

IN CONFIDENCE

Regulatory Systems (Housing) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill is 1 of a package of 3 omnibus Bills that contains amendments to legislation administered by the Ministry of Business, Innovation, and Employment (the **Ministry**). The policy objective of the Bill is to improve regulatory systems by ensuring that they are effective and efficient and accord with best regulatory practice. The amendments will achieve this objective by—

- clarifying and updating statutory provisions to give effect to the purpose of various Acts and their provisions:
- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation:
- keeping the regulatory system up to date and relevant:
- removing unnecessary compliance costs and costs of doing business.

The amendments were identified as part of the Ministry's regulatory systems work programme, which arises from the chief executive's responsibility to relevant Ministers for the stewardship of the legislation administered by the Ministry under section 32 of the State Sector Act 1988.

The Bill responds to the New Zealand Productivity Commission's June 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 As a result, regulatory agencies often have to work with legislation that is out of date or not fit for purpose.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 creates unnecessary costs for regulators and regulated parties and means that regimes may not keep up with public or political expectations.

This Bill, the Regulatory Systems (Housing) Amendment Bill, is a vehicle for these smaller regulatory fixes to be progressed in a timely and cost-effective fashion in

order to deliver the flow-on benefits to business and the wider economy. It includes the following amendments:

Housing Restructuring and Tenancy Matters Act 1992

- The amendments to the Housing Restructuring and Tenancy Matters Act 1992 simplify the role of the Community Housing Regulatory Authority and reduce the administrative burden on registered community housing providers (**CHPs**) by removing the requirement for CHPs to provide information that is not relevant to their ability to meet the performance standards for registration.

Retirement Villages Act 2003

- The amendments to the Retirement Villages Act 2003 clarify the penalty for contravening section 92(2) of that Act.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment 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 [link to come].

Query

MBIE to provide link please

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment on [date to come] 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—

- [link to come]
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Query

MBIE to provide date and link please

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Act comes into force on the date that is 2 months after Royal assent.

Clauses 3 and 4 relate to the Housing Restructuring and Tenancy Matters Act 1992. *Clause 3* provides that *Part 1* of the Bill amends that Act. *Clause 4* amends section 172 of the Act, which relates to the information that the regulatory authority under Part 10 of the Act must include on the register of community housing providers. The

amendments have the effect of removing some of the current requirements about what must be included on the register, as follows:

- the requirement for the register to include full details of land owned by a provider, or in which the provider holds or held certain interests or provides or has provided certain services, will apply only to providers registered (if any) in a class of registration that qualifies that provider as being eligible to receive Crown grants or assets of the Crown or a Crown entity. It will no longer apply to providers solely because of their registration in a class of registration that qualifies that provider as eligible for funding by way of payments under reimbursement agreements and tailored agreements (known as class 1: social landlord);
- the register is not required to include information about a person whose membership on a provider's governing body ended before the provider became a registered community housing provider (but the authority does have the discretion to include this information on the register).

Clauses 5 to 8 and the Schedule relate to the Retirement Villages Act 2003.

The key change to that Act is in *clause 7*, which removes from section 79(3) a reference to section 92(2). Among other things, section 92(2) imposes obligations on operators of retirement villages to comply with a code of practice and requires the code of practice to be given effect to in any occupation right agreement offered to a resident. Section 79 makes contraventions of certain provisions of the Act an offence and states the maximum fines to which a person is liable on conviction. Currently, both subsections (2) and (3) of section 79 provide that a person who contravenes section 92(2) without reasonable excuse commits an offence. However, the subsections set different maximum fines. *Clause 7* removes this inconsistency, with the effect that the maximum fine applying for a contravention of section 92(2) is the higher amount in section 79(2) of \$15,000 in the case of a person other than a body corporate and \$50,000 in the case of a body corporate.

Clauses 6 and 8 and the Schedule relate to transitional matters. The amendment made by *clause 7* will not apply to an act or omission before the date on which *clause 7* commences.

Hon David Parker

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Regulatory Systems (Housing) Amendment Act **2018**.

2 Commencement

This Act comes into force immediately after the expiry of the 2-month period that starts on the date of Royal assent.

Part 1

Amendments to Housing Restructuring and Tenancy Matters Act 1992

3 Principal Act

This Part amends the Housing Restructuring and Tenancy Matters Act 1992 (the **principal Act**).

4 Section 172 amended (Register of community housing providers)

- (1) In section 172(c), replace “the full details” with “in the case of a registered provider who obtains a class of registration that qualifies that provider as being eligible to receive Crown grants or assets of the Crown or a Crown entity, the full details”.
- (2) In section 172, insert as subsection (2):
 - (2) **Subsection (1)(b)** does not require the authority to include on the register information about a person whose membership on a provider’s governing body ended before the provider became a registered community housing provider, but the authority has discretion to include that information.

Part 2

Amendments to Retirement Villages Act 2003

5 Principal Act

This Part amends the Retirement Villages Act 2003 (the **principal Act**).

6 New section 3A inserted (Transitional, savings, and related provisions)

After section 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

7 Section 79 amended (Contraventions of certain provisions an offence)

In section 79(3), delete “, 92(2)”.

8 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in the Schedule of this Act as the first schedule to appear after the last section of the principal Act.

Schedule
New Schedule 1AA inserted into Retirement Villages Act 2003

s 8

Schedule 1AA
Transitional, savings, and related provisions

s 3A

Part 1
Provisions relating to Regulatory Systems (Housing) Amendment Act 2018

1 Application of amendment to section 79 (Contraventions of certain provisions an offence)

The amendment made by **section 7** of the Regulatory Systems (Housing) Amendment Act **2018** does not apply to an act or omission before the date on which that section commenced.