

Departmental Disclosure Statement

Defence (Workforce) 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 New Zealand Defence Force (NZDF) and the Ministry of Defence.

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

14 August 2025

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Part One: General Policy Statement

This Bill amends the Defence Act 1990 (the **Act**). The objectives of the Bill are to—

- support the Chief of Defence Force (the **CDF**) in managing their workforce when New Zealand Defence Force (**NZDF**) civilian staff take industrial action; and
- ensure that processes for authorising the Armed Forces to conduct the work of public service employees who are taking industrial action are fit for purpose.

To enable this, the Bill provides for the following changes:

In relation to industrial action by NZDF Civil Staff—

- it introduces a new process for the Minister of Defence to authorise the Armed Forces to conduct the work of NZDF Civil Staff taking industrial action when there are reasonable grounds to believe that:
 - an authorisation is needed to avoid prejudicing—
 - national security; or
 - the ability and/or readiness of the Armed Forces to perform specific operational activities that are integral to core defence outputs; or
 - it is necessary for the work to be performed for reasons of safety or health; and
- it requires that an authorisation must be in writing, specifying the part or parts of the Armed Forces that may be used, the work that may be provided, and the period that the authorisation will last for;
- it requires the CDF to notify NZDF Civil Staff (and their union) if the Armed Forces have been authorised to conduct their work during industrial action and requires the Minister of Defence to notify the House of Representatives of the authorisation.

In relation to industrial action by public service employees—

- it increases from 14 to 30 the number of days for which the Minister of Defence may authorise the Armed Forces to conduct the work of public service employees;
- it clarifies that if such an authorisation expires while the House is adjourned, that authorisation will automatically be extended to the next sitting date.

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

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	n/a

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
The NZDF and the Ministry of Defence produced a regulatory impact statement (RIS) entitled "Regulatory Impact Statement: Defence (Workforce) Amendment Bill" on 18 June 2025. A copy of this statement can be found via the link below: https://www.defence.govt.nz/publications/defence-workforce-amendment-bill-ris/	

2.3.1. If so, did the RIA Team at the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	NO
The RIS identified above did not meet the threshold for receiving an independent opinion on the quality of the RIS from the Ministry for Regulation. An internal Ministry of Defence panel provided an independent opinion on the quality of the RIS. The panel concluded that the RIS partially met the quality assurance criteria.	

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?	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?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
This is explored briefly in the RIS (linked above). However, this information is limited and approximate.	

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?
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The Ministry of Business, Innovation and Employment has assessed the proposed changes for the use of the armed forces to perform the work of civil staff against New Zealand's international Labour Organisation obligations.

We note that steps have not been taken to determine whether policy changes relating to public service employees are consistent with New Zealand's international obligations, but we consider the impact minimal due to the small scale of the changes and their procedural nature.

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?

We consider there are no known issues relating to the principles of the Treaty of Waitangi in respect of the Bill or its policy. However, no external consultation has taken place to support this assessment.

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
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The Ministry of Justice has undertaken an assessment of whether the Bill is consistent with the Bill of Rights Act 1990 and has provided advice to the Attorney-General.

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of the Bill: <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/advice/>

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)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
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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

3.5.1. Was the Privacy Commissioner consulted about these provisions?	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?	NO
There has been no external consultation undertaken on the policy proposals in this Bill. Impacted stakeholders will have the opportunity to share their views during the select committee phase.	

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
These have been reviewed by the NZDF Defence Legal Services, and tested via targeted agency consultation. No significant challenges have been raised through these processes.	

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?	YES
<p>The Bill broadens the ability of the Minister of Defence to authorise the Armed Forces to conduct the work of NZDF civilian staff taking industrial action. This has impacts on civilian staff's bargaining power when negotiating a collective agreement.</p> <p>The Bill provides for safeguards over the use of this power, which are that the Bill introduces criteria that limits authorisations to instances when there are reasonable grounds to believe:</p> <ul style="list-style-type: none">• an authorisation is needed to avoid prejudicing—<ul style="list-style-type: none">○ national security; or○ the ability and/or readiness of the Armed Forces to perform specific operational activities that integral to core defence outputs; or• it is necessary for the work to be performed for reasons of safety of health.	

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