



## Legislation bid for New Zealand Public Service Bill

**Date:** 15 February 2018  
**Report No:** SSC2018/143  
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	Action Sought	Deadline
Minister of State Services (Hon Chris Hipkins)	<b>approve</b> the attached bid for the 2018 Legislation Programme <b>deliver</b> the bid to the Cabinet Office	

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**Enclosure:** Legislation bid for New Zealand Public Service Bill

### Executive Summary

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- 1 You have indicated your support for a rewrite of the State Sector Act 1988. We propose that the new legislation will become a New Zealand Public Service Act 2019.
- 2 This timeframe necessitates a bid for the 2018 Legislation Programme. The attached bid proposes priority category 6: instructions to be provided to PCO in the year.

### Recommended Action

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We recommend that you:

- a **approve** the attached bid for the 2018 Legislation Programme  
*Approved/not approved.*
- b **deliver** the bid to the Legislation Coordinator in the Cabinet Office.  
*Delivered/not delivered.*

Hon Chris Hipkins  
**Minister of State Services**

**New Zealand Public Service Bill: Request for Priority in the 2018 Legislation Programme**

**Proposal**

- 1 This paper proposes that a New Zealand Public Service Bill be included in the Legislation Programme for 2018. The proposal involves the following details:
  - 1.1 the portfolio of the sponsoring Minister: State Services;
  - 1.2 the department responsible: State Services Commission (SSC). The departmental contact is Frank Peek, DDI 04 495 6747;
  - 1.3 the proposed title: New Zealand Public Service Bill;
  - 1.4 the proposed Bill holds the second ranking within this portfolio (the State Sector and Crown Entities Reform Bill holds the first ranking; a separate bid was lodged in January 2018 indicating that a proposed Protected Disclosures Amendment Bill holds the second ranking; however, the proposed New Zealand Public Service Bill ranks higher in the portfolio);
  - 1.5 the Bill is estimated to be large and of high complexity; and
  - 1.6 the proposed priority is category 6: instructions to be provided to PCO in the year.

**Policy**

- 2 *Policy to be implemented by the Bill* – The New Zealand Public Service Bill will repeal the State Sector Act 1988 and replace it with an Act to establish a citizen-centred public service focussed on whole-of-government outcomes. To that end, the new Act will define the role and mission of the public service, the values that guide the behaviours needed to fulfil its role, and the foundation principles that establish the public service within the constitutional fabric of New Zealand. The new Act will aim to provide for a more integrated, agile and responsive way of leading, organising, resourcing and operating the public service.
- 3 *Aspects of the Bill that are likely to be contentious* – The Bill will represent a paradigm shift about the notion of the public service. Currently it is defined by organisational form. Under the Bill, the concept will change so that the public service is determined by the nature of the services delivered and the clients to whom they are provided. In effect, the public service will encompass a broader and more diverse range of organisational forms than the current departments/ministries that are subject to the State Sector Act

1988. It is likely to take time for this new notion of the public service to become understood and accepted.

- 4 The extent of the State Services Commissioner's mandate in relation to the expanded public service is likely to be closely scrutinised.
- 5 *Policy issues not yet agreed* – The policy proposals have not yet been submitted to Cabinet. The prospective date for final Cabinet decisions is October 2018.

#### **Need for legislation**

- 6 *Why legislative action is needed* - The proposal cannot be implemented without the legislation required to repeal the State Sector Act 1988 and replace it with a new Act that establishes a new paradigm for the public service, including how it is led, organised, resourced and operates.
- 7 *Suggested priority* – Category 6 is proposed: instructions to be provided to the Parliamentary Counsel Office in 2018.

#### **Compliance**

- 8 The Bill will comply with each of the following:
  - 8.1 the principles of the Treaty of Waitangi;
  - 8.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 8.3 the principles and guidelines set out in the Privacy Act 1993;
  - 8.4 relevant international standards and obligations; and
  - 8.5 the LAC Guidelines on Process and Content of Legislation, 2014 edition. The Legislation Design and Advisory Committee will be consulted before seeking final Cabinet policy decisions.

#### **Binding on the Crown**

- 9 The State Sector Act 1988 does not state explicitly that it is binding on the Crown. At the policy development stage, Cabinet Committee agreement will be sought to include a provision that the new Act will be binding on the Crown.

#### **Consultation**

- 10 Pre-consultation on policy issues took place in the context of the preparation of *The Spirit of Service: Briefing to the Incoming Government*, presented by Peter Hughes, State Services Commissioner and Head of State Services. All departmental chief executives were involved as well as the chief executives of 4 major Crown entities: Accident Compensation Corporation, Housing New Zealand Corporation, New Zealand Trade and Enterprise, and New Zealand Transport Agency.

- 11 Consultation will be required with all relevant government agencies, including all departments and a significant number of Crown entities.
- 12 External stakeholders will also be engaged in the work, including academia, the legal profession and other interested parties.
- 13 Consultation on the policy issues is expected to be completed by the end of August 2018.
- 14 The Legislation Design and Advisory Committee will be consulted at the appropriate time.
- 15 An exposure draft of the Bill is not planned for consultation before the Bill is introduced.
- 16 Broad based support for legislative change of this nature is highly desirable. Consultation will be needed at the appropriate time with the government caucuses and other parties represented in Parliament.

#### Associated regulations

- 17 Regulations may be needed within 12 months of the Bill being enacted to give effect to provisions in the Bill. If so, they are most likely to be needed in order to amend relevant schedules in the Crown Entities Act 2004 and the Ombudsmen Act 1975 to reflect changes in the machinery of government. Regulations of this nature are straightforward, usually comprising no more than 4 or 5 clauses.

#### Timeline

- 18 The proposed timing for the legislation is as follows.

<i>Step</i>	<i>Proposed date</i>	<i>Consistency assurance</i>
Date on which final policy approvals will be obtained from Cabinet.	End October 2018	Targeted consultation on a policy paper will be held before seeking final Cabinet approvals.
Date on which final drafting instructions will be sent to the Parliamentary Counsel Office.	End November 2018	
Date by which the Bill will be released for exposure draft.		Not applicable.
Date by which the Bill will be provided to the Ministry of Justice for an assessment of consistency with the New Zealand Bill of Rights Act 1990.	Early March 2019	

Dates on which the Bill will be before LEG and Cabinet for approval for introduction.	LEG 21 March 2019 Cabinet 25 March 2019	
Date requested for introduction of the Bill.	28 March 2019	
Date of report back from select committee.	End September 2019	
Date of enactment.	End November 2019	
Date of commencement.	Day after Royal assent	

## Recommendations

- 19 The Minister of State Services recommends that the Committee:
- 19.1 note that the New Zealand Public Service Bill will repeal the State Sector Act 1988 and replace it with an Act to establish a citizen-centred public service focussed on whole-of-government outcomes;
  - 19.2 approve the inclusion of the New Zealand Public Service Bill in the 2018 Legislation Programme, with a priority 6 category: instructions to be provided to PCO in the year;
  - 19.3 note that drafting instructions will be provided to the Parliamentary Counsel Office by the end of November 2018;
  - 19.4 note that the Bill should be introduced no later than the end of March 2019;
  - 19.5 note that the Bill should be passed no later than the end of November 2019.

Authorised for lodgement

Hon Chris Hipkins  
Minister of State Services