

# Regulatory Impact Statement: Human Rights Amendment Bill

## *Agency disclosure statement*

This Regulatory Impact Statement ('RIS') has been prepared by the Ministry of Justice.

It provides an analysis of options to change the role and structure of the Human Rights Commission in order to strengthen its performance.

On 20 October 2010, the Minister for Disability Issues, Hon Tariana Tūria, announced the establishment of a full-time Disability Rights Commissioner within the Commission. To formally establish this role, the Act will need to be amended. This provided an opportunity to review the structure of the Commission and explore options for change in three key areas (namely, the composition, governance arrangements, and functions and powers of the Commission) with the aim of strengthening the Commission's performance. Such a review was necessary as frequent discussions between the Minister and the Chief Human Rights Commissioner had revealed that there was room for improving the effective and efficient operation of the Commission.

The scope of the review was limited to looking at structural matters affecting the effectiveness and efficiency of the Commission. A consideration of complex, substantive human rights issues, such as the prohibited grounds of discrimination in the Human Rights Act 1993 and the exceptions to the prohibition of discrimination, which do not relate to such structural matters, was outside the scope of this review.

A significant constraint on the analysis contained in this Regulatory Impact Statement is that only limited benchmarks are available for assessing the efficiency and effectiveness of human rights institutions. The most useful guidance in this respect is provided by the Paris Principles on National Human Rights Institutions. These are authoritative but not legally binding standards adopted by the United Nations regarding the responsibilities, composition, guarantees of independence and pluralism, methods of operation, and status of national human rights institutions.<sup>1</sup> These Principles, as well as the need for effective and sustainable cost management, have been important factors in the analysis of the options considered. No other important constraints affected the analysis in the RIS.

None of the options analysed is likely to have effects that will require a particularly strong case before regulation is considered.

The options contained in the RIS are expected to have only intangible and indirect effects on individuals or groups of individuals in society, although it is likely that strengthening the performance of the Human Rights Commission will further enhance compliance with human rights in New Zealand and will benefit every individual or group. None of the options will involve costs for any individuals or groups of individuals.

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Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

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<sup>1</sup> The *Paris Principles*, adopted by resolution of the General Assembly of the United Nations on 20 December 1993 (A/RES/48/134).

## Status quo and problem definitions

### The status quo

1. The Human Rights Commission ('the Commission') is an independent Crown entity established to promote and protect human rights, as well as to monitor compliance with national and international human rights law. The Commission has an important role in educating and raising awareness of human rights, including the interrelationship of those rights with the Treaty of Waitangi. The Commission's work informs policy-making processes and benefits the Government's objectives of working towards a fair, safe and just society.
2. The structure of the Commission is determined by two Acts: in the first instance by the Human Rights Act 1993 ('Act') and, where that Act is silent, by the Crown Entities Act 2004.
3. The Act specifies that the Commission consists of three full-time Commissioners and no more than five part-time Commissioners. Commissioners are appointed by the Governor-General, on the recommendation of the Minister of Justice.
4. Members of the Commission together determine the strategic direction and general nature of the activities undertaken by the Commission (section 7 of the Act). The Chief Commissioner is, among other things, responsible to the Commission for ensuring that activities undertaken by the Commission are consistent with these strategic decisions.
5. The Chief Commissioner, after consultation with the Minister, also allocates spheres of responsibility among the Commissioners and determines the extent to which Commissioners engage in activities undertaken in the performance of the Commission's functions. In addition, the Act provides for the appointment of two specialised Commissioners, the Race Relations Commissioner and the Equal Employment Opportunities Commissioner, who lead the work in their areas of responsibility. The Act provides that the Chief Commissioner must act jointly with the specialised Commissioners in certain situations.
6. Most of the Commission's functions are set out in section 5 of the Act. The Commission's primary functions are to advocate and promote respect for human rights in New Zealand and to encourage harmonious relations between individuals and among the diverse groups in New Zealand. The Commission's wider focus is on *all* human rights, not only the right to freedom from discrimination (which is the main focus of most parts of the Act).

### The problems

7. In consultation with the Commission and other government agencies, the Ministry has identified some improvements that could be made to the composition, governance arrangements, and functions and powers of the Commission. The weaknesses in the Act that these improvements seek to address and are discussed in more detail below, relate in essence to:
  - the inefficiency and lack of effectiveness of the part-time Commissioner positions (composition)
  - the inflexibility resulting from the way specialised Commissioner roles are provided for in the Act (governance arrangements), and

- the sometimes unclear and incomplete description of the functions of the Commission in the Act (functions).

## Objective

8. The Government's objective is to strengthen the Commission's performance by increasing its efficiency and effectiveness; this is in line with the Government's focus on better results from public services. A stronger performance of the Commission will enhance New Zealand's ability to comply with its international human rights obligations as well as benefit the implementation of domestic human rights legislation.

## Regulatory Impact Analysis

9. The RIS discusses the three areas relating to the role and structure of the Commission in which weaknesses in the Act have been identified: the composition, governance arrangements and functions of the Commission.
10. We note that only limited benchmarks for assessing the efficiency and effectiveness of human rights institutions are available. The Paris Principles provide the most useful guidance in this respect. These principles as well as effective and sustainable cost management have been important factors in the analysis of the options considered.

### COMPOSITION

11. The Commission currently consists of three full-time Commissioners and three part-time Commissioners, who work the equivalent of 0.3 of a full-time equivalent position ('FTE'). Under the Act there may be a maximum of five part-time Commissioners, but two positions are vacant. The Act does not specify the size of the part-time positions.
12. The current working arrangements of the part-time Commissioners are sufficient to perform their governance role of helping set the strategic direction of the Commission. Part-time Commissioners have contributed some important pieces of work. However, the part-time nature of these positions has limited their ability to optimally engage in the activities of the Commission as most of their time is spent on their governance role (eg, attending the meetings about the strategy of the Commission and the preparation for these meetings). This has made it difficult for the Commission to adequately and completely perform its functions. It has also placed a heavy burden on the full-time Commissioners as it has increased their workload.

### *Options considered by the Ministry*

13. The Ministry developed a number of options for changing the composition of the Commission in order to ensure that all Commissioners can optimally engage in the activities of the Commission. The following options involve variations in the size of Commissioner positions as well as in their number.<sup>2</sup> Table 1 in the Appendix sets out the advantages and disadvantages of these options.

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<sup>2</sup> Any given number of full-time Commissioners includes the Chief Commissioner.

*Option 1: Replace the current composition with another composition of both full-time and part-time Commissioners*

14. The Ministry considered an option that would increase the number of full-time Commissioners from three to four, and change the job size and number of the part-time Commissioners from up to five part-time positions of on average 0.3 FTE to two part-time positions of 0.5 FTE. During consultations, the Commission expressed a preference for this option.

*Option 2: Replace the current composition with five full-time Commissioners*

15. This option proposes that the current composition of three full-time and up to five part-time Commissioners be replaced with five full-time Commissioners. The Act would no longer provide for part-time positions.

*Option 3: Replace the current composition with fewer than five full-time Commissioners*

16. We have considered options with fewer than five full-time Commissioners (for instance, three or four full-time Commissioners) and no part-time positions.

*Option 4: Replace the current composition with up to five full-time Commissioners*

17. The Ministry has considered whether the policy objective could be met by providing for a Commission consisting of only full-time Commissioners and specifying that the maximum number of Commissioners would be five. This option would give the Government the flexibility to appoint any number of Commissioners, with a minimum of one and a maximum of five Commissioners.

*Option 5: Replace the current composition with no less than four and no more than five full-time Commissioners*

18. A fifth option provides for no less than four and no more than five full-time Commissioners, and no part-time positions. This option enables the Government to hold off appointing a fifth full-time Commissioner when this is considered prudent after balancing the budgetary considerations of this decision against the consequences for the workload and effectiveness of the Commission.

*Conclusion*

19. Overall, the Ministry is of the view that option 5 (replace the current composition with no less than four and no more than five full-time Commissioners) best achieves the policy objective as described in paragraph 8 above. A Commission consisting of only full-time Commissioners will ensure effective synergy between the Commissioners, enable Commissioners to appropriately divide their time between their governance role and their other responsibilities, and provide them with enough time and opportunities to take up a strong leadership role in their areas of responsibility.
20. A Commission of four or five Commissioners can work efficiently and effectively. The Government will be able to strike an appropriate balance between budgetary considerations, workload and effectiveness of the Commission in deciding about the appointment of a fifth Commissioner.

## GOVERNANCE ARRANGEMENTS: SPECIALISED COMMISSIONER ROLES

21. The Act currently provides for two specialised Commissioners (the Race Relations Commissioner and the Equal Employment Opportunities Commissioner).
22. On 20 October 2010, Cabinet [SOC Min (10) 25/5] agreed to give the Commission a broad role in promoting, protecting and monitoring the implementation of the Convention on the Rights of Persons with Disabilities. On the same day, the Minister for Disability Issues, Hon Tariana Tūria, announced the establishment of a full-time Disability Rights Commissioner within the Commission. In response to these decisions, the Minister of Justice decided on 10 February 2011 to appoint an interim part-time Commissioner (0.8 FTE) with specific responsibility for disability rights issues for a term of 18 months. All other Commissioners (both full and part-time) are employed on contracts of five years.
23. The Act allows Commissioners to work in a variety of human rights areas. However, that work can be exercised in a formalised leadership role in only two areas: race relations and equal employment opportunities. The Act does not allow the creation of formalised leadership roles in other priority areas, such as disability rights.
24. The Act needs to place an emphasis on race relations, equal employment opportunities and disability rights because these areas generate the most inquiries and discrimination complaints to the Commission. However, the Act needs to allow for the creation of a formalised leadership role in other priority areas of human rights that may emerge in the future.

### *Options considered by the Ministry*

25. The Ministry considered a number of options for changing the governance arrangements of the Commission. To meet the policy objective, these options should provide sufficient flexibility for the creation of additional, specialised Commissioner roles in response to emerging priority areas where there is a need for a clear leadership role and point of contact within the Commission. They should also provide more clarity about the leadership role of the Chief Commissioner.

### *Option 1A: Appointment of general Commissioners and separate designation of specialised Commissioners by the Chief Commissioner*

26. This option proposes the appointment of the Chief Commissioner and a number of three or four<sup>3</sup> ('general') Human Rights Commissioners by the Governor-General, on the recommendation of the Minister of Justice.<sup>4</sup> Following their appointment, Commissioners may be designated to lead the work associated with priority areas in which they will act as specialised Commissioners. Designation in such specialised roles would be mandatory in three priority areas: race relations, equal employment opportunities and disability rights. Designations in other

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<sup>3</sup> The number would depend on the decision taken with respect to the options under 'Composition'.

<sup>4</sup> See sections 11 and 12 of the Act for the appointment criteria that the Minister has to take into account when recommending persons for appointment as Commissioners. Section 11 ensures that there will be a Commissioner in the Commission that is sufficiently qualified to be designated by the Chief Commissioner to lead the work in a specific area.

priority areas would be discretionary but would have to be consistent with the strategic decisions of the Commission under section 7 of the Act.

27. All designations in specialised roles would be made by the Chief Commissioner, after consultation with the Minister and the Commission. In light of the need for continuity in the exercise of the specialised roles, particularly in maintaining relationships with the community and preserving institutional knowledge, the Chief Commissioner would not be able to terminate or alter designations in specialised roles without good reason and only after consultation with the Minister and the Commission.
28. When it is necessary from an efficiency perspective, the Commissioners should be able to lead work associated with more than one priority area (a practice that is currently not possible under the Act, but is applied in Australia). Priority areas should also be the focus of all Commissioners, not just those designated to lead the work with respect to these issues. The reason for this is that some human rights topics overlap with others.
29. The leadership role of the Chief Commissioner would become more effective because she or he would have more flexibility in deploying the resources of the Commission.
30. A potential disadvantage of this option is that people with specialised skills and experience might be deterred from applying for a Commissioner position, and advertising such a position might only attract generalist human rights experts, due to the lack of:
  - a permanent designation to lead the role in the areas of race relations, equal employment opportunities and disability rights at the time of appointment, and
  - certainty that a candidate will be designated, by the Chief Commissioner *after* appointment, to lead the work in a priority area of human rights that matches their specialised skills and experience and that attracted them to apply for the Commissioner position.
31. If people with the necessary specialised skills and experience would not apply for Commissioner positions and only generalist experts could be recruited, this might be perceived as weakening the Commission and the specialised Commissioner roles.

*Option 1B: Appointment of general Commissioners and separate designation of specialised Commissioners by the Minister of Justice*

32. The Ministry has also considered whether the Minister of Justice should designate specialised Commissioners in specific human rights areas instead of the Chief Commissioner.
33. We are of the view that the Chief Commissioner is better placed to determine who would be best suited to lead the work in the priority areas and that this approach will also strengthen the responsibility of the Chief Commissioner for managing the Commission.
34. A disadvantage of both appointment and designation by the Minister of Justice is that it could be seen to impair the independence of the Commission. This would

breach the Paris Principles and could negatively affect the credibility, effectiveness and efficiency of the Commission. The Ministry considers that this option would not achieve the policy objective.

*Option 2: Appointment of a Chief Commissioner, Race Relations Commissioner, Equal Employment Opportunities Commissioner and Disability Rights Commissioner*

35. This option would retain the existing arrangements in the Act for the Race Relations and Equal Employment Opportunities Commissioners, and extend these to a new position of Disability Rights Commissioner.
36. An important disadvantage of this option would be that it maintains a degree of inflexibility similar to that currently found in the Act. If it were considered desirable to appoint a Commissioner in a specialised role associated with a new priority area, this would not be possible without amending the Act again. The Ministry considers, therefore, that this option would insufficiently address the concerns raised with respect to the current governance arrangements.
37. The current arrangements in the Act also do not permit appointment of a specialised Commissioner in more than one specialised role.

*Option 3: Appointment of a Chief Commissioner and Human Rights Commissioners, who will lead the work associated with priority areas of human rights*

38. This option provides for the appointment of the Chief Commissioner and a number of three or four<sup>5</sup> Human Rights Commissioners. The Act would also require that a Human Rights Commissioner would be appointed to lead the work – as a specialised Commissioner and for the duration of their term of office – associated with each of the following three priority areas: race relations, equal employment opportunities and disability rights.
39. In addition, the Chief Commissioner would have the power to designate Commissioners to lead the work in other priority areas, consistent with the strategic decisions of the Commission under section 7 of the Act and after consultation with the Minister and the Commission. The Chief Commissioner is best placed to determine who would be best suited to lead the work in these other priority areas. This approach will also strengthen the responsibility of the Chief Commissioner for managing the Commission and ensuring its efficiency and effectiveness.
40. The requirement that a Human Rights Commissioner would be appointed to lead the work in each of the areas of race relations, equal employment opportunities and disability rights would ensure that there will be a specialised Commissioner in these important areas. Under the current Act this is only possible with respect to race relations and equal employment opportunities. The designation of a Commissioner to lead the work in other priority areas provides the necessary flexibility to be able to respond to emerging priority areas where there is a need for a specialised leadership role and visible point of contact within the Commission. Rebranding the specialised Commissioners as ‘Human Rights Commissioners’ will emphasise that they need to operate at all times on behalf and as a member of the Commission.

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<sup>5</sup> See footnote 4.

41. Like under option 1A, the governance arrangements would be sufficiently flexible to allow Commissioners to lead work associated with more than one priority area when that is necessary for efficiency reasons. Priority areas should also be the focus of all Commissioners, not just those designated to lead the work with respect to these issues.

### *Conclusion*

42. The Ministry is of the view that option 3 best achieves the objective (as described in paragraph 8 above).
43. Option 3 ensures that:
- specialised Commissioner roles will be guaranteed in the areas of race relations, equal employment opportunities and disability rights
  - the Chief Commissioner has the necessary flexibility to designate a Commissioner to lead the work as a specialised Commissioner in other, emerging priority areas
  - the Chief Commissioner has a clearer leadership role than is currently the case
  - advertised Commissioner positions are capable of attracting candidates who have the skills and experience necessary for the roles to be performed in the exercise of these positions, and
  - the Commission remains independent.

### **FUNCTIONS: AMEND THE COMMISSION'S FUNCTIONS TO BETTER REFLECT CURRENT RESPONSIBILITIES**

44. The Commission currently undertakes a number of activities that are not clearly or completely described in the Act. For example, the Commission undertakes a number of important activities in relation to New Zealand's international human rights obligations, but does so without a clear statutory mandate.

### *Options considered by the Ministry*

45. The Ministry considers that the Act should more clearly and completely describe the current activities of the Commission to provide more certainty about the Commission's mandate and increase consistency with the Paris Principles. This would require an amendment of section 5 (Functions of the Commission) of the Act, by:
- providing for a clear function of promoting the development of new international human rights instruments and of promoting, protecting and monitoring New Zealand's compliance with, and involvement in reporting on the implementation of, international human rights instruments ratified by New Zealand, and
  - reflecting more clearly that the Commission can express an opinion on any situation in which human rights are infringed, including expressing an opinion on the positions and reactions of the Government in relation to those situations.



46. The first part of this proposal recognises the important work of the Commission relating to international human rights instruments, which has been invaluable for the implementation of human rights in New Zealand, and complements functions already provided in the Act (section 5(2)(k)(i) and (ii)). The second part of the proposal clarifies existing functions in the Act (section 5(2)(c)).
47. The Ministry has considered other amendments to the Commission's functions but concluded that they fall outside the scope of the review as they were not aimed at addressing the concerns identified in the review of the Commission's structure.

#### NON-LEGISLATIVE OPTIONS: ALL STRUCTURAL ASPECTS

48. The Ministry also examined the viability of options that would change the structure of the Commission without the need for amending the Act. For example, the current provisions of the Act do not define the job size of the part-time Commissioners and would, therefore, permit increasing the average job size of these Commissioners from the current 0.3 to a maximum 0.9 FTE (with associated changes to either the Commission's budget to pay for increased salary costs, or the number of Commissioners (decrease) to stay within the Commission's current budget). However, it was clear from the outset that improvements to the governance arrangements could not be achieved without amending the Act because the noted inability to create additional specialised roles stems directly from the wording of the Act. For that reason, we have not further considered any non-legislative options.

#### STATUS QUO: ALL STRUCTURAL ASPECTS

49. Maintaining the status quo would allow the identified weaknesses in the Act to persist and to affect the ability of the Commission to adequately and completely perform its functions. The Ministry considers that this would not be in line with the Government's policy to build better public services that offer more value for money.

### **Consultation**

50. Te Puni Kōkiri, the Ministry of Women's Affairs, the Department of Labour, the Office of Ethnic Affairs and the Office for Disability Issues were consulted about the options contained in this RIS. These agencies, as well as the Ministries of Social Development and Foreign Affairs and Trade, the Treasury, the Department of Internal Affairs and the State Services Commission were also consulted during the preparation of the Cabinet paper associated with this RIS. The Department of the Prime Minister and Cabinet was informed.
51. The Ministry consulted the Human Rights Commission during the development of the options contained in this RIS; the Commission was also consulted during the preparation of the Cabinet Paper.
52. Any changes to the composition, governance arrangements, functions and powers of the Commission will require a legislative change to the Human Rights Act 1993. If any of the options are adopted, the public will have an opportunity to comment on the proposals at Select Committee.

## Conclusions

53. The Ministry has weighed the advantages and disadvantages of each of the options in the RIS, assessed them against standards such as those contained in the Paris Principles on National Human Rights Institutions and considered any cost implications. We recommend progressing the following options:
- *composition*: replace the current three full-time Commissioners and five part-time Commissioners with no less than four and no more than five full-time Commissioners
  - *governance*: provide for the appointment of the Chief Commissioner and three or four Human Rights Commissioners by the Governor-General, on the recommendation of the Minister of Justice; Human Rights Commissioners will lead – as specialised Commissioners – the work associated with:
    - race relations, equal employment opportunities and disability rights, and
    - other specialised, priority areas of human rights (designated by the Chief Commissioner, after consultation with the Minister of Justice and the Commission)
  - *functions*: clearly and completely reflect the activities that the Commission currently undertakes by amending section 5 of the Act to:
    - provide for a clear function of promoting, protecting and monitoring New Zealand's compliance with, and involvement in reporting on the implementation of, international human rights instruments ratified by New Zealand
    - reflect more clearly that the Commission can express an opinion on any situation in which human rights are infringed, including expressing an opinion on the positions and reactions of the Government in relation to those situations.

## Implementation

### *Transitional arrangements*

54. The Bill – which is anticipated to be passed in the second half of 2012 – will need to set out how the Commission will move from its existing structure to the new structure and ensure that this is done as quickly as possible. The Ministry considers that this can be achieved with minimal disruption to the work of the Commission and maintain its independence, if, at the time the Act enters into force:
- current Commissioners will be able to remain in their positions until their terms expire;
  - the current three full-time Commissioners would be deemed to be appointed under the amended provisions of the Act; and
  - the Race Relations and Equal Employment Opportunities Commissioners would be named Human Rights Commissioners but would continue to lead

the work associated with race relations and equal employment opportunities respectively.

**Monitoring, evaluation and review**

55. The Ministry of Justice will monitor the impacts of the changes as part of business as usual.

**Table 1 – Advantages and disadvantages of the options considered for changing the composition of the Commission**

Option	Advantages of option	Disadvantages of option
<p>1. <i>Replace the current composition with another composition of both full-time and part-time Commissioners: four full-time and two part-time (0.5 FTE) positions</i></p>	<p>a) The pool of prospective candidates for Commissioner roles would be improved as suitable candidates might be appointed who are not available for a full-time position.</p> <p>b) A slight increase in the number of FTEs from 4.5 to 5.0 would:</p> <ul style="list-style-type: none"> <li>i. alleviate the workload of the Commissioners, who have faced an increase in work in recent years</li> <li>ii. make it easier to ensure that the Commission is representative of all major groups in society (pluralism, as required by the Paris Principles).</li> </ul>	<p>c) Appointment of full-time as well as part-time Commissioners might create, or be perceived to create, a hierarchy between Commissioners, particularly if the full-time Commissioners would be designated in specialised roles and part-time Commissioners would not (refer, governance arrangements).</p> <p>d) Maintaining a composition that includes part-time Commissioners may not offer the same improvements in efficiency, cooperation and interaction that can be expected from a composition with only full-time positions.</p> <p>e) A slight increase in the number of FTEs from 4.5 to 5.0 would increase (salary) costs that might not be sufficiently offset by savings unless further funding would be obtained.</p>
<p>2. <i>Replace the current composition with five full-time Commissioners and no part-time positions provided in the Act</i></p>	<p>a) Full-time Commissioners would have more time to lead and provide impetus to large or specialised programmes of work.</p> <p>b) The pool of prospective candidates for Commissioner roles would be improved as a full-time position might be considered a more attractive career option than a part-time position.</p> <p>c) A slight increase in the number of FTEs from 4.5 to 5.0 would:</p> <ul style="list-style-type: none"> <li>i. enable the Commission to more effectively exercise its functions and activities (considering that all Commissioners would work full-time)</li> <li>ii. alleviate the workload of the Commissioners, who have faced an increase in work in recent years</li> <li>iii. make it easier to ensure that the Commission is representative of all major groups in society (pluralism, as required by the Paris Principles).</li> </ul>	<p>d) This option might exclude some suitable candidates who are not available for a full-time position, although the Government might use its discretion to appoint a candidate for less than 1.0 FTE if he or she is the best person for the job.</p> <p>e) A slight increase in the number of FTEs from 4.5 to 5.0 would increase (salary) costs that might not be sufficiently offset by savings unless further funding would be obtained. Based on the salaries paid to the Commissioners in the 2009/10 financial year (as published in the Commission's 2010 Annual Report), moving to a Commission of five full-time Commissioners would result in an increase in salary costs for the Commission.</p>
<p>3. <i>Replace the current composition with fewer than five full-time Commissioners and no part-time positions provided in the Act</i></p>	<p>a) Advantages 2(a) and (b) above.</p> <p>b) A decrease in the number of FTEs from 4.5 to 4.0 or less would reduce the (salary) costs of the Commission. Based on the salaries paid to the Commissioners in the 2009/10 financial year (as published in the Commission's 2010 Annual Report), moving to a Commission of four full-time Commissioners would result in a decrease in salary costs for the Commission.</p>	<p>c) Disadvantage 2(d) above.</p> <p>d) A decrease in the number of FTEs from 4.5 to 4.0 or less:</p> <ul style="list-style-type: none"> <li>i. would increase the workload per Commissioner</li> <li>ii. may reduce the Commission's strategic capability</li> <li>iii. would make it more difficult to ensure that the Commission is representative of all major groups in society (pluralism, as required by the Paris Principles), although pluralism can be achieved in different ways.</li> </ul>
<p>4. <i>Replace the current composition with up to five full-time Commissioners and no part-time positions provided in the Act</i></p>	<p>a) Advantages 2(a) and (b) above.</p> <p>b) Increased flexibility to adjust the number of Commissioners periodically, if necessary, after striking an appropriate balance between budgetary considerations and the workload and effectiveness of the Commission.</p> <p>c) If five Commissioners were appointed, advantage 2(c) would apply.</p> <p>d) If four or fewer Commissioners were appointed, advantage 3(b) would apply.</p>	<p>e) Disadvantage 2(d) above.</p> <p>f) Increased flexibility combined with the absence of a minimum number of Commissioners may put the independence and effectiveness of the Commission at risk as certainty about the composition of the Commission is absent; this may affect work on long-term projects, allocation of resources, and could be perceived as permitting inappropriate Government interference in the membership of the Commission (contrary to the Paris Principles).</p> <p>g) If five Commissioners were appointed, disadvantage 2(e) would apply.</p> <p>h) If four or fewer Commissioners were appointed, disadvantage 3(d) would apply.</p>
<p>5. <i>Replace the current composition with a maximum of five and a minimum of four full-time Commissioners and no part-time positions provided in the Act</i></p>	<p>a) As option 4, but advantages 4(b) and (d) would be tempered by the guarantee that there have to be at least four Commissioners.</p>	<p>b) As option 4, but disadvantage 4(f) would be mitigated by the guarantee that there have to be at least four Commissioners.</p>