

Departmental Disclosure Statement

Intelligence and Security (Review) Amendment 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 the Department of the Prime Minister and Cabinet.

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

13 May 2021

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Part One: General Policy Statement

The Intelligence and Security (Review) Amendment Bill amends the Intelligence and Security Act 2017 (the **Act**) in order to bring forward a review of the intelligence and security agencies and the Act.

The Act requires a review to be commenced as soon as practicable after September 2022. This Bill would instead require the review to start on or after 1 July 2021 (as soon as practicable). This will allow the issues with the Act that were raised in the Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain to be addressed as soon as possible as part of the review of the Act and relevant agencies.

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
The policy to be given effect by this Bill is to bring forward the review of the Intelligence and Security Act 2017 in order to respond promptly to recommendations and issues with the Act raised by the Royal Commission of Inquiry into the attack on Christchurch masjidain on 15 March 2019. The Royal Commission Report was presented to the Governor-General on 26 November 2020 and can be found here. The Report Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019	

Relevant international treaties

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

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?	N/A
N/A	

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
N/A	

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?	N/A
The RIA team advised that the proposal that led to the Bill was exempt from the requirement to provide a regulatory impact statement on the basis it had had no or only minor impacts on businesses, individuals and not-for-profit entities.	

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?	N/A
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N/A

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
N/A	

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
N/A	

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
N/A	

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?
N/A

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?
This does not apply as the Bill only includes a minor amendment in order to bring forward the review of the Act.

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?	YES
http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/15.htm	

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)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
N/A	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
The Harm Reduction and Public Safety Policy team was consulted on the provisions in the Bill.	

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
N/A	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
N/A	

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
There was no external consultation on the policy to be given effect by this Bill. Relevant communities will be informed of the Bill as it is introduced as it responds to recommendations in the Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain. Communities will be consulted during the review itself.	

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
We have consulted with the Ministry of Justice who have a statutory role to support the review of the Act in order to discuss the resourcing and practicalities of starting the review as soon as practicable after 1 July 2021.	

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
N/A	

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
N/A	

Retrospective effect

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

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
N/A	

Civil or criminal immunity

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

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
N/A	

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
N/A	

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

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
N/A	