

Departmental Disclosure Statement

Policing (Constable's Oaths Validation) Amendment Bill
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2013 No 153

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 New Zealand Police.

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

3 October 2013

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Part One: General Policy Statement

General Policy Statement

The purpose of the Policing (Constable's Oaths Validation) Amendment Bill 2013 is to remove any doubt about the validity of constabulary powers conferred on those 63 ex-constables who have rejoined Police since 13 October 2009 and who, on their return took the constable's oath before a person not authorised to administer it under section 22 of the Policing Act 2008.

On 1 October 2008 the Policing Act 2008 came into force, replacing the Police Act 1958. Prior to 1 October 2008 the constable's oath was taken before a Justice or commissioned officer of Police pursuant to section 37 of the Police Act 1958. On and from 1 October 2008 section 22 of the Policing Act 2008 instituted a new procedure for administering the constable's oath. This requires the oath to be administered by the Commissioner or a person authorised by the Commissioner.

New Police recruits take the constabulary oath at the Royal New Zealand Police College, where all staff who administer the oath are authorised by the Commissioner of Police. However, since 13 October 2009 the constable's oath has been administered to 63 ex-constables who were rejoining Police. When an ex-constable who is rejoining Police takes the oath it is administered by a District Commander or Inspector based in a Police district, rather than at the Royal New Zealand Police College. New authorisations had not been issued to the District Commanders and Inspectors who administered these oaths and as commissioned officers of Police they assumed that the authorisation under section 37 of the Police Act 1958 had continued under section 22 of the Policing Act 2008.

The Policing (Constable's Oaths Validation) Amendment Bill 2013 is validating legislation that deems the oaths of office taken by affected Police employees to have been administered as if the person administering them had been authorised by the Commissioner of Police and was satisfied the requirements of section 22(2) of the Policing Act 2008 were met.

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

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?	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?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

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?

This is a technical amendment to existing legislation.

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?

This is a technical amendment to existing legislation.

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

The Ministry of Justice advised the Attorney-General on 4 October 2013 that the Bill is compliant with the New Zealand Bill of Rights Act 1990.

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
<i>Advice was sought and consultation undertaken with Crown Law and the Parliamentary Counsel Office throughout the development of the Bill. The State Services Commission and Ministry of Justice were consulted on the draft Cabinet paper (CAB100 process) on 18 September 2013. The consultation period was short given the urgency of the legislation. The State Services Commission had no feedback. Other consulting agencies provided editing comments.</i>	

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

