

# **New Zealand Public Health and Disability Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The objective of the New Zealand Public Health and Disability Amendment Bill is to repeal Part 4A of the New Zealand Public Health and Disability Act 2000. Part 4A provides the legislative and policy framework for funded family care policies. That framework allows the Crown and district health boards to have family care policies to pay resident family members to provide personal care and household management support to their eligible ill or disabled family members.

When Part 4A was introduced in 2013, the then Attorney-General concluded that the limitation to rights and freedoms in Part 4A could not be justified under section 5 of the New Zealand Bill of Rights Act 1990. That was because Part 4A allows the exclusion of certain resident family members from being paid for providing funded family care and support services and prohibits claims to the Human Rights Commission about family care policies.

The repeal of Part 4A will remove the discriminatory elements of the current legislation. It will allow the Crown and district health boards to continue to implement lawful family care policies. It will enable future complaints about the policies to be made to the Human Rights Commission on the basis of human rights discrimination under section 21 of the Human Rights Act 1993. It will also allow the Human Rights Review Tribunal and courts to hear complaints.

This legislative change will ensure consistency with human rights law and uphold New Zealand's commitments under the United Nations Convention on the Rights of Persons with Disabilities.

### Departmental disclosure statement

The Ministry of Health 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=2019&no=214>

### Regulatory impact assessment

The Ministry of Health produced a regulatory impact assessment on 15 May 2019 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <https://www.health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* provides that this legislation comes into force on **1 September 2020**.

*Clause 3* states that the New Zealand Public Health and Disability Act 2000 is the principal Act amended by this Bill.

#### *Amendment to New Zealand Public Health and Disability Act 2000*

*Clause 4* repeals Part 4A of the New Zealand Public Health and Disability Act 2000. Amongst other things, Part 4A prohibits payments, in most circumstances, for persons who provide support services to a family member. It also prevents certain complaints from being made to the Human Rights Commission and certain proceedings being taken in the courts.

#### *Consequential amendment*

*Clause 5* makes a consequential amendment to the definition of **employer** in section 5 of the Care and Support Workers (Pay Equity) Settlement Act 2017 by removing the reference to a family care policy as defined in section 70B of the New Zealand Public Health and Disability Act 2000.

*Hon Jenny Salesa*

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## **Contents**

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
<i>Amendment to New Zealand Public Health and Disability Act 2000</i>	
4 Part 4A repealed	2
<i>Consequential amendment</i>	
5 Consequential amendment to Care and Support Workers (Pay Equity) Settlement Act 2017	2

### **The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the New Zealand Public Health and Disability Amendment Act **2019**.
- 2 Commencement** 5  
This Act comes into force on **1 September 2020**.
- 3 Principal Act**  
This Act amends the New Zealand Public Health and Disability Act 2000 (the **principal Act**).

*Amendment to New Zealand Public Health and Disability Act 2000*

**4 Part 4A repealed**

Repeal Part 4A.

*Consequential amendment*

**5 Consequential amendment to Care and Support Workers (Pay Equity) Settlement Act 2017** **5**

- (1) This section amends the Care and Support Workers (Pay Equity) Settlement Act 2017.
- (2) In section 5, definition of **employer**, paragraph (b), delete “(for example, under a family care policy within the meaning of that term in section 70B of the New Zealand Public Health and Disability Act 2000)”. 10