

Departmental Disclosure Statement

Local Government Regulatory Systems Amendment Bill
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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 Department of Internal Affairs.

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

24 April 2018

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Part One: General Policy Statement

Local Government Regulatory Systems Amendment Bill

This Bill is an omnibus bill. It contains amendments to legislation administered by the Department of Internal Affairs. The policy objective of the Bill is to maintain the effectiveness and efficiency of the regulatory systems established in the principal Acts amended by this Bill.

The amendments contained within this Bill will achieve this by –

- clarifying and updating statutory provisions to give effect to the intended purposes of the Acts and their provisions, and to keep the regulatory system up to date and relevant;
- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation; and
- removing unnecessary compliance costs.

The local government legislative framework is a complex arrangement of multiple acts and regulations. Over time, amendments to local government legislation have introduced errors and inconsistencies into the regulatory system. In addition, the regulatory system should be flexible to keep pace with technological opportunities, process improvements and community expectations.

The Bill responds to the New Zealand Productivity Commission's July 2014 report *Regulatory institutions and practices*. The New Zealand Productivity Commission found that it can be difficult to find time on the Parliamentary calendar for "repairs and maintenance" of existing legislation. As a result, regulatory agencies often have to work with legislation that is out of date or not fit for purpose. This can create unnecessary costs, complexity and ambiguity for regulators and regulated parties. It also means the regulatory regimes may not keep up with public or political expectations.

The Bill is an opportunity for minor and technical amendments to be implemented across the local government legislative regime.

The Bill includes the following amendments:

Dog Control Act 1996

The amendments to the Dog Control Act 1996 will replace the definition of 'disability assist dog', align the notification requirements on local authorities with those in the Local Government Act 2002, and clarify organisations authorised to certify disability assists dogs.

Local Electoral Act 2001

The purpose of the changes to the Local Electoral Act 2001 is to empower councils to improve representative and substantial participation in local elections, and to clarify when a successful candidate in a by-election may come into office.

Local Government Act 1974

The amendment to the Local Government Act 1974 will clarify the consultation and public notification requirements when designating a road as a pedestrian mall by aligning the requirements with those in the Local Government Act 2002.

Local Government Act 2002

The Local Government Act changes will provide for efficient local government operations and administration as well as effective local governance and representation. The changes will also reduce filing requirements on local government and will improve document accessibility. This will be achieved by:

- inserting a definition of *'internet site'* and updating or aligning other definitions;
- aligning the delegation and sub delegation powers of local authorities;
- requiring digital public notices;
- removing the requirements to send copies of long term plans, annual reports and annual plans to various entities and to have a statement on the quantified limit on rates within the long term plans; and
- creates the ability for the Secretary of Local Government to set requirements of form for documents or information that must be made publically available.

Local Government Official Information and Meetings Act 1987

The amendments to the Local Government Official Information and Meetings Act 1987 will update and clarify public notification requirements, particularly those for extraordinary or emergency meetings.

Local Government (Rating) Act 2002

This amendment will remove the requirement to send a copy of any resolution setting rates to the Secretary of Local Government, and instead require only that it be made publically available.

Rates Rebate Act 1973

The changes to the Rates Rebate Act 1973 will update the definition of 'income' to reflect changes arising from the Veterans' Support Act 2014, and to clarify provisions relating to the eligibility of retirement village residents in relation to rates rebates.

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
Title: 'Regulatory institutions and practices' Author: New Zealand Productivity Commission Date: 30 June 2014 Available from: https://www.productivity.govt.nz/sites/default/files/regulatory-institutions-and-practices-final-report.pdf	

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
Title: Local Government Regulatory System Omnibus Bill Regulatory Impact Statement Author: Department of Internal Affairs (DIA) Date: 23 June 2016 This RIS may be accessed at https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument	

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
This RIS did not meet the threshold for a RIA team assessment. The RIS was assessed by a DIA panel.	

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
<p>The regulatory impact statement covers two issues that are addressed by the Bill. These issues update the current policy position rather than simply improving the implementation of the existing position. The options have not changed from the options analysed in the regulatory impact statements.</p> <p>The other amendments within in the Bill are of a minor and technical nature, and do not alter the policy intent of the current provisions. Because of this they did not meet the threshold requiring analysis within the regulatory impact statement.</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
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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?	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 principal Acts are consistent with New Zealand's international obligations. As the amendments within the Bill do not substantially alter the provisions of the principal Acts, these amendments will not impact the principal Acts' consistency with international obligations.

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 principal Acts are consistent with the principles of the Treaty of Waitangi. As the amendments within the Bill do not substantially alter the provisions of the principal Acts, these amendments will not impact the principal Acts' consistency with the principles of the Treaty of Waitangi.

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

Yes, advice will be provided to the Attorney-General on the Bill's compliance with the New Zealand Bill of Rights Act 1990. This will be available at (*subject to the Attorney-General waiving legal privilege*)

<http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights>

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
The Department undertook consultation with key stakeholders to identify issues suitable for inclusion in the Bill. The consultation on the policy proposals included representative bodies for local government. Further consultation on the policy proposals and the necessary Cabinet papers was undertaken with relevant agencies in February/March 2017 and April 2018. Agencies were supportive of the Bill, and any issues were addressed in the 2017 consultation.	

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 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
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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?	YES
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Clause 6 of the Bill replaces the power in section 78D of the Dog Control Act 1996 to make Orders in Council specifying organisations that are authorised to certify disability assist dogs. The new clause creates the power for the new schedule 5 of the Dog Control Act to be amended by an Order in Council.

This power is needed to ensure there is a single list of organisations that are authorised to certify disability assist dogs. An Order in Council altering Schedule 5 may only be made on the recommendation of the Minister of Local Government after consultation with the Minister for Disability Issues.

The power is constrained in that only certain organisations are authorised to certify disability assist dogs, and the power can only be used to alter or update the relevant Schedule of the Dog Control Act 1996.

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
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Clause 26 of the Bill creates a new power that the Secretary of Local Government may make rules establishing requirements of form for documents or information that a local authority must make publically available or provide to anyone.

Rules under this provision are a disallowable instrument, but not a legislative instrument.

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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