

Departmental Disclosure Statement

Coroners (Access to Body of Dead Person) Amendment Bill

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 Justice.

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

20 March 2018

Contents

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 Coroners (Access to Body of Dead Person) Amendment Bill (the Bill) implements a recommendation of the Māori Affairs Committee Report (the Report), *Inquiry into whānau access to and management of tūpāpaku*, to improve cultural considerations in the coronial system. The Report recommended amending section 26 of the Coroners Act 2006 (the Act) to require the coroner to also consider cultural considerations when determining whether someone should be allowed to remain with the tūpāpaku (the body of a deceased person). The Government Response to the Report accepted the recommendation to improve cultural considerations in the coronial system.

The Bill will amend section 26 of the Act to require the coroner, when determining whether someone should be allowed to remain with the tūpāpaku, to also consider tikanga Māori and the expectations of other cultures. Currently, the Act does not require coroners to take cultural considerations into account when making decisions under section 26, but they have discretion to do so. In practice, coroners work with whānau to determine when it is appropriate for whānau to remain with the tūpāpaku.

In New Zealand, it is important that, to the extent possible, all cultural beliefs are recognised and supported. The proposed amendment is consistent with that approach; it will strengthen the Act's focus on cultural considerations and will recognise and enshrine current best practice.

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
<p>The Māori Affairs Committee Report, <i>Inquiry into whānau access to and management of tūpāpaku</i>, responded to concerns raised by whānau about access to and management of the tūpāpaku in the custody of a coroner. Part of the Committee's Report focused on improving cultural considerations in the coronial system. The Committee recommended amending section 26 of the Coroners Act 2006 to require the coroner to also consider cultural considerations when determining whether someone should be allowed to remain with the tūpāpaku.</p> <p>The Government Response to the Māori Affairs Committee Report was tabled in Parliament on 15 February 2018, in accordance with Standing Order 252. The Government Response accepted the recommendation to improve cultural considerations in the coronial system. It agreed that the government consider making the Committee's proposed amendment to section 26.</p>	

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
<p>After consultation with the Treasury it was determined that the amendment was not subject to the regulatory impact analysis requirements because they will have no or only minor impact on individuals, businesses or not-for-profit entities.</p>	

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?

The Ministry has not identified any obligations that conflict with the policies contained in the Bill.

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?

The change promoted in this bill will have positive implications for Māori as individuals, communities or tribal groupings. The change was recommended by Māori Affairs Committee.

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:

(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

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

N/A

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 Māori Affairs Committee called for public submissions on the *Inquiry into whānau access to and management of tūpāpaku*. The Committee received 40 written submissions, including submissions from the Human Rights Commission and the Office of the Chief Coroner.

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 affecting individuals

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