

Dear Mr van der Horst

Official Information Act 1982 request

I refer to your request of 16 November 2015 requesting, under the Official Information Act 1982 (the Act), the following:

“What is the NEED for the word “Person” to have quite different meanings throughout NZ legislation? or in another way – Why have Person meaning a “a human being” in one piece of legislation and yet have an entirely different meaning in another”; and

“What is the meaning of the word “includes” as used in the following interpretation; “Person INCLUDES a corporation sole, a body corporate, and an unincorporated body.” Is “includes” used in the restrictive sense, as in the quoted maxim, or is it used in the expansive sense?”; and

“If “includes” is used in the expansive sense, where in New Zealand legislation will I find all those terms that are included in the definition “Person” as defined in the Interpretation Act 1999, though which are not expressly listed in the written definition? In other words, how am I to know, without ambiguity, what terms the definition includes if they are not explicitly included?”

Your request has been refused under section 18(e) of the Act as the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.

However, I can provide you with the following general advice.

Background on Statutory Interpretation

Words in statutes have meanings that are relevant to their special policy contexts. Their meaning may be clear on an ordinary reading of the word, or they may be expressly defined, or take on a default meaning in the Interpretation Act 1999. Their meaning may also be revealed from the context and purpose of the surrounding provisions.

Government departments and agencies are responsible for different policy areas and have responsibility for the legislation in those areas. When working on new legislation, that responsibility includes determining who the legislation will apply to (ie which "persons" or other entities) and making recommendations to Ministers.

"Person" and "Includes"

You asked about the need for different meanings for the term "person" throughout legislation. The term needs to be interpreted in each particular context so as to let people know who the legislation will apply to.

"Person" in general usage may refer to a natural person or individual, and in certain settings the Interpretation Act may apply to include a corporation sole, a body corporate, or an unincorporated body, or an express definition in another statute may apply (e.g. under the Trustee Act 1956 "person" can mean a trustee corporation). The term "person" can only mean "human being" in the context of the Succession (Homicide) Act 2007.

Different meanings in enactments for a word such as "person" do not mean the enactments are in conflict. As background, there is also a discussion about the meaning of "person" in the Law Commission Report No 17 'A New Interpretation Act' (1990) (para's 394 - 402; 427 - 429) (you can find this on the Law Commission website, www.lawcom.govt.nz).

You also asked about the term "includes". The term "includes" generally introduces an incomplete definition. You may wish to consider using the advanced search function on the New Zealand Legislation website (www.legislation.govt.nz). Through this it is possible to bring up all statutes including the term "person" and "includes" where these are used in express definitions. You do not need to compile a list of everyone who could possibly be a "person" across the statute book or of "includes" because, as noted above, the term only needs defining in its particular context and this should be clear from the text of the statute, in light of its purpose (section 5 Interpretation Act 1999). However, if anyone is unclear about whether a statute applies to them, they may contact the responsible department or seek independent legal advice.

You have the right under section 28(3) of the Act to complain to the Ombudsman about the response to your request.

Yours sincerely



Gina Smith
Policy Manager, Civil Law and Human Rights