

FINANCIAL OBLIGATIONS IN THE CROWN ENTITIES ACT 2004: APPLICATION TO CROWN ENTITIES AND PFA SCHEDULE 4 ORGANISATIONS *

Crown Entities	Bank A/cs s 158	Securities s 161	Borrowing s 162	Gtees/Ind s 163	Derivatives s 164	Subsids s 96	Interests s 100	Surpluses s 165	Classification	Monitoring Department(s)	Responsible Minister(s)
Statutory Entities											
Accident Compensation Corporation		Exempt	Exempt	Exempt	Exempt		P/A	Exempt	Crown agent	Labour	ACC
Accounting Standards Review Board									ICE	MED	Commerce
Alcohol Advisory Council of New Zealand								Exempt	ACE	Health	Health
Arts Council of New Zealand Toi Aotearoa								Exempt	ACE	Culture and Heritage	Arts, Culture and Heritage
Broadcasting Commission (New Zealand On Air)									ACE	Culture and Heritage	Broadcasting
Broadcasting Standards Authority									ICE	Culture and Heritage	Broadcasting
Career Services									Crown agent	Education	Education
Charities Commission									ACE	Internal Affairs	Community and Voluntary Sector
Children's Commissioner									ICE	Social Development	Social Development and Employment
Civil Aviation Authority of New Zealand								Exempt	Crown agent	Transport	Transport
Commerce Commission									ICE	Economic Development	Commerce
Crown Health Financing Agency									Crown agent	Health	Health
District health boards (21 - listed on page 5)		P/A				N/A	N/A		Crown agents	Health	Health
Earthquake Commission		Exempt	Exempt	Exempt	Exempt		P/A	Exempt	Crown agent	Treasury	Finance
Electoral Commission									ICE	Justice	Justice
Electricity Commission								Exempt	Crown agent	Economic Development	Energy
Energy Efficiency and Conservation Authority									Crown agent	Environment	Energy
Environmental Risk Management Authority									ACE	Environment	Environment
Families Commission									ACE	Social Development	Social Development and Employment
Foundation for Research, Science and Technology									Crown agent	MoRST	Research, Science and Technology
Government Superannuation Fund Authority		Exempt	Exempt	Exempt	Exempt		P/A	Exempt	ACE	Treasury	Finance
Guardians of New Zealand Superannuation		P/A	P/A	P/A	P/A		P/A		ACE	Treasury	Finance
Health and Disability Commissioner									ICE	Health	Health
Health Research Council of New Zealand									Crown agent	Health	Health
Health Sponsorship Council									Crown agent	Health	Health
Housing New Zealand Corporation									Crown agent	Bldg & Housing / Treasury	Housing / Finance
Human Rights Commission									ICE	Justice	Justice
Land Transport New Zealand								Exempt	Crown agent	Transport	Transport
Law Commission									ICE	Justice	Law Commission
Legal Services Agency									Crown agent	Justice	Justice
Maritime New Zealand								Exempt	Crown agent	Transport	Transport
Mental Health Commission									ACE	Health	Health

Key: Cell shading and classifications are explained on page 4

* Organisations named or described in Schedule 4 of the Public Finance Act 1989 (PFA)

Crown Entities	Bank A/cs s 158	Securities s 161	Borrowing s 162	Gtees/Ind s 163	Derivatives s 164	Subsids s 96	Interests s 100	Surpluses s 165	Classification	Monitoring Department(s)	Responsible Minister(s)
Statutory Entities (continued)											
Museum of New Zealand Te Papa Tongarewa Board									ACE	Culture and Heritage	Arts, Culture and Heritage
New Zealand Antarctic Institute									Crown agent	Foreign Affairs and Trade	Foreign Affairs
New Zealand Artificial Limb Board									ACE	Social Development	Social Development and Employment
New Zealand Blood Service									Crown agent	Health	Health
New Zealand Film Commission								Exempt	ACE	Culture and Heritage	Arts, Culture and Heritage
New Zealand Fire Service Commission								Exempt	Crown agent	Internal Affairs	Internal Affairs
New Zealand Historic Places Trust (Pouhere Taonga)								Exempt	ACE	Culture and Heritage	Arts, Culture and Heritage
New Zealand Lotteries Commission		Exempt						Exempt	ACE	CCMAU	Internal Affairs
New Zealand Qualifications Authority								Exempt	Crown agent	Education	Education
New Zealand Sports Drug Agency									ICE	Culture and Heritage	Sport and Recreation
New Zealand Symphony Orchestra									ACE	Culture and Heritage	Arts, Culture and Heritage
New Zealand Teachers Council								Exempt	ACE	Education	Education
New Zealand Tourism Board									Crown agent	Economic Development	Tourism
New Zealand Trade and Enterprise									Crown agent	Econ Dvpt / MFAT	Industry and Regional Dvpt / Trade
Office of Film and Literature Classification									ICE	Internal Affairs	Internal Affairs
Pharmaceutical Management Agency									Crown agent	Health	Health
Police Complaints Authority									ICE	Justice	Justice
Privacy Commissioner									ICE	Justice	Justice
Public Trust	P/A	Exempt	Exempt	Exempt	Exempt		P/A		ACE	CCMAU / Tsy / Justice	Public Trust / Finance
Retirement Commissioner									ACE	Social Development	Social Development and Employment
Securities Commission									ICE	Economic Development	Commerce
Social Workers Registration Board									Crown agent	Social Development	Social Development and Employment
Sport and Recreation New Zealand								Exempt	Crown agent	Culture and Heritage	Sport and Recreation
Standards Council									ACE	Economic Development	Commerce
Takeovers Panel									ICE	Economic Development	Commerce
Te Reo Whakapuaki Iirangi (Te Māngai Pāho)									ACE	Māori Development (TPK)	Māori Affairs
Te Taura Whiri i te Reo Māori (Māori Language Commission)									ACE	Māori Development (TPK)	Māori Affairs
Tertiary Education Commission									Crown agent	Education	Education
Testing Laboratory Registration Council									ACE	Economic Development	Commerce
Transit New Zealand								Exempt	Crown agent	Transport	Transport
Transport Accident Investigation Commission									ICE	Transport	Transport

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Crown Entities	Bank A/cs s 158	Securities s 161	Borrowing s 162	Gtees/Ind s 163	Derivatives s 164	Subsids s 96	Interests s 100	Surpluses s 165	Classification	Monitoring Department(s)	Responsible Minister(s)
Crown Entity Companies											
Crown research institutes (9 - listed on page 5)		Exempt	Exempt	Exempt	Exempt		N/A	Exempt	CECs	CCMAU / Treasury	CRIs / Finance
New Zealand Venture Investment Fund Limited		Exempt	Exempt	Exempt				Exempt	CEC	CCMAU / Treasury	Economic Development / Finance
Radio New Zealand Limited								Exempt	CEC	CCMAU / Tsy / MCH	Broadcasting / Finance
Television New Zealand Limited		Exempt	Exempt	Exempt	Exempt			Exempt	CEC	CCMAU / Tsy / MCH	Broadcasting / Finance
School Boards of Trustees and Tertiary Education Institutions											
School boards of trustees (2,468)						N/A	N/A		School BoTs	Education	Education
Tertiary education institutions (31 - listed p 5)	N/A	N/A	N/A	N/A	N/A	N/A	N/A		TEIs	Education	Education
Organisations Named or Described in Schedule 4 of the Public Finance Act 1989											
Agriculture and Marketing Research and Dvpt Trust		N/A	N/A	N/A	N/A			N/A	PFA Sched 4	Agriculture and Forestry	Agriculture
Asia New Zealand Foundation			N/A	N/A	N/A			N/A	PFA Sched 4	Foreign Affairs and Trade	Foreign Affairs
Fish and game councils (12 - listed on page 5)								N/A	PFA Sched 4	Conservation	Conservation
Leadership Development Centre Trust			N/A	N/A	N/A			N/A	PFA Sched 4	SSC	State Services
New Zealand Fish and Game Council								N/A	PFA Sched 4	Conservation	Conservation
New Zealand Game Bird Habitat Trust Board								N/A	PFA Sched 4	Conservation	Conservation
New Zealand Government Property Corporation		N/A	N/A	N/A	N/A				PFA Sched 4	Treasury	Finance
New Zealand Lottery Grants Board		N/A	N/A	N/A	N/A			N/A	PFA Sched 4	Internal Affairs	Internal Affairs
Transferee companies under the New Zealand Railways Corporation Restructuring Act 1990		N/A	N/A	N/A	N/A			N/A	PFA Sched 4	CCMAU / Treasury	SOEs / Finance
Ngai Tahu Ancillary Claims Trust		N/A	N/A	N/A	N/A			N/A	PFA Sched 4	Justice (OTS)	Treaty of Waitangi Negotiations
Pacific Co-operation Foundation			N/A	N/A	N/A			N/A	PFA Sched 4	Foreign Affairs and Trade	Foreign Affairs
Pacific Islands Business Development Trust		N/A	N/A	N/A	N/A			N/A	PFA Sched 4	Pacific Island Affairs	Pacific Island Affairs
Research and Education Advanced Network NZ Ltd								N/A	PFA Sched 4	CCMAU / Treasury	R,S and T / Finance
Reserves boards (24 - listed on page 5)								N/A	PFA Sched 4	Conservation	Conservation
Road Safety Trust		N/A	N/A	N/A	N/A			N/A	PFA Sched 4	Transport	Transport
Forthcoming Statutory Entity											
New Zealand Railways Corporation	Subject to enactment of Rail Network Bill							Subj to Bill	Crown agent	CCMAU / Tsy / Transport	To be determined
Non-Crown Entities Subject to Section 161											
Chartered Professional Engineers Council									Not classified	Building and Housing	Housing
Council of Legal Education									Not classified	Justice	Attorney-General

Key: Cell shading and classifications are explained on page 4

Terms: ACE = autonomous Crown entity ICE = independent Crown entity CEC = Crown entity company
School BoTs = boards of trustees TEIs = tertiary education institutions SOEs = state-owned enterprises

NOTES ON APPLICATION OF FINANCIAL OBLIGATIONS IN PART 4 OF THE CROWN ENTITIES ACT 2004

Scope of Coverage and Application

The above tables provide a checklist of the application to Crown entities and PFA Schedule 4 organisations of the following provisions in the Crown Entities Act 2004 (CEA):

- (a) sections 158-164 concerning **bank accounts, acquisition of securities, borrowing, giving of guarantees and indemnities, and use of derivatives** - the core 'financial powers' provisions;
- (b) sections 96 and 100 concerning the **acquisition of subsidiaries and of shares or interests in companies, partnerships, joint ventures, trusts, etc**, from which section 161 is distinguished; and
- (c) section 165 concerning the **payment of net surpluses to the Crown**.

Section 158 applies to all Crown entities and PFA Schedule 4 organisations unless the entity's Act expressly provides otherwise (per section 4(2) of the CEA and section 45N(1) and (4) of the PFA).

Sections 161-164 apply to:

- (a) all Crown entities (including their Crown entity subsidiaries) other than as provided in section 160, which makes these restrictions subject to any regulation made under Part 4, any approval given jointly by the entity's responsible Minister and the Minister of Finance, an entity's Act, and an exemption granted to a statutory entity (a Crown agent, ACE or ICE) or Crown entity company in Schedule 1 or 2; and
- (b) organisations named or described and 'ticked' in Schedule 4 of the PFA (per section 45N(1)), and - in the case of section 161 only - three trusts (per their trust deeds) and two non-Crown entity / non-Schedule 4 bodies, viz. the Chartered Professional Engineers Council and Council of Legal Education (per, respectively, clause 42 of Schedule 1 of the Chartered Professional Engineers of New Zealand Act 2002 and section 42H of the Law Practitioners Act 1982).

Relationship between section 161 and sections 96 and 100 - Section 161 allows the acquisition of certain debt securities and of public securities by affected Crown entities without further approval, and does not prohibit the acquisition of subsidiaries or shares (equity securities) if this is allowed by section 96 or section 100. The latter provisions apply to Crown entities, including Crown entity subsidiaries.

Section 165 applies to statutory entities and Crown entity companies unless an exemption is granted in Schedule 1 or Schedule 2, and to PFA Schedule 4 organisations that are 'ticked' in that Schedule.

Other financial provisions in Part 4 include **sections 166, 167 and 168** concerning a capital charge payable by certain statutory entities, gifts of money or property to Crown entities, and accounting records to be kept by Crown entities.

Key

	entities and organisations actually or potentially subject to core financial powers provisions in sections 158-164
	entities and organisations to which the indicated provision applies fully
Exempt	entities exempt from all or one of sections 160-164 (statutory entities only), and section 165 (statutory entities or Crown entity companies), per Schedules 1 and 2
N/A	entities and organisations to which the indicated provision is not applied - expressly per their own Acts (see notes below on individual Crown entities) or Schedule 4 of the PFA
P/A	entities to which the indicated provision applies partly - per their own Acts (see notes below on individual Crown entities)
	entities for which the indicated provision is 'out of scope' - not being a statutory entity, a Crown entity company, or a Crown entity; or requiring legislation

Application to Individual Crown Entities

Accident Compensation Corporation - Section 100 does not apply to investments made under section 275 of the Injury, Prevention, Rehabilitation and Compensation Act 2001 (per section 275(4)).

District health boards - Section 161 applies to DHBs except in relation to investments in securities covered by section 28 of the New Zealand Public Health and Disability Act 2000 (per section 28(5) and clause 46 of Schedule 3 to that Act). Sections 96 and 100 do not apply to DHBs (per section 28(4)). Clauses 45(3), 45A(1) and 45A(2) of Schedule 3 of that Act confirm application of sections 162-164.

Earthquake Commission - Section 100 does not apply to an investment that is part of the Natural Disaster Fund constituted by section 13 of the Earthquake Commission Act 1993 (per section 13(5)).

Government Superannuation Fund Authority - Section 15B(5) of the Government Superannuation Fund Act 1956 applies to the acquisition of securities issued by a company despite sections 100 and 161 (per section 15B(8)). Amended section 15C(1)(c) provides that the Authority may not enter into derivative transactions without the approval of the Minister of Finance.

Guardians of New Zealand Superannuation - Sections 100 and 160-164 do not apply to the Guardians in relation to the New Zealand Superannuation Fund (per section 49(3) of the New Zealand Superannuation and Retirement Income Act 2001).

Public Trust - Section 158 applies only in respect of funds not received or held in Public Trust's fiduciary capacity, and section 100 does not apply to investment of estate money (per sections 36(1) and 6(4) respectively of the Public Trust Act 2001).

Crown research institutes - Section 100 does not apply to CRIs or their Crown entity subsidiaries (per sections 10A(3)(d) and 12(4) of the Crown Research Institutes Act 1993).

School boards of trustees and tertiary education institutions - Application of the CEA to school BoTs and TEIs and their Crown entity subsidiaries is set out, respectively, in Schedules 3 and 4 of the CEA and in Schedules 5A and 13 of the Education Act 1989. By virtue of s 200(1) of the Education Act, a TEI may hold a bank account at a registered building society in terms of section 158 of the CEA.

GROUPS AND CLASSES OF CROWN ENTITIES AND PFA SCHEDULE 4 ORGANISATIONS
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District Health Boards

- 1 Auckland District Health Board
- 2 Bay of Plenty District Health Board
- 3 Canterbury District Health Board
- 4 Capital and Coast District Health Board
- 5 Counties Manukau District Health Board
- 6 Hawke's Bay District Health Board
- 7 Hutt District Health Board
- 8 Lakes District Health Board
- 9 MidCentral District Health Board
- 10 Nelson Marlborough District Health Board
- 11 Northland District Health Board
- 12 Otago District Health Board
- 13 South Canterbury District Health Board
- 14 Southland District Health Board
- 15 Tairāwhiti District Health Board
- 16 Taranaki District Health Board
- 17 Waikato District Health Board
- 18 Wairarapa District Health Board
- 19 Waitemata District Health Board
- 20 West Coast District Health Board
- 21 Whanganui District Health Board

Crown Research Institutes

- 1 AgResearch Limited
- 2 HortResearch Limited
- 3 Industrial Research Limited
- 4 Institute of Environmental Science & Research Limited
- 5 Institute of Geological and Nuclear Sciences Limited
- 6 Landcare Research NZ Limited
- 7 National Institute of Water and Atmospheric Research Limited
- 8 NZ Forest Research Institute Limited
- 9 NZ Institute for Crop & Food Research Limited

School Boards of Trustees

2,468 See Ministry of Education NZ schools directory (state schools)

Tertiary Education Institutions**Universities (8)**

- 1 Auckland University of Technology
- 2 Lincoln University
- 3 Massey University
- 4 University of Auckland
- 5 University of Canterbury
- 6 University of Otago
- 7 University of Waikato
- 8 Victoria University of Wellington

Polytechnics (20)

- 9 Aoraki Polytechnic
- 10 Bay of Plenty Polytechnic
- 11 Christchurch Polytechnic Institute of Technology
- 12 Eastern Institute of Technology
- 13 Manukau Institute of Technology
- 14 Nelson-Marlborough Institute of Technology
- 15 Northland Polytechnic
- 16 Otago Polytechnic
- 17 Southern Institute of Technology
- 18 Tai Poutini Polytechnic
- 19 Tairāwhiti Polytechnic
- 20 Telford Rural Polytechnic
- 21 The Open Polytechnic of New Zealand
- 22 Unitec Institute of Technology
- 23 Universal College of Learning (UCOL)
- 24 Waiariki Institute of Technology
- 25 Waikato Institute of Technology
- 26 Wellington Institute of Technology
- 27 Western Institute of Technology
- 28 Whitireia Community Polytechnic

Wananga (3)

- 29 Te Wananga O Aotearoa
- 30 Te Wananga O Raukawa
- 31 Te Whare Wananga O Awanuiarangi

Regional Fish and Game Councils *

- 1 Auckland/Waiata Fish and Game Council
- 2 Central South Island Fish and Game Council
- 3 Eastern Fish and Game Council
- 4 Hawkes Bay Fish and Game Council
- 5 Nelson/Marlborough Fish and Game Council
- 6 North Canterbury Fish and Game Council
- 7 Northland Fish and Game Council
- 8 Otago Fish and Game Council
- 9 Southland Fish and Game Council
- 10 Taranaki Fish and Game Council
- 11 Wellington Fish and Game Council
- 12 West Coast Fish and Game Council

Reserves Boards *

- 1 Awakapanga Reserve Board
- 2 Charleston Reserve Board
- 3 Coates Memorial Church Reserve Board
- 4 Glorit Reserve Board
- 5 Homewood Reserve Board
- 6 Horowhenua Lake Reserve Board
- 7 Kaiteriteri Reserve Board
- 8 Lake Rotoiti Reserve Board
- 9 Matata Reserve Board
- 10 Millerton Reserve Board
- 11 Moutoa Gardens Reserve Board
- 12 Nelson Creek Reserve Board
- 13 Oakura Reserve Board
- 14 Papanui Reserve Board
- 15 Poukiore Reserve Board
- 16 Ruakaka Reserve Board
- 17 Ruakaka Central Reserve Board
- 18 Ruawhata Reserve Board
- 19 Taurikura Reserve Board
- 20 Tiriraukawa Reserve Board
- 21 Waikeikei Reserve Board
- 22 Waipu Cove Reserve Board
- 23 Whatitiri Reserve Board
- 24 Whitireia Park Reserve Board

* Organisations named or described in Schedule 4 of the Public Finance Act 1989