

Departmental Disclosure Statement

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| Regulatory Systems (Economic Development) 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 Business, Innovation and Employment.

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

Date finalised: 8 May 2024

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 Features9

Part One: General Policy Statement

The Bill is an omnibus bill that contains amendments to legislation administered by the Ministry of Business, Innovation, and Employment (**MBIE**). The policy objective of the Bill is to improve regulatory systems by ensuring they are effective, efficient and accord with best regulatory practice. The amendments will achieve this objective by:

- reducing unnecessary compliance burden for businesses and implementation costs for regulatory agencies;
- clarifying and updating statutory provisions to give effect to the purposes of the principal Acts and their provisions;
- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation;
- responding to the changing environment (for example, by ensuring that legislation responds to changing technology or is technology-neutral).

The amendments were identified as part of MBIE's regulatory systems work programme, which arises from the chief executive's responsibility for the stewardship of the legislation administered by MBIE under section 12 of the Public Service Act 2020.

The Bill responds to the New Zealand Productivity Commission's July 2014 report *Regulatory Institutions and Practices*. The Productivity Commission found that it can be difficult to find time on the Parliamentary calendar for "repairs and maintenance" of existing legislation. As a result, regulatory agencies often have to work with legislation that is out of date or not fit for purpose. This creates unnecessary costs for regulators and regulated parties, and means that regimes may not keep up with public or political expectations.

The Bill is a vehicle for those small regulatory fixes to be made in a timely and cost-effective fashion in order to deliver the flow-on benefits to business and the wider economy.

Part Two: Background Material and Policy Information

Published reviews or evaluations

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| 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? | YES |
| <p>Proposed changes to the <i>Telecommunications Act 2001</i> have been informed by the Commerce Commission's review of whether Spark's Resale Services should be omitted from Schedule 1 of the <i>Telecommunications Act 2001</i>. The Final report published on 18 July 2019, can be accessed here: Commerce Commission Report Template (comcom.govt.nz).</p> | |

Relevant international treaties

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| 2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty? | NO |
| Amendments to the <i>Financial Markets Conduct Act 2013</i> give full effect to the non-binding Memorandum of Cooperation on the Establishment and Implementation of the Asia Region Funds Passport, which New Zealand signed in 2016. | |

Regulatory impact analysis

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| 2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill? | YES |
| <p>A Regulatory Impact Statement was prepared was for the Heavy Engineering Research Levy Act amendments - https://www.mbie.govt.nz/assets/regulatory-systems-amendment-bill-no-3-policy-proposals.pdf (Annex Three).</p> <p>All of the other amendments in this Bill were exempt from the requirement for a Regulatory Impact Statement because they have no or only minor impacts on businesses, individuals, and not-for-profit entities.</p> | |

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| 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 amendments for which a Regulatory Impact Statement was required did not meet the threshold for an independent assessment by the Treasury. | |

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| 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

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| 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? | YES |
| (b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth? | YES |
| <p>Most of the amendments are minor and technical, and no analysis has been done on the size of potential costs and benefits. Any costs and benefits are expected to be small, and it is not anticipated that any group will suffer a substantial unavoidable loss of income or wealth.</p> <p>The proposed changes to the Schedules of the Heavy Engineering Research Levy Act 1978 are to include prefabricated steel and iron items. These items have been increasingly used in heavy engineering practice. The levy is not currently collected from importers of prefabricated steel and iron items, which creates a levy payment inequity between domestic manufacturers and importers of prefabricated steel and iron items. Cost benefit analysis performed at the time of the Regulatory Impact Statement in 2020/2021 indicated a cost to importers of these prefabricated items of \$1.59 million over five years, with a corresponding \$1.59 million benefit to the Heavy Engineering Research Association via levy revenue over five years. The analysis also identifies a small benefit to domestic manufacturers of prefabricated steel and iron items through addressing the inequity in levy costs versus importers of these items who currently are not levied on these items. The analysis indicates that consumers of prefabricated metal items will incur a 0.6 per cent increase in retail prices of imported prefabricated items (approximately \$256 per item). Following public and industry consultation it was identified that these amendments will not lead to any group of persons identified above suffering a substantial unavoidable loss of income or wealth.</p> | |

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| 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 |
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Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

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| 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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Amendments to the Financial Markets Conduct Act 2013 allow New Zealand to fully implement a non-binding Memorandum of Cooperation with respect to the Asia Region Funds Passport. The following amendments will apply equally to imports and exports, and are therefore consistent with New Zealand's international obligations:

- *Trade Marks Act 2002* – The border protection notice regime was amended in 2018 to extend the regime to exports of suspected trade mark infringing goods to meet international obligations under the *Comprehensive and Progressive Agreement for the Trans-Pacific Partnership*. A consequential amendment to section 199(1)(e) is required to clarify that regulations related to the regime also apply to exports.
- *Heavy Engineering Research Levy Act 1978* – MBIE has consulted the Ministry of Foreign Affairs and Trade on the amendments to the Heavy Engineering Research Levy Act 1978. The amendments to that Act are consistent with New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

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| 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? |
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No inconsistencies between the proposals and the principles of the Treaty of Waitangi have been identified or raised through the policy process.

Consistency with the New Zealand Bill of Rights Act 1990

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| 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? | NO |
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The proposals in this Bill are consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990.

Offences, penalties and court jurisdictions

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| 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)? | YES |
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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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The Bill amends section 15A of the *Weights and Measures Act 1987*, to specify that if goods are being weighed by a seller, then the seller must ensure they are able to easily see the instrument and the weight/measurement of the goods. The purpose of this is to ensure that the seller has full visibility of the instrument and is therefore able to notice when machines have been incorrectly calibrated (which can contribute to consumers being charged incorrectly). A person who contravenes this section commits an infringement offence.

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| 3.4.1. Was the Ministry of Justice consulted about these provisions? | YES |
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The Ministry of Justice (Offences and Penalties Vetting team) was consulted on the proposed change to the *Weights and Measures Act* and no concerns were identified.

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? | YES |
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| <p>The Bill creates, amends, or removes the following provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information:</p> <ul style="list-style-type: none"> • <i>Auctioneers Act 2013</i> – s9 has been amended to allow for an applicant to provide a rural address as their address for service when registering. • <i>Building Societies Act 1965</i> – the amendments require that a new building society cannot be registered unless it has a director who lives in New Zealand, the first 20 members are resident in New Zealand, at least 70% of the depositors are ordinarily resident in New Zealand and hold at least 70% of the society's deposits by value. Existing building societies must comply with similar provisions. In practice, information to meet these requirements (which may include personal information) will be given to the Registrar. However, this will not result in any new categories of information being included on the register. • <i>Charitable Trusts Act 1957</i> – one amendment requires applicants for incorporation to include an electronic address (as well as their name and physical address). This would be included on the register. Another amendment permits the Registrar to correct the register which could enable personal information on the register to be corrected. There is a new power for the Registrar to require an acknowledgement of registration (which could contain personal information) but this will not result in any new categories of information being included on the register. • <i>Financial Service Providers (Registration and Dispute Resolution) Act 2008</i> <ul style="list-style-type: none"> ○ s29 has been amended to allow the Registrar to amend the register if they are satisfied it is necessary or desirable for the purpose of ensuring that the register is consistent with the information on the New Zealand Business Number (NZBN) Register; ○ s34 allows information sharing with the NZBN Registrar. • <i>Friendly Societies and Credit Unions Act 1982</i> – The amendments require that a friendly society may not be registered and a credit union may not be incorporated unless it has an officer living in New Zealand. This means that this information will need to be provided to the Registrar. However, this will not result in any new categories of information being included on the register. • <i>Industrial and Provident Societies Act 1908</i> – The amendments allow the register of Industrial and Provident Societies to be kept in a form the Registrar considers appropriate. This means personal information no longer needs to be held in physical registers in the office of each District Registrar. The Registrar will also have new powers to amend the information on the Register if provided for under the Act. • <i>Motor Vehicle Sales Act 2003</i> <ul style="list-style-type: none"> ○ s32 has been amended to add a requirement that an application for registration by an individual or company must include evidence of identity. It also deletes the requirement to provide a fax number and removes the exclusion of a rural delivery address from the contact details requirements for an application ○ s39 has been amended to require an applicant to provide a customer number (NZTA customer number) with an application for renewal of registration ○ s54 has been amended to remove the requirement for the register to contain the date of birth of motor vehicle traders ○ s57, s75, and s79 have been amended to include an email address in the required contents of, and allowed search criteria for, the register of motor vehicle traders and list of banned persons. • <i>Personal Property Securities Act 1999</i> – new s 170B allows for the Registrar of Personal Property Securities to remove registered financing statements when the prescribed fee has not been paid, treating the financing statements as not coming into force, or being registered. These may contain some personal information about a secured party or debtor if they are an individual. | |

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| 3.5.1. Was the Privacy Commissioner consulted about these provisions? | YES |
| The Privacy Commissioner was consulted on the above amendments. No concerns were identified. | |

External consultation

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| 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>The Financial Markets Authority was consulted on and supported amendments to the Auditor Regulations Act 2011, the Building Societies Act 1965, the Fair Trading Act 1986 and the Financial Markets Conduct Act 2013.</p> <p>The Commerce Commission was consulted on amendments relevant to them.</p> <p>There was targeted consultation on some proposed changes to the Building Societies Act 1965 which helped to inform the policy reflected in this Bill.</p> <p>The Takeovers Panel was consulted on and supported amendments to the Takeovers Act 1993.</p> <p>All seven of the Crown Research Institutes were consulted on and supported the amendments to the Crown Research Institute Act 1982.</p> <p>Industry bodies were consulted on the amendments to Schedule 2 of the Heavy Engineering Research Levy Act 1978. MBIE built the proposal in consultation with the Heavy Engineering Research Association and with the support of the New Zealand Manufacturers and Exporters Association. MBIE also conducted a public consultation on the changes, directly contacting 34 out of 50 top importers of the relevant prefabricated items. MBIE received submissions from a domestic manufacturer of these items and an industry body. The submissions were supportive of the changes and did not modify the proposed approach to levy the prefabricated items.</p> | |

Other testing of proposals

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| 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 |
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

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| 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

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| 4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax? | NO |
| <p>The amendments to Schedule 2 of the Heavy Engineering Research Levy Act 1978 (the Act) extend the levy to certain prefabricated steel or iron items that are imported. The levy is collected by Customs New Zealand on behalf of the Heavy Engineering Research Association (HERA).</p> <p>Sections 4, 6(3), and 8 of the Act empowers Customs to collect levies on imported items defined by tariff codes in schedules 2 and 3 of the Act.</p> <p>The rate of the levy for Schedule 2 items is calculated in section 5(2)(a) of the Act on the basis of \$20 for each tonne of goods upon which the levy is imposed.</p> <p>The amendment to include prefabricated steel items was expected to collect \$1.59 million NZD over five years, based on cost benefit analysis performed at the time of the Regulatory Impact Statement in 2020/2021.</p> <p>Section 12 of the Act defines how the money collected by the levy can be used by HERA and shall be used by the Association for the purposes of promoting and conducting research and other scientific work into or relating to the heavy engineering industry. The Act defines the collection powers, reporting, accounting requirements and defines penalties for officers of the Association if they fail to meet these requirements imposed by the Act. The rate of the levy is set by the Minister responsible.</p> | |

Retrospective effect

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| 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

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| 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 |
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Civil or criminal immunity

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| 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

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| 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

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| 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 |
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| 4.8. Does this Bill create or amend any other powers to make delegated legislation? | YES |
| <p>The amendment to section 199(1)(e) of the Trade Marks Act 2002 is to clarify that the regulation making powers under the Act in relation to border protection notices apply to both imports and exports of suspected trade mark infringing goods.</p> <p>The Charitable Trusts Act will be amended to give the Registrar the ability to require an acknowledgement of registration (essentially confirmation that a board is still operating). This must contain the information prescribed by regulations made under the Act or required by the Registrar.</p> <p>Sections 134, 195 and 462 of the Financial Markets Conduct Act 2013 will be amended to give effect to Asia Region Funds passport.</p> <p>Amendments to the Electricity Industry Act 2010 will allow the Electricity Authority to exempt a specified person from the Electricity Industry Participation Code and allow the Rulings Panel to make enforcement orders against specified persons, as was intended by the Electricity Industry Amendment Act 2022.</p> | |

Any other unusual provisions or features

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| 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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