

Departmental Disclosure Statement

Local Electoral (Advertising) 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 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.

[26 May 2022]

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

Part One: General Policy Statement

This Bill amends the Local Electoral Act 2001 (the Act).

The policy objective of this Bill is to address safety concerns related to the publication of residential addresses on local election campaign advertisements, while continuing to provide for accountability and transparency in electoral advertising.

Section 113 of the Act requires electoral advertising to include an authorisation statement that sets out “the true name of the person or persons for whom or at whose direction it is published and the address of his or her place of residence or business”. Concerns have been raised about the safety of individuals who are required to publish their residential address on electoral advertising.

The Bill amends section 113 of the Act so that the address requirement of an advertisement authorisation statement can be met by providing—

- a residential or business address; or
- an email address; or
- a post office box number; or
- a phone number; or
- a link to a page on an Internet site (if the page contains 1 or more of the above).

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
--	-----------

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international 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 Treasury's Regulatory Impact Analysis team has determined that the proposal to provide options for alternate contact information on campaign advertisements is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

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
---	-----------

As the proposal was exempt, this was not required.

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
---	-----------

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
---	-----------

Removing the requirement to display an address in the authorisation statement will have no financial implications for the Crown, local councils, or electoral officers.

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?

There are no relevant international obligations to which this proposal must adhere.

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 Department has reviewed the policy and considers that the Bill is consistent with the Treaty of Waitangi.

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

Upon the introduction of the Bill, the advice provided to the Attorney-General by the Ministry of Justice will be available at:

<https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/>

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

a) The Bill amends subsections (2) and (4) of section 113 of the Local Electoral Act, which relate to the content of electoral advertisements. Subsection (1) provides that no person may publish an electoral advertisement unless subsection (2) or subsection (4) applies. Subsection (6) provides that a person who wilfully contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$1,000. The Bill does not amend subsection (6).

b) There will be no amendment to the jurisdiction of the courts or tribunal.

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

The Bill replaces the requirement to disclose residential addresses on local electoral advertisements with a requirement to disclose specified contact information on local electoral advertisements. The person authorising the publication of the advertisement chooses the type of contact information they wish to disclose.

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

Policy development consultation

The Department consulted sector experts, including Taituarā—Local Government Professionals Aotearoa and Local Government New Zealand. The result of this consultation was general support for the proposals in this Bill.

Consultation on the draft Bill

Cabinet authorised targeted consultation on draft copies of the Bill with local government sector representatives to test the workability of the proposals. Draft copies of the Bill were circulated to Taituarā—Local Government Professionals Aotearoa, Local Government New Zealand and the Electoral Reference Group (made up of Electoral Officers).

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?

NO

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?	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
--	----

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
--	----

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
---	----