

Supplementary Departmental Disclosure Statement

Crimes Amendment Bill

This supplementary disclosure statement was prepared by the Ministry of Justice for the Supplementary Order Paper (SOP) proposed for the Crimes Amendment Bill.

The original disclosure statement for the Crimes Amendment Bill, dated 13 March 2018 can be found at this link <http://disclosure.legislation.govt.nz/bill/government/2018/32/>

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

31 October 2018

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The Main Areas of Change to the Original Disclosures

This is a supplementary disclosure statement for the Crimes Amendment Bill.

The main areas of change to the original disclosure statement are:

- The addition of two new offences to the Bill, relating to livestock theft and entering agricultural land, by way of SOP.

Part One: General Policy Statement

In addition to the repeals included in the Bill as introduced, the SOP will add two new offences to the Crimes Act 1961. These offences deal with livestock rustling by providing a specific new provision criminalising the theft of livestock and other animals and makes it an offence to enter agricultural land with intent to commit an imprisonable offence.

These additional offences are to be added to the Bill to address the serious issue of livestock theft in New Zealand by making theft of livestock (and other animals) a specific new offence and including a new offence in the Crimes Act relating to being unlawfully on land used for agricultural purposes.

The Crimes Amendment Bill is the most appropriate legislative vehicle to progress these important new initiatives expeditiously.

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?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Addressing the theft of livestock Rustling in New Zealand. This is available at http://www.treasury.govt.nz/publications/informationreleases/ris	

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 Ministry of Justice provided its quality assessment process for the Addressing the theft of Livestock Rustling Regulatory Impact Assessment. The RIAT assessment team at Treasury agreed that the Ministry of Justice was well placed to consider the questions raised by the proposal.	

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?	YES
The original policy in the Bill, the repeal of three provisions in the Crimes Act (sections 71(2), 123 and 162) was exempt from Regulatory Impact Analysis because it had only minor impacts on individuals and the criminal justice system. Further the RQT at Treasury determined RIA was not required for repeal of sections 71(2) and 162 of the Crimes Act on the basis that they have no or only minor impacts on businesses, individuals, or not for profit entities. RQT assessed the section 123 repeal to be exempt from RIA requirements as it is a technical amendment to repeal or remove redundant legislative provisions.	

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
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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?	NO
As noted in the RIA, the proposals are not expected to have significant financial implications. If the rate of reporting, detection and prosecution increases as a result of the new offences, it will lead to additional enforcement, court and imprisonment costs. However, for these impacts to eventuate, we anticipate that additional operational initiatives and investment in enforcement would be required.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be affected by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
(a) As noted in the RIA and the Cabinet paper, the extent to which the new offences deter livestock rustling and related offending will determine benefits and costs. (b) New offences on the statute book have the potential to increase levels of prosecution (although, as the new livestock theft offence can currently be prosecuted as general theft, this will simply result in a new offence being charged rather than an existing offence). As the risk of detection is recognised as a far greater deterrent than the existence of new offences or higher penalties the resource available to detect and respond to the new offences will be important in realising the benefits hoped for.	

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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The Ministry of Justice has not identified any obligations that conflict with the policies given effect to by the SOP.
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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?

While the Ministry of Justice has not consulted with iwi, no significant impact to the disproportionate representation of Māori in the criminal Justice system has been identified as likely to arise from the proposals. The Ministry analysed the SOP and did not identify any implications for the rights and interests of Māori protected by the Treaty of Waitangi. The SOP will not remove any existing rights and is designed to enhance protection for those who use land for agricultural purposes.
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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?

NO

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)?
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YES

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

The SOP includes two new offences in the Crimes Act 1961. New section 221AA relates to theft of livestock and other animals and new section 231A relates to entry onto agricultural land with intent to commit an imprisonable offence.

3.4.1. Was the Ministry of Justice consulted about these provisions?

YES

The policy was given effect to by the Ministry of Justice and consideration given to the offence framework under the Crimes Act 1961.

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
The policy and/or the SOP has been consulted with the following agencies and organisations: Ministry for Primary Industries, New Zealand Police, Department of Internal Affairs, Crown Law Office, Department of Corrections, Ministry for Women, Te Puni Kokiri, Federated Farmers, Rural Women NZ, the SPCA, Diary NZ and the New Zealand Law Society.	

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
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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
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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
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the 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
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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
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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
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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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
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