



Report Title:	Establishment of the Ministry for Regulation – proposed phases and milestones		
Report No:	2024-0028		
Date:	12 February 2024		
To:	Hon David Seymour, Minister for Regulation		
Action Sought:	Discuss with officials	Due Date	16 February 2024
Copy to:	Hon Nicola Willis, Minister for the Public Service		
Contact Person:	Hannah Cameron, Deputy Commissioner Strategy and Policy		
Contact No:	9(2)(a) privacy		
Encl:	Yes (appendix)	Priority:	High
Security Level:	SENSITIVE-STAFF		

Executive Summary

1. The Orders in Council to bring the Ministry for Regulation into legal existence from 1 March 2024 are due to be made on Monday 19 February 2024 and published on 22 February 2024. We recommend that you make a public release about the new Ministry at this time.
2. It will take a number of months for everything to be set up. This briefing sets out the establishment of the new Ministry, and what you can expect at different phases. We seek your feedback on ensuring this process places appropriate focus on your top priorities.
3. Our indicative milestones are based on our understanding of your priorities. Some of these also depend on Cabinet processes to clarify the work programme and timing, including the legislative programme and therefore the schedule for the Regulatory Standards Bill.
4. Although there are still conditions to be met before staff transfer alongside the functions moving from the Treasury and the Ministry of Business, Innovation and Employment, the timing of those transfers should not affect the ongoing work programme.
5. Our general advice is that a realistic goal would be that by October 2024, you could expect to have a substantive Chief Executive in place, with a fully staffed team, working to the full range of expectations that you wish to set for the new Ministry.

Recommended Action

We recommend that you:

- a **discuss** your feedback on the proposed approach with officials
Agree/disagree.
- b **note** that officials will provide you with a draft proposed press release to use when the Orders in Council are made
- c **agree** that the Public Service Commission release this briefing in full once it has been considered by you and staff consultation on the transfers to the new Ministry is complete.
Agree/disagree.

Hon David Seymour
Minister for Regulation

Purpose of Report


6. This report updates you on progress with establishing the Ministry and outlines how we see the Ministry and its work programme developing in phases over the period to October 2024. We would like to discuss the proposed phasing with you to ensure that initial planning for the Ministry is both practically achievable and focused on your priorities.

Overview

Status update on the Ministry

7. The legal establishment of the Ministry is progressing with Orders in Council due to the Legislation committee of Cabinet on 15 February 2024 and Cabinet and Executive Council on 19 February 2024. Once the Orders are made, they will be Gazetted on 22 February 2024. We recommend that you make a public announcement about the new Ministry at this time.
8. The process to appoint an Establishment Chief Executive is proceeding well and panel interviews were held on 8 February 2024. The Establishment Chief Executive will be employed by the Commission ahead of the legal commencement of the new Ministry, and we have also issued a call for an establishment team to support them.
9. Existing teams at MBIE and the Treasury have had initial informal discussions about the transfer of their functions to the new Ministry. Formal consultation on the transfer process and its timing will occur once the Establishment Chief Executive is in place. Your feedback on this briefing will inform that process which is important to staff retention and smooth transfers.
10. Work is underway on Vote establishment and the details of financial transfers to support the period to 30 June 2024. A separate briefing on financial matters will be coming to you and the Minister of Finance for decisions this week.
11. The Commission will provide accommodation and initial services to support the Establishment team and will be working through medium- and longer-term options with the Establishment Chief Executive.


Budget bid

12. The Treasury has briefed you separately on the Budget bid they have developed for the Ministry's ongoing funding. PSC had an opportunity just before submission to provide some input to the briefing and initial feedback on the draft bid.
13. 9(2)(f)(iv) confidentiality of advice 
14. As discussed in this briefing, there is further work to do to detail the new Ministry's operating model and the capabilities and organisational structure required to deliver its work programme. The Treasury has noted the possibility of establishing a tagged contingency using the draft bid as a starting point, with drawdowns to be confirmed through the proposed report-backs on the work programme. Our initial view is that this is an appropriate way to proceed. In our indicative timeline, we have noted a potential timeline for returning to Cabinet with more information on the Ministry's approach including sector reviews in June/July – this may be more appropriate timing to provide a detailed costing for the Ministry and associated funding drawdowns.

Work programme priorities

15. The Treasury has developed a draft Cabinet paper on the Regulatory Standards Bill and initial policy thinking for the sector review model. Next steps will need to consider how to maintain continuity once the work shifts to the new Ministry.
16. We understand that your priorities at this stage are establishing the Ministry, progressing the Regulatory Standards Bill and commencing the first sector review.
17. You have also indicated to officials working on the Bill that you wish the Ministry to undertake additional work on the scope of the RIA regime (more focused on impacts on private individuals and property) and updating government's expectations for good regulatory practice.

Proposed phasing and milestones

18. While the Ministry will be legally established on 1 March, it will take a number of months until it is staffed up and operational in all areas. It is important that the Establishment Chief Executive and Ministry are focused on your highest priorities first, rather than prioritising other aspects of the background infrastructure. The Commission will support you in putting in place clear expectations for both the Establishment, and ultimately the substantive, Chief Executives.
19. We have therefore worked to develop a description of what you can expect to see at each stage of implementation. This is set out in the attached A3 diagram, and the paragraphs below. The milestones are indicative at this stage and may need to adjust as more detailed planning has been completed by the Establishment Chief Executive and team. We expect that this roadmap could inform your early conversations with the Establishment Chief Executive.
20. 9(2)(f)(iv) confidentiality of advice

21. We seek your input on whether this phasing aligns with your priorities. We note that the timing of some aspects will also depend on wider government decisions, Cabinet processes, and the legislative timetable. Our general advice is that a realistic goal would be that by October 2024, you can expect to have a substantive Chief Executive in place, with a fully staffed team, working to the full range of expectations that you wish to set for the new Ministry.

By 1 March 2024

- The Ministry will be legally established. We expect that the Orders in Council for legal establishment will be published in the *Gazette* on 22 February 2024, and we recommend that you publicly announce the new Ministry.
- The Establishment Chief Executive will be engaging with you on the work programme, and on your priorities and vision for the new Ministry. They will be engaging with relevant stakeholders (including staff that will ultimately be transferred into the new Ministry) and keeping you abreast of the establishment logistics, including input into the Budget 24 process.

- An initial establishment team, made up of half a dozen seconded staff, will be operational. They will be largely focused on designing the functions and operating model of the new Ministry, deciding on the right timing for transfer of functions and new staff to the new Ministry, recruiting staff and setting up corporate infrastructure, and providing you with Ministerial support including for Ministerials and OIAs.
- The Establishment Chief Executive will become the system leader for Regulatory Stewardship and they will assume accountability for the development and delivery of the Regulatory Standards Bill. They will be supported in this task by officials either seconded from other agencies, or managed under delegation.
- The Establishment Chief Executive will also assume accountability for the design and implementation of sector reviews. Again, they are likely to be supported by staff from other agencies.
- While the Ministry will be operational, behind the scenes things will be in transition. For example, the Ministry will have its own Vote/appropriation and bank account but payroll etc may be managed elsewhere.
- The Secretary for the Treasury will remain accountable for delivery of the business of usual in respect to the Regulatory Impact Assessment regime. This team will be working closely with the Establishment Chief Executive on any potential changes to the regime.
- The Secretary for Business, Innovation and Employment will remain accountable for the oversight of regulatory professional practice and the G-REG team in MBIE.

By 1 May 2024

- You will have agreed a detailed description of the new Ministry's functions and future operating model with the Establishment Chief Executive and be preparing to consult with your Ministerial colleagues and other stakeholders.
- You will have engaged with the Establishment Chief Executive on approaches to working with key stakeholders and external advisors, and these mechanisms, such as an expert advisory group, would be being set up.
- The Ministry will have worked with stakeholders to develop a proposed scope and plan for the first sector review. We expect a Cabinet process to be required given the implications for other Ministers' portfolios.
- The legislative priority and expected timeframes for the Regulatory Standards Bill will be clarified. Depending on Cabinet approval, the next paper on the Bill, seeking approval for drafting instructions, will be in progress.
- Responsibility for delivering the Regulatory Impact Analysis functions, with associated staffing and funding, will have moved to the new Ministry from the Treasury. This will include a digital solution, or temporary workaround, for the ongoing online delivery of the RIA processes.
- The Establishment Chief Executive will take on head of profession responsibilities, including the role of delivering G-REG, and associated staffing will move to the new Ministry from MBIE. The club funding for G-REG will continue to be managed by MBIE on behalf of the new Ministry.
- Input to the Budget process will be complete and you will likely know the outcome of the bid for the Ministry and the scale you will be able to achieve.

By 1 July 2024

- Cabinet will have agreed a plan for the Ministry's priorities, work programme and operating model.
- The substantive Chief Executive will have been appointed and be engaging with you on the full operating model and work programme for the Ministry, and plans for building the Ministry as a central agency.
- The substantive Chief Executive will have a blueprint for the new organisation and will commence replacing secondees with longer term staffing, decisions on the location of the Ministry, and substantive arrangements for its corporate services.
- Setting up for the second sector review will have commenced.
- Depending on legislative priority and drafting availability, you expect the Regulatory Standards Bill to be introduced to Parliament.
- The Ministry will know its ongoing funding arrangements following Budget 2024 and will be planning accordingly. This will include replacing the G-REG club funding model with appropriation funding.

By 1 October 2024

- The Ministry should be staffed to deliver its full role, based on funding allocated by Budget 2024.
- The first sector review will have been completed including identification of issues to be progressed as a result, this may include the first Omnibus Bill.
- The Regulatory Standards Bill will be at Select Committee and preferably passed by the end of 2024.
- You will start working with the Ministry on their work programme for 2025, including any resource implications that need to be considered in Budget 2025.
- Plans will be underway for the Ministry to move to Bowen House in 2025 with other central agencies.

Risks

22. The main risks we are managing through this process are:

- Setting the new Ministry up for success – in particular, ensuring it has the resources it needs and that the incoming chief executive(s) and leadership have capacity to focus on Ministerial priorities and developing the new functions. Ensuring resources to maintain progress on the Regulatory Standards Bill will need to be a priority for the Establishment Chief Executive and we will be briefing them on your expectations for this work. The sector review programme will require similar early attention.
- Information technology and systems risks – in particular, ensuring the transferring functions have ongoing access to their information and supporting systems. This includes, for example, the Regulatory Impact Analysis system currently housed in Treasury.
- Potential for loss of experienced staff if the transfer process is not managed well with flow on impacts to recruitment by the new Ministry.

Next Steps

23. Your feedback on the proposed phasing will be used to guide the next steps from here on the work programme and to inform consultation with affected staff on when the transfers of functions to the new Ministry will officially take place.
24. We suggest that you consider timing of communications, given that the Orders in Council will be published on 22 February and, before that, the Public Service Commission will be in a position to announce the Establishment Chief Executive appointment and publicly advertise for the substantive position.

Appendix - Ministry for Regulation phasing



1 March
2024

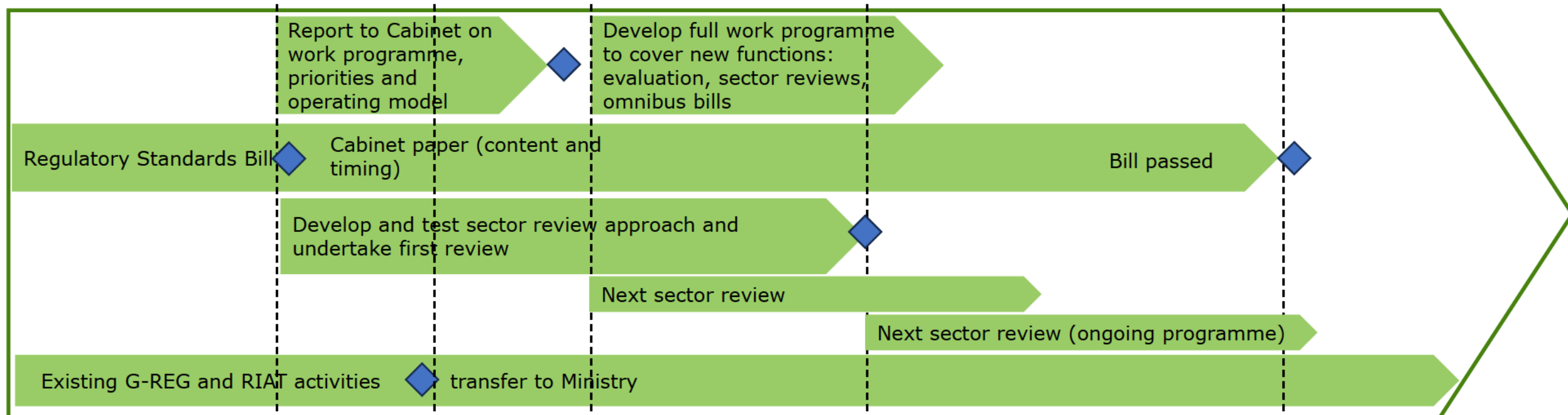
1 May
2024

1 July
2024

By 1 October
2024

End
2024

ESTABLISHING THE FUNCTIONS AND WORK PROGRAMME



ESTABLISHING THE MINISTRY

