

Prisoners' and Victims' Claims (2012 Expiry and Application Dates) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Prisoners' and Victims' Claims Act 2005 (the **Act**)—

- restricts and guides awards of compensation sought by specified human rights claims made by a person (in this statement called a **prisoner**) under the State's control or supervision; and
- provides a simplified process (in this statement called the **victims' claims process**) for the making and determination of claims that a victim of a prisoner may make against compensation required to be paid in respect of specified human rights or tort claims made by the prisoner.

The restrictions on the awarding of compensation expire on, and the victims' claims process applies only to compensation in respect of claims made before, 1 July 2012. This Bill defers that expiry, and extends that application, for 1 year, so that—

- the restrictions on awarding of compensation expire with the close of 30 June 2013; and
- the victims' claims process also applies to compensation awarded, or to be paid pursuant to an out-of-court final

settlement, in respect of a prisoner's claim made on or after 1 July 2012 but before 1 July 2013.

This Bill is to bridge the gap between the expiry of the current regime on 30 June 2012 and progressing the implementation of the Government's policy to make the existing victims' claims process permanent, and redirect any prisoners' compensation remaining after that process to fund services and programmes for victims of crime.

Regulatory impact statement

The Ministry of Justice produced a regulatory impact statement on 28 March 2012 to help inform the policy decisions taken by the Government relating to the contents of this Bill. A copy of this regulatory impact statement can be found at—

- <http://www.justice.govt.nz/policy/regulatory-impact-statements>
- <http://www.treasury.govt.nz/publications/information-releases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Bill is to come into force on the day after Royal assent.

Clause 3 identifies the principal Act amended: the Prisoners' and Victims' Claims Act 2005. A reference in this analysis to a provision is, unless the context requires otherwise, a reference to a provision of that Act.

Part 1

Amendment deferring expiry of restrictions on awarding of compensation

Clause 5 amends section 16. That section relates to the expiry of subpart 1 of Part 2. That subpart restricts and guides the awarding of compensation sought by specified claims in order to help to ensure that the remedy of compensation is reserved for exceptional cases and used only if, and only to the extent that, it is necessary to provide effective redress. As *clause 4* indicates, the amendment defers that

expiry by 1 year, until the close of 30 June 2013. *Clause 6* effects consequential repeals.

Part 2

Amendment extending application of victims' claims process

Clause 8 amends section 17(1)(a)(i) and (ii) and (b)(i) and (ii). Those subparagraphs specify the claims final judgments on which, or out-of-court final settlements of which, make defendants liable to pay compensation that is subject to the victims' claims process in subpart 2 of Part 2. As *clause 7* indicates, the amendments extend the victims' claims process in that subpart to compensation to be paid in respect of specified claims made on or after 1 July 2012 but before 1 July 2013. *Clause 9* effects consequential repeals.

Hon Judith Collins

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Prisoners' and Victims' Claims (2012 Expiry and Application Dates) Amendment Act **2012**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Prisoners' and Victims' Claims Act 2005 (the **principal Act**). 10

Part 1
**Amendment deferring expiry of
restrictions on awarding of compensation**

- 4 Purpose of this Part** 15
The purpose of this Part is to amend subpart 1 of Part 2 of the principal Act to defer its expiry by 1 year, until the close of 30 June 2013.
- 5 Section 16 amended (Expiry of subpart)**
In section 16, replace "30 June 2012" with "30 June 2013".
- 6 Consequential repeals** 20
(1) Repeal Part 1 of the Prisoners' and Victims' Claims (Expiry and Application Dates) Amendment Act 2010.
(2) Repeal section 4 of the Prisoners' and Victims' Claims Amendment Act 2007.

Part 2 25
**Amendments extending application of
victims' claims process**

- 7 Purpose of this Part**
The purpose of this Part is to amend subpart 2 of Part 2 of the principal Act to extend the victims' claims process in that sub- 30

part to compensation to be paid in respect of specified claims made on or after 1 July 2012 but before 1 July 2013.

8 Section 17 amended (Compensation of prisoners, etc, must be paid to Secretary)

In section 17(1)(a)(i) and (ii) and (b)(i) and (ii), replace 5
“1 July 2012” with “1 July 2013”.

9 Consequential repeals

- (1) Repeal the Prisoners' and Victims' Claims (Expiry and Application Dates) Amendment Act 2010 (other than Part 1).
 - (2) Repeal section 5 of the Prisoners' and Victims' Claims 10
Amendment Act 2007.
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