



Legislation (Repeals and Amendments) Act 2019

Public Act 2019 No 59
Date of assent 28 October 2019
Commencement see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Parliamentary Counsel Office.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Legislation (Repeals and Amendments) Act 2019.

2 Commencement

- (1) This Act comes into force as follows:
- (a) Part 1 and Schedule 1 (which contain interim amendments to the Legislation Act 2012 and other Acts) come into force on the day after the date of Royal assent:
 - (b) the rest of this Act comes into force—
 - (i) on 1 or more dates set by Order in Council; or
 - (ii) to the extent not brought into force earlier, on the fifth anniversary of the date on which the Secondary Legislation Act 2021 receives the Royal assent.
- (2) One or more Orders in Council may set different dates for different provisions (and, for that purpose, may commence a provision only for the purpose of giving effect to some, but not other, parts of this Act).

Section 2(1)(b)(i): Part 2 brought into force, on 28 October 2021, by clause 2 of the Legislation (Repeals and Amendments) Act Commencement Order 2021 (LI 2021/251).

Section 2(1)(b)(ii): amended, on 25 March 2021, by section 6(2) of the Secondary Legislation Act 2021 (2021 No 7).

Part 1 Interim amendments

3 Legislation Act 2012 amended

The Legislation Act 2012 is amended as set out in Part 1 of Schedule 1.

4 Other Acts amended

The Acts set out in Part 2 of Schedule 1 are amended as set out in that schedule.

5 Publication statement taken not to have been required

Copies or reprints of legislation published under the Legislation Act 2012 must be taken never to have been required to include a statement that they are published under the authority of the New Zealand Government (despite section 6(6) of that Act).

Part 2

Repeals, revocations, and related amendments

Subpart 1—Amendments relating to Part 2 of Legislation Act 2019

Repeal of Interpretation Act 1999

6 Repeal of Interpretation Act 1999

The Interpretation Act 1999 (1999 No 85) is repealed.

Amendments to Imperial Laws Application Act 1988

7 Amendments to Imperial Laws Application Act 1988

Sections 8 and 9 amend the Imperial Laws Application Act 1988.

8 Section 4 amended (Other Imperial enactments and Imperial subordinate legislation not part of laws of New Zealand)

Repeal section 4(4).

9 New section 6A inserted (Application of Legislation Act 2019 to Imperial legislation)

After section 6, insert:

6A Application of Legislation Act 2019 to Imperial legislation

- (1) For the purposes of the Legislation Act 2019 and all other legislation, an Imperial enactment that is part of the laws of New Zealand is an **Act** (as if it were an Act enacted by the Parliament of New Zealand).
- (2) For the purposes of the Legislation Act 2019 and all other legislation, Imperial subordinate legislation that is part of the laws of New Zealand is **secondary legislation** (see the Legislation Act 2019 for publication requirements) (as if it were secondary legislation made under the authority of an Act enacted by the Parliament of New Zealand).
- (3) For the purposes of applying the Legislation Act 2019 and other legislation to Imperial enactments and Imperial subordinate legislation,—
 - (a) if the effect of the Imperial enactment or Imperial subordinate legislation, as part of the laws of New Zealand, is modified, the modification must be treated as an amendment:
 - (b) if the Imperial enactment or Imperial subordinate legislation ceases to have effect, as part of the laws of New Zealand, the cessation must be treated as a repeal or revocation:
 - (c) an order made under section 82 of the Legislation Act 2019 in respect of any Imperial subordinate legislation—
 - (i) does not revoke it; but

- (ii) declares that it ceases to have effect as part of the laws of New Zealand.
- (4) Subsections (1) to (3) apply unless—
 - (a) the legislation provides otherwise; or
 - (b) the context of the legislation requires a different interpretation.

Subpart 2—Amendments relating to Part 3 of Legislation Act 2019

Repeal of Legislation Act 2012

10 Repeal of Legislation Act 2012

The Legislation Act 2012 (2012 No 119) is repealed.

11 Some instruments revoked and others continue in effect

- (1) The Legislation (Publication) Order 2013 (SR 2013/244) is revoked.
- (2) However, the following instruments continue in effect (despite the repeal of the Legislation Act 2012) as if made under the following provisions of the Legislation Act 2019:
 - (a) Inland Revenue Department (Drafting) Order 1995 as if made under section 68:
 - (b) Legislation (Recognition of Overseas Lawyers) Order 2014 as if made under section 137:
 - (c) Legislation (Official Versions) Regulations 2015 as if made under section 147:
 - (d) any order made under section 36C(3) of the Legislation Act 2012 as if made under section 147(1)(d):
 - (e) any direction given under section 36E or 36F of the Legislation Act 2012 as if made under section 76.

Section 11(2)(e): amended, on 25 March 2021, by section 6(3) of the Secondary Legislation Act 2021 (2021 No 7).

Repeal of Reprint of Statutes Act 1931

12 Repeal of Reprint of Statutes Act 1931

The Reprint of Statutes Act 1931 (1931 No 13) is repealed.

Amendment to Local Government Act 2002

13 Amendment to Local Government Act 2002

Section 14 amends the Local Government Act 2002 (the **principal Act**).

14 New subpart 1A of Part 8 inserted

After section 161, insert:

Subpart 1A—Local authority legislation

161A What is local authority legislation

- (1) A bylaw that is made by a local authority or a council-controlled organisation is secondary legislation for the purposes of the Legislation Act 2019.
- (2) Any other instrument (whatever it is called) that is made by a local authority or a council-controlled organisation is secondary legislation for the purposes of the Legislation Act 2019 if it has significant legislative effect.
- (3) Subsection (1) applies whether or not the empowering legislation expressly states that the instrument is secondary legislation.
- (4) However,—
 - (a) for the purposes of the Legislation Act 2019, the secondary legislation has a presentation exemption (and so does not need to be presented to the House of Representatives), unless the empowering legislation (or other legislation) expressly requires presentation; and
 - (b) the secondary legislation need not be published under the Legislation Act 2019; and
 - (c) the secondary legislation is disallowable by the House of Representatives unless it is made by bylaws as defined by section 2 of the Bylaws Act 1910 (*see* section 115 of the Legislation Act 2019).

161B Instruments that have significant legislative effect

- (1) An instrument has a significant legislative effect for the purposes of this subpart if the effect of the instrument is to do both of the following:
 - (a) create, alter, or remove rights or obligations; and
 - (b) determine or alter the content of the law applying to the public or a class of the public.
- (2) For the purposes of subsection (1),—
 - (a) an instrument that determines or alters the temporal application of rights or obligations must be treated as having the effect described in paragraph (a) of that subsection; and
 - (b) an instrument that determines or alters the temporal application of the law applying to the public or a class of the public must be treated as having the effect described in paragraph (b) of that subsection.
- (3) In applying subsection (1), the following must be disregarded:
 - (a) the description, form, and maker of the instrument;
 - (b) whether all or a portion of the instrument needs to be confirmed by an Act;
 - (c) whether the instrument also contains provisions that are administrative.

- (4) An instrument does not have a significant legislative effect if it explains or interprets rights or obligations in a non-binding way, as long as the instrument does not do anything else that would bring it within subsection (1).
- (5) An instrument that is made in the exercise of a statutory power and imposes obligations in an individual case does not determine or alter the content of the law just because the statutory power applies generally or to a class of persons.

161C Other supporting definitions

- (1) For the purposes of this subpart, an instrument that **determines or alters the temporal application of rights or obligations** includes (without limitation) one that does 1 or more of the following to the legislation that directly or indirectly confers or imposes those rights or obligations:
 - (a) appoints or prescribes a date on which, or other time at which, they come into force:
 - (b) defers the date on which, or other time at which, they apply or come into force:
 - (c) suspends, or in any way cancels, for a period or until a time, their application or operation:
 - (d) continues or extends (with or without a break), for a period or until a time, their application or operation:
 - (e) defers the date on which, or other time at which, they are abolished, repealed, or revoked:
 - (f) on a date, or at any other time, abolishes, repeals, or revokes them.
- (2) For the purposes of this subpart,—
 - obligations** includes—
 - (a) duties or liabilities:
 - (b) obligations to comply with prohibitions:
 - (c) ineligibility for rights, benefits, entitlements, interests, powers, or privileges
 - rights** includes—
 - (a) benefits, entitlements, interests, powers, or privileges:
 - (b) eligibility for rights, benefits, entitlements, interests, powers, or privileges.

Amendment to Parliamentary Privilege Act 2014

15 Amendment to Parliamentary Privilege Act 2014

Section 16 amends the Parliamentary Privilege Act 2014 (the **principal Act**).

16 New subpart 6 of Part 4 inserted (Evidence of parliamentary journals)

In Part 4, after subpart 5, insert:

Subpart 6—Evidence of parliamentary journals**31A Copies of parliamentary journals to be evidence**

- (1) This section applies to copies of the Journals of the Legislative Council or the House of Representatives of New Zealand that purport to be printed by the Government Printer or published under the House's authority.
- (2) All courts and all persons acting judicially must admit those copies as evidence of the matters stated in them, without further proof that they were so printed or published.

Compare: 2012 No 119 s 19

Part 3**Amendments to Legislation Act 2019 for centralised publication requirements****17 Amendments to Legislation Act 2019**

Amend the Legislation Act 2019 as set out in Schedule 2.

Schedule 1

Interim amendments affecting operation of Legislation Act 2012

ss 3, 4

Part 1

Amendments to Legislation Act 2012

Section 6

Repeal section 6(6).

Section 7

Repeal section 7.

Section 8

Repeal section 8.

Section 12

Replace section 12(2)(e) with:

- (e) information about ways that copies of the legislative instrument may be accessed or purchased:

Section 25

After section 25(1)(k), insert:

- (ka) a reference to a method of setting or determining a date or time (for example, a commencement that is calculated on a specified number of months after Royal assent) may be replaced with an exact reference to that date or time (once it is set or determined):

Example

A commencement clause states that the Act commences 6 months after Royal assent. If Royal assent is on 1 March 2020, this statement can be replaced with a statement that the Act commences on 1 September 2020.

Section 30

After section 30(4), insert:

- (4A) The Attorney-General may amend, or replace, the 3-yearly revision programme if the Attorney-General complies with subsections (3) and (4) (applied as if the amendment or replacement were the draft or programme).

Section 31

Repeal section 31(2)(i) to (k).

After section 31(2), insert:

Section 31—*continued*

(2A) A revision Bill may also—

- (a) make minor amendments to clarify Parliament’s intent, to resolve ambiguity, or to reconcile inconsistencies between provisions (or to do all of those things);
- (b) update any monetary amount (other than an amount specified for the purpose of jurisdiction or an offence or penalty), having regard to movements in the New Zealand Consumers Price Index over the relevant period, or provide for the amount to be prescribed by Order in Council;
- (c) make minor amendments to update how provisions can be complied with, or operate, in a way that takes account of changes in technology if those amendments are consistent with the spirit and meaning of the law;
- (d) for the purpose of enabling matters of general principle to be contained in Acts and matters of detail to be contained in secondary legislation,—
 - (i) omit forms, schedules, or other matters of detail from the Acts or parts of Acts revised, and instead authorise those matters to be prescribed by or under Orders in Council;
 - (ii) include matters currently prescribed by Order in Council made under the Acts or parts of Acts revised;
 - (iii) make any other change that is necessary for the purpose of implementing subparagraph (i) or (ii) or that is consequential on doing so.

(2B) A revision Bill must not change the effect of the law, except as authorised by subsection (2A).

Section 33

In section 33(3)(b), replace “section 31(2)(i) or (j)” with “section 31(2A)”.

Section 61

Replace section 61(2) and (3) with:

(2) In this section,—

client includes a Minister of the Crown, a member of Parliament, a government department, an instrument of the Crown, a judicial officer, and a promoter of a local or private Bill

confidential communications includes (without limitation)—

- (a) drafting instructions received by the PCO and communications between any client of the PCO and any counsel in the PCO that relate to the subject matter of the instructions;
- (b) drafts of legislation prepared by or on behalf of the PCO

Section 61—*continued*

counsel includes a person who holds a legal qualification referred to in section 68(2) and is working for the PCO as a contractor or secondee in relation to drafting of legislation.

New section 75A

After section 75, insert:

75A Secondments from elsewhere in State services for developing senior leadership and management capability

Sections 74 and 75 do not apply to any secondment arranged under section 49 of the State Sector Act 1988.

Compare: 1988 No 20 s 49

Part 2
Amendments to other Acts

Biosecurity Act 1993 (1993 No 95)

In section 57(8)(a), replace “publish a notice in the *Gazette* stating that the Governor-General has approved the direction and the date on which the Governor-General approved it” with “publish in the *Gazette* the Order in Council approving the direction”.

Civil Aviation Act 1990 (1990 No 98)

Replace section 28(7) with:

- (7) An ordinary rule (except for an ordinary rule made by an Order in Council under section 34A(1))—
- (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
 - (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* section 34(2) and (3) of this Act).

Replace section 31(4) with:

- (4) An emergency rule—
- (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
 - (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* section 35(2) to (4) and (5A) of this Act).

Replace section 34(2) with:

Civil Aviation Act 1990 (1990 No 98)—*continued*

- (2) If an ordinary rule (except for an ordinary rule made by an Order in Council under section 34A(1)) is made under this Act, then subject to subsection (3),—
- (a) notice of the making of the rule must be given in the *Gazette*; and
 - (b) the rule must be made available by the Authority for purchase by members of the public at a reasonable price; and
 - (c) the notice must specify a place where the rule is available for inspection free of charge and for purchase.

In section 34A(4), replace “must be published” with “must (despite section 34(2)) be notified and made available in accordance with section 34(2) and (3)”.

Replace section 34A(6) with:

- (6) An Order in Council—
- (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
 - (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* subsection (4) and section 34(2) and (3) of this Act); and
 - (c) is not to be drafted by the PCO under section 59(2)(a) of the Legislation Act 2012.

Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90)

After section 43(2), insert:

- (3) Subsection (4) consequentially amends the Legislation Act 2019.
- (4) In Schedule 4, Part 1, insert in its appropriate alphabetical order:
- | | |
|--------------------|------------------|
| Copyright Act 1994 | 234(qa) and (qb) |
|--------------------|------------------|

Customs and Excise Act 2018 (2018 No 4)

In Schedule 3, clause 17(1)(b), replace “places designated under section 7 of the Legislation Act 2012.” with “places specified in a notice given under subsection (5).”

In Schedule 3, after clause 17(4), insert:

- (5) The chief executive must give notice in the *Gazette* specifying where copies of the documents referred to in subclause (2) can be purchased.

Fisheries Act 1996 (1996 No 88)

After section 302A(5), insert:

- (5A) A new notice is a disallowable instrument for the purposes of the Legislation Act 2012 (and must be presented to the House of Representatives under section 41 of that Act) only if the revoked notice is a disallowable instrument for the purposes of the Legislation Act 2012 under section 303 of this Act.

Fisheries Act 1996 (1996 No 88)—continued

Replace section 303 with:

303 Application of Legislation Act 2012 to instruments given by notice in Gazette

An instrument that is required by or under this Act to be given by notice in the *Gazette*—

- (a) is not a legislative instrument for the purposes of the Legislation Act 2012, unless this Act expressly provides otherwise; and
- (b) is a disallowable instrument for the purposes of the Legislation Act 2012 (and must be presented to the House of Representatives under section 41 of that Act) only if it is made under 1 or more of the following sections of this Act:
 - (i) sections 11(4), 15(5), and 16(1) (which relate to sustainability measures under Part 3):
 - (ii) sections 17B(5), 18, 19(5), and 33(b) (which relate to the quota management system under Part 4):
 - (iii) section 113ZD(3) (which relates to high seas fishing under Part 6A):
 - (iv) sections 186A(1) and 186B(1) (which relate to taiapure-local fisheries and customary fishing under Part 9):
 - (v) section 186Q(4)(b) (which relates to aquaculture matters under Part 9A):
 - (vi) section 192A(2) (which relates to restrictions on acquisitions of fish under Part 10):
 - (vii) section 271(1) (which relates to cost recovery under Part 14):
 - (viii) sections 307, 312(3), and 313(1) (which relate to miscellaneous matters under Part 16):
 - (ix) sections 368(6), 368A(5), 368A(8), 368A(11), and 369(6) (which relate to miscellaneous matters under Part 17).

Land Transport Act 1998 (1998 No 110)

In section 152A(4), replace “must be published” with “must (despite section 161(3)) be notified and made available in accordance with section 161(3)”.

Replace section 152A(6) with:

- (6) An Order in Council under subsection (1)—
 - (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but

Land Transport Act 1998 (1998 No 110)—continued

- (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* subsection (4), and section 161(3) of this Act); and
- (c) is not to be drafted by the PCO under section 59(2)(a) of the Legislation Act 2012.

Replace section 160(6) with:

- (6) An ordinary rule (except for an ordinary rule made by an Order in Council under section 152A(1))—
 - (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
 - (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* section 161(3) of this Act).

Replace section 161(3) with:

- (3) If an ordinary rule (except for an ordinary rule made by an Order in Council under section 152A(1)) is made under this Act,—
 - (a) notice of the making of the rule must be given in the *Gazette*; and
 - (b) the rule must be made available for purchase by members of the public at a reasonable price; and
 - (c) the notice must specify a place where the rule is available for inspection free of charge and for purchase.

Replace section 162(4) with:

- (4) An emergency rule—
 - (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
 - (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* section 163(2) to (4) of this Act).

Replace section 165(7) with:

- (7) Part 2 of the Legislation Act 2012 does not apply to material incorporated by reference in a rule, or to an amendment to, or a replacement of, that material.
- (8) Nothing in section 41 of the Legislation Act 2012 requires material that is incorporated by reference in a rule to be presented to the House of Representatives.

Maritime Transport Act 1994 (1994 No 104)

Replace section 36A(2) with:

- (2) Any maritime rule or any amendment to a maritime rule made by Order in Council must (despite section 448(2)) be notified and made available in

Maritime Transport Act 1994 (1994 No 104)—*continued*

accordance with sections 448(2) and 449 as if the Minister had made the rule or the amendment to the rule.

(2A) An Order in Council—

- (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
- (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* subsection (2) and sections 448(2) and 449 of this Act); and
- (c) is not to be drafted by the PCO under section 59(2)(a) of the Legislation Act 2012.

Replace section 390A(2) with:

- (2) Any marine protection rule or any amendment to a marine protection rule made by Order in Council must (despite section 448(2)) be notified and made available in accordance with sections 448(2) and 449 as if the Minister had made the rule or the amendment to the rule.

(2A) An Order in Council—

- (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
- (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* subsection (2) and sections 448(2) and 449 of this Act); and
- (c) is not to be drafted by the PCO under section 59(2)(a) of the Legislation Act 2012.

Replace section 448(2) with:

- (2) If a rule is made under this Act (except for a rule made by an Order in Council under section 36A(1) or 390A(1)),—
- (a) notice of the making of the rule must be given by the Authority in the *Gazette*; and
 - (b) the rule must be made available by the Authority for purchase by members of the public at a reasonable price; and
 - (c) the notice must specify a place where the rule is available for inspection free of charge and for purchase.

In section 448(4), replace “Subject to section 449, every” with “Every”.

After section 448(4), insert:

- (5) Subsections (2) and (4) are subject to section 449.

Replace section 451(5A) and (6) with:

Maritime Transport Act 1994 (1994 No 104)—continued

- (6) A rule made under this Act (except for a rule made by an Order in Council under section 36A(1) or 390A(1))—
- (a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
 - (b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* sections 448(2) and 449 of this Act).

Resource Management Act 1991 (1991 No 69)

In section 52(3)(a), replace “issue the statement by notice in the *Gazette*” with “publish in the *Gazette* the Order in Council approving the statement”.

After section 52(3), insert:

- (4) Orders in Council made under this section—
- (a) are disallowable instruments for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
 - (b) are not legislative instruments for the purposes of the Legislation Act 2012; and
 - (c) are not to be drafted by the PCO under section 59(2)(a) of the Legislation Act 2012.

Tariff Act 1988 (1988 No 155)

In the heading to section 7C, replace “**regulations**” with “**Orders in Council**”.

Replace section 7G with:

7G Application of Legislation Act 2012 to provisions incorporated by reference: publication and disallowance

- (1) Part 2 of the Legislation Act 2012 does not apply to—
 - (a) provisions incorporated by reference under section 7C of this Act; or
 - (b) an amendment to, or replacement of, those provisions.
- (2) Subpart 1 of Part 3 of the Legislation Act 2012 applies to an Order in Council that incorporates provisions under section 7C of this Act.
- (3) However, material incorporated by reference under section 7C of this Act does not have to be presented to the House of Representatives under section 41 of the Legislation Act 2012.
- (4) This section must be treated as applying on and from 5 August 2013.

In section 9B(1)(b), replace “places designated under section 7 of the Legislation Act 2012” with “places specified in a notice given under subsection (5)”.

After section 9B(4), insert:

Tariff Act 1988 (1988 No 155)—*continued*

- (5) The chief executive must give notice in the *Gazette* stating that copies of the documents referred to in subsection (2) can (in accordance with subsection (1)(b)) be purchased at specified places.

Replace section 9C with:

9C Application of Legislation Act 2012

Orders in Council amending or modifying the Tariff made under section 9 or 10—

- (a) are disallowable instruments for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but
- (b) are not legislative instruments for the purposes of the Legislation Act 2012 (*see* section 9B of this Act); and
- (c) are not to be drafted by the PCO under section 59(2)(a) of the Legislation Act 2012.

Schedule 2

Amendments to Legislation Act 2019 for centralised publication requirements

s 17

Section 3

Replace section 3(2)(c) with:

- (c) requires all legislation to be published electronically in 1 place (with limited exceptions):

Section 4

Replace section 4(3) with:

- (3) *See also* the Imperial Laws Application Act 1988, which provides for this Act to apply to Imperial legislation.

Section 5

In section 5(1), insert in their appropriate alphabetical order:

list exemption means an exemption of that type referred to in section 69(2)

publication exemption means an exemption of that type referred to in section 69(2)

In section 5(1), repeal the definition of **applicable publication requirements**.

Section 13

In section 13, insert in their appropriate alphabetical order:

list exemption has the meaning set out in section 5(1)

publication exemption has the meaning set out in section 5(1)

Section 24

After section 24(1), insert:

- (1A) However, *see also* section 73, which overrides those sections and generally defers or prevents commencement if secondary legislation is not published under this Act.

Sections 69 to 77

Replace sections 69 to 77, and the cross-heading above section 73, with the following sections (and renumber those new sections, if necessary):

69 PCO must publish all legislation

- (1) The PCO must publish—
 - (a) all introduced Bills (and those amendments to Bills that the Attorney-General directs); and

Sections 69 to 77—continued

- (b) all Acts; and
 - (c) all secondary legislation; and
 - (d) minimum legislative information for all secondary legislation.
- (2) However, if exemptions of the following type apply (whether under section 77, Schedule 3, or other legislation), the following sections and obligations do not apply:
- | If there is the following type of exemption... | ...the following do not apply |
|---|--|
| a publication exemption for the secondary legislation (or part of it) | subsection (1)(c) (and any obligations under this Part for the PCO to publish, or the maker to lodge with the PCO for publication, the legislation or part, but <i>see</i> section 76) |
| a list exemption for the secondary legislation | subsection (1)(d) (and any obligations under this Part for the PCO to publish, or the maker to lodge with the PCO for publication, the minimum legislative information) |

Compare: 2012 No 119 ss 6(1)(a), (b), 59(1)(c)

70 PCO must publish consolidations of legislation that is amended

- (1) The PCO must publish consolidations of—
- (a) all Acts that are amended; and
 - (b) all secondary legislation drafted by the PCO that is amended; and
 - (c) all other secondary legislation specified by regulations made under this Act.
- (2) A consolidation must incorporate the amendments made to the legislation so that it shows the law as at its stated date.
- (3) The consolidation may also show the law as it would be amended by amendments that have not yet commenced if it clearly indicates that those amendments have not yet commenced.

Compare: 2012 No 119 s 6(5)

71 How and when PCO must publish legislation and consolidations of legislation

- (1) The PCO must electronically publish the following things at the following times:

What is required to be published

Bills

Amendments to Bills

Acts

Secondary legislation drafted by the PCO

When it must be published

As soon as practicable after they are introduced

As soon as practicable after the amendments are released

As soon as practicable after they are enacted

As soon as practicable after the legislation is made

Sections 69 to 77—continued

Minimum legislative information for secondary legislation drafted by the PCO	As soon as practicable after the legislation is made
Secondary legislation not drafted by the PCO	As soon as practicable after the legislation is lodged with the PCO for publication
Minimum legislative information for secondary legislation not drafted by the PCO	As soon as practicable after the information is lodged with the PCO for publication
Consolidations of Acts	As soon as practicable after the Acts are amended
Consolidations of secondary legislation that is drafted by the PCO	As soon as practicable after the legislation is amended
Consolidations of secondary legislation not drafted by the PCO	As prescribed by regulations under this Act
(2) The PCO may also publish those things in printed form and make them available in the way notified to the public.	
(3) Legislation or proposed legislation is sufficiently published for the purposes of this Act (for any period during which it is not practicable to publish it electronically) if it is only published and made available in the way set out in subsection (2).	
(4) Minimum legislative information is sufficiently published for the purposes of this Act if—	
(a) either the secondary legislation containing that information is published, or the information is published separately, by the PCO; and	
(b) the information published (whether as part of the secondary legislation or separately) is that required at the time it must be published under this section.	
Compare: 2012 No 119 ss 6(2), (3), (5), 21(1)	
72 When and how published versions of legislation must be available on legislation website	
(1) The PCO must ensure that, as far as practicable, the following are at all times able to be accessed at, or downloaded from, the legislation website free of charge:	
(a) legislation published by the PCO under this Act (including official electronic versions of legislation published under section 78):	
(b) minimum legislative information published by the PCO under this Act.	
(2) The PCO must ensure that it meets any minimum requirements set by the regulations made under this Act for how that must be done.	
Compare: 2012 No 119 s 9	

Sections 69 to 77—continued

73 Secondary legislation does not commence until published

- (1) Secondary legislation or a part of secondary legislation does not come into force on its commencement date unless the relevant publication requirement is met.
- (2) To the extent that subsection (1) results in secondary legislation, or a part of secondary legislation, not coming into force on its commencement date, the legislation or part comes into force on the day after the relevant publication requirement is met.
- (3) This section overrides sections 26 to 29.
- (4) However, this section does not apply if—
 - (a) the empowering legislation or any other enactment expressly authorises the legislation or part to commence—
 - (i) even if it is not yet published; or
 - (ii) on or after a particular date or event; or
 - (b) a list exemption applies; or
 - (c) an exemption from this section applies under regulations made under this Act.
- (5) In this section,—

commencement date means the date or time when the secondary legislation or part would otherwise commence (including as a result of sections 26 to 29)

relevant publication requirement, in relation to any secondary legislation or part, means—

 - (a) the secondary legislation is published under this Act; or
 - (b) (if a publication exemption applies to the whole or any part of the legislation) the minimum legislative information for the secondary legislation is published under this Act.
- (6) This section does not affect—
 - (a) whether the legislation is authorised or validly made;
 - (b) the commencement of the secondary legislation’s Title and commencement provisions, and any provisions identifying the principal legislation amended, under section 26(3);
 - (c) the commencement of anything due to any defect, irregularity, omission, or error in the secondary legislation or minimum legislative information if the legislation or information sufficiently identifies the secondary legislation.

Sections 69 to 77—continued*Other provisions applying to secondary legislation not drafted by PCO***74 Maker must lodge secondary legislation and minimum legislative information for publication (if not drafted by PCO)**

- (1) This section applies to—
 - (a) secondary legislation that is not drafted by the PCO; and
 - (b) that legislation’s minimum legislative information.
- (2) The maker of the legislation must, as soon as practicable after it is made, lodge the legislation and information with the PCO for publication.

75 Lodgement must be done as required by regulations

- (1) Anything required to be lodged with the PCO for publication must be lodged in accordance with regulations made under this Act.
- (2) If it is not, it is not properly lodged and the PCO is not required to publish it (despite section 69).
- (3) If required by regulations made under this Act, updates or corrections of information lodged with the PCO (or in connection with lodgement) must also be lodged in accordance with those regulations.
- (4) The PCO is not liable for any error or omission in or arising from information lodged with it for publication (or in connection with lodgement) and may act in reliance on that information.

76 Alternative obligations if publication exemption applies (but not if list exemption or presentation exemption applies)

- (1) If a publication exemption applies to secondary legislation or a part of secondary legislation, the maker must (instead of lodging the legislation or part with the PCO for publication)—
 - (a) make the legislation or part available in a way that meets the minimum requirements set by regulations made under this Act (if any) and any requirements set by the empowering legislation; and
 - (b) include, in the minimum legislative information lodged with the PCO for publication, the details as to its availability required by the regulations made under this Act (if any).
- (2) However, this section does not apply if a list exemption or a presentation exemption applies.

77 Publication exemption if good reason to allow alternative means of publication

- (1) The Chief Parliamentary Counsel may grant a publication exemption for secondary legislation or a part of secondary legislation if the Chief Parliamentary

Sections 69 to 77—continued

- Counsel determines that there is good reason to allow the legislation or part to be made publicly available by an alternative means.
- (2) Before granting an exemption under this section, the Chief Parliamentary Counsel must—
- (a) have regard to—
 - (i) the purpose of this Act; and
 - (ii) how the legislation is proposed to be made publicly available; and
 - (b) be satisfied that the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.
- (3) An exemption—
- (a) is granted by written notice given to the maker of the legislation and copied to the administering agency (if different); and
 - (b) is subject to section 76; and
 - (c) may be made subject to other terms and conditions.
- (4) The Chief Parliamentary Counsel's reasons for granting the exemption, including why it is appropriate, must be published with the exemption.
- (5) An exemption under this section is secondary legislation (*see* this Part for publication requirements).

Schedule 2 new section 69(2): amended, on 25 March 2021, by section 6(4) of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 2 new section 73(4)(a): replaced, on 25 March 2021, by section 6(5) of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 2 new section 73(5) **commencement date**: amended, on 25 March 2021, by section 6(6) of the Secondary Legislation Act 2021 (2021 No 7).

Section 80

Repeal section 80(2)(d).

Section 87

After section 87(m), insert:

- (ma) changes may be made to show the effect of section 73 on the commencement of secondary legislation (which, generally, defers or prevents commencement if the secondary legislation is not first published under this Act):

Section 120

Replace section 120(2) with:

- (2) For that purpose, the Clerk of the House of Representatives must, on behalf of the House of Representatives, lodge a copy of the resolution or notice of the

Section 120—*continued*

motion, and its minimum legislative information, with the PCO for publication under section 74 (and Part 3 applies with any necessary modifications).

Section 147

Repeal section 147(1)(b) to (d).

Notes

1 *General*

This is a consolidation of the Legislation (Repeals and Amendments) Act 2019 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Legislation (Repeals and Amendments) Act Commencement Order 2021 (LI 2021/251)

Secondary Legislation Act 2021 (2021 No 7): section 6