

[SENSITIVE]

Office of the Minister of Health

Cabinet Legislation Committee

Pae Ora (Disestablishment of Māori Health Authority) Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for the introduction of the Pae Ora (Disestablishment of the Māori Health Authority) Amendment Bill.

Policy

- 2 The coalition Government committed to introducing legislation to disestablish the Māori Health Authority by 8 March 2024 as part of the 100-Day Plan.
- 3 On 17 January 2024, the Cabinet 100-Day Committee agreed to disestablish the Māori Health Authority and redistribute its functions within the publicly funded health system [100-24-MIN-0001]. On 23 January 2024 Cabinet approved the approach [CAB-24-MIN-0002 refers].
- 4 An amendment bill is required to give effect to the policy decision to disestablish the Māori Health Authority. Cabinet has agreed to introduce legislation to disestablish the Authority before 8 March 2024. The bill will amend the Pae Ora (Healthy Futures) Act 2022, which established the Māori Health Authority.
- 5 The bill also makes related changes removing joint-decision making provisions, clarifying iwi-Māori partnership board functions, and adjusting the role of the Hauora Māori Advisory Committee. Timeframes for implementing localities will also be extended to enable time for sub-national structures to be reconsidered to reflect the structural changes.
- 6 The bill contains transition provisions to make Health New Zealand the successor agency on disestablishment. The actual transfer of assets, liabilities and employees will be managed by Order in Council in advance of legislation.
- 7 A Waitangi Tribunal claim has been lodged in response to the Crown's intention to disestablish the Māori Health Authority (WAI3307). On Friday 19 January 2024, the Tribunal noted that the grounds for an urgent hearing were met but asked for more information about the Crown's alternative plans. The Crown responded on 31 January 2024.
- 8 The Crown considers it will continue to meet its Treaty obligations. The Bill does not affect other mechanisms in the Pae Ora Act that are intended to give effect to the Crown's Treaty of Waitangi commitments. The health sector principles will remain

unchanged, and the accountability documents will continue to outline how entities intend to improve Māori health outcomes, for example. The Tribunal may make recommendations to the Crown following the outcome of any proceedings. I will keep Cabinet informed as appropriate, but do not anticipate significant changes to the proposed legislation.

Impact analysis

- 9 A regulatory impact statement is not required for this Bill. Cabinet suspended the requirement for regulatory impacts statements for decisions relating to 100 Day Plan proposals which solely involve the repeal of legislation [CAB-23-MIN-0468].

Compliance

- 10 The Bill is consistent with:
- 10.1 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 10.2 the principles and guidelines set out in the Privacy Act 2020;
 - 10.3 the disclosure statement requirements. A disclosure statement has been prepared and is attached to this paper
 - 10.4 the relevant international standards and obligations; and
 - 10.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 11 Urgent proceedings have been filed with the Waitangi Tribunal that claim the decision to disestablish the Māori Health Authority is inconsistent with the principles of the Treaty of Waitangi. For the reasons set out in paragraph 8, I am satisfied that the principles of the Treaty of Waitangi will continue to be upheld.

Consultation

- 12 The Public Service Commission, the Treasury, Te Puni Kōkiri, Te Arawhiti, the Parliamentary Counsel Office, Health New Zealand, the Māori Health Authority, the Crown Law Office, and the Department of the Prime Minister and Cabinet were consulted on the policy paper. The Ministry of Justice has been consulted on the draft legislation.

Binding on the Crown

- 13 The principal Act is binding on the Crown.

Creating new agencies or amending law relating to existing agencies.

- 14 The amendment bill does not create a new agency or amend law relating to existing agencies.

Allocation of decision-making powers

- 15 The bill does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

Associated regulations

- 16 There are no regulations required to bring this bill into operation.

Other instruments

- 17 The proposed amendment bill does not include provisions empowering the making of other instruments that are deemed to be legislative instruments, or disallowable instruments.

Definition of Minister/department

- 18 The amendment bill does not contain a definition of a Minister or department.

Commencement of legislation

- 19 The bill is proposed to come into force on 30 June 2024.

Parliamentary stages

- 20 I propose the Bill be introduced on 27 February 2024. I propose that the Bill is progressed through urgency. It should be passed before 30 June 2024.

Proactive Release

- 21 This paper will be published on the Ministry of Health website in accordance with the proactive release guidelines. I do not consider any redaction is necessary.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that the Pae Ora (Disestablishment of the Māori Health Authority) Amendment Bill holds a category 2 priority on the 2024 Legislation Programme (must be passed in 2024);
- 2 note that the Bill will disestablish the Māori Health Authority and redistribute its functions within the publicly funded health system;
- 3 approve the Pae Ora (Disestablishment of the Māori Health Authority) Amendment Bill for introduction, subject to the final approval of the government caucuses and sufficient support in the House of Representatives;
- 4 agree that the Bill be introduced on 27 February 2024
- 5 note that the proposed introduction date will meet the 100-day commitment to introduce legislation by 8 March 2024;

6 agree that the government propose that the Bill be:

6.1 progressed through urgency.

6.2 enacted by 30 June 2024.

Authorised for lodgement

Hon Dr Shane Reti

Minister for Health

PROACTIVELY RELEASED