

Departmental Disclosure Statement

COVID-19 Response (Urgent Management Measures) Legislation Bill

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 DPMC.

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

25 March 2020.

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Part One: General Policy Statement

This Bill is an omnibus Bill that amends more than 1 Act and is introduced under Standing Order 263(a) as the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That single broad policy objective is to put in place the necessary arrangements in order to implement COVID-19 Alert Level 4, or where arrangements are essential to respond effectively to COVID-19.

This Bill amends the Epidemic Preparedness Act 2006, the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Civil Defence Emergency Management Act 2002, the Residential Tenancies Act 1986, and the Education Act 1989 to make the following measures in order to implement Alert Level 4, or respond effectively to COVID-19:

- add District Court Judges to the list of those that can alter the rules of the court:
- enable local government and Civil Defence Emergency Management Groups to attend meetings by audio or audiovisual link, and otherwise support the effective operation of those meetings:
- enact rent and eviction freezes:
- enable the Secretary for Education to issue directions to the governing authorities of education entities including to require them to open and close and to provide education in specified ways such as distance learning.

These proposals are aimed at:

- allowing for the court system to respond as necessary when issues are identified:
- lessening the economic impacts for tenants from COVID-19:
- centralising the direction provided to education entities so as to provide consistency and coherence across them in the response to COVID-19.

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?	[NO]
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	[NO]
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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]
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	[NO]
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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]
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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]
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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?

The Bill is consistent with New Zealand's international obligations.

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?

Consideration has been given to the impacts of the response to the COVID-19 outbreak on Treaty obligations. The provisions in the Bill are consistent with the Treaty.

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]

Residential Tenancies Act 1986

A landlord commits an unlawful act if they give or purport to give a notice to terminate to the tenant or apply or purport to apply to the Tribunal for an order terminating the tenancy knowing that they are not entitled, under this Act,—

(a) to give the notice; or

(b) to make the application.

(2) The maximum amount that a person may be ordered to pay under section 109 for the unlawful act is \$6,500.

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?

[NO]

3.5.1. Was the Privacy Commissioner consulted about these provisions?	[NO]
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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?	[NO]
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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]
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Consultation with the relevant departments was conducted.

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?	[NO]
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	[YES]
<p>Residential Tenancies Act 1986</p> <p>Schedule 5</p> <p>8 Certain notices to terminate given before commencement date of no effect</p> <p>(1) Subclause (2) applies if—</p> <p>(a) before the commencement date, a landlord gave notice to terminate a tenancy with effect on or after the commencement date; and</p> <p>(b) the notice was given under a provision of the Act other than a provision specified in clause 4(1)(c).</p> <p>(2) The notice is of no effect.</p> <p>9 Certain tribunal orders for termination made before commencement date suspended until clauses 4 to 7 no longer apply</p> <p>(1) Subclause (2) applies if—</p> <p>(a) before the commencement date, the Tribunal made an order terminating a tenancy with effect on or after the commencement date (whether or not the order also covers any other matter); and</p> <p>(b) the order was made other than under a provision specified in clause 4(1)(c).</p> <p>(2) The order is suspended until the 15th day after the end of the period in which clauses 4 to 7 apply.</p> <p>(3) The order takes effect on that date—</p> <p>(a) as if the order had provided for the termination to occur on that date; and</p> <p>(b) with any other necessary modifications.</p> <p>11 Rent increases</p> <p>(1) The rent payable in respect of any tenancy may not be increased.</p> <p>(2) If a notice to increase rent was given in accordance with this Act before the commencement date, and the rent increase has not taken effect before the commencement date, the notice is of no effect.</p>	

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?	[YES]
The Bill enables the Secretary for Education to issue directions to the governing authorities of education entities including to require them to open and close and to provide education in specified ways such as distance learning.	

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]
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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]
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