

Departmental Disclosure Statement

Queen Elizabeth II Memorial Day 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 Ministry of Business, Innovation, and Employment (MBIE).

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

Date 16 September 2022

Contents

Contents.....	2
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

The purpose of this Bill is to acknowledge the long and dedicated service of Her Majesty Queen Elizabeth II to New Zealand with a day of commemoration on Monday 26 September 2022, the same day on which New Zealand marks Her Majesty's passing with a State Memorial Service. The commemoration day is to be observed as a one-off public holiday and to be known as Queen Elizabeth II Memorial Day.

The Bill provides for all of the provisions in the Holidays Act 2003 that set out employees' and employers' rights and obligations related to public holidays to apply to Queen Elizabeth II Memorial Day. It also provides that any reference in any legislation to the Sovereign's birthday or the Queen's birthday is to be treated as also referring to Queen Elizabeth II Memorial Day.

This means that, like the Sovereign's Birthday, Queen Elizabeth II Memorial Day must be treated as a day on which a school must be closed under the Education and Training Act 2020, a non-release day for the purpose of the Department of Corrections and Oranga Tamariki – Ministry for Children, and a day that is not a 'working day' or 'business day' where those terms are used in legislation.

The Bill also makes clear that Queen Elizabeth II Memorial Day is not a business day or working day for the purposes of any requirement or obligation in any agreement, deed, notice, or other document where timing of that requirement or obligation is expressed with reference to a number of business or working days. The Memorial Day is not a business or working day for calculating those timing requirements.

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
No regulatory impact statement or supplementary analysis report was prepared alongside to the policy relating to the contents of the Bill.	

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?	YES
Estimates of the costs and benefits, based on the estimated costs of the Matariki public holiday, have been calculated.	
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?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>MBIE has estimated the total net impacts to the economy of a one-off Queen Elizabeth II Memorial Day public holiday on a Monday to be between \$27.7 million (net benefit) and - \$136.5 million (net cost). This is based on the estimates it prepared for the Matariki public holiday, and adjusted for wage growth since then.</p> <p>The estimated total net impacts include benefits such as increased wages for employees (\$44.3 million), additional leisure time (between \$164.1 million and \$328.3 million) and increased consumer spending (\$110 million to \$160 million). The net impacts also include costs such as additional wage payments for employers who work on the day (\$44.3 million), lost productivity from employees who have a paid day off work (\$403.7 million), and the loss of hours of work for casual employees (\$6.9 million).</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
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(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>Queen Elizabeth II Memorial Day public holiday will be a minimum employment standard, like other public holidays. Employment New Zealand (part of MBIE), as the primary regulator for the employment relations and standards regulatory system, would be responsible for administering, providing information and education, early resolution and mediation services and enforcing employees' public holiday entitlements.</p>	

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?

MBIE's Employment Standards Policy team done an expedited scan of the international labour and human rights conventions to which New Zealand is a signatory and has not identified any inconsistencies. This is consistent with the more detailed analysis done for the Matariki public holiday.

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?

MBIE's Employment Standards Policy team considered the Bill in light of the principles of the Treaty of Waitangi and found that the Bill is consistent.

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

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, 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

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

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

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

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