

Hon Nicola Willis and Hon David Seymour
Minister for the Public Service and Minister for Regulation

Establishment of the Ministry for Regulation

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Title: Establishment of the Ministry for Regulation

Author: Te Kawa Mataaho Public Service Commission

The Hon Nicola Willis, Minister for the Public Service, and Hon David Seymour, Minister for Regulation, are releasing the Cabinet paper and Cabinet Minutes.

Explanatory note:

Included in this release are the following documents.

- Cabinet Paper
- Cabinet Minute - 100-24-MIN-0004
- Cabinet Minute - CAB-24-MIN-0002

In Confidence

Office of the Minister for the Public Service

Office of the Minister for Regulation

Cabinet 100 Days Committee

Establishment of the Ministry for Regulation

Proposal

- 1 This paper seeks:
 - a. agreement to establish a Ministry for Regulation as a Public Service department with effect from 1 March 2024
 - b. agreement in principle to the resources to be transferred to establish the Ministry for Regulation
 - c. delegations to joint Ministers to work through detailed aspects without needing to return to Cabinet.

Relation to government priorities

- 2 The Government's 100 day plan invited the Minister for Regulation to return to Cabinet with plans for improving the quality of regulation, including the preferred approach to establishment of the new regulation agency.

Executive Summary

- 3 The priority given to regulation in the 100 day plan reflects our concerns about weaknesses in current regulatory practice, the regulatory management system, and the potential costs being passed onto New Zealanders by current regulation. A modern, open, market economy needs to be underpinned by sound regulatory settings. These set the rules for all market players and when well designed, ensure efficiency and safety while promoting market growth. If poorly designed, however, they bring unjustifiable costs and barriers to productivity growth. This paper proposes an entity to lead and examine the ways that regulations are designed and implemented to ensure efficiency.
- 4 We propose the prompt establishment of a new department, the Ministry for Regulation, to bring increased focus to regulatory quality. The Ministry's new roles will include:
 - evaluating proposals for new regulation

- carrying out regulatory reviews of specific sectors or regulatory systems that sit across sectors.
 - producing omnibus bills to implement the findings of regulatory system reviews.
- 5 In addition to these substantive new roles, we propose that current regulatory oversight functions within Treasury and the Ministry for Business, Innovation and Employment be transferred to the new agency to support its priorities.
- 6 To enable the new Ministry to launch at the beginning of March 2024, this paper seeks your approval to funding decisions, and for the appropriate officials to progress chief executive appointment and staffing decisions that would normally wait until the Order in Council is made to establish the new Ministry.

Background

- 7 The Government has identified a number of issues with current regulatory practice in New Zealand, including:
- insufficient public and Parliamentary scrutiny of new proposed regulations
 - lack of regular and systematic review of the existing regulatory stock
 - inadequate understanding of compliance costs in Regulatory Impact Analysis (RIA), and/or regulations proceeding despite missing information or negative RIA findings, or lack of due consideration of options.
- 8 We also note the regulatory management system, which includes the policies, institutions, tools, and processes the central government uses to create, implement, and maintain effective regulations without unnecessary costs, is less developed than our public finance system and does not rank very high on an international level.
- 9 In the 100 day plan [CAB-23-MIN-0468], the Minister for Regulation was invited to bring back to Cabinet within the first 100 days a plan for:
- The preferred approach to establishment of the new regulation agency – **this paper**
 - The approach to disestablishment of the Productivity Commission, which will require legislation. This was agreed by Cabinet on 18 December 2023 and is now **underway** [CAB-23-MIN-0495].
 - The core components of a new Regulatory Standards Bill and the timeline for its introduction – **an update will be provided to Cabinet by 8 March.**

Context – current regulatory oversight arrangements

- 10 In 2020, the Public Service Commissioner appointed the Secretary to the Treasury as public service functional lead for regulatory stewardship. This role was established to provide Government with confidence that the public sector is actively delivering on its regulatory stewardship responsibilities.
- 11 Most regulatory oversight resource sits in the Treasury, within the Regulatory Strategy Team. This team is a modest size for the task and it has been focused on:
- providing strategic co-ordination and oversight of the regulatory management system
 - providing guidance and support to agencies to help them meet their regulatory stewardship obligations
 - identifying and working to address systemic regulatory issues that cut across regulatory systems and agencies;
 - administering the Regulatory Impact Analysis (RIA) requirements for regulatory proposals, including provision of guidance and training, undertaking around 10 reviews of significant departmental RISs per year, and improving the RIA system;
 - advising on New Zealand’s international obligations in relation to Good Regulatory Practice (GRP) and developing tools and processes to deliver on government and international expectations for GRP; and
 - since the formation of this Government, advice on the Regulatory Standards Bill.
- 12 The Ministry for Business, Innovation and Employment (MBIE), as a department with stewardship responsibilities for many business and occupational regulatory systems, works with the Treasury on GRP. It also provides leadership and secretariat support for the cross-government regulatory practice initiative (G-REG). G-REG is a voluntary, club-funded network of central and local government regulatory agencies that works on professionalising and improving leadership, culture and workforce capability, including developing national qualifications in aspects of regulatory compliance practice.
- 13 The Parliamentary Counsel Office (PCO) and Ministry of Justice (MOJ) also have stewardship roles across the system: PCO for the quality of legislative design and drafting, and MOJ for promoting the rule of law and maintaining the justice system. These roles are not separable from their respective departmental roles so would not move into the new Ministry.
- 14 Responsibility for specific regulatory systems sits with subject matter departments and this will continue, though the new Ministry may provide guidance on how these obligations should be met. Under the Public Service

Act 2020, all departmental chief executives have stewardship responsibilities for legislation administered by their agencies, supplemented by Cabinet-mandated expectations that require agencies to properly govern, monitor and care for their regulatory systems. Agencies are also responsible for ensuring regulatory proposals falling within their responsibilities meet quality standards, including in relation to legislative design and implementation.

Expected functions for the Ministry for Regulation

- 15 The Minister for Regulation has identified the following initial core functions for the Ministry, which will be developed further once the new ministry has been established and resourced:
 - evaluating proposals for new regulation
 - carrying out regulatory reviews of specific sectors, or regulatory systems that sit across sectors
 - producing omnibus bills to implement the findings of regulatory system reviews.
- 16 We expect the related resources for the core regulatory oversight arrangements currently in the Treasury, and those supporting G-REG (hosted by MBIE) to transfer to the new Ministry.
- 17 A stronger regulatory oversight function will be most effective if it has a broad focus on lifting regulatory quality across all the different parts of regulatory systems (e.g. on how regulation is implemented), not just the quality of legislation. Regulatory systems involve a range of activities beyond legislative design, and all these different parts need to be working well to achieve the intended objectives at least cost. The work of the Ministry needs to be well grounded in regulatory theory and practice and it will need expertise on public choice theory and microeconomics.
- 18 The functional leadership role of the chief executive of the new Ministry will also support working with other chief executives to ensure they are meeting their regulatory stewardship obligations. The Public Service Commission will review whether to further support this functional leadership mandate by appointing the Chief Executive as a system leader under the Public Service Act. The Commissioner may designate a public service chief executive as a system leader to lead and co-ordinate best practice in a particular subject matter area across the whole or part of the State services.

Options for the form of the Ministry for Regulation

- 19 We have considered four organisational form options for creating the proposed Ministry for Regulation. These are:
 - 19.1 a **public service department**. A department has a chief executive appointed by the Public Service Commissioner under the Public Service Act, with a wide range of duties, compliance responsibilities

under legislation and full powers to operate the department and manage its services, assets and liabilities. The departmental model is highly flexible and able to respond to changes in ministerial expectations over time. There are 31 such departments, of which the largest is Corrections and the smallest is the Ministry for Women.

- 19.2 a **departmental agency** hosted by the Treasury. A departmental agency has its own chief executive appointed by the Public Service Commissioner under the Public Service Act with the same general responsibilities as a departmental chief executive. However, a Departmental Agency is legally considered part of its host department for matters such as the employment of staff. It also works within the strategic framework of the host departments unless specifically enabled to do otherwise. Examples include the Social Wellbeing Agency hosted by the Public Service Commission or Whaikaha – Ministry of Disabled People hosted by the Ministry of Social Development. This option would reduce the costs of having a separate agency.
- 19.3 a **functional chief executive** reporting directly to the Minister for Regulation, appointed by the Public Service Commissioner under the Public Service Act and supported by a branded business unit within the Treasury with its own appropriation. The Chief Executive for Cyclone Recovery based in the Department of Prime Minister and Cabinet is a functional chief executive. This option would reduce the costs of having a separate agency.
- 19.4 a separate **branded business unit** within the Treasury, headed by a senior leader within Treasury, who could report directly to the Minister for Regulation via delegated authority from the Secretary to the Treasury. This unit could be called a Ministry for Regulation, and funded through its own appropriation to ensure resources are not reprioritised to wider Treasury priorities. This is a common way to establish a separate function. Examples include Biosecurity New Zealand, the New Zealand Debt Management Office, and Medsafe. This option would be the least cost to establish.

Preferred option: a public service department

- 20 An analysis of these options is appended for reference and we propose to establish the new Ministry as a public service department. This form signals that while the new Ministry will build on the existing functions that are transferring into it from the Treasury and MBIE, it will have a distinct vision, values and purpose. This will be important as the new department develops its capability to evaluate proposals for new regulation, carry out regulatory reviews of specific sectors and produce bills to implement the findings of regulatory system reviews.
- 21 The preferred option also enables the greatest flexibility to respond to changing needs over time. We want the new ministry to create a real shift in capability and leadership of the regulatory management system, and to take

its place as a central agency in its own right. Over time we expect the new ministry to build strong relationships with the other central agencies and exert strong influence across the network of subject matter agencies through its functional leadership role.

Implications for other agencies

- 22 At a practical level, the functions of the new ministry will mean that the roles currently located in the Treasury’s Regulatory Strategy team and the G-REG team hosted by MBIE would form the initial core of the new Ministry. This will entail transfers by respective chief executives of the core staff of these functions under the Public Service Act. We expect that the full funding of all relevant positions (or partial positions where staff are currently spread across more than one function) will also be transferred, including corporate and management overheads.
- 23 While these transfers will provide initial resourcing, additional resources will be needed to maintain progress on the 100-day priorities and the core functions that these teams undertake. Officials are working on options for supporting this transitional period.
- 24 To mitigate some of the additional costs of a standalone department, we expect the new Ministry to obtain its back-office services through a shared services arrangement. And, in time, to share property with other central agencies, such as in the Bowen House hub. In the establishment phase we expect the new Ministry to be incubated by a department. The Public Service Commission is examining possible options.
- 25 Our expectation is that the new Ministry will be a central agency in that it will work with and through line departments and portfolio Ministers to drive work to improve regulatory settings across key sectors. Secondments of expert staff into the Ministry, followed by their return to line agencies, will be a key mechanism to ensure that both stewardship activities and individual regulatory systems are based on a strong shared understanding of front-line realities and best practice.

Implementation and timeframes

- 26 While it will take time for the ministry to be fully operational and develop its new functions and mandate, we intend to establish it as soon as possible. We seek your agreement to progressing some elements of the implementation ahead of the making of the Order in Council to enable the new Ministry to commence on 1 March 2024.

Milestone/Activity	Timeframe
Chief Executives commence formal communication and consultation with affected staff	From 24 January (following Cabinet decisions)

Public Service Commissioner appoints acting chief executive	5 February
Orders in Council made (with waiver of 28-day period)	By 20 February
Joint Ministers agree funding transfers	By 27 February
Ministry comes into effect	1 March
Expected timing for appointment of substantive chief executive	May-June

- 27 To enable the prompt appointment of a substantive chief executive, we are seeking authorisation from Cabinet for the Minister for Regulation and the Minister for the Public Service (Joint Ministers) to note the position description for the chief executive of the new Ministry based on the functions of the new Ministry set out in this paper. The draft position description has been developed by the Public Service Commission and is attached. Usually, the Cabinet Appointments and Honours Committee would be asked to note the position description for a substantive chief executive appointment, but it is not due to meet until February. There will also need to be fiscally neutral adjustments to the cap on the Public Service Commission appropriation for chief executive remuneration.
- 28 From establishment the new ministry will be fully accountable as a department and the support it gets from the incubator department will be critical in the early phase. It will need to quickly build some core functions, such as legal and ministerial services, and set up arrangements for sharing other corporate functions. Officials are working on ensuring appropriate arrangements.

Cost-of-living Implications

- 29 None. However, this proposal supports the work to improve the quality of regulation that contributes to the Government's objective to rebuild the economy and ease the cost of living.

Financial Implications

- 30 The new Ministry will require its own Vote and new appropriations will need to be established. In deciding on the disestablishment of the Productivity Commission, Cabinet noted that the Minister for Regulation would report back in the New Year on funding for the new regulatory agency and authorised joint Ministers (Regulation, Finance, and Associate Finance) to approve changes to operating baselines necessary to enable the Treasury to meet establishment costs for the new agency, including establishing new appropriations as necessary, on condition that such changes were fiscally neutral overall [CAB-23-MIN-0495]. The recommendations in this paper will provide for Joint Ministers to approve any changes to operating and capital baselines necessary to enable the establishment of the new Ministry by 1 March 2024. These changes will be fiscally neutral. Any such changes will

need to be incorporated into the transfers to the new Ministry from 1 March 2024.

31 9(2)(f)(iv) confidentiality of advice

32 The initial resourcing for the Ministry for the balance of 2023/24 and into subsequent years should comprise:

32.1 The Regulatory Strategy team staffing and related funding transferred from the Treasury

32.2 G-REG staffing and related funding (current year club funding contributions and any additional resourcing used for this process from MBIE) transferred from MBIE

32.3 Funding freed up by the Productivity Commission disestablishment as noted in paragraph 30 above.

33 9(2)(f)(iv) confidentiality of advice

34 During the establishment phase, the incubator department and the new Ministry will need access to funds currently appropriated to the Treasury or to MBIE to deliver the core functions that are to be transferred. This could be arranged either through a transfer agreed by joint Ministers or through an administration and use arrangement between the departments.

Legislative Implications

35 Orders in Council are required to establish the department and list it in the schedules to the Public Service Act 2020 and the Ombudsmen Act 1975. Due to the timeframes involved we plan to seek a waiver of the 28-day notice period before the Orders come into effect.

36 The Regulatory Standards Bill may affect the nature and extent of some of the department's functions. I intend to provide an update on the Bill to Cabinet by 8 March, including a proposed timeline for its introduction.

Impact Analysis

Regulatory Impact Statement

37 The Treasury's Regulatory Impact Analysis team has determined that this proposal to establish a Ministry for Regulation is exempt from the requirement

to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

Population Implications, human rights

38 None.

Use of external resources

39 None

Consultation

40 This paper is based on an initial draft by the Public Service Commission in consultation with the Treasury and the Ministry of Business, Innovation and Employment, both of which are expected to transfer functions and staff to the new department. The Department of Prime Minister and Cabinet and Parliamentary Counsel Office have been informed.

41 Treasury considers that while there are benefits to establishing a new department to provide a greater focus on regulation, the option of housing a new regulatory entity within an existing department (either as a departmental agency or the other options involving a branded business unit) is likely to deliver better value for money in the current fiscal context.

Communications

42 We propose to announce the intention to establish the new Ministry as a separate department once this proposal has been agreed by Cabinet, to enable implementation activities such as consultation with impacted staff to proceed in parallel with the Order in Council process.

Proactive Release

43 This Cabinet paper will be proactively released when the Order in Council is made.

Recommendations

44 The Ministers for the Public Service and Regulation recommend that the Committee:

1 **note** that starting work to improve the quality of regulation is part of Government's 100 day plan, including the development of a preferred approach to establishment of the new regulation agency.

2 **agree** to establish a Public Service department named the Ministry for Regulation, effective from 1 March 2024, with the Minister for Regulation as its responsible Minister

- 3 **agree** that the role of the new Ministry for Regulation should be a central agency ensuring regulatory systems managed by other agencies are consistent with good regulatory principles and practice
- 4 **agree** that the Minister for Regulation will develop core functions of the Ministry including:
 - 4.1 evaluating proposals for new regulation
 - 4.2 leading the carrying out of regulatory reviews
 - 4.3 producing omnibus bills to implement the findings of regulatory system reviews
- 5 **agree** that the functions of the new Ministry should include the following functions currently undertaken by Treasury and MBIE:
 - 5.1 strategic co-ordination and oversight of the Regulatory Management System, including advising on strengthening the Regulatory Impact Analysis (RIA) system;
 - 5.2 provision of guidance and support to agencies to help them improve their regulatory stewardship capability;
 - 5.3 administration of the RIA requirements for regulatory proposals;
 - 5.4 advising/delivering on New Zealand's international good regulatory practice (GRP) obligations;
 - 5.5 administration and stewardship of the Regulatory Standards Bill once enacted
 - 5.6 administration and support of the G-REG initiative
- 6 **invite** the Minister for the Public Service to issue drafting instructions to the Parliamentary Counsel Office for Orders in Council to establish the new department by adding it to Part 1 of Schedule 2 of the Public Service Act 2020 and Schedule 1 of the Ombudsmen Act 1975, and to provide for transitional matters connected with the transfer of functions
- 7 **note** that to enable the new Ministry to commence on 1 March 2024, the Minister for the Public Service intends to seek a waiver of the usual 28-day notice period for the Order in Council
- 8 **agree**, in light of the tight timeline for establishment, that formal communication of the decision to create a department, its expected start date and its role and functions can commence prior to the making of the Order in Council
- 9 **note** that, subject to undertaking consultation with impacted staff, the relevant chief executives intend to transfer the employees undertaking the functions of

the new ministry from their current departments to the new ministry under the Public Service Act 2020

- 10 **note** that the decision to establish the Ministry will create an impending vacancy in the chief executive of the Ministry for Regulation role
- 11 **authorise** the Minister for Regulation and Minister for the Public Service to:
 - 11.1 note on behalf of Cabinet the position description for a substantive appointment to the chief executive role, to be developed by the Public Service Commissioner based on the draft attached to this paper;
 - 11.2 Clarify the scope of the roles to be transferred if needed
- 12 **note** that the Public Service Commissioner will work with the Minister for Regulation to identify and appoint an acting chief executive for the establishment and launch of the new Ministry
- 13 **note** that the Public Service Commissioner will transfer the role of functional lead for regulatory stewardship (currently held by the Secretary for the Treasury) to the chief executive of the new ministry and consider whether to designate this role as a system lead under the Public Service Act.
- 14 **authorise** the Minister for Regulation and the Minister of Finance and any other relevant appropriation Minister (joint Ministers) jointly to:
 - 14.1 approve any changes to operating and capital baselines necessary to enable the establishment of the new Ministry, including establishing a new Vote for the Ministry and new appropriations as necessary;
 - 14.2 approve the necessary funding transfers to the new Ministry (from the Treasury and MBIE baselines) relating to existing regulatory functions
 - 14.3 approve any transfer of residual funding from the disestablishment of the productivity commission (after providing for ongoing disestablishment costs);
 - 14.4 approve an increase in the Public Service Commission's appropriation for chief executive remuneration to accommodate the remuneration for the chief executive of the Ministry for Regulation
 - 14.5 agree to carry-forward unspent funding in 2023/24 into the next financial year as necessary
- 15 **agree** that the transfers of funding and baseline changes authorised to Joint Ministers in rec 14 above is fiscally neutral;
- 16 **note** any additional cost associated with the establishment of the Ministry for Regulation, in addition to the funding transfers outlined in recommendation 14 above, has been invited into the Budget 2024 process for consideration;

- 17 **note** that the chief executive for the Ministry for Regulation will work with the Treasury and the Ministry for Business, Innovation and Employment to implement the transition to the new Ministry, including transfers of staff and agreements on support services
- 18 **note** that the Minister for the Public Service and the Minister for Regulation will return to Cabinet by 20 February 2024 to seek agreement to the Order in Council and report on progress on implementation to date.

Authorised for lodgement

Hon Nicola Willis

Minister for the Public Service

Hon David Seymour

Minister for Regulation

Appendix 1: Options analysis for form of the Ministry for Regulation

	Ministry for Regulation: Branded business unit (with possible option of functional CE)	Ministry for Regulation: Departmental agency	Ministry for Regulation: Department
Ability to influence across Ministers and agencies who 'own' regulatory systems by playing a central agency role	Strongest ability as it is part of the Treasury.	Moderately strong ability as it is hosted by Treasury.	Has the greatest distance from a central agency and would need to make the most effort to establish this ability.
Ability to link to broader systems and resources – e.g. through access to the Treasury's financial management and economic advice and broader resourcing	Strongest ability, as it is part of the Treasury.	Moderately strong ability as it is hosted by Treasury.	Limited ability, as it is entirely separate from a central/larger agency.
Cost and efficiency considerations	Has the least additional cost over the status quo. Back office can be provided by the Treasury, and therefore more resources used to drive the function. A functional chief executive would bring additional costs.	Would have additional costs associated with the chief executive and reporting and other obligations of an agency.	Is the highest cost due to having the largest role for the chief executive, separate accountability requirements, and potentially separate corporate functions and premises.
Risk of disruption and loss of capability from the public service. There are limited numbers of people with the skills and expertise in strategic regulatory matters. It will be important to retain expertise in the public service	Least risky as there is the least change for Treasury staff. Reporting lines and management may change, particularly if a functional chief executive is also appointed. Treasury staff would be able to more easily rotate into the agency. Likely to be established the fastest.	Little risk of loss as Treasury staff would remain employed by the Treasury despite moving into the departmental agency. Reporting lines and management would change.	Greatest risk of loss as staff move to a new organisation and employer (although noting the intent is to employ significant new resource over time).
Clarity of role and lines of accountability	A branded business unit headed by a senior leader could report directly to the Minister (via delegated authority from the Secretary to the Treasury). If a functional chief executive was appointed, it would report directly to the Minister, requiring the two CEs to agree working arrangements and accountabilities for	The chief executive of the departmental agency reports directly to the appropriate Minister. The chief executive of the departmental agency and the Secretary to the Treasury need to formally agree how back-office functions will be provided.	Chief executive reports to responsible Minister and is accountable for own Vote.

	the branded business unit. Clarity could be assisted by a separate appropriation or Vote.	Departmental agency has a separate appropriation or Vote.	
Time to be operational	Can be established now. An Order-in-Council would be needed for a functional chief executive.	An Order-in-Council would be needed for a departmental agency. Public Service Commissioner appoints CE under Public Service Act.	An Order-in-Council would be needed for a department. Public Service Commissioner appoints CE under Public Service Act.



Cabinet 100-Day Plan Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.


Establishment of the Ministry for Regulation

Portfolios **Regulation / Public Service**

On 17 January 2024, the Cabinet 100-Day Plan Committee:

- 1 **noted** that starting work to improve the quality of regulation is part of Government's 100-day plan, including the development of a preferred approach to establishment of the new regulation agency;
- 2 **agreed** to establish a Public Service department named the Ministry for Regulation, effective from 1 March 2024, with the Minister for Regulation as its responsible Minister;
- 3 **agreed** that the role of the new Ministry for Regulation (the new Ministry) should be a central agency ensuring regulatory systems managed by other agencies are consistent with good regulatory principles and practice;
- 4 **agreed** that the Minister for Regulation will develop core functions of the new Ministry including:
 - 4.1 evaluating proposals for new regulation;
 - 4.2 leading the carrying out of regulatory reviews, in consultation with other Ministers as necessary;
 - 4.3 producing omnibus bills to implement the findings of regulatory system reviews;
- 5 **agreed** that the functions of the new Ministry should include the following functions currently undertaken by Treasury and the Ministry of Business, Innovation and Employment (MBIE):
 - 5.1 strategic co-ordination and oversight of the Regulatory Management System, including advising on strengthening the Regulatory Impact Analysis (RIA) system;
 - 5.2 provision of guidance and support to agencies to help them improve their regulatory stewardship capability;
 - 5.3 administration of the RIA requirements for regulatory proposals;
 - 5.4 advising/delivering on New Zealand's international good regulatory practice (GRP) obligations;

- 5.5 administration and stewardship of the Regulatory Standards Bill once enacted;
- 5.6 administration and support of the cross-government regulatory practice initiative (G-REG) initiative;
- 6 **invited** the Minister for the Public Service to issue drafting instructions to the Parliamentary Counsel Office for Orders in Council to establish the new department by adding it to Part 1 of Schedule 2 of the Public Service Act 2020 and Schedule 1 of the Ombudsmen Act 1975, and to provide for transitional matters connected with the transfer of functions;
- 7 **noted** that to enable the new Ministry to commence on 1 March 2024, the Minister for the Public Service intends to seek a waiver of the usual 28-day notice period for the Order in Council;
- 8 **agreed**, in light of the tight timeline for establishment, that formal communication of the decision to create a department, its expected start date, and its role and functions can commence prior to the making of the Order in Council;
- 9 **noted** that, subject to undertaking consultation with impacted staff, the relevant chief executives intend to transfer the employees undertaking the functions of the new Ministry from their current departments to the new Ministry under the Public Service Act 2020;
- 10 **noted** that the decision to establish the new Ministry will create an impending vacancy in the chief executive role;
- 11 **authorised** the Minister for Regulation and Minister for the Public Service to:
- 11.1 note on behalf of Cabinet the position description for a substantive appointment to the chief executive role, to be developed by the Public Service Commissioner based on the draft attached to the paper under 100-24-SUB-0004;
- 11.2 clarify the scope of the roles to be transferred if needed;
- 12 **noted** that the Public Service Commissioner will work with the Minister for Regulation to identify and appoint an acting chief executive for the establishment and launch of the new Ministry;
- 13 **noted** that the Public Service Commissioner will transfer the role of functional lead for regulatory stewardship (currently held by the Secretary for the Treasury) to the chief executive of the new Ministry and consider whether to designate this role as a system lead under the Public Service Act;
- 14 **authorised** the Minister for Regulation and the Minister of Finance and any other relevant appropriation Minister (joint Ministers) jointly to:
- 14.1 approve any changes to operating and capital baselines necessary to enable the establishment of the new Ministry, including establishing a new Vote and new appropriations as necessary;
- 14.2 approve the necessary funding transfers to the new Ministry (from the Treasury and MBIE baselines) relating to existing regulatory functions;
- 14.3 approve any transfer of residual funding from the disestablishment of the productivity commission (after providing for ongoing disestablishment costs);

- 14.4 approve an increase in the Public Service Commission's appropriation for chief executive remuneration to accommodate the remuneration for the chief executive of the new Ministry;
- 14.5 agree to carry-forward unspent funding in 2023/24 into the next financial year as necessary;
- 15 **agreed** that the transfers of funding and baseline changes authorised to Joint Ministers in paragraph 14 above is fiscally neutral;
- 16 9(2)(f)(iv) confidentiality of advice

- 17 **noted** that the chief executive for the new Ministry will work with the Treasury and MBIE to implement the transition to the new Ministry, including transfers of staff and agreements on support services;
- 18 **noted** that the Minister for the Public Service and the Minister for Regulation will return to Cabinet by 20 February 2024 to seek agreement to the Order in Council and report on progress on implementation to date.

Jenny Vickers
Committee Secretary

Present:

Rt Hon Christopher Luxon (Chair)
Rt Hon Winston Peters
Hon David Seymour
Hon Nicola Willis
Hon Chris Bishop
Hon Dr Shane Reti
Hon Brooke van Velden
Hon Shane Jones
Hon Simeon Brown
Hon Erica Stanford
Hon Paul Goldsmith
Hon Judith Collins

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet



Cabinet

Minute of Decision

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Report of the Cabinet 100-Day Plan Committee: Period Ended 19 January 2024

On 23 January 2024, Cabinet made the following decisions on the work of the Cabinet 100-Day Plan Committee for the period ended 19 January 2024:

out of scope

100-24-MIN-0004

Establishment of the Ministry for Regulation
Portfolios: Regulation / Public Service

CONFIRMED

out of scope

Rachel Hayward
Secretary of the Cabinet