



## POSITION DESCRIPTION ENVIRONMENT COMMISSIONER

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- Title:** Environment Commissioner
- Appointed by:** The Governor-General on the recommendation of the Attorney-General in consultation with the Ministers for the Environment and Māori Affairs
- Term:** Up to 5 years
- Remuneration:** Environment Commissioner: annualised daily fee for a full-time Commissioner is \$165,370 and \$124,027 (pro rated) for a part-time (75%) Commissioner on the basis of the appointee working 230 days per year.

Travelling allowances are fixed in accordance with the Fees and Travelling Allowances Act 1951.

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### The position

The Environment Court is constituted under section 247 of the Resource Management Act 1991 (RMA) and is a court of record. The Court has the same powers as the District Court in the exercise of its civil jurisdiction. It is a specialist Court with jurisdiction over environmental and resource management matters.

As well as fulfilling a primary function as a “court”, the Environment Court has a pivotal role in the resource management process itself. The RMA confers primary powers on local authorities and the Court. In general, policies are generated by local communities and are interpreted and applied by the Court.

The Environment Court consists of the following members under section 248 of the RMA:

- Environment Judges and alternate Environment Judges appointed in accordance with section 250
- Environment Commissioners and Deputy Commissioners appointed in accordance with section 254.

The Court's current membership is:

- 8 Environment Judges (one of whom is the Principal Environment Judge) of which the maximum number is 10
- 11 alternate Environment Judges of which there can be any number
- 11 Environment Commissioners of which there can be any number
- 3 Deputy Environment Commissioners (who act in place of Commissioners during periods of absence) and again there can be any number.

The Court considers applications and appeals made under the RMA and has wide ranging jurisdiction under the Act. It also has significant jurisdiction under other legislation.

A quorum for the Court is one Judge and a Commissioner but the general practice is for a Judge to sit with two Commissioners. With the approval of the Principal Environment Judge, a Commissioner or Commissioners may sit without a Judge. Commissioners, have, in addition, a responsibility to conduct mediation and facilitation of conferences of experts prior to hearings.

### **Workload**

Environment Commissioners are appointed to undertake a workload based on either 75% (considered part-time) or 100% work time.

The work of the Court requires sustained concentration for extended periods at court hearings, travel to provincial towns for sittings and visits to remote sites. This can, at times, be strenuous (both mentally and physically) and time consuming. Commissioners must not only be willing, but have the flexibility, to travel (at times, at short notice) for sustained periods, and possess the stamina necessary to carry out the work of the Court.

### **Term of office**

Environment Commissioners are appointed for a period not exceeding 5 years and may be re-appointed from time to time. Appointment is made by the Governor-General on the recommendation of the Attorney-General, after consultation with the Minister for the Environment and the Minister of Māori Affairs.

Environment Commissioners may resign from office by giving written notice to the Attorney-General. The Governor-General may remove an Environment Commissioner or Deputy Commissioner from office for inability or misbehaviour, under section 258 of the RMA.

## **Conflicts of Interest**

Environment Commissioners are to adhere to the convention followed by all judicial officers that they should refrain from hearing a case in which they may be viewed as having a conflict of interest. For Commissioners appointed for less than full-time potential conflicts of interest may limit what other work can be carried out. Before entering into any arrangements this must be discussed with the Principal Environment Judge.

## **Induction**

Induction into the office of Commissioner is under the direction of the Principal Environment Judge. New Commissioners are assisted and advised on procedural matters by the Environment Judges with whom they sit and by the Registrar or their staff. The Court publishes an extensive Practice Note for guidance of parties. This is a primary resource for judicial officers as well. The Ministry of Justice also provides advice on courts systems and related matters. Specific mediation training is supplied through a private training provider LEADR (NZ) Inc. The Court has also produced a Benchbook for the exclusive use of members of the Court. This is an invaluable resource not only for new inductees but also for all members of the Court.

## **Location**

The Court sits throughout the country but is based largely around the three main centres, with registries established in Wellington, Auckland and Christchurch. This proposed appointment is for Auckland.

## **Criteria for appointment**

### ***Statutory requirements:***

When considering whether a person is suitable to be appointed as an Environment Commissioner or Deputy Commissioner of the Court, the Attorney-General shall have regard to the need to ensure that the Court possesses a mix of knowledge and experience in matters coming before the Court, including knowledge and experience in:

- (a) economic, commercial, and business affairs, local government, and community affairs
- (b) planning, resource management, and heritage protection
- (c) environmental science, including the physical and social sciences
- (d) architecture, engineering, surveying, minerals technology, and building construction
- (da) alternative dispute resolution processes
- (e) matters relating to the Treaty of Waitangi and kaupapa Māori.

***Other requirements:***

Qualities of character including:

- personal honesty and integrity
- impartiality, open mindedness and good judgement
- patience and common sense
- a willingness to work in with others
- the ability to work hard
- good health and physical fitness (the work of the Court can place considerable stress on not only the mind but also the body).

Personal technical skills and knowledge:

- appropriate qualifications and professional experience in a relevant discipline
- oral communication skills with lawyers and lay people
- listening skills
- writing skills ( Commissioners are often called upon to draft the Court's decisions or to prepare drafts on specific parts, relative to that Commissioners skills and knowledge, of the Court's decision)
- mental agility
- acceptance of public scrutiny
- knowledge of the New Zealand community
- knowledge of cultural issues
- mediation skills and experience.

Personal circumstances:

- the willingness and the flexibility to travel as required, sometimes at short notice and for extended periods of time
- the willingness and flexibility to move to another centre if necessary.