

Departmental Disclosure Statement

Legislation Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Parliamentary Counsel Office.

The Parliamentary Counsel Office certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

30 April 2025.

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Part One: General Policy Statement

The single broad policy is to promote high-quality legislation for New Zealand that is easy to find, use and understand. To that end, the Bill proposes the following key changes:

- Requiring the relevant administering agency to electronically publish agency-drafted secondary legislation, and information related to that legislation, on their own internet site, or another approved internet site;
- Providing for the New Zealand Legislation website that is maintained by the Parliamentary Counsel Office (the PCO) to be a single point of access to legislation and information related to legislation, including secondary legislation published by agencies;
- Providing rules, powers, functions, and duties for the PCO, the Attorney-General, and administering agencies to support these changes, including exceptions and exemptions, the role of the legislation website, recording administering agencies, and supporting agencies to publish legislation;
- Amending other legislation to support and promote consistency with the new publication requirements, and providing for an orderly transition to them;
- Improving tools for modernising and simplifying legislation and keeping legislation up to date, including revision and editorial powers;
- Repealing obsolete or redundant legislation identified by the PCO in carrying out its functions under the Act;
- Supporting effective Parliamentary oversight of legislation, by refining provisions for the confirmation of secondary legislation.

The Bill also makes a number of more minor changes to support the Act to achieve its purpose.

The inaccessibility of secondary legislation not drafted and published by the PCO (for example, rules, notices, and bylaws) is a significant weakness in New Zealand's current legislative system. This makes it much harder than it should be for the government, businesses, and the public to use and understand the law that they are expected to comply with.

Provisions of the Act, the Legislation (Repeals and Amendments) Act 2019, and the Secondary Legislation Act 2021 provided for a major change to the legislative system with effect from March 2026. Under those provisions (many of which are not yet in force) agencies would continue to draft secondary legislation, but would lodge that legislation with the PCO for publication on the legislation website. However, further analysis has identified several challenges with this centralised publication system. These include, significantly, its risks, complexity, and cost for the PCO and drafting agencies, all of which is unfunded.

The Bill proposes instead to adopt a lower cost and risk solution, which will establish a single point of access to legislation. Agencies will continue to publish secondary legislation on their websites (decentralised publication). A technology solution will be used to identify, index, and make the text of that secondary legislation available from the legislation website (a single point of access). This solution involves much less disruption and cost to the PCO, agencies, and users, while delivering a similar level of benefit.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>Regulations Review Committee, Inquiry into oversight of disallowable instruments that are not legislative instruments (July 2014): https://www.parliament.nz/en/pb/sc/make-a-submission/document/50SCRR_SCF_00DBSCH_INQ_12955_1/inquiry-into-oversight-of-disallowable-instruments-that</p> <p>New Zealand Productivity Commission Report on Regulatory Institutions and Practices (March 2014): Regulatory institutions and practices - Productivity Commission inquiry material 2013 - 2014 The Treasury New Zealand</p> <p>Government Inquiry into Whey Protein Concentrate (WPC) Contamination Incident (November 2014): Government Inquiry into Whey Protein Concentrate Contamination Incident - dia.govt.nz</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	YES
<p>The Bill proposes changes to strengthen New Zealand's actions in relation to transparency obligations under Article 26.2 of the Comprehensive and Progressive Trans-Pacific Partnership Agreement (signed in February 2016): Comprehensive and Progressive Agreement for Trans-Pacific Partnership texts New Zealand Ministry of Foreign Affairs and Trade, and Articles 22.10 and 23.3 of the New Zealand-European Union Free Trade Agreement: NZ-EU FTA Text and Associated Documents New Zealand Ministry of Foreign Affairs and Trade.</p> <p>Broadly speaking, these requirements are about ensuring laws and regulations in relation to any matters covered by the Agreements are published via an official digital medium and are accessible free of charge.</p>	
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO
<p>No National Interest Analysis report was prepared. At the time of the Bill's development, New Zealand was already a partner to these Agreements and the proposal in the Bill simply helps us to better meet obligations regarding transparency and access to regulatory measures.</p>	

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>The PCO prepared a Regulatory Impact Statement (RIS) for the proposals to enable a single point of online access to New Zealand legislation, and provided it to Cabinet with the November 2024 Cabinet paper (seeking policy decisions). The RIS was reviewed by a panel of representatives from the PCO, and was given a 'meets' rating against the quality assurance criteria for the purpose of informing Cabinet decisions. It was finalised on 11 October 2024, and can be accessed here https://pco.govt.nz/corporate-publications/proactive-releases/Cabinet-paper-legislative-changes-to-support-single-point-of-online-access-to-legislation/ris-supporting-single-point-of-online-access-to-nz-legislation</p>	

An impact analysis exemption was granted for the remaining proposals, as they are minor and technical in nature.

2.3.1. If so, did the RIA Team in the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	NO
No independent opinion was given as the RIS did not meet the threshold for RIA Team assessment.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>The proposal only impacts administering agencies in terms of costs. The general public stand to benefit from the policy as it will make it easier to find the laws they are looking for through a single point of access to New Zealand legislation.</p> <p>Two Cost-Benefit Analyses (CBAs) have been completed, most recently in 2022. Both analyses identified that a centralised publication framework would be significantly more costly and resource-intensive for the PCO and agencies to implement, than other publication models considered (including a decentralised publication system). Both analyses also outlined the expected benefits to be reasonably similar across options, acknowledging that it is challenging to provide specific measures given the benefit improved access alone delivers.</p> <p>A summary of these CBAs is provided on pages 17 and 18 of the Regulatory Impact Statement. The full CBAs are not publicly available.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES

The RIS provides some information on this, noting legislation is needed to achieve policy objectives as the work to collate all instruments and ensure they are published in a particular way is unlikely to be progressed by agencies given other priorities and resourcing demands (see pages 10 - 12). The RIS also outlines the work the PCO will do, as the regulator, to support and secure compliance (see pages 19 and 20).

There are two key avenues through which we will monitor compliance with applicable requirements. The first is through the technology solution itself by way of agency dashboards. These are essentially the agency 'back-end' of the NZ Legislation website, and display how many instruments the technology has identified and any issues with indexing them appropriately on the NZ Legislation website (e.g. if there is missing information like what Act empowers the instrument). This will show up as an error needing resolution.

The second key way is through an Annual Secondary Legislation Practices Survey, the findings of which are reported on through the PCO's Annual Report on Legislative Practices. This is a self-reporting survey agencies undertake which asks them about their current publication practices, and what, if any, issues they are experiencing with adhering to publication requirements.

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

The PCO has considered whether the policy outlined in the Bill is consistent with New Zealand's international obligations. As mentioned above, the Bill supports New Zealand to meet its international trade transparency obligations, as set out in the Comprehensive and Progressive Trans-Pacific Partnership Agreement and the New Zealand-European Union Free Trade Agreement. These Agreements oblige the New Zealand government to make regulations of general application respecting any matter covered by that agreement available on a single, official website.

Supplementary to this, the Bill proposes to amend a number of empowering provisions in other legislation so that they are 'tagged' as secondary legislation. These amendments were first made through the Secondary Legislation Act 2021, with this Bill amending provisions that were missed from that reform. This means the vast majority of secondary legislation (excepting bylaws, and instruments which are exempt from publication), whether or not they cover matters set out in New Zealand's international trade agreements, will be accessible online free of charge from a single website.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Limited analysis has been undertaken on whether the policy is consistent with the Treaty of Waitangi. However, we anticipate no inconsistencies with its principles. The proposals improve access to New Zealand legislation, making it easier to find, use and understand. They do not specifically or unwarrantedly target or impact on Māori.

The main principles the proposals are expected to be consistent with are partnership (the duty to act reasonably and in good faith), and informed decision-making. Improved access to the law means the government, businesses and public can more easily find and use the law that they are expected to comply with.

Indirect benefits of the proposals, such as improved information about legislation also provides opportunities for the LegalTech sector to develop compliance tools and services for use by the public and businesses, which further support understanding of regulatory requirements and informed decision-making.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

NO

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

3.4.1. Was the Ministry of Justice consulted about these provisions?	NO
<p>The Bill does not amend, create or remove any offence or penalty provisions or the jurisdiction of a court or tribunal. As such, the Ministry of Justice was not consulted in this respect.</p> <p>However, the Ministry of Justice was consulted generally on the Bill (along with other agencies), and given the opportunity to provide feedback on its contents, including on proposed repeals of, and amendments to Justice-administered legislation.</p>	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
<p>The Bill does not create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information. As such, the Privacy Commissioner was not consulted on the Bill.</p>	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The PCO has had ongoing engagement over the past year with agencies that administer secondary legislation. This has largely taken place through the Community of Practice (a Microsoft teams group which the approximately 120 agencies which administer secondary legislation) are encouraged to join. This group have been provided with information and documents for review in respect of wider aspects of the work, such as the Secondary Legislation Access Standards and Website Specifications. These documents will be reflected in legislative and administrative instruments which sit under the Act/Bill, and the Community of Practice members have had multiple opportunities to feedback on those requirements, as those documents have developed.</p> <p>With respect to the policy proposals, the PCO undertook agency consultation in September 2024 on the draft Cabinet paper that went in November 2024. The November Cabinet paper set out the key policy changes, including that the latent centralised publication framework is repealed and replaced with a lower cost and risk framework (decentralised publication). It also set out proposals for administering agencies to publish secondary legislation they draft in accordance with legal and best practice requirements, the use of a technology solution to identify, index and link that legislation on the New Zealand legislation website, and the development of the New Zealand legislation website into a central hub for legislation-related information. Agency feedback largely concerned matters of detail that would be left to regulations. This includes what websites are allowed to be used for publication of legislation, what formats those publications need to be in, and what information about the legislation they would need to provide.</p> <p>The PCO held a drop-in session for agencies consulted on the Cabinet paper on 18 September 2024, where we directly answered their questions. The PCO also had a number of 1:1 meetings with specific agencies which requested it, to talk through how the proposals will impact them. There were no significant changes to the main policy as a result of this engagement, and the PCO will engage again with agencies on the development of the regulations to sit under the Act.</p>	

In respect of the Bill, the PCO undertook engagement with agencies, including, with the permission of the Attorney-General, Crown Entity Agencies which administer significant stocks of secondary legislation. The PCO did not receive any feedback of significance, with questions largely around how the transition to the new regime would work, and corrections to exemptions from publication, notification, presentation and disallowance requirements set out in Schedule 2 to the Bill.

The PCO has not publicly consulted on the Bill, as it does not impose any obligations or requirements on members of the public. There will, however be a public demonstration of the new legislation website which includes secondary legislation collated from agency websites.

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?

YES

The PCO undertook a 'proof of concept' trial of the technology solution in 2023. The point of this was to test whether it would be feasible to use the aggregation technology for the purposes of collecting secondary legislation from agency websites. The initial goal was to collect secondary legislation from between 10 and 15 agencies. The proof of concept exceeded this goal, collecting 784 instruments from 21 agencies. It was also confirmed that the software could monitor agency websites and detect when new instruments were added.

Following the successful proof of concept, the PCO undertook a pilot of the technology. This phase is ongoing, however as at 17 April 2025, the PCO has managed to collect 7,306 instruments from 91 agencies. As part of the pilot phase, we are working with those agencies from which we have collected instruments to verify the information collected (as the technology tool may have inadvertently collected items which are not legislation), and make any necessary refinements.

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
<p>Clause 51 of the Bill, new section 148 provides a framework for fees and costs in connection with the PCO's functions (other than drafting). This provides for the possibility of a fee or levy to be charged, but does not impose any such fee or levy itself.</p> <p>The proposal is included as, in future, there may be a case for the PCO to provide a notification or presentation service on the behalf of agencies and Ministers. Should this case be made, there would be strong arguments for this service to be club-funded by those agencies which use it – similar to how the New Zealand Gazette charges for notification and publication in its journal.</p> <p>Both fees and levies would require further advice to, and decisions from, the Attorney-General and Cabinet. The PCO has not had any such decision and has no such proposal at this time to implement a fee or a levy. This proposal is about ensuring the Act has a framework for this in future, if there is a case for the PCO to provide these services, and the Attorney-General and Cabinet agree. Any proposal to implement a fee or levy will require the development of a Cost Recovery Impact Statement to support the Attorney-General and Cabinet in making that decision.</p>	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	YES
<p>Clause 48 inserts new section 146A, which provides that the PCO may rely on material made available by agencies, and is not liable for its contents, accuracy or validity. This section states that in relation to:</p> <ul style="list-style-type: none">• agency-drafted legislation the PCO publishes (under section 69)• minimum legislation information for that legislation• agency-published legislation the PCO provides access to from the New Zealand Legislation website, and• information that is relevant to legislation in respect of which the PCO provides access from the legislation website	

The PCO may act in reliance on the material that is made available to the PCO, and, is not liable for the content, accuracy, or validity of the material or any error or omission in or arising from the material.

It is considered this provision is necessary as while the PCO provides access to this information through the New Zealand Legislation website, it is not responsible for the contents or drafting of that legislation or preparation of that information, which is done by the relevant administering agency.

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p>Clause 49 amends the general regulation-making powers under the Act.</p> <p>Section 147(1)(k) currently allows regulations to exempt (on terms and conditions, if any) secondary legislation from various publication and lodgement requirements.</p> <p>New section 147(1)(d) clarifies that this power includes the power to grant a publication exemption, a minimum legislative information exemption, and a consolidation exemption. New section 147(1)(e) provides that regulations may be made disapplying (on terms and conditions, if any) secondary legislation from the effect of section 77 (legislation does not commence until published), including to allow for a period of disapplication in specified circumstances.</p> <p>These exemptions and the disapplication may be made via regulations (made by Order in Council) or, as per new section 147(6), via Access Notice made by the Chief Parliamentary Counsel.</p> <p>These powers are subject to safeguards (whether granted in the regulations or in an Access Notice). In particular, the Attorney-General or the Chief Parliamentary Counsel must:</p> <ul style="list-style-type: none"> • be satisfied of various matters. For example, that there is a good reason for the exemption that outweighs the public interest in having the requirement met and that the exemption is not broader than reasonably necessary; and • publish their reasons. 	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>Clause 49 (section 147) provides the general regulation-making powers for the Governor-General by Order in Council. The main change to this empowering provision is to allow regulations to be made to impose requirements on an administering agency to publish, make available, facilitate access to, or lodge its legislation or related information or to notify the making of that legislation. This may include, for example, setting specifications or standards for an Internet site used by the agency to publish its legislation.</p> <p>Current section 147(1)(i) allows regulations to authorise the PCO to determine or prescribe various matters by a notice or by setting the requirements of an electronic lodgement system. New section 147(1)(g) similarly allows regulations to authorise the Chief Parliamentary Counsel to determine or prescribe various matters by an access notice or by setting the requirements of an electronic system. See clause 51, which inserts provisions relating to</p>	

access notices. Before making a recommendation for regulations to authorise the PCO to determine or prescribe the matters, the Attorney-General must be satisfied that the matters are appropriate to be dealt with in an access notice (or by the requirements of an electronic system) rather than being dealt with in the regulation itself.

Clause 51 inserts new sections 148 to 151. These provisions allow regulations to require administering agencies to pay to the PCO fees, costs, and levies in connection with the PCO performing or exercising its functions, powers, or duties. However, the fees, costs, and levies must not relate to the PCO's core function of drafting legislation. In addition, the legislation and related information will continue to be freely available from the legislation website.

Clause 51 also inserts new section 152 and 153 which allow the Chief Parliamentary Counsel to make Access Notices and PCO Notices. An Access Notice determines or prescribes matters that may be provided for under the regulations. For example, technical requirements for any internet site used by an administering agency for publishing its secondary legislation. An Access Notice has effect only to the extent that a regulation refers to it. An access notice is secondary legislation.

A PCO Notice may provide for various administrative matters specified in the Act, and is not legislative in effect. For example, a PCO Notice may:

- specify secondary legislation that must be drafted by the PCO under section 67; and
- specify secondary legislation that is published by the PCO under section 69.

In both cases, the administering agency for the secondary legislation must have agreed to the Notice applying to their legislation.

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
<p>The transitional arrangements for the Bill are set up in a way that enables agencies to know what the new requirements are, before they actually apply, as follows:</p> <ul style="list-style-type: none">• The Bill receives Royal assent before March 2026. On this date, the latent centralised publication framework, and Part 4 of the Act (Disclosure requirements for Government-initiated legislation) are repealed.• the publication commencement date is the date on which clause 19 commences. This clause inserts the main new publication requirements for agency-published legislation (new sections 73 to 76). Clause 19 comes into force by Order in Council, or otherwise within 6 months of Royal assent (expected June 2026). The reason for this is to enable time for any regulations supporting the requirements to be approved. Regulations setting out detailed compliance requirements will be ready in time for this date, so agencies can familiarise themselves with what is required and work towards compliance.• However, the new requirements in clause 19 (new sections 73 to 76) and the regulations do not apply until the publication deadline date. The default deadline is the first anniversary of the publication commencement date (by June 2027). However, this can be extended by the regulations or an earlier deadline can be agreed by the Chief Parliamentary Counsel and the administering agency. This approach provides flexibility in case there are particular types of instrument that will take longer to transition to the new requirements, or if there is an agency that is ready to comply with the new requirements earlier than other agencies.• Clause 20, new section 77 (legislation does not commence until published) comes into effect by December 2030 (within five years following Royal Assent). This is to ensure agencies have sufficient time to transition all in-force stock, before the requirement applies.	