



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



**PARLIAMENTARY
COUNSEL OFFICE**
TE TARI TOHUTOHU
PĀREMATA



Contract and Commercial Law Bill Exposure Draft

Questionnaire

SUBMISSIONS PROCESS

The Parliamentary Counsel Office and the Ministry of Business, Innovation and Employment are seeking written submissions on the exposure draft of the Contract and Commercial Law Bill by **7 December 2015**.

Please use this submissions template for providing feedback as this will help us to collate submissions and ensure that your views are fully considered. Please also include your name, the name of the organisation that you represent (if applicable), and contact details.

Please email your submission as an attachment to revisionbill@mbie.govt.nz. Any questions that you have in relation to the submissions process can be directed to the same address.

The information provided in submissions will help with preparing the Bill for introduction to Parliament. We may contact submitters directly if we require clarification of any matters in submissions.

Please note that the Parliamentary Counsel Office intends to publish submissions online at www.pco.parliament.govt.nz. See the Explanatory Material for information about the publication of comments, the Official Information Act and the Privacy Act.

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Questions

I have only responded to question 10 below

Question 1: Do the changes made in those provisions amount only to “minor amendments to clarify Parliament’s intent, or reconcile inconsistencies between provisions” within the meaning of section 31(2)(i) of the Legislation Act 2012?

Question 2: If the Bill does make “minor amendments” to the effect of the law, is there any reason why the amendments should not be made?

Question 3: Are there any other “minor amendments” within the meaning of section 31(2)(i) of the Legislation Act 2012 that should be made? If so, please provide a detailed explanation of any proposed amendment and why it is justified.

Question 4: Are there any other changes that should be made to improve the Bill as a revision Bill? Proposed changes should fall within the powers contained in section 31(2) of the Legislation Act 2012, such as changes to language, format, or punctuation.

Question 5: Would accessibility and readability be aided if more legislative examples were given?

Question 6: Is an intention to bind the Crown implied from the terms of any of Parts 1, 4, and 5 of the Mercantile Law Act? Does Schedule 1 of the Crown Proceedings Act 1950 indicate a clear intention that only Part 2 of the Mercantile Law Act binds the Crown?

Question 7: Is it desirable that any of Parts 1, 4, and 5 of the Mercantile Law Act should bind the Crown? Would expressly providing for these Parts to bind the Crown be a minor amendment within the powers of s 31(2)(i) of the Legislation Act 2012 (ie, the power to “make minor amendments to clarify Parliament’s intent, or reconcile inconsistencies between provisions”)?

Question 8: Should we revise Part 5 of the Mercantile Law Act 1908 or leave it for subsequent reform or repeal?

Question 9: How should the Bill approach transitional arrangements?

Question 10: Are there other issues in the statutes that may need reform that we have not identified in Part 4 of the Explanatory Material?

Consideration should be given to repealing section 191 of the Trade Marks Act 2002 in relation to “relevant persons”, such as guardians, taking action on behalf of persons who are not 18 years or over in respect of the registration of trade marks. It is my understanding that such a provision in the Trade Marks Act is unnecessary in light of the provisions contained in the Minor’s Contract Act 1969.

Note there is no corresponding provision in either the Patents Act 2013 or the Designs Act 1953, further leads to question why such a provision on minors is necessary in the Trade Marks Act 2002.

If this is indeed the case, this provision in the Trade Marks Act could be appropriately amended.

Question 11: Do you have any other comments relating to the Bill?

