

Third Reading

Presented to the House in accordance with Standing Order 272

2 August 2022

Introduction

The Data and Statistics Bill (the Bill) repeals the Statistics Act 1975 (the 1975 Act) and replaces it with a new Data and Statistics Act.

Overview

The Bill replaces the 1975 Act with modern, fit-for-purpose data and statistics legislation that:

- recognises the Crown’s responsibility to consider and provide for Māori interests in data and statistics
- enables more effective system leadership
- strengthens and future-proofs the framework for collecting data for official statistics
- modernises the framework for accessing data for research
- continues to provide appropriate safeguards and protections to ensure public trust and confidence in the collection and use of data for official statistics and research.

The Bill also amends several Acts to—

- remove barriers to the provision of data to Stats NZ for official statistics and research
- provide for equivalent Stats NZ products to be used where specified products are substituted or discontinued.

The Bill recognises the Crown’s responsibility to consider and provide for Māori interests in data and statistics

The Bill recognises the interests of Māori in the way data is collected, managed, and used for the production of statistics and for research. It includes principles for engaging with Māori including that engagement must be early and meaningful, should include early discussion of the most effective ways of engaging, and should include consideration of opportunities for partnering.

The Government Statistician (Statistician) must engage with Māori: when preparing the multi-year data and statistical programme; before determining how the census of population and dwellings will be taken and what data will be collected; and before setting standards. The Bill places duties on the Statistician to build and maintain Stats NZ’s capability and capacity to understand te Tiriti o Waitangi/the Treaty of Waitangi and the perspectives of Māori and engage with Māori.

The Bill places duties on the Statistician to foster the capability and capacity of Māori to collect and use data for producing statistics and for research to provide insights about the economic, social, cultural, and environmental wellbeing of Māori.

The Bill enables more effective system leadership

The Minister of Statistics will continue to have responsibility for specifying data and statistical priorities and making decisions about what statistics must be produced. The Statistician continues to have sole responsibility for deciding on the procedures and methods used in producing statistics, and the timing, manner and content for publishing statistics.

The Bill clarifies the Statistician’s ability to delegate their functions or powers under the Public Service Act 2020, with enforcement actions unable to be delegated outside the public service. To support transparency, the Bill requires the Statistician to publish information about any delegations outside Stats NZ including what informed any decision.

The Bill provides for greater oversight and influence on the data system by the Statistician through the establishment of a multi-year data and statistical programme, the ability to set standards, and the requirements for agencies to provide information on data and statistics.

The multi-year programme will identify and prioritise data collection and production of official statistics. The Statistician is empowered to set standards to improve data collection, management, access, and use. Standards may be issued as guidance or as mandatory requirements.

Part 4 sets out the obligations of public sector agencies to provide information to the Statistician when requested about data collections, production of official statistics, and compliance with standards. Agencies are required to raise any concerns relating to the quality, production, or timeliness of official statistics, and consult with the Statistician before making changes that could affect statistical production or data that is made available for research.

The Bill strengthens and future-proofs the framework for collecting data

Part 3 of the Bill ensures the supply of data for production of official statistics by enabling the Statistician to make a mandatory request for data in the most appropriate format and from the most appropriate person or source. The Statistician may specify instances when provision of data is voluntary and data may also be provided by agreement, for statistical or research purposes, without a request being made.

The obligation to provide data for official statistics will apply whenever a mandatory data request is made unless other legislation expressly prevents provision of data. Mandatory requests for data must be approved by the Minister of Statistics.

The Statistician can authorise other agencies to collect data on behalf of the Statistician to produce official statistics. This is most likely to happen when an agency is best placed to collect the data but does not require it for its own functions or purposes. The authorisation to collect the data does not create an authority for the agency to use that data, rather it is provided to the Statistician.

The Bill carries over the ability for the Statistician to enter, with Ministerial approval, into joint collections with other agencies for the production of official statistics. Joint collections may be entered into with an agency already authorised to collect the data for the performance of their functions or activities.

Census data collection provisions are modernised to align with general data collection provisions for official statistics. Before determining how a census will be undertaken, and the data that will be collected, the Statistician must engage with Māori, and consult with public sector agencies, Offices of Parliament, the public, and others with a particular interest in the census.

The Statistician must take the next census in 2023 or 2024, and every fifth year after that. The Statistician will be required to conduct a review of the operation of each census within 12 months of its operation.

The Bill implements amendments to remove barriers in 11 statutes that prohibit or restrict the provision of data to the Government Statistician for official statistics and research. These amendments are to the Biosecurity Act 1993, the Citizenship Act 1977, the Commodity Levies Act 1990, the District Court Act 2016, the Education and Training Act 2020, the Electoral Act 1993, the Energy Efficiency and Conservation Act 2000, the Forests Act 1949, the National Animal Identification and Tracing Act 2012, the Reserve Bank of New Zealand Act 2021, and the Senior Courts Act 2016.

The Bill modernises the framework for accessing data for research

The Bill incorporates into Part 5, domestic and international best practice frameworks for appropriate and safe access to data for research, such as Ngā Tikanga Paihere and the five-safes framework. The Bill provides for additional safeguards when overseas-based researchers access

data.

The Statistician must be satisfied that the research is in the public interest, and this must include taking into account the nature and extent of any likely contribution to Māori economic, social, cultural, and environmental well-being. Researchers must have sufficient experience, knowledge and skills to access and use data in an ethically and culturally appropriate manner, and to protect privacy, confidentiality, and security.

The Statistician must be satisfied that appropriate privacy, confidentiality, and security measures will be adhered to, and may impose conditions relating to data access and use, and publication of results. When a researcher is overseas, the Statistician must consider if comparable safeguards apply with suitable means for ensuring compliance.

The Statistician will need to publish information about who is accessing data, how the data is being accessed and for what purposes, and researchers will be required to publish research results and methodologies.

Other agencies will be able to adopt the research access framework, with the agreement of the Statistician, and a new compliance regime with corresponding offences will help to ensure research obligations are observed.

The Bill continues to provide appropriate safeguards and protections to ensure public trust and confidence in the collection and use of data for official statistics and research

The Bill continues to provide for statistical confidentiality, implementing the internationally recognised requirement to not publish or disclose data in a form that could reasonably be expected to identify a person or organisation.

A modernised set of exceptions to statistical confidentiality, allow disclosure where written authorisation is provided, the data is publicly available, or is non-sensitive business or external trade data.

The 1975 Act's statutory declaration of secrecy is replaced with a modern, fit for purpose certificate of confidentiality. The Bill continues statutory obligations to provide data for official statistics when required and keep data safe and use it appropriately. It modernises and updates offences and penalties associated with a failure to comply with the statutory obligations, including new enforcement tools to enable a proportionate response to non-compliance.

Conclusion

The Bill replaces the 1975 Act with modern fit-for-purpose data and statistics legislation. It supports practical and dynamic use of data to deliver better outcomes for Aotearoa New Zealand, while continuing to ensure data used for research or to produce official statistics is used safely and appropriately.