



Cabinet Legislation 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.

Legislation Act 2019 Regulations and Commencement Order: Policy

Portfolio Attorney-General

On 20 May 2021, the Cabinet Legislation Committee:

- 1 **noted** that when the main provisions of the Legislation Act 2019 (the Act) come into force, the publication and notification requirements for secondary legislation will be set under the Act;
- 2 **noted** that the Act will preserve publication and notification requirements for secondary legislation made under existing empowering provisions for the time being;
- 3 **noted** that publication and notification requirements for secondary legislation drafted by agencies under new empowering provisions will be set by regulations under the Act;
- 4 **agreed** that agency-drafted secondary legislation made under empowering provisions enacted after the Act comes into force be required to be—
 - 4.1 published on an Internet site maintained by or on behalf of the person responsible for publishing the secondary legislation;
 - 4.2 as far as practicable, able to be accessed at, or downloaded from, that Internet site at all times free of charge; and
 - 4.3 notified in the Gazette as soon as practicable after it is made;
- 5 **agreed** that notice of making of agency-drafted secondary legislation will state:
 - 5.1 the title of the secondary legislation;
 - 5.2 the date of making;
 - 5.3 the empowering provision;
 - 5.4 the administering agency;
 - 5.5 the website where the secondary legislation is published; and
 - 5.6 that the instrument being notified is secondary legislation;
- 6 **agreed** that the same information will be required to be notified in the Gazette for secondary legislation published by the Parliamentary Counsel Office (PCO);

- 7 **agreed** that regulations be made to consequentially amend secondary legislation that sub-delegates powers to make legislation to state that the sub-delegated instruments are secondary legislation;
- 8 **agreed** that the regulations amend the Legislation (Official Versions) Regulations 2015 so that they apply to official versions of legislation issued under the Act;
- 9 **noted** that clause 19 of Schedule 1 of the Act enables regulations to amend empowering provisions to correct or clarify the status of instruments made under them and ensure the Act applies to them appropriately;
- 10 **authorised** the Attorney-General to agree that regulations be drafted under clause 19 of Schedule 1 of the Act to correct technical mistakes in how amendments in the Secondary Legislation Act were drafted, if required;
- 11 **agreed** that commencement orders be drafted to bring the Act (except for Part 4), the Secondary Legislation Act 2021 and Part 2 of the Legislation (Repeals and Amendments) Act 2019 into force (which I expect to be in the last quarter of this year);
- 12 **invited** the Attorney-General to issue drafting instructions to the PCO to give effect to the above proposals;
- 13 **authorised** the Attorney-General to approve minor or technical changes, consistent with the policy set out above, on any issues that arise during drafting; and
- 14 **agreed** that drafts of the regulations may be provided to any makers of secondary legislation for consultation.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Megan Woods
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Jan Tinetti
Hon Michael Wood (Deputy Chair)
Hon Ayesha Verrall
Hon Meka Whaitiri
Kieran McAnulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG