

# Departmental Disclosure Statement

---

Public Service 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 Public Service Commission.

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

24 July 2025

**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 .....9

## Part One: General Policy Statement

This Bill amends the Public Service Act 2020 (the Act) which provides the statutory framework for the operation of the public service. The objectives of the Bill are to-

- drive improvements in public service performance; and
- ensure that the public service can efficiently and effectively serve the government to deliver value for money for all New Zealanders, and
- create more stability by removing prescription and allowing individual Governments more flexibility to express certain policy objectives using non-legislative levers.

The amendments in *Part 1* add to, remove, or change existing provisions to:

- clarify the role of the public service and streamline the responsibilities of the public service chief executives; and
- reinforce the core principles of political neutrality, appointment on merit to all positions and professional competence; and
- improve chief executive and agency performance management (including to ensure better oversight and transparency of public service conduct); and
- ensure capability in key positions that oversee common operational functions, and
- provide for better management of risks to national security or the national interest.

It is considered that the amendments to the Act provided by the Bill will have a clarifying and enabling effect on the operation of the public service. The Bill retains the core construct and purposes of the Act.

Consequential amendments in *Part 2* amend the Data and Statistics Act 2022 and the Civil Defence Emergency Management Act 2002. The amendments provide for the Public Service Commissioner to appoint a Government Statistician under the Data and Statistics Act 2022 rather than under the Act, and shift provisions relating to business continuity management from the Civil Defence Emergency Management Act 2002 to the Act, modernising the language at the same time. *Part 2* also sets out consequential amendments to other Acts.

## 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>YES</b>
<p>Report of the Steering Group on the Review of State Services Reforms, Steering Group on the Review of the State Services Reforms, State Services Commission, (1991). National Library of New Zealand, Wellington. <a href="#">Review of state sector reforms : interim report. - National Library of New Zealand Catalogue</a></p> <p>Report of the Advisory Group on the Review of the Centre, Advisory Group on the Review of the Centre, State Services Commission, (2001). <a href="#">Report of the Advisory Group on the Review of the Centre - Te Kawa Mataaho Public Service Commission</a></p> <p>Review of Central Agencies' Role in Promoting and Assuring State Sector Performance, State Services Commission, (2006). <a href="https://www.treasury.govt.nz/sites/default/files/2007-11/tsy-exgrev-ca-sep06.pdf">https://www.treasury.govt.nz/sites/default/files/2007-11/tsy-exgrev-ca-sep06.pdf</a></p> <p>Better Public Services Advisory Group Report, Better Public Services Advisory Group, State Services Commission, (2011). National Library of New Zealand, Wellington <a href="#">Better Public Services Advisory Group...   Items   National Library of New Zealand   National Library of New Zealand</a></p>	

### 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>YES</b>
<p>The Public Service Commission produced a Regulatory Impact Statement entitled "Amendments to the Public Service Act 2020" on 19 March 2025. A copy of the Regulatory Impact Statement can be found on:</p> <p><a href="#">Regulatory-Impact-Statement-Amendment-to-the-Public-Service-Act-2020-PSC-March-2025.pdf</a></p> <p>The Ministry for Regulation granted exemptions for 19 out of 22 proposals in this Bill on the grounds they have no or only minor economic, social, or environmental impacts given the changes are to the internal administrative or governance arrangements of the New Zealand Government.</p>	
<b>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?</b>	<b>NO</b>
<p>The RIS identified above did not meet the threshold for receiving an independent opinion of the quality of the RIS from the Ministry for Regulation. The Public Service Commission's internal RIA panel provided an independent opinion on the quality of the RIS. It concluded the RIS met the Quality Assurance criteria.</p>	

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

### 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>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>

<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>
<p>The only new, material requirements on agencies are the requirements to:</p> <ul style="list-style-type: none"> <li>• report to the Commissioner in relation to misconduct or serious misconduct investigations; and</li> <li>• to comply with any direction from the Commissioner in relation to the use of products, services, or vendors that present a risk to national security or the national interest.</li> </ul> <p>These are simple, binary requirements where compliance or securing compliance is not likely to involve a varied spectrum of actions/efforts.</p>	

## 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>
--

We have considered the relationship of the Bill to the following international conventions and have concluded that the Bill's provisions are not inconsistent with:

- International Labour Organisation Conventions 100 and 111,
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),
- The Convention on the Rights of Persons with Disabilities (CRPD),
- International Convention on Elimination of All Forms of Racial Discrimination (ICERD).

### 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>
---

This was considered in the course of the policy process for the Bill. There is nothing in the policy objectives that conflicts with the principles of Te Tiriti. Moreover, there is no alteration to the existing Public Service Act provisions relating to Te Tiriti and the employment of Māori in the public service. Section 14 of the Act, which refers to the building of capability to support the Crown in its relationships with Māori in terms of Te Tiriti, is not affected by the present Bill, and the elements of the good employer provisions (section 73) that relate to equal employment opportunities for Māori are similarly unaffected.

### 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>YES</b>
---	------------

The Bill's consistency with the New Zealand Bill of Rights Act 1990 has been assessed by the Ministry of Justice and advice provided to the acting Attorney-General.

The Ministry has concluded that the Bill appears to be consistent with the New Zealand Bill of Rights Act 1990.

This advice will be made available on the Ministry's website at

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

### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
--	--

<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
--	-----------

<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
---	-----------

The Bill contains provisions in the context of the direction power concerning risks to national interest and national security that provide for the protection of classified security information used in the decision-making process (consistent with other established statutory frameworks). This includes a provision protecting classified information in any civil proceedings relating to a direction using the mechanisms already set out in the Security Information in Proceedings Act 2022.

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
The Ministry of Justice was consulted in respect of application of the Security Information in Proceedings Act 2022.	

## 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>YES</b>
<p>The Bill will require public service chief executives to notify the Public Service Commissioner before commencing an investigation into misconduct or serious misconduct by a senior public service employee (one who reports directly to the chief executive or the board). This is to ensure the Commissioner can provide oversight and advice as to the interpretation and application of standards and guidance relating to integrity and conduct to the particular case.</p> <p>The Bill will also require agencies to provide an annual report to the Commissioner on the outcome of investigations into misconduct or serious misconduct of employees in that year.</p>	

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>YES</b>
<p>The requirement in relation to the notification of misconduct or serious misconduct investigations for senior public service employees is consistent with Privacy Principles 1, 2, and 10 because:</p> <ul style="list-style-type: none"> <li>the Public Service Commission will only collect from the relevant chief executive the amount of personal information required to fulfil the function of providing advice about the interpretation and application of standards and guidance relating to integrity and conduct (in practice the amount/nature of personal information shared will depend on the case, and PSC will encourage chief executives to only share what's needed and seek permission/inform those impacted as appropriate);</li> <li>it is not reasonably practicable for the Commission to collect this information directly from the individual concerned in these circumstances;</li> <li>the Commission will not use personal information received through this notification for any other purpose.</li> </ul> <p>While this provision does mean a targeted disapplication of Privacy Principle 11 (disclosure of personal information), this is to ensure the Commissioner can give advice about the interpretation and application of integrity standards if necessary. The Commission will not share this information any wider and has established standards and protocols for protecting employment related information.</p> <p>The requirement for an annual report is consistent with privacy principles as reports will be aggregated and focused on the overall outcomes of investigations (not personal information about those investigated). Where small agencies report a small number of investigations, PSC will apply its data and reporting standards to ensure its presentation of data means that no personal information can be inferred from the report issued by the Commissioner.</p>	

## 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>
Consultation occurred with public service departments and Ministers as is common for the preparation of policy proposals. No public or external consultation has been undertaken as the proposals relate to changes to the internal administrative or governance arrangements of the New Zealand government.	

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
Proposals were discussed with the Legislation Design and Advisory Committee and their feedback was taken into account.	



## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>
--	-----------

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>
--	-----------

### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>NO</b>
---	-----------

### Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>

### Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>YES</b>
The Bill clarifies that the existing immunity from civil liability for public service chief executives and employees applies in any capacity under 'this or any other Act or otherwise'. This is to clarify, for example, that the immunity applies to chief executives not just as leaders of their organisations, but to the extent that they exercise specific powers under statute or otherwise.	

### Significant decision-making powers

<b>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?</b>	<b>YES</b>
The Bill will provide the Public Service Commissioner the power to restrict (including prohibit) the use of a specific vendor, service or product by public service agencies (and those directed to apply the Protective Security Requirements) to manage risks to national security or the national interest.  Before making such a direction, the Commissioner would need to consult the Minister for the Public Service, and seek the advice of public sector chief executives, such as the Directors-General of the intelligence and security agencies and the Chief Executive of the Department of the Prime Minister and Cabinet regarding national security, and the Secretary of Foreign Affairs and Trade regarding New Zealand's international obligations and interests.  The Commissioner will also need to have regard to the nature and extent of the risk, a principle that the direction should be proportional to that risk, New Zealand's international obligations and relationships, the anticipated benefits from direction, the impact on agencies, and the impact on markets and trade. Classified information considered in making such a direction would be protected in the event of judicial review or other court proceedings.	

### **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>
--	-----------