

Departmental Disclosure Statement

Regulatory Systems (Housing) Amendment Bill (No 2)

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 Ministry of Business, Innovation and Employment.

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

September 2018

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Part One: General Policy Statement

The Regulatory Systems (Housing) Amendment Bill (No 2) is an omnibus bill that contains amendments to legislation administered by the Ministry of Business, Innovation and Employment (MBIE). The policy objective of the Bill is to maintain the effectiveness and efficiency of the regulatory systems established by the Principal Acts amended by the Bills and so reduces the chance of regulatory failure. The amendments will achieve this objective by:

- clarifying and updating statutory provisions to give effect to the purpose of the principal Act and its provisions;
- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation;
- keeping the regulatory system up to date and relevant; and
- removing unnecessary compliance costs and costs of doing business.

The Bill is introduced under Standing Order 269 and 263 which provides that the Parliamentary Business Committee may determine any two or more bills are cognate bills and that the bills are omnibus bills. On 9 May 2018 the Parliamentary Business Committee agreed that the Regulatory Systems Amendment Bills be approved as omnibus bills and be considered as cognate bills.

The amendments were identified as part of MBIE's regulatory systems work programme, which arises from the chief executive's responsibility for the stewardship of the legislation administered by MBIE under section 32 of the State Sector Act 1988.

The Bill also responds to the New Zealand Productivity Commission's July 2014 report *Regulatory Institutions and Practices*. The New Zealand Productivity Commission found that it can be difficult to find time on the Parliamentary calendar for "repairs and maintenance" of existing legislation. As a result, regulatory agencies often have to work with legislation that is out of date or not fit for purpose. This creates unnecessary costs for regulators and regulated parties, and means that regimes may not keep up with public or political expectations.

This Bill the Regulatory Systems (Housing) Amendment Bill is a vehicle for these smaller regulatory fixes to be progressed in a timely and cost effective fashion in order to deliver the flow-on benefits to business and the wider economy. It includes the following amendments:

Housing Restructuring and Tenancy Matters Act 1991

The amendments to the Housing Restructuring and Tenancy Matters Act 1992 simplify the role of the Community Housing Regulatory Authority and reduce the administrative burden of community housing providers (CHP) by removing the requirement for CHPs to provide information that is not relevant to its ability to meet the performance standards for registration.

Retirement Villages Act

The amendment to the Retirement Villages Act 2003 clarifies the penalty for contravening section 92(2) of the Act.

Part Two: Background Material and Policy Information

Published reviews or evaluations

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?	YES
Regulatory institutions and practices, New Zealand Productivity Commission, 30 June 2014 (accessible at http://www.productivity.govt.nz/inquiry-content/1788?stage=4).	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

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?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
The Regulatory Impact Analysis requirements do not apply to the proposals made in this paper. The proposed changes are technical revisions, would have a minor impact on businesses, individuals and not-for-profits, and/or will repeal or remove redundant provisions.	

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?	NO
No, the RIS did not meet the threshold for RIA Team assessment.	

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?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

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

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

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?

New Zealand's international obligations do not impact on the policies of the Bills.

Consistency with the government's Treaty of Waitangi obligations

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?

The principles of the Treaty of Waitangi do not impact on the policies of the Bills.

Consistency with the New Zealand Bill of Rights Act 1990

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?

NO

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

YES

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Retirement Villages Act 2003 – clarifies the penalty for contravening Section 92(2) of the Act

3.4.1. Was the Ministry of Justice consulted about these provisions?

YES

Privacy issues

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?

YES

Housing Restructuring and Tenancy Matters Act 1992 - reduces the requirement to provide information to the regulator about previous directors of Community Housing Providers. It is noted that the names of directors (of Companies) can be found as a matter of public record, e.g. on companies register.

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES

External consultation

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?	YES
Consultation took place with officials from Community Housing Aotearoa and the Commission for Financial Capability.	

Other testing of proposals

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?	YES

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

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?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

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?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
Retirement Villages Act 2003 – clarifies the penalty for contravening Section 92(2) of the Act	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

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

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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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO