

Open Government Partnership New Zealand

National Action Plan 2018-2021

Progress report for: July 2020 – September 2020

Commitment 4: Making New Zealand’s secondary legislation readily accessible

Lead agency: Parliamentary Counsel Office

Objective: To make New Zealand's secondary legislation readily-accessible¹.

Ambition: This commitment continues work started in the National Action Plan 2016-2018. The Parliamentary Counsel Office will work with the makers of secondary legislation to gather information about their secondary legislation and make it available via the New Zealand Legislation website (<http://www.legislation.govt.nz/>).

OGP values: Transparency, Technology, and Innovation

Milestones		Progress
1	Compile a complete list of makers of secondary legislation. <i>Start/End dates: 2018-2021</i>	
2	Engage with makers of secondary legislation to to: <ul style="list-style-type: none"> encourage them to identify all of their current in-force secondary legislation in preparation for the commencement of the Legislation Act 2019 encourage them to make their current in-force legislation publicly available on a website. <i>Start/End dates: 2018-2021</i>	
3	Enhancements to the New Zealand legislation website to improve access to secondary legislation by: <ul style="list-style-type: none"> providing links under relevant empowering provisions in Acts (primary legislation) to external makers of secondary legislation; making publication requirements easier for users to see by noting this information under the relevant empowering provisions. <i>Start/End dates: 2018-2021</i>	

Progress key:



some delays



underway



completed

¹ Local authorities and council-controlled organisations are out of scope.

WHAT WE HAVE BEEN DOING

- Primary legislation has been drafted to achieve the milestones under this commitment: the Legislation Act 2019 and the Secondary Legislation Bill (currently progressing through Parliament).
- The Legislation Act 2019 legally defines the category of secondary legislation in principle. The Secondary Legislation Bill proposes over 2,500 amendments to more than 550 Acts (primary legislation), determining, definitively for the first time in New Zealand, law that falls into the category of secondary legislation.
- The amendments in the Secondary Legislation Bill are to provisions that delegate the power to make secondary legislation to various people or bodies within the government (eg, the Department of Internal Affairs), the state sector (eg, Commerce Commission or Electricity Authority), and outside the state sector, to community or professional boards and councils such as the Dental Council or the NZ Racing Board).
- The Secondary Legislation Bill has progressed through select committee and was reported back to Parliament (10 June 2020), a major step forward to the achievement of our objectives. It will continue its progress through Parliament when the House reforms after the 2020 general election. Further amendments will be proposed to the Bill at this stage, mostly to make sure that it is kept up-to-date.
 - The commentary to the Secondary Legislation Bill from the Regulations Review select committee provides more information about that select committee process:
<http://www.legislation.govt.nz/bill/government/2019/0199/latest/d20031242e2.html>
 - For more information about what will happen at the next significant stage (Committee of the whole House):
<https://www.parliament.nz/en/get-involved/features-pre-2016/document/00NZPHomeNews201311151/committee-of-the-whole-house>
- Milestones for this commitment were updated to recognise progress made and lessons learnt and to bring them into line with the Government's decision to decouple reforms rationalising and clarifying the framework around secondary legislation from the future establishment of centralised publication on the New Zealand legislation website.
- The benefit of that change has been to accelerate the implementation of the initial reforms of defining secondary legislation (ie, commencing the related legislation sooner) and starting to improve access without waiting for the necessary IT build and related business systems to be developed to support future centralised publication.

- Implementing the initial reforms will deliver the following benefits:
 - resolving the current ambiguity about what secondary legislation is;
 - improving public access to secondary legislation that is made by both government and non-government entities;
 - clarifying what secondary legislation is subject to Parliamentary oversight through the Parliamentary disallowance process; and
 - improving Parliamentary scrutiny of secondary legislation.
- On commencement of the legislative reforms, makers of secondary legislation will be required to continue to make their secondary legislation available in accordance with their existing publication requirements.
- Currently, publication requirements are diverse and scattered across the statute book and it is unclear what the rules are about Parliamentary scrutiny (ie disallowance and presentation) that apply to different types of secondary legislation.
- PCO will make this information clearly available to users on the New Zealand legislation website under each provision in primary legislation that empowers a body to make secondary legislation. PCO have started this work, which is very large.
- PCO will also make it easier for users of the New Zealand legislation website to find secondary legislation by providing links within primary legislation:
 - to the full text of all secondary legislation drafted by the PCO; and
 - to direct users to where they can find secondary legislation drafted by other makers.
- It is an election year in New Zealand, which means that Parliament will adjourn on 6 August and no more legislation will be progressed until a new Government is formed.
- It is uncertain whether the Secondary Legislation Bill will progress through to enactment before the election or what the timeline to enactment will be.

HOW WE ARE INCLUDING DIVERSE VOICES

- Makers of secondary legislation represent many different groups across New Zealand society. Makers have been involved since start of work on the legislative reforms and were able to comment on the legislation as part of the Parliamentary process at select committee stage.

- We are ultimately aiming to make secondary legislation accessible to all New Zealanders via the New Zealand Legislation website (<http://legislation.govt.nz/>).

HOW WE ARE KEEPING DIVERSE COMMUNITIES INFORMED

- Information about the project is available on our corporate website <http://www.pco.govt.nz/sl/>
- Newsletters communicating developments in secondary legislation are sent to a wide distribution list and are also accessible on that website <http://www.pco.govt.nz/sl-news/>
- As we move to commencement and implementation of the reforms, agencies and makers responsible for secondary legislation will be encouraged to keep their diverse communities informed.

WHAT'S NEXT?

- Focus on supporting the Secondary Legislation Bill as it progresses through Parliament.
- Continue the work of encouraging makers of secondary legislation to make sure that they find all of their current in-force secondary legislation and make it publicly available and keep it up-to-date on their websites.

LINKS – EVIDENCE OF PROGRESS AND MILESTONES ACHIEVED

- <http://www.pco.govt.nz/sl/>
- <http://www.legislation.govt.nz/bill/government/2019/0199/latest/LMS268928.html?src=qs>
- <http://www.legislation.govt.nz/act/public/2019/0058/latest/DLM7298125.html?src=qs>
- https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_93428/secondary-legislation-bill