



Cabinet Business Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Changes to Legislation for Crown Entities

Portfolio **State Services**

On 20 December 2017, the Cabinet Business Committee, having been authorised by Cabinet to have Power to Act [CBC-17-MIN-0565]:

- 1 **noted** that the Minister of State Services intends to introduce a Bill early in 2018 to make a small number of amendments to legislation affecting Crown entities;
- 2 **agreed**, subject to the report-back referred to in paragraph 8 below, that the Crown Entities Act 2004 be amended to:
 - 2.1 require the boards of Crown agents, autonomous Crown entities and independent Crown entities to obtain the State Services Commissioner's written consent to the terms and conditions of employment for a chief executive;
 - 2.2 insert provisions to the effect that future appointments of chief executives of Crown agents, autonomous Crown entities and independent Crown entities may be for a term of not more than 5 years, including eligibility for reappointment from time to time;
- 3 **agreed**, subject to the report-back referred to in paragraph 8 below, that the State Sector Act 1988 be amended to:
 - 3.1 provide explicitly for the State Services Commissioner to set standards of integrity and conduct by issuing a code of conduct that applies to Crown entity board members collectively and individually;
 - 3.2 bring the Commissioner's investigatory powers under the ambit of the Inquiries Act 2013, including consequential amendments to the State Sector Act to the effect that:
 - 3.2.1 there is greater consistency in the manner in which inquiries and investigations are conducted across government;
 - 3.2.2 there is a consistent approach to the Commissioner's investigatory and inquiry powers, when dealing with agencies in the State services outside the public service;

3.2.3 material relevant to the Commissioner when investigating matters can be dealt with appropriately with regard to clarifying the extent of public access to investigation material and maintaining an appropriate balance between public disclosure and protection of witnesses and inquiry processes;

- 4 **invited** the Minister of State Services to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions set out above;
- 5 **authorised** the Minister of State services to take decisions on minor policy and technical matters that may arise during the preparation of the necessary legislation;
- 6 **noted** that the legislation will most likely be introduced as an omnibus bill that will be divided at the committee of the whole House stage into a Crown Entities Amendment Bill and a State Sector Amendment Bill
- 7 **noted** that the Minister of State Services will seek Cabinet's agreement that the Bill hold a category 2 priority (must be passed in the year) on the 2018 Legislation Programme;
- 8 **invited** the Minister of State Services to submit the draft Bill to the relevant Cabinet committee for final confirmation of policy.

Jenny Vickers
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson
Hon Phil Twyford
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Dr David Clark
Hon David Parker
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Tracey Martin
Hon Kris Faafoi
Hon Willie Jackson
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet

Hard-copy distribution:

Minister of State Services