

IN CONFIDENCE

LEG-19-MIN-0024



Cabinet Legislation Committee

Minute of Decision

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Organ Donors Related Matters Bill: Approval for Introduction

Portfolio Health

On 5 March 2019, the Cabinet Legislation Committee:

- 1 **noted** that the Organ Donors and Related Matters Bill holds a category three priority on the 2019 Legislation Programme, to be passed if possible in the year;
- 2 **noted** that the Bill amends:
 - 2.1 the New Zealand Public Health and Disability Act 2000 to allow for a national organ donation agency to be established within the New Zealand Blood Service, an existing crown entity;
 - 2.2 the Compensation for Live Organ Donors Act 2016 to provide for compensation to be paid to organ donors, who are not currently eligible for compensation but who clearly fall within the purposes of the Act, while they recuperate from donor surgery;
- 3 **approved** the Organ Donors and Related Matters Bill [PCO 211183/5.0] for introduction subject to the final approval of the government caucuses and sufficient support in the House of Representatives;
- 4 **agreed** that the Bill be introduced on 11 March 2019;
- 5 **agreed** that the government propose that the Bill be:
 - 5.1 referred to the Health Committee for consideration;
 - 5.2 enacted in 2019, if possible.

Vivien Meek
Committee Secretary

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Present:

Hon Andrew Little (Chair)
Hon Stuart Nash
Hon Damien O'Connor
Hon Tracey Martin
Hon Kris Faafoi
Hon Eugenie Sage
Hon Ruth Dyson (Senior Government Whip)

Officials present from:
Officials Committee for LEG

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Minister of Health

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CAB-19-MIN-0066



Cabinet

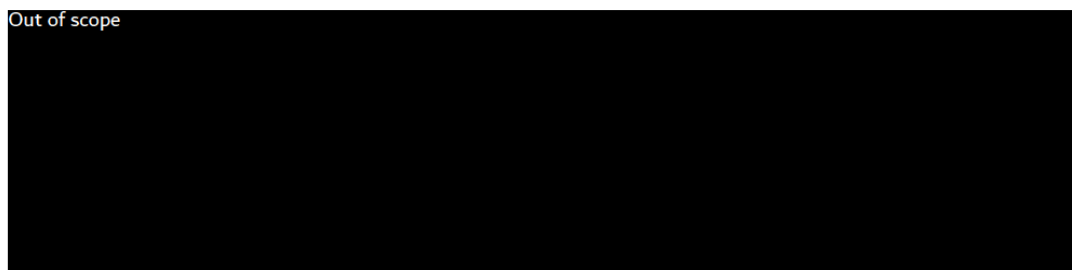
Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 8 March 2019

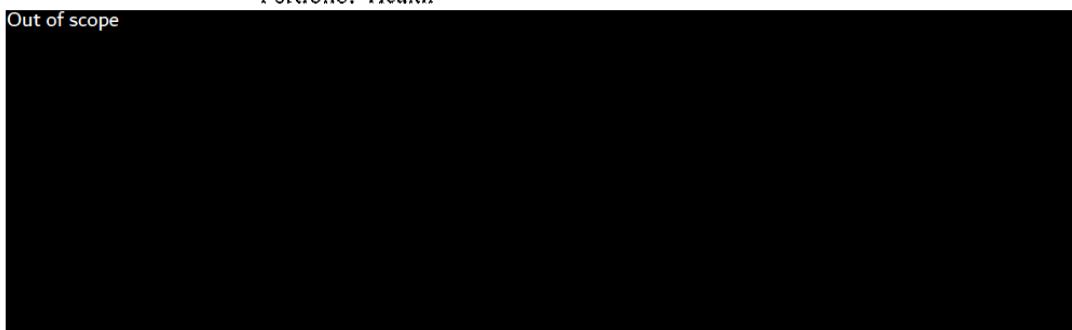
On 11 March 2019, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 8 March 2019:

Out of scope



LEG-19-MIN-0024 **Organ Donors Related Matters Bill: Approval for Introduction** CONFIRMED
Portfolio: Health

Out of scope



Michael Webster
Secretary of the Cabinet

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Cabinet Legislation Committee
Minister Responsible for the Earthquake Commission
Minister of Health
Minister of Commerce and Consumer Affairs

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Office of the Minister of Health

Chair, Cabinet Legislation Committee

Organ Donors and Related Matters Bill: Approval for introduction

Proposal

- 1 This paper proposes that the Organ Donors and Related Matters Bill be approved for introduction to the House of Representatives.

Policy

- 2 On 2 May 2018, the Cabinet Social Wellbeing Committee [SWC-18-MIN-0046 refers] agreed in principle to:
 - 2.1 establish a national organ donation agency within the New Zealand Blood Service
 - 2.2 amend the New Zealand Public Health and Disability Act 2000 to broaden the functions of the New Zealand Blood Service to include organ donation and transplantation coordination
 - 2.3 amend the Compensation for Live Donors Act 2016 to allow compensation to be paid:
 - 2.3.1 to donors who choose to return to work part-time during their recuperation period
 - 2.3.2 to donors of kidneys that are allocated to an overseas recipient for transplant, as part of an international kidney exchange programme, and resulting in a New Zealand recipient getting an organ; and
 - 2.3.3 at the Director-General's discretion, in other cases that fit within the purpose of the Act.
- 3 The Committee invited the Minister of Health to issue drafting instructions for an Organ Donation Omnibus Bill subject to further information being provided to the Cabinet Social Wellbeing Committee on:
 - 3.1 the cost implications of establishing a national agency for organ donation and expanding compensation
 - 3.2 a family's ability to override a deceased person's wish to donate
 - 3.3 the cultural aspects behind low Māori donation numbers.



- 4 Further to additional information being provided, on 28 November 2018, the Committee [SWC-18-MIN-0170 refers] confirmed:
 - 4.1 that the New Zealand Blood Service is to be established as the national organ donation agency, in addition to its existing functions
 - 4.2 the amendments to the Compensation for Live Organ Donors Act 2016.
- 5 The Organ Donor and Related Matters Bill will give effect to these decisions.

Impact analysis

- 6 Based on the information provided, the Regulatory Quality Team at Treasury has determined that an Impact Analysis is not required for this proposal as it has no or only minor impacts on businesses, individuals or not-for-profit entities. The Bill is considered unsuitable for inclusion in a Statutes Amendment Bill.

Compliance

- 7 The Bill is consistent with:
 - 7.1 the principles of the Treaty of Waitangi
 - 7.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - 7.3 the principles and guidelines set out in the Privacy Act 1993
 - 7.4 relevant international standards and obligations
 - 7.5 the Legislation Design and Advisory Committee's Legislation Guidelines (2018 edition).

Consultation

- 8 The following departments and agencies were consulted on the policy proposals for the Bill prior to the 2 May 2018 Cabinet Social Wellbeing Committee meeting: The Treasury, the Department of the Prime Minister and Cabinet, State Services Commission, Inland Revenue Department, Ministry of Transport, New Zealand Transport Agency and New Zealand Police.
- 9 The following departments and agencies were consulted on the policy proposals for the Bill prior to the 28 November 2018 Cabinet Social Wellbeing Committee meeting: Te Puni Kōkiri, the Treasury and the Department of the Prime Minister and Cabinet.
- 10 New Zealand First and the Green Parties were consulted on the policy proposals for the Bill.

Binding on the Crown

- 11 The principal Acts bind the Crown.

Creating new agencies or amending law relating to existing agencies

- 12 The Bill will allow the functions of a national organ donation agency to be established within an existing crown entity, the New Zealand Blood Service. To provide for this, a legislative amendment will broaden the functions of the New Zealand Blood Service under the New Zealand Public Health and Disability Act 2000.

Allocation of decision-making powers

- 13 The Bill does not allocate any new decision-making powers.

Associated regulations

- 14 Regulations are not needed to bring the Bill into operation.

Other instruments

- 15 The Bill does not include any provision empowering the making of other instruments.

Definition of Minister/department

- 16 The Bill does not contain a definition of Minister or department.

Commencement of legislation

- 17 The Bill will come into force on the earlier of a date fixed by Order in Council and the date that is two years after the day on which it receives Royal assent.

Parliamentary stages

- 18 The Bill has a proposed category three priority on the 2019 Legislation Programme, to be passed if possible in the year.
- 19 I intend to refer the Bill to the Health Committee for consideration.

Proactive release

- 20 The Minister of Health intends to proactively release this paper without redactions within 30 business days of final decisions being taken by Cabinet.

Recommendations

- 21 The Minister of Health recommends that the Committee:
1. note that the Organ Donors and Related Matters Bill holds a proposed category three priority on the 2019 Legislation Programme, to be passed if possible in the year.
 2. note that the Bill:
 - 2.1 amends the New Zealand Public Health and Disability Act 2000 to allow for a national organ donation agency to be established within the New Zealand Blood Service, an existing crown entity



- 2.2 amends the Compensation for Live Organ Donors Act 2016 to provide for compensation to be paid to organ donors, who are not currently eligible for compensation but who clearly fall within the purposes of the Act, while they recuperate from donor surgery
3. approve the Organ Donors and Related Matters Bill for introduction subject to the final approval of the Government caucus and sufficient support in the House of Representatives
4. agree that the Bill be introduced on 11 March 2019
5. agree that the government propose that the Bill be:
 - 5.1 referred to the Health Committee for consideration
 - 5.2 enacted, if possible, in 2019.

Authorised for lodgement

Hon Dr David Clark

Minister of Health