

Departmental Disclosure Statement

Residential Tenancies (Healthy Homes Standards) 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 Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development.

Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

10/11/2022

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Part One: General Policy Statement

The Healthy Homes Guarantee Act 2017 amended the Residential Tenancies Act 1986 (the Act) to provide for minimum standards for heating, insulation, ventilation, draught stopping, moisture ingress and drainage in rental properties, and to require all landlords to meet the standards. The Government's priority for housing is to make sure every New Zealander has a warm, dry, and safe place to call home. The Residential Tenancies (Healthy Homes Standards) Regulations 2019 (the Regulations) set out the minimum standards and set timeframes for compliance for each type of tenancy.

The Bill amends the Act to extend the final compliance date that can be prescribed under regulations for all landlords to 1 July 2025 (currently 1 July 2024). The Bill also amends the Regulations:

- to extend the final compliance date for Kāinga Ora and community housing providers to 1 July 2024 (currently 1 July 2023), and
- for private landlords, to extend the timeframe to comply from the start of a new or renewed tenancy from 90 to 120 days, but no later than 1 July 2025 (currently 1 July 2024).

The Bill amends the compliance dates for the healthy homes standards to make the compliance timeframes more realistic, given the ongoing global supply chain and freight issues and trades constraints which have affected the construction industry following the impact of COVID-19. This extension gives landlords the opportunity to comply, without being at risk of breaching their obligations due to issues outside of their control.

The Bill amends the Regulations as well as the Act to ensure that the changes to the compliance timeframes come into force immediately.

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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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Residential Tenancies Act 1986: change of compliance timeframes for the healthy homes standards for private landlords and public housing providers, authored by HUD [date]. The RIS can be accessed from: https://www.hud.govt.nz/our-work/healthy-homes-standards/ .	

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
The RIS did not meet the threshold for RIA Team assessment.	

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?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES

The Bill amends the compliance timeframes for the healthy homes standards. Effective compliance with the healthy homes standards will impact the costs and benefits of extending that timeframe.

The regulatory impact statements expects that the policy will have a low impact on the costs of the regulator, as the regulator is already undertaking information and education programmes (p 20).

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?
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HUD considered the Bill's consistency with New Zealand's obligations under art. 11(1) of ICESCR. These obligations include the progressive realisation of the rights to an adequate standard of housing and to improvement of living conditions. These proposals are consistent with those 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?

HUD considered the Bill's consistency with the principles of the Treaty of Waitangi during policy development.
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Te Puni Kōkiri was consulted during policy development and did not identify any inconsistency with the Treaty of Waitangi.
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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
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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 at introduction of a bill, and can be accessed at https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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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
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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?	YES
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HUD has had targeted conversations with organisations about the pressures present in the current building market over the last 18 months. These have included property manager groups, landlord advocacy groups and Kāinga Ora.

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
Other government agencies have assessed the Bill's provisions during the policy development and Bill drafting process.	

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?	NO
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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?	NO
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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
While the Bill does not create or amend a power to make delegated legislation, the Bill does amend the Residential Tenancies (Healthy Homes Standards) Regulations 2019 directly.	

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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