



# OPEN GOVERNMENT PARTNERSHIP NEW ZEALAND

## Commitment 6: Improving access to legislation

**Date:** September to November 2017

**Lead agency:** Parliamentary Counsel office (PCO)

*To improve access to legislation by publishing all secondary legislation, regardless of who drafts it, on the New Zealand Legislation (NZL) website. The result will be a single, comprehensive, official, public source of all New Zealand’s legislation.*

Milestones		Stage
1	Consultation and engagement with all involved actors, including all government and regulatory agencies and Crown entities that produce secondary legislation <i>End date: Ongoing through project</i>	
2	Consideration for approval by Cabinet.	

-  underway
-  completed
-  some delays.

### WHAT HAVE WE BEEN DOING?

- Completed legal research on current legislation (2100 Acts) to identify provisions that empower agencies to make secondary legislation.
- Consultation on the findings of this research has been concluded with 4 of the 33 administering agencies, and is at an advanced stage with over 20 of the remaining agencies. All agencies remain very supportive and have shown a strong desire to ensure that a mutually agreed view is formed.
- Drafting of the second Bill commenced in October 2017. This Bill will state which empowering provisions empower the making of secondary legislation.
- The drafting template is being piloted by 3 agencies. Feedback from these agencies has been very positive.
- We have commenced a quantitative (existing quantity and rate of production) and qualitative analysis of secondary legislation, which will inform the proposed service for delivery of future services.

- We have engaged with agencies who deliver services both to other agencies and to New Zealanders to:
  - learn from their experience to reflect end-user needs in serving New Zealanders
  - explore areas of potential collaboration in how best to support agencies that make secondary legislation.

## LINKS

[List of agencies that can create regulations](#)

[Access to Subordinate Legislation Project news](#)

## WHAT'S NEXT?

- Continue piloting the drafting template, which is helping to inform the final version of the template as well as providing an early view of any business impact on agencies.
- Continue working with agencies to conclude the analysis of their empowering provisions, which then enables drafting of the relevant amendments for the second Bill.
- Continue quantitative and qualitative analysis of secondary legislation.
- Commence research on end-user needs for finding secondary legislation, which will inform the development of IT systems.
- Decide the nature of information about existing secondary legislation to be migrated to the new system to ensure that agencies have enough time to prepare for fulfilling their obligations under the new Legislation Bill when it becomes law.



# OPEN GOVERNMENT PARTNERSHIP NEW ZEALAND

## Commitment 6: Improving access to legislation

**Date:** December to February 2018

**Lead agency:** Parliamentary Counsel office (PCO)

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Milestones		Stage
1	Consultation and engagement with all involved actors, including all government and regulatory agencies and Crown entities that produce secondary legislation <i>End date: Ongoing through project</i>	
2	Consideration for approval by Cabinet.	



underway



completed



some delays.

## WHAT HAVE WE BEEN DOING?

- The Legislation Bill received its first reading on 5 December and was referred to the Justice select committee:
  - submissions on the Bill closed on 23 February
  - the committee is currently considering the Bill.
- We have concluded discussions with 33 government agencies (mainly departments) who administer Acts of Parliament. Discussions have included work to clarify which provisions, in the Acts they administer, empower the making of secondary legislation and which empower the making of administrative instruments (ie, clarifying the boundary between what is legislative and what is administrative).
- Initial drafting instructions have been provided for the second Bill that will amend each of the identified provisions in each Act to expressly state which provisions empower the making of secondary legislation. This will be a very large Bill – preliminary analysis indicates that it could amend approximately 1500 Acts.

- We have engaged an agency to carry out end-user research on accessibility of secondary legislation, which will inform the development of IT systems.

## LINKS

[List of agencies that can create regulations](#)

[Access to Subordinate Legislation Project news](#)

## WHAT'S NEXT?

- Complete discussions with agencies, continuing our engagement with agencies that administer primary legislation containing empowering provisions, and deepening our engagement with the wider set of agencies that administer secondary legislation.
- Continue to provide drafting instructions.
- Consider end-user research and incorporate findings into development of IT systems.
- We need agencies which administer secondary legislation to identify and locate all of their secondary legislation that is made under the existing empowering provisions.
- We will be encouraging agencies that administer secondary legislation to produce a list of all secondary legislation made by them that is in force.

# OPEN GOVERNMENT PARTNERSHIP

## NEW ZEALAND

### Commitment 6: Improving access to legislation

**Date:** June to August 2017

**Lead agency:** Parliamentary Counsel office (PCO)

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#### WHAT HAVE WE BEEN DOING?

- The Legislation Bill was introduced on 20 June 2017 and is waiting for its first reading (note that the first reading will not happen until a new Parliament is formed after the election).
- We have been focussing on completing the legal research to a point where the findings can be finalised with the agency key contacts.
- We have engaged with 23 of the 33 administering agencies to discuss the legal analysis of their empowering provisions – all agencies have shown a strong desire to ensure that a mutually agreed view is formed and have been very supportive.
- A drafting template has been finalised and has been trialled internally by PCO. We have identified a group of 10 agencies who have expressed a willingness to participate in a pilot of the drafting template. This will be done as a part of an holistic 'joined-up' approach to engagement with agencies that is being developed.
- We have had a major focus on Project and Change planning to ensure that we have a clear work programme to June 2018 with confirmed budget and resources.

#### LINKS

[List of agencies that can create regulations](#)

[Access to Subordinate Legislation Project news](#)

#### WHAT'S NEXT?

- Continue piloting the drafting template with agencies, which will help inform the final working template as well as provide an early view of any business impact on agencies.
- Commence quantitative (existing quantity, rate of production, etc) analysis of secondary legislation to inform the proposed service delivery model for delivery of future services.
- Commence research on end user needs in relation to finding secondary legislation to inform the development of IT systems.

- Decide the nature and timing of migrating existing secondary legislation to ensure that agencies have enough time to prepare for fulfilling their obligations under the new Legislation Bill when it becomes law.





## YEAR END: Commitment 6 - Improving access to legislation

**Date:** March to June 2018

**Lead agency:** Parliamentary Counsel office (PCO)

*To improve access to legislation by publishing all secondary legislation, regardless of who drafts it, on the New Zealand Legislation (NZL) website. The result will be a single, comprehensive, official, public source of all New Zealand's legislation.*

Milestones		Stage
1	Consultation and engagement with all involved actors, including all government and regulatory agencies and Crown entities that produce secondary legislation <i>End date: Ongoing through project</i>	
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underway



completed



some delays.

### WHAT HAVE WE BEEN DOING?

- **New legislative framework:** There are 2 significant pieces of legislation that will together create the legislative framework, and make changes to existing legislation, that will enable this commitment to achieve its objectives. The Legislation Bill and the Secondary Legislation (Access) Bill.
- On 1 June 2018, the Legislation Bill was reported back to the House after consideration by the Justice Committee.
- **“List” duty:** The Justice Committee made some changes to the Legislation Bill. The most significant change was to create a duty on makers to provide a “list” of in-force secondary legislation to the Parliamentary Counsel Office (PCO). Makers of secondary legislation will also need to provide PCO with additional information about their secondary legislation, including a link to where the secondary legislation can be found. This duty was added to the Bill to ensure the early delivery of one of the key benefits of this commitment – identifying, for the first time, a definitive collection of secondary legislation and where it is can be found.
- Makers of legislation will have one year from the commencement of the new Legislation Bill to provide their “list” information to the PCO. This deadline may be extended by regulations to a maximum of 5 years.

- **Changes to existing legislation:** A large amount of legal research and engagement with government agencies was completed. This work was carried out to help to identify and clarify which provisions in Acts that agencies administer empower the making of secondary legislation.
- Now that those provisions have been identified, drafting of the Secondary Legislation (Access) Bill has begun. The Bill will amend each of the identified empowering provisions (in each Act) so that they clearly state what is secondary legislation. As a result, secondary legislation made under those provisions must be published on the NZ Legislation website and will be subject to oversight by Parliament’s Regulations Review Committee.
- **Agency engagement:** PCO has written to government agencies and non-departmental organisations to explain the effects of the new legislative framework and to let them know what they can do to prepare to meet their “list” obligations. We note that engagement across all affected agencies will continue beyond this commitment.
- Note that Cabinet has decided that legislation made by local authorities and council-controlled organisations is out of scope for this project. Cabinet has directed the Department of Internal Affairs to explore options for making legislation made by local authorities more accessible to users.
- **End-user research:** PCO has carried out end-user research to investigate whether people understand what secondary legislation is and how they currently find it and what their future expectations might be. This research has helped to inform the development of our technology and we are planning on further engagement as we continue to develop our systems.
- **Project will continue beyond current OGP:** As noted by the independent reviewer, this project will continue beyond the term of the current OGP Plan, and it is likely that it will take several years to achieve the ultimate objective of publishing secondary legislation on the NZ Legislation website.

#### HOW DID THIS COMMITMENT CONTRIBUTE TO OPEN GOVERNMENT?

- **Single authoritative source of official legislation:** PCO provides free public access to up-to-date legislation in open formats on the NZ Legislation website ([www.legislation.govt.nz](http://www.legislation.govt.nz)).
- The New Zealand Parliament has delegated the authority to make law to over 100 agencies, including government departments, Crown entities, and statutory bodies.
- Research has indicated that there are probably thousands of pieces of secondary legislation currently in force in NZ, but we don’t really know the number or where they can be found.
- By making secondary legislation accessible on the NZ Legislation website, we will be creating a single authoritative source for legislation. Easy access to a complete collection of official legislation can offer a platform to help improve governance and citizen engagement.
- **Re-usable and open source:** All Bills, Supplementary Order Papers, Acts of Parliament and Legislative Instruments (which will become secondary legislation) are available on the NZ Legislation website in re-usable formats (HTML and XML) as well as print format (PDF).



- The official version of the legislation is on the NZ Legislation website. But, because there is no copyright on NZ legislation, it can be re-published on other websites or in hard copy format.
- For example, commercial legal publishers re-use the legislation and make it available in their suite of products and services and other organisations (such as NZLII) take the legislation and make it available with other legal information and publications on their websites.
- By adding secondary legislation to the collection of official NZ legislation, we are providing an opportunity for others to create supplementary services and products.
- **Supporting other Government projects:** PCO have been assisting the Department of Internal Affairs' Service Innovation Team and the work that they have been doing on exploring legislation as code (digital rules).
- Creating a complete collection of New Zealand legislation is essential to support this work and similar projects across Government.

## LINKS

- Access to Subordinate Legislation Project news  
<http://www.pco.govt.nz/access-project-news/>