

Intelligence and Security (Review) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Intelligence and Security (Review) Amendment Bill amends the Intelligence and Security Act 2017 (the Act) in order to bring forward a review of the intelligence and security agencies and the Act.

The Act requires a review to be commenced as soon as practicable after September 2022. This Bill would instead require the review to start on or after 1 July 2021 (as soon as practicable). This will allow the issues with the Act that were raised in the Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain to be addressed as soon as possible as part of the review of the Act and relevant agencies.

Departmental disclosure statement

The Department of the Prime Minister and Cabinet is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=44>

Regulatory impact statement

The Department of the Prime Minister and Cabinet is not required to produce a regulatory impact statement for this Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 commences the Bill on the day after it is given Royal assent.

Clause 3 provides that the Bill amends the Intelligence and Security Act 2017.

Clause 4 amends section 235, which requires a review of the intelligence and security agencies and the Act. (The intelligence and security agencies are the New Zealand Security Intelligence Service (also known as the SIS) and the Government Communications Security Bureau (also known as the GCSB).)

The amendment brings forward the review. The current requirement is that the review be commenced as soon as practicable after 28 September 2022 and at certain times after that. (That date is the expiry of the 5-year period beginning on the commencement of section 235. Section 235 commenced on 28 September 2017.)

Instead of the current review timing, the amendment requires the review to be commenced as soon as practicable on or after 1 July 2021.

Sections 236 to 241 provide for the review. The Prime Minister is to appoint 2 reviewers with appropriate security clearances. The Prime Minister is to set the terms of reference and deadline but before doing so must consult the Intelligence and Security Committee. That committee is made up of Opposition and Government members of Parliament (section 194) and given statutory functions to deal with intelligence and security matters (section 193).

The reviewers must report back to the Intelligence and Security Committee (section 238), which then must report back to Parliament (subject to non-disclosures under section 224, for example, to avoid prejudice to national security information or to avoid endangering any person's safety).

Rt Hon Jacinda Ardern

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Intelligence and Security (Review) Amendment Act **2021**.

2 Commencement

This Act comes into force on the day after the date of Royal assent. 5

3 Principal Act

This Act amends the Intelligence and Security Act 2017.

4 Section 235 amended (Requirement to hold periodic reviews)

Replace section 235(a) with:

(a) commenced as soon as practicable on or after 1 July 2021; and 10