

# Departmental Disclosure Statement

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Support Workers (Pay Equity) Settlements Amendment Bill
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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 Ministry of Health.

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

17 June 2022.

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## Part One: General Policy Statement

The objective for amending the Support Workers (Pay Equity) Settlements Act 2017 (the principal Act) is to give effect to an increase to the minimum wage rates from 1 July 2022 for support workers covered by the principal Act.

The purpose of the principal Act is to implement the settlement agreement for care and support workers signed on 2 May 2017 by or on behalf of the Crown, the Accident Compensation Corporation, the 20 District Health Boards, E tū Incorporated, the New Zealand Public Service Association Te Pukenga Here Tikanga Mahi Incorporated, the New Zealand Nurses Organisation Incorporated, and the New Zealand Council of Trade Unions Te Kauae Kaimahi Incorporated.

The agreement, amongst other things, specifies minimum hourly wage rates payable by employers to support workers for work performed during the period starting on 1 July 2017 and ending on 30 June 2022. For this reason, some sections of the principal Act will be repealed on 1 July 2022, leaving no mechanism to maintain the gains made in wage rates for this workforce beyond 30 June 2022.

In April 2022, Cabinet agreed to provide additional funding to enable a minimum wage adjustment from 1 July 2022 for the support workers, including extending the minimum hourly wage rates payable by employers to support workers beyond 30 June 2022. The intention is to provide immediate certainty regarding wage rates for support workers and to allow time for the parties to consider and progress a sustainable longer-term solution to setting and maintaining pay rates and addressing pay disparities across the health sector workforce.

To achieve this objective, amendments to the principal Act are needed to extend various provisions of the principal Act beyond their repeal date of 1 July 2022.

## 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>NO</b>

### 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>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>NO</b>
<p>The Treasury's Regulatory Impact Analysis team has determined that the proposed amendments are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities. The proposed amendments are limited to the inclusion of minimum wage rates to apply from 1 July 2022, a new repeal timeframe for the sections and Schedule that would otherwise be repealed on 1 July 2022, amendments to definitions, and any consequential amendments identified in the legislative drafting process.</p> <p>An Impact Analysis was completed for the introduction of the principal Act. A link to this Regulatory Impact Statement can be found in Appendix One.</p>	

### 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>
<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>a) The policy to be given effect by the Bill provides a consistent increase in the current minimum wage rates across all workers covered by the principal Act, implements the 1 July 2022 wage adjustment in an efficient and timely manner, and ensures the 1 July 2022 wage adjustment will reach the workers covered by the Act.</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>

The legislation extends existing obligations or standards.

## 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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Ministry of Health officials reviewed the available list of international treaties and have not identified any relevant obligations to be given effect by this Bill.

Ministry of Health officials considered the International Labour Organisation conventions. In providing minimum wage rates for support workers, the principal Act and the Bill do not remove the right of a worker to negotiate a higher wage rate with their employer.

### 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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Ministry of Health officials reviewed the Principles of the Treaty of Waitangi and have not identified any inconsistency with the principles.

### 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>NO</b>
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Advice provided to the Attorney-General by the Ministry of Justice is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice will be accessible on the Ministry's website at:

<http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

### 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>NO</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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Employees will have access to the remedies in existing employment legislation.

### 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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## 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>NO</b>
<p>The Bill extends existing legislation that implemented the outcome of negotiated settlements for support worker minimum wage rates in 2017 and extended coverage in 2019. The Health Committee considered public submissions when the principal Act was enacted in 2017 and again when it was amended to extend coverage in 2019.</p> <p>The Ministry of Health, together with the other funders, has held multiple discussions with the unions representing the support workers covered by the principal Act and the workers' employers or the organisations representing these employers. These discussions took place from 3 May 2022 to 26 May 2022. The unions and employers do not agree with the quantum of the increase to the minimum wage rates to apply from 1 July 2022; they sought a larger increase.</p>	

## 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>NO</b>
<p>A brief policy analysis was conducted by the Ministry of Health to identify if the legislative amendment was an effective method of implementing the policy.</p>	

## 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

<b>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?</b>	<b>NO</b>

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

### 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>

## **Appendix One: Further Information Relating to Part Two**

Regulatory impact statement completed for the introduction of the principal Act:

<https://www.health.govt.nz/about-ministry/information-releases/regulatory-impact-statements/negotiated-settlement-care-and-support-workers>