



State Sector and Crown Entities Reform Bill

Date: 15 January 2018

Report No: SSC2018/13

Contact: Dallas Welch, Deputy Commissioner System and Agency Performance

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	Action Sought	Deadline
Minister of State Services (Hon Chris Hipkins)	For discussion	16/01/18

Enclosure: Key steps and proposed timeframe

Key Points

- Background** - On 20 December 2017, the Cabinet Business Committee agreed to a set of discrete amendments to the Crown Entities Act 2004 (CEA) and State Sector Act 1988 (SSA), subject to you submitting the draft Bill to the relevant Cabinet committee for final confirmation of policy [CBC -17-MIN-0091].
- Subsidiaries** - CBC authorised you to take decisions on minor policy and technical matters that may arise during the preparation of the necessary legislation. Technical clarity is required in relation to the treatment of subsidiaries of Crown agents, autonomous Crown entities and independent Crown entities:
 - under section 98(1)(c) of the Crown Entities Act, subsidiaries are held to the same rule as their parent entity requiring consultation with the State Services Commissioner about the terms and conditions of employment for a chief executive
 - we propose, for consistency and transparency, that these subsidiaries should also be included explicitly in the proposal to introduce terms of appointment for up to 5 years, renewable, for the chief executive.
- District Health Boards** – Schedule 3, clause 44 of the New Zealand Public Health and Disability Act 2000 (NZPHDA) deals with the appointment of chief executives of DHBs (which are Crown agents). This provision explicitly disapplies the equivalent provisions in the Crown Entities Act 2004. Therefore, in order to include the chief executives of DHBs in the proposal to introduce terms of appointment of up to 5 years, renewable, a parallel amendment to the NZPHDA is required. This would be a straightforward one-line new clause.
- Agreement of the Minister of Health will be required, including that the State Services Commission may prepare the drafting instructions on behalf of the Minister. We will forward a separate briefing shortly for you to refer to the Minister. The SSC will also need to consult with the Ministry of Health.

- 5 **Consultation** - We seek your agreement to consult on the proposals and draft Bill with departments that monitor Crown entities and with the Privacy Commissioner (in relation to the Commissioner's investigatory powers and the balance between public disclosure of material and the protection of witnesses and inquiry processes). We also seek agreement to inform the chairpersons of affected entities.
- 6 The benefit will be to highlight risks or unintended consequences that may require mitigation provisions or implementation. The consultation will need to be reflected in the Supplementary Analysis Report that is under preparation.
- 7 **Next steps and timeframe** – You will shortly receive a separate briefing for referral to the Minister of Health in relation to an amendment to the NZPHDA to introduce 5-year renewable terms of appointment for DHB chief executives.
- 8 In the week starting 22 January, you will receive a Bid to include the State Sector and Crown Entities Reform Bill in the 2018 Legislation Programme (along with a separate Bid for the Protected Disclosures Amendment Bill). The Bids are due with the Legislation Coordinator in the Cabinet Office by 10:00am on Friday 26 January.
- 9 The Parliamentary Counsel Office (PCO) is planning to have a draft Bill prepared by Wednesday 7 February for referral to the Ministry of Justice for Bill of Rights vetting. The Supplementary Analysis Report will also need to be submitted to the Treasury for quality assurance.
- 10 The timeframe, developed in consultation with PCO, proposes introduction to the House on Monday 19 March and first reading on Thursday 22 March.
- 11 We will liaise with your office to develop a communications plan.

Recommended Action

We recommend that you:

- a **note** that you will shortly receive a briefing for referral to the Minister of Health proposing an amendment to the New Zealand Public Health and Disability Act 2000 to introduce terms of appointment for up to 5 years, renewable, for DHB chief executives

Noted/not noted.

- b **agree** that the SSC consult with departments that monitor Crown entities and with the Privacy Commissioner on the proposals and draft Bill

Agree/disagree.

- c **agree** that the SSC inform the chairpersons of affected Crown entities of the proposals

Agree/disagree.

- d **agree** that the proposed term of appointment of up to 5 years, renewable, for chief executives of statutory Crown entities should apply also to the chief executives of their subsidiaries

Agreed/not agreed.

- e **note** that the SSC is preparing a Supplementary Analysis Report (SAR) that will need to reflect the proposed consultation, be submitted to the Treasury for quality assurance, and be referenced in the Explanatory Note in the Bill including a link to the SAR that must be published on the SSC and Treasury websites

Noted/not noted.

- f **approve** the proposed timeframe for the preparation of the State Sector and Crown Entities Reform Bill, targeting 19 March for introduction to the House and 22 March for the first reading

Approved/not approved.

Hon Chris Hipkins
Minister of State Services

Enclosure: Key steps and proposed timeframe

	Policy and Communications	Legislation
Jan 15-19	<ul style="list-style-type: none"> Inform monitoring departments 	<ul style="list-style-type: none"> Final drafting instructions to PCO re SSCer's investigatory powers Prepare Bid for SSCER Bill
Jan 23-26		<ul style="list-style-type: none"> Bids for SSCER Bill and Protected Disclosures Amendment Bill sent to MOSS MOSS to lodge Bids by 10am Fri 26
Jan 29 – Feb 2		<ul style="list-style-type: none"> Finalise <i>General Policy Statement</i> and <i>Departmental Disclosure Statement</i> for inclusion in the Bill
Feb 5-9	<ul style="list-style-type: none"> Wed 7: draft Bill sent to monitoring departments, DPMC and Treasury 	<ul style="list-style-type: none"> Wed 7: draft Bill submitted for PCO Quality Control Wed 7: PCO sends draft Bill to MOJ for BORA vetting
Feb 12 - 16	<ul style="list-style-type: none"> Thur 15: departmental comments due Fri 16: finalise Supplementary Analysis Report 	
Feb 19 – 23	<ul style="list-style-type: none"> Mon 19: SAR sent to Treasury Wed 21: Treasury comment on SAR: text to be included in Cabinet paper 	<ul style="list-style-type: none"> Wed 21: MOJ comments to PCO
Feb 26 – Mar 2	<ul style="list-style-type: none"> Mon 26: Report to MOSS report on outcome of consultation with departments; final policy approvals (if required) 	<ul style="list-style-type: none"> Final changes inserted into Bill resulting from PCO QA, departmental consultation, and final Minister approvals (if required)
Mar 5 – 9 (non-sitting week)	<ul style="list-style-type: none"> Mon 5: final Cabinet paper to MOSS Thur 8: Cabinet Office 	<ul style="list-style-type: none"> Introduction version of Bill sent to MOSS for approval
Mar 12 – 16 (non-sitting week)	<ul style="list-style-type: none"> relevant Cabinet Committee (yet to be advised) 	
Mar 19 - 23	<ul style="list-style-type: none"> Mon 19: Cabinet approval of Bill for introduction 	<ul style="list-style-type: none"> Mon 19 Bill introduced Thur 22 First reading