

Departmental Disclosure Statement

Social Workers Registration Legislation 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 Social Development.

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

02/03/2023

Contents

Contents.....2
Part One: General Policy Statement.....3
Part Two: Background Material and Policy Information4
Part Three: Testing of Legislative Content.....6
Part Four: Significant Legislative Features8

Part One: General Policy Statement

The Social Workers Registration Act 2003 (the 2003 Act) provides mechanisms to ensure the safety of the public and enhance professionalism of social workers. The 2003 Act established the Social Workers Registration Board (the Board) as the regulatory authority responsible for the registration of social workers, and the Social Worker Complaints and Disciplinary Tribunal to exercise disciplinary powers over social workers.

The Ministry of Social Development holds policy responsibility for the Act.

Since 28 February 2021, all people practising as social workers or representing themselves as social workers have been required to register with the Board. To be eligible for registration, people must have a qualification prescribed by the Board.

An alternative pathway to registration is also available under section 13 of the 2003 Act for people without a prescribed qualification (the experience pathway). People applying through the experience pathway can use their practical experience to demonstrate that they meet the professional competency standards set by the Board. Applicants must demonstrate that their experience is enough to make up for not having a prescribed qualification. Section 13 of the 2003 Act is due to be repealed on 28 February 2024 by section 24 of the Social Workers Registration Legislation Act 2019.

This Bill seeks to delay the repeal of the experience pathway for a further 4 years to 28 February 2028. This is to allow more time for the impacts of the extension of the pay equity settlement for social services across the government-funded sector to be realised, as the settlement is likely to provide a financial incentive for people to register as social workers. Delaying the repeal would also provide an opportunity to consider entry pathways into the social work sector over the longer-term, including how to embed tikanga Māori and indigenous models of practice and the importance of workforce inclusivity. Continuing the availability of the experience pathway will ease pressure on a sector experiencing workforce shortages and increased demand.

A time-limited extension for the experience pathway is appropriate as the experience pathway was never intended to be a permanent option for social worker registration. The pool of eligible applicants under the experience pathway is also expected to decrease over time. Delaying the repeal to 28 February 2028 is based on the fact that the Board is due to submit its next 5-yearly review of the 2003 Act by 2025 and the time needed to enact any recommended amendments as a result of the review.

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 amendments in this Bill were exempt from RIS requirements on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities.	

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
The amendment continues current practice and allows the experience pathway to continue to be available for a further four years. There will therefore not be additional costs incurred by this amendment. The amendment will support an equitable and representative social worker workforce which will benefit people interacting with this workforce. The continued availability of the experience pathway, in light of the pay equity extension, will also encourage people working in similar work to social work to register as a social worker and improve the oversight and accountability of the social service sector more broadly.	

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
The policy does not create new obligations or standards, nor does it impact on existing obligations or standards.	

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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MSD have checked the policy proposal against the list of international treaties listed on the Ministry of Foreign Affairs and Trade website.

The proposal will continue practice already in place and will not have significant impacts in relation to Aotearoa New Zealand's international obligations.

However, the indirect impact of ensuring a representative social worker workforce and recognising systemic barriers to formal education and training is consistent with international obligations including, but not limited to: the International Covenant on Economic, Social and Cultural Rights; International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Elimination of All Forms of Discrimination Against Women.

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 policy has been tested with external stakeholders representing tāngata whenua, including Tāngata Whenua Social Workers Association, Oranga Tamariki kaimahi, and Te Aka Whai Ora. The proposals were also tested against Te Arawhiti and Cabinet Office guidance on Te Tiriti o Waitangi for policy development and implementation.

The proposal was also sent to Te Puni Kōkiri and Te Arawhiti for agency consultation and feedback received relating to Te Tiriti o Waitangi obligations was incorporated.

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, 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?	YES
<p>MSD consulted across government and with the social work sector to inform the policy proposal contained in this Bill. This included hui, emails, and sharing of information for feedback. MSD worked closely with the Social Workers Registration Board in the development of this proposal.</p> <p>Crown Entities and other non-departmental government bodies consulted include Te Whatu Ora, Te Aka Whai Ora, Te Puni Aonui, Accident Compensation Corporation, Tertiary Education Commission, Te Kawa Mataaho, Employment Education and Training Secretariat, and the Child Wellbeing and Poverty Reduction Group. All were supportive of the proposal and acknowledged the importance of an inclusive and representative social work workforce.</p> <p>The Social Work Alliance is a cross-sector representative body convened by the Social Workers Registration Board and includes Aotearoa New Zealand Association of Social Workers, Council for Social Work Education Aotearoa New Zealand, Health Social Work lead, New Zealand Council of Christian Social Services, Social Service Providers Aotearoa (SSPA), Tangata Whenua Social Workers Association (TWSWA), Te Toitū Waiora – Workforce Development Council, New Zealand Public Service Association, Department of Corrections, Oranga Tamariki, and Te Puni Kōkiri. The Social Work Alliance were engaged with on the policy proposal through an online hui and were invited to share their feedback and comments at the hui and/or via email after the hui. Members were generally supportive of the proposal for a temporary delay to the repeal of the experience pathway. SSPA and TWSWA confirmed their support with letters to the Minister for Social Development and Employment. The letters noted the impacts of the extension of the pay equity settlement on the funded sector on the need to continue the experience pathway and the need to ensure accessible and equitable pathways into the social work sector.</p>	

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