

Short-Form Supplementary Departmental Disclosure Statement

Therapeutic Products Act Repeal Bill

A short form supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Therapeutic Products Act Repeal Bill, dated 11 June 2024, which can be found at this link <https://disclosure.legislation.govt.nz/bill/government/2024/67/>.

This supplementary disclosure statement was prepared by the Ministry of Health.

The Ministry of Health certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

28 November 2024.

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
While the Amendment Paper does not create any offences or penalties, the amendments to the Bill will clarify the application of existing offences and penalties in the Food Act 2014 to dietary supplements. The Food Act 2014 includes a range of offences and penalties that apply to contraventions of that Act and regulations made under the Act.	

1.1. Was the Ministry of Justice consulted about these provisions?	YES
The Ministry of Justice was advised of the proposed amendments to the Dietary Supplements Regulations 1985, specifically the proposed revocation of Part 3 ('Offences and penalty'). No changes to the Amendment Paper were requested.	

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	NO
2.1. Was the Privacy Commissioner consulted about these provisions?	NO

Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO
<p>While the Amendment Paper does not create or amend a strict liability offence, the effect of the Amendment Paper will be to clarify the application of existing offences and penalties in the Food Act 2014 to dietary supplements. The Bill, as amended, will provide that the Dietary Supplements Regulations 1985 are made under sections 343 and 383 of the Food Act 2014. The Food Act 2014 includes a range of offences and penalties (including strict liability offences) that apply to contraventions of that Act and regulations made under the Act. Neither the Bill nor the Amendment Paper amends the offences in the Food Act 2014.</p>	

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

10. Do the proposed amendments create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	NO