

Regulatory Systems (Housing) Amendment Bill (No 2)

Government Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Regulatory Systems (Housing) Amendment Bill (No 2) and recommends that it be passed with the amendments shown.

About the bill as introduced

The Regulatory Systems (Housing) Amendment Bill (No 2) is one of a package of three omnibus bills.¹ It would amend legislation related to housing that the Ministry of Housing and Urban Development administers. The legislation was previously administered by the Ministry of Business, Innovation and Employment.

The three bills aim to reduce the chance of regulatory failure and unintended consequences that would harm the wellbeing of New Zealanders. They seek to do so by maintaining the effectiveness and efficiency of the regulatory systems established by the Acts that the bills would amend.

The bill would amend the Housing Restructuring and Tenancy Matters Act 1992 to simplify the role of the Community Housing Regulatory Authority and reduce unnecessary administration for registered community housing providers. It would remove the requirement for community housing providers to provide certain information where it is not relevant to meeting the performance standards for registration.

The bill would also amend the Retirement Villages Act 2003 to clarify the penalty for breaching section 92(2), which relates to compliance with a code of practice.

¹ The other bills are the Regulatory Systems (Economic Development) Amendment Bill (No 2) and the Regulatory Systems (Workforce) Amendment Bill (No 2).

Proposed amendment to the Retirement Villages Act

We recommend one amendment to clause 7, affecting the Retirement Villages Act. We do not discuss any minor or technical amendments to the bill.

Section 26 of the Act requires operators and promoters to take all practicable steps to ensure that advertisements are not misleading or deceptive. Section 79 of the Act specifies two penalties for breaching section 26 without reasonable excuse. They are:

- a fine not exceeding \$15,000 for a person, or a fine not exceeding \$50,000 for a body corporate (section 79(2))
- a fine not exceeding \$5,000 for a person, or a fine not exceeding \$10,000 for a body corporate (section 79(3)).

The penalties in section 79(2) apply to offences for breaches affecting the operation of a retirement village, whereas section 79(3) relates to administrative offences.

We recommend amending clause 7 of the bill to remove the reference to section 26 in section 79(3) of the Act. Our proposed amendment would mean that the higher maximum fines would apply where an operator or promoter did not take all practicable steps to ensure an advertisement was not misleading or deceptive. We consider that the offence of misleading advertising is serious and of a similar nature to the other offences listed in section 79(2), so we believe the fines should be consistent.

Appendix

Committee process

The Regulatory Systems (Housing) Amendment Bill (No 2) was referred to the committee on 21 February 2019. The closing date for submissions was 24 April 2019. We received two written submissions and heard oral evidence from two submitters.

We received advice from the Ministry of Business, Innovation and Employment and the Ministry of Housing and Urban Development.

Committee membership

Gareth Hughes (Chairperson)

Darroch Ball

Anahila Kanongata'a-Suisuiki

Agnes Loheni

Hon Alfred Ngaro

Greg O'Connor (to 24 July 2019)

Maureen Pugh

Priyanca Radhakrishnan

Hon Louise Upston

Angie Warren-Clark (from 24 July 2019)

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Phil Twyford

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Regulatory Systems (Housing) Amendment Act **(No 2) 2018**.

2 Commencement

This Act comes into force immediately after the expiry of the 2-month period that starts on the date of Royal assent.

Part 1

Amendments to Housing Restructuring and Tenancy Matters Act 1992 5

3 Amendments to Housing Restructuring and Tenancy Matters Act 1992

This Part amends the Housing Restructuring and Tenancy Matters Act 1992.

4 Section 172 amended (Register of community housing providers)

- (1) In section 172(c), replace “the full details” with “in the case of a registered provider who obtains a class of registration that qualifies that provider as being eligible to receive Crown grants or assets of the Crown or a Crown entity, the full details”.

- (2) In section 172, insert as subsection (2):

- (2) **Subsection (1)(b)** does not require the authority to include on the register information about a person whose membership on a provider’s governing body ended before the provider became a registered community housing provider, but the authority has discretion to include that information.

Part 2

Amendments to Retirement Villages Act 2003 20

5 Amendments to Retirement Villages Act 2003

This Part amends the Retirement Villages Act 2003.

6 New section 3A inserted (Transitional, savings, and related provisions)

After section 3, insert:

3A Transitional, savings, and related provisions 25

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

7 Section 79 amended (Contraventions of certain provisions an offence)

- (1) In section 79(3), delete “, 26”.
- (2) In section 79(3), delete “, 92(2)”.

8 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in the **Schedule** of this Act as the first schedule to appear after the last section of the principal Act.

Schedule
New Schedule 1AA inserted into Retirement Villages Act 2003

s 8

Schedule 1AA
Transitional, savings, and related provisions

5

s 3A

Part 1
Provisions relating to Regulatory Systems (Housing) Amendment Act (No 2) 2018

- 1 Application of amendments to section 79 (Contraventions of certain provisions an offence)** 10
- The amendments made by **section 7** of the Regulatory Systems (Housing) Amendment Act **(No 2) 2018** ~~does do not~~ apply to ~~an act or omission offences~~ committed before the date on which that section commenced.

Legislative history

12 December 2018
 21 February 2019

Introduction (Bill 102–1)
 First reading and referral to Social Services and Community Committee