. Although the Covenant is not directly incorporated into domestic law,



Covenant rights receive extensive protection. During the reporting period, a range of legislative and non-legislative initiatives have been introduced to consolidate New Zealand's implementation of the rights.

## **2. Non-discrimination provisions**

30. The following pieces of legislation implement the principle of non-discrimination set out in the Covenant. Non-discrimination principles may also be embedded in other legislation and the Committee is referred to the previous report (at paragraph 60) for examples.

### **(a) Human Rights Act 1993**

31. The Human Rights Act 1993 (HRA) contains substantive legal protection against discrimination on 13 prohibited grounds, covering both the public and private sector.

32. Part 1A of the HRA governs the public sector, and is breached if an act or omission (including an enactment) limits the right to freedom from discrimination in the Bill of Rights Act, and is not a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society.

33. Part 2 of the HRA is primarily focussed on the private sector, though the provisions relating to employment discrimination, racial disharmony, sexual and racial harassment, and victimisation also apply to the public sector. It targets specific areas of activity — employment, partnerships, industrial and professional associations and vocational training bodies, the provision of goods and services, the provision of land, housing and other accommodation, and education — and, subject to specific and narrowly defined exceptions, prohibits treating people differently “by reason of” a prohibited ground of discrimination.

34. The HRA also specifically prohibits indirect discrimination. Within the targeted areas of activity, and in the absence of good reasons, practices that have the effect of treating people differently on a prohibited ground (regardless of whether or not it was a causal factor) are unlawful.

35. During the reporting period, the HRA was amended. The Committee is referred to paragraphs 59–81 of New Zealand's fifth periodic ICCPR report.

### **(b) New Zealand Bill of Rights Act 1990**

36. The Bill of Rights Act provides that “[e]veryone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993”. The Committee is referred to paragraphs 91–94 of The Core Document and paragraphs 21–29 of New Zealand's fifth periodic ICCPR report.

37. The rights and freedoms contained in the Act may only be subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. The approach to the assessment of reasonable limits has not materially altered during the reporting period and the Committee is referred to paragraph 58 of the previous report.

### **(c) Foreshore & Seabed Act 2004**

38. Since the last report, Parliament enacted the Foreshore and Seabed Act 2004. New Zealand has reported to the Human Rights Committee on this matter and the committee is referred to the following reports:

(a) Fifth Periodic Report of the Government of New Zealand under the International Covenant on Civil and Political Rights (CCPR/C/NZL/5);

(b) Fifteenth, sixteenth and seventeenth periodic reports of New Zealand to the Committee on the Elimination of Racial Discrimination (CERD/C/NZL/17, paras. 64 and 71):

(i) Answers to questions put by the Rapporteur in Connection with the Consideration of the 15th to 17th Periodic Reports of New Zealand (CERD/C/NZL/17 – Question 14);

(ii) 71st Session of the Committee on the Elimination of all forms of Racial Discrimination, 31 July 2007 – Overview and update on developments since December 2005;

(c) February 2005 submission to the Committee on the Elimination of Racial Discrimination – sixty-sixth session (paras. 36 to 47.4).

39. New Zealand will report back to the Committee on the Elimination of Racial Discrimination by August 2008 as requested, with an update on implementation of the Foreshore and Seabed Act.

### **3. Guarantee of economic, social and cultural rights to non-nationals**

40. New Zealand's domestic human rights framework applies to everyone within its jurisdiction. This is illustrated by the prohibited ground of discrimination in the HRA of "ethnic or national origins", which includes nationality or citizenship. There are exceptions, however, to this otherwise broad application of New Zealand human rights laws. In order to maintain any necessary distinctions between citizens and non-citizens, the HRA provides that nothing in the Act shall affect any enactment or rule of law, or any policy or administrative practice that distinguishes between New Zealand citizens and other persons, or between British subjects or Commonwealth citizens and aliens.

41. Existing limits on the right of non-nationals to work and obtain social security are driven by the need to maintain the integrity of New Zealand's immigration laws and policies. The Committee is referred to paragraphs 61–65 of the Second Periodic Report.

42. Where there are restrictions on the enjoyment of particular Covenant rights, these are noted in the sections of this report which deal with that particular substantive right.

### **4. Development co-operation**

43. The New Zealand Agency for International Development (NZAID) was established in 2002 following an independent review of New Zealand's aid programme. The agency is responsible for managing New Zealand's official development assistance overseas.

44. NZAID concentrates its development assistance on activities that contribute to poverty elimination by creating safe, just and inclusive societies; fulfilling basic needs; and achieving environmental sustainability and sustainable livelihoods. The agency is committed to protecting and promoting fundamental human rights, including economic, social and cultural rights. NZAID supports a range of activities chosen with development partners as being the highest priority for the particular country and likely to be most effective in eliminating poverty.

45. NZAID's strategies and policies reflect the agency's long-term commitment to working with partners and the international community to achieve the United Nations' Millennium Development Goals and International Development Targets.

### **Article 3**

#### **The right of men and women to equal enjoyment of rights**

46. New Zealand is a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). New Zealand submitted its fifth periodic CEDAW report in 2002 and its sixth periodic report in 2006. The two periodic reports cover the period from March 1998 to March 2006.

#### **1. Lifting of remaining reservations to CEDAW**

47. New Zealand has lifted its remaining reservations CEDAW. These reservations concerned maternity leave and women's participation in combat roles.

48. In March 2002, the Parental Leave and Employment Protection (Paid Parental Leave) Amendment Act was passed. This entitled eligible women up to 12 weeks paid parental leave, if they have an intention to return to work and if they had worked at least one year for more than ten hours a week for the same employer. Women can transfer their leave to their partners, including same sex partners. A number of extensions have been made to this scheme since its inception in 2002.

49. New Zealand's last reservation to CEDAW related to the employment of women in combat roles in the armed forces and in violent situations in law enforcement. In practice, there were no barriers to women's participation in combat roles, as the New Zealand Defence Force formally rescinded its policy of not allowing women to serve in combat roles in 2000.<sup>2</sup> Nor were there any barriers to women's employment in violent situations in law enforcement. The reservation was lifted when Parliament passed the Human Rights (Women in Armed Forces) Amendment Act in May 2007.

### **Articles 4 and 5**

#### **Restriction of limitations to rights under the Covenant and non-derogation of rights**

50. The limitation of any Covenant right will be dealt with under the relevant article.

### **Article 6**

#### **The right to work**

#### **1. Summary**

##### *Key developments*

51. As at the end of the December quarter 2007, New Zealand had one of the lowest unemployment rates in the OECD. The low unemployment rate and sound ongoing economic climate was reflected by rising employment, and the low number of people receiving the Unemployment Benefit. Also at the end of December 2007, fewer than 23,000 people were receiving Unemployment Benefit: the lowest number since 1982.

52. Important developments in the progressive realisation of the right to work during the reporting period include:

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<sup>2</sup> Defence Force Order 005/2000.

(a) A decrease in unemployment, particularly for Māori and Pacific Island peoples. The employment rate for Māori, Pasifika, and women reached record highs in the December 2007 quarter. Employment participation increased significantly among those aged 60–74. There was also a significant decline in underemployment;

(b) The implementation and subsequent amendment of the Employment Relations Act 2000 that introduced a new ‘test of justification’ to protect against the arbitrary termination of employment.

### *Challenges*

53. Although good progress towards the full realisation of the right to work has been achieved, it is acknowledged that challenges remain. The gender gap in employment is narrowing, but the employment rate for women is significantly lower than for men. Unemployment rates for Māori women remain well above that of New Zealand European women. Unemployment rates for youth remain higher than for people of other ages. Unemployment rates for Māori and Pacific Island youth have fallen significantly during the reporting period, but remain well above the rate for European youth.

54. Data collection on under-employment and multiple occupations continues to present challenges. The measures New Zealand currently uses do not conform to ILO requirements, and data is unavailable on the proportion of the population holding more than one full time job in order to secure an adequate standard of living.

### *Key initiatives for the future*

55. Several measures to assist people into sustainable employment have been implemented during the reporting period:

- Industry Partnerships and Enterprising Communities Assistance will focus on achieving outcomes using a collaborative approach to create relevant skills and opportunities
- Working for Families has focussed on assisting families to enter, or return to, the labour force and to make it financially beneficial to do so, using the tax system
- Working New Zealand aims to increase labour participation by persons with ill health or disabilities, and also address youth unemployment by focussing on the importance of education and training for those aged 16 and 17 years
- The New Zealand Disability Strategy contains objectives which are relevant to the right to work, and government departments are required to report annually on plans for implementation

## **2. Previous reporting**

56. Please refer to New Zealand’s second periodic ICESCR report paragraphs 102 ff and New Zealand’s sixth periodic CEDAW report (see information provided under Article 11 of that Convention).

57. The full range of exceptions to discrimination is set out in New Zealand’s report on ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) for the years 1998–2000, 2000–2002, 2002–2004, 2004–2006 and 2006–2008. Information on the additional prohibited grounds of discrimination introduced by Employment Relations Act 2000 was included in New Zealand’s second periodic ICESCR report (para. 86).

58. Detailed information on the level and trends of employment over the period is provided in New Zealand’s reports on the ILO Employment Policy Convention, 1964 (No. 122) for the years 1998–2000, 2000–2002, 2002–2004, and 2004–2006.

### 3. Situation, level and trends of employment

#### (a) Employment

59. The participation rate across the whole of the labour market, during the December 2007 quarter, was 68.8 percent. Positive results overall were influenced by strong outcomes for various groups in the labour market. The participation rate for Māori reached a record high of 68 percent, and the rate for Pasifika 64 percent. The participation rate for women reached a record high of 62.4 percent. The participation rate for young people was 65 percent.

60. In 2006, the employment rate among persons aged 15 and over was 75.2 percent. In 2007, the rate was 75.4 percent. Between 1992 and 2007, the number of people aged 15 to 64 years in the overall population increased by 465,400.

61. The full-time employment rate for people aged 15 and over was 59 percent in 2007. The part-time employment rate increased throughout the reporting period, reaching 16.4 percent in 2007. Women continue to have a higher part-time employment rate than men (for 2007, 24.0 percent compared with 8.6 percent).

62. Employment rates for people aged 45 to 64 years have grown strongly since 1992, driven mainly by the phasing in of the higher age of eligibility for New Zealand Superannuation, rising employment among women, and an increase in the demand for labour. The employment rate for women is significantly lower than that for men. The gender gap in the employment rate is narrowing as female employment grew at a more rapid pace than male employment between 1992 and 2007.

#### Employment rate by region for total working age population (aged 15+) in years to June 1998 and June 2008

<i>Region</i>	<i>Year to June 1998</i>	<i>Year to June 2008</i>	<i>Change</i>
Northland	53.4%	61.0%	14.2%
Auckland	63.5%	65.7%	3.5%
Waikato	58.8%	67.4%	14.7%
Bay of Plenty	57.4%	61.7%	7.5%
Gisborne/Hawke's Bay	55.2%	64.9%	17.7%
Taranaki	59.2%	66.3%	12.0%
Manawatu-Wanganui	56.6%	61.7%	9.0%
Wellington	65.2%	67.1%	3.0%
Tasman/Nelson-Marlborough/West Coast	65.2%	66.6%	2.1%
Canterbury	59.2%	68.0%	14.9%
Otago	60.1%	64.2%	6.8%
Southland	61.6%	70.4%	14.4%
<b>Total: All Regional Councils</b>	<b>60.9%</b>	<b>65.8%</b>	<b>8.1%</b>

#### Employment rate by ethnicity for total working age population (aged 15+) in years to June 1998 and June 2008

<i>Ethnicity</i>	<i>Year to June 1998</i>	<i>Year to June 2008</i>	<i>Change</i>
European/Pakeha	63.3%	67.5%	6.7%

<i>Ethnicity</i>	<i>Year to June 1998</i>	<i>Year to June 2008</i>	<i>Change</i>
NZ Māori	51.9%	62.5%	20.6%
Pasifika	53.4%	59.6%	11.6%
Other	48.5%	60.8%	25.4%
Not Specified	56.9%	60.6%	6.5%
<b>Total: All Ethnic Groups</b>	<b>60.9%</b>	<b>65.8%</b>	<b>8.1%</b>

**(b) Unemployment**

63. The unemployment rate has declined steadily during the reporting period. In 1999, the unemployment rate was 7.5 percent. In the year ended December 2007, 3.5 percent of the labour force was unemployed and actively seeking work. The unemployment rate has now been below 4 percent for more than three years.

64. Long-term unemployment has also steadily declined during the reporting period. In the year to 2006, 20 percent of those unemployed in New Zealand were unemployed for 6 months or more. In the year to December 2007 this had been reduced to 17 percent. The majority of unemployment is now frictional (people moving between jobs).

65. The Māori unemployment rate had fallen to 7.7 percent by 2007, the lowest rate since the survey began. Since the early-1990s, the unemployment rate for Pasifika has declined more than that of Māori and was 6.5 percent in 2007. The unemployment rate is lowest among people of European ethnicity. Their unemployment rate was 2.6 percent in 2007. The unemployment rate of the 'Other' ethnic group category (predominantly made up of people identifying themselves as Asian, but also including many new migrants) had dropped to 5.5 percent in 2007.

66. The unemployment rate for youth (15 to 19 years olds in the labour force) was 16.7 percent for the year to December 1999, 13.7 percent for the year to December 2006 and increased to 14.0 percent for the year to December 2007. The youth unemployment rate remains well above the annual average rate for all persons (3.5 percent for the year to December 2007). However, there has been a 92 percent reduction in the number of 18 and 19 year olds on Unemployment Benefit between December 1999 and 2007, from 17,514 to 1,459.

67. From December 2000 to December 2007 the unemployment rate for Māori youth fell from 29.7 percent to 22.6 percent and the unemployment rate for Pacific youth fell from 27.1 percent to 22.0 percent. However, Māori and Pacific youth unemployment rates remain well above that of European youth (11.6 percent).<sup>3</sup>

68. The unemployment rate for people with disabilities was 7 percent in 2006 compared with 4 percent for people without a disability.<sup>4</sup> Thirty-six percent of people with disabilities were not in the labour force<sup>5</sup>, compared with 17 percent of people with no disability.

**(c) Underemployment and multiple occupation**

69. In the last ten years, underemployment has declined significantly. In the year to December 1997, the proportion of people in part time employment who wanted to work full time was 6 percent, and in the year to December 2007, this had dropped to 3.5 percent. In

<sup>3</sup> Paragraphs 6–7 are taken from HLFS *youth fact sheet 2008*.

<sup>4</sup> Statistics from the 2006 New Zealand Disability Survey, special run by Statistics New Zealand.

<sup>5</sup> That is, they were not employed, or unemployed and actively seeking work.

the year to December 1997, 28.8 percent of people who worked part time indicated they would like to work more hours. In the December 2007 quarter, this had dropped to 18 percent. Among men, the percentage was 24.8 percent, and among women, it was 15.4 percent.

70. During the reporting period, the proportion of males who wanted more hours of work and full-time work has been consistently above females. In this period, a greater number of females employed in part-time work wanted more work hours, while a greater number of males employed in part-time work wanted full-time work.

71. There was strong growth in part-time employment compared with full-time employment during the reporting period. Employment growth has been mainly driven by growth in part-time employment, particularly for women. Part-time employment (fewer than 30 hours a week) increased by 5.6 percent between December 2005 and 2007, while full-time employment increased by 3.5 percent over the same period.

72. Data on the proportion of the working-age population that may hold more than one full-time job in order to secure an adequate standard of living for themselves and their families is unavailable. However, the Household Labour Force Survey shows that the percentage of people working more than 40 hours a week has remained high over recent years at about 31 percent. The hours worked beyond the 40-hour week mainly reflect hours in the same job rather than the undertaking of several different jobs. In the year to December 2007, only 3.9 percent of employed people had more than one job.

**(d) Employment and unemployment of specific groups**

*(i) Youth*

73. Youth employment rates have remained relatively low during the period of employment growth since 1992, in part due to a growth in their participation in tertiary education and training.

74. The unemployment rate for young people has fallen, though at a slower rate than for the total population. It was 16.2 percent in the year to December 1997, and 14.2 percent in the year to December 2003. The rate reached a ten-year low in the year to June 2005. In the year to December 2007, young people continued to have the highest unemployment rates. Nearly half (48.1 percent) of all unemployed are aged 15 to 24 years old. The unemployment rate of those aged 15 to 19 years was particularly high at 14.0 percent, above the national average of 3.5 percent for the year to December 2007.

75. For further information on youth employment, please see the response under Article 10.

*(ii) Older workers*

76. Robust economic growth between 2002 and 2007, and demographic trends (as the baby boomer generation advances into older age groups) resulted in a greater proportion of older people participating in the workforce. The unemployment rate for older workers (those aged 55 and over) has fallen during the reporting period, particularly pronounced in the last five years, from 3.2 percent in the year to December 2003 to 1.4 percent in the year to December 2007. The labour force participation for older workers reached 40.7 percent for the year to March 2007.

77. Analysis by age shows a sharp upturn in labour force participation rates among those aged 60–74 years. In 1991, 38 percent of men aged 60 to 64 were in the labour force. This rate had climbed to 73 percent by 2006. In the age-group 65 to 69, 17 percent of men were

working in 1991, and the rate had climbed to 43 percent in 2006. The 2006 Census also found that more than one in five men aged 70 to 74 years were working.

78. Among women aged 60 to 74 years, the participation in the labour force rates virtually trebled between 1991 and 2006. By 2006, more than half of New Zealand women aged 60 to 64 years, and over a quarter of those aged 65 to 69 years were working.

(iii) *Māori, Pasifika and other ethnic groups*

79. Māori and Pasifika have experienced the greatest decrease in unemployment rates during the reporting period. In particular, the Māori unemployment rate fell significantly from 16.6 percent in the year to December 1999 to 7.7 percent in the year to December 2007.

80. In 2007, the Māori employment rate, at 65.7 percent, had surpassed the 1986 level (61.2 percent). However, the employment rate for Pasifika in 2007 (63.2 percent) was less than the rate in 1986 (68.4 percent). The European ethnic group, with the highest employment rate, has also surpassed the level of the mid-1980s (79.9 percent employed in 2007, compared with 73.8 percent in 1986). The employment rate for the 'Other' ethnic group comprising Asians and new migrants fell from being the second highest in the late-1980s to being the lowest over recent years. However, in 2006 and 2007, their employment rate has been above that of Pasifika (reaching 64.5 percent in 2007).

81. The Department of Labour is developing a Māori strategy and action plan, of which Māori workforce development is a key component. A Pasifika strategy is also being developed.

(iv) *Adults with disabilities*

82. Statistics New Zealand carried out Disability Surveys in 1996, 2001 and 2006. These provide information on prevalence, nature, cause of disability as well as demographic, employment and social profile of people with disabilities. The 2001 Survey showed that:

(a) Fifty-seven percent of people aged 15 to 64 with disability living in households were employed (this includes 5 percent of people with disability who were working without pay in a family business or farm). In comparison, 71 percent of people aged 15 to 64 without disabilities were employed in the same period;

(b) Six percent were unemployed and actively seeking work (compared to 4 percent for people without disabilities), while 36 percent were not in the labour force (compared to 18 percent of people without disabilities);

(c) The highest rate of employment among people with disability was in the 25 to 44 age group (64 percent). People with disability aged 15 to 24 and 45 to 64 were less likely to be employed (55 and 45 percent respectively);

(d) Employment rates for people aged 15 to 64 with seeing, mobility, agility, intellectual or psychiatric/psychological disability were similar in 2001, ranging from 42 to 47 percent. However, people with hearing disability (62 percent) and people with 'other' types of disability (53 percent) had higher rates of employment.

83. The 2006 Disability Survey identified that 60 percent of adults with disability aged 15 to 64 years living in households were employed (full and part time).

(v) *Women*

84. During the reporting period, the rate of female unemployment significantly reduced, although at a slower rate of reduction than for men. While the unemployment rate among



women was 6.6 percent in December 1997, this rate dropped to 3.5 percent by December 2007: a figure that was only slightly higher than the male unemployment rate of 3.4 percent. While the female unemployment rate generally tracked below the male unemployment rate between 1997 and 2001, it has been consistently higher than the male unemployment since then.

85. In the year to December 2007, unemployment rates among Māori and Pacific Island women, at 8.4 and 8.2 percent respectively, were well above the European (2.6 percent) and 'Other' ethnicity female unemployment rates (6.6 percent). Female unemployment rates were higher than the male unemployment rates across all ethnic groups in the year to December 2007.

#### **4. Policies and measures to achieve full productive employment, freedom of choice of employment, and steady economic development**

86. Underpinning current policies is recognition that most people want to work and can work in the right job, at the right time for them with the right support. The design of employment assistance policies and programmes draws on the expertise of a wide range of non-government organisations, advocacy groups, unions and employers. A variety of approaches are used to consult with people depending on what is appropriate for the specific policy or programme. These include circulating consultation documents, holding public consultation meetings and focus groups.

87. During the reporting period, the key changes to the policy framework relevant to the right to work have been in relation to families with children, couples, sole parents and people with ill health and people with disabilities. These changes have primarily been delivered through the Working for Families (2004) and the Working New Zealand (2007) packages and the implementation of the New Zealand Disability Strategy 2001.

##### **(a) Macroeconomic level**

88. *Better Work, Working Better*, the Government's Labour Market and Employment Strategy, provides the basis for developing a labour market that works well to achieve good economic and social outcomes for people and firms. The Strategy was developed in partnership with the private sector and unions.

89. The strategy focuses priorities on a number of areas, including:

- (a) Raising the value and quality of work with a focus on lifting productivity of workplaces, enhancing the quality of working life and supporting fundamental rights at work;
- (b) Optimising participation in the workforce;
- (c) Ensuring that people have the right skills that employers need; and
- (d) Supporting people to move in and out of the labour market as their circumstances in life change.

90. New Zealand is also involved in a number of initiatives which aim to promote decent work and working conditions such as the Work-life Balance Project, ongoing work on Low Pay, and the Decent Work Project. These initiatives target all those in employment in New Zealand.

##### **(b) Active labour market programmes**

91. A number of active labour market programmes have been developed to help people enter and remain in employment. These range from low-intensity programmes broadly available to those seeking work, to more resource intensive assistance targeted to

individuals who are disadvantaged in the labour market. For example, programmes are targeted to people with health and disability needs, and to helping sole parent beneficiaries to acquire the skills and capability that they need to obtain employment (the Training Incentive Allowance).

92. Industry Partnerships operate in industries and major employers having large skill and labour shortages and aim to fill the skill and labour shortages by developing tailored training programmes. They provide new career opportunities to people receiving government assistance, and/or who are disadvantaged in the local labour market and at risk of long-term benefit dependency. Participants matched to industry jobs also receive in-work support. These national partnerships are complemented by local industry partnerships operating at the regional and local level. Research indicates that 12 months after participating in the Industry Partnerships programme, 65 percent of participants had come off benefits. Participants are also significantly more likely to remain independent of the benefit. Partnerships have also been formed with some large employers to develop recruitment processes that will help the employers fill entry level vacancies with individuals who are currently unemployed.

93. Another programme, Enterprising Communities, focuses on achieving labour market outcomes for communities and groups who are disadvantaged in the labour market. These groups are encouraged to develop opportunities for employment and financial independence. Enterprising Communities grants help community organisations design and implement projects that will create skills and job opportunities for people who are facing difficulties obtaining employment. Any legally-incorporated non-profit organisation can apply for funding. Projects are considered on a case by case basis.

94. Migrant Employment Assistance aims to assist individual migrants, and migrant communities, develop skills to find employment and improve settlement outcomes. It is available for projects working with recognised communities or individuals who have been in New Zealand for less than two years and are experiencing difficulty in accessing the labour market.

**(c) Working for Families**

95. Work in paid employment is recognised as offering the best opportunity for people to achieve social and economic well-being. The Working for Families package, which was announced in 2004 and implemented in stages through to April 2007, uses an integrated programme of initiatives to lift incomes, strengthen work incentives and to make housing and childcare more affordable. The package complements initiatives in other sectors such as investment in primary health, minimum wage levels and housing. More detailed information about Working for Families is set out in paragraphs 235 to 242 below.

96. New Zealand has also progressively introduced a range of measures to increase opportunities for people to participate in the labour market, where work is appropriate for them while continuing to provide social and financial support for people with temporary or long-term barriers to work.

97. Changes have been made to make childcare more affordable. Since 1 July 2007, teacher-led ECE ('Early Childhood Education') services and some kohanga reo have been able to offer 20 hours free ECE to three and four-year-olds enrolled in them. Free ECE aims to reduce the cost barrier so more children can enrol or spend longer in ECE.

98. Participating services receive higher funding rates for free ECE hours. The rates are based on the average hourly cost of providing ECE. Services must not charge fees for free ECE, but can request donations, or optional charges for optional extras above the regulated standard.

99. Between the quarters ended June 2007 and June 2008, the affordability of ECE for parents and families has improved by 57 percent for kindergartens, 30 percent for education and care services, and 23 percent for home-based services. The significant improvement for kindergartens was due to their very high free ECE take-up rate and the very high proportion of their children who are three and four-year-olds attending for 20 hours or less. Unlike the other services types, the index for kindergartens includes donations and optional charges.

100. The steady decline in Domestic Purpose Benefit (DPB) recipients since 2004 is an early indication that the measures appear to be having an impact in encouraging sole parents to enter employment. The number of DPB recipients fell by 11.4 percent from August 2004 to August 2007.

101. Over the same period, income inequality fell. Incomes for low to middle income households grew much more rapidly than for above average income households, which is mainly attributed to the Working for Families package.

**(d) Working New Zealand**

102. Working New Zealand aims to increase opportunities for participation in the labour market by persons with disabilities or ill health, where appropriate, while providing social and financial support for people with temporary or long-term barriers to work.

103. One of the programme's components was the Social Security Amendment Act 2007, which introduced a number of legislative amendments to strengthen and complement the changes in service delivery that the programme implemented.

104. The Act also inserted several principles into the Social Security Act 1964. This included the principle that work in paid employment offers the best opportunity for people to achieve social and economic well-being, while recognising that paid work is not possible for everyone.

**(e) Improving support and services to young people/reduction of youth unemployment**

105. Working New Zealand has a significant focus on youth. The Government and Mayors Taskforce for Jobs initiative was established in 2000 to provide a national focus for Mayors concerned about the future of work and livelihoods in our communities. By 2006, 71 Mayors (97 percent of all Mayors) had joined. The Taskforce provides leadership and support for local initiatives that contribute to the goal that all 15 to 19 year olds are engaged in appropriate education, training, work or other activities that contribute to their long-term economic independence and or well-being.

106. The Social Security Amendment Act 2007 also introduced a new 'activity' requirement for young people on Independent Youth Benefit, replacing the old 'work' test. This change in focus emphasised the importance of 16 and 17 year olds, wherever possible, continuing with their education and training. It also recognised the need to get young people into work as soon as possible after finishing any formal schooling/training.

107. Youth Transition Services (YTS) provides a voluntary service for young people seeking support as they transition from education, training or other meaningful activities, into sustainable employment. YTS was developed in partnership with local authorities and commenced delivering services to young people in late 2004. A progressive implementation programme has resulted in 14 YTS sites covering 26 Territorial Local Authorities to the end of December 2007. The services are available to over 20,000 school leavers aged 15 to 19. Since July 2006, the services have linked over 6,000 young people to education, training or employment.

108. The Ministry of Youth Development funds programmes for vulnerable and at-risk young people, who are often unemployed and disadvantaged. Over the 2006/07 period,

1492 young people participated in programmes. Of those, 373 transitioned straight into employment, while 392 moved on to higher training, and 150 restarted their secondary schooling. 96.4 percent of participants reported being satisfied with their learning experiences.

109. The Ministry of Youth Development also funds the Youth Development Partnership Fund for initiatives between local Councils and their communities. The Fund enables city and district councils to improve outcomes for young people through new and innovative local youth development projects. Over the 2006/2007 period twenty seven local Councils and their communities received funding, all of which focused on education, employment and training.

**(f) Sustainable employment outcomes for Māori job seekers**

110. A number of initiatives are planned to improve employment outcomes for Māori job-seekers. This involves collaboration with a number of agencies at both local and national level including Te Puni Kokiri, Housing New Zealand Corporation and District Health Boards. Examples include:

- (a) Concentrating initiatives in areas with a high Māori population;
- (b) Working with other agencies to create sustainable employment for trades people through skills development; and
- (c) Working with local and regional councils to create employment schemes that will be of benefit to local communities.

111. The increased emphasis on individualised service (particularly changes to employment and training assistance) will support people into lasting employment and improve outcomes for Māori and Pasifika by increasing their labour market participation.

**(g) The New Zealand Disability Strategy**

112. The New Zealand Disability Strategy was adopted in 2001 after extensive consultation with the disability community, the wider disability sector and the public.

113. The Strategy sets out fifteen objectives, underpinned by detailed actions. Some of the objectives are particularly relevant to the right to work, namely to:

- (a) Provide opportunities in employment and economic development for people with disabilities;
- (b) Foster leadership by people with disabilities; and
- (c) Support lifestyle choices, recreation and culture for people with disabilities.

114. Government departments are required to produce annual plans setting out what they are doing to implement the Strategy. The Minister for Disability Issues reports to Parliament annually on progress. The Office for Disability Issues also maintains a website at [www.odi.govt.nz](http://www.odi.govt.nz).

115. Leadership in disability issues was reflected in the leading role New Zealand took in the development of the United Nations Convention on the Rights of Persons with Disabilities.

116. Subsidies and support are available to employers to support people with disabilities in the workplace. These include:

- (a) The Mainstream Supported Employment programme, which facilitates two year placements within the State sector for people with disabilities; and

(b) The Pathways to Inclusion Strategy, launched in 2001, which aims to improve employment opportunities for people with disabilities.

117. In the 2004–2005 year, the Pathway to Inclusion strategy helped 1,100 people with disabilities into more open employment. An important element was the repeal (in 2007) of the Disabled Persons Employment Promotion Act 1960, which provided exemptions from employment conditions for people with disabilities employed in sheltered workshops. The Act's repeal means that workers with disabilities have the same rights, responsibilities, opportunities and protections as other workers.

**(h) The New Zealand Positive Ageing Strategy**

118. The New Zealand Positive Ageing Strategy was launched in 2001. Extensive consultation on the Strategy was undertaken with communities, the non-government and the aged care sectors, with local government, and with various advisory and expert groups. Ten positive ageing goals were developed, two of which are directly relevant to employment opportunities for older people: Goal 1: Secure and adequate income for older people; and Goal 9: Elimination of ageism and the promotion of flexible work options.

119. Parliament passed the Employment Relations (Flexible Working Arrangements) Amendment Act in November 2007. The Act gave employees who have the care of any person, and who have been employed by the employer for six months, the right to request a variation to their hours, days, or place of work. Employers are required to consider the request, and the Act prescribes the only grounds upon which they may refuse the request.

**5. Protection against arbitrary termination of employment**

120. In 2003, Section 103A of the Employment Relations Act 2000 was enacted and its interpretation has been examined by the Employment Relations Authority and the Employment Court. Section 103A states that:

“the question of whether a dismissal or an action was justifiable must be determined, on an objective basis, by considering whether the employer's action, and how the employer acted, were what a fair and reasonable employer would have done in all the circumstances at the time the dismissal or action occurred.”

121. As a result:

(a) Employers are required to ensure high standards of procedural fairness are applied in their decision-making;

(b) Employers are required to follow organisational policies and deal with employees in good faith;

(c) The Court can consider and give weight to the employee's contribution to the employer when assessing the reasonableness of the employee's action;

(d) Genuine business decisions on redundancies will not be revisited; and

(e) Consultation with employees is mandatory in redundancy situations.

**(a) Case law**

122. During the reporting period, the Courts have decided a number of cases that have had a significant impact on the right to work.

123. In *Air New Zealand v. Hudson*<sup>6</sup> the Employment Court made it clear that the new Section 103A test has widened the scope of the inquiry into both the process the employer followed and the conclusions it reached. Under the previous “could have done” test there were a range of disciplinary options open to a fair and reasonable employer and, as long as the dismissal was within that range, the employer’s decision to dismiss would be justified. The Court found that section 103A requires the Authority or the Court to assess the employer’s decision against a universal objective test rather than an individualised subjective one. This places a higher onus on employers when justifying dismissals. Under the new “would have done” test the Court is able to examine the employer’s subjective decision against a universal objective test. This means the Court may reach a different conclusion from the employer and substitute its views instead of those of the employer. The Court also found that the new test applies to all stages of the employer’s decision that misconduct has occurred and the employer’s decision to dismiss.

124. In 2007, the Employment Court considered the law regarding dismissals through the interpretation of section 103A in *X v. Auckland District Health Board*.<sup>7</sup> The plaintiff was dismissed for serious misconduct but alleged disadvantage and unjustified dismissal. The plaintiff sought reinstatement, compensation, and a permanent non-publication order. The Court held that although the plaintiff’s actions were wrong, a fair and reasonable employer would not have dismissed the plaintiff but would have applied other options open to it. Reinstatement was ordered on the basis that the defendant’s objection to reinstatement ignored the plaintiff’s ability to reform and learn from the experience.

125. In *Gibbs v. Crest Commercial Cleaning*,<sup>8</sup> the Employment Court found that the Employment Relations Act 2000 did not give ‘vulnerable’ employees the protection the Government intended in subsequent contracting situations. This meant that if a business, contracted to perform services, lost the contract to another service provider, the ‘vulnerable’ employees affected did not have the right to choose to transfer to the new service provider.

126. As a result of this decision, the Employment Relations Act was amended to provide protection for groups of employees deemed ‘vulnerable’ under certain contracting situations. ‘Vulnerable’ employees, such as cleaners, are particularly susceptible to and disadvantaged by having their employment security and terms and conditions undermined through successive changes in contract. The amendment ensures that specified groups of ‘vulnerable’ employees are assured of the right to elect to transfer to a new employer on their existing terms and conditions of employment when they are affected by a subsequent contracting situation. The groups of employees specified as ‘vulnerable’ are described in the Act.

127. The Employment Relations Act also clarifies the definition of ‘subsequent contracting’ and the types of restructuring the protection applies to. The Act also specifically states that the restructuring situations defined are included within the protection provided under the Act. The Act also closes additional loopholes by clarifying other areas where it is not currently clear how the Act applies to specified groups of ‘vulnerable’ employees. This clarification ensures that the Government’s original policy intent of protecting the employment conditions of specified ‘vulnerable’ employees is met.

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<sup>6</sup> [2006] 1 ERNZ 415.

<sup>7</sup> [2007] ERNZ 66.

<sup>8</sup> [2005] ERNZ 399.

## 6. Technical and vocational guidance and training programmes

128. The Tertiary Education Commission (TEC) funds education and training programmes that boost skills and facilitate employment opportunities by creating opportunities to gain valuable ‘on the job’ experience.

129. A sample of education and training initiatives funded by TEC include:

- (a) Adult and Community Education;
- (b) Rangatahi Maia, which offers young Māori diverse job training and education programmes, ranging from Aquaculture to Business Management, Film, and Television;
- (c) Modern Apprenticeships, a work-based education initiative to enable young people to train in a trade of their choice;
- (d) English for Speakers of Other languages includes a range of English language programmes for new migrants;
- (e) Youth training offers young people under 18 with low qualifications the chance to gain valuable skills that will help them get a job.

## Article 7

### The right to just and favourable conditions of work

#### 1. Summary

##### *Key developments*

130. New Zealand has made good progress on full realisation of the right to just and favourable conditions of work. Key developments in this area include:

- (a) The implementation of the Employment Relations Act 2000, and subsequent amendments designed to ensure continuity of employment for vulnerable workers, and to strengthen the objectives of promoting good faith and collective bargaining principles;
- (b) The annual review of the minimum wage rate (which has been raised annually during the reporting period);
- (c) A decrease in the gender pay gap;
- (d) The ratification of ILO Convention 155; and
- (e) The launch of the New Zealand Injury Prevention Strategy, which includes a priority of addressing workplace injury and disease.

##### *Challenges*

131. Remaining challenges include the lack of a formal system for supervising the practice of employers and the under-representation of women at top levels of employment (despite the growing percentage who are employed).

##### *Key initiatives for the future*

132. During the reporting period, a five-year Pay and Employment Equity Plan was implemented, which was extended to Crown entities and local government authorities in 2007. An Equitable Job Evaluation tool was also developed. Annual stock-takes of the gender balance on state sector boards and committees have been undertaken since 2004, and the Government has promulgated a 50 percent target for women’s participation.

## **2. Previous reporting**

133. There were a number of Minimum Wage Orders in force during the reporting period. These are described in New Zealand's 2002–2007 report on ILO Convention No. 26. Changes in policy on minimum wages for training, and employment of persons with disabilities, are also described in that report.

## **3. Methods of fixing wages**

134. The Employment Relations Act 2000 was amended in 2004 to strengthen its objectives of promoting good faith, collective bargaining and the effective resolution of workplace problems. The main changes relevant to the duty of good faith were as follows:

(a) Clarifying and strengthening the duty and application of good faith, including recognition that the inherent inequality of power in employment relationships requires a broader focus than on bargaining power alone. Action and behaviour that represents a breach of good faith, and penalties for certain breaches of the duty of good faith are specified;

(b) Strengthening the provisions that encourage and promote collective bargaining, including practical measures to make collective organising and bargaining easier. Deliberate undermining and avoidance of collective bargaining are discouraged and penalized;

(c) Enabling the Employment Relations Authority to:

(i) Assist or facilitate parties when certain difficulties arise during collective bargaining; and

(ii) Remedy breaches of good faith that significantly undermine the collective bargaining, by fixing the terms and conditions of the collective agreement.

135. A Code of Good Faith provides general guidance on the concept of “good faith” in collective bargaining. A separate public sector code of good faith covering collective bargaining and other issues is contained in the ERA. Under the Code, employers and unions must provide information reasonably necessary to support or substantiate claims or responses to claims. The information can only be used for the bargaining process and must be kept confidential by all those who have access to it.

136. In serious cases, the Employment Relations Authority or the Employment Court can impose a penalty on a party that breaches the duty of good faith while engaged in collective bargaining.

## **4. Minimum wages**

137. The Minimum Wage Act 1983 makes payment of at least the minimum wage a statutory requirement. The minimum wage rates apply equally to men and women. The Act does not apply to people under the age of sixteen as they are legally expected to be at school.

138. The process for reviewing minimum wages has not changed during the reporting period. The process takes into consideration economic and labour market factors, and forms the rationale for determining the annual minimum wage. Consequently, the rationale explores the impact on factors such as inflation, the consumer price index, collective bargaining and wage rates.

139. The minimum youth and adult wage rate has been raised each year during the reporting period.



140. New Zealand does not have a system for supervising the practice of minimum wages. The Labour Inspectorate looks into incidents where disputes or concerns regarding minimum wages are raised. The ERA gives Inspectors authority to determine the outcome of a dispute based on the findings of the case. If a resolution is not reached at this stage, the parties have access to the Department of Labour's free mediation services. The dispute can be further referred to the Employment Relations Authority and the Employment Court.

**(a) Amendments to minimum wage legislation**

141. The Minimum Wage (New Entrants) Amendment Act 2007, replaced the 'youth' minimum wage rate with a 'new entrants' wage rate. While employees who are aged 16 or 17 often do the same work as older employees, time is needed for young people new to the workforce to gain the necessary socialisation skills. The application of the new entrants' rate is limited to a timeframe that allows that learning to occur, while respecting the value of the young people's work. The new entrants' minimum wage applies to those aged 16 or 17 who have completed 3 months or 200 hours of work while they were aged 16 years or older, those that have been supervising or training other workers, and those that are trainees and therefore subject to the minimum training wage. The training minimum wage is set at the same rate as the youth/new entrants' minimum wage.

142. Minimum wages have grown steadily as a percentage of average earnings since 2000. The table below sets out changes in the rates since 1999, and shows how minimum wages have tracked over time as a proportion of average earnings, using the Quarterly Employment Survey (June quarter).

**Temporal development of wage rates**

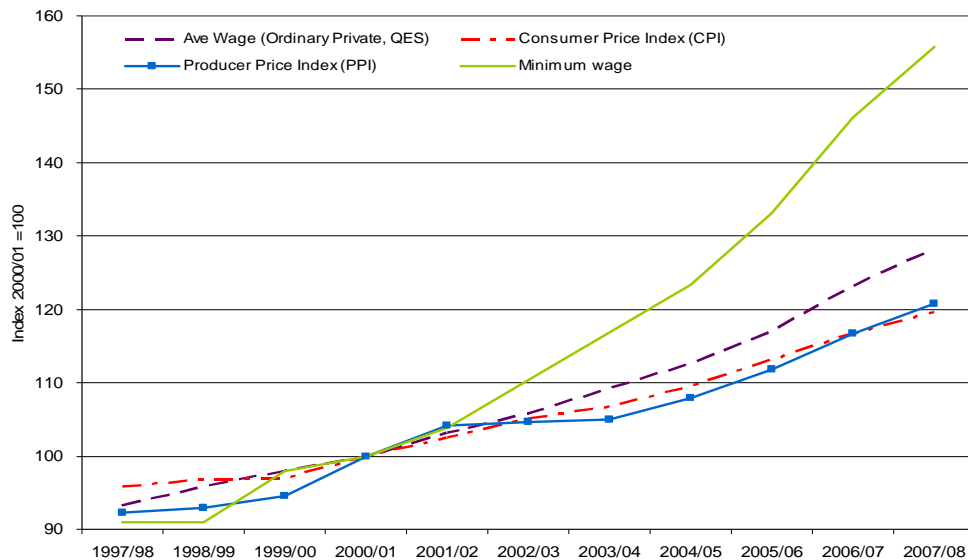
<i>Key changes in minimum wages</i>		<i>Minimum wage rates % increase % of average wages</i>		
		<i>Adult</i>	<i>18–19 year olds</i>	<i>16–17 year olds</i>
1997–1999		\$7.00 42.1%	\$4.20	\$4.20
2000	All minimum wages increased to restore relativity to the average wage in 1997, when minimum wages were last increased. <sup>9</sup>	\$7.55 7.9% 42.2%	\$4.55 8.3%	\$4.55 8.3%
2001	Adult wages raised by increase in average wages. Age of eligibility for adult minimum lowered from 20 to 18 years. Youth minimum wage rate rose from 60% of the adult minimum wage rate to 70%.	\$7.70 2.0% 41.6%	\$7.70 69.2%	\$5.40 18.7%
2002	Adult minimum wage rate raised by increase in average wages. Youth minimum wage rate rose from 70% to 80% of the adult minimum wage rate.	\$8.00 3.9% 42.0%	\$8.00 3.9%	\$6.40 18.5%

<sup>9</sup> Differences in the percentage increase for youth minimum wage in 2000 are due to the rounding of the youth minimum wage to the nearest \$0.05.

Key changes in minimum wages		Minimum wage rates % increase % of average wages		
		Adult	18–19 year olds	16–17 year olds
2003	All minimum wage rates increased by 6.3%, higher than average wage increase of 2.7%. Training minimum wage (set at the youth minimum wage) came into effect from 1 July 2003.	\$8.50 6.3% 43.3%	\$8.50 6.3%	\$6.80 6.3%
2004	All minimum wage rates increased by 5.9%, higher than average wage increase of 3.7%.	\$9.00 5.9% 44.3%	\$9.00 5.9%	\$7.20 5.9%
2005	All minimum wage rates increased by 5.6%, higher than average wage increase of 2.7%.	\$9.50 5.6% 44.9%	\$9.50 5.6%	\$7.60 5.6%
2006	All minimum wage rates increased by 7.9%, higher than average wage increase of 2.7%.	\$10.25 7.9% 46.1%	\$10.25 7.9%	\$8.20 7.9%
2007	All minimum wages increased by 9.8%, higher than average wage increase of 4.2%.	\$11.25 9.8% 49.3%	\$11.25 9.8%	\$9.00 9.8%

143. The following chart analyses the movement of wages from the point of view of employees. It shows changes in the adult minimum wage tracked against average wages, the Producers' Price Index, and the Consumer Price Index.

**Average wage, Producers Price Index, Consumers Price Index and the minimum wage**



144. The Department of Labour promotes the information through its website, direct advice given through its contact centres, and direct assistance by Labour Inspectors.

145. The average wage for Māori was 78.4 percent of the average wage for New Zealand Europeans, and 82.1 percent of the economy-wide wage in 2007. The average wage among Pasifika was 77.4 percent of the average wage of New Zealand Europeans, and 81 percent of the economy-wide average wage. Although the wage differential appears to jump around year to year, the pay gap appears to have remained the same or possibly even worsened during the last seven years.

146. Research has shown that some of the observed differences in labour market outcomes can be explained by factors such as age, education, marital and parental status, and occupational and industry composition.<sup>10</sup> However, most research still finds an unexplained portion of the difference which could be due to discrimination but also due to unobservable characteristics such as ability and motivation. Projections by the New Zealand Institute of Economic Research suggest that the 2001 wage gap between Pasifika and non-Pasifika of 82 percent, would remain at around 85 percent by 2021 in a 'business as usual' scenario. The gap would close to about 96 percent if education and training levels of the current generation of Pacific children were the same as those of non-Pasifika.

## **5. Equal remuneration for work of equal value**

147. Under the Equal Pay Act 1972 it is unlawful for employers to differentiate in pay rates on the basis of the employee's sex for the same or substantially the same work. The ERA provides protection against discrimination and sexual harassment, through its personal grievance provisions. An employee may choose to take a personal grievance under the ERA, or to make a complaint under the HRA.

148. The gender pay gap has decreased from 18.2 percent in 1997 to 16 percent in 2007 (mean hourly wage, annual Statistics New Zealand Income Survey).

149. The Committee is referred to New Zealand's reports on the ILO Equal Remuneration Convention, 1951 (No. 100) for the years 1998–2000, 2000–2002, 2002–2004 and 2004–2006.

## **6. Measures to promote an objective appraisal of jobs**

150. In response to New Zealand's second periodic report, the Committee recommended that the State Party continue to intensify programmes to reduce inequality between men and women in the work place.

151. In 2004, a Pay and Employment Equity Plan of Action was initiated to ensure that remuneration was free of gender bias and that barriers to employment equity for women were removed in the Public Service, public education and public health sectors. Under the Plan of Action, pay and employment equity reviews and response plans were to be completed in all Public Service departments, the public health sector, kindergartens, public schools and some parts of the tertiary education sector by the end of 2008. A detailed summary of this Plan of Action was included in the New Zealand report on the ILO Convention No. 100, for the years 2004–2006 (pp 2–4).

152. Following pay and employment equity reviews, a number of investigations were undertaken using the Equitable Job Evaluation tool developed by the Department of Labour. This involved the re-valuing of under-valued women-dominated occupations, seeking remedial pay settlements where warranted, and bargaining for appropriate rates.

<sup>10</sup> Winkelmann and Winkelmann (1997), and Neal and Johnson (1996).

## 7. Equal opportunity for promotion

153. It is unlawful for employers to withhold promotion opportunities on discriminatory grounds. Equal Employment Opportunity as a positive obligation is voluntary in the private sector, while the public sector is expected by the State to be a “good employer”. Reviews undertaken as part of the Pay and Employment Equity Plan of Action noted above include identifying and addressing employment equity issues such as promotion opportunities. The results of reviews and responses to those reviews in the health, education, and public service sectors are currently being analysed.

154. Early findings indicate a range of organisational actions in these sectors undertaken to address identified problems. The State Sector Act 1988 requires State Sector organisations to develop and implement an equal opportunities programme. This requirement is to be included in organisations’ statements of intent and annual reports. Twenty-three percent of Chief Executives in the State Sector are women.

155. Since 2004, the Ministry of Women’s Affairs has conducted annual stock-takes of the gender balance on state sector boards and committees. Women’s participation has been relatively static, moving from 40.8 percent in 2004 to 41.5 percent in 2007. The Government’s goal is to achieve 50 percent representation by women on state sector boards and committees by 2010.

156. Several factors have hindered achievement of the 50 percent goal: for example, increasing gender diversity is one of several competing priorities, and must be balanced with other factors. For a small number of boards, particularly in traditionally male-dominated fields, qualified female candidates can be difficult to identify. The Ministry of Women’s Affairs has a particular focus on increasing women’s participation, and is working with other government agencies towards achieving the 50 percent goal.

157. The 2008 Census of Women’s Participation measures women’s participation in leadership roles in the state sector, corporate, legal, academic, and other fields. The Census includes an *Agenda for Change 2008* at its conclusion. It lists 11 recommendations which are intended to act as a catalyst to stakeholders such as the Government, publicly listed companies, chief executives, and senior managers. For departments with less than 50 percent participation, recommended improvements include exploring alternative means of finding women candidates if existing methods are not producing a suitable balance, requesting professional bodies (and other representative organisations) put forward woman candidates to reflect the gender balance of their constituencies, and working in partnership with the Ministry of Women’s Affairs to find ways to identify and overcome obstacles to the appointment of women.

158. The Agenda recommends that the 60 top 100 listed companies without a single woman on the board prioritise female appointments as soon as a board vacancy arises. It also recommends that the 40 companies on the New Zealand Debt Market and the 22 companies on the New Zealand Alternative Market without any female board members actively seek, recruit and appoint suitably qualified women. In the private sector listed companies, women occupy only 8.65 percent of their board positions.

### Percentage of the total of senior management in respondent organisations<sup>11</sup>

<i>Women</i>	<i>Māori</i>	<i>Pasifika</i>	<i>Asian</i>	<i>Other ethnic groups</i>
30%	6%	1%	2%	7%

<sup>11</sup> Note that, based on the 2006 Census Usually Resident Population Count, Maori comprised 14.6% of the total population, Asian 9.2% and Pasifika 6.9%.

## **8. Income distribution of employees – public and private sectors**

159. The 2006 Census provides information on the total personal income of employees in the public and private sectors. Unfortunately, information on non-monetary benefits is not collected. Employees in the public sector are more likely to have an annual total personal income of over \$30,000 than employees in the private sector. In 2001, the figures were 42 percent for the private sector and 62 percent for the public sector. In 2006, this had increased to 55 percent and 73 percent respectively. In 2006, 38 percent of people employed in the public sector had an annual income of more than \$50,000, compared to 23 percent for the private sector. Between 2001 and 2006, the number of people with a total income of over \$30,000 has increased significantly. In the private sector there was an increase of 47 percent and for the public sector the increase was 41 percent.

## **9. Occupational health and safety**

160. To supplement the following summary, the Committee is referred to New Zealand's reports under ILO Convention No. 81 for the years 1999–2001, 2001–2003, 2003–2005 and 2005–2007.

161. A National Occupational Safety and Health Advisory Committee was established in 2003 to provide independent advice directly to the Minister of Labour on major occupational health and safety issues in New Zealand.

162. In 2007, New Zealand ratified ILO Convention 155. The first report on New Zealand's compliance with this Convention is due in 2009. Existing ILO instruments have influenced the development and application of aspects of New Zealand's national health and safety policy since the last reporting period. The establishment of the Workplace Health and Safety Council was strongly influenced by Convention 155.

### **(a) Ability to refuse hazardous work**

163. All employees may refuse to perform work that they believe is likely to cause them serious harm. An employee may continue to refuse to carry out that work if, after discussing the matter with their employer, the problem is unresolved and the employee believes on reasonable grounds that the work is likely to cause them serious harm. Reasonable grounds exist if, for instance, a health and safety representative believes that the work an employee is required to do is likely to cause them serious harm and advises them accordingly. Under the ERA, employees may participate in a strike if they believe it is justified on the grounds of safety or health.

### **(b) Health and Safety in Employment Act 1992**

164. In 2002, health and safety legislation was made consistent with employment relations legislation, and the law aligned with requirements of ILO Convention 155. The Health and Safety in Employment Act 1992 now:

- (a) Includes new health and safety requirements for employee participation in workplaces;
- (b) Provides coverage to volunteers, people undertaking work experience programmes or on the job training, and seconded employees;
- (c) Provides coverage to the transport sector;
- (d) Has increased fine levels for non-compliance; and
- (e) Has new enforcement mechanisms to encourage compliance.

(c) **New Zealand Injury Prevention Strategy**

165. The New Zealand Injury Prevention Strategy (NZIPS) was launched in 2003. This is a framework for the injury prevention activities of government agencies, non-governmental organisations, communities and individuals. The NZIPS is based on a vision for a safe and injury-free society. The strategy included priorities around workplace injury (including disease). A Workplace Health and Safety Strategy (WHSS), led by the Department of Labour, was subsequently developed to address this priority.

(d) **The Workplace Health and Safety Council**

166. The Workplace Health and Safety Council first met in May 2007 and comprises of representatives of the Social Partners and the Minister of Labour and the Minister for Accident Compensation. The Council's purpose is to provide leadership, co-ordination, and advice on relevant legislation, standards and policies. Its role is to build consensus and provide advice to Ministers on workplace health and safety matters, including advice on:

- (a) Ways to progress the outcomes of the WHSS;
- (b) The medium to long-term implementation opportunities and challenges for the WHSS across agency or sector boundaries;
- (c) The different support requirements and interests within and across stakeholder representatives with regard to the WHSS; and
- (d) Workplace health and safety matters of national or international significance.

(e) **Minimum age**

167. In response to New Zealand's second periodic report, the Committee made observations on the minimum age in agriculture. The Health and Safety in Employment Act 1992 (HSE Act) takes a flexible, performance-based approach to protecting young people in the workplace. The HSE Act covers all employees regardless of age, thus protecting children from employment that may cause them harm, whether physical or mental. All employees have the right to refuse to perform work likely to cause them serious harm. Employers must also ensure that employees are either adequately trained or supervised.

168. During the school year, the Education Act prohibits youths and children from undertaking work either during school hours, or when it prevents or interferes with attendance at school. How much work a youth or child may undertake before it is considered detrimental to health and educational achievement will depend on various factors, including age, physical and mental capacity, and the type of work.

169. Regulations made under the HSE Act place specific duties on employers and others relating to young people in the workplace. These regulations effectively prohibit an employer allowing young people under 15 years from working in hazardous places or with machinery, undertaking injurious tasks, and driving or riding on vehicles. In addition, young people under 16 years are not permitted to undertake night work (between 10 pm and 6 am). Where necessary, the Department of Labour undertakes enforcement action under the HSE Act and Regulations.

170. It is likely that injuries and illness are under-reported by children. This may be as a result of children generally lacking awareness regarding their health and safety and employment rights (as demonstrated by school-based surveys). To address this, the Department of Labour has implemented innovative strategies to engage young people, including a comic-style fact sheet and a radio song competition.

**(f) Young people as independent contractors**

171. Young contractors are not currently protected by the Regulations as these only relate to employees, not contractors. However, young contractors are protected more generally under the HSE Act, which creates duties for principals to take all practicable steps to ensure no contractors or subcontractors are harmed while doing work.

**(g) Department of Labour visits and investigations**

172. The Inspectorate is the primary means of ensuring compliance with the occupational health and safety law in workplaces. It operates under the HSE Act and the Hazardous Substances and New Organisms (HSNO) Act.

173. A system of labour inspection is maintained in respect of all workplaces. The Labour Inspectorate consists of two separate parts, both administered by the Department of Labour: a Health and Safety Inspectorate (under the HSE Act), and a Labour Inspectorate (under the Employment Relations Act).

174. The Health and Safety Inspectorate has a specific policy to ensure that inspections can be carried out in a professional manner at an appropriate time. The Inspectorate operates a number of programmes that assist employers to meet their obligations under the HSE Act. Workplaces are targeted for inspection according to their health and safety record and their motivation toward health and safety management. Inspections are normally carried out without prior notice and take place wherever work is being done. Any member of the public can contact the department to raise concerns about workplace health and safety. The HSE Act also requires employers, self-employed and principals to report to the Department the occurrence of serious harm to people in places of work.

175. The Department of Labour carries out proactive workplace interventions (organising forums and providing information) and reactive workplace interventions (Department staff investigating and assessing).

<i>Fiscal year</i>	<i>Proactive workplace interventions</i>	<i>Reactive workplace interventions</i>	<i>Legal proceedings commenced</i>	<i>Legal proceedings resulting in conviction</i>
2001/02	13 676	10 798	145	132
2002/03	12 278	11 274	136	119
2003/04	12 124	12 379	138	100
2004/05 <sup>12</sup>	9 748	11 241	110	119
2005/06	10 985	10 079	80	79
2006/07	7 591	9 849	97	80
<b>Total</b>	<b>66 402</b>	<b>65 620</b>	<b>706</b>	<b>629</b>

**(h) Workers not covered by Health and Safety in Employment Act 1992**

176. The New Zealand Defence Forces, and work performed for the owner in a private home, are not covered by the HSE Act. The New Zealand Defence Forces are excluded from the HSE Act's provisions relating to accident investigation provisions and inspection of high security defence areas. An HSE inspector must work within a protocol agreed

<sup>12</sup> The change in reported output levels subsequent to 2004/5 was due to changes with the implementation of a new information system and changes to operational practices. Investigation types were reclassified, enabling a higher proportion of in-depth investigations to be conducted.

between the Department of Labour and the Chief of Defence. This provision is intended to ensure that high security areas are protected. Occupiers of a home do not have duties to people who perform residential work. These provisions were established during the drafting of the legislation. As such, they have undergone a process of consultation, including with the two most representative bodies – Business New Zealand and the New Zealand Council of Trade Unions.

(i) **Statistical data: work-related deaths and occupational accidents**

177. A review of New Zealand's injury data in 2000–01 led to the establishment of the Injury Information Manager, in Statistics New Zealand, the national statistics agency. The Manager is responsible for integrating injury data from other agencies and producing data sets to produce meaningful injury information, make data sets available for research and statistical purposes, and produce integrated data sets. Unfortunately, accurate data cannot be supplied for the whole reporting period.

**Workplace fatalities in New Zealand**

Industry	Number of fatal claims				
	2002	2003	2004	2005	2006
Agriculture	10	11	9	18	19
Hunting & fishing	<4	-	<4		
Forestry	<4	5	<4		
Mining	<4	-	<4	-	<4
Manufacturing	10	10	11	17	6
Electricity, gas & water supply	-	4	<4	<4	-
Construction	10	20	14	20	23
Wholesale & retail trade	<4	<4	<4	<4	<4
Accommodation, cafes & restaurants	<4	-	<4	<4	-
Transport & storage	8	8	8	12	7
Communication services	-	-	<4	-	-
Finance & insurance	<4	-	-	-	<4
Property & business services	<4	4	<4	<4	<4
Education	<4	-	<4	-	-
Health & community services	-	-	-	-	<4
Personal and other services	4	<4	<4	<4	<4
Cultural and recreation services	-	-	-	<4	-
Not specified	21	20	11	11	11
<b>Total</b>	<b>78</b>	<b>87</b>	<b>73</b>	<b>92</b>	<b>81</b>

**Workplace injury and illness/disease in New Zealand**

	2002	2003	2004	2005	2006
Workplace injury	239 943	243 110	246 018	246 664	235 106
Workplace illness/disease	23 639	25 672	26 533	29 028	29 656



**(i) Role of the Accident Compensation Corporation (ACC)**

178. New Zealand has a comprehensive no-fault accident compensation scheme (the ACC scheme). Its three primary purposes are the reduction of accidents and severity of personal injury, the rehabilitation of injured accident victims to the maximum practical extent, and the provision of fair compensation for loss from injury including weekly compensation and where appropriate, lump sums for permanent impairment.

179. The ACC Scheme provides medical, hospital and rehabilitation treatment for accident victims, aides and appliances, home help, childcare, training for independence and home modifications. In case of fatal injuries, the ACC Scheme provides weekly compensation and lump sums for dependent survivors. The right to sue in New Zealand courts to recover damages for personal injury has been abolished.

180. Since the previous report, there have been substantive changes to the legislation governing ACC. The Injury Prevention, Rehabilitation, and Compensation Act 2001 reprioritised the ACC Scheme to reflect the Government's key goals. These are:

- (a) Injury prevention;
- (b) Complete and timely rehabilitation;
- (c) Fair compensation (reinstatement of lump sum compensation and changes to rehabilitation, weekly compensation and death benefits); and
- (d) Code of ACC Claimant's Rights.

181. The Act makes injury prevention a primary function of ACC. ACC may be funded to take part in joint ventures or sponsorships aimed at reducing injuries. ACC must ensure that its injury prevention initiatives are co-ordinated with those of other agencies and there is a joint planning requirement between ACC and the Department of Labour on work safety interventions.

182. Employers are now required to take all practical steps to assist an injured employee's vocational rehabilitation, where the employee is able to return to the same job. This includes work and non-work injuries. Claimants not able to return to their pre-injury job now have an initial occupational assessment which determines suitable work types for them and an initial medical assessment of whether the types of work are medically suitable for them.

183. The Act also re-introduced lump-sum payments for permanent impairment.

184. In 2005, the Act was amended to replace the medical misadventure provisions with the current treatment injury provisions, providing wider and fairer access to cover for claimants with injuries arising from treatment by medical practitioners. The amendment also enhanced certainty to weekly compensation for people who are newly self-employed; and increased the discretion available to ACC to provide additional social rehabilitation entitlements.

185. Further information concerning the role and activities of the ACC is given under articles 9 and 12 below.

**10. Rest, leisure, limitation of working hours, and holidays with pay**

186. For more detail of paid annual holidays, public holidays and special leave the Committee is referred to New Zealand's reports on ILO Conventions No. 52 and No. 101, for 2003–2008.

187. The Holidays Act 2003, which repealed the Holiday Act 1981, was amended in 2007 to increase the minimum leave entitlement of employees from three weeks to four. The

leave can be taken at any time agreed between the employer and the employee. Employees must be given the opportunity to take at least two of the four weeks leave in a continuous period, if they wish to do so.

188. Many employment agreements contain provisions that vary the provisions of the Holidays Act 2003. Such variations are often to the benefit of the employee – for example, by providing additional annual holidays, establishing a higher rate for annual holiday pay, or providing consultative arrangements about closedowns. The Act does not prevent the employer providing the employee with enhanced entitlements. However, the employer and employee need to review such arrangements to ensure they are consistent with the Act.

189. There are two circumstances where the date on which the employee becomes entitled to annual holidays is adjusted. These are when the business has an annual closedown period; and an employee takes unpaid leave of more than a week during the year.

190. An employer and employee may agree on what four weeks' annual holiday means in their circumstances. This agreement must be a genuine reflection of the employee's working week.

191. There are no barriers preventing the newly employed from accessing their right to weekly compensation. This applies to those changing jobs; transitioning from one job to another, for example seasonal labour; or young people entering the workforce.

192. Providing a person is an employee and is in an employment relationship, the minimum protections related to holidays apply. The only exception to this is when people are employed as contractors.

193. There is no legal maximum hours of work prescribed by legislation. The Government does not set the hours to be worked in a week. The employment agreement between the employer and employee forms the basis of the number of hours that are agreed upon.

## **11. International assistance**

194. New Zealand does not use international assistance to implement Article 7 rights.

## **Article 8 Trade union rights**

### **1. Summary of key developments**

195. There have been no significant developments in this area since the second periodic report.

### **2. Previous reporting**

196. The substance of article 8 is covered briefly in New Zealand's fifth periodic ICCPR report for the period 1997–007 (paras. 328–336) under the commentaries regarding article 22 of that Covenant. Detailed information is available in the New Zealand declaration reports on the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) for the period 2000–2007. Further information can also be found in the New Zealand reports on the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98) for the years 2004–2006 and 2006–2008 (currently being drafted), which New Zealand ratified in 2003. The reports include information on recent relevant judicial decisions. The following comments provide a summary and updates.

### 3. Right to form and join trade unions, right of trade unions to federate

197. As discussed in the second periodic report on this Covenant (paras. 166 ff), the Employment Relations Act 2000 provides for freedom of association, voluntary membership of a union, a prohibition on undue influence and preference in employment in relation to membership or non-membership of a union. Unions have enhanced rights of access to workplaces under the Act for purposes related to the employment of its members and/or to the unions' business. The Act explicitly allows more rights of access for conducting union business as well as any other union related matter that the union may wish to enter the workplace.

198. Under the Employment Relations Act, trade unions are required to be an incorporated society; they must have as their objective the promotion of members' collective employment interests and must remain at arm's length of any employer; and unions must register with the Registrar of Unions. For a union to be registered, it must have a minimum of 15 members.

199. Unions may operate freely as long as they comply with the requirements of the Employment Relations Act. No information is collected on how the Government secures the right of unions to federate and join international trade organisations.

### 4. Employment contracts and collective bargaining

200. The Employment Relations Act 2000 promotes collective bargaining and acknowledges and addresses the inherent inequality of bargaining power in employment relationships. For further detail see paragraphs 168 onwards of the second periodic report.

### 5. Number and structure of trade unions and their membership

201. As at 1 March 2007, there were 169 unions with 383,551 members. A union may cover a number of industries. The only structure breakdown undertaken is by industry and gender.

#### Gender representation at an industry level<sup>13</sup>

<i>Industry</i>	<i>Union male</i>	<i>Union female</i>	<i>Total male</i>	<i>Total female</i>
Accommodation, cafes and restaurants	4 476	7 553		
Agriculture, forestry and fishing	4 605	1 666	<b>104 800</b>	<b>48 600</b>
Construction	5 969	858	<b>165 900</b>	<b>20 200</b>
Cultural and recreational services	1 371	591		
Education	20 225	59 861	<b>50 800</b>	<b>111 000</b>
Electricity, gas and water supply	3 419	340		
Finance and insurance	3 241	8 097	<b>156 300</b>	<b>152 200</b>
Government administration and defence	23 199	23 201		
Health and community services	19 849	71 625	<b>31 500</b>	<b>169 100</b>
Manufacturing	54 439	15 141	<b>209 000</b>	<b>79 000</b>
Mining	1 224	39		

<sup>13</sup> Union figures taken from Annual Membership Return of Unions as at 31 March 2007. Total industry figures taken from Household Labour Force Survey, March 2007 quarter, provided by Statistics New Zealand.

<i>Industry</i>	<i>Union male</i>	<i>Union female</i>	<i>Total male</i>	<i>Total female</i>
Wholesale and retail	4 254	7 935	<b>230 800</b>	<b>242 700</b>
Communication, transport and storage	28 577	11 796	<b>80 700</b>	<b>31 800</b>
Other services			<b>108 700</b>	<b>124 100</b>
<b>Total</b>	<b>174 848</b>	<b>20 8703</b>	<b>1 138 500</b>	<b>978 700</b>

## 6. The right to strike

202. As set out in paragraph 172 of the second periodic report, the Employment Relations Act 2000 extended the right to strike so that strikes are lawful in pursuit of multi party agreements. Strikes and lockouts relating to bargaining for collective agreements are subject to a 40-day strike-free period to encourage collective bargaining in good faith. The 40 day period is triggered by the starting of collective bargaining negotiations. This may start prior to the expiry of the collective agreement. Strikes and lockouts are also lawful if the strike or lockout can be justified on the grounds of safety or health.

203. Since the introduction of the Employment Relations Act, only one Health and safety-related case has been dealt with by the Employment Court. In *Counties Manukau DHB v. Public Service Assn Inc*, the Court held that a strike by mental health staff relating to long waits for patient beds was not justified, as the strike action may not eliminate the danger to patients.

## 7. Restrictions on the right to strike

204. Restrictions apply to strikes or lockouts in the essential services requiring between three and up to 28 days notice. In the event of strikes affecting public transport, the public is required to be given 24 hours notification. Strikes by sworn police officers are unlawful under the Police Act 1958. The ERA does not apply to the armed forces under the Defence Act 1990. This means that members of the armed forces do not have a right to strike under the ERA.

205. Restrictions on the right to strike also apply if collective bargaining processes are not followed; proper notice is not provided; or based on health and safety reasons.

## 8. New Zealand's ratification of two further ILO Conventions relevant to Article 8, and removal of a reservation to that Article

206. Since the last report New Zealand has ratified the following treaties:

- Labour Statistics Convention 1985 (No. 160)
- Worst Forms of Child Labour Convention 1999 (No. 182)
- Right to Organise and Collective Bargaining Convention 1949 (No. 98)
- Occupational Safety and Health Convention 1981 (No. 155)

207. New Zealand is currently undertaking a compliance assessment of the Minimum Age Convention 1973 (No. 138) and the Maritime Convention 2006.

### *ILO Conventions 87 and 98*

208. Included as one of the Objects of the Employment Relations Act was the intention to:

“Promote observance in New Zealand of the principles underlying International Labour Organisation Convention 87 on Freedom of Association, and Convention 98 on the Right to Organise and Bargain Collectively.”

209. Accordingly, the enactment of the legislation was accompanied by an assessment of whether New Zealand would be able to ratify these two Conventions.

210. Following an extensive consultation process, New Zealand ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in 2003. The decision was made not to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) because of a lack of clarity about the compatibility of New Zealand’s law, policy and practice with the requirements of the Convention. New Zealand will continue to monitor the national and international situation and future developments in ILO jurisprudence, with a view to the future ratification of Convention 87.

#### *Reservation to Article 8*

211. The same issues discussed above affect New Zealand’s position to its reservation to Article 8. In light of this, the position of New Zealand has not changed since the previous reporting period. The reservation states that:

“the Government of New Zealand reserves the right not to apply article 8 to the extent that existing legislative measures, enacted to ensure effective trade union representation and encourage orderly industrial relations, may not be fully compatible with that article.”

212. Further information on New Zealand’s reservation in relation to Article 8 can be found in paragraphs 183 and 184 of the second periodic report.

## **Article 9**

### **The right to social security**

#### **1. Key developments**

213. This section provides a general overview of New Zealand’s social security system and a summary of key policy developments in this area including the:

- Working for Families programme
- Working New Zealand programme
- Retirement Income Policy Framework

#### *Challenges*

214. The challenge in New Zealand is maintaining commitment towards providing a comprehensive and accessible social security system for all.

#### *Initiatives*

215. Since the last reporting period, New Zealand has moved towards a work and outcomes-focused service for working age people. This approach involves taking a wider perspective, working with beneficiaries in the context of their daily lives, and providing services that improve outcomes for their families. This offers comprehensive work-focused support for anyone who is able to work, and provides the right service at the right time, from the start, to help people achieve their goals. The objective is to increase the number of people moving into full-time work and assist those in part-time work to use it as a stepping stone to a full-time job where possible.

## 2. Main developments

216. Income support schemes continue to be funded from general taxation. A period of employment is not a prerequisite for receiving income support, which is not time-limited.

217. New Zealand citizens, permanent residents, and those ordinarily resident in New Zealand who have resided here for two years are generally eligible. There are emergency forms of assistance available for people in hardship who do not meet the two-year residence requirements. People under 18 years of age are generally only eligible for assistance in specific circumstances, such as family breakdown and absence of parental support, or if they are married or in a civil union with a dependent child. Additionally, people with disabilities are eligible to receive assistance from age 16 under the Invalids Benefit. Emergency benefit assistance is not age limited and is paid to 16 and 17 year old sole parents.

### (a) Legislative changes

218. The Social Security Amendment Act 2001 repealed the Community Wage scheme and re-established the unemployment benefit. This move away from requiring work in the community to receive a benefit was based on the principle that voluntary participation in community work is more effective in helping people into sustainable employment.

219. The Social Security (Personal Development and Employment) Amendment Act 2002 made changes to enhance case management, including a requirement for some categories of beneficiaries to prepare personal development and employment plans with a view to assisting them to move towards employment.

220. The Social Security (Working for Families) Amendment Act 2004 and the Taxation (Working for Families) Amendment Act 2004 provided for the Working for Families package. The Working for Families packages included targeted financial incentives for certain persons to enter into, and stay in, employment. Changes were also made to the accommodation supplement to address affordability, and steps taken towards simplifying the benefit system and making it easier to understand.

221. The Social Security Amendment Act 2005 changed the law so that for social security purposes, same and opposite sex couples in civil unions and de facto relationships are treated the same as married couples for social security purposes. The law did not apply to same sex couples until 1 April 2007. Because the previous law treated this group as two individuals, the legislative amendments would have resulted in a reduction or complete loss of entitlement for these individuals. The delay in implementation allowed them to adjust their financial arrangements accordingly.

222. The Social Security Amendment Act 2007 made significant reforms to the social assistance system and introduced Working New Zealand: Work Focused Support.

223. The New Zealand Superannuation and Retirement Income Act 2001 provided for a retirement income (New Zealand Superannuation) for people who have reached 65 years of age and meet the residential criteria.

### (b) Accident compensation

224. New Zealand has a comprehensive no fault accident compensation scheme (ACC) which meets the costs of treatment and rehabilitation of accidents and injuries. The purpose of ACC social rehabilitation is to assist in restoring an injured person's independence. The scheme provides support including aids and appliances, home help, childcare, training for independence, and home modifications.

**(c) Dissemination of information**

225. New Zealand informs people about the social security system using brochures and fact sheets, online access, services centres and free phone services. Resources and services are available in a wide range of languages and mediums, cover all aspects of the social security system and are updated regularly.

226. Brochures are available in all Work and Income Service Centres, libraries, community resource centres and a range of other outlets (such as medical centres). General Work and Income brochures and information are produced for simplicity, readability and comprehension. Work and Income Manuals and Procedures are accessible online and the Ministry of Social Development website covers all aspects of Ministry business. The free to call contact centres also provide information and answers to questions, further improving accessibility.

227. New Zealand provides social security information to those with language, educational or cultural difficulties in a number of different ways, including working with interested community groups to convey messages. For non-English speakers, Work and Income builds partnerships with other organisations (such as migrant and refugee services), and runs several migrant and refugee programmes.

228. The Ministry of Social Development operates a free to call phone service that provides services in 11 languages (Arabic, Cantonese, Farsi, Hindi, Khmer, Mandarin, Māori, Punjabi, Samoan, Somali, and Tongan). Printed contact information cards are printed in the 11 languages noted above – these provide basic information and highlight that people can gain assistance in their mother tongue through the Multilingual Contact Centre. The Department of Internal Affairs' language line provides translation services for 39 languages, and is available across a wide range of government departments. For further information see [http://www.ethnicaffairs.govt.nz/oeawebsite.nsf/wpg\\_url/language-line-Index](http://www.ethnicaffairs.govt.nz/oeawebsite.nsf/wpg_url/language-line-Index).

229. A Deaf Link free-fax service is provided for people who are deaf or find it hard to communicate by phone – this supplements accessibility provided through web based resources.

230. People who have learning difficulties are also able to have a support person with them. All letters and brochures indicate that a person can bring a support person with them if this would be helpful.

**(d) Working for Families**

231. The Committee is referred to paragraphs 235 to 242 of this Report for an overview of Working for Families.

*(i) Accommodation Supplement*

232. The Accommodation Supplement is available to beneficiaries and non-beneficiaries to assist with accommodation costs.

*(ii) Childcare*

233. Subsidies of up to \$3.51 per hour for childcare and Out of School Care and Recreation activities are also available through Working for Families to:

(a) Those in employment (where the beneficiary does not have a partner or if the partner is unable to assist);

(b) Those who are undertaking employment-related study or training who can in certain circumstances access up to 50 hours subsidised childcare per week during the time

they are engaged in those activities, including travel time (for example, if the beneficiary does not have a partner or if the partner is unable to assist); and

(c) All low-income families who may be eligible for nine hours of Childcare Subsidy per week, whether participating in an approved activity or not, provided there is no partner who could care for the child.

(iii) *Family assistance through the tax system*

234. Measures to assist families with dependent children were repackaged and progressively introduced from 1 October 2004. Key components of the package are delivered to working families through the tax system. Those components, collectively known as the Working for Families Tax Credits, are the family tax credit, the in-work tax credit, the child tax credit, the parental tax credit and the minimum family tax credit. Families can elect to receive their credits as interim weekly or fortnightly instalments or as a lump sum after the end of the tax year when their income details for the year have been finalised.

235. The family tax credit is available to both beneficiary and non-beneficiary families with dependent children, subject to an income test. It is generally paid to beneficiary families through the social security system and to non-beneficiary families through the tax system. The rates of family tax credit vary depending on the age of the children and whether the child is the eldest or a subsequent child, and are protected against the effects of inflation through provision for them to be increased in response to movement of 5 percent of more in the New Zealand Consumers Price Index. The rates at 1 April 2007 were:

#### **Family Tax Credit**

<i>Children</i>	<i>Maximum annual entitlement</i>
Eldest child 16 years or older	\$4 940
Eldest child under 16 years old	\$4 264
Subsequent child 16 years or older	\$4 420
Subsequent child 13–15 years old	\$3 380
Subsequent child under 13 years old	\$2 964

236. Some families, depending on their circumstances, can qualify for one or more of the other Working for Families tax credits.

237. The in-work tax credit was introduced from 1 April 2006 and is intended to make paid work advantageous by improving the returns to lower-income families moving into or remaining in employment. It is available to families with dependent children at a maximum rate of \$60 per week for families with up to three children that meet a work requirement of 20 hours a week for a sole parent or 30 hours a week for a couple. An additional \$15 per week is paid for the fourth and each subsequent child. Eligibility for the in-work tax credit is extended to recipients of accident compensation whose incapacity due to personal injury by accident arose on or after 1 January 2006, and to families in receipt of paid parental leave (provided that they meet the work-test prior to incapacity or going onto paid parental leave).

238. The child tax credit is retained for those families who were receiving it at 31 March 2006, but who are ineligible for the in-work tax credit from 1 April 2006 (generally this would occur because they did not meet the work hours requirement). It is paid at the rate of \$15 per child per week for children in families independent of the State.



239. The parental tax credit is paid to families for the 56 days after the birth of a child depending on the family's income source and provided the family is not receiving paid parental leave. The total maximum parental tax credit is \$1,200. The Committee is also referred to paragraphs 328 to 332 of this report, in respect to paid parental leave.

240. If a family is eligible for one or more of the family tax credits, the in-work tax credit (or child tax credit) and the parental tax credit, the maximum entitlements are added together before calculating any abatement for income that is above a threshold of \$35,000. The credits are abated at the rate of 20 cents for every dollar earned above \$35,000. The abatement is applied first to reduce the family tax credit, then the in-work tax credit (or child tax credit) and lastly, the parental tax credit. One exception is when a family is in receipt of a benefit for a part of the year. In those circumstances the family is guaranteed maximum family tax credit entitlement for periods spent on a benefit if the family's annualised monthly income (calculated on a month-by-month basis while on a benefit) is below the abatement threshold. This ensures that families get the maximum entitlement when they have the greatest need.

241. The minimum family tax credit provides a guaranteed minimum family income to families in work. It is designed to ensure that families in work are better off than comparable families on benefit, and thereby provides an incentive to work by topping up net non-benefit income to the prescribed amount. Eligibility is dependent on a work requirement of 20 hours a week for a sole parent or 30 hours a week for a couple. The amount of the minimum family tax credit is set each year. For the tax year that began on 1 April 2007, it was \$18,044, and for the tax year that began on 1 April 2008 it is \$18,460.

**(e) Veteran's Pension**

242. The Veteran's Pension is available to ex-service people who have reached the qualifying age for superannuation and are on a 70 percent (or greater) War Disablement Pension. Veteran's Pension rates are the same as Superannuation rates, and are adjusted in the same way. Veteran's Pension is also available to veterans aged under 65 who are unable to work for a substantial period due to either a physical or psychological disability (regardless of whether or not it was caused by their service). At 15 January 2008, there were 10,440 recipients of Veteran's Pension.

**Veterans' pension rates**

<i>Rate</i>	<i>Net weekly rate (tax at M)<sup>14</sup></i>
Single living alone	\$285.87
Single sharing	\$263.88
Married, civil union or defacto couple (both qualify)	\$439.80
Married, civil union or defacto couple (only one partner qualifies and the other partner is 'included' in payments)	\$419.36
Married, civil union or defacto person (choosing not to 'include' a partner who doesn't qualify)	\$219.90

**(f) Emergency Benefit**

243. The Emergency Benefit provides income and asset tested support to people who are suffering hardship, unable to earn enough income for themselves (and any family), and who cannot receive any other benefit. The amount of Emergency Benefit paid will vary

<sup>14</sup> Net weekly rates of NZ Superannuation/Veteran's Pension applying from 1 April 2008.

according to what is deemed an “analogous benefit” based on their personal circumstances and the reason that prevents them working.

**(g) Retirement income policy framework**

244. Outlined below is a summary of New Zealand’s retirement income policy framework, with particular reference to the major changes to this framework during the reporting period. There are three main “pillars” to New Zealand’s retirement income policy framework:

(a) Public provision: New Zealand Superannuation, the New Zealand Superannuation Fund (NZSF) and supplementary means-tested assistance;

(b) Private provision: private and occupational pensions or superannuation (including KiwiSaver), and private investment and savings; and

(c) Financial education.

245. Key developments since 2001 are:

(a) Passage of the New Zealand Superannuation Act 2001 (later re-named the New Zealand Superannuation and Retirement Income Act 2001);

(b) Establishment of the New Zealand Superannuation Fund (2003); and

(c) Introduction of “KiwiSaver”, a national workplace-based savings scheme (2007).

**(h) Public provision: New Zealand Superannuation**

246. People who have reached the age of 65 years and who meet the residential qualification are eligible for New Zealand Superannuation (Superannuation) under the New Zealand Superannuation and Retirement Income Act 2001. A person must have been resident and present in New Zealand for not less than 10 years since the age of 20, including 5 years or more since the age of 50. They must also be a New Zealand citizen or permanent resident and ordinarily resident in New Zealand.

247. Superannuation is a universal, flat-rate, public pension funded largely on a “pay-as-you-go” basis from general taxation, with partial pre-funding to be provided by the New Zealand Superannuation Fund from 2025. Superannuation continues to be provided on the basis that it is set at a level that allows older people to “belong to and participate in” New Zealand society. It is neither income nor asset-tested, and all people who meet the qualifying age and residential requirements are eligible. The amount payable is dependent only on marital status and living arrangements. At 15 January 2008, there were 509,066 recipients of New Zealand Superannuation.

248. Approximately 96 percent of the population aged 65 years or over are currently receiving Superannuation or Veteran’s Pension. The take-up rate of less than 100 percent is primarily a reflection of those unable to meet the required residency qualification. These individuals mainly receive Emergency Benefit.

249. A range of second and third tier means tested income support is also available. The eligibility conditions for this income support are generally the same for superannuitants as they are for the working age population. This means that while New Zealand Superannuation and Veteran’s Pensions are not income or asset tested, it is counted as income for the purposes of assessing their entitlement to supplementary assistance. Those older people living with some degree of hardship and others may be eligible for various supplementary means tested income support payments.

*(i) Financial education – Retirement Commission*

250. The Retirement Commission is an autonomous Crown agency devoted to helping the public prepare financially for their retirement. The Commission's responsibilities include:

- (a) Raising awareness of the need to plan for retirement;
- (b) Providing education on financial management and planning tools;
- (c) Collecting research on retirement-planning behaviour and attitudes; and
- (d) Providing information that aids development of national policies impacting on retirement.

251. The Retirement Commissioner has recently completed a review of retirement income as required by the New Zealand Superannuation and Retirement Income Act 2001. The Act requires further such reviews to be performed at three-yearly intervals.

*(ii) Reviews of New Zealand's retirement income framework*

252. The Ministry of Social Development has supported a number of independent external reviews of retirement income policy commissioned by successive New Zealand Governments. Since the last reporting period, the 2003 Periodic Report Group and the 2007 Review of Retirement Income Policy (the first review carried out by Retirement Commissioner) have been carried out.

253. The 2003 Periodic Report Group's review confirmed universal Superannuation as the core element of the public provision "pillar". It also proposed the establishment of a working group on workplace savings in light of the fall in coverage of occupational schemes from 23 percent of workers in 1990 to 13 percent in 2003. The Workplace Retirement group reported in 2005, and their report informed development and introduction in 2007 of KiwiSaver.

**3. International cooperation**

254. Since 1990, people eligible for New Zealand Superannuation who are not covered by a social security agreement or the Special Portability Arrangement are able to receive New Zealand Superannuation in another country under the general portability provisions. People covered by the general portability provisions are entitled to 50 percent of the pre-tax rate of New Zealand Superannuation (excluding any living alone payment) that he or she would be entitled to receive if he or she resided in New Zealand. To be entitled, a person must, on the date of application, be ordinarily resident and present in New Zealand and entitled to receive New Zealand Superannuation, or be entitled before leaving New Zealand. In addition, the applicant must intend to reside in the country to which the application relates for more than 26 weeks.

255. New Zealand has entered into reciprocal agreements with Australia, Ireland, Canada, Jersey/Guernsey, Denmark, Netherlands, Greece, and the United Kingdom to allow former residents of one country access to certain benefits, including pensions, under the other country's social security system.

**Article 10****Protection of the family, mothers and children****1. Summary of key developments**

256. This section of the report centres on the following key developments:

- (a) The Care of Children Act 2004: a new legislative framework for resolving disputes relating to care arrangements for children;
- (b) The Civil Union Act 2004 and the Relationships (Statutory References) Act 2005 to establish civil unions for same and opposite sex couples and to apply the same legal rights and responsibilities to married, de facto (whether opposite or same sex), and civil union relationships;
- (c) The extension of the relationship property regime to de facto couples; and
- (d) The creation of a Families Commission.

### *Challenges*

257. There are two major challenges in the context of the progressive realisation of Article 10. The first is the existence of family violence within New Zealand society. New Zealand now defines family violence broadly. Breaking the silence and reporting of family violence is also both increasingly encouraged and recorded. Changes in the definition and reporting of family violence will cause increases in recorded family violence over time.

258. The second major challenge is child poverty. Although child poverty rates fell over the reporting period, this issue is still a problem.

### *Initiatives*

259. New Zealand has put in place a number of initiatives to address family violence. These initiatives are more fully described below, but include Te Rito – New Zealand Family Violence Prevent Strategy, The Family Violence Clearing House, The Taskforce for Action on Violence within Families and The Taskforce for Action on Sexual Violence. The initiatives target specifically family violence prevention and provide co-ordinated early intervention strategies for children and their families.

260. While a strong economy over the reporting period assisted in lowering the child poverty rate, a number of programs also contributed to the fall. The Working for Families package gave extra help to families. In addition, an early intervention approach integrated policy and practice focussing on better outcomes for families vulnerable to poverty.

## **2. Previous reporting**

261. Information relevant to this article has also been provided in New Zealand's fifth periodic ICCPR report (paras. 331–358), and the sixth periodic CEDAW report (art. 16).

## **3. Meaning given to the term “family”**

262. The meaning given to family in the second periodic report (at paragraph 253) is still largely applicable. However, there have been noticeable changes in patterns of family formation in New Zealand. Some of the major family forms evident include reconstituted or “blended” families (e.g. resulting from parents re-partnering), and families with more than two generations living in the same household. Since the previous reporting period, there has been an increasing recognition of diverse family forms in New Zealand. For example, the increased recognition of the significance of the extended family network, particularly as it relates to Māori and Pasifika and the formal recognition of same sex unions through the Civil Union Act.

263. Although there is no one legal definition of ‘family’, there are references in legislation defining who may be a member of a family for particular purposes (see, for example, the Crimes Act 1961).

264. For the purposes of its work, the Families Commission (further discussed below) considers the full range of families and their roles and functions. These include: groups of people who are related by marriage, blood or adoption; extended families; two or more people living together as a family; and whānau or other culturally recognised groups.

#### **4. Age at which children are deemed to attain their majority for different purposes**

265. Although the Age of Majority Act 1970 sets the age of majority at 20, it applies only when other legislation does not specify the age at which a particular right may be obtained. Various legislative initiatives have meant that many of the rights and responsibilities previously associated with the age of majority have now been extended to people younger than 20. The legal significance of the fixed age has been steadily reduced.

266. For example, following the enactment of the Care of Children Act 2004, guardianship now ends when a child turns 18 (consistent with the definition of child in the United Nations Convention on the Rights of the Child (UNCROC), or the child marries, enters a civil union, or lives with another person as a de facto partner. Previously, guardianship ended when a child turned 20.

267. During the reporting period, questions of age were considered during policy development or when legislation was passed by Parliament. This approach allowed young people's rights to be considered in the particular context. A fixed age allowed for certainty, but needed to be balanced against an individual's capacity. When considering the appropriate age for a particular right or responsibility, New Zealand's obligations under international agreements such as UNCROC were also taken into account.

#### **5. Right to enter into marriage or civil union**

268. Everyone continues to have the same right to enter marriage as outlined in the second Periodic Report. The Marriage Amendment Act 2005 lowered the age young people can enter marriage without needing to gain consent from their parents or in certain circumstances the Courts, from 20 to 18.

269. Since the last report was submitted, the Civil Union Act 2004 and the Relationships (Statutory References) Act 2005 have entered into force. Prior to the passage of these Acts, the law differentiated between de facto relationships and relationships of marriage, with a number of legal rights and responsibilities accessible only to married couples. In particular, some children did not receive the same legal protections as others, because of the nature of the relationship of the child's parents/caregivers.

270. The Civil Union Act enables both same and opposite sex couples to enter into a civil union. The Relationships (Statutory References) Act extended a wide range of rights and responsibilities covering a range of subject areas including commerce, education, health, and taxation to civil union and de facto partners. These were previously only applicable to married couples. The Social Security Amendment Act 2005 made changes in respect of social assistance.

#### **6. Termination of marriage**

271. The Committee is referred to New Zealand's sixth periodic CEDAW report (para. 381, Art. 16).

272. The Property (Relationships) Amendment Act 2001 extended the existing regime of equal division of relationship property to de facto couples, including those of the same sex. This legislation recognised the different contributions made in relationships and ensured the fair division of assets when the relationship ends, the starting point being an equal sharing of assets.

**7. Measures to establish, maintain, strengthen and protect the family**

273. There are no restrictions on the right to establish a family and New Zealand has a number of regimes in place to assist persons to establish a family.

274. New Zealand acknowledges that the Adoption Act 1955 does not allow for applications from de facto or civil union couples, whether same or opposite sex, or a single male in respect of a female child (unless he is the father or there are special circumstances). These restrictions also affect commissioning parents under a surrogacy arrangement, as there is no other mechanism for them to be deemed the parents of the child. It is possible for people affected by these restrictions to apply to be a guardian of a child under the Care of Children Act 2004. A guardian has the same rights and responsibilities as a parent of a child.

**(a) Families Commission**

275. The Families Commission is an autonomous Crown agency set up in July 2004 to actively speak out for better policies, services and support for all New Zealand families and whānau. The Families Commission focuses on families generally, and cannot advocate for individual families or cases. Projected expenditure for the Families Commission for the year ending June 2008 is \$11.399M.

276. The Families Commission works to ensure that families and whānau: have the capacity to care for and nurture their members; can participate in the social, economic and cultural life in New Zealand; and are supported by their communities, government and society. Its functions are to:

- (a) Encourage informed debate about families;
- (b) Increase public awareness and promote better understanding of matters relating to the interests of families;
- (c) Play a part in shaping government policies that promote or serve the interests of families;
- (d) Consider any matter relating to the interests of families referred to it by any Minister of the Crown;
- (e) Stimulate research into families, for example by funding and undertaking research; and
- (f) Consult with, or refer matters to, other official bodies or statutory agencies.

277. The Families Commission promotes research on issues and practice that will give everyone a better understanding of families in New Zealand. Wide-ranging research has been completed, including work on paid parental leave, family living arrangements, out-of-school services, key issues and future directions for family violence work, and a review of parenting programmes.

278. The Commissioners and staff visit communities throughout New Zealand to hear about issues faced by a diverse range of families and to promote the Commission's work. It also hears from families regularly through its online panel for feedback on family topics. A whānau reference group meets twice a year to help it identify issues and priorities for Māori families. Strong networks and partnerships have also been developed with a number of central and local government agencies, interagency groups, universities, non-government and community organisations, and business and professional organisations.

279. The Commission is currently focusing on three main areas to improve outcomes for families:

- (a) Action on family violence to prevent family abuse and violence;
- (b) Projects to ensure parents and caregivers are well supported to make choices on balancing family responsibilities, paid work, study, community participation and other activities; and
- (c) Projects promoting parenting skills and knowledge so that parents/caregivers can access the support they need.

**(b) The Children's Commissioner**

280. The Children's Commissioner is an office established by statute. The Children's Commissioner promotes children's and young people's well-being through advocacy, public awareness, consultation, research, investigations/monitoring, and speaking out on behalf of all children to ensure their rights are respected and upheld. The Commissioner may inquire into any matter affecting children and young people in any service or organisation, and investigate the actions of the Department of Child, Youth and Family Services. Projected expenditure for the Children's Commissioner for the year ending June 2008 is \$2.236m.

281. The Children's Commissioner's vision is that the rights of every child and young person in New Zealand are recognised, and each enjoys good health, education, safety and economic well-being. The Commissioner has identified three interrelated outcome areas that will contribute directly to the above vision. They are that: every child is safe and nurtured; every child has adequate resources and opportunities to develop; and society's attitudes and behaviour change to become more child-focused.

282. Reports and publications by the Children's Commissioner are widely disseminated through their website at [www.occ.org.nz](http://www.occ.org.nz).

**(c) Family status discrimination**

283. The 2001 amendments to the HRA extended the prohibition against discrimination to include the ground of family status. The amendments set out a number of occasions on which the specified unlawful grounds of discrimination will operate to give an unlawful consequence and a remedy. The Relationships (Statutory References) Act 2005 amended the prohibition against discrimination on the grounds of marital status to include civil unions and de facto relationships within the ambit of the provision.

284. Between 1 January 2007 and 31 December 2007, the Human Rights Commission recorded 68 approaches concerning perceived discrimination on grounds of family status (out of a total of 5,703). Most approaches were in the areas of: employment (37); government activity (22); pre-employment (17); and land, housing and accommodation (12). There were other approaches in the areas of provision of goods and services (7); educational establishments (5); advertisements (2); places, facilities, vehicles (1); vocational training bodies (1). Please note that a single approach may encompass more than one area.

**(d) Measures to reduce domestic violence**

285. Since the last report New Zealand has proactively sought to address family violence, introducing multiple initiatives targeted to family violence prevention, and increasing dedicated funding annually to implement the initiatives.

(i) *Domestic violence legislation*

286. The Domestic Violence Act 1995 (the DVA) enables victims of domestic violence to obtain greater legal protection from the perpetrators of that violence. It helps to prevent and reduce domestic violence.

287. Any person who is in a “domestic relationship” including married, de facto, civil union, gay and lesbian couples, children, family/whānau, and flatmates, can seek a protection order if they are enduring physical, sexual or psychological abuse from a person in that relationship. The protection order imposes non-violence and non-contact conditions on the abusive partner (the respondent). Special conditions can also be included on an order; such conditions frequently cover contact with children. If any of the conditions are breached then the respondent has committed an offence and may be arrested. The respondent must also hand in any weapons to the Police.

288. The DVA also provides for compulsory counselling programmes for respondents that aim to reduce their use of violence and change their abusive behaviour. The DVA also enables the applicants and their children access to programmes that promote their safety.

289. The Care of Children Act 2004 also contains provisions dealing with domestic violence. Under the Act the welfare and best interests of the child are the first and paramount consideration. In determining what serves the child’s welfare and best interests, the Court must take into account the principle that the child’s safety must be protected and, in particular, protected from all forms of violence.

290. The Act provides that where allegations of violence are made in proceedings for parenting orders, the court must consider as soon as practicable whether to appoint a lawyer for the child, and determine on the basis of the evidence presented to it whether the allegation of violence is proved. If it is, the violent party is not to have day-to-day care of the child or have unsupervised contact with the child unless the court is satisfied that the child will be safe. In limited situations the Family Court can order supervised contact and the costs are then paid by the Government through the Ministry of Justice, supporting a child’s right to have contact with both parents.

(ii) *Family violence statistics*

291. In New Zealand, family violence is defined broadly, so family violence includes violence (including intimidation or threats of violence) which is physical, emotional, psychological and sexual, done by people such as parents, children, extended family members and whānau, or any other people involved in relationships.

292. In the calendar year 2006, the Police recorded 38,369 family violence related incidents, and 32,675 family violence related offences, making up a total of 71,044 family violence-related occurrences. In 2005, 29 of the 61 murders were recorded as domestic violence-related, and in 2006, 16 of the 49 murders.

293. Women and children are far more likely to be victims of family violence. For example, 92 percent of the applicants for protection orders were female. In 2005, there were 7,924 children involved in the 4,545 applications for protection orders. Women’s Refuge provided services and programmes to 12,161 children in the year 2005/06. Most of these children will have witnessed violence, and some will have been subjected to violence directly.

294. It should be noted, however, that as Police have placed increased focus on family violence over recent years, it is likely that more offences have been recognised and recorded as being family violence related than in earlier years. Additionally, the crime recording IT system was replaced in 2005, making it easier to record an offence as being



family violence related. The combined effect of these changes is that increases in recorded family violence over time (particularly in mid-2005) are to be expected.

295. The New Zealand Crime and Safety Survey is a comprehensive household survey that explores the experience of crime victimisation of more than 5,000 randomly selected New Zealand residents aged 15 and over. Two previous victimisation surveys, conducted in 1996 and 2001, went under the title of the New Zealand National Survey of Crime Victims. The Key Findings report for the 2006 Survey was released in April 2007. Further analyses of the survey data will be undertaken over the coming year to provide insights into information on the demographics and needs of victims.

296. Family violence-related statistics are also provided by the New Zealand Family Violence Clearinghouse. The Clearinghouse published the “New Zealand Family Violence Statistics Fact Sheet” in July 2007. The Fact Sheet provides a summary of information dating from, in some cases, 2002 until the present relating to family violence in New Zealand. It presents information supplied by government and non-government agencies and draws on the Survey as well as court statistics.

(iii) *Initiatives during the reporting period to eliminate family violence*

297. Te Rito – New Zealand Family Violence Prevention Strategy, released in February 2002, was developed by government and non-government agencies, working in partnership as the Family Violence Focus Group. It set out the Government’s key goals and objectives and a framework, including a five-year implementation plan, to work towards the vision of families living free from violence. Te Rito was a foundation strategy which was extremely valuable in achieving agreement between the Government and non-government organisations on the direction of action to minimise family violence. However, it came to an end in June 2007. An interagency taskforce of government department chief executives and key organisation representatives was set up in 2005 to ensure Te Rito strategy actions are prioritised and implemented.

298. In 2003 the ‘Blueprint Development Group’, made up of government and non-government individuals with an interest in the care and protection of children and young people, developed a strategy for enhancing the services provided to children and young people who are at risk of, or who have suffered from, abuse and neglect. New Zealand adopted the Care and Protection Blueprint, which is aimed at improving the way government and community agencies work together to respond to child abuse and neglect. The Blueprint linked closely to Te Rito.

299. In 2004, New Zealand expanded its family violence prevention programme with a new service within the Ministry of Social Development to provide case managers with support in working with clients who disclose family violence. The program includes processes for screening clients for family violence and referring to community service providers as appropriate.

300. By November 2004, considerable progress had been made in all 18 areas of action under Te Rito. The 2004 *Opportunity for All New Zealanders* report identified family violence as a critical social issue requiring sustained interagency attention. The report resulted in the establishment of the Family Violence Ministerial Team, consisting of six Cabinet Ministers and the Chairperson of the Open Hearing into the Prevention of Violence against Women and Children. The purpose of the Open Hearing, which was held by the New Zealand Parliamentarians’ Group on Population and Development (NZPPD), was to raise awareness amongst parliamentarians of the extent of the problem of violence against women and children and provide a stocktake of programmes and initiatives on preventing or reducing violence against women and children. The role of the Family Violence

Ministerial Team is to provide leadership across the state sector, promote public debate, and demonstrate the Government's commitment to addressing this critical social issue.

301. In 2005, a programme was established involving Police and advocates for adult and child victims working together to ensure that the full range of needs for a family experiencing family violence are addressed. Funding was also provided for improving and expanding elder abuse and neglect prevention services (\$3 million over four years), and child advocacy services.

302. The Family Violence Clearinghouse was launched in 2005 and is an outcome of Te Rito, funded by the Ministry of Social Development. Its mission is making comprehensive, excellent quality family/whānau violence information available including:

- (a) Access to national and international research and evaluation on various aspects of family violence;
- (b) A Good Practice Database designed to provide a single place to access and share policies;
- (c) Standards and protocols that currently guide family violence work in New Zealand;
- (d) A regular newsletter and fact sheets on a range of family violence related topics;
- (e) A Toolkit offering information, ideas and inspiration for community groups and collaborations working towards preventing family violence;
- (f) Information on training opportunities and career paths in family violence intervention and prevention; and
- (g) Information about funding sources for those wanting to undertake initiatives or research in the area of family violence.

303. In 2007, \$2 million of government funding was allocated towards investment in the training and support of people working to prevent family violence in Māori whānau and communities. Project Mauri Ora developed a unique whānau-orientated family violence prevention framework, aimed at promoting zero tolerance of whānau violence.

(iv) *Taskforce for Action on Violence within Families*

304. In June 2005 the Taskforce for Action on Violence within Families was established to advise the Family Violence Ministerial Team on how to make improvements to the way family violence is addressed, and how to eliminate family violence in New Zealand. The Taskforce consists of Chief Executives, decision-makers from the government and non-government sectors, the judiciary and Crown agencies. The Taskforce took the priorities and progress achieved under Te Rito and, from these, developed a new vision and programme of action.

305. The Taskforce published its first report in July 2006, setting out its vision that all families and whānau have healthy, respectful, stable relationships, free from violence. The Taskforce took action on four fronts to achieve its vision: leadership; changing attitudes and behaviour; safety and accountability; and effective support services.

306. The second report, the Ongoing Programme of Action, enables the public to see what the Taskforce is doing to eliminate family violence, and provides an opportunity for them to review the Taskforce's achievements from its First Programme of Action.

307. The Taskforce continues to work with communities and businesses to change attitudes and behaviour toward violence within families. In September 2007 a four-year

Campaign for Action on Family Violence led by the Ministry of Social Development and the Families Commission was launched. The Campaign aims to stimulate change in the way people think and act about family violence and is built around three key elements: community action, communication, and research.

308. The campaign will build awareness and public understanding of family violence through television advertising, a free-phone information line (operating from 9 am to 11 pm daily and with an after-hours message redirecting callers in the case of an emergency) will provide self-help information and connect people to services where appropriate, a dedicated website [www.areyouok.org.nz](http://www.areyouok.org.nz), and paper resources including booklets and information. The campaign message is that family violence is unacceptable, but that it is OK to ask for help. The campaign promotes zero tolerance of family violence.

309. Between September 2007 and February 2008, the Family Violence Information Line received more than 3,500 calls. Over the January to February 2008 period the website received over 5,475 visits. A survey at the end of 2007 showed that 87% of those asked had remembered the campaign and more than half of those people had also discussed the campaign with someone and/or taken action as a result. The survey also showed that the campaign is having a strong impact on Māori and Pacific audiences.

310. The Community Action Fund supports the campaign and is a contestable fund targeted at small scale community initiatives. It is open to local not-for-profit community organisations, hapu and iwi Māori organisations and networks that can provide evidence of community collaboration and support for the proposed project.

311. Priority has been given to initiatives that are collaborative, have support from across the community, and have a well-thought-out plan to effect change in the community. A Community Action Toolkit is available which has a range of tools and information to help communities develop local campaigns to tackle family violence. To date, 97 community organisations have received a total of over \$2 million from the community action fund. The maximum grant available is \$30,000 (excl GST). Funding for the Community Action Fund has been approved until June 2010.

312. Initial research was undertaken on the attitudes of male perpetrators of family violence and into general attitudes, and showed that many violent people are in denial about their violent behaviour, make excuses and do not see their actions as family violence. This research demonstrated the need to start with the way people think about family violence before working on changing the way people behave towards each other. Ongoing research will track the effectiveness of the campaign over time. Over the next four years, the media elements will be developed to address intimate partner violence, child abuse and elder abuse.

313. Since 2006, the Taskforce has developed a system to better support children affected by family violence, building stronger links between government and non-government agencies in communities and using a local case co-ordination approach to family violence events.

314. Valuable achievements have been made in police training in family violence investigation and risk assessment, providing Police Family Violence Co-ordinators, establishing more Family Violence Courts and access to legal aid. By the end of 2008 there will be eight Family Violence Courts throughout the country. The Taskforce will model a social services support system around Family Violence Courts, to link services ensuring victims and observers are kept safe, perpetrators are kept accountable and responsible, and families are assisted with their recovery needs.

315. The Taskforce is working to improve the capability and capacity of service providers to meet demand, as part of an initiative called Pathway to Partnership (further

discussed below at paragraph 341 below). Worth \$446 million over the next four years, the Pathway to Partnership package will fully fund essential social services, contributing to the delivery of quality services for all victims, observers and perpetrators.

316. The Taskforce will also focus on the quality and diversity of approaches to eliminating violence in Māori and Pacific families.

(v) *Taskforce for Action on Sexual Violence*

317. In the 2001 National Survey of Crime Victims, 19 percent of women and 5 percent of men reported that they had experienced sexual interference or assault at some time in their lives. Rates were higher still for young women (26 percent of 17–24 year olds) and for Māori women (23 percent). Three-quarters of sexual violence offences were committed by people known to the victims.

318. In July 2007, the Taskforce for Action on Sexual Violence (TASV) was established to provide the leadership and coordination required to address sexual violence. The TASV comprises the Chief Executives of ten government departments, four representatives from sexual violence community organisations, and a member of the judiciary. The TASV supports the sexual violence Ministerial Group, which provides leadership and highlights New Zealand's commitment to addressing this issue. The establishment of the TASV has created a unique opportunity for government and community sectors to work together to reduce the social, health and economic impacts of sexual violence.

319. The Terms of Reference outline a broad range of priorities: prevention and education to crisis and longer-term support for victims; offender treatment and management; and the responsiveness of the criminal justice system.

320. Substantive collaborative work has begun across the government and community agencies on 15 work programme initiatives and 3 supporting projects, which have been developed to address these key priorities areas. Research has shown that sexual abuse against children predominantly occurs within the context of the family and although the focus of this TASV is on sexual violence against adults, the Terms of Reference recognise that some areas of the Taskforce's work may include change to systems and structures that relate to, or impact upon, children and adolescents, especially within the family context.

321. The TASV's interim report is due in July 2008. A final report will be provided to the Government in July 2009 with advice on where future investments might be made to improve prevention and responses to sexual violence.

322. In addition, the Ministry of Women's Affairs is leading a two-year research project, *Strong and safe communities – effective interventions for adult victims of sexual violence*, in partnership with the Ministry of Justice and Police. The Ministry of Women's Affairs has determined that the research will have a particular focus on issues for groups with the highest prevalence of sexual victimisation: New Zealand European, Māori and young women. It will also consider, where possible, the effects of sexual violence on family, whānau and wider networks, for Māori and other collectivist cultural groups.

(e) **Prevention of the neglect and abuse of elderly people**

323. The Ministry of Social Development's 2004 publication "Opportunity for All New Zealanders" identified elder abuse as an issue of concern. As a result, elder abuse and neglect prevention services were expanded, which now operate across New Zealand.

324. In 2007, the Enduring Powers of Attorney (the Protection of Personal and Property Rights) Amendment Act 2007 was introduced into Parliament to reduce the potential for abuse by increasing the legal protection for people when they are not able to make decisions about their own lives and finances. Concerns had been raised about insufficient

protection against attorney duress, donor incapacity, and a complicit witness acting for a dishonest attorney. The changes include a clearer definition of mental incapacity, strengthened witnessing requirements, new duties for attorneys to consult with donors and act in donors' best interests and a requirement for attorneys to keep records of all the financial transactions they make on behalf of donors.

#### **8. Government measures (including benefits) for families**

325. The Committee is referred to New Zealand's sixth periodic CEDAW report (paras. 389–393, Art. 16). The Working for Families package, described throughout this report, also helps to support the families with dependent children.

#### **9. Maternity protection, including maternity or parental leave**

326. The Committee is referred to paragraphs 225–302 of New Zealand's sixth periodic CEDAW report.

327. In 2006, access to 14 weeks paid parental leave (PPL) was extended to eligible self-employed parents. To be eligible for PPL, an employee must have worked an average of 10 hours per week for the same employer over six or 12 months (including one hour in every week or 40 hours in every month). Self-employed persons are required to work in self-employment for an average of 10 hours per week over six or 12 months. Employees who meet the six-month eligibility criteria are entitled to job-protected leave of 10 days special leave for women during pregnancy, 14 weeks maternity leave and PPL, and one week partners/paternity leave as appropriate. Employees who are eligible under the 12-month criteria are also entitled to up to 52 weeks unpaid extended leave (minus any PPL taken), which can be shared between partners, and a further week of partners/paternity leave (two weeks total).

328. Primary entitlement to the 14 weeks of PPL rests with mothers, who can transfer part or all of the entitlement to their spouse/partner if they are also eligible. The payment replaces the individual's income up to a cap of currently \$391.28 (before tax) per week. Parents, who are ineligible for PPL, may instead be entitled to the Parental Tax Credit, one of the Working for Families Tax Credits administered by Inland Revenue. Families may access either PPL or the Parental Tax Credit, but not both.

329. Over 2005 and 2006, the Department of Labour conducted an extensive evaluation of the parental leave scheme, to better understand the extent to which the Act meets its overall objectives. The evaluation focused on the experiences of three groups: women who have babies or adopt them; fathers; and employers. The evaluation found that the parental leave scheme enjoys considerable support from mothers, fathers and employers alike. Key findings include:

(a) Approximately 80 percent of working mothers are eligible for PPL (not including self-employed women) and about 80 percent of these women took PPL. Following inclusion of self-employed parents in the scheme, it is estimated that approximately 90 percent of working parents are now eligible for PPL;

(b) Of those employed women who were ineligible for leave, in two-thirds of cases this was due to the duration they had been employed by the same employer. One-third of ineligible cases did not meet the hours-criteria. Casual workers were less likely to be eligible for PPL;

(c) PPL is typically taken at the end of all other available paid leave, allowing eligible mothers to extend the total amount of leave taken;

(d) Mothers are not using the full entitlement of leave available. Most mothers return to work when their baby is six months old, but would like to return when their baby

is 12 months old. The biggest barrier to taking 12 months of parental leave is financial pressure (an issue common to all income groups);

(e) Two-thirds of mothers who took PPL and then returned to work went back to the same employer;

(f) Most mothers change their working arrangements when returning from leave, most commonly reducing the hours of work – two-thirds of mothers worked part-time following the birth of a child, compared with one-third before the birth;

(g) Most fathers take some leave around the birth or adoption of a child. Very few fathers use the unpaid paternity leave, tending to take two weeks of annual leave instead. Their preference would be to take four weeks of paid leave concurrently with the mother;

(h) Two-thirds of employers agree that PPL allows them to plan and manage workloads with greater confidence;

(i) A difficult aspect for employers is employing someone to cover the position of an employee on parental leave. This is particularly true for small- to medium-sized businesses who prefer to re-allocate work across existing staff rather than hire temporary staff;

(j) Employers typically accommodate longer-term changes in working patterns for mothers on their return to work, but tend only to be supportive of changes to fathers' working patterns around the time of the birth or adoption.

330. In July 2007, the National Advisory Council on the Employment of Women put forward views to the Minister of Labour on priority improvements that should be made to the parental leave scheme. In August 2007, the Families Commission released a report on parental leave, *It's About Time: Towards a parental leave policy that gives New Zealand families real choice*. These groups focus on the eligibility criteria for PPL, the duration and payment level of PPL, and fathers' access to paid leave.

331. In response to a report from the Families Commission, the Government restated its commitment to the ongoing review and improvement of the parental leave scheme, and outlined the following specific areas of priority for future consideration: those women in paid work who remain ineligible for PPL, including seasonal and casual workers; the payment level of PPL; the duration of PPL; and fathers'/partners' access to PPL.

## **10. Protection of children and young persons**

### **(a) Care of Children Act 2004**

332. A key development during this reporting period was the introduction of the Care of Children Act 2004, which replaced the Guardianship Act 1968. This Act modernised the framework for resolving disputes relating to care arrangements for children within families. The legislation ensures that there is a stronger focus on the rights of children and recognises the many types of family arrangements that now exist for looking after children. There is a shift in emphasis from parental rights to parental responsibilities and the primary focus is the welfare and best interests of each individual child.

333. Under the Act, a wider group of people are able to apply for parenting orders (which among other things deal with day-to-day care and contact arrangements), including members of a child's extended family, whānau or family group. The Act encourages people to resolve care arrangements between themselves as much as possible. The Family Court has a duty to seek early resolution of disputes over parenting orders, with the power to refer parties to counselling or mediation. Children are legally represented and have the

opportunity to express their views, which must be taken into account. Courts are also able to request a report into the cultural background of children and allow someone to speak to the Court on cultural issues.

**(b) Child poverty**

334. Child poverty fell from 29 percent in 2001 to 16 percent in 2007 using the fixed line measure used in the Social Report. From 2004 to 2007 child poverty rates fell on all the standard poverty measures at the same time. This has been achieved mainly because of three things:

- (a) Extra help to families with children through the Working for Families package;
- (b) The strong economy, with high employment and low unemployment; and
- (c) The fall in numbers of children in families whose main source of income is a benefit (40,000 fewer in 2007 compared with 2004).

335. The table below shows child poverty rates from 2001 to 2007, based on the key income poverty measures used in New Zealand.

**Poverty measures used in the report and associated child poverty rates<sup>15</sup>**

Year	Before housing costs				After housing costs			
	'Moving line'		'Fixed line'		'Moving line'		'Fixed line'	
	50%	60%	50%	60%	50%	60%	50%	60%
2001	12%	24%	10%	22%	21%	30%	20%	29%
2004	15%	26%	11%	19%	19%	28%	15%	23%
2007	13%	20%	7%	13%	16%	22%	12%	16%

(The “after housing costs ‘fixed line’ 60%” is the measure used in The Social Report.)

**(c) Children, Young Persons, and Their Families Act 1989**

336. The Children Young Persons and Their Families Act 1989 promotes the well-being of children and their families and family groups. The Act provides ways for this to occur and places a duty on the State to take such positive and prompt actions to achieve this. The Act directs and guides statutory social work in New Zealand. It has a strong focus on keeping children within their families wherever possible, assisting families to care for their children, and involving families in making decisions about their children.

337. Since the last report there have been changes to the Child Support Act, the most significant being the Child Support Amendment Act 2006, which aimed to increase the compliance of parents who are not currently meeting their child support obligations. The Amendments also introduced new exemptions from child support liability for liable parents under the age of 16 years, and for liable parents who are victims of sex offences. It introduced enhanced provisions for administrative departures from the formula assessment of child support liabilities and new provisions for appeal to the Family Court.

<sup>15</sup> Source: “Household incomes in New Zealand: trends in indicators of inequality and hardship 1982 to 2007”, Ministry of Social Development 2008.

**(d) Early intervention approach**

338. Over the reporting period, New Zealand has made a strong commitment to developing effective early intervention initiatives for children and their families. The early intervention approach is based on: providing a co-ordinated continuum of support; and integrated assessment and planning, and families and communities identifying their own needs and developing solutions.

339. The range of services provided include:

- (a) Universal services such as antenatal services and early childhood education;
- (b) Targeted services such as services for teenage parents and their children;
- (c) Intensive services such as Family Start and Early Start; and
- (d) Statutory care and protection services.

**(e) Investing in the NGO Sector**

340. In 2007, a multi-year plan was launched to build effective child and family services, in partnership with government agencies and non-government organisations that deliver these services. The plan includes establishing a range of child and family services from prevention to remedial services. The plan should improve the way that providers' infrastructure, workforce development and training needs are met; encourage providers to work together; increase availability and effectiveness of services; and increase investment in effective prevention and early intervention services.

**(f) Children's Charter**

341. The Ministry of Social Development has developed a Children's Charter to assist children in state care to understand their rights and know what to do if they have a complaint. This builds on the Children's Charter for all children in New Zealand, which was developed by the Children's Commissioner to provide a simpler, more accessible version of UNCROC. All children in the care of the Chief Executive of MSD have received a copy, as have Child, Youth and Family social workers in Child Youth and Family (CYF).

**(g) Protection and assistance of young persons**

342. The Department of Internal Affairs administers the Community Based Youth Development Fund, funding community organisations to employ skilled community development workers who facilitate the development of community and support services to reduce the effects of risk factors underlying youth suicide in high risk communities. Projects are in communities with high priority population groups, in particular Māori and Pacific Island youth, linking with specialist services, and using a community or hapū development approach. The Department also provides a small fund to encourage development and uptake of training opportunities for youth workers with the aim of increasing the quality of youth work activities.

343. A number of initiatives have been introduced to reduce youth unemployment including the introduction of the Gateway programme into all high schools. This programme provides senior high school students with opportunities to learn in workplaces as well as in school and it gives students a better understanding of the connections between the skills required in a workplace and the education students receive in a school.

**(h) Childcare institutions**

344. The Committee is referred to New Zealand's sixth periodic CEDAW report (paras. 231–234, Art. 11). All childcare services are part of the early childhood care and education



sector. All early childcare and educational services are bound by requirements established under the Education Act 1989. During the reporting period, Government undertook a programme of work to increase participation in quality early childhood education services. This programme has included a raising of the proportion of qualified teachers in early childhood services. Efforts to improve participation in quality early childhood education services have been supported by a 140 percent increase in funding. Expenditure on early childhood education rose by \$694 million between 1999/2000–2008/2009.

345. Unfortunately, Māori immersion services currently have lower proportions of qualified staff. In 2007, 48 percent of staff in Māori immersion services held a qualification that was recognised by the New Zealand Teachers Council. This was compared with 54 percent in all education and care services. The Government is committed to improving quality in all early childhood education (ECE) services. TeachNZ scholarships are available for student teachers enrolled in kaupapa Māori/Māori immersion ECE training programmes. In addition, 14 teachers are expected to graduate from kaupapa Māori/Māori immersion training programmes by the end of 2009.

346. The discretionary grants scheme (DGS) is a direct Government intervention to support the building of places for children in ECE. Recent analysis of the DGS shows that the communities with above average proportions of Māori, or Pasifika, or Māori and Pasifika children were more likely to have received a DGS grant. For Māori, the likelihood of receiving a DGS grant was independent of the socio-economic status of the community.

**(i) Social workers in schools**

347. The Social Workers in Schools programme began with a pilot in 1999 with 12 social workers in three areas: Northland, the East Coast and the Hutt/Porirua. The evaluation of the pilot demonstrated that Social Workers in Schools provided a valuable way of developing strengths-based programmes for children and families, achieving positive results for at-risk families and providing an extremely useful service to lower decile (i.e. low socio-economic class) schools.

348. Following the pilot stage, the service was extended in 2000. It currently has 126 social workers, employed by 46 social service non government providers, delivering a service to 330 primary and intermediate schools. Services target predominantly lower decile primary and intermediate school age children within communities with high levels of social need, high proportions of Māori and/or Pacific Island students, and a demonstrated commitment to actively support the programme. The programme is run in partnership with service providers around the country who directly employ the social workers delivering the programme within schools.

**(j) Employment of children**

349. For the current policy in relation to the employment of youth the Committee is referred to ILO annual reports under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work regarding the ILO Minimum Age Convention, 1973 (Convention 138). The Department of Labour has also been involved in informal discussions with the International Labour Standards Department regarding the assessment of whether New Zealand is compliant with and can ratify Convention 138. Information has also been provided in relation to New Zealand's reservation to Article 32(2) of UNCROC.

350. There is no general minimum age for employment, but the Education Act 1989 generally requires youth to participate in compulsory schooling until the school leaving age, which is currently 16. The Sale of Liquor Act 1989 restricts people under 18 from selling liquor in licensed premises.

351. The prevailing New Zealand norm is that employment can be a positive developmental experience for youth, if there are appropriate checks in place. The Department of Labour has been charged with delivering a range of initiatives (currently coordinated under the Children's Employment Work Programme) to ensure that this objective is achieved, including:

- (a) Developing an information strategy to improve the awareness of existing children's employment regulations and rights, and issues related to children's employment in New Zealand;
- (b) Improving children's ability to enforce their employment rights;
- (c) Reviewing the Health and Safety in Employment (HSE) Regulations 1995:
  - (i) Bringing children who work as contractors under the same regulations that apply to employees;
  - (ii) Whether to raise the age threshold prohibiting hazardous work up from 15 to 16 years; and
  - (iii) Investigating workplace practices relating to 16 to 18 year-olds in hazardous work (particularly training and supervision);
- (d) Developing options and recommendations on ways to monitor children's participation in work; and
- (e) Examining ways to guarantee adequate meal and rest breaks for young people.

352. The Census and Linked Employer Employee Data (LEED) (tax) and Household Force Survey work related data do not cover under 15 year olds and as a result there is little official statistical information. Census and LEED provided indicators for workers below the school leaving age of 16. This data shows very small numbers (1 percent) working as self-employed contractors compared with 11 percent self-employed for all workers and 2 percent for ages between 15 and 24 years of age. Fifteen-year olds are classified as the highest proportion of people working as unpaid family members at 7 percent compared with 2 percent for the rest of the population.

353. Few 15 year olds work as agricultural contractors. The 2006 Census shows only 39 as self-employed agricultural workers, which is 1 percent of all ages. In contrast nearly 30 percent of 15-year olds worked as "unpaid family workers" in this sector.

## **Article 11**

### **Right to an adequate standard of living**

#### **1. Summary**

##### *Key developments*

354. The key developments during the reporting period in the progressive realisation of the right to an adequate standard of living include:

- New monitors for measuring the well-being of people in New Zealand, including the introduction of an annual Social Report
- New and ongoing measures to monitor and improve food quality and nutrition in New Zealand

- The establishment of the Department of Building and Housing to regulate the building industry and monitor the state housing provider
- The restructuring of state rental housing, and income-related rentals

### *Challenges*

355. Although good progress has been made, challenges remain. Primarily, these include the fact that a significant proportion of New Zealand's housing stock remains inadequately insulated against the weather, and insufficiently and inefficiently heated. Issues also remain around the adequate provision of appropriate housing for Māori. In terms of the right to food, obesity is a growing challenge for New Zealand, reflecting international trends.

### *Key initiatives*

356. Key initiatives which will seek to achieve further implementation of the right to an adequate standard of living in this reporting period include the Warm Homes project, whereby central government works with local government to help reduce the pollution effects of home heating while enabling people to keep warm. 'Te Au Roa- Into the Future', a Māori Strategic Plan 2007–2012, aims to establish partnerships with Māori to improve Māori housing outcomes. The *Healthy Eating – Healthy Action: Oranga Kai – Oranga Pumau* (HEHA) strategy and Implementation Plan for 2004–2010 will seek to address nutritional issues and the challenge of rising obesity.

## **2. Previous reporting**

357. Detail on housing assistance programmes for Māori and Pasifika can be found in New Zealand's fourteenth and seventeenth periodic CERD reports (paragraphs 118 to 123 and 201 to 207, respectively).

## **3. Standard of living and changes in it**

### **(a) Household income levels and measurements**

358. The Household Incomes Report tracks changes over time in the level and distribution of households' disposable incomes. In 1994, measured in constant (2007) prices, the income of households at the top of the bottom quintile was \$13,000. This had risen to \$16,600 by 2007. Median income measured over all households was \$19,800 in 1994, rising to \$26,500 in 2007. In terms of relative income, the ratio of the 20th percentile to the 50th percentile (median) was 0.67 in 1994, but had declined to 0.62 in 2007. Households in the lowest quintile are disproportionately represented by households over 65 and sole-parent households.

359. Relative income adequacy may also be determined by estimating the proportion of households and of individuals who are in households with incomes of less than a given income threshold. Using a threshold of 60 percent of the 1998 median held constant in real terms, and after taking housing costs into account, 23 percent were in low income households in 1994, and 13 percent in 2007.

### **(b) Poverty indicators and plans**

360. In its concluding observations the second periodic report, the Committee recommended that New Zealand adopt a national plan to combat poverty. In recognition of the myriad of factors that directly and indirectly cause poverty, New Zealand has sought to address poverty and related issues through an extensive range of policies. It has particularly focused on services and support to assist people into work, including the Working for Families package discussed under Articles 6 and 9.

**(c) The Social Report**

361. A range of indicators are used to assess well-being. The main indicator report is the annual Social Report, which was first published in 2001. A comprehensive picture of social well-being is provided using a set of statistical indicators monitor trends across ten areas of people's lives. In the context of this report, "well-being" means those aspects of life that society collectively agrees are important for a person's happiness, quality of life and welfare.

362. The report enables examination of the current level of well-being, how this has changed over time, and how different groups in the population are faring. Most indicators can be broken down by age, sex and ethnicity. For the majority of indicators, disaggregating by socio-economic status or disability status is not possible because the indicators rely on data sources that do not collect this type of information, or the sample sizes are too small to allow this type of breakdown. The indicators are reviewed each year and the information used to customise services to the needs of specific areas and communities.

363. The key aims of the Social Report are:

- (a) To provide and monitor over time measures of well-being and quality of life that complement existing economic and environmental indicators;
- (b) To compare New Zealand with other countries on measures of well-being;
- (c) To provide greater transparency in government and to contribute to better-informed public debate; and
- (d) To help identify key issues and areas where New Zealand need to take action, which can in turn help with planning and decision making.

364. The Social Report 2008 shows that overall New Zealanders have a good level of well-being, which continues to improve across a number of domains. Over the longer term, social outcomes are improving. Since the mid-1990s, there have been improvements in all outcome domains, particularly for health, knowledge and skills, paid work, and economic standard of living. A small number of these indicators have improved since the mid-1990s, but more recently have been static or have declined slightly.

**(d) Regional Partnerships Programme**

365. A Regional Partnerships Programme has been created to improve regional economic development by encouraging local business, local government and communities to work together to build on regional strengths. The programme initially focused on assisting regions with acute needs (four specific regions were identified as having acute needs), working intensively with those regions to develop a plan for economic development for each.

366. Funding is available for strategy development, capability building and major regional initiatives to help achieve these aims. For example, support was given to the Tairāwhiti Development Taskforce, a partnership between central government, local government, Māori and the private sector. The Taskforce worked extensively to address major barriers to development in the region and support development projects including a project to improve community access to the Internet. This involved work on sharing organics best practice, increasing organic production and identifying under-utilised land blocks that could achieve higher returns through changed management practices.

#### **4. The right to adequate food**

##### **(a) New regime for food administration**

367. The New Zealand Food Safety Authority (NZFSA) was established in 2002 and has responsibility for the administration of all food regulation. NZFSA's mandate includes the protection and promotion of public health, with the objective of providing consumers with a greater level of confidence about their food choices. All food producers, importers, manufacturers and retailers are required to meet necessary standards.

##### **(b) Improving food consumption and fostering good nutrition**

368. Geographically, the nutritional status of the New Zealand population is generally similar but can vary for some nutrients. For example, selenium and Vitamin D status is lower in the South Island than the North Island.

369. Nationwide, New Zealand is experiencing increasing rates of obesity rather than under-nutrition. The Ministry of Health (MoH) has developed and published a large number of policy documents and reports relating to nutrition since the previous report, which are all available on the Ministry's website. These documents provide nutrition-related policy advice to the health sector and also inform and support the Healthy Eating-Healthy Action strategy.

370. In 2003 the MoH published the Healthy Eating – Healthy Action: Oranga Kai-Oranga Pumau (HEHA) strategy. In the following year, MoH published the Implementation Plan for 2004–2010. HEHA provides a framework for action using a whole-of-government approach and a strong intersectoral focus (consistent with the WHO Global Strategy on Diet, Physical Activity and Health) to assist in reducing risk factors that impact on the development of non-communicable diseases. HEHA is the Government's integrated response to three of the population health objectives from the New Zealand Health Strategy 2000 (improved nutrition, increased physical activity, and the reduction of obesity). HEHA provides practical direction for action to the health and other sectors (and their communities).

371. The vast majority of actions in the HEHA Implementation Plan are under way. This includes a national breastfeeding campaign, National Guidelines for the Management of Overweight and Obesity; a number of Research, Evaluation and Monitoring activities; Leadership and Coordination in each of 21 District Health Boards; a Fruit in Schools programme which includes a number of health promoting components; a Nutrition Fund and the Food and Beverage Classification System for schools and early childhood centres; and a multi-media social marketing campaign to promote health nutrition, breastfeeding and increased physical activity. These actions complement the extensive work that is continuing in every part of the country where there are programmes designed to implement HEHA.

372. The Health Select Committee published a report into Obesity and Type 2 Diabetes in 2007 with 55 recommendations to the Government. The Government responded in November 2007. The MoH will lead the implementation of the Government response. Further actions will build on existing HEHA initiatives.

373. In addition, Food Standards Australia New Zealand, the agency responsible for establishing bi-national food standards, is currently conducting a review of trans-fatty acids in the New Zealand/Australia food supply.

374. Recent fortification policies of key staples will also ensure increased intakes of iodine and folic acid across all population groups. For example, the mandatory fortification of bread with iodine and folic acid will be implemented and monitored from September

2009. The staple of bread was chosen because it is commonly consumed and affordable to all people. Mandatory iodine fortification is to address the re-emergence of iodine deficiency in New Zealand's population. Mandatory fortification of bread with folic acid is to reduce the risk of infants born with Neural Tube Defects (NTDs).

**(c) Dissemination of nutritional information**

375. Public Health Units in District Health Boards and Non-Government Organisations (NGOs) disseminate information about nutrition and often target specific groups or sectors. The major NGOs are: the National Heart Foundation, Cancer Society of New Zealand, Obesity Action Coalition, Diabetes Association, New Zealand Dietetic Association and Te Hotu Manawa Māori. The MoH has a large catalogue of health education pamphlets distributed nationally at no cost to the consumer. These physical documents are augmented by the Ministry's homepage ([www.health.govt.nz](http://www.health.govt.nz)).

376. NZFSA has initiated a number of measures to generate and distribute nutritional information. These include fact sheets about important issues, nutritional information in key publications, periodicals, press releases and conferences.

**(d) Food and nutrition monitoring**

377. In New Zealand, food and nutrition monitoring involves the routine and ongoing collection, analysis, and reporting of data on all aspects of food and nutrition. This includes monitoring of the food supply and purchasing, food safety, food consumption, food composition, nutrient intake, nutritional status, nutrition-related health status, and factors influencing dietary intake.

378. Since the previous report, the MoH conducted the 2002 National Children's Nutrition Survey and, will soon commence data collection for the 2008/09 NZ Adult Nutrition Survey. The Adult Survey will collect urine and blood samples for biochemical analysis of nutritional status, including folic acid and iodine. The national nutrition surveys provide detailed and specific individual level data on food consumption, nutrient intake, nutritional status, and nutrition-related health status, including food security. MoH and NZFSA will work together to monitor the impact and effectiveness of mandatory fortification of both iodine and folic acid in New Zealand, using a coordinated monitoring framework with Australia.

379. The New Zealand Health Monitor integrates population health surveys and records linkage studies. It includes the most recent New Zealand Health Survey which covers information on the health status of New Zealanders including some reportage around nutrition.

380. In 2003/04 NZFSA undertook a Total Diet Survey which will again be conducted in 2008/09. The TDS monitors the safety of the food supply for chemical residues and certain contaminants and nutrients, in addition providing a snapshot of New Zealanders' exposure to these elements in a typical diet.

381. The Manufactured Food Database, compiled by Nutrition Services, Auckland Hospital with funding from NZFA, captures information on the presence or absence of allergens and additives (including fortifications) in manufactured foods, as provided by manufacturers. The NZ Food Composition Database, maintained by NZ Crop and Food Research in partnership with the Ministry of Health, contains nutrient data for more than 2,700 foods, with approximately 50 new foods analysed and added annually.

(e) **Measures to protect food quality and improve methods of production and conservation**

382. During the reporting period, NZFSA began three major reviews to evaluate the adequacy of food legislation in New Zealand. These were: the Domestic Food Review (DFR), the Imported Foods Review (IFR), and the Wild Foods Review (WFR).

383. The DFR was initiated to address inequities in the way the food industry is regulated across New Zealand, to clarify the roles of the regulators, and to stem the continued rise in the number of reported food-borne illnesses. The recommendations of the DFR are being implemented through new legislative measures which will ensure safer food through implementation of food control plans which will affect all food services, manufacturers and retailers.

384. The IFR has resulted in a new programme for importing food that manages food safety issues at the appropriate point in the food chain to ensure controls are effective, efficient and based on sound science. Some of the agreed changes have been implemented within the existing legislation with the remainder to come into effect following the passage of new food legislation.

385. The WFR evaluated wild food in New Zealand to assess the potential risks to public health. The ultimate aim of this review was to provide information about those risks, so that hunters and gatherers can make safer decisions about the wild foods they eat.

386. NZFSA believes these programmes will meet New Zealand's needs for the foreseeable future. They will take account of the rapidly shifting consumer behaviours and expectations, changing food production and distribution systems, and new and emerging pathogens and other risks.

387. The composition and labelling of food products in Australia and New Zealand is governed by FSANZ and regulated under the Australia New Zealand Food Standards Code (the Code). In addition to composition standards, the Code also sets labelling standards for food nutrition information, ingredients and additives. Food labelling allows consumers to make informed purchasing decisions.

388. The Aquaculture Reform Act 2004 creates an aquaculture management regime that balances economic development, environmental sustainability, Treaty of Waitangi obligations and community concerns. It establishes a streamlined permitting process, so Councils can now manage the increasing demand for marine space in a well-planned and controlled way, balancing the needs of fishers, marine farmers, iwi, communities, other commercial users, recreational users and the environment.

(f) **Measures taken to develop or reform existing agrarian systems and improve food production**

389. Australia and New Zealand signed a Food Treaty in 1995. The Treaty was amended in 2002. It established a joint food standards setting system in the interest of protecting health and safety, and the joint food regulation system, prescribing the participation, scope, objectives, procedures and principles under which the system would operate. The Food Treaty enables New Zealand to vary standards that are not considered appropriate on grounds of exceptional health, safety, developing country trade, environmental or cultural factors. New Zealand can also request a separate standard on grounds of health, safety or environmental concerns.

390. The means of food production is regulated through a number of statutes including the Food Act (regulation of maximum residue levels) the Agricultural Compounds and Veterinary Medicines Act (approval and registration of agricultural compounds and veterinary medicines), and the Animal Products Act (provides for Hazard Analysis and

Critical Control Point systems). In addition, New Zealand also has legislation relating to the use of hazardous chemicals (Hazardous Substances and New Organisms Act), the prevention and control of unwanted pests and diseases (Biosecurity Act) and the humane treatment of food animals (Animal Welfare Act).

391. New Zealand is involved in Codex Committee programmes that are aimed at increasing the capacity of developing countries to produce safe food.

## **5. The right to adequate housing**

392. Since the previous report, New Zealand has instituted various changes aimed at better targeting accommodation assistance to those most in need and increasing the number of state houses. The first step involved the amalgamation of state housing provision and housing policy advice so that the operational aspects and policy can better inform each other. Later steps included the introduction of state housing rents that would not exceed a proportion of income, and the establishment of the Department of Building and Housing in 2004 to regulate the building industry and monitor the state housing provider.

393. The Housing Corporation Amendment Act 2000 established the Housing New Zealand Corporation to replace Housing New Zealand Ltd. The Corporation is the Government's social housing provider, and its functions include:

- (a) Policy advice to the Government on the Housing Sector;
  - (b) Managing social housing tenants, managing the capital invested in the social housing stock, including the selling and acquisition of properties (the state housing stock had increased to approximately 67,000 at the end of 2007);
  - (c) Urban development including developing and building neighbourhoods;
  - (d) Lending capital and insuring mortgages;
  - (e) Evaluating programmes that affect the housing sector;
  - (f) Providing information and education services to those on low and modest incomes relating to home ownership, including loans;
  - (g) Acquiring and developing land for housing;
  - (h) Monitoring and researching trends relating to housing and housing services;
- and
- (i) Partnerships with Māori, iwi, local government and community organisations to address housing issues in their areas.

394. The Department of Building and Housing works closely with the Corporation to define the housing outcomes for the sector; analyse the housing environment, including monitoring the supply, quality and affordability of housing; and undertake initiatives under the New Zealand Housing Strategy.

395. The total operating funding budget for the Department of Building and Housing and the Housing New Zealand Corporation is 3.0 percent of the total government operating budget for 2007/08. Budgeted investment in housing for 2007/08 is 5.8 percent of the total government capital budget for 2007/08.

### **(a) Legislation**

396. A range of legislation affects the delivery of the right to housing, most notably the Building Act 2004 and the Residential Tenancies Act 1986. There is also a wider regulatory framework of legislation that deals with the right to housing. Relevant legislation is detailed below.



(i) *The Residential Tenancies Act*

397. The Residential Tenancies Act 1986 deals with residential tenancies. It sets out the rights and responsibilities of tenants and landlords, establishes a fund into which bonds are held and establishes the Tenancy Tribunal to determine disputes between landlords and tenants. The Act does not provide for rent control, but tenants with low incomes can obtain an Accommodation Supplement (described below). The Act restricts termination of tenancies. Either party may terminate a tenancy if the required notice to the other party is given. The Tenancy Tribunal may order a tenancy be terminated. In the year ending 30 December 2007 there were 808 orders to this effect. The Department of Building and Housing is currently investigating tenure stability to determining whether any intervention should be made to provide more long-term tenancies.

398. The Department of Building and Housing operates an information and education service for tenants and landlords, including information booklets relating to tenant and landlord rights and responsibilities and a free-phone tenancy advice service.

399. The Tenancy Tribunal provides rapid, low cost mediation and adjudication services for landlords and tenants who are in dispute. This is in high demand, with 46,113 applications received in the year ending 31 December 2007. In that year, 17,118 claims were resolved through mediation and 18,931 through adjudication. Other claims (9,772) were withdrawn.

(ii) *The Building Act 2004*

400. It became apparent that some aspects of the building control system were not working as intended, and an extensive review of the Building Act 1991 was undertaken. This resulted in the replacement of that Act with the Building Act 2004. The aim of the review was to improve the effectiveness of the regulatory framework for the building control system and building practices.

401. The Act provides for the regulation of building work, establishes a licensing scheme for building practitioners and sets performance standards for buildings (which relate to health and safety of buildings, means of escape from fire and sustainable development). In particular, the Act aims to improve control of, and encourage better practices in, building design and construction, providing:

- (a) More clarity on building standards;
- (b) More guidance on how those standards can be met;
- (c) More certainty that capable people are undertaking building design, construction and inspection;
- (d) More scrutiny in the building consent and inspection process; and
- (e) Better protection for homeowners through the introduction of mandatory warranties.

402. The Act requires all building work to comply with the Building Code and establishes how compliance is achieved. Territorial authorities have powers (including the power to order that work is carried out) in respect of dangerous, unsanitary and earthquake-prone buildings. The Act requires that territorial authorities act as building consent authorities, and requires that they register to become accredited to undertake that function.

(iii) *The Building Code*

403. The Building Code prescribes the functional requirements for buildings and the performance criteria with which buildings must comply. It sets out performance standards

in relation to structural stability, fire safety, access, moisture control, safety of users, services and facilities and energy efficiency. The standards are outlined in 35 technical clauses that create a social objective that the building work must achieve when completed; a functional requirement stating what the completed building work must do to satisfy the social objective; and the performance criteria that nominates how compliance is achieved. All building work must comply with the Code.

404. Territorial authorities are responsible for ensuring buildings comply with the Building Code. The Building Controls branch of the Department of Building and Housing issues compliance documents, which give optional means of complying with the Code. Compliance can also be obtained through use of certified products or methods of building (under the product certification scheme prescribed under the Building Act). During the reporting period a review of the Code was initiated to align it with the requirements of the Building Act 2004. This review is not yet complete.

(iv) *Non-discrimination in respect of housing*

405. The HRA deems it unlawful to discriminate based on prohibited grounds against any person in any dealing relating to land, housing and accommodation. This includes the sale and purchase of land and the right to occupy land, whether for residential or commercial purposes. Exceptions exist if such accommodation is provided specifically for people of a certain sex, marital status, religious belief or disability (for example in hospitals, universities, schools, religious institutions or retirement villages).

(b) **Income-related rents**

406. The Housing Restructuring and Tenancy Matters Act 1992 sets out the income related rents regime. Through income related rents, the Housing New Zealand Corporation provides below-market rents to Corporation tenants. Corporation tenants pay no more than 25 percent of their income in rent, although minimum rents do apply. Tenants with incomes above the New Zealand Superannuation low-income threshold will pay progressively more than 25 percent of their income, until the market rate is reached. Around 90 percent of Corporation tenants pay an income-related rent.

407. The Act also provides for a regular review, gives the Housing New Zealand Corporation powers to seek information and investigate where information provided by a tenant is incorrect or incomplete, and establishes a right of appeal for tenants who wish to appeal the rent calculated by the Housing New Zealand Corporation. The Act enables the Housing New Zealand Corporation to apply criteria when allocating houses. This can include marital status, disability, absence of disability, age, family status, residency, income, and property assets.

(c) **The Accommodation Supplement**

408. The Accommodation Supplement is a non-taxable income and asset-tested income supplement that provides assistance towards accommodation costs (excluding state housing), including rent, board and the costs of owner-occupied homes. Recipients do not have to be receiving a benefit to qualify. The Supplement has a formula that takes account of family size, location, housing costs, tenure and income. Recipients are required to meet a proportion of their accommodation costs (the entry threshold) before they can qualify for a subsidy on the remainder. The Supplement subsidises 70 percent of accommodation costs above the entry threshold, up to a maximum amount which varies by family size and location. The total number of AS recipients varies by season and numbered 250,397 in December 2007.

**(d) The New Zealand Housing Strategy**

409. The New Zealand Housing Strategy was launched in May 2005. The Strategy provides a framework and direction for Government activity in the housing sector over the next 10 years, organised under seven priority areas. Initiatives under these priority areas contribute to achieving the Strategy's vision that all New Zealanders have access to affordable, sustainable, good quality housing appropriate to their needs.

410. Area seven of the strategy deals with 'diverse needs' which includes groups within society that are vulnerable and disadvantaged with regards to housing. The Strategy has an umbrella framework and desired outcomes will be met when there is: reduced unmet housing need, reduced housing inequality, improved housing quality, and the housing sector encourages appropriate provision of and investment in housing.

**(e) Housing status in New Zealand**

411. The main source of housing data is the five-yearly population census. Between 1996 and 2006, the number of occupied private dwellings increased by 15.3 percent. The 2006 census found that 99 percent of New Zealanders were living in conventional permanent dwellings (either detached houses or flats), and 62.7 percent of households lived in a home owned by the usual residents. Of these, 54.8 percent made mortgage payments, while 45.2 percent did not. Thirty-one percent of households lived in accommodation not owned by the usual residents.

412. Only 0.5 percent of households live in temporary accommodation such as caravans. The average number of occupants per occupied dwelling decreased over the 10-year period 1996 to 2006, from 2.82 to 2.72, showing that at the aggregate level housing growth is adequately covering population growth. In the 2006 census 2,421 people were without accommodation, including living in improvised shelter or in night shelters. Despite the efforts of census enumerators to locate all the homeless through social agencies, it is possible that these statistics are under-representative.

413. The Government has no set limit of housing affordability in terms of rent as a percentage of income. However, anyone on a low income having difficulty paying for their accommodation costs may apply for the Accommodation Supplement assistance.

414. A broad range of housing trends is given in Annex C, which gives tables of average weekly expenditure on housing between 2001 and 2007, and of tenure of occupied private dwellings for 2006. Also given in Annex C, are diagrams showing the nature of the tenure of dwellings lived in, according to occupants' ethnicity, as at the time of the 2006 census.

415. Through the Warm Homes project, central government is working with local government to help New Zealanders reduce the pollution effects of home heating while staying warm. The project aims to ensure all houses are heated cleanly, efficiently, and sufficiently. Pilot programmes were run in three regions to fit homes with insulation and new heating sources, and evaluate the impact of this on air quality and health. In 2006, the Warm Homes project also ran seven community workshops in six regions across New Zealand.

416. In addition, \$72 million has been committed over four years to help New Zealand families live in warm, dry, healthy, and energy efficient homes. This includes \$23 million for an interest-free loans scheme to help householders pay for energy efficiency and cleaner heating options. While the main focus is on energy efficiency, \$5.4 million will be targeted at the installation of clean forms of heating for low-income households in areas of poor air quality.

417. The country is adequately covered with waste disposal facilities. During the reporting period the number of landfills decreased from 209 to currently 60. This has

impacted on the quality of the landfills as the percentage of landfills with an engineered liner has increased from 4 to 54 percent. In addition, 97 percent of the population have access to either a kerbside collection or a drop off centre for recyclable materials.

**(f) Māori and housing**

418. During the reporting period there has been a major shift in the delivery of housing assistance to meet Māori housing needs. A study of Māori housing experiences and emerging trends completed in 2006 comprised four linked and integrated components: literature review; analysis of census data; analysis of data from the Te Hoe Nuku Roa longitudinal study of Māori households; and qualitative fieldwork. The qualitative fieldwork was carried out with Māori householders and key informants in six localities throughout New Zealand.

419. Location is an important consideration for Māori householders, with proximity to whānau and ancestral land being significant factors. The home ownership aspirations of Māori householders are high. High costs coupled with low incomes, high levels of debt, and discrimination are significant barriers to realising ownership aspirations. Rural householders face additional barriers associated with housing supply and the availability and cost of services. Home owners and renters generally have positive experiences of their housing. Rural renters are more exposed to poor property conditions, but this is, to some extent, balanced by proximity to whānau and whānau lands. Householders expressed the need for flexible, open plan house design to facilitate the accommodation of other whānau on both permanent and short-term bases.

420. On the basis of these findings, policy recommendations were developed that were particularly designed to reduce barriers to home ownership and for providing options for promoting housing on Māori freehold land. The recommendations, as a whole, address: homeownership; affordability; location; design; renting; discrimination; and information.

421. In 2007, Housing New Zealand Corporation published *‘Te Au Roa– Into the Future’*, a Māori Strategic Plan 2007–2012, which aims to establish partnerships with Māori to improve Māori housing outcomes. The plan argues that Māori housing cannot be addressed separately from Māori development, as many iwi (tribes) have developed housing strategies as part of their overall economic, social, cultural and environmental development.

**(g) Women and housing**

422. Comment on housing for women may be found under article 13 of New Zealand’s sixth periodic CEDAW report.

**(h) Changes in housing policy**

423. During the 1990s a considerable number of houses were built using methods that failed to withstand the weather conditions in New Zealand. This led to “leaky buildings syndrome,” where poorly constructed, designed or inspected buildings began to leak, causing rotting timber framework. This has been a significant issue in New Zealand, and many homes have required extensive remedial work.

424. In 2002, the Weathertightness Overview Group was appointed to inquire into the weathertightness of buildings in New Zealand. The Group’s final report identified the causes of leaky buildings and made a variety of recommendations. The report led to the Building Act 2004, and the Weathertight Homes Resolution Service Act 2002. The Act created a dispute resolution service for homeowners affected by the “leaky building syndrome.” Homeowners can apply to the service if their home is less than 10 years old (at date of application) and exhibits signs of water ingress. The New Zealand Government provides two services to affected homeowners: a heavily subsidised property assessment

service to investigate the extent of damage as a result of water ingress and the causes that led to the problem; and mediation and adjudication services, for homeowners to settle claims with the responsible parties.

425. The 2002 Act was extensively reviewed to improve the speed and cost-effectiveness of services provided to homeowners, leading to its repeal and replacement with the Weathertight Homes Resolution Service Act 2006. Other improvements to the service include a pilot loan scheme, run by Housing New Zealand Corporation, under which the Government provides loans to low and modest income homeowners to undertake the required remedial work before embarking on mediation or adjudication. This is to reduce the disparity between the cost of remedial work and the amount received from settlement if remedial work is undertaken after the dispute resolution process.

**(i) International assistance changes in housing policy**

426. New Zealand received no international assistance in this area.

## **Article 12**

### **The right to physical and mental health**

#### **1. Summary**

##### *Key developments*

427. Key developments in the progressive realisation of the right to health during the reporting period include:

- (a) Māori Health Action Plans have been put in place, and built upon, including Māori-led initiatives to improve health outcomes;
- (b) A package of measures has sought to enhance rural medical services, including recruitment, training and retention of health professionals;
- (c) The introduction of a cervical cancer screening programme has reduced the mortality rate associated with this disease by half; and
- (d) The suicide rate has decreased.

##### *Challenges*

428. Although good progress has been made, the Government acknowledges that significant challenges remain. The disparities in health outcomes for Māori and Pasifika remain unacceptably high, as does the suicide rate. The proportion of people served by unregistered water supplies, or receiving water that is not compliant with guidelines, is of concern. Although there have been significant decreases in the smoking rate during the reporting period, smoking remains the single greatest preventable cause of premature death.

##### *Key initiatives for the future*

429. Key initiatives to achieve greater realisation of the right to health in New Zealand include The Māori Health Action Plan 2006–11, which will further address outcome disparities. The New Zealand Suicide Prevention Strategy 2006–2016 will guide prevention efforts nationally. The National Immunisation Register will enable monitoring and follow-up of all children, and assist in improving immunisation coverage. ‘Clearing the Smoke: A five-year plan for tobacco control in New Zealand, 2004–2009’ aims to further reduce smoking-related illness and death.

## 2. Previous reporting

430. With respect to women's health, the Committee is referred to paragraphs 257 to 306 of New Zealand's sixth periodic CEDAW report. Māori health issues are further addressed at paragraphs 130 to 149 of New Zealand's seventeenth CERD report.

## 3. National Health Policy

431. The New Zealand Government prioritises health care in its policies and practices, and expenditure on health continues to increase as a proportion of total government expenditure. In 2000, 6 percent of GDP was spent on health, rising to 6.3 percent in 2003, and approximately 7 percent in 2007. In the 2006/7 year, 21 percent of total government expenditure was on health.

### (a) Structural change in the provision of health services

432. The New Zealand Public Health and Disability Act 2000 provides for strategic and annual planning processes, requirements for community participation, and sets up transparent processes. It also moved away from a centralised approach to decision-making. The Act created 21 District Health Boards (DHBs). These are responsible for providing personal health care services, some public health services and disability services for older people to a geographically defined population and for running acute hospital services.

433. DHBs receive population-based funding and are expected to purchase and provide services that meet local needs. Each board has up to 11 members, seven of whom are elected by the community. Each board is legally required to have at least two Māori members. A minority of members (up to four) are appointed by the Minister of Health. When making appointments, the Minister must endeavour to ensure that Māori membership of the board is proportional to the number of Māori in the DHB's resident population.

434. Central government provides broad guidelines on what services the DHBs must provide, and national priorities have been identified. Services may be delivered by a range of providers including public hospitals, non-profit health agencies, iwi groups or private organisations.

### (b) Strategies

435. Since restructuring, several strategies have been implemented to respond to health needs. The New Zealand Health Strategy is a long-term strategy, setting overall health and independence goals. It sets up a global strategy for improving the health of all. Priorities cover population health objectives, the reduction of inequalities, and service priority areas. It places particular emphasis on improving population health outcomes and reducing disparities, including for Māori and Pasifika.

436. In 2001, the Primary Health Care Strategy was published with an emphasis on improving health and reducing health inequalities through a strong primary health care system. It is consistent with WHO guidance on primary health care. Key components of the strategy include:

- (a) The establishment of Primary Health Organisations (PHOs);
- (b) A focus on meeting population needs through co-ordinated service delivery to improve, maintain and restore health;
- (c) Funding that is not dependent on the type of practitioner or number of visits, thus allowing for innovative service-delivery models and the best mix of skills; and
- (d) A commitment to timely and equitable access to services, regardless of ability to pay.

437. PHOs are the local provider organisations through which DHBs implement the Primary Health Care Strategy. There are 82 PHOs, and more than 95 percent of the public are enrolled. PHOs are contracted by DHBs to provide primary health care, including preventive services and an increasing array of population health services. From 1 July 2007, everyone enrolled with PHOs had access to low or significantly reduced cost primary care services, with approximately 1 million people accessing very low cost services. All citizens, permanent residents, or those with work permits entitling them to remain in New Zealand for a period that equals or exceeds two years, are eligible to register with PHOs.

**(c) Decreasing long-standing disparities**

438. In New Zealand, as elsewhere, inequalities in health exist between ethnic groups and social classes. These inequalities are not random: in all countries socially disadvantaged groups have poorer health, greater exposure to health hazards, and lesser access to high quality health services than their more privileged counterparts. In addition, indigenous peoples tend to have poorer health. In New Zealand the extent of these inequalities is unacceptable. The New Zealand Health Strategy acknowledges the need to address health inequalities as a major priority requiring ongoing commitment across the sector.

439. In recent years, a variety of activities to reduce inequality have been undertaken. This includes raising awareness and understanding of health inequalities, introducing an intervention framework and introducing health equity tools to complement the framework. Other activities include Services to Improve Access funding, and the reorientation of child and adolescent oral health services.

440. The recent publication *Decades of Disparity III: Ethnic and Socioeconomic Inequalities in Mortality*<sup>16</sup> found that health inequalities are not fully explained by socioeconomic position, and that ethnicity has an impact on health even after socioeconomic position is taken into account. The Government recognises that factors such as education, income and housing have the potential to affect health outcomes, and their uneven distribution is a key cause of health inequalities.

441. Progress is now focused on the health sector targets of improving immunisation coverage, oral health, diabetes services, nutrition, and mental health services; reduced ambulatory-sensitive admissions, obesity, and harm caused by tobacco; and increased physical activity.

**(i) Māori**

442. Despite significant gains in recent years, Māori as a population group still experience poorer health outcomes than non-Māori. For example, cardiovascular disease death rates are 2.3 times higher for Māori than non-Māori. Cardiovascular mortality is decreasing at a slower rate for Māori than non-Māori. Cancer mortality is increasing for Māori and decreasing for non-Māori. Māori are three times as likely to have diabetes and six times as likely to die from it. The stark disparities are unacceptable and the improvement of Māori health outcomes and reduction of health inequalities are key priorities.

443. Emphasis to ensure equitable access to heart surgery for Māori has resulted in increased intervention rates for Māori women, although little change for Māori men has highlighted the need for different strategies to encourage them to seek health services earlier. On-going programmes to reduce smoking rates, encourage healthy eating and increase physical activity, and substantially increased funding for prevention programmes

<sup>16</sup> Produced by the Ministry of Health and University of Otago in 2006.

as part of primary care have been put in place to reduce the impact of cancers and chronic diseases such as diabetes.

444. *He Korowai Oranga* seeks to support Māori-led initiatives to improve the health of whānau, hapū and iwi. The strategy recognises that the desire of Māori to have control over their future direction is a strong motivation for Māori to seek their own solutions and to manage their own services. *He Korowai Oranga* provides a framework for the Ministry, DHBs and key stakeholders to take a leadership role in improving Māori health outcomes.

445. *Ngā Kāwai: Implementing Whakatātaka 2002–2005* outlines milestones and achievements, at both the Ministry of Health and District Health Board level, in the initial three years prior to the introduction of *Whakatātaka Tuarua*. Initial milestones included:

- (a) DHBs setting funding targets for investment in Māori health and disability, and reporting on targets for their regions to increase funding for Māori initiatives;
- (b) Including targets in Crown funding agreements;
- (c) Including Māori health and whānau ora as key criteria in DHB prioritisation, resource allocation and disincentives decisions;
- (d) DHBs working with their local Māori health partners and Māori communities to design monitoring and audit tools to evaluate progress on Māori health objectives; and
- (e) Developing a Monitoring Framework to assess progress towards whānau ora, following consultation with Māori.

446. *Whakatātaka Tuarua: Māori Health Action Plan 2006–2011* sets out the activities for the Ministry of Health, DHBs and the health sector through to 2011. The Ministry has overall responsibility to lead, monitor, review and ensure progress, and to foster collaboration and co-ordination across the sector. DHBs provide leadership, through their *roles* as planners, funders and providers, and through engaging with their local communities to participate in implementation. *Whakatātaka Tuarua* recognises that improvements in Māori health outcomes and independence in disability are a sector-wide responsibility.

447. As part of *Whakatātaka Tuarua*, the Ministry of Health has identified the following areas for priority: building quality data and *monitoring* Māori health; developing whānau-ora-based models; ensuring Māori participation (workforce development and governance); and improving primary health care.

448. Enhancing the effectiveness of mainstream services in improving Māori health outcomes remains an important priority for the Ministry of Health, as a high proportion of Māori continue to access mainstream services. Supporting Māori capacity building within the sector has been a priority. The focus has shifted in recent years from increasing the number of Māori providers, to building, strengthening and sustaining the quality of the services provided. Alongside the work with Māori providers, an ongoing focus will remain on DHBs and mainstream providers to ensure greater effectiveness of the resources and initiatives aimed at improving Māori health outcomes.

**(ii) Pasifika**

449. The increased focus by the Ministry of Health and the broader health sector on the health of Pasifika over the last few years has produced positive results in some areas. For example, the meningococcal B immunisation programme focused on and achieved higher immunisation rates in Pacific communities than the general population, which was also higher than the usual rates of immunisation in those communities. There has also been improved access for Pasifika to primary health care services and the strengthening of



Pacific health service providers. However, significant health inequalities remain for Pasifika in New Zealand.

450. Particular initiatives of note include:

- (a) Building a Pacific health knowledge and information base;
- (b) Building capacity and capability in Pacific providers and the Pacific workforce to support them to lead service innovation and to implement the Pacific Health and Disability Workforce Development Plan;
- (c) Supporting mainstream health services, including DHBs and PHOs, to deliver high-quality, culturally competent services for Pasifika by monitoring DHB activity and providing policy advice; and
- (d) Facilitating communication and information sharing within the Pacific health sector and with the wider health sector with publications such as *Voyages* magazine and the *Pacific Health Research Review*.

451. A review of the Pacific Health and Disability Action Plan identified child health and chronic disease as key clinical priority areas. Addressing these priorities requires the health sector to provide effective, culturally competent health services and leadership from the Pacific community to support lifestyle changes.

**(d) General overview of Accident Compensation Scheme**

452. The ACC scheme provides comprehensive no fault accident insurance to people injured in New Zealand and, in some cases, New Zealand residents travelling overseas. Visitors to New Zealand are also covered. Individuals may make a claim if they experience physical injury, a mental injury related to a physical injury, mental injury arising from sexual assault or abuse, and some work-related gradual process injuries.

453. ACC provides for emergency transport to treatment, travel for escorts and support persons, and assistance with accommodation costs. ACC can also provide help with rehabilitation (home help, attendant care, child care, training for independence, transport, housing modifications, aids and appliances, and education support), and financial aid (weekly compensation, lump sums or independence allowance for permanent impairment, grants and payments for the families of people killed in an accident).

454. During the reporting period, ACC developed a Code of Claimants' Rights following extensive consultation with the public. The purpose of the Code is to meet the reasonable expectations of claimants (including the highest practicable standard of service and fairness) regarding their interactions with ACC. The Code achieves these objectives by conferring rights on claimants and imposing obligations on ACC. ACC must comply with the Code.

455. The ACC Code is based on the claimant's right to be treated with dignity and respect; to be treated fairly and to have their views considered; to have their culture, values and beliefs respected; to have a support person or persons; to effective communication; to be fully informed; to have their privacy respected, and to complain.

**4. Access to trained medical personnel**

456. Wherever they live within New Zealand, people are entitled to expect to receive the same level of service to address the same level of need and ability to benefit. Between 95 and 97 percent of the population have access to trained personnel for the treatment of common diseases and injuries, with regular supply of 20 essential drugs, within one hour's walk or travel.

457. Rural areas are not necessarily worse off than urban areas in New Zealand. The Urban-Rural Health Comparisons published by the Ministry of Health in 2007 included information on service utilisation. Among other things, it found that females in urban areas are significantly more likely to have had unmet need for a GP in the last year than females in true rural areas.

458. The Government spends \$100 million annually to support rural services. Measures include:

- (a) Funding to support rural workforce retention (short and longer term retention and recruitment of primary health care professionals);
- (b) Funding to support reasonable rosters for practices in rural areas with onerous on-call responsibilities;
- (c) Rural bonuses direct to rural GPs, allocated on the basis of doctors' scores on the 'rural ranking' scale.

459. In recent years, New Zealand has:

- (a) Created the Rural Innovation Fund;
- (b) Reviewed the Primary Response in Medical Emergencies scheme and updated emergency medical training and equipment for rural practitioners;
- (c) Increased vocational training places for rural practitioners and rural placements for medical students; and
- (d) Contracted with the New Zealand Rural General Practitioners Network for better recruitment of and locum support for rural practitioners.

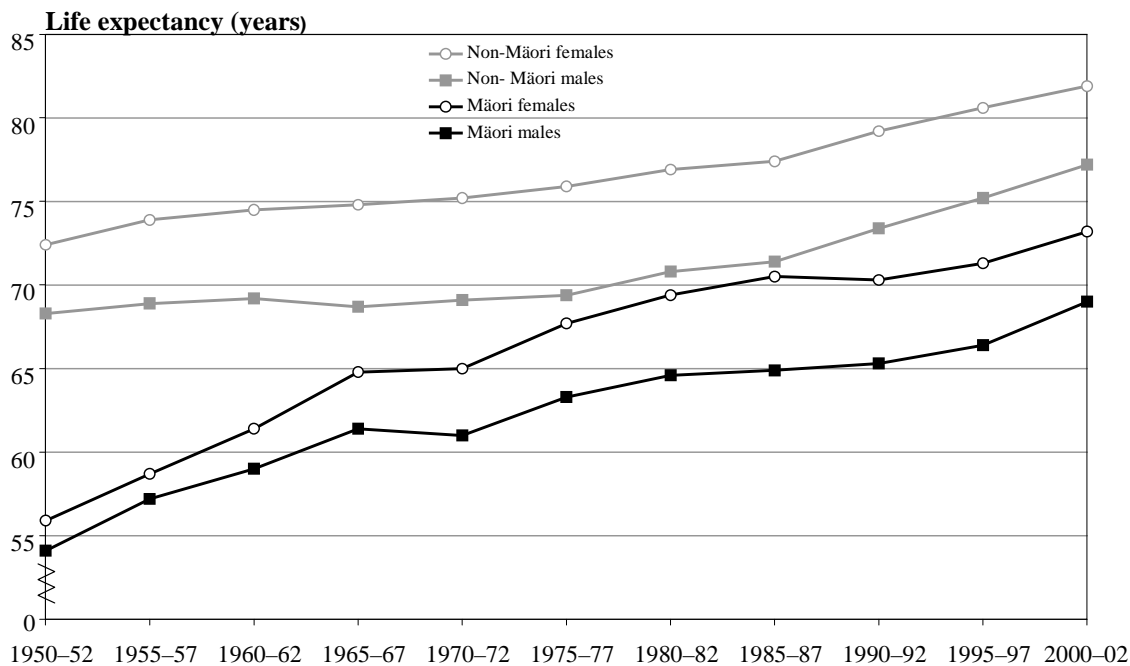
460. Evidence shows that medical students whose training involves rural immersion are more likely to work in rural areas once qualified. The Ministry of Health has implemented initiatives to enable medical students to work and live in rural areas as part of their study, to attain a better understanding of the needs of the area and of rural health communities in general. Funding for rural GP training has also been increased, allowing for ten rural scholarships to medical school and twenty rural rotations for trainee doctors. In 2007, six rural nurses were awarded scholarships to complete their Masters programme and register as nurse practitioners. A number of other postgraduate scholarships were awarded to primary health care nurses working with rural populations. In addition, two funding schemes have been introduced to help support midwives who practise in rural or remote areas.

## **5. Life expectancy**

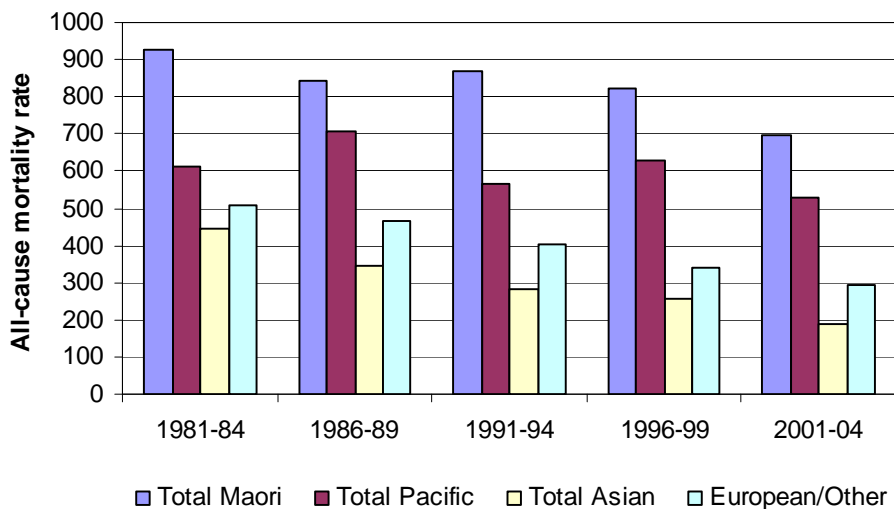
461. Life expectancy in New Zealand has been increasing steadily for many years. A newborn girl can now expect to live, on average, 81.7 years, and a newborn boy 77.5 years. These levels represent longevity gains since 1995–97 of 2.0 years for females and 3.1 years for males.

462. Māori life expectancy is significantly lower than the life expectancy for non-Māori. In 2000–02 (the most recent years for which data is available) Māori female life expectancy was 73.2 years, 8.7 years below that of non-Māori females (81.9 years), and Māori male life expectancy was 69.0 years, 8.2 years below that of non-Māori males (77.2 years). Life expectancy for Pasifika in 2000–02, was 4.8 years less than the New Zealand average life expectancy for males (71.5 and 76.3 years respectively) and 4.4 years less than the New Zealand average for females (76.7 and 81.1 years respectively).

**Life expectancy, by ethnicity, 1950–52 to 2000–02<sup>17</sup>**

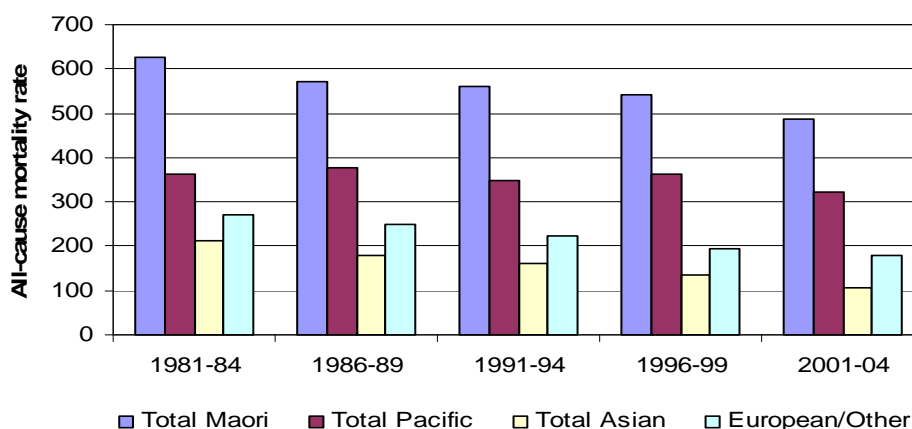


**All-cause mortality rates for males, by ethnicity, age standardised within the group aged 1–74 years, 1981–84 to 2001–04**



<sup>17</sup> Source: Statistics New Zealand.

**All-cause mortality rates for females, by ethnicity, age standardised within the group aged 1–74 years, 1981–84 to 2001–04<sup>18</sup>**



463. Between 1996–99 and 2001–04 absolute inequality<sup>19</sup> in all-cause mortality decreased, more so for Māori than for Pacific ethnic groups. The decline in mortality for all ethnic groups over the period can be attributed to a progressive reduction in the incidence and case fatality of cardiovascular disease, ischaemic heart disease and stroke in particular. The contribution of cardiovascular disease to the total mortality ethnic inequality has been replaced by an increasing contribution from cancer.

464. Disparities in mortality between the Māori and European/Other group persist within all income groups. For males and females aged 25–74 years, the mortality rates for Māori in the *high*-income group were similar to or greater than the mortality rates for European/Other in the *low*-income group in each period. However, among Māori, declines in mortality rates in the 1980s and 1990s tended to be more evident among the high- and medium-income groups, but not the low-income group. Among the European/Other group, mortality declined from 1981–84 to 2001–04 within all income groups (overall and among middle-aged and older adults in particular).

465. Socioeconomic differences are also apparent, with people from more deprived areas experiencing lower life expectancies than people from less deprived areas. Statistical modelling suggests that socioeconomic differences mediate about half of the inequality in mortality between the Māori and European/Other groups, although this is probably an underestimate, because socioeconomic position cannot completely account for the mortality disparity.

466. Independent life expectancy measures the years of life free of functional limitation requiring assistance. Inequalities in the probability of living a long and healthy life are most apparent for Māori females, who have an independent life expectancy 9.2 years less than non-Māori females have (as at 2001). Māori males have an independent life expectancy 7.2 years less than non-Māori males.

## 6. Women's health

467. A National Cervical Screening Programme was established in 1990. In 2007, 70 percent of eligible women (aged 20–69) had been screened within the past three years as

<sup>18</sup> Source: Statistics New Zealand.

<sup>19</sup> Absolute inequality is a measure of actual standardised rate difference.

recommended by the programme. Cervical cancer incidence and mortality rates have halved since the introduction of the screening programme.

468. Breast cancer is the leading cause of cancer deaths in New Zealand women. A national breast cancer screening programme was established in 1998, and provides two-yearly mammographic screening and follow-up assessment and treatment services to asymptomatic women aged 45 to 69 years. By the end of June 2006, BSA had increased on the number of women screened in the previous two years by 32 percent.

## **7. Measures taken to reduce stillbirth rate and infant mortality**

469. The provision of free pre- and post-natal health care to all pregnant women remains an integral part of the measures taken to reduce the stillbirth rate and infant mortality. A number of pregnancy and childbirth services continue to be delivered free of charge by midwives, general practitioners and specialists, including health promotion and education, pregnancy information for individual women and their families and whānau, personal care during pregnancy, diagnostic services, and care during and following childbirth.

470. The Ministry of Health is currently reviewing maternity service provision. While most New Zealand women report being satisfied with current maternity care, a small but growing minority of expectant women is having difficulty finding a Lead Maternity Carer as a result of workforce shortages combined with an unexpected rise in the birth rate. The Ministry has developed a Maternity Action Plan to address key issues with maternity services and will seek public feedback to assist with the development of an implementation plan.

### **(a) Perinatal and Maternal Mortality Review Committee**

471. The Perinatal and Maternal Mortality Review Committee was established in 2005 to review and report to the Minister of Health on perinatal and maternal deaths. The aim is to reduce the number of deaths and to encourage continuous quality improvement through promotion of quality assurance programmes. The Committee was involved in setting up systems to collect information about perinatal and maternal deaths. Its first report (released in 2007) makes seven recommendations to the Minister of Health, including recommendations to improve perinatal pathology services, and provide bereaved families with better support (information, counselling and clinical follow-up if required).

### **(b) Infant mortality rate**

472. In the year ending 31 March 2007, the total population infant mortality rate has remained at 5.1 per 1000. Infant mortality rates are, overall, higher in areas of highest deprivation and lower in areas of least deprivation. Māori experience consistently higher infant mortality rates than the total New Zealand population. However, there is some evidence the gap is closing. In 1996 the rates were 11.5 per 1000 live births for Māori and 7.1 per 1000 for the total population. In 2005, the rates had declined to 6.6 per 1000 live births for Māori and 5.1 per 1000 for the total population. In the year ending 31 March 2007, the Māori rate further reduced to 6.5 per 1000 live births.

473. The decline in the rate of infant mortality, particularly for Māori, can be attributed in part to the success of smoking cessation programmes (outlined below), which reduce the risk of sudden infant death syndrome. Health promotion programmes outlining the importance of sleeping babies on their back or sides have also had an impact on these rates. In 2004, the three major causes of infant mortality in New Zealand were sudden infant death syndrome (SIDS), congenital abnormalities and perinatal conditions (such as prematurity, perinatal infections and low birth weight).

474. The infant mortality rate for Pasifika is also higher than for the total population. The most recent data is for 2002/03 when the rate was 6.9 per 1000 for Pasifika compared with the 5.5 per 1000 for the total population.

#### Foetal and infant mortality rates (per 1,000 live or total births) for the year ending 31 December 2004

Category of death	Māori		Pacific people		Other		Total	
	Number	Rate	Number	Rate	Number	Rate	Number	Rate
<b>Total foetal</b>	<b>139</b>	<b>8.3</b>	<b>65</b>	<b>10.1</b>	<b>301</b>	<b>8.3</b>	<b>505</b>	<b>8.5</b>
Early neonatal	36	2.2	25	3.9	100	2.8	161	2.7
Late neonatal	11	0.7	6	0.9	20	0.6	37	0.6
Post-neonatal	76	4.6	24	3.8	49	1.4	149	2.5
<b>Total infant</b>	<b>123</b>	<b>7.4</b>	<b>55</b>	<b>8.7</b>	<b>169</b>	<b>4.7</b>	<b>347</b>	<b>5.9</b>

Source: New Zealand Health Information Service.

#### Deaths of infants under the age of 1 year (per 1,000 live births)

Year	Total	Māori	Non-Māori
1997	6.8	10.7	5.1
1998	5.4	7.2	4.6
1999	5.8	8.7	4.7
2000	6.3	8.5	5.4
2001	5.6	8.6	4.4
2002	6.2	8.9	5.2
2003	5.4	7.5	4.5
2004	5.9	7.4	5.3

Source: New Zealand Health Information Service.

\* Due to a change in the way ethnicity was recorded, 1995 figures are not directly comparable to those before and after.

#### (c) Maternal deaths

##### Rates of maternal deaths (WHO definition) per 100,000 live births

Year	Direct		Indirect		Total		Live births
	No.	Rate	No.	Rate	No.	Rate	
1997	2	3.5	1	1.7	3	5.2	57 734
1998	1	1.7	3	5.2	4	6.9	
1999	3	5.2	1	1.7	4	7.0	57 421
2000*	2	3.5	3	5.3	5	8.8	56 894
2001	0	0.0	3	5.3	3	5.3	56 224
2002	4	7.3	4	7.3	8	14.7	54 515
2003	3	5.3	1	1.8	4	7.1	56 576
2004	1	1.7	3	5.1	4	6.8	58 723

*Source:* New Zealand Health Information Service.

*Note:* The 1997 live birth figure has been used to calculate the 1998 rates.

*NB:* See pages 26 and 27 of HNHIS's 2004 Report on Maternity for more information about the WHO definition of maternal death.

\* In 2000 one of the direct maternal deaths reported occurred in 1932 but was not registered until 2000.

#### Maternal deaths by ethnicity, 2002–2004

Year	Ethnicity	Direct/indirect obstetric death		Total
		Direct	Indirect	
2002	Pacific peoples	-	1	1
	Other	4	3	7
2003	Māori	1	-	1
	Pacific peoples	1	-	1
	Other	1	1	1
2004	Māori	-	3	3
	Other	1	-	1

*Source:* National Mortality Collection.

*NB:* See pages 26 and 27 of HNHIS's 2004 Report on Maternity for more information about the WHO definition of maternal death.

#### 8. Child health

475. An independent Ministerial Committee, the Child and Youth Mortality Review Committee reviews deaths of children and young people aged from 4 weeks to 24 years. The Committee reports to the Minister of Health at least annually on how to reduce the number of preventable deaths in this age group. A particular focus of the Committee has been sudden unexpected death in infancy.

476. The *Well Child Tamariki Ora Framework* offers New Zealand children, from birth to five years, free health screening, education and support services. The services encompass health education and promotion, health protection and clinical support, and family/whānau support. They also ensure that parents are linked to other early childhood services such as Early Childhood Education and social support services if required. The services are delivered by a variety of providers including Māori and Pacific providers. Some additional Well Child services are funded through dental, maternity and primary care budgets.

477. New Zealand has introduced a 'Ready for School' check, with national implementation phased in from 29 February 2008. This is aimed at ensuring children are adequately prepared for school entry. The check will include vision, hearing, growth and development assessment, as well as assessment of personal and social issues, and the child's ability to learn and communicate.

#### 9. Health of older people

478. Most older people in New Zealand are fit and well, and live independent lives. However, with advancing age, older people become increasingly high users of health and disability support services, such as home support and residential care. People are now entering residential care later and with a higher level of dependency than in the past. The average age of entry to aged residential care is 82.3 years.

479. The most significant government funded services used specifically by older people are residential care; home-based support; assessment, treatment and rehabilitation; environmental support; and carer support. The Health of Older People Strategy released in 2002 provides a framework for future service development for older people. Key directions in the strategy are an integrated approach to service planning and provision, and a greater emphasis on community-based services to support older people to remain at home with a good quality of life.

480. A background paper *Impact of Population Ageing on New Zealand on the Demand for Health and Disability Support Services, and Workforce Implications* was completed for the Ministry of Health in June 2003. The paper concluded that ageing will have a considerable, but manageable, effect on projected health expenditure in New Zealand.

## **10. Environmental factors**

### **(a) Access to safe water**

481. Under the Health Act 1956 and the Building Act 2004, buildings not on a reticulated supply must have their own potable water supply (usually a roof tank or bore). In 2006/7, about 92 percent of the population had access to reticulated drinking water supplies (2,303 supplies), with the remainder relying on roof tanks, well water or surface water supplies. About 87 percent of those connected to reticulated supply received community drinking water that fully complied with bacteriological and chemical standards (80 percent of the total population). This is a considerable improvement over the mid 1990s, when only 50 percent of reticulated households received fully compliant water.

482. It is acknowledged that for 12 percent of the population connected to reticulated water supply to receive water that was non-compliant with national guidelines, is an issue which needs to be addressed. Neither was it satisfactory that more than 8 percent of the population was served by unregistered supplies, many of which were not monitored.

483. The Health Drinking Water Amendment Act 2007 renders mandatory most of the elements of the current Ministry of Health drinking-water strategy that were previously voluntary. It brings New Zealand into line with the Bonn Charter, and encourages the introduction of Integrated Water Resource Management. The Act requires all water suppliers servicing more than 500 people to produce and implement public health risk management plans for their supplies. It also requires all water suppliers to take all practicable steps to comply with the Drinking-Water Standards for New Zealand.

### **(b) Access to adequate excreta disposal facilities**

484. Under the Health Act 1956 and the Building Act 2004, all dwelling houses must have safe sanitary facilities. In 2007, the OECD carried out a review of New Zealand environmental performance, following up on a previous review in 1996. The 2007 review found that the portion of the population connected to public sewerage in New Zealand is 80 percent. Excreta disposal for the vast majority of the remaining 20 percent of the population is by septic tank or by individual advanced aerated wastewater treatment systems. Urban and rural disaggregated statistics are not available. The two biggest cities, Auckland and Christchurch, upgraded their municipal waste water treatment plants to tertiary treatment during the review period. However, a recent survey revealed that between 25–33 percent of reticulated community sewerage systems were underperforming, particularly in smaller communities.

485. The national Waste Strategy includes a target to upgrade, close or replace all substandard waste water treatment plants by 2020. In 2003 the Ministry of Health launched a ten year sewerage subsidy programme to help communities of fewer than 10,000 people



upgrade their waste water treatment facilities. By May 2006, about 75 percent of the budget had been committed for 40 communities.

**(c) Environmental and industrial hygiene**

486. The Hazardous Substances and New Organisms Act 1996, national environmental standards established under the Resource Management Act 1991, and the New Zealand Waste Strategy 2002, provide the general framework for regulating environmental hygiene.

487. During the reporting period, the Hazardous Substances and New Organisms Act 1996 became fully operational. All existing hazardous substances covered under previous legislation have now been transferred into the Hazardous Substances and New Organisms Act regime. The 1996 Act was amended in 2004 to incorporate the Stockholm Convention on Persistent Organic Pollutants. As required, New Zealand has developed and is implementing a national implementation plan for persistent organic pollutants.

488. Under the Resource Management Act 1991, the Government can set national environmental standards. Each regional, city or district council must enforce the minimum standard. In some circumstances, councils can impose stricter standards.

489. In 2004, 14 national environmental standards for air quality were introduced. Five ambient standards set maximum thresholds for five commonly recognised air pollutants: PM10 particulates, nitrogen dioxide, carbon monoxide, sulphur dioxide, and ground-level ozone. Although the effects of air pollution on the natural environment are recognised, New Zealand's ambient standards are measured primarily against human health thresholds. In addition to ambient standards, the Regulations introduced other measures to improve air quality including through prohibiting certain activities (such as burning tyres and school incinerators) and requiring design standards for new wood burners.

490. New Zealand is working on a suite of other national environmental standards, which are currently at different stages of development. These include standards for human drinking water sources, water measuring devices, telecommunications facilities, and electricity transmission. The potential to develop national environmental standards for on-site wastewater systems, and contaminated land, is also being explored.

491. In 2002, the *New Zealand Waste Strategy: Towards Zero Waste and a Sustainable New Zealand* was adopted. The Strategy contains 31 targets to reduce waste in New Zealand. A progress report on the targets completed in 2006 indicated that New Zealand has made significant progress on many of the targets but there is still significant work to be done.

**11. Prevention, treatment and control of epidemic diseases**

492. The New Zealand Influenza Pandemic Action Plan (NZIPAP) Version 16 was released in September 2006. New Zealand has substantial stockpiles of Oseltamivir, antibiotics for secondary bacterial infection, personal protective equipment, and has enhanced the supply chains for other essential medications.

493. The Epidemic Preparedness Act 2006 updated and clarified emergency and quarantine powers. It also includes a number of amendments to non-health legislation, including changes to the Social Security Act and Holidays Act; and enacted two provisions that provide for a power to relax statutory duties and requirements during an epidemic. These emergency powers are designed to mitigate the harshness of laws in a major public health epidemic emergency.

494. New Zealand has agreed that it will be bound in full by the revised International Health Regulations 2005.

## 12. Immunisation and screening

495. A free series of immunisations is available to children in New Zealand to protect them from eleven serious diseases. Participation is voluntary, although strongly encouraged to protect the health of the individual child, and through the highest possible uptake, to protect the health of all children. To be fully protected against the eleven diseases, children must have all immunisations in the series.

496. New Zealand's immunisation coverage target is for 95 percent of two year olds to be fully immunised. DHBs will target at least a 4 to 6 percent point increase on 2005 National Childhood Immunisation Coverage Survey baselines. The introduction of the National Immunisation Register and enrolment of all children from birth on the National Immunisation Register enables monitoring and follow-up of each child. Improvements in immunisation coverage are expected as strategies for improving immunisation coverage are implemented by DHBs. A range of educational resources are available to support parents' decision making about the National Immunisation Schedule.

497. The National Immunisation Register is a tool that assists in the delivery of immunisation services and provides an accurate record of individuals' immunisation history. It also provides national and regional level information on the immunisation coverage of a specified population, and assists in achieving coverage targets. The National Immunisation Register was implemented during 2004/05 to collect immunisation information for the Meningococcal B Immunisation Programme. Beginning in 2005, immunisation information on all individuals born after a specified date is collected.

### Recommended immunisation schedule from 1 June 2008

Age	Disease protected against (Vaccine name)
6 weeks	Diphtheria, Tetanus, Pertussis (whooping cough), Poliomyelitis, Hepatitis B, <i>Haemophilus influenzae</i> type b (Hib) – (Infanrix-hexa)  Pneumococcal – (Prevenar)
3 months	Diphtheria, Tetanus, Pertussis (whooping cough), Poliomyelitis, Hepatitis B, <i>Haemophilus influenzae</i> type b (Hib) – (Infanrix-hexa)  Pneumococcal – (Prevenar)
5 months	Diphtheria, Tetanus, Pertussis (whooping cough), Poliomyelitis, Hepatitis B, <i>Haemophilus influenzae</i> type b (Hib) – (Infanrix-hexa)  Pneumococcal – (Prevenar)
15 months	<i>Haemophilus influenzae</i> type b (Hib) – (Hiberix)  Pneumococcal – (Prevenar)  Measles, Mumps, Rubella – (MMRII)
4 years	Diphtheria, Tetanus, Pertussis (whooping cough), poliomyelitis – (Infanrix-IPV)  Measles, Mumps, Rubella – (MMRII)
11 years <sup>1</sup>	Diphtheria, Tetanus, Pertussis (whooping cough) – (Boostrix)
12 years	Human papillomavirus – (Gardasil)

<i>Age</i>	<i>Disease protected against (Vaccine name)</i>
45 years	Diphtheria, Tetanus – (ADT) <sup>2</sup>
65 years	Diphtheria, Tetanus – (ADT) <sup>2</sup> Influenza <sup>3</sup> (Vaxigrip or Fluvax)

*Source:* Ministry of Health.

<sup>1</sup> Effective from 1 January 2008.

<sup>2</sup> Administration is not funded for these vaccines.

<sup>3</sup> Influenza vaccine is also funded for persons of all ages with certain chronic medical conditions

In addition:

Hepatitis B vaccine and hepatitis B immunoglobulin is given at birth to babies of a mother who is HBsAg positive.

BCG is offered to babies who will be living in households with either a current or part history of tuberculosis; or have one or both parents who identify as being Pacific people; or have parents or household members who have within the last 5 years lived for a period of six months or longer in countries where there is a high incidence of tuberculosis; or will during their first 5 years be living for 3 months or longer in a high incidence country.

Women of childbearing age who are susceptible to rubella should be offered the MMR vaccine.

498. Immunisation Coverage for the year 2007 (children born between 1/1/2006 and 31/12/06 and completed 12 months of age in reporting period 1/1/2007 and 31/12/2007) was 88 percent for Diphtheria, Pertussis, Tetanus, Poliomyelitis, and Hepatitis B. Measles is given at 15 months of age, and therefore is not included in the statistics on infants (under 1 year of age). Tuberculosis is not part of the Schedule but is offered to infants identified as being of increased or high risk of tuberculosis.

499. A National Childhood Immunisation Coverage Survey was undertaken between January and March 2005 that showed improvement over previous coverage estimates. Fully immunised coverage at age two years had improved from less than 60 percent in 1992 to 77.4 percent in 2005. However, Māori were significantly less likely to be fully immunised at age two years (69 percent) compared with European/Other ethnicity (80.1 percent).

500. Outreach immunisation services have been set up in 16 DHBs. Outreach services are primary health care providers who are referred children according to a local protocol, for tracing and follow up of missed or delayed immunisations. The aim is to either immunise the child or to ensure they are linked back to a primary health care service for immunisation and other health services.

501. Antenatal HIV screening is regularly offered by the Waikato DHB. There are plans to offer it in Auckland, Tairāwhiti and Hawkes Bay, beginning in 2009. It is expected that it will be some time before such screening will be available throughout New Zealand. Individual patients who are concerned may request screening.

### 13. Disability requiring assistance

502. Approximately 10 percent of New Zealanders had a disability requiring assistance in 2001 (the most recent year for which data is available), a similar proportion to 1996.

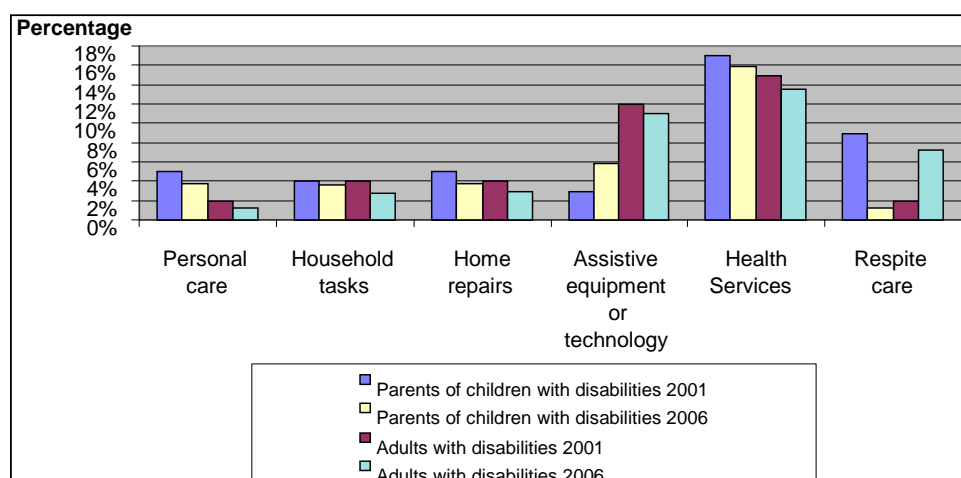
**Prevalence of disability requiring assistance, by ethnicity and sex, 2001<sup>20</sup>**

	<i>Māori (%)</i>	<i>Non-Māori (%)</i>	<i>Total (%)</i>
Males	13.5	9.9	<b>10.7</b>
Females	14.4	8.9	<b>9.7</b>

**(a) Unmet need for disability support services**

503. In 2001, between two and five percent of adults with disabilities or parents or caregivers of children with disabilities reported an unmet need in relation to everyday activities (such as personal care or household tasks).<sup>21</sup> Twelve percent of adults with disabilities and six percent of parents or caregivers of children with disabilities reported an unmet need in relation to equipment or technology (such as hearing or mobility equipment). Fifteen percent of adults with disabilities and 17 percent of parents or caregivers of children with disabilities reported an unmet need in relation to health services (such as therapists).

504. In 2006, only a small proportion of adults (as indicated in the table below) with disabilities, or parents or caregivers of children with disabilities, reported an unmet need in relation to everyday activities (such as personal care or household tasks).<sup>22</sup> Eleven percent of adults with disabilities and six percent of parents or caregivers of children with disabilities reported an unmet need in relation to equipment or technology (such as hearing or mobility equipment) to assist themselves. Fourteen percent of adults with disabilities and 16 percent of parents or caregivers of children with disabilities reported an unmet need in relation to health services (such as GPs, medical specialists or counsellors/social workers).

**Unmet need reported by adults with disabilities or parents or carers of children with disabilities, 2001 and 2006**

*Source:* 2001 and 2006 Household Disability Survey; 2001 and 2006 Disability Survey of Residential Facilities.

<sup>20</sup> *Source:* 2001 Household Disability Survey; 2001 Disability Survey of Residential Facilities; 1996/97 Disability Survey.

<sup>21</sup> Unmet need describes self reported access to support equipment and services that adults with disabilities, or parents or caregivers of children with disabilities, felt they needed but were unable to obtain.

<sup>22</sup>

## 14. Mental health

505. The Ministry of Health has responsibility for leading implementation of the National Mental Health Strategy contained in *Looking Forward* (1994) and *Moving Forward* (1997) and the Government's most recent policy direction for mental health and addiction, *Te Tāhuhu – Improving Mental Health 2005–2015: The Second New Zealand Mental Health and Addiction Plan* released in June 2005.

506. Implementation of the strategy has been supported by a growth in public funding, accompanied by a significant growth in services, 74 percent of which are community based. Non-government organisations receive 29 percent of funding for community-based services. DHBs have responsibility for planning, funding and ensuring provision of mental health and addiction services.

507. *Te Tāhuhu – Improving Mental Health* sets out government policy and priorities for mental health and addiction for the 10 years to 2015, and provides overall direction for expenditure. Based on an outcomes framework, it broadens the Government's interest in mental health, while continuing to place an emphasis on those most severely affected. It covers the spectrum of interventions, from promotion and prevention, to primary care and specialist services.

508. *Te Puāwaitanga* (2002) is the Māori Mental Health National Strategic Framework. It was developed to assist and provide detailed guidance for the mental health sector and district health boards on the planning and delivery of services for Māori. It recognises the importance of cultural identity as an essential component of mental health care.

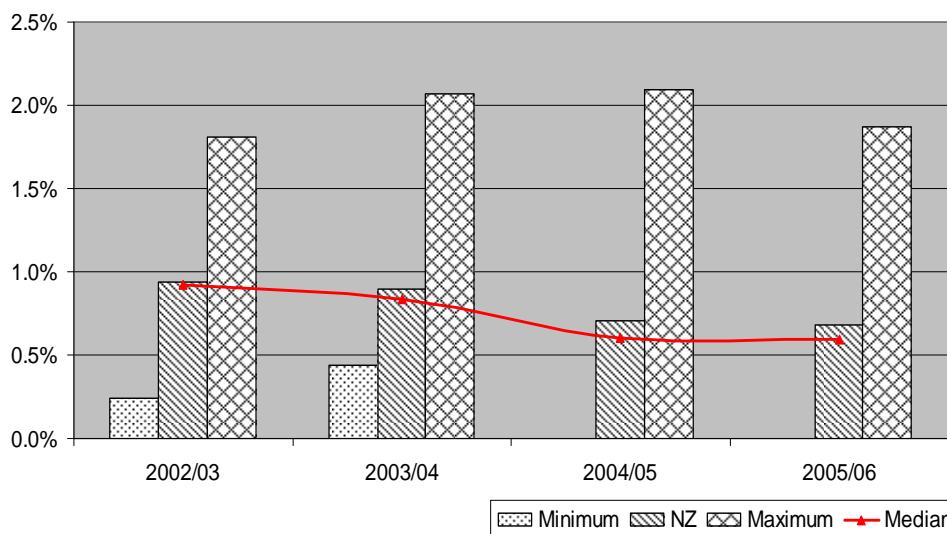
509. *Building on Strengths* (2002) outlines a national approach to mental health promotion, with the aim of providing education and guidance, along with planned priority actions for promotional activities. *The Like Minds, Like Mine* project continues to focus on de-stigmatising mental illness and improving the social environment for people with serious mental illness.

### (a) Mental health service use

510. A proxy measure for the effectiveness of community mental health services with regard to early detection and service responsiveness is whether a person's first contact with mental health services coincides with an inpatient psychiatric admission. Access to a *recovery*-focused effective, efficient, responsive and timely mental health service minimises the impact of mental illness on a person.

511. The rate of new admissions directly to acute mental health services decreased between 2002/03 and 2005/06, indicating that mental health services are becoming more responsive. Admissions to acute mental health services vary considerably between DHBs, but this *variation* decreased between 2004/05 and 2005/06. Given that the total number of people seen by mental health services has increased by 10,000 over the past year, a decrease in the number of clients seen as acute for the first time indicates that mental health services are becoming more responsive.

**Mental health clients seen as acute and for the first time as a percentage of total clients seen, 2002/03 to 2005/06<sup>23</sup>**



**(b) Secondary mental health services use**

512. Measuring access rates to secondary mental health services estimates service responsiveness. Te Rau Hinengaro (New Zealand's mental health survey) reported the prevalence of a mental disorder requiring secondary mental health services was closer to 4.7 percent than the previously estimated 3 percent. Prevalence of mental disorder is estimated to be higher in Māori (8.4%) than in the Pacific (5.9 percent) and Other (4 percent) groups.

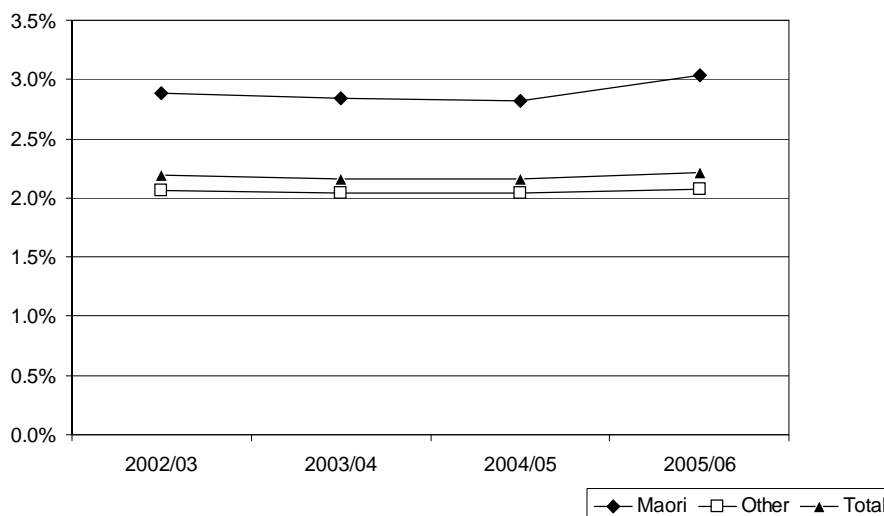
513. Access rates remained stable at approximately 2.2 percent between 2001/02 and 2004/05. Concordant with an elevated prevalence of mental disorder, access rates were higher for Māori at 3 percent. Data from the Mental Health Information National Collection shows secondary mental health services saw more clients in 2005/06 than they did in 2006/07.<sup>24</sup> However, access rates to secondary mental health services remain below the estimated prevalence of mental health need.

514. Te Rau Hinengaro reports that of the total population with a serious mental disorder, 35.3 percent made contact with a secondary mental health service; this compares with 28.6 percent of Māori and 15.7 percent of Pasifika with a serious mental illness.

<sup>23</sup> New Zealand Health Information Service. Note: DHB minimum is the lowest individual DHB figure; DHB maximum is the highest individual DHB figure; NZ is the national mean. The DHB minimum for 2004/05 and 2005/06 is 0.0 percent.

<sup>24</sup> The Mental Health Information National Collection is a database that records what has been reported to the New Zealand Health Information Service. Data may change over time as more information is received.

### Access to secondary mental health care services by ethnicity, 2002/03 to 2005/06



#### *Electroconvulsive therapy*

515. Following a recommendation of the Health Select Committee in 2003, an independent review was undertaken of the safety and efficacy of electroconvulsive therapy (ECT), and the adequacy of regulatory controls. ECT is an effective treatment for various mental illnesses and neuropsychiatric conditions, and it is often effective in cases where medication is contraindicated, or does not provide sufficient relief of symptoms. The review concluded that ECT continues to have a place as a treatment option, and that banning its use would deprive some seriously ill patients of a potentially effective and sometimes life-saving means of treatment.

516. ECT, although a safe and effective treatment for children and adolescents, is used very rarely in these age groups. In the 2005/06 reporting period no child under 15 years of age received ECT, and only one person aged 15 to 19 years received ECT. Strict guidelines govern the administration of ECT to a child or young person, and every such case is followed up by the Director of Mental Health Services.

## 15. Suicide

517. Suicidal behaviour is a significant and preventable public health issue in New Zealand. It is a major cause of death and injury and a significant contributor to social and health costs. Research suggests that over their lifetime, 15.7 percent of New Zealanders will report experiencing suicidal thoughts, 5.5 percent will make a suicide plan and 4.5 percent will make a suicide attempt. Every year approximately 500 people die by suicide, and approximately 10 times that number are hospitalised for intentional self-harm. The three year moving average rate of suicide for 2003–2005 was 13.2 deaths per 100,000 population. This is a decrease of 19 percent from the 1996–1998 peak of 16.3 per 100,000 and continues the downward trend of recent years.

518. Males consistently have a higher rate of suicide than females, with approximately three male suicides to every female suicide. However, females have a higher rate of hospitalisation for intentional self-harm than males, with twice as many female hospitalisations to every male hospitalisation.

519. The sub-groups with the highest rates of suicide were males, Māori (as opposed to non-Māori), those in the age group 15 to 44 years, and those residing in the most deprived areas of New Zealand.

520. Attached at Annexes D, E and F are graphs showing Age-specific suicide rate, by age group, three-year moving average, 1921–2005; Suicide death rates, by sex, three-year moving averages, 1985–2005; Māori and non-Māori suicide death rates, three-year moving averages 1996–2005, respectively.

521. A broad range of factors is involved in the development of suicidal behaviours, and no single initiative is likely, on its own, to make a significant difference. Instead, reducing the rate of suicide in New Zealand will require sustained action, from a number of sectors over a long period of time.

522. In 2006, the New Zealand Suicide Prevention Strategy 2006–2016 was released which will guide prevention efforts nationally over the next ten years. This Strategy replaced and builds on the New Zealand Youth Suicide Prevention Strategy, which guided a range of suicide prevention initiatives targeting young people from 1998. The Strategy is led and coordinated by the Ministry of Health with input from a wide range of government agencies whose sectors have a role in suicide prevention. The overall purposes of the Strategy are to reduce the rate of suicide and suicidal behaviour, reduce the harmful impact of suicide and suicidal behaviour on families/whānau, friends and the wider community, and reduce inequalities in suicide and suicidal behaviour.

523. All activities undertaken as part of the Strategy should be evidence based, safe and effective, responsive to Māori; recognise and respect diversity; reflect a co-ordinated multi-sectoral approach; demonstrate sustainability and long-term commitment; acknowledge that everyone has a role in suicide prevention; and have a commitment to reduce inequalities.

524. The seven goals of the strategy are:

- (a) Promote mental health and well-being, and prevent mental health problems;
- (b) Improve the care of people who are experiencing mental disorders associated with suicidal behaviour;
- (c) Improve the care of people who make non-fatal suicide attempts;
- (d) Reduce access to the means of suicide;
- (e) Promote the safe reporting and portrayal of suicidal behaviour by the media;
- (f) Support families/whānau, friends and others affected by a suicide or suicide attempt; and
- (g) Expand the evidence about rates, causes and effective interventions.

525. Initiatives that are particularly relevant to Māori include Māori community development initiatives, the development of a new resource to guide suicide prevention in Māori communities, and a research priority about suicidal behaviours within Māori communities.

526. Suicide prevention initiatives targeted at young people include a school-based early intervention programme for young people experiencing grief, loss transition and early signs of emotional distress, whole school approaches to mental health promotion, programmes to address the suicide risk for children in Child Youth and Family care, an interactive website for youth about depression, and youth health services.

527. Patients' Rights groups express concern that a class of antidepressants (selective serotonin reuptake inhibitors or SSRIs) cause suicide. At the population level the widespread introduction and use of SSRIs has been associated with decreased suicide rates,



particularly for adults, and it appears that SSRIs benefit most people who use them. There is no evidence from clinical trials that the use of SSRIs increases the risk of completed suicide. However, it appears that SSRIs may increase suicidal ideation and behaviours in some subgroups of the population.

528. Medsafe, the body responsible for regulating therapeutic products in New Zealand, has informed prescribers that for children and adolescents with major depressive disorder, the possible risk of suicidal ideation and behaviours with SSRIs generally outweighs the possible benefits. The exception is fluoxetine, which has evidence of moderate effectiveness for use amongst young people and therefore the benefits of its use may outweigh the risks in this age group. Medsafe also recommends that advice be sought from a child and adolescent psychiatrist when starting, changing or stopping antidepressant treatment for a person aged 18 years or younger.

529. There is also some evidence that SSRIs may increase the risk of suicidal ideation and behaviours amongst adults. However, due to the proven effectiveness of SSRIs in this age group, the overall benefits are thought to outweigh the risks.

530. In order to manage the risk of suicide, the New Zealand Guidelines Group recommends intensive monitoring for people starting on antidepressant treatment, particularly where the person is considered at increased risk of suicide or is aged younger than 30 years. It should be noted that Medsafe recommends the monitoring of all patients with major depressive disorder regardless of whether they are on antidepressant treatment.

## **16. National Drug Policy 2007–2012**

531. The updated National Drug Policy 2007–2012 builds on the first National Drug Policy 1998–2003. The overarching goal of the National Drug Policy is to prevent and reduce the health, social and economic harms that are linked to tobacco, alcohol, illegal and other drug use. It sets out the Government's policy within a single framework, establishing the goals, objectives and principles that will guide drug policy and intersectoral decision-making about the best way to address the harms caused by drug use. It identifies the population groups that require special attention.

532. The following objectives have been identified for the National Drug Policy to achieve the overarching goal:

- (a) To prevent or delay the uptake of tobacco, alcohol, illegal and other drug use, particularly in Māori, Pasifika and young people;
- (b) To reduce the harm caused by tobacco by reducing the prevalence of tobacco smoking, consumption of tobacco products and exposure to second-hand smoke;
- (c) To reduce harm to individuals, families and communities from the risky consumption of alcohol;
- (d) To prevent or reduce the supply and use of illegal drugs and other harmful drug use;
- (e) To make families and communities safer by reducing the irresponsible and unlawful use of drugs; and
- (f) To reduce the cost of drug misuse to individuals, society and government.

### **(a) Tobacco**

533. The prevalence of smoking in New Zealand has decreased over the last 10 years. Figures from the NZ Tobacco Use Survey (2006) indicate that the prevalence of current smokers aged 15 to 64 years is 23.5 percent. These current figures represent a large decline

in smoking since 1990. Increases in the prevalence of smoking by secondary school students in the 1990s have been reversed, with a strong downward trend apparent between 1999 and 2006 for both males and females. The prevalence of smoking among adult Māori and Pasifika remains high, at 45.8 and 36.2 percent respectively in 2006. Tobacco consumption among those aged 15 years and over continues to track downwards, from 1,971 cigarette equivalents in 1990, to 999 cigarette equivalents in 2004. There was a slight increase in 2005, to 1,033 cigarette equivalents. The successes of the smoking cessation programme have been achieved through a mix of tobacco legislation, taxation, health promotion and cessation support.

534. In spite of this decrease, smoking remains the greatest single preventable cause of premature death in New Zealand. Each year about 4,700 people die from cancers, cardiovascular disease, chronic obstructive pulmonary disease and other diseases caused by smoking.

535. The Smoke-free Environments Act 1990 was amended in 2003. The amendment required that, among other things, the buildings and grounds of schools and early childhood centres, licensed premises and other workplaces indoors be smokefree (including herbal smoking products); the display of tobacco products in retail outlets be restricted, and a 'smoking kills' sign be erected near the display, and the access to smoking products be further restricted for those under 18 years of age.

536. *Clearing the Smoke: A five-year plan for tobacco control in New Zealand 2004–2009* contains four goals that support the best-practice strands of a comprehensive tobacco programme: significantly reduce levels of tobacco consumption and smoking prevalence; reduce inequalities in health outcomes; reduce Māori smoking prevalence to at least the same level as non-Māori; and reduce exposure to second-hand smoke.

**(b) Alcohol**

537. Alcohol is one of the substances covered by the National Drug Policy. Alcohol is the most commonly used recreational drug in New Zealand, with 81 percent of people aged 12–65 reporting that they consumed alcohol in the last 12 months. While most people drink without harming themselves or others, the misuse of alcohol by some results in considerable health, social and economic costs to individuals, families and the wider community.

538. The 2004 *New Zealand Health Behaviours Survey – Alcohol Use* found that one in four New Zealanders aged 12–65 years who had consumed alcohol in the previous year, reported consuming amounts on a typical drinking occasion that are potentially hazardous and harmful. Although less likely to be drinkers, Māori and Pasifika who drink were more likely to have potentially hazardous drinking patterns than other groups, and young people who drank were also likely to have hazardous drinking patterns. Fifty-six percent of youth aged 12–17 had consumed alcohol in the last 12 months, and of these, two in five reported consuming large amounts of alcohol on a typical drinking occasion.

539. Recognising the potential for harm, New Zealand regulates the sale and supply of alcohol. The sale and supply of alcohol in New Zealand is governed by the Sale of Liquor Act 1989. The Act established safeguards with the aim of contributing to the reduction of liquor abuse as far as that can be achieved by legislative means. One underlying safeguard is that the sale of alcohol to the public requires a licence. A liquor licence allows the licensee to sell alcohol according to the conditions of the licence. Conditions cover such things as to whom alcohol can be sold, the hours and days it can be sold, and who is allowed on licensed premises.

540. In 2004, the Sale of Liquor Act was amended to increase the responsibility of managers. Managers must now undertake training and are responsible for ensuring that

premises they manage comply with the conditions of their licence and provisions of the Act. Managers may face heavy penalties in the event of non-compliance. Police are able to conduct controlled purchase operations to test whether licensed premises are complying with laws against selling alcohol to minors. The operations give premises an opportunity to test their procedures for preventing the sale of alcohol to minors and to tighten up their systems where necessary.

541. There are also policies and programmes in place to reduce alcohol-related harm. For example, there are regular advertising campaigns to alert people to the dangers of drinking and driving, pregnant women are advised of the potential harm to unborn babies of drinking during pregnancy, and there are liquor bans in some areas to enhance public safety. Alcohol and other drug issues are one of the priority areas for action identified in the New Zealand Health Strategy. The Government has recently undertaken two reviews to specifically address issues around youth drinking and alcohol advertising.

## 17. **Healthy Eating – Healthy Action Oranga Kai – Oranga Pumau**

542. Obesity is a growing health issue in New Zealand. The 2002/03 New Zealand Health Survey revealed that 35 percent of adults were overweight and 21 percent were obese. The burden of obesity is greater for Māori and Pasifika, as rates of obesity are higher than for other ethnic groups. The 2002 National Children's Nutrition Survey recorded 21.3 percent of children as overweight and 9.8 percent as obese.

543. *Healthy Eating – Healthy Action Oranga Kai – Oranga Pumau* (HEHA) is an integrated strategy aimed at improving nutrition, increasing physical activity and reducing obesity. The key messages of HEHA are based on Ministry of Health food and nutrition guidelines and Sport and Recreation New Zealand (SPARC) guidelines for promoting physical activity. HEHA is the mechanism in New Zealand for implementing the Global Strategy on Diet, Physical Activity and Health adopted by the World Health Assembly in 2004.

## **Articles 13 and 14**

### **The right to education that is compulsory and free of charge for all**

#### **1. Summary**

##### *Key developments*

544. Development in the implementation of the right to education in New Zealand include:

- (a) A focus on increasing participation in high quality early childhood education;
- (b) The development and implementation of the new national curriculum;
- (c) The implementation of a new qualifications framework that includes the National Certificate in Educational Attainment;
- (d) Ensuring access to tertiary education; and
- (e) A specific focus on lifting the achievement of Māori and Pasifika students.

##### *Challenges*

545. A major challenge is to reduce the number of school leavers with little or no formal attainment. While equality of educational opportunity exists in the education system, there continues to be a significant disparity between ethnic groups. The percentage of Māori

students leaving school with little or no formal attainment has declined by 13.1 percent between 2002 and 2006, but remains above the overall average at 21.8 percent. Māori students have lower rates of retention in post-compulsory education, and are more likely than other students to leave school with few formal qualifications.

#### *Initiatives*

546. To address the challenge of school leavers with little or no formal attainment, the Government's aim is to raise achievement and reduce disparity for all New Zealand students. In the context of Māori students this has included a focus on increasing the proportion of students staying in school and working with schools to lift achievement.

## **2. Previous reporting**

547. The Committee is referred to New Zealand's second UNCROC report (paras. 682–841); sixth periodic CEDAW report (paras. 140–197); fourteenth and seventeenth periodic CERD reports (paragraphs 83–98 and 101–121, respectively); and the seventh periodic report on the UNESCO Convention Against Discrimination in Education.

## **3. New Zealand's school system**

548. In general, every person who is not a foreign student is entitled to free enrolment and free education at any state school during the period beginning on the person's fifth birthday and ending on the 1st day of January after the person's nineteenth birthday. There are 16 categories of domestic students. Changes have also been made to the enrolment rules to allow children unlawfully in New Zealand to attend school while their families work with Immigration New Zealand to legitimise their immigration status.

549. Schools commonly ask families to pay a specific amount as a 'school donation' to assist with the costs of the school activities and materials. Payment of this 'donation' is voluntary. Schools are entitled to recover the costs of materials for items that students take home, for example, hard materials from technology classes. The Ministry of Education follows up all complaints brought to its attention in relation to school donations. Education is compulsory between the ages of 6 and 16 years. However, most children start attending primary school from the age of five years.

550. It remains the case that, in general, primary or secondary education is required to be paid for by overseas students who are given admission to New Zealand for the particular purpose of education and on the basis that they will pay for it. The situation has remained unchanged since the previous report.

551. The Education Amendment Act 1998 sets in place processes for establishing enrolment schemes to limit student intakes where schools are likely to be overcrowded. Enrolment schemes must embody certain principles, the most important of which is the desirability of students being able to attend a reasonably convenient school.

552. Two notable features of the school system are the relatively large numbers of schools per capita, and the high number of schools in rural localities (with one third of State schools being in such localities).

### **(a) Diversity of schools**

553. As at 1 July 2007, of a total of 2,593 schools, there were 107 private and 327 integrated schools. Of the 434 state integrated and private schools, 241 are affiliated with the Roman Catholic Church (367 of the 434 state integrated and private schools have a religious affiliation).

554. Further diversity of schooling is provided in certain areas by 73 Kura Kaupapa Māori schools (compared to 59 in 1999). Kura Kaupapa Māori are state schools in which Māori language, culture and values predominate and in which the principal language of instruction is Māori. In July 2007, there were 6,267 students attending Kura Kaupapa Māori, of which 6,251 identified themselves as Māori.

555. New Zealand does not consider there to be significant barriers to accessing private schools in New Zealand. New Zealand has a considerable number of schools, such as religious schools that are integrated into the state system while retaining their special character.

**(b) Expenditure on education**

556. The preservation and enhancement of the right to education are illustrated by an upward trend in net expenditure during the reporting period, as the table set out below indicates. This financial provision currently allows the education system to include support for: a wide variety of early childhood services; up to 14 years of schooling; the provision of tertiary education through universities, polytechnics, colleges of education, wānanga and private training establishments; and various transition education, community education, adult education, non-formal education and distance education opportunities.

**Age-adjusted public expenditure on educational institutions as a percentage of GDP (2003)**

<i>Financial year</i>	<i>Expenditure on education (\$M)</i>	<i>Total Government expenditure (\$M)</i>	<i>GDP (\$M)</i>	<i>Percentage of GDP</i>	<i>Percentage of total Government expenses</i>
1996/97	4 817	<b>31 368</b>	99 034	4.9	15.2
1997/98	5 162	<b>32 982</b>	101 592	5.1	15.7
1998/99	5 337	<b>33 939</b>	104 730	5.1	15.5
1999/00	5 712	<b>34 829</b>	111 080	5.1	16.5
2000/01	6 136	<b>36 559</b>	118 403	5.2	16.7
2001/02	6 473	<b>37 513</b>	125 758	5.1	17.0
2002/03	7 016	<b>39 897</b>	132 334	5.3	16.8
2003/04	7 585	<b>41 882</b>	142 251	5.3	18.2
2004/05	7 930	<b>44 895</b>	150 789	5.3	17.2
2005/06	9 914	<b>49 320</b>	156 933	6.3	19.7
2006/07	9 269	<b>54 003</b>	168 106	5.6	18.6
2007/08	9 551	<b>56 997</b>	180 077	5.3	16.8

557. Information contained in Education at a Glance: OECD Indicators 2007 Edition placed New Zealand in the top third of OECD countries, or around the OECD average, for most indicators. In 2004, for example, New Zealand spent 6.9 percent of its GDP on education, above the 2004 OECD average of 5.7 percent.<sup>25</sup>

<sup>25</sup> The 6.9 percent is according to OECD's definition and not The New Zealand Treasury's definition used in the preceding chart. The figure covers public and private sources. Although this figure declined to 6.7 percent in 2005, it was above the OECD average. Note that it includes fees by international students.

#### **4. National Qualifications Framework**

558. The National Qualifications Framework was developed through a two-year process of policy development and public consultation in 1990–1991. The Framework provides a nationally recognised, consistent standards and qualifications. The Framework also provides recognition and credit for all learning of knowledge and skills, and that qualifications are quality assured and nationally recognised.

559. The National Qualifications Framework is a three-pronged quality system under which:

- (a) National standards are registered;
- (b) National standards are used by accredited organisations; and
- (c) A moderation system ensures national consistency.

560. The National Qualifications Framework has 10 levels. Levels depend on the complexity of learning. Levels 1–3 are of approximately the same standard as senior secondary education and basic trades training. Levels 4–6 approximate to advanced trades, technical and business qualifications. Levels 7 and above approximate to advanced qualifications of graduate and postgraduate standard.

561. Under the present system the National Certificates of Educational Achievement (NCEA) are the predominant secondary school students' qualifications. The NCEA is a standards-based qualification with awards at three levels:

- (a) NCEA level 1 – generally attempted in year 11;
- (b) NCEA level 2 – year 12; and
- (c) NCEA level 3 – year 13.

562. The NCEA levels 1, 2 and 3 are three of the 1,000 national qualifications on the National Qualifications Framework. Schools may request tuition for other qualifications. Examples are areas such as childcare, sport, tourism, computing, electrical engineering, and business management. Some qualifications can be completed at school, such as the National Certificates in Computing, Employment Skills, Hospitality, Mathematics, Retail and Travel & Tourism. Others start at school, and then finish in the workplace or at a tertiary provider.

#### **5. Curriculum**

##### **(a) Curriculum review**

563. After the last of the full set of national curriculum statements was published in 2000, the Government commenced a stocktake of the curriculum, investigating a number of problems and issues associated with the New Zealand curriculum and its development which had been raised in and outside the sector. The stocktake made a number of recommendations on how the curriculum should be shaped to better meet the needs of the diversifying student population in New Zealand and be manageably and effectively implemented in schools.

564. The Stocktake Report found that although the performance of a large group of students is high by international standards, there are wide disparities of outcomes for some groups of students. In particular, Māori and Pasifika students, on average, achieve at a significantly lower level than non-Māori. The range of achievement within any group is, however, wider than the range of achievement between any two groups.

565. The Stocktake Report recommended a better integration between the New Zealand Curriculum Framework and Te Anga Marautanga o Aotearoa, the Māori-medium curriculum framework. The Stocktake Report noted that most Māori students are in schools that use the New Zealand Curriculum Framework and curriculum statements in English. The Stocktake Report recommended that the underlying philosophy of both frameworks should reflect the status of Māori as tangata whenua and expectations of best outcomes for all students.

566. The Stocktake Report also recommended that the following should be added to the curriculum:

- (a) A clear statement of the purposes of curriculum/marautanga as being to clarify expectations for all New Zealand students and to develop the human capability necessary for a prosperous and inclusive New Zealand society;
- (b) A section on effective pedagogy;
- (c) A section on the relationship between the New Zealand curriculum/te marautanga o Aotearoa and Te Whāriki (the early childhood education curriculum); and
- (d) A section on the relationship between the New Zealand curriculum and te marautanga o Aotearoa and qualifications and work.

567. Between 2004 and 2007 more than 15,000 students, teachers, principals, advisers, and academics contributed to developing the draft New Zealand curriculum, building on the recommendations from the New Zealand Curriculum Stocktake Report. Input to the curriculum was by means of working groups, online input and focus groups. The curriculum was enriched by the knowledge, experience, and different perspectives of all those involved. The participatory process also led to the creation or growth of professional communities and the forging of new connections between groups. Consultation included working with sector representatives, talking with whānau, business, teachers and students. The Ministry of Education sought submissions from the wider community and these were analysed and contributed to revisions to the draft curriculum.

568. The New Zealand Curriculum was launched on 6 November 2007 and will come into effect in February 2010. The new Curriculum:

- (a) Establishes direction for learning and assessment in New Zealand schools;
- (b) Fosters achievement and success for all students, and at each level clearly defined the achievement objectives against which students' progress can be measured;
- (c) Provides for flexibility, enabling schools and teachers to design programmes which are appropriate to the learning needs of their students;
- (d) Ensures that learning progresses coherently throughout schooling;
- (e) Encourages students to become independent and lifelong learners;
- (f) Provides all students with equal educational opportunities;
- (g) Recognises the significance of the Treaty of Waitangi;
- (h) Reflects the multicultural nature of New Zealand society;
- (i) Requires schools to ensure that values, including respect for human rights, are encouraged, modelled and explored and 'evident in the school's philosophy, structures, curriculum, classrooms, and relationships'; and
- (j) Relates learning to the wider world.

569. The New Zealand Curriculum specifies eight learning areas: English, the arts, health and physical education, learning languages, mathematics and statistics, science, social sciences, and technology. The curriculum sets out key outcomes expected in different learning areas as a student progresses through the time in school. Achievement in these areas is part of a broad, general education that lays the foundation for later specialisation.

570. There are eight principles and five key competencies underpinning the New Zealand Curriculum. The eight principles are:

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High expectations	The curriculum supports and empowers all students to learn and achieve personal excellence, regardless of their individual circumstances.
Treaty of Waitangi	The curriculum acknowledges the principles of the Treaty of Waitangi and the bicultural foundations of Aotearoa New Zealand. All students have the opportunity to acquire knowledge of te reo Māori me ona tikanga.
Cultural diversity	The curriculum reflects New Zealand's cultural diversity and values the histories and traditions of all its people.
Inclusion	The curriculum is non-sexist, non-racist, and non-discriminatory; it ensures that students' identities, languages, abilities, and talents are recognised and affirmed and that their learning needs are addressed.
Learning to learn	The curriculum encourages all students to reflect on their own learning processes and to learn how to learn.
Community engagement	The curriculum has meaning for students, connects with their wider lives, and engages the support of their families, whānau, and communities.
Coherence	The curriculum offers all students a broad education that makes links within and across learning areas, provides for coherent transitions, and opens up pathways to further learning.
Future focus	The curriculum encourages students to look to the future by exploring such significant future focused issues as sustainability, citizenship, enterprise, and globalisation.

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571. The New Zealand Curriculum is built around five key competencies namely:

- (a) Thinking;
- (b) Using language, symbols and texts;
- (c) Managing self;
- (d) Relating to others; and
- (e) Participating and contributing.

**(b) The senior secondary school curriculum (years 11–13)**

572. In years 11 to 13, students select the subjects they will study to gain qualifications. They may continue with a broad general education or begin to study more specialised



school subjects (e.g. biology, chemistry, physics instead of general science; history, geography, economics instead of social studies). They may also study in a range of vocational subjects and credits gained through assessment against Standards in these subjects count equally towards the NCEA and/or other more specialised National Certificates.

**(c) Human rights education**

573. New Zealand's commitment to an education system that recognises and promotes human rights takes many forms. During the reporting period the New Zealand Human Rights Commission, Children's Commissioner, and three NGOs undertook research into human rights education in New Zealand, feeding into a national initiative sponsored by these organisations to support New Zealand schools and early childhood education centres in becoming 'communities that know, promote and live human rights and responsibilities'.

574. The early childhood education curriculum Te Whāriki encompasses the idea of human rights education. The curriculum emphasises the critical role of socially and culturally mediated learning and of reciprocal and responsive relationships for children with people, places and things. It promotes children learning through observation of others as well as through individual exploration and reflection.

575. During the reporting period, Amnesty International and the Human Rights Commission undertook research into the role of New Zealand schools and early childhood education centres as human rights communities. This research has provided an important foundation for development in this area.

**6. Early childhood education**

576. Access to high quality early childhood education is recognised by the Government as being fundamentally important to young children and parents. Government policies aim to ensure that relevant services are affordable, that participation rates are high, that the diverse needs of the community are met, and that required quality standards are attained.

577. In 2002, the Government published *Pathways to the Future: Ngā Huarahi*, a 10-year strategic plan for early childhood education in New Zealand. Its three core goals were to increase participation in quality early childhood education services; improve quality of early childhood education services; and promote collaborative relationships.

578. To support these three goals significant changes have been made, and are being made, in the early childhood education sector:

(a) New funding and regulatory systems to support diverse early childhood education services to achieve quality early childhood education;

(b) Better support for community-based early childhood education services; and

(c) The introduction of professional registration requirements, for all teachers in teacher-led early childhood education services, such as those already applying in the schools sector and kindergartens.

579. The plan includes specific strategies for the building of an early childhood education sector responsive to the needs of Māori and Pasifika peoples.

**7. Access to tertiary education and training**

580. In terms of a systemic approach, higher education in New Zealand has been subsumed under the broader category of "tertiary education", which includes not only higher education in universities, but all further education and training opportunities of a vocational nature at the post-compulsory level. During the reporting period, the

Government's focus for the tertiary education sector has been on aligning tertiary education and training provision with the needs of the New Zealand labour market and economy, and on maximising educational opportunity for all.

581. Enrolments in tertiary education almost doubled between 1997 and 2005, but have slowed since then. Until the mid-1980s New Zealand had comparatively low levels of participation in secondary school beyond the compulsory ages. The percentage of students retained to age 17 years has increased from 30.8 percent in 1985, to 62.1 percent in 1998 and 75.0 percent in 2007. The participation of the core 18 to 24 age group at tertiary education providers has risen from 283.4 per 1,000 in 1998 to 368 per 1,000 in 2007.

582. As at July 2007, the number of tertiary students enrolled in formal programmes of study (leading to a recognised award) totalled 444,144, compared to total enrolments of 268,518 in 1998. Overall participation in tertiary education has improved for Māori and Pasifika, and enrolments by women now exceed those of men.

583. At the end of the 2007 calendar year:

(a) 484,000 students were participating in tertiary education. These include around 40,000 international students from nearly 150 countries;

(b) There were eight universities, 20 polytechnics, two colleges of education, three wānanga and approximately 750 registered and accredited private providers;

(c) Over 78 percent of people aged 25–64 years had secondary or tertiary qualifications, above the OECD average of 65 percent;

(d) The participation rate in tertiary education reached 13.3 percent of the population aged 15 and over, compared with 11 percent in 2000 and 8.3 percent in 1994. Much of the increase has come about because of increases in enrolments by women, Māori, Pasifika, people in older age groups and students of Asian ethnicity;

(e) 39 percent of students were under the age of 25, compared with 51 percent in 1994; and

(f) A total of 186,000 trainees were in industry training during 2007 compared with 81,300 during 2000.

**(a) Reforms of the tertiary education system**

584. During the reporting period, a number of significant changes have been made to the Equivalent Full-Time Student system. A significant period of reforms took place from 2001. The key features of the reforms were introducing strategic documents such as the Tertiary Education Strategy 2002/07, as well as the establishment of a dedicated monitoring and funding agency, the Tertiary Education Commission, in July 2003. These changes established a broad framework that set the direction for tertiary education, as well as introducing planning and accountability measures to ensure that self-governing tertiary education organisations give effect to Government expectations.

585. From January 2008, a new plan-based system for tertiary education has replaced the largely demand-driven Equivalent Full-Time Student funding system so that better value is gained for Government investment in tertiary education. This will introduce a new investment system in which planning, funding, and monitoring will be aligned to ensure the system delivers for stakeholders — especially students, employers, local authorities and communities — and produces skilled graduates in strategically relevant areas. The Education (Tertiary Reforms) Amendment Act 2007, introduces a more streamlined system by:

(a) Streamlining of the Tertiary Education Strategy and the Statement of Tertiary Education Priorities into a single “Tertiary Education Strategy”, which incorporates both the Government’s long term strategy and current to medium-term priorities for tertiary education;

(b) Introducing a single document, the “Plan” to replace Charters and Profiles. Prepared by tertiary education organisations, in consultation with their stakeholders and in collaboration with the Tertiary Education Commission (TEC), the Plan will be used for: planning; seeking Government funding for programmes and activities; and monitoring, reporting and auditing purposes;

(c) Introducing new mechanisms to reflect the new three-year Plan cycle and to enable the TEC to manage the controlled funding system. These include legal mechanisms for tertiary education organisations and the TEC to manage change and any performance or relationship issues; and more explicit obligations on the TEC in respect of procedural fairness.

586. One key aspect that has been affirmed throughout the period of the reforms has been maintaining access. As noted above, there has been significant growth in tertiary education participation over this period. Although the shift away from demand-driven funding may limit further growth, the Government has set its expectation in the Tertiary Education Strategy 2007/12 that tertiary education organisations need to identify, understand and respond to the diverse needs of their local communities, to ensure an equitable, responsive tertiary system maximises opportunities for all New Zealanders.

**(b) Supporting student access**

587. New Zealand considers that it is legitimate to expect cost sharing between the Government, the student and their family, in order to ensure equitable access to tertiary education for as many New Zealanders as possible. The main focus of student support policies has been to reduce the financial barriers that may prevent New Zealanders from being able to afford to participate in tertiary education. Whenever possible, the Government seeks to make tertiary education more affordable.

588. From 1990–2000 tertiary education providers had the discretion to set tuition fees as they saw fit. Between 2001 and 2003, a fee stabilisation policy was introduced, which effectively froze tuition fees at 2000 levels for many providers. Subsequently, in 2004, the Fee and Course Costs Maxima policy was introduced, which regulates the maximum level that providers can charge students, and prescribes the flexibility providers have to set fees within these limits.

589. The Student Allowances scheme provides targeted assistance for living costs in the form of grants. New Zealanders studying towards government-funded tertiary qualifications, and some senior secondary school students, may apply for student allowances. The scheme gives every tertiary student a \$200-week entitlement to student allowances, subject to eligibility criteria. Student allowances are available to New Zealand citizens and permanent residents who have lived in New Zealand for two years. Applicants must be full-time students enrolled in an approved course of study of at least 12 weeks’ duration. Students aged under 25 years old, with some exceptions, are subject to a parental income test to determine their entitlement; those aged 25 and over are subject to a personal income test. Over the review period, eligibility for student allowances has been progressively increased through adjustments to personal income and parental income thresholds. The proportion of full-time students who qualified for a Student Allowances was in 57 percent in 2007.

590. A student loan scheme was introduced early in 1992, to assist students to participate in tertiary education. The Government provides subsidized loans to such students on a non-selective basis to cover fees, course-related costs and living costs.

591. During the reporting period, the Government has sought to limit the effects of student loan debt. In 2002, the Government removed interest charges while students were studying. The median expected repayment time has now dropped from seven years for students who left study in 1999 to less than six years for those who left study in 2003. In December 2005, the Government passed legislation making student loans for borrowers living in New Zealand interest free from 1 April 2006. The interest free policy applies to existing and new loan borrowers. From 1 April 2006, student loans for borrowers living in New Zealand for 183 or more consecutive days have been interest free.

592. The Student Loan Scheme Amendment Act 2007 changed the repayment conditions for overseas borrowers and provided a three-year repayment holiday for borrowers who wish to live overseas after study. These changes were designed to remove disincentives and encourage borrowers to return to New Zealand from overseas.

593. There is no evidence that the New Zealand Student Loan Scheme is inhibiting access for students from low socio-economic backgrounds. International evidence indicates that student loans increase equity of access to tertiary education. This is particularly the case in New Zealand, where loans are interest free while a student remains in New Zealand following graduation, and where repayment is not required until an income threshold is reached.

594. A number of scholarship schemes have been introduced to facilitate access to tertiary education. These include Bonded Merit Scholarships and Step Up Scholarships. Bonded Merit Scholarships recognise academic achievement in a student's first year of a bachelor degree, and provide for the first \$3,000 of the student's annual fees. Step Up Scholarships are open only to Student Allowance recipients and are targeted toward those entering tertiary study for the first time, with weightings toward areas of skill shortage. Recipients are required to meet the first \$1,000 of course costs each year. Both of these schemes require recipients to stay in New Zealand after completion of study for the same period that they received the scholarship.

**(c) Foreign students' access to tertiary education**

595. The Education Act 1989 provides that a foreign student is a student who is not a domestic student. A domestic student is a New Zealand citizen, or holder of a residence permit under the Immigration Act 1987, or a person exempt from the requirement to hold a permit under that Act, or a person who is a member of a class or description of person required by the Minister of Education to be treated as if they are not foreign students.

596. A person is eligible to enrol at any tertiary institution if the person is a domestic student, an exempt student (a foreign student who is in New Zealand to study under a government-approved exchange programme), and has satisfied the entry criteria of the institution's council. The Education Act 1989 provides that no foreign student other than an exempt student shall be enrolled in any course of study if this would preclude a domestic or exempt student from enrolling in that course. A foreign student is not permitted to be enrolled in a course of study or training which will be or is likely to be not less than three months, unless the course is an approved course offered by an accredited institution.

597. The Education Act 1989 also established the process that a council of an institution shall use to fix fees for foreign students. This is designed to ensure that foreign students (those who are not exempt) meet the full costs of the educational services they receive. In 2007, there were 32,600 international students in public tertiary education institutions and another 42,000 enrolled in private training establishments.

## **8. Industry training and adult and continuing education**

### **(a) Industry training**

598. The Industry Training Act 1992 provides the framework for industry training in New Zealand. Industry training has been developed by industry to give the workforce the skills and knowledge that will give New Zealand industry a competitive edge. Two programmes for skill development are Modern Apprenticeships and industry training.

599. The number of students participating in industry training has increased significantly over the reporting period. In 2000, there were 81,300 trainees participating in industry training. This grew to 186,000 in 2007. These figures include 800 trainees participating in Modern Apprenticeships in 2000, increasing to 10,850 in 2007. Many industries have established standards within the National Qualifications Framework. Industry is expected to contribute towards the costs of standards development and training.

### **(b) Adult and continuing education**

600. New Zealand participates in the Adult Literacy and Life Skills Survey. The results of the 2006 survey show that:

(a) From 1996 to 2006 the proportion of the adult population of New Zealand with very low literacy skills reduced substantially, but a proportion with low literacy skills persists;

(b) The adult population of New Zealand has large subpopulations with low numeracy and low problem-solving skills;

(c) In New Zealand, established immigrants have higher literacy and numeracy skills, overall, than recent immigrants. Established immigrants also make up a larger proportion of the adult population than recent immigrants;

(d) In New Zealand, immigrants (both recent and established) have higher levels of prose and numeracy skills than both recent and established immigrants in Canada and the USA.

601. The Workplace Literacy Fund supports literacy in the workplace. The Fund aims to provide workers with literacy, English language and numeracy skills. Funding is available for literacy, language and numeracy training integrated with vocational/workplace training to help workers meet their employment and training needs. Participants have the opportunity to learn foundation skills and many have achieved unit standards and credits linked to the National Qualifications Framework. Employers have reported improved workplace communication and work quality.

## **9. Vulnerable and disadvantaged groups**

### **(a) Young women**

602. Young women are, on average, achieving higher qualification levels in secondary education than young men. In 2006, 64.5 percent of all female school leavers had qualifications higher than NCEA level one, compared with 55.8 percent of all male school leavers. Young women are more likely to hold a tertiary qualification than young men. In 2004, 22.8 percent of women in the 25 to 34 age group held a tertiary qualification (bachelor degree or higher) compared with 20 percent of men. The Ministry of Education is undertaking work to redress this imbalance and lower levels of achievement of boys and young men and has established a reference group, Boys' Educational Achievement Reference Group. In contrast, at older ages men are more likely than women to hold higher educational qualifications.

603. In 2006, young Māori women and Pacific women were less likely than European women, Asian women and women from other ethnic groups to leave school with qualifications higher than NCEA level one. European women and women of Asian or other ethnic groups are more likely to hold a tertiary qualification than Māori women or Pacific women. However, from 2001 to 2006 the proportion of Māori women with any form of qualification increased from 59 to 77 percent. Over the same period the proportion of Pacific women with a qualification increased from 67 percent to 72.1 percent, indicating that the tertiary attainment gap has the potential to decrease.

604. Equal employment opportunities (EEO) training and support services encourage boards of trustees, in their roles as employers, to consider equity issues related to the employment of staff in schools. EEO provides a useful tool to assist employers in the education service appoint good quality teaching staff representative of their student population.

**(b) Special education**

605. The special education system includes support for diverse student needs through the provision of communication, behavioural, physical support and early intervention services. Special education services exist for children with disabilities, learning difficulties or behavioural difficulties who have been identified as needing alternative sources to those usually provided in regular education settings. Parents of children with special education needs have the same rights to enrol their children at the school of their choice as other parents.

606. From 1997 the Government has implemented a reform of special education support called "Special Education 2000". Special Education 2000 established a structure that includes resourcing and specialist support for schools, individually targeted resourcing for students who require a higher level of support and specialist special education services.

607. Following the implementation of Special Education 2000, the Ministry of Education has produced an action plan called "Better Outcomes For Children" Better Outcomes for Children aims to systematically improve special education services by responding to feedback from children, their families and educators; and, by working to improve the provision of special education services through a stronger focus on student outcomes and evidence based decision making.

608. *AG v. Daniels* was a case between the Government and 14 parents who initiated a legal challenge to the Government's Special Education 2000 policy in 1998. Key actions following the settlement of the case included:

(a) Nation wide consultation and information sharing with parents and educators on the availability of special education support. Feedback from parents and educators was gathered on priorities for action which then formed a programme of work for the ministry;

(b) A further key outcome was that no special education class or facility would be closed without consultation with the school community and a plan for support for any students with disabilities who may be affected by closure.

609. Funding for special education has steadily increased over the reporting period. Funding grew from approximately \$250 million in 1998/1999 to around \$450 million in 2008/2009.

610. The Education Act 1989 gives the Secretary for Education the power to direct an enrolment at a particular facility if a student's special education needs cannot be met in the setting of first preference. Whenever possible, if that is their parents' preference, children with physical or other disabilities are enrolled with other children in ordinary classes. If necessary, buildings are modified, special equipment is provided and extra staff are

appointed to help teachers. Advisers help staff develop suitable teacher programmes. This help is provided through funding from the Ministry of Education to boards of trustees and through the services provided by the Ministry of Education's Special Education group. The Special Education group provides specialist advice, guidance and support for individuals, schools and early childhood centres.

611. Forty-five special schools provide specialist education services for children with special education needs. Enrolment in a special school requires the agreement of a student's parents and the Secretary for Education. There are provisions for students needing long-term hospital care to do their schooling in hospital. Some hospitals have registered State schools while others may have classes on site which are administered by local schools.

612. Seven residential special schools provide teaching and live-in care for children with major learning, behavioural or emotional needs. Children with sight or hearing disabilities may attend mainstream schools and may also have the opportunity to attend specialist residential schools. Health camps, which children in need of rest and recovery may attend for short periods, have both classroom and outdoor educational programmes.

613. Alternative Education services provide for the needs of 1,820 students between the ages of 13 and 15 alienated from (i.e., no longer enrolled in) the mainstream school system. They operate programmes designed to help teenagers get back in to learning by providing education in a different way.

**(c) Teen parents**

614. Teen parents are at high risk of under-achievement in education. There are a variety of programmes to support them throughout the country, particularly in areas of at risk families. These programmes provide health, welfare and educational support to parents, including teen mothers. Teen parents have access to Correspondence School tuition so they can continue learning while learning to care and support their own children. Young parents can return to school, or some other learning environment, following the birth of their baby.

615. One means by which school-age young people who are pregnant or parenting are supported is through Teen Parent Units. A Teen Parent Unit is an educational facility attached to an already established host state school. There are currently 17 Units established across the country. The Unit is always linked to an Early Childhood Education provider so that the child is supported while the young parent is learning. Most Units are led by a teacher-in-charge under the supervision of the school principal and board of trustees. A moratorium on new Teen Parental Units was to end in September 2008.

**(d) Māori**

616. The potential-focused approach for Māori in education has three key underlying principles:

- (a) Māori potential: all Māori learners have unlimited potential;
- (b) Cultural advantage: all Māori have cultural advantage by virtue of who they are – being Māori is an asset; not a problem;
- (c) Inherent capability: all Māori are inherently capable of achieving success.

617. The focus on Māori education during the reporting period is illustrated by the Ministry of Education's comprehensive *Ngā Haeata Mātauranga – The Annual Report on Māori Education, 2006/07*.

618. Historically, Māori have been over-represented among early school leavers. Between 1995 and 2006 the proportion of Māori who were 16 years old and still in secondary school improved from 72.4% to 80.6%.

### Estimated percentage of domestic students staying on at school, by age and ethnic group (2006)

<i>Ethnic group</i>	<i>16 years old and above</i>	<i>17 years old and above</i>	<i>18 years old and above</i>
Māori	80.6	53.4	20.2
Pasifika	93.8	75.4	36.0
Asian	98.7	91.9	52.6
European/Pākehā	92.0	72.2	31.3
<b>New Zealand total</b>	<b>90.8</b>	<b>71.1</b>	<b>32.0</b>

619. During the reporting period, the proportion of Māori students leaving school with no qualifications fell from 33.4 percent in 1999 to 21.8 percent in 2006. This followed a period of little improvement and retrenchment between 1993 and 1998. Māori students who do not participate in post-compulsory schooling are less likely to enter into the formal qualification process, tend to present fewer subjects for assessment, and on average are awarded lower grades than their non-Māori peers.

### Percentage of students leaving school with little or no formal attainment 1993 to 2006

<i>Year</i>	<i>Ethnic group</i>					<i>Total</i>
	<i>Māori</i>	<i>Pasifika</i>	<i>Asian</i>	<i>Other</i>	<i>NZ European</i>	
1998	38.2	27.4	6.9	18.0	12.6	<b>18.1</b>
1999	35.0	26.7	7.6	21.2	12.3	<b>17.2</b>
2000	32.5	24.4	7.4	21.7	12.5	<b>16.5</b>
2001	33.4	24.8	8.0	23.6	12.4	<b>17.0</b>
2002	34.9	26.3	9.1	22.1	13.8	<b>18.2</b>
2003	30.2	21.4	7.4	17.1	11.5	<b>15.3</b>
2004	25.4	15.9	5.2	13.4	9.6	<b>12.8</b>
2005	25.0	15.2	4.6	16.4	9.9	<b>12.9</b>
2006	21.8	12.2	4.5	9.0	8.8	<b>11.1</b>

620. Māori students who remain in school to senior levels are less likely than non-Māori to sit national examinations and, when they do, are less likely to achieve high grades. Thirty-one percent of all Māori that left school in 1998 went directly into formal tertiary education, compared to an overall rate of 47.3 percent. This disparity has fallen over the reporting period and in 2005, 51.2 percent of Māori students went directly to tertiary education, compared to an overall rate of 58 percent.

### Percentage of school leavers making a direct transition to tertiary education by ethnic group, and year left school (1998 to 2005)

<i>Award level</i>	<i>Year left school</i>	<i>Ethnic group</i>				<i>Total (includes other)</i>
		<i>Māori</i>	<i>Pasifika</i>	<i>Asian</i>	<i>NZ European</i>	
All levels	1998	31.1	34.9	66.4	50.0	<b>47.3</b>
	1999	36.0	42.3	69.3	50.7	<b>49.9</b>
	2000	38.6	40.3	61.7	51.4	<b>50.4</b>



Award level	Year left school	Ethnic group				Total (includes other)
		Māori	Pasifika	Asian	NZ European	
	2001	49.8	48.3	67.6	53.1	<b>54.5</b>
	2002	53.9	52.3	68.8	54.6	<b>56.9</b>
	2003	50.1	52.4	66.1	52.6	<b>55.2</b>
	2004	51.0	54.4	72.5	56.1	<b>58.1</b>
	2005	51.2	55.3	74.6	56.2	<b>58.0</b>

621. A range of schemes have been established to improve early childhood and post-compulsory education participation rates, to raise the levels of educational achievement, and to help retain te reo Māori (Māori language). These include: Kura Kaupapa Māori (Māori language immersion State schools); wānanga (Māori universities); Māori language immersion courses for practising teachers and professional development programmes to aid the introduction of the New Zealand Curriculum in Māori; Te Kōhanga Reo (“language nests” or total Māori language immersion early childhood centres); training of Māori staff for Te Kōhanga Reo; research into Māori educational achievement; language learning resources; and training of Māori teachers.

622. While progress has been made in reducing the disparities present in a number of areas, this progress has not been sufficient. To accelerate these changes *Ka Hikitia – Managing for Success: The Māori Education Strategy 2008–2012*, has been developed to focus government, school and teacher practice on lifting the achievement of Māori students through evidence based practice.

623. *Ka Hikitia* is a broad reaching five-year strategy aimed at transforming the education sector and ensuring Māori are able to enjoy educational success. It is a nationally-encompassing document that applies to all areas of formal education. *Ka Hikitia* takes an evidence-based, outcome-focused approach and identifies four key areas of system-wide transformation over the next five years. The areas are Foundation Years (early childhood education and the first years at school); Young People Engaged in Learning (early years at secondary school); Māori Language Education (setting and resourcing Māori language education priorities) and Organisational Success (Ministry of Education and government and education sector agencies).

624. *Ka Hikitia* underwent a three-month comprehensive public consultation period as a draft document in 2007. The overarching themes that emerged from the feedback included:

- (a) The fundamental importance of productive relationships for effective teaching and learning for Māori students;
- (b) The critical importance and role of parents, family, whānau, hapū and iwi in education;
- (c) The importance of valuing and prioritising te reo Māori and tikanga Māori for all New Zealanders;
- (d) Strong support for resourcing of the implementation of the strategy, and ongoing research and development; and
- (e) Scepticism that what is proposed will actually happen.

625. The Ministry of Education analysed all the feedback and used it to refine and update the final strategy launched in 2008.

626. In 2007, 19 per cent of school trustees were Māori. In primary/secondary education, the number of Māori teachers has gone from 8.3 percent in 1998 to 10 percent in 2006.

(e) **Pacific Island people**

627. Pacific Island students now constitute 9.3 percent of the New Zealand school population, increased from 7.6 percent in 1997. New Zealand currently has Tongan, Samoan and Cook Islands Māori curricula as well as curriculum guidelines for the teaching of Vagahau Niue.

**Number of Students involved in Pasifika-medium Education at 1 July 2003–2007**

<i>Language of instruction</i>	<i>Total</i>					<i>% Difference 2003–2007</i>
	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	
Cook Island Māori	229	387	222	438	259	13.1
Niuean	27	28		5	8	-70.4
Samoan	1 287	1 329	1 422	1 564	1 982	54.0
Tokelauan			2	35		
Tongan	194	298	306	471	492	153.6
<b>Total</b>	<b>1 737</b>	<b>2 042</b>	<b>1 952</b>	<b>2 513</b>	<b>2 741</b>	<b>57.8</b>

628. The Ministry of Education launched a new overall plan for Pasifika education: *Pasifika Education Plan 2006–2010* in 2006. The Plan builds on the progress made so far to raise participation and achievement more sharply. The Pasifika Education Plan 2006–2010 four areas are:

- (a) Increasing Pasifika participation in quality early childhood education services;
- (b) Increasing achievement in compulsory education in early literacy and numeracy, and the attainment of school qualifications through improving engagement in schooling;
- (c) Increasing participation, retention and achievement in tertiary education and encouraging progression to higher levels of study; and
- (d) Sector-wide monitoring of the implementation of the Pasifika Education Plan, developing models of effective practice contributing to education outcomes and consolidating strategic approaches and networks supporting Pasifika education within New Zealand and across the Pacific region.

629. Pasifika School Community Parent Liaison (PSCPL) targets school clusters with high Pasifika populations. Clusters of schools in Auckland, Wellington, Tokoroa and Christchurch have participated in this project. Currently, six clusters are involved in PSCPL; three in Auckland, one in Porirua and two in Christchurch. The PSCPL Project seeks to improve learning outcomes for Pasifika students by:

- (a) Ensuring a target is included in each school's Charter about improved Pasifika student learning outcomes, that resources are committed to this, and a comment on progress towards these targeted outcomes is part of each school's Annual Report;
- (b) Promoting evidence-based quality teaching for Pasifika students to improve Pasifika student learning outcomes;

(c) Improving school and teacher liaison with Pasifika parents and communities to improve Pasifika student learning outcomes; and

(d) Developing partnerships between Pasifika communities and schools to improve Pasifika student learning outcomes with a particular focus on literacy.

630. Since 1998 the proportion of Pacific Island students leaving school qualified to attend university increased from 11 percent to 16.8 percent in 2006. This, however, is still significantly below the overall rate of students leaving school qualified to attend university, which was 36.3 percent in 2006.

631. Alongside an improvement in the attainment level of Pacific Island students has been a decline in the number of Pacific Island students leaving school with little or no formal attainment. Between 1998 and 2006 the percentage of Pacific Island students leaving with little or no formal attainment fell from 27.4 to 12.2 percent.

632. In 1998, 34.9 percent of Pacific Island students went on to further education and training. By 2005 this proportion had increased to 55.3 percent. Most of this increase has come in sub-degree level training.

**(f) At-risk students**

633. In the compulsory education sector, the Government is seeking to ensure that every child up to the age of 16 receives appropriate education. A policy directed at at-risk students aims to improve both the opportunities to achieve and the achievement levels of students at risk of poor achievement.

634. Young people who do not have secondary qualifications are disadvantaged in the labour market. Low educational achievement has an impact on the health of the society and economy. A number of issues are associated with at-risk students, besides educational achievement. These include: truancy, suspension and exclusions, demand for non-mainstream educational opportunities for the most at-risk students, and bullying and violence in schools. Various initiatives have been implemented to improve the opportunities for at-risk students to achieve well. These include, for example:

(a) The implementation of a new electronic national enrolment register. This register is already helping the Ministry of Education identify students who are not attending school and intervene to return them school. The Government funds a Non-Enrolment Truancy Service that locates students who have been outside school for 20 week days;

(b) An initiative to reduce the number of early leaving exemptions. The Education Act 1989 allows the Secretary for Education to exempt students below the school leaving age from enrolment where they will be better served by an alternative education or training programme. Evidence showed that those students who received early leaving exemptions are often disadvantaged. Career counselling for students whose exemptions are declined helps ensure that this group of at-risk students stay in school;

(c) Alternative Education provides educational opportunities for students who have become alienated from school;

(d) The Gateway programme offers students the chance to pursue individual learning programmes, which allow them to gain new skills and knowledge in a workplace in their local community. The learning is hands-on and practical. Students are assessed in the workplace for unit and achievement standards which contribute to the National Certificate of Educational Achievement (NCEA), as well as industry specific qualifications.

635. The following programmes have been developed by the Ministry of Education in relation to bullying and harassment:

- (a) Promoting Positive Learning Environments programme;
- (b) Revised curriculum has a strong emphasis on values and valued behaviours;
- (c) Developing anti-bullying guidelines;
- (d) Supporting Positive Behaviours website;
- (e) Step up and Be Safe pocket cards;
- (f) Education Review Office to review schools' anti-bullying strategies;
- (g) Team Up website to provide helpful tips to parents and families; and
- (h) Cool Schools – Peer mediation training for schools run by the Foundation for Peace Studies Aotearoa New Zealand.

## **Article 15**

### **The right to culture and to benefit from scientific progress**

#### **Key developments**

636. This section of the report centres on the following key developments:

- (a) The Māori Language Strategy;
- (b) The Cultural Recovery Package;
- (c) The protection of the right to culture through Department of Conservation policies; and
- (d) Updated science and innovation policies.

#### **Challenges**

637. A major challenge in the right to culture is the revitalisation of the Māori language and the protection and promotion of Māori culture.

#### **Initiatives**

638. The Māori Language Strategy sets out a vision that by 2028, the Māori language will be widely spoken by Māori in everyday life. Surveys specifically undertaken reveal that overall proficiency has improved. The reporting period has also witnessed the advent of the Māori Television Service and increased protection of Māori cultural and intellectual property.

### **1. Measures adopted to realize the right to take part in cultural life**

#### **(a) General**

639. There has been a significant expansion of investment in the cultural sector during the reporting period. Substantial new funding has been provided to existing cultural agencies, particularly as part of the 'Cultural Recovery Package' announced in May 2000. New bodies have been established, such as the New Zealand Music Industry Commission and the New Zealand Film Production Fund. There have also been significant changes to New Zealand's public broadcasting environment, particularly the establishment of the TVNZ Charter, Freeview, and Māori Television.

640. The relevant principal laws and measures remain similar to those noted in New Zealand's previous reports. New Zealand continues to favour the 'arm's length' model,

which means there is no single piece of legislation relating to cultural policy. The Government owns and funds a variety of cultural agencies which are required to perform functions prescribed by statute. Within the limits of its statute, each agency acts autonomously in determining and implementing policy. The Government also contributes funding to a number of non-governmental cultural bodies. This model allows the sector to develop without undue government interference and, therefore, serves to protect freedom of expression.

**(b) Cultural well-being**

641. The Local Government Act 2002 introduced cultural well-being as one of the four underlying purposes of local government. In addition, the Ministry for Culture and Heritage engages with local government and other central government agencies to promote cultural well-being as the fourth pillar of a sustainable development approach. Activities include: funding for arts and cultural activities, projects, festivals, events, organisations and strategies, city revitalisation initiatives, and tourism and regional branding initiatives and activities.

**(c) Cultural statistics**

642. The report *Cultural Indicators for New Zealand (2006)* establishes the key cultural indicators within a framework of five theme areas, which broadly reflect key goals for the New Zealand cultural sector and those involved in it. The five theme areas are: Engagement, Identity, Diversity; Social Cohesion; and Economic Development. They are high level, summary measures of key issues that are used to monitor changes over time. Under each of these themes, key desired outcomes have been identified.

**(d) Accession to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions**

643. New Zealand supported the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions throughout its negotiation, and acceded to it on 5 October 2007, the year it came into force. By acceding to the Convention New Zealand has committed to maintaining and potentially expanding policies in the area of cultural expression.

**2. Financing of cultural activities**

644. Increasing recognition by government of the strategic and intrinsic importance of arts, culture and heritage activities are reflected through greater investment. Central government spending on cultural activities and organisations increased from \$97 million in 1999 to \$290 million in 2007. In May 2000, an additional \$86 million was provided to the cultural sector through the 'Cultural Recovery Package'.

645. The Ministry for Culture and Heritage's current responsibilities include:

(a) Management and disbursement of payments to a number of arts, heritage, broadcasting and sports sector organisations, and the monitoring of the Crown's interests in these organisations;

(b) Research, writing and publication of New Zealand history; and the administration of grants and the provision of advice about New Zealand history;

(c) Research, writing and publication of major reference works including the Dictionary of New Zealand Biography and Te Ara: the Encyclopedia of New Zealand;

(d) Management of national monuments, war graves and historic graves; and

- (e) Administration of the Protected Objects Act 1975.

646. The Ministry for Culture and Heritage also manages, or assists in the management of, the Crown's relationship with other organisations in which it has an interest. These include the National War Memorial Advisory Council, which advises the Minister for Arts, Culture and Heritage on all matters pertaining to the memorial; Te Māori Manaaki Taonga Trust, which supports the training of Māori in the care and display of taonga Māori; the Pukaki Trust, which was established by the Government in 2001 to ensure the care of this important taonga; the Advertising Standards Authority, and the Waitangi National Trust.

647. The Cultural Recovery Package was intended to contribute towards enriching New Zealand's cultural framework while creating employment and economic opportunities. The package included funding for the New Zealand Film Archive; Royal Ballet of New Zealand; Māori Heritage Development Fund; Christchurch Art Gallery; the restoration of the sailing ship, the Edwin Fox; as well as:

- (a) \$20 million for Creative New Zealand (the Arts Council of New Zealand);
- (b) \$22 million to establish a new Film Production Fund;
- (c) \$2 million to establish a Music Industry Commission;
- (d) An additional \$7 million annual funding to NZ On Air, including \$2 million for its music-related work, and \$5 million for New Zealand TV programmes, especially children's TV. \$27.909 million was provided to cover NZ On Air's shortfall following the previous abolition of the Broadcasting Fee;
- (e) \$3 million capital for the New Zealand Symphony Orchestra in 2008 and an extra \$1.4 million annually;
- (f) Additional \$2 million per annum operating funding for Te Papa (the national museum) and an additional \$9 million per annum capital funding.

**(a) New Zealand Historic Places Trust**

648. The New Zealand Historic Places Trust, formerly a statutory body and non-Crown entity, was established as an autonomous Crown entity in 2004. The Historic Places Amendment Act 2006 strengthened governance arrangements for the Historic Places Trust by increasing government appointees to six while retaining three positions elected by Trust subscribing members.

649. Government funding to the Trust was progressively increased from \$4.5 in 2002/03 to \$7.5 million in 2005/06. The 2005/06 funding included assistance to preserve Māori built Heritage and to establish a Heritage Preservation Fund to assist private owners of heritage properties to preserve them.

650. The National Heritage Preservation Incentive Fund was established in 2003 to encourage the preservation of nationally-significant heritage places in private ownership (generally places registered by the Historic Places Trust as a Category I historic place or wahi tapu area). The Fund comprises an annual appropriation of \$563,000 and is administered by the Historic Places Trust.

**(b) New Zealand Music Industry Commission**

651. The New Zealand Music Industry Commission (now known as the New Zealand Music Commission) was established in 2000 with an initial grant of \$2 million, and funding of \$533,000 for each of the three years from 2004.

652. The Commission received \$1.156 million in 2007/08. This was provided primarily for a domestic programme including NZ Music Month (launched in 2001), an initiative to

raise the profile of New Zealand music. The Commission also works with the Ministry of Education to provide the Secondary School's music curriculum, and co-ordinate band mentoring in schools.

### **3. Promotion of cultural identity and awareness and enjoyment of the cultural heritage of ethnic groups and minorities, and indigenous peoples**

#### **(a) Conservation general policy**

653. The Conservation Act 1987 and all the Acts listed in its First Schedule must be interpreted and administered to give effect to the principles of the Treaty of Waitangi. Additionally, the preamble to the Treaty of Waitangi chapter of the Conservation General Policy notes that effective partnerships with tangata whenua can achieve enhanced conservation of natural resources and historical and cultural heritage. Tangata whenua responsibilities to this heritage are embodied in the ethic of kaitiakitanga.

654. Kaitiakitanga is a spiritual and environmental ethos that governs tangata whenua responsibilities for the care and protection of mauri, the dynamic life principle that underpins all heritage. Kaitiakitanga includes components of protection, guardianship, stewardship and customary use. It is exercised by tangata whenua in relation to ancestral lands, water, sites, resources and other taonga. The focus of kaitiakitanga is manaaki (care) and rāhui (protection).<sup>26</sup>

655. Conservation General Policy also requires that public information and interpretation, where it refers to places or resources of significance to tangata whenua, should be developed with Māori, and should include Māori place and species names, make appropriate use of te reo Māori, and draw attention to tangata whenua values.

#### *Wāhi Tapu*

656. The term wāhi tapu is defined in the Historic Places Act 1993 as "a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense". While wāhi tapu may be urupā, battle sites or pā, the fundamental concept is any place sacred to Māori. Often these places occur in areas managed by the Department of Conservation under a range of classifications. The Department's duty is to manage those places without compromising tangata whenua values.

657. Broad direction for the Department of Conservation's management of wāhi tapu and other places of particular cultural significance is set by the Conservation General Policy and the General Policy for National Parks, both approved in 2005. The policy aims to recognise and respect the traditional relationship between tangata whenua and their wāhi tapu. Conservation General Policy provides that tangata whenua, as kaitiaki of their historical and cultural heritage, will be invited to participate in the identification, preservation and management of heritage of significance to them on public conservation lands and waters and should be invited to do the same for national parks.

658. In practice tangata whenua interests are provided for in a variety of ways ranging from encouraging and supporting their participation in the identification, preservation and management of their wāhi tapu to providing for control by tangata whenua of discrete wāhi tapu.

<sup>26</sup> Extracts from Conservation General Policy (Published: May 2005, amendments to Chapters 2 and 4, June 2007. General Policy is the highest level of statutory policy for conservation management.

659. The Department of Conservation recently notified the public for consultation on the Proposed New Zealand Coastal Policy Statement 2008 (which will replace the 1994 Policy). The Statement clarifies and strengthens policies relating to the protection of Māori cultural values, including wāhi tapu, in the coastal environment. Policy 3 states that Local Authorities shall work with tangata whenua, in accordance with tikanga Māori, to identify characteristics of the coastal environment that are of special value to tangata whenua, including wahi tapu. Provision shall be made, in accordance with tikanga Māori, for the maintenance or enhancement of access for tangata whenua, as far as practicable. Policy 56 states that “Identification, assessment and management of historic heritage of significance to Māori shall be undertaken in consultation with tangata whenua and in accordance with tikanga Māori.”

**(b) Office of Ethnic Affairs**

660. The Office of Ethnic Affairs (OEA) was established in 2001 to support the Ministerial portfolio for Ethnic Affairs. Its purpose is to encourage and promote the strengths and benefits of ethnic diversity, and it is committed to ensuring that ethnic<sup>27</sup> New Zealanders are seen, heard, accepted and included.

661. The OEA provides advice to the Government on issues affecting ethnic New Zealanders, to ethnic groups to build strong, integrated and healthy communities and to host communities to accept and include ethnic people. The OEA also works with government agencies, local authorities and service providers to ensure their service are responsive to the diverse needs of ethnic groups and agencies that require a telephone interpreting service – the Language Line.

662. The ethnic sector is growing and changing in New Zealand. In the 2006 Census over 200 ethnic identities were recorded, ethnic population accounted more than 11 percent of total population and is projected to be 18 percent of an estimated population of 4.5 million in 2021 (based on 2001 Census).

*(i) Engaging with ethnic communities and identifying needs and emerging issues*

663. The OEA works closely with all ethnic people, and promotes community engagement activities. These include ethnic community forums, employment symposiums and initiatives developed with the Muslim community to foster leadership and to promote civic participation and inter-ethnic discussions and understanding.

664. These activities help participants to develop skills, share ideas, and gain intercultural and interfaith understanding and experience. They assist OEA to identify ethnic sector needs, emerging issues, and the degree of responsiveness of government services. They enable both communities and government agencies to explore options to work better in terms of meeting the needs of communities, and underpin the OEA’s policy advice to the Government.

*(ii) Helping public agencies engage with ethnic communities in a fair and responsive way*

665. In 2002, the OEA developed the Ethnic Perspectives in Policy framework, a policy tool to help government agencies engage with ethnic communities and to incorporate ethnic perspectives in policy development. The framework is designed to make policies and services more responsive to ethnic communities’ needs. The OEA also provides Ethnic Perspectives in Policy training to public sector policy advisors/analysts.

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<sup>27</sup> The ethnic sector is defined as people whose traditions and cultures distinguish them from Māori, Pacific and Anglo-Celtic New Zealand residents.



666. The OEA is engaged in supporting diversity in the State sector through the Intercultural Awareness and Communication Programme. It provides a training programme and resources to enhance public sector employees' intercultural and cross-cultural skills and assist them to communicate effectively with diverse ethnic communities. It has also developed *Culture – Peeling back the layers*, a CD-ROM for use in the public sector, which is designed to stimulate awareness of ethnic diversity in the workplace and promote intercultural competence.

(iii) *Language Line – Telephone Interpreting Service*

667. The OEA administers a professional telephone interpreting service to support improved access to government services for migrants and refugees with limited English. It provides interpreting in 39 languages, and is a free service for clients of participating agencies. There are 45 participating agencies that cover major service providers, including social security and health providers. The OEA also actively encourages government agencies to provide information in multiple languages.

(c) **Māori language and culture**

(i) *The Māori language*

668. Large-scale sociolinguistic surveys were undertaken in both 2001 and 2006, investigating speaking, listening, reading, writing and overall proficiency in the Māori language.

669. While national census data reported a 1.5 percent decrease in the number of Māori who are proficient in the Māori language from 2001 to 2006, the Health of the Māori Language (HML) surveys undertaken specifically on the health of the Māori language reveal that overall proficiency has improved. Te Puni Kōkiri published a report in 2006 which provides comparison with the 2001 data and a detailed narrative of the changes that have occurred amongst the Māori population with regard to language proficiency. Data from the 2006 HML survey shows increases in the proficiency levels of Māori adults since 2001 across all language skills. In 2006, 51 percent of Māori adults had some degree of speaking proficiency, up 9 percentage points from 2001. In 2006, 66 percent of Māori adults had some degree of listening proficiency, up 8 percentage points from 2001.

670. The number of people actively using their speaking skills in the home and in community domains also increased between 2001 and 2006. In 2006, 30 percent of Māori adults used the Māori language as a significant language of communication with their pre-school children. This is an increase from 18 percent in 2001. A further 48 percent made some use of the Māori language in their interaction with their infants. This is positive as it indicates potential for intergenerational transmission, an important component of language revitalisation, to occur. Region by region analysis is also being undertaken to further assess the health of the Māori language.

671. Attitudes towards the Māori language among Māori and non-Māori have become more positive. In 2006, some 94 percent of Māori and 80 percent of non-Māori supported the concept of Māori people speaking Māori in public places or at work.

672. The findings of the research show progress towards the goals of the Māori Language Strategy (MLS) and inform future government investment. The MLS is being reviewed in 2008/09, to assess the effectiveness of the implementation of the MLS to date, and make recommendations on how to strengthen implementation, forming the basis of the next iteration for the period 2009/10–2014/15.

673. The MLS sets the direction for a whole-of-government approach to Māori language revitalisation. Te Puni Kōkiri leads Māori language policy and undertakes an extensive

research programme focusing on the health of the Māori language. Initially adopted in 1998 and revised and updated in 2003, the MLS sets out a vision for the future of the Māori language that by 2028 the Māori language will be widely spoken by Māori.

674. Important developments since the Strategy's promulgation include:

- (a) Establishment of the Community Based Language Initiatives programme, 1999;
- (b) Establishment of the Mā Te Reo Fund, 2001 (Te Taura Whiri i te Reo Māori);
- (c) Completion of Māori Language Survey in 2001;
- (d) Establishment of the Māori Television Service in 2004;
- (e) Establishment of Annual Māori Language Week Awards in 2004 (Te Taura Whiri i te Reo Māori);
- (f) Provision of funding for the Māori Language Information Programme in 2004 (Te Taura Whiri i te Reo Māori);
- (g) Redevelopment of Māori Medium Curriculum;
- (h) Provision of additional funding of \$3.4 million to Te Māngai Pāho to support the development of iwi radio in 2005;
- (i) Publication of monolingual children's dictionary, Tirohia Kimihia, in 2006;
- (j) Establishment of bilingual forms for key citizenship documents, for example, Birth, Death and Marriage Certificates, Passports, Census Forms;
- (k) Establishment of the Language Line service to provide translation on demand for clients of various government agencies; and
- (l) Development of the Online Encyclopaedia of New Zealand (Te Ara) in Māori and English.

(ii) *Māori broadcasting*

675. On 1 January 1995, the Māori broadcasting funding agency, now named Te Māngai Pāho, assumed primary responsibility for the allocation of public funding for Māori broadcasting, replacing the Broadcasting Commission. Te Māngai Pāho's role includes providing support for Māori programming on television, iwi radio stations, and some Māori radio programming available on a networked basis. The nature and scope of their activities are set out further in its latest annual report, released in 2007.

676. In response to litigation by Māori, the Government developed a Māori broadcasting policy. Several Māori broadcasting consultation hui (meetings) were held throughout New Zealand in 1997 to determine Māori views on the establishment of a Māori television station. As a result, the capital sum of \$11.36 million was set aside for the establishment of the channel.

677. In October 2007, the Government confirmed the Māori Broadcasting and E-Media Outcomes Framework, which sets out principles, objectives, long-term outcomes and intermediate outcomes for Māori broadcasting and electronic media (e-media). Te Puni Kōkiri is currently undertaking an ongoing work programme to develop the operational aspects of the framework.

678. Since 2003, and in addition to the Māori Television Service described below, TVNZ has been required under its Charter to, among other things:

- (a) Provide shared experiences that contribute to a sense of citizenship and national identity;
- (b) Ensure in its programmes and programme planning the participation of Māori and the presence of a significant Māori voice;
- (c) Maintain a balance between programmes of general appeal and programmes of interest to smaller audiences;
- (d) In its programming enable all New Zealanders to have access to material that promotes Māori language and culture;
- (e) Promote understanding of the diversity of cultures making up the New Zealand population; and
- (f) Feature programmes that serve the interests and needs of Māori audiences, including programmes promoting the Māori language and programmes addressing Māori history, culture and current issues.

679. Radio New Zealand National produced 309 hours of Māori language and culture programming in 2006/07. The Radiocommunications Act 1989 reserves certain radio frequencies throughout New Zealand for the promotion of Māori language and culture. Prior to the 1988–89 broadcasting reforms, only one iwi-based radio station (Wellington's Te Upoko o Te Ika) had been broadcasting continuously. As a result of this initiative there are now 26 iwi-based radio stations broadcasting.

(iii) *Māori Television*

680. The Māori Television Service Act 2003 established the Māori Television Service in May 2005. The Act confirmed the allocation of UHF television frequencies under its own management right, and specified the functions and powers of the Māori Television Service, which include minimum levels of Māori language content, and the requirement to consider the viewing preferences of specific audiences. The legislation also established the governance arrangements for the Service, and set out the conditions for a review of the legislation scheduled in 2008.

681. The Māori Television Service went to air on 30 March 2004 and currently receives operational funding of \$12.98 million and television programme funding of \$16.12 million per annum. The Service is a member of the Freeview consortium, an organisation established to provide a hybrid terrestrial and satellite digital television service. The satellite digital service was launched in May 2007. The terrestrial service is available to 75 percent of New Zealand homes.

(iv) *Protection of Māori cultural and intellectual property*

682. In 2001, the Ministry of Tourism established a process to ensure the proper incorporation of Māori imagery, icons and cultural values in Tourism NZ marketing programmes. In 2007 the Ministry of Economic Development produced the Intellectual Property Guide for Māori Organisations and Communities. The purpose of the Guide is to assist Māori communities and organisations to gain an understanding of intellectual property rights and to highlight some of the risks, limits and potential benefits of certain intellectual property rights to the preservation, protection and promotion of mātauranga Māori.

683. During the review period a number of New Zealand's key intellectual property statutes were reformed.

684. The Trade Marks Act 2002 introduced provisions to address Māori concerns relating to the registration of trade marks that contain a Māori sign. The Act provides for the Māori

Trade Marks Advisory Committee. The Committee advises the Commissioner of Trade Marks on whether the proposed registration of a trade mark that is, or appears to be, derivative of a Māori sign (including imagery and text) is offensive to Māori. The Advisory Committee comprises five members with an understanding of Te Ao and Tikanga Māori and combined expertise in business, Māori knowledge, Māori imagery and iconography, legal expertise, Māori language, and governance.

685. A full review of the Patents Act 1953 was also undertaken to take account of social and technological changes since the Act was passed. The review addressed the definition of invention and its ability to deal with new technologies, and the ethical and cultural considerations surrounding the patenting of inventions involving living organisms, genetic material and traditional knowledge.

686. A new Patents Bill has been drafted to replace the Patents Act 1953 and will update New Zealand's patent regime to ensure that it continues to provide an appropriate balance between providing adequate incentives for innovation and technology transfer while ensuring that the interests of the public and the interests of Māori in their traditional knowledge and indigenous plants and animals are protected. The Bill will establish a Māori advisory committee to advise the Commissioner of Patents on patent applications for inventions involving traditional knowledge or indigenous plants and animals. This will assist in determining whether or not such inventions meet the criteria for granting a patent, including whether the commercial exploitation of such inventions may be contrary to Māori values.

687. In May 2003, a repatriation policy for kōiwi tāngata Māori (Māori human remains) was approved. Under the policy, the Museum of New Zealand Te Papa Tongarewa was authorised to be the Crown's agent to undertake repatriation work. Te Papa receives funding of \$500,000 per annum to undertake this work. Since 2003, Te Papa has undertaken numerous repatriations from North America, Europe and Australia and its repatriation programme is full for the next three to five years. The Ministry for Culture and Heritage continues to assist Te Papa by providing policy advice on issues relating to the Government's policy for the repatriation of kōiwi tūpuna.

688. The Māori Heritage Council and the Māori Heritage Team of the Historic Places Trust have continued to provide leadership in the care of Māori Heritage Places. In 2007 the Historic Places Trust appointed a Māori traditional arts specialist to further support the retention of traditional arts on marae buildings.

#### **4. Role of mass media and communications media in promoting participation in cultural life**

##### **(a) Television**

689. In July 2000, a set of broadcasting content objectives was formulated that guided subsequent Government decisions, such as reorientation of Television New Zealand's (TVNZ) direction to that of a public broadcaster with a Charter, and the allocation of non-commercial spectrum. The objectives were:

(a) To ensure that all New Zealanders have reasonable and regular access to broadcasting representing the uniqueness and diversity of New Zealand life, recognising that the histories and stories of whānau, hapū and iwi (Māori families and tribal groups) are integral to any description of that life;

(b) To meet the information and entertainment needs of as many interests as reasonably possible, including those that cannot be met by commercial broadcasting;

- (c) To contribute to public awareness of, and participation in, the political and social debates of the day;
- (d) To provide for minority interests and increased choice; and
- (e) To encourage innovation and creativity in broadcasting, while aiming to continually increase audience satisfaction with quality of content.

690. In advancing this reform, the Government agreed a public broadcasting Programme of Action in December 2004 to ensure a coordinated policy for the remainder of this decade, a period of major technological change in broadcasting.

691. TVNZ broadcasts its services to almost all New Zealand households, and has almost 100 percent coverage of the New Zealand population and approximately 45 percent audience share (2007). Its two principal channels broadcast 24 hours a day, seven days a week.

692. The Television New Zealand Act 2003 requires TVNZ to keep a balance between giving effect to public broadcasting objectives and maintaining its commercial performance. TVNZ aims to provide New Zealanders with quality television programmes and broadcasting services. The establishment of the Television New Zealand Charter, and an increase in funding for television programming of \$75.5 million since 2003 across NZ On Air, Te Māngai Pāho, TVNZ and Māori Television, have provided a major boost. Since the 2004 Budget the Government has provided an additional \$12.875 million to NZ On Air for television programme production.

693. TVNZ on-demand ([www.tvnzondemand.co.nz](http://www.tvnzondemand.co.nz)) was launched in March 2007. The website allows users to view a range of visual content, from catch-ups of shows to archival material and previews of new shows. TVNZ on-demand allows viewers to access video content online either free or for a small charge. The site is an important step forward in an era of growing convergence between broadcasting and the Internet.

694. The Broadcasting Amendment Bill was passed on 13 March 2008. Among other things, the Bill amends the primary functions of Te Māngai Pāho by adding the archiving of Māori language and culture programmes to those matters that Te Māngai Pāho may fund.

**(b) Internet**

695. In 2002 the Ministry of Economic Development negotiated an agreement with Telecom (the nation's principal telecommunications provider) to provide an upgrade of its rural network for Internet services. The agreement became a telecommunications service obligation under the Telecommunications Act 2001, which provides for enforcement of the obligation.

696. In 2001/2002 project PROBE was created. The project funded the provision of access to broadband in areas where telecommunications suppliers found it uneconomic or too much of a commercial risk. The initial objective of project PROBE was to ensure that all schools can access broadband technologies, but the benefits have extended to many remote and rural communities.

697. The \$24 million Broadband Challenge Fund provides seed funding to improve the availability and quality of broadband Internet access. It aims to establish a series of urban fibre networks by 2009, and to develop broadband Internet access solutions for rural and poorly served communities. Five Broadband Challenge applications totalling \$16.3 million for urban fibre network projects were approved in 2006.

698. The Digital Strategy is the Government's ongoing programme to improve Information and Communication Technology infrastructure and lift the use of the technology across the economy. As part of the Digital Strategy the Government agreed to

provide \$3.6 million over the first four years to develop a cultural portal offering a coordinated web presence for government cultural agencies, government-funded cultural organisations, and other cultural entities. Ongoing funding for two years for NZLive.com has also been approved.

699. Launched on 11 September 2006, www.NZLive.com is a key tool to support the Ministry for Culture and Heritage's role in making New Zealand culture visible and accessible. A one-stop shop for cultural information, the site includes a comprehensive events guide featuring at least 1800 entries a day and links to hundreds of organisations and cultural activities.

**(c) Radio**

700. During the reporting period, there have been a number of auctions of spectrum for broadcasting and broadband services. In 2002 the Ministry for Culture and Heritage developed policy for the extension of the FM broadcasting band, including provision for four priority non-commercial networks. One of these networks was reserved for the creation of a national Māori network to promote Māori participation in the telecommunications and information technology sectors. Another was reserved for a national Pasifika' radio network to enable Pasifika' culture and languages to be more widely heard. Sufficient spectrum was reserved to enable the Pacific People's radio network to cover up to 85 percent of the NZ population. The Pacific radio network was also allocated government funding.

701. The National Pacific Radio Network was established in 2002 as a three year pilot programme to reduce inequalities and build the capacity of Pacific communities. The Network, NiuFM, is administered by the National Pacific Radio Trust, a charitable trust, and went to air in August 2002.

702. The NiuFM pilot was evaluated in 2004/05 with successful results. Following an evaluation of the broadcast services, Cabinet approved the continuation of the service and increased funding to \$3.375 million per annum from 2005 as further support and funding for NiuFM. NiuFM's vision is to be the voice connecting, informing and entertaining the diverse range of Pacific communities throughout New Zealand. NiuFM is now broadcasting throughout almost all of New Zealand. In 2005 a further \$250,000 per annum was provided for community radio, lifting NZ On Air total funding for Access and Pacific Island radio to \$2.636 million per annum.

703. The new digital shortwave transmitter for Radio New Zealand's International Pacific Service is now operational. Additional ongoing funding of \$421,000 has been provided. Radio New Zealand International now broadcasts digitally to the Pacific.

704. Radio New Zealand remains a Crown entity, under the Radio New Zealand Act 1995, providing listeners with radio programmes in accordance with the Radio New Zealand Charter. Radio New Zealand's charter requires it to promote participation in cultural life, national identity and the development of the arts. All its activities are therefore directed at this purpose. The programme mix includes news and current affairs, documentaries and features, drama and music. At least 33 percent of the music it broadcasts is New Zealand in origin. Talk-orientated programmes make up 60 percent of air time. Specialist features and documentaries produced exclusively for National focus on the interests of particular groups in the community. Drama production includes plays and readings of New Zealand literature.

**5. Preservation and presentation of cultural heritage**

705. There are a number of initiatives to preserve and present New Zealand's cultural heritage other than what is more fully discussed below. These initiatives include: Te Ara –

The Encyclopaedia of New Zealand, www.NZHistory.net.nz, Dictionary of National Biography, and repatriation the remains of an unknown warrior for burial in a new tomb at the National War Memorial in Wellington.

**(a) Historic heritage**

706. The Resource Management Amendment Act 2003 introduced a new definition of historic heritage. Protecting historic heritage was identified in the Act as being of national importance. As a result, councils and the Environment Courts are required to give more weight to the protection of historic heritage when making decisions under the Act. In 2004, Cabinet agreed to a *Policy for Government Departments' Management of Historic Heritage* to ensure that government departments follow a best practice approach in the identification and protection of heritage properties in their care. Detailed guidelines for each department with heritage properties were subsequently prepared, tailored to the individual requirements of each department.

707. New Zealand's Tentative List of World Heritage Sites under the World Heritage Convention was submitted to the World Heritage Committee in 2007. The List includes three cultural sites: the Kerikeri Basin historic precinct; the Napier Art Deco historic precinct and the Waitangi Treaty Grounds. In addition, one mixed cultural / natural site is included: the Auckland Volcanic Field. Inclusion of these sites means that, in due course, New Zealand may submit formal nominations to the World Heritage Committee for inscription of these sites on the World Heritage List.

**(b) Regional Museums Policy**

708. Since 1994, funding has been provided for capital projects at regional museums housing nationally significant collections. Prior to 2001/02 these decisions were made by the Government on a case-by-case basis.

709. From 2001/02 onwards, annual funding was established through the Regional Museums Policy for Capital Construction Projects. The purpose of this policy is to assist regional museums with nationally significant collections, to adequately house their collections and make them accessible. Priority is given to those museums holding collections of the greatest national significance. Funding decisions are made by the Minister for Arts, Culture, and Heritage. Since its inception in 2001, eleven museums and galleries have received capital redevelopment project funding assistance under this policy.

710. During the period 1994/95 to 2000/01 inclusive, prior to the establishment of Regional Museums Policy, a combined total of \$23.286 million in capital redevelopment grants were allocated to three museums. Since the establishment of the Regional Museums Policy in 2001/02, \$71.771 million in completed/announced funding has been allocated to eleven museums (up to and including the 2007/08 funding round).

**(c) Protected Objects Act 1975**

711. In 2006, the Antiquities Act 1975 was amended, including renaming it the Protected Objects Act 1975. This Act protects New Zealand's significant moveable cultural heritage, controlling the export of important New Zealand heritage objects, regulating the domestic trade in tāonga tūturu (Māori cultural treasures), and establishing a system for determining the ownership of found Māori objects. The amendments were a major change to the original Act, and clarified definitions so as to regulate exports more effectively, simplified the process of awarding ownership of tāonga tūturu, and strengthened penalties for breaches of the Act.

712. A significant element of the amendment was to provide the necessary legislative provision so that New Zealand could become party to the 1970 UNESCO Convention on

the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which deal with the illegal trade in cultural treasures. New Zealand subsequently acceded to these two Conventions in 2007.

713. New Zealand also has initiated the process towards ratifying the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, and accession to its two Protocols. This Convention provides for protection of domestic moveable and immoveable cultural heritage in the event of an armed conflict in New Zealand, but also would commit New Zealand's own armed services to compliance with the specific guidelines of the Convention and Protocols when involved in conflict offshore.

## **6. Protection of moral and material interests of authors**

714. New Zealand's Intellectual Property Office has worked to raise awareness of the importance and benefits of intellectual property protection. It has been involved in initiatives such as supporting World Intellectual Property Day, addressing inventor's groups and attending national events such as the NZ Field Days.

## **7. New Zealand Biodiversity Strategy**

715. The New Zealand Biodiversity Strategy was launched in 2000 to give effect to our obligations under the Convention on Biological Diversity and to respond to the 1997 State of the Environment Report which identified declining biodiversity as a major environmental issue facing New Zealand. The Strategy, the associated Action Plan and additional resources have made a significant contribution over the last five years to managing pests and weeds, threatened species and efforts to achieve conservation outcomes.

716. The Strategy emphasises protecting Māori interests in biodiversity as well as building and strengthening partnerships with iwi and hapū to conserve and sustainably use indigenous biodiversity. The targeted funding has provided the most identifiable gains so far for Māori. The Biodiversity Strategy funding package in 2000 enabled expanded funding to Ngā Whenua Rāhui, established a new Mātauranga Kura Taiao Fund, and the Biodiversity Condition and Advice Fund.

### **(a) Ngā Whenua Rāhui**

717. Ngā Whenua Rāhui is an independent Ministerial Fund established in 1991. It is a contestable fund originally established in response to Indigenous Forest Policy and Māori concerns about saving indigenous forests. Its purpose has been broadened to facilitate voluntary protection of indigenous ecosystems on Māori land that represent the full range of natural diversity originally present in the landscape. Ownership and control of the kawenata areas remain with tāngata whenua and Ngā Whenua Rāhui is supporting their restoration efforts.<sup>28</sup>

718. The purposes of the kawenata are to preserve and protect the spiritual and cultural values which Māori associate with the land and for conserving of other values (reflecting the different purposes of the legislation).

719. The objective of the protection mechanism is long term protection with inter-generational reviews (minimum 25 years) of the agreements. The kawenata were developed

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<sup>28</sup> Kawenata can be established under section 27A of the Conservation Act and section 77A of the Reserves Act.



to provide an alternative protection mechanism to covenants where protection is in perpetuity.

720. Ngā Whenua Rāhui enables Māori to exercise their kaitiaki responsibilities and use their mātauranga (Māori traditional knowledge) to retain core cultural values associated with their land and achieve specific biodiversity outcomes. Ngā Whenua Rāhui has led to a significant rise in interest amongst Māori in covenanting forested land. Pest control and reintroduction of threatened species is progressing.

721. All Ngā Whenua Rāhui projects are collaborative. The Fund looks to find solutions that best serve the needs of the people and the land. This approach recognises the equality of ecological, spiritual as well as historical cultural values. It gives people tangible outcomes while protecting the intangible.

722. Ngā Whenua Rāhui jointly manages pest related issues on over 250 thousand hectares of covenanted land. The animal pests most frequently identified are: possums, stoats, rats, and feral goats. In some areas the list is larger and includes feral cats, wild cattle and horses as well. Each year they cover 13,000 hectares directly implementing and monitoring possum control and approximately 30 thousand hectares in feral goat control.

**(b) Mātauranga Kura Taiao Fund**

723. The New Zealand Biodiversity Strategy noted that mātauranga Māori was under-used and vulnerable to on-going loss and erosion. The Mātauranga Kura Taiao Fund is a contestable fund administered by the Ngā Whenua Rāhui Committee, aimed at addressing this risk by supporting tāngata whenua and Māori initiatives to increase Māori capability to retain and promote traditional Māori knowledge and its use in biodiversity management. It also helps increase tāngata whenua participation managing biodiversity in their rohe and recognises that the use and protection of traditional knowledge is central to Māori participation in biodiversity management and to achieving good conservation outcomes. Its goals include: encouraging hapū and iwi use of traditional knowledge and practices in biodiversity management in their rohe; restoring wetland areas and associated traditional practices; and promoting regional workshops for hapū that will increase capacity to manage their natural resources.

724. By late 2006, 91 projects had been funded, including: wānanga to transfer knowledge about history, biodiversity of places and medicinal uses of native plants; tikanga-based environmental planning; and establishing native plant nurseries for restoration projects. Gains are starting to show from the projects in this programme and the small scale projects have been successfully completed.

**(c) Wai 262**

725. A case was lodged at the Waitangi Tribunal in 1991 by several Māori tribes because of a dispute about how the Treaty of Waitangi 1840 is being applied by the Government. Known as the Wai 262 claim, it is a claim to authority, control, decision making, protection, preservation, conservation, regulation, use, development, enhancement, and transmission of indigenous flora and fauna and all aspects of mātauranga Māori (Māori knowledge) and culture. The Wai 262 claimants allege that a particular guarantee of the Treaty protected these rights for Māori.

726. In a broad sense, the claim is about: the level of authority that the Crown holds over indigenous flora and fauna and mātauranga Māori; the appropriateness of relationships that the Crown has with Māori; and whether Māori aspirations to live and be Māori are appropriately accounted for in policy and legislation that relates to indigenous flora and fauna and mātauranga Māori.

727. During the reporting period, the hearings of all Crown and Māori submissions have been concluded. The Tribunal is now considering the recommendations it will make to the Government. The Government will respond to the recommendations when they have been received and considered.

**8. Application of scientific progress for the benefit of everyone, including measures to promote a pure environment: further organizational change**

728. New Zealand conserves, develops and diffuses science and culture through the:

(a) Establishment of numerous departments and statutory bodies to promote science and culture;

(b) Statutory definition of charitable purposes, which has significant implications (especially tax implications), including “promoting, advancing, or encouraging education, science, literature, art, physical welfare, and other cultural and recreational purposes”; and

(c) Establishment of a number of advisory groups and committees to promote consideration of science and culture. For example, Ethics Committees consider and make recommendations on ethical issues (especially in relation to health research and genetic modification).

**(a) Science policy**

729. Four science goals define a wide scope of policy that ensures benefits are distributed widely:

(a) Economic: seeking to increase the contribution knowledge makes to the creation and value of new and improve products, processes, systems and services, to enhance the global competitiveness of New Zealand enterprises;

(b) Environmental: seeking to increase understanding of the environment, including the biological, physical, social, economic and cultural factors that affect it;

(c) Social: seeking to increase understanding of the social, biological, environmental, cultural, economic and physical determinants of well-being in order to build a society where all enjoy health and independence and have a sense of belonging, identity and partnership;

(d) Knowledge: seeking to accelerate knowledge creation and develop people, learning systems and networks in order to enhance New Zealand’s capacity to innovate.

730. Public investment in research is also concerned with environmental management; health research into New Zealand-specific issues; hazard mitigation; and societal issues. Such research supports the ability to act as appropriate custodians of the natural and social environment. This maintains and enhances quality of life, including for future generations.

731. The Government also funds scientific research in tertiary education institutions through the Education portfolio.

**(b) Innovation policy**

732. In 2000, the Growth and Innovation Framework (GIF) strategy began to emphasise the role of innovation for economic advancement. The GIF provided a framework for viewing New Zealand’s innovation system and explicitly recognised the links between different policy areas. In March 2006, the Economic Transformation Agenda (ETA) replaced GIF. This initiative placed innovation at the core of the economic development strategy through recognising innovation’s significant contribution to productivity growth. Both GIF and the ETA convened processes for substantial consultation with diverse

stakeholders to ensure that proposals would be beneficial to a wide cross-section of New Zealand society.

733. The OECD completed a government-commissioned review of New Zealand's innovation policy in 2007. As a result of the review, the OECD proposed a number of recommendations to strengthen the New Zealand innovation system. New Zealand responded with initiatives that are consistent with the findings of the OECD review.

## **9. Measures taken to promote the dissemination of information on scientific progress**

### **(a) Advanced Network**

734. The Kiwi Advanced Research and Education Network (KAREN) is an ultra high speed optical fibre Internet connecting New Zealand's research and education sector. It is managed by the Crown-owned company "Research and Education Advanced Network New Zealand Ltd". KAREN links researchers in New Zealand with collaborators nationally and internationally, allowing them to rapidly send and receive large quantities of data, making tools like high definition video conferencing and remote access to large databases extremely efficient.

### **(b) Futurewatch**

735. The Futurewatch work programme aims to strengthen the Government's awareness of new scientific knowledge and technologies. It involves a group of persons, mainly based in research organisations, who provide information on emerging developments and trends in areas of science and technology. People from a range of policy and regulatory agencies are also involved in reviewing the information and initiating discussions about the potential significance for New Zealand and implications for individual agencies. A shared workspace will be introduced in 2008 to facilitate greater information sharing. Outputs will include reports on specific issues as well as six-monthly summary reports of observations. Initiatives to date include a report called "*Biotechnologies to 2025*" summarising trends and developments in biotechnologies, a report on stem cell research in New Zealand, and a seminar series for policy agencies on scientific and policy issues associated with particular fields.

### **(c) Science Learning Hub**

736. The New Zealand Science Learning Hub is a website to provide information to teachers and students about New Zealand science and technology that meets their curriculum needs. It provides a range of multi-media information about specific research being undertaken in New Zealand in an appropriately targeted form that is aligned to New Zealand school teaching standards. Some examples of areas of research covered include: Antarctic research, earthquakes, sports science. It is funded through the Ministry of Research, Science and Technology (MoRST) and developed in collaboration with educators and the science sector.

### **(d) Government investment in research, science and technology**

737. The Government funds around half of New Zealand's investment in research, science and technology (RS&T) and owns significant science infrastructure, notably the Crown Research Institutes (CRIs). In some cases, government departments also carry out science and research activity.

738. There are five important objectives: transform New Zealand's economy to produce long-term economic value; leverage private sector investment; building capacity in the

science system; capturing international benefits of RS&T; and supporting the well-being of New Zealanders.

**(e) Public funding agencies and public research organisations**

739. The Government funds a variety of science related agencies. The Foundation of Research, Science and Technology, which was established by the Foundation for Research, Science and Technology Act 1990, allocates funds for the production of outputs relating to public good science and technology and pursuant to ministerial schemes. The Foundation also provides independent policy advice to the Minister on matters relating to research, science, and technology, including advice on national priorities for those matters. The Foundation's advice on matters relating to national priorities for research, science, and technology is formulated after consultation between the Foundation and representatives of industry, researchers, Māori, and the community.

740. The Health Research Council Act 1990 established the Health Research Council, a statutory entity, to improve human health by promoting and funding health research. The Act requires dissemination of research findings from research funded by the Council. It also monitors ethical standards for research it funds.

741. The Crown Research Institutes Act 1992 established CRIs to undertake scientific research and other related activities. CRIs must be viable companies and compete for public and private sector research contracts. Six of the nine CRIs have a primary industry focus, three in agriculture. The Act requires CRIs to promote and facilitate the application of the results of research, and technological developments.

**(f) Royal Society of New Zealand**

742. The Royal Society of New Zealand Act 1997 continues the Royal Society of New Zealand as a Society concerned with the object of advancing and promoting science and technology in New Zealand. The Society is an independent national academy of sciences: a federation of 60 scientific and technological societies, and individual members. The Society promotes a critical awareness of science and technology in schools, industry and society. It administers several funds for science and technology, publishes eight journals, offers science advice to government, and fosters international scientific contact and co-operation.

**10. Measures taken to prevent the use of scientific and technical progress for purposes which are contrary to human rights**

743. Several statutes seek to uphold human rights with duties, powers and obligations for those concerned with scientific practice:

(a) The Biosecurity Act 1993 sets out the requirements and responsibilities for biosecurity clearance, inspection, surveillance, compliance and other issues associated with managing pests in New Zealand;

(b) The Food Act 1981 outlines the processes for making food standards and food regulations and the requirements for labelling and advertising, provides powers of enforcement and defines offence;

(c) The Hazardous Substances and New Organisms Act 1996 sets out the requirements for the assessment and decision-making criteria associated with approving hazardous substances and new organisms in New Zealand;

(d) The Health Research Council Act 1990 establishes the Health Research Council with powers to ensure the development and application of appropriate assessment standards by committees or subcommittees that assess health research proposals;

(e) The Human Assisted Reproductive Technology Act 2004 requires ethical review of human assisted reproductive technologies and human reproductive research which are not considered established procedures;

(f) The Human Tissue Act 1964 sets out rights and obligations of persons concerned with actions relating to post-mortem examinations, the practice of anatomy, and the removal of human tissue for therapeutic purposes and for purposes of medical education and research;

(g) The Medicines Act 1981 controls which products may be legally sold and distributed as therapeutic products, where they can be manufactured, licensing and distribution requirements, and quality standards for medicines and their packaging.

## **11. International science relations**

### **(a) Initiatives for international collaboration**

744. MoRST actively supports collaborative links with a number of countries by way of bilateral science arrangements, including Science and Technology Agreements between governments. In particular, New Zealand has international linkages with Australia, the European Union, France, Germany, Japan, China, Korea, South America, United Kingdom, United States of America, the OECD and APEC.

745. New Zealand has two Science and Technology Counsellors based overseas, one in Washington D.C. and one in Brussels. These Counsellors have an important role in assisting the development of research linkages between the USA and New Zealand, and the European Union and New Zealand. MoRST also supports three New Zealand based coordinators working on China, Japan and German research relationships. These coordinators facilitate contacts between New Zealand scientists and their colleagues in these countries.

### **(b) Government programmes to support participation in international science events**

746. The Development of International Linkages output expense promotes and supports New Zealand RS&T internationally. Under this output expense, funding and investment agents will fund programmes that develop and enhance the New Zealand innovation sector's global connectivity by supporting access to and utilising the best global ideas, and encouraging individuals to use international research, science and technology linkages to enhance our knowledge base and innovative capacity.

747. The Global Technology Partnerships scheme provides a mechanism for New Zealand firms, and organisations with technical and research capability, to access information about international markets and expertise through the Danish Technology Institute's Technology Partnership Programme. The intended outcome of the scheme is to improve the technological capability and international connectedness of firms by facilitating domestic and international knowledge and technology transfer, lifting the quality and quantity of private sector research and development, and increasing connections and collaborations between businesses and domestic and international knowledge institutions.

748. The International Investment Opportunities Fund supports the ability of research providers to participate in research collaborations that attract international co-funding, to recruit highly experienced researchers from overseas and to support participation in international research programmes with a high relevance to New Zealand's economic, social and/or environmental development. The fund is used to secure benefit for New Zealand in terms of bridging research funding and building human capital by embedding scientists in international teams.

## **Tokelau**

### **I. Introduction**

749. As already stated above, New Zealand ratified the International Covenant on Economic, Social and Cultural Rights on 28 December 1978 and it entered into force for New Zealand on 28 March 1979. New Zealand's ratification also applied to Tokelau. The present information covers implementation of the Covenant with regard to Tokelau from 1998 to 2008. It should be read in conjunction with New Zealand's Fourth and Fifth Periodic Reports under the International Covenant on Civil and Political Rights.

### **II. General**

750. Please refer to New Zealand's Second Report to the Committee for background on Tokelau's economic, cultural and political context.

751. Some updated figures for this reporting period include:

(a) The population of Tokelau was counted as 1,466 in the 2006 census;

(b) Tokelau's economy remains dominated by an annual allocation of financial support from New Zealand. For the 2007/08 financial year, New Zealand's projected official development assistance to Tokelau will be approximately \$NZ13.17 million, this amount to around 80 percent of Tokelau's recurrent budget;

(c) In July 2003, support from New Zealand to Tokelau moved to full budget support, where previously a mix of budget support and project support had been provided. Special purpose grants have been approved to improve shipping services and assist with the recovery programme for Cyclone Percy, which struck Tokelau in February 2005. Tokelau's national executive and legislative body, the General Fono, has identified health, education, economic development and shipping as priority areas for development. A joint capability review has recently been completed which further identifies priority areas;

(d) An International Trust Fund was established in 2004 to provide Tokelau with an independent source of revenue and now stands at \$NZ 37.2 million.

#### **A. Constitutional programme**

752. As mentioned in previous reports, for the purposes of the principle of self-determination of peoples enshrined in the United Nations Charter, Tokelau is classified as a non-self-governing territory. Thus New Zealand is responsible, as a member of the United Nations, for assisting Tokelau to exercise its options of self-determination and, should it so chose, to move towards self-government. As administering power for Tokelau, New Zealand is also responsible for meeting the needs of the people of Tokelau.

753. In 1992, Tokelau and New Zealand agreed to follow a constitutional programme which has the effect of providing Tokelau with formal powers to enable it to establish and operate its own national government. Since then, Tokelau has increasingly expressed a desire to be formally self-governing, to the extent that is realistic for such a tiny population. Much thought has been given, both in Tokelau and in New Zealand, to the best way in which to achieve some kind of "sustained autonomy".

754. Constitutional development in Tokelau has increasingly recognised the villages as the source of administrative authority. This stands in contrast to other systems of

government in the Pacific, which typically follow the Westminster model. Village affairs in Tokelau have traditionally been administered by the village councils, the Taupulega. This remains the case today. The villages' role in national matters has not always been recognised, but in May 2004, the powers of the Administrator in respect of Tokelau as a whole were delegated to the villages. The Taupulega in turn delegated their authority in national matters to Tokelau's national legislative/executive body, the General Fono (and, when the General Fono is not in session, to its executive committee, the Council for the Ongoing Government of Tokelau). Work is currently progressing to enhance the Taupulega's decision-making, governance, and administration practices, and to strengthen the delivery of public services in the villages.

755. The General Fono has had statutory authority to make Rules for the peace, order, and good government of Tokelau since 1996. Rules of the General Fono have legal effect in Tokelau. Although Rules may be disallowed by the Administrator within a particular period of time, the disallowance power has never been exercised. New Zealand statute law does not apply to Tokelau unless it is expressly extended to Tokelau. In practice, no New Zealand legislation is extended to Tokelau without Tokelauan consent. Much of the work of the General Fono in recent years has involved taking New Zealand legislation in force in Tokelau and making in its place Rules suited to Tokelauan conditions.

756. Tokelau's ability to participate in certain regional organisations in its own right is a very important aspect of its progress toward greater autonomy. Accordingly (and with New Zealand's support), Tokelau participates fully and in its own right in regional organisations such as the Secretariat of the Pacific Community, the South Pacific Regional Environmental Programme, the Council of the University of the South Pacific, and the Forum Fisheries Agency. Tokelau is also an associate member of the World Health Organisation and the United Nations Educational, Scientific, and Cultural Organisation, and a full member of the Forum Fisheries Agency. Tokelau has Observer status at the Pacific Islands Forum.

757. On 21 November 2003, representatives of the Governments of New Zealand and Tokelau signed the Joint Statement on the Principles of Partnership between New Zealand and Tokelau. The Joint Statement sets out the medium- to long-term context in which work can be carried forward on Tokelau's constitutional and other development. The document is of a political rather than legal nature. It addresses the management of the partnership, self-determination for Tokelau, Tokelau's language and culture, New Zealand citizenship, shared values, economic and administrative assistance, coordination of services to Tokelau, defence and security, foreign affairs, and the Tokelauan community in New Zealand. A copy of the Statement is enclosed with this report. In this document New Zealand acknowledged its provision of economic assistance to Tokelau would, inter alia, be guided by New Zealand's obligations under the Covenant.

758. At the same time, the General Fono also endorsed self-government in free association with New Zealand as the self-determination choice to be actively explored with the New Zealand Government. That endorsement was confirmed in October 2004 in the presence of the Chair of the United Nations Special Committee on Decolonisation, and New Zealand and Tokelau have been pursuing this option since then.

759. In February 2006, Tokelau, under United Nations supervision, voted on whether to become self-governing in free association with New Zealand. This status was to be based on two documents – a Constitution for Tokelau and a Treaty of Free Association between Tokelau and New Zealand. Sixty percent of registered voters supported self-government. However, as this was less than the two-thirds majority level set by the General Fono, the referendum resulted in no change to Tokelau's status.

760. After a period of reflection and consultation, the General Fono decided that Tokelau would hold a further referendum on this issue. This referendum, based on the same package, was held in October 2007, but still failed to reach the required two-thirds majority (by 16 votes). For the time being therefore Tokelau remains a dependent territory of New Zealand.

761. Following the second referendum, Tokelau, with the full support of New Zealand, has been engaging in a period of reflection on how it can ensure its people's needs are met on each atoll through the strengthening of infrastructure and services. New Zealand and Tokelau continue to work together to strengthen and improve public services in Tokelau. Major work on upgrading essential infrastructure is well underway, and Tokelau continues to make progress in ensuring that each atoll is able to operate as a vibrant, forward looking community. New Zealand will continue to support Tokelau's efforts to determine its own future, whatever decision it makes.

## **B. Tokelau and the Covenant on Economic, Social and Cultural Rights**

762. Tokelau understands that it is bound by a number of international human rights treaties, including the Covenant. A booklet produced in Tokelauan and English in 1990 included the main human rights documents of relevance to Tokelau. The 2008 Handbook for the Law Commissioners of Tokelau also includes them. The Handbook for the Law Commissioners is a manual that will assist and guide the Law Commissioners in their work mainly when writing and delivering judgments on cases that come before them. It is hoped that the Handbook would contribute to the development of quality justice for the people of Tokelau.

763. In 2003 the General Fono made Human Rights Rules for Tokelau, which were incorporated as Article 16 of Tokelau's Constitution endorsed by the General Fono following the second referendum in 2007. Article 16 of Tokelau's Constitution states:

1. Individual human rights for all people in Tokelau are stated in the Universal Declaration of Human Rights and are implemented in the International Covenant on Civil and Political Rights.
2. The rights of individuals in Tokelau shall be exercised having proper regard to the duties of other individuals, and to the community to which the individual belongs.
3. If a person thinks that one of their human rights provided by these Rules has been denied or may be denied, that person may apply to the Council for the Ongoing Government for protection of that rights, and if the Council for the Ongoing Government agrees with that complaint, it may make any order it thinks appropriate for the protection of that right.

764. As mentioned in New Zealand's previous reports to the Committee, Tokelau does nonetheless face a core question of law and custom. Because, traditionally, government in Tokelau is on a village by village basis, there has been little in the Tokelau system that takes a formal shape recognisable externally. Custom is at the heart of the system. Much of it is unwritten but hallowed by tradition and by regular reinforcement in practice.

765. At a time, as now, when custom and law interact to an increasing degree, Tokelau seeks understanding of its situation. For it faces a large challenge in moving from socially known rules in an oral tradition, to written law of the Western conception. As Tokelau considers what its commitment should be to basic human rights, Tokelau is mindful that human rights promote the imported notion of individuality, while the idea of community, with which Tokelauans are familiar, promotes a sense of unity and sharing.



766. So this is a considerable evolution away from tradition. For Tokelauans this means a move away from following a particular set of rules and practices within their cultural setting, to following a set of rules and practices recognisable as consistent with life in the international community, and the rules and practices of other states.

767. At this stage of Tokelau's constitutional evolution, questions concerning the application of the Covenant on Economic, Social and Cultural Rights remain formally the responsibility of the New Zealand Government. They are addressed in the context of New Zealand's relations with Tokelau. The Administrator has a close consultative relationship with the General Fono and the Council for the Ongoing Government.

### **III. Information relating to specific articles**

768. Information on Tokelau relating to specific Articles of the Covenant follows. Please also refer to New Zealand's previous reports to the Committee.

#### **Article 1**

769. New Zealand remains committed to assisting Tokelau towards the exercise of its right to self-determination.

770. As described in Part I above, Tokelau, with New Zealand's assistance, has made considerable efforts in the reporting period to self determine its future. While neither referenda on self government met the required majority for a change in Tokelau's status, Tokelau recognises that its two acts of self-determination are clear testament to the importance both it and New Zealand attach to this right. Tokelau's current focus on ensuring its peoples' needs are met on each atoll through the strengthening of infrastructure and services is viewed as a prelude to a possible further referendum at some stage in the future.

771. Furthermore, in the meantime Tokelau is gaining experience of self-government, and making use of political structures which will make meaningful its choice of one of the political status options offered under relevant resolutions of the United Nations General Assembly.

#### **Article 2**

772. New Zealand, with Tokelau, has taken consistent steps, through economic and technical assistance and cooperation, to ensure that the rights recognised in the Covenant are realised in Tokelau.

773. Tokelau has a notably cohesive social structure based on family and the principle of sharing. The cultural order gives high priority to the welfare of the weaker members and the equitable distribution of economic resources. Tokelau's Human Rights Rules 2003 provide for the protection of individual human rights for all people in Tokelau.

#### **Article 3**

774. As we have previously reported, in Tokelau culture there has traditionally been a clear demarcation between male and female roles. However, there is nothing in the laws of Tokelau sanctioning any kind of discrimination against women.

775. The Government of Tokelau has always been supportive towards the women of Tokelau. Women's organisations have always received funds annually from the Government to support their work in their respective villages. Further, regional organisations such as UNDP, UNESCO, SPC have also funded projects to support the work of the women in the villages. At present the Office of the Council for the Ongoing Government of Tokelau is also supporting women in their efforts to enhance their lives in Tokelau.

776. There is a draft national policy for women and national plan of action which will assist the Government to respond to the issues highlighted by the women as important for the development of women of Tokelau. Tokelau's women's groups (Fatupaepae) are also currently involved in implementing the Government's Project to Stop Violence against Women and Young Girls. The focal points for the project in the 3 villages have reported that the women are enjoying the project, which has increased their knowledge about their rights under the law. The project has also given women the opportunity to understand Tokelau's current laws and have suggested some amendments to the law to ensure that women are more fully protected.

#### **Article 4**

777. Neither the New Zealand Government nor Tokelau have taken any practical measures to limit the enjoyment of the rights recognised by the Covenant.

778. Tokelau's Human Rights Rules 2003 state that the rights of individuals in Tokelau shall be exercised having proper regard to the duties of other individuals, and to the community to which the individual belongs. This is consistent with the requirements of Article 4 and with Tokelau's traditional focus on community unity and sharing.

#### **Article 5**

779. There has been no attempt to destroy or unduly limit the rights and freedoms contained in the Convention in Tokelau; nor has there been any restriction or derogation from any existing fundamental human rights recognised in Tokelau.

#### **Article 6 (and article 13)**

780. Questions concerning the right to work must be seen in light of Tokelau's physical, economic and cultural context, and must take into account the virtual absence of employment opportunity outside of that which is community or publicly funded. To survive Tokelau has placed more emphasis on the obligations of its members to provide and share, than on individual effort. Over the past 25 years, the Tokelau Public Service has become the major employer; this includes both the National Public Service and the Public Services in each of the three villages. In July 2004 there was a major public sector reform whereby National Public Servants, mainly Health and Education staff in each Village, were devolved or transferred to the umbrella of the Taupulega or Council of Elders in each Village. Hence, the Taupulega is now their employer.

781. Literacy levels are high, there is one hundred percent access to primary through to Level 11 education (i.e. up to 16 years), and senior secondary and foundation tertiary education is provided on each atoll. The trend is to widen the curriculum to include vocational and livelihood skills.

782. Tokelau is in the process of remodelling its long term strategy for Primary Health Care. Evidence suggests that health systems oriented towards primary health care are more likely to deliver better health outcomes and greater public satisfaction at lower costs. This requires Tokelau to address common health system weaknesses and challenges, such as inadequate human and financial resources, lack of coordination, inefficient management, inaccessibility to appropriate technologies, and inadequate information and evidence for policy and decision-making. This is one of Tokelau's key goals.

### **Article 7**

783. Tokelau has made good progress in the implementation of this Article in the reporting period. This response should be viewed in light of the fact that there is a very limited private sector in Tokelau.

784. In 2004, Tokelau agreed that all public services for Tokelau should be handled consistently and that common manuals and instructions should be developed for each village and the Apia, Samoa based office. The Public Service Rules 2004 (the Rules) and the Tokelau Public Services Human Resources Manual (the Manual) have been approved and endorsed by the General Fono. A copy of the Manual and the Rules is enclosed with this report. Together, they provide a strong basis for ensuring the rights contained in this Article are realised in Tokelau. For example, appointments to the Tokelau Public Service are made on merit and salary scales relate to jobs, not people. General workers are paid on an hourly rate set by the General Fono and listed in the salary scales in the Manual.

### **Article 8**

785. The comments under Articles 6 and 7 apply here. While there are no trade unions in Tokelau in the outside world's sense, there is an informal association of public service employees.

### **Article 9**

786. A sharing and caring ethos is fundamental to Tokelau society. Persons older than 60 receive a pension of NZ\$41.25 a month. Patients requiring medical treatment that is unavailable in Tokelau are officially sponsored to travel to Samoa or New Zealand, as required.

### **Article 10**

787. Law, custom and practice recognise the family as the natural and fundamental group unit of Tokelau society. The Manual referred to in Article 7 provides for paid maternity leave.

### **Articles 11 to 15 and generally**

788. The rights and freedoms established under the Covenant are broadly upheld in Tokelau practice, and are continue to be progressively realised by the people of Tokelau. This report shows how the implementation of those rights and freedoms may be viewed in a decolonisation context which is distinctive and challenging. Tokelau, with New Zealand's encouragement, continues to seek and find local solutions in areas of economic direction and governance that will work in its unique situation.

789. The underlying issue is how Tokelau can best establish the capacity for its economic survival in a sustainable way. The Joint Statement on the Principles of Partnership between New Zealand and Tokelau provides a blueprint for how Tokelau and New Zealand will continue to move forward together on matters covered by the Covenant, including:

- (a) Self-determination for Tokelau;
  - (b) The retention and development of the language and culture of Tokelau; and
  - (c) The economic and social development of Tokelau.
-