

Short-Form Departmental Disclosure Statement

Animal Welfare Amendment Bill

Purpose:

A short form disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

Comment:

There was no original disclosure statement for the Animal Welfare Amendment Bill because the requirements relating to disclosure statements post-dated the introduction of the Bill.

The attached disclosure statement relates only to the proposed Government Supplementary Order Paper to the Animal Welfare Bill.

Certification:

This disclosure statement was prepared by the Ministry for Primary Industries.

The Ministry for Primary Industries certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at 17 March 2015.

17 March 2015

SIGNIFICANT LEGISLATIVE FEATURES

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	Yes
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	No
<p><i>Proposed new section 84A creates an offence where any person uses an animal in any research, testing or teaching that is for the purpose of developing, making, or testing a cosmetic or any ingredient intended exclusively for use in a cosmetic.</i></p> <p><i>This is proposed to be a strict liability offence with the penalty prescribed in section 119 of the Animal Welfare Act 1999.</i></p>	

1.1. Was the Ministry of Justice consulted about these provisions?	Yes
<p><i>The Ministry of Justice was consulted on the proposed new offence provision and associated penalty. The Ministry advised that it was comfortable with the penalty proposed given it is a comparable offence under the Animal Welfare Act for similar research related offending and aligns with the overall framework of the Animal Welfare Act.</i></p>	

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	No
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2.1. Was the Privacy Commissioner consulted about these provisions?	No
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Compulsory acquisition of private property

3. Do the proposed amendments 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

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	No
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Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	No
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Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	Yes
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	Yes
<p><i>The new offence provision (new section 84A) proposes an offence where a person uses animals in research testing or teaching (RTT) for making cosmetics, or ingredients intended exclusively for use in cosmetics. It is necessary to have an offence provision associated with this prohibition in order for the prohibition to be enforceable. RTT using animals can only be carried out in accordance with a detailed project approval regime set out in the Animal Welfare Act. It is, therefore, a heavily regulated area in which it would be easier for the defendant to explain why they committed the offence.</i></p> <p><i>Given the complex regulatory and scientific context, should animals be used in breach of the prohibition then the reasons how and why this occurred would be within the knowledge of the person concerned and it would be easier for the defendant to show why they were not at fault than it would be for the prosecution to prove that they were at fault.</i></p>	

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	No
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Significant decision-making powers

8. Do the proposed amendments 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

9. Do the proposed amendments 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
<p><i>The proposed amendment creates a power to make regulations to declare any substance, mixture of substances, or thing to be, or not to be, a cosmetic.</i></p>	

10. Do the proposed amendments create or amend any other powers to make delegated legislation?	No
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Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	No
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