

Departmental Disclosure Statement

<p>Te Pire mō te Hararei Tūmatanui o Te Kāhui o Matariki / Te Kāhui o Matariki Public Holiday Bill</p>

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 (MBIE).

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

15 September 2021

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 8

Part One: General Policy Statement

The purpose of this Bill is to establish an annual public holiday to acknowledge Matariki. This Bill sets the dates for the Matariki public holiday from 2022 to 2052 and provides for future dates for the Matariki public holiday.

Establishing the Matariki public holiday reflects the Government's commitment to recognising and celebrating an important aspect of te ao Māori. None of Aotearoa/New Zealand's existing 11 public holidays explicitly recognise te ao Māori.

The Matariki Advisory Group (the **Group**) was appointed by Cabinet to provide advice on when and how the Matariki public holiday should be celebrated in a way that maintains the integrity of the Māori body of knowledge underpinning Matariki. The Group consisted of recognised experts who have deep knowledge and understanding of both te ao Māori and the body of knowledge associated with Matariki and the Māori lunar calendar. The Group advised that celebrations of the Matariki public holiday should focus on remembering those who have passed, celebrating the present, and looking forward to the future.

The whakataukī *Matariki hunga nui* (*Matariki brings us together*) has guided the decision-making for when the Matariki public holiday is celebrated. The Bill ensures that for the next thirty years the holiday will fall on the Friday adjacent to the weekend closest to the Tangaroa lunar phase (the point in the lunar month where the last quarter moon rises) of Pipiri (the Māori calendar period typically falling between June and July). This means the Matariki public holiday will create a long weekend and give people the chance to travel and spend time with whānau and friends.

The Matariki public holiday is intended to be an enduring celebration. The Bill includes an empowering provision to ensure that the Governor-General (on the recommendation of the Minister who is responsible for the administration of the Bill) can set the future dates for the Matariki public holiday by Order in Council.

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
Matariki Advisory Group – Two reports to Ministers, Prepared by Professor Rangī Matamua on behalf of the Matariki Advisory Group, 21 May 2021 <ul style="list-style-type: none">• Matariki Dates 2022-2052• Values for Matariki Celebrations https://www.mbie.govt.nz/business-and-employment/employment-and-skills/employment-legislation-reviews/matariki/matariki-public-holiday/	

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?	Yes
The Ministry of Business, Innovation and Employment produced a regulatory impact statement (RIS) in May 2021 to help inform the main policy decisions taken by the Government relating to the contents of this Bill. A copy of this RIS can be found at: Establishing a Matariki public holiday: Regulatory Impact Statement (mbie.govt.nz)	

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
MBIE's Regulatory Impact Analysis Review Panel reviewed the Impact Statement prepared by MBIE. The Panel considered that the information and analysis summarised in the Impact Statement met the criteria necessary for Ministers to make informed decisions on the proposals.	

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
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------

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?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>Costs</p> <p>MBIE has estimated that the labour costs for employers for a Friday public holiday would be approximately \$395.2 million per annum, which is the total cost of the base wages paid by employers to employees who would have otherwise worked but are away from work on paid public holiday leave. This is effectively the cost of foregone production due to businesses and other employers not operating. This does not include the cost of additional wage payments and day in lieu (penalty rates) for employees who work on the public holiday.</p> <p>Benefits</p> <p>Numerous benefits have been identified in the Regulatory Impact Statement. These include:</p> <ul style="list-style-type: none"> • recognition and celebration of te ao Māori, • strengthening the Māori-Crown relationship, • whanaungatanga (close connection between people and families), • revitalisation of te reo Māori, • reaffirmation of our connection to the natural environment, • increased wages for employees working on the public holiday, • increased tourism and spending, and • additional leisure time for employees and their families. <p>A full summary of the potential costs and benefits is provided in section 4 of the Regulatory Impact Statement. The RIS is available here: Establishing a Matariki public holiday: Regulatory Impact Statement (mbie.govt.nz)</p>	

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

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?

MBIE's Employment Standards Policy team has scanned the international labour and human rights conventions to which New Zealand is a signatory and has not identified any inconsistencies.

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?

MBIE's Employment Standards Policy team assessed the Bill against the principles of the Treaty of Waitangi and found that the Bill is consistent.

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

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>A Matariki Advisory Group was established on 14 December 2020 to advise Ministers on when and how the Matariki public holiday should be celebrated. The purpose of setting up the Advisory Group was to ensure that mātauranga Māori is at the heart of decision-making about the Matariki public holiday, and that its celebrations support and promote greater awareness and appreciation of te ao Māori. The Advisory Group engaged with Māori and Pacific peoples about the methodology underlying the choice of dates for the Matariki public holiday, and received support for it.</p> <p>The Advisory Group conducted presentations around the country from the very far north, to Taranaki, to the East Coast, Wellington and throughout the South Island. The number of attendees ranged from small groups of 10 to nearly 500 people, with a diverse range of people from the general public to Māori communities and iwi groups. More than 130 engagement and information events were carried out by the Advisory Group.</p> <p>A summary of the consultation the Advisory Group carried out until May 2021 is included in section 5.1 of the RIS. Establishing a Matariki public holiday: Regulatory Impact Statement (mbie.govt.nz).</p> <p>A complete list of the Advisory Group's consultation is included in their final report to Ministers. This report will soon be published on MBIE's Matariki web page. https://www.mbie.govt.nz/business-and-employment/employment-and-skills/employment-legislation-reviews/matariki/matariki-public-holiday/.</p> <p>MBIE has engaged with BusinessNZ and the New Zealand Council of Trade Unions on this proposal.</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?	YES
The Bill will require future dates for the Matariki public holiday to be inserted by Order in Council at least four years prior to the final date of the Matariki public holiday listed in the Bill.	

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?	YES
This is a dual language Bill in both English and te reo Māori. A rigorous process has been established that provides a high level of quality assurance that the translation of the English text into te reo Māori is accurate and legally equivalent.	