

Short-Form Supplementary Departmental Disclosure Statement

Commerce (Grocery Sector Covenants) Amendment Bill
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A short-form supplementary 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.

It provides a limited supplement to the original disclosure statement for the Commerce (Grocery Sector Covenants) Amendment Bill, dated 4 May 2021, which can be found at this link <http://disclosure.legislation.govt.nz/bill/government/2022/122/>

This supplementary 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.

20 June 2022

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
New section 28C(3) in clause 4 provides that Part 7 of the Commerce Act 1986 applies to a notice under the new provisions in the same manner as if it were a notice given under section 98. The effect of this is to make non-compliance with the notice an offence under section 103 of the Commerce Act 1986.	

1.1. Was the Ministry of Justice consulted about these provisions?	YES
MBIE consulted the Ministry of Justice on these provisions.	

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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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?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

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?	NO
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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?	YES
New section 28C(3) in clause 4 provides an additional power for the Commerce Commission to mandatorily require information from a designated grocery retailer for the purpose of assessing compliance with specified provisions of the Commerce Act and Fair Trading Act. This additional power is justified to allow the Commerce Commission to proactively assess compliance in relation to specified covenants and arrangements to which section 28A of the Bill may apply.	