

Departmental Disclosure Statement

Social Workers Registration 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.

23 April 2024.

Contents

Contents.....2

Part One: General Policy Statement.....3

Part Two: Background Material and Policy Information5

Part Three: Testing of Legislative Content.....7

Part Four: Significant Legislative Features9

Part One: General Policy Statement

The Social Workers Registration Act 2003 (the Act) provides mechanisms to ensure the safety of the public and enhance the professionalism of social workers. The 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 (the Tribunal) to exercise disciplinary powers over social workers.

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

This Bill proposes a total of 16 amendments to the Act, including 11 amendments in response to the Board's review of the Act in 2020, and an additional five amendments to streamline operations and address minor inconsistencies in the Act. The Board is required to conduct a review of its operations and the operation of the Act at least every five years.

The amendments to the Act overall are intended to improve the effectiveness and efficiency of the Act, which in turn aim to achieve better regulatory oversight of social workers involved in the delivery of health and social services.

Minor policy changes

Six of the amendments involve minor policy changes. These amendments will reduce delays in processes under the Act, protect the public from harm, and clarify functions provided by the 2019 Act amendments.

Five of the minor policy changes respond to the Board's 2020 review of the Act. These changes are –

- broadening the scope of grounds for interim suspension. This will increase public safety by allowing suspension of social workers when a formal investigation or criminal proceedings are being considered but not yet underway
- changing the extension period of interim suspension from ten working days to a period of not more than ten working days or having the extension period be tied to the completion of a formal investigation and/or medical examination where reasonable and necessary. This will reduce the volume of extension notices required to extend an interim suspension
- allowing professional conduct committees to make one or more of the available determinations, which will give these committees more flexibility to appropriately respond to complex cases
- enabling the Board's Appointed Board to delegate registration functions. This will reduce time taken in Appointed Board meetings to process straightforward registration applications and allow more time to be spent on its governance functions
- adding a monitoring function to the Board's responsibilities in relation to prescribed social work education qualifications. This is intended to make explicit the Board's ability to assess if a prescribed qualification continues to meet its educational standards for the purposes of social worker registration.

The remaining minor policy change is to transfer the power to obtain information for investigating unauthorised practises of social work or representations as a social worker (the power), from MSD to the Board. Transferring this power to the Board will streamline operations by consolidating existing compliance functions with the Board. This transfer of power has a proposed delayed commencement date of 1 July 2025 to allow time to consider sustainable funding options for this function. This proposal does not change existing powers or functions.

Other changes

The remaining ten technical amendments to the Act address inconsistencies created by the 2019 amendments to the Act, streamline the operations of the Act, and updates language.

Six of these amendments respond to the Board's 2020 review of the Act. These changes are –

- increasing the pool of social workers appointed to the Tribunal

- amending the name of the Tribunal to reflect that it is no longer responsible for the complaints process
- amending references to the 'Chairperson of the Tribunal' to 'Board' to reflect that the Board is now responsible for the complaints process
- replacing references to 'recognised New Zealand qualifications' with 'prescribed qualifications' to align with the Board's functions added through 2019 amendments to prescribe qualifications under scopes of practice
- replacing the term 'allegation' in relation to an employer report about a social worker's ability to practise due to a mental or physical condition, with the term 'matter' to update the language of the provision
- replacing references to 'different' or 'other' in relation to ethnic and cultural groups with 'various'.

The remaining four technical amendments arose from further consideration on similar related amendments. These changes are –

- allowing more than one Deputy Chairperson on the Tribunal
- clarifying that before issuing a written notice requiring information for the purposes of investigating suspected unauthorised practice as a social worker, preliminary requests for information must be made to the person to whom the information relates
- replacing references to a provision on criteria for full registration which was repealed in 2019 with a current comparable provision in the Act
- applying gender neutral language to the Act.

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?	YES
<p>The Social Workers Registration Act (2003) Review by the Board dated December 2020. https://www.parliament.nz/resource/en-NZ/PAP_105861/6c5e3dbee9533e074c1ae7cf7349052176b4e553</p> <p>This is the latest five-yearly review of the Act the Board is required to complete under the Act. It was presented to the House of Representatives in February 2021.</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
Not applicable	

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 changes are minor and technical. They will improve the operations under the Social Workers Registration Act 2003 and operations of the Board, which will benefit the overall social work sector.	

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
This 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 proposals against the list of international treaties listed on the Ministry of Foreign Affairs and Trade website.

The proposals are minor policy and technical amendments to improve the operations under the Social Workers Registration Act 2003 and will not have significant impacts in relation to Aotearoa New Zealand's international obligations.

However, the indirect impacts of improvements to the delivery and quality of social work services for people wanting to become a social worker, people who are registered and practising social workers, and people who receive social work services will align with New Zealand's obligations under various international instruments for human rights.

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 discussed with external stakeholders representing tāngata whenua, including Tāngata Whenua Social Workers Association.

The proposals were also tested against Te Arawhiti and Cabinet Office guidance on Te Tiriti o Waitangi for policy development and implementation.

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:	
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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?	YES
<p>An amendment to section 147A(3) clarifies that preliminary requests for information should be made to the person that the information is about.</p> <p>Currently the provision wording is unclear and could be interpreted that the preliminary request must be made to a person who will be sent a written notice under subsection (1) to provide information, who may be a third party.</p> <p>This clarification will reflect the original policy intent to protect the privacy of the person the information being collected is about.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
<p>The provision amendment is to clarify the original intent rather than significantly change any privacy provisions.</p>	

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 engaged in ongoing consultation with the Board in the development of the amendments contained in this Bill. This involved regular meetings, emails, and sharing of information for feedback.</p> <p>Te Kawa Mataaho – Public Service Commission, Tertiary Education Commission, New Zealand Qualifications Authority, Te Whatu Ora, Te Aka Whai Ora, Universities New Zealand and the Social Work Alliance* were also engaged with by way of emails and a hui for feedback on the policy proposals. All broadly supported the amendments.</p> <p>*The Social Work Alliance is a cross-sector representative body and includes the Social Workers Registration Board, 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, Tangata Whenua Social Workers Association, Toitū te Waiora – Workforce Development Council, Department of Corrections, Oranga Tamariki, and Te Puni Kōkiri.</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