

# Departmental Disclosure Statement

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Passports Amendment Bill (No 2)
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Department of Internal Affairs.

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

June 2015

**Contents**

Part One: General Policy Statement ..... 3

Part Two: Background Material and Policy Information ..... 4

Part Three: Testing of Legislative Content..... 6

Part Four: Significant Legislative Features ..... 8

Appendix One: Further Information Relating to Part Two ..... 10

Appendix Two: Further Information Relating to Part Three.....11

## **Part One: General Policy Statement**

The Passports Amendment Bill (No 2) aims to modernise the Passports Act 1992 (the Act) by extending the maximum validity period of the New Zealand passport from 5 years to 10 years for persons who are at least 16 years old and by taking into account certain changes in technology. The Bill also removes a number of redundant provisions in the Act.

The increase in the validity period of adult New Zealand passports to 10 years will provide greater convenience to most adult applicants who will, as a result, need to renew their passports less frequently. The children's passport (for passport applicants who are under 16 years old) will remain at 5 years in line with international convention.

New Zealand passports and other travel documents now include details about the document in a machine readable zone and electronic chip which cannot be altered. The Bill therefore amends the Act to remove the ability to renew existing travel documents, in order to reflect current security and technological requirements.

The Bill also updates the Act to reflect the fact that travel documents can now be cancelled on the computerised travel document database without the document being received and physically cancelled by staff in the Department of Internal Affairs (the Department). The Department may be unable to retrieve the travel document because the contact details it holds may be out of date, or the document holder may fail to return it.

The Act currently enables the recall of a passport, to prevent its use, where there is a warrant of arrest issued for the passport holder. The Bill will update the Act to provide that warnings may be placed on the travel document database where the Department receives notification of warrants of arrest or court orders that require the Department to prevent the use of an individual's passport. A warning will indicate to border authorities that the passport has been recalled and should not be used until the matter affecting its use has been resolved. These provisions will also apply to other types of travel documents.

The Bill provides for the extraterritorial application of the offence of false representation in order to procure or renew a travel document. This will, for example, apply the offence to false representations made overseas to the New Zealand passport offices in London or Sydney and overseas applications made through the online passport renewal system.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
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### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>N/A</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
Two regulatory impact statements (RIS) were produced to inform the policy decisions taken that led to this Bill: <i>Passport validity period and other changes to modernise the Passports Act 1992</i> (May 2013) and <i>Passport Validity Period</i> (March 2015). The RIS's were produced by the Department of Internal Affairs and are accessible at: <a href="http://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index">http://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index</a> and at the Treasury website <a href="http://www.treasury.govt.nz/publications/informationreleases/ris">http://www.treasury.govt.nz/publications/informationreleases/ris</a>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
An initial Preliminary Impact Regulatory Assessment was considered by the RIA Team in the Treasury. The RIS's did not meet the threshold for Treasury RIA Team assessment.	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>YES</b>
A number of amendments were not addressed by the RIS's because they have no significant impacts on businesses or individuals, or are of a technical nature. The policy does not vary materially from that set out in the statements.	

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<p>Indications about the size of the potential costs and benefits of the Bill can be found in the RIS's which are available on the DIA website at:</p> <p><a href="http://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index">http://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index</a></p>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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New Zealand already complies with the 1951 United Nations Convention and Protocol Relating to the Status of Refugees. Extending the validity period of a Refugee Travel Document to five years will raise this aspect of New Zealand's response above the minimum standard set out in the Convention.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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This Bill does not contain amendments that would conflict with the principles of the Treaty of Waitangi.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>YES</b>
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Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report by the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of the Bill. Such advice, or reports, will be accessible on the Ministry's website at: <a href="http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/">http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/</a>
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
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<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
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<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
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The Bill does not create any new penalties but clause 32 will extend extraterritorial jurisdiction to the existing offence of 'false representation' (by replacing section 32 of the principal Act).
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<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
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Advice was sought from Ministry of Justice officials on drafts of the Cabinet paper pertaining to the extension of extraterritoriality for the offence of 'false representation', the recall of passports, and the introduction of the placing of 'alerts' on the passport database to prevent their use.
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Ministry of Justice officials provided advice on the nature of changes in the Bill that may affect the freedom to travel under the New Zealand Bill of Rights Act 1990, to ensure that they remained within the objectives of the principal Act and did not contain additional limitations on this freedom.
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No concerns were expressed in relation to final proposals in the Bill.
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## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>N/A</b>
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## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
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## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>YES</b>
The proposal to extend the maximum validity period of adult New Zealand passports to ten years was assessed against the approaches taken in a number of other countries. In recent years several countries, including Canada and the Netherlands, have increased their maximum adult passport validity periods from five years to ten years. These countries faced significant challenges implementing this policy due to difficulties in forecasting passport demand, making necessary changes to passport processes and managing the resulting drop in passport revenue caused by the change to the longer validity period. Other proposals in the Bill align with operational practices.	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
Clause 34 in the Bill replaces section 40 of the Act which provides for the making of regulations including the setting of fees. The amendments broaden the types of services for which fees will be able to be set to support cost-recovery of these services.	

### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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### Significant decision-making powers

4.6. Does this Bill 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
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### Powers to make delegated legislation

4.7. Does this Bill 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
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<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
Clause 34 in the Bill replaces section 40 of the Act which provides for the making of regulations in the Passports Fees (Regulations) 1996.	

#### **Any other unusual provisions or features**

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>
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## **Appendix One: Further Information Relating to Part Two**

1. Alongside the Regulatory Impact Statements completed for the Bill, two additional reviews were completed on passport funding and passport security settings in considering the change to a ten-year validity for adult passports.
2. The report from the independent security review is available on the Department's website at:

<http://www.dia.govt.nz>

## Appendix Two: Further Information Relating to Part Three

1. A petition seeking an increase in the validity period for New Zealand adult passports was considered by the Government Administration Committee (the Committee) between December 2013 and May 2014. In their report, dated 29 May 2014, the Committee recommended that the Government review the validity period.

[http://www.parliament.nz/en-nz/pb/sc/documents/reports/50DBSCH\\_SCR6229\\_1/petition-201197-of-kyle-lockwood](http://www.parliament.nz/en-nz/pb/sc/documents/reports/50DBSCH_SCR6229_1/petition-201197-of-kyle-lockwood)

2. Additionally, the implications for passport security were explored with a number of external document security experts and organisations during the independent review of passport security settings carried out between October 2014 and December 2014. A copy of the security review report is available on the Department's website at:

<http://www.dia.govt.nz>