



Intended for All Ministers
All Chief Executives
Chief Parliamentary Counsel
Speaker of the House of Representatives

2024 Legislation Programme: Requirements for Submitting Bids

Introduction

- 1 This circular sets out the requirements for bids for bills to be awarded places on the 2024 Legislation Programme.
- 2 When submitting bids, Ministers and agencies are asked to consider foreseeable legislative priorities for the full term of the 54th Parliament, from 2024 to 2026. This will support the Government to plan and deliver the commitments it has agreed for the full term.
- 3 Information on the [Legislation Programme](#), including the priority categories for bills, can be found on the [CabGuide](#) website. Note that the list of priority categories has been expanded this year, and the updated list, along with guidance on each category, is also attached as Annex One to this circular.

Invitation to submit bids, deadline and format

- 4 Ministers are asked to arrange for bids for the 2024 Legislation Programme to be delivered to the Legislation Coordinator in the Cabinet Office by **12.00pm on Monday, 19 February 2024**.
- 5 The standard format for bids, which has been updated this year, can be found on the [CabGuide](#) website and is set out in Annex Two to this circular.
- 6 Each set of bids for a particular portfolio must be accompanied by a covering letter from the Minister. If there are multiple bids within a portfolio, the covering letter must rank the bids in order of priority.
- 7 All bids should be sent via email to the Legislation Coordinator, Sam Moffett, using the address at the bottom of this circular.

Process for developing the Legislation Programme

- 8 Bids will be summarised for the Cabinet Legislation Committee (LEG) to consider, and for an initial assessment of priorities. The draft Legislation Programme agreed by LEG is confirmed by Cabinet.

- 9 In the third quarter of 2024, the Leader of the House, in consultation with the Prime Minister, will undertake a formal process of reassessment of items on the Legislation Programme. This will take into account progress to date, and the remaining House time left in the year, to ensure the Legislation Programme reflects the Government’s legislative priorities at that time and those priorities are able to be delivered in a timely fashion.

Items for which a bid is required

- 10 To allow for the planning of House time and the allocation of drafting resources, a bid is required for:
- 10.1 every bill that is currently before the House or a select committee;
 - 10.2 bills that are currently undergoing policy development work or are being drafted, and for which there was a successful bid in 2023;
 - 10.3 policy proposals that are likely to result in a bill being introduced before the end of the 54th Parliament in 2026 (including bills likely to be proposed in Law Commission reports);
 - 10.4 any other legislation that will foreseeably be required before the end of the 54th Parliament in 2026, whether or not formal policy development has started.
- 11 Bids for contingency or placeholder bills, which are unlikely to progress, should be avoided. New bills can be added to the Legislation Programme during the year, or to the 2025 or 2026 Legislation Programmes as appropriate, to address any unforeseen need for legislation over the term of Parliament. There is no requirement to submit bids this year for legislation to be enacted beyond 2024 that would normally receive a category one priority in the relevant year, such as appropriations bills, or secondary legislation confirmation bills required in or beyond 2025.
- 12 Agencies preparing bids for minor amending bills should include an assessment of whether these bills may qualify for inclusion in a future Statutes Amendment Bill or Statutes Repeal Bill instead. Statutes Amendment Bills and Statutes Repeal Bills are introduced to promote minor, technical, non-urgent, and uncontroversial amendments or repeals to a collection of Acts, and are the best vehicle for such changes. Bids seeking to advance legislation that could be included in a Statutes Amendment Bill or Statutes Repeal Bill should include an explanation of why a standalone bill is being sought instead, e.g., for timing reasons.

Alignment with Government priorities and commitments

- 13 Ministers are asked to approach their proposals for bills in light of the Government’s overall priorities. Agencies must explain how each bid aligns with the Government’s priorities, enables the Government to meet its policy and coalition agreement commitments, and/or contributes to the efficient and effective operation of the relevant regulatory system.

- 14 Bids that seek a priority of either two (must be passed in 2024) or three (a priority to be passed by the end of 2024) must be accompanied with a reason why they must or should be passed in 2024. Examples of such reasons include: meeting a commitment made in the National-ACT coalition agreement; meeting a commitment made in the National-New Zealand First coalition agreement; meeting a regulatory deadline; or fulfilling a mandatory requirement that must be met before the end of 2024.
- 15 Ministers should ensure that proposed timelines for legislation take into account the need for consultation between the three coalition parties from an early stage in the policy development process.

Planning and capacity

- 16 When making recommendations to Ministers, agencies must ensure that realistic project planning is in place to take into account;
 - 16.1 the time that is required for policy development;
 - 16.2 discussion with the Legislation Design and Advisory Committee (LDAC);
 - 16.3 drafting, including time for the agency to respond to drafting queries and for PCO's quality control processes to be carried out;
 - 16.4 consultation with agencies, and any consultation with the public;
 - 16.5 Bill of Rights Act 1990 vetting;
 - 16.6 ministerial, caucus, coalition, and cross-party consultation; and
 - 16.7 Cabinet approval.
- 17 Any bids for bills not yet introduced should include an achievable timeline that has been discussed with PCO. If PCO advises that the proposed timeline is not realistic, this advice, and the reasons for it, must be included in the bid.
- 18 If a bill was on an earlier Legislation Programme, but did not proceed (e.g. because policy development or drafting instructions were delayed), the bid must explain why the bill did not proceed as planned and how the proposed new timelines can be met.
- 19 When seeking a priority for a bill that has already been introduced, but for which substantial changes are likely to be required, agencies should consult PCO about the time required for further policy development and drafting. The timeline proposed for the bill should reflect the time required.
- 20 In accordance with the Government's coalition agreements, Ministers should ensure, and indicate, that appropriate consultation on legislative proposals has taken place.

- 21 Policy approvals must be obtained before drafting instructions are issued (see paragraph 7.55 of the Cabinet Manual). While the Attorney-General has the power to approve drafting in advance of Cabinet policy approvals, this is designed to be rarely used and only for emergencies or unavoidable situations. Agencies should consult with PCO before asking the Attorney-General to exercise this power. Similarly, delays in policy development cannot be made up by reducing the time set aside for drafting a bill. If agencies face delays, they should revise their implementation plans and seek a priority that reflects the new timeline.
- 22 Appropriate and realistic time must also be allowed for legislation to be drafted. The amount of time required depends on the size and complexity of proposed legislation. On average, it takes about three months to draft a 50 clause bill of medium complexity, from the time at which instructions are sent to PCO to having a draft ready for agency and Ministerial consultation. More information is available in paragraphs 28 to 30 on how PCO can provide an estimate of the time required for each proposal.
- 23 A minimum of eight months should be allowed for the passage of a bill from introduction to enactment. Much of this time is usually in select committee, where bills spend up to six months by default. This time limit for select committee can be reduced by a government motion in the House. However, any attempt to reduce this time to less than four months is subject to unlimited debate in the House, and should be avoided. All bids proposing to refer a bill to select committee for less than six months must be discussed with the office of the Leader of the House first, and the outcomes of that discussion recorded in the bid.
- 24 The House's capacity to consider and progress legislation should also be considered, both in establishing a timeline and priority for proposed legislation. There are a limited number of House sitting days and hours in each parliamentary year. On average, Parliament passes around 80 Government bills per year. This figure, spread across the number of portfolios and agencies, should be kept in mind when considering bids and their timeline and priority.
- 25 The requirements in paragraphs 15 to 17 and 20 to 22 also apply to secondary legislation associated with a bill. The bid for the bill must describe the nature and extent of necessary secondary legislation, and propose a timeline that includes the dates by which:
- 25.1 any necessary Cabinet policy decisions on secondary legislation are to be taken (which should be before the bill is read a first time);
 - 25.2 drafting instructions for the secondary legislation are to be sent to PCO (which should be before the bill reaches committee of the whole House unless the secondary legislation is to commence at least 12 months after the bill is to commence);
 - 25.3 consultation, drafting, and promulgation processes for secondary legislation are to be carried out, including any relevant matters set out in paragraph 20.

Discharging existing bills, and stopping work on legislation previously on the Programme

- 26 Ministers will have considered whether to seek the discharge of legislation reinstated in the 54th Parliament as part of the reinstatement process lead by the Leader of the House. Ministers should have already advised the office of the Leader of the House whether they want to continue with or discharge bills that were reinstated in their name. No bid is required for an item which has already been discharged through this process.

- 27 Where legislation on the previous Legislation Programme has not yet been drafted or introduced, and Ministers no longer wish to proceed with it, a bid should be submitted seeking priority category 9 status. A bid for priority 9 need only contain information on what the bill was intended to do, what stage in the process it is at, and why it will not be progressed.

Role of the Parliamentary Counsel Office

- 28 PCO's role is to draft bills approved for introduction in the Government's Legislation Programme, subject to the conditions laid out in paragraph 21. Agencies should prepare bids for their Minister on the basis that drafting will be undertaken by PCO. The only exception is Inland Revenue, which is authorised to draft certain revenue legislation.
- 29 PCO is available for general consultation to assist agencies in preparing bids. PCO can provide advice on the expected size and complexity of a bill, the proposed timeline for its introduction and passage, and whether it should be referred to LDAC for advice. Agencies should contact the PCO team manager responsible for their legislation:
- 29.1 Melanie Bromley (Melanie.Bromley@pco.govt.nz, 021 827 014);
 - 29.2 Mark Gobbi (Mark.Gobbi@pco.govt.nz, 021 897 460);
 - 29.3 Alana Belin (Alana.Belin@pco.govt.nz, 021 819 817); or
 - 29.4 Amy Orr (Amy.Orr@pco.govt.nz, 021 883 117).
- 30 Ministers may ask the PCO to size the necessary drafting for each proposed bill or substantive Amendment Paper (AP), to assist in ensuring the Legislation Programme is realistic and achievable. Bids should contain enough information to enable this to occur. If drafting cannot be clearly and accurately sized, the proposed bills or AP may not gain a place on the programme, or may encounter delays.

Role of the Legislation Design and Advisory Committee

- 31 LDAC advises Ministers and departments in the initial stages of developing legislation. LDAC advises on legislative design and consistency with legal and constitutional principles, as set out in the [Legislation Guidelines \(2021 edition\)](#).
- 32 In making a bid, agencies must indicate whether a bill will be referred to the LDAC for advice and, if not, explain why. Information about bills that should be referred to the LDAC is available on its [website](#), including factors to consider in deciding [whether to consult](#) with LDAC on a proposal. Agencies can also discuss LDAC's involvement with the [LDAC Adviser](#) or with PCO.
- 33 If LDAC is to be consulted on a bill, agencies should allow time for this consultation when setting the timeline for the bill.

Preparing drafting instructions

- 34 Good, timely drafting instructions are essential for good, timely legislation. PCO can advise on the preparation of drafting instructions. Agencies should take advantage of this advice, and use PCO's Policy to Legislation [resource](#), and the information on legislation bids at [FAQs 1.8 and 1.9](#).

Rachel Hayward
Secretary of the Cabinet

Enquiries:

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Summary of priority categories

Category 1 – must be passed in 2024 as a matter of law

- This category is reserved for legally mandated legislation, such as appropriation bills, or secondary legislation confirmation bills.

Category 2 – must be passed by the end of 2024

- This category is for legislation that must be passed in 2024, due to either a Government commitment or other deadline.

Category 3 – a priority to be passed by the end of 2024

- This category is for legislation for which passage in 2024 is a Government priority, but there is no mandatory deadline.

Category 4 – to be passed by the end of 2024 if possible

- This category is for legislation which is able to be passed within 2024, but which does not fit into either of the above categories.

Category 5 – to proceed to select committee by the end of 2024

- This category is for legislation which, for reasons of size, complexity, timing, or priority, is intended to be referred to a select committee in 2024, but not be enacted within the year.

Category 6 – drafting instructions to be issued by the end of 2024

- This category is for legislation for which drafting instructions will be issued to PCO within the year, but the legislation is not expected to be ready for introduction.

Category 7 – policy development to continue in or beyond 2024

- This category is for legislation for which policy development is either ongoing, or expected to commence, in or beyond 2024, but no drafting instructions are expected to be issued by the end of 2024.

Category 8 – on hold

- This category is for legislation which is at any stage in the legislative or policy development process, but is currently paused and not expected to advance within 2024.

Category 9 – to be withdrawn

- This category is for legislation which has not yet been fully drafted or introduced, and is no longer going to proceed.

In Confidence

Office of the Minister [of/for xx]

Government Examples Bill: Request for priority in the 2024 Legislation Programme

Summary information

- 1 Give the following details about the bid for legislation:
 - 1.1 the portfolio of sponsoring Minister;
 - 1.2 the department responsible (include a departmental contact name and phone number);
 - 1.3 the title of the proposed Bill (or the Bill in which these legislative changes are to be included);
 - 1.4 the proposed ranking of Bill within the bids from this portfolio; and
 - 1.5 whether the Bill is estimated to be small/medium/large and whether of low/medium/high complexity;
 - 1.6 the proposed priority category (more information about this is in the 'need for legislation' section below); and
 - 1.7 an explanation for why the proposed priority is being sought, including, if the proposed priority is 2 or 3, a reason why the Bill must or should be passed before the end of 2024 (for example, meeting a commitment made in the National-ACT coalition agreement, meeting a commitment made in the National-New Zealand First coalition agreement, or fulfilling a legal or other mandatory requirement that must be met before the end of 2024).
- 2 The summary information is required for bids prepared in response to the [annual request](#) for bids. For papers to LEG seeking a priority outside this process, the "summary information" section should be replaced with a "proposal" section that succinctly states what Ministers are being asked to decide.

Policy

- 3 Briefly summarise the policy to be implemented by the Bill, giving the Cabinet or Cabinet committee minute references and dates of relevant Cabinet and Cabinet committee decisions (i.e. Cabinet agreed to the policy on 15 October 2023 [CAB-23-MIN-1234]).
- 4 Explain how the bid aligns with the Government's priorities, enables the Government to meet its election and coalition commitments, and/or contributes to the efficient and effective operation of the relevant regulatory system.
- 5 Indicate any aspects of the Bill that are likely to be contentious.

- 6 Note any policy issues that have not yet been agreed and the dates by which these are expected to be resolved by Cabinet.

Need for legislation

- 7 Why is legislative action needed to implement the policy? Please attach or refer to legal advice.
- 8 Indicate the suggested priority (the priority categories are outlined in the [CabGuide](#)). Is it essential that legislation be enacted in the period under consideration, or simply desirable? If it is essential, explain why, drawing a direct link to the applicable Cabinet decision or government commitment.
- 9 If the proposal is for amending legislation, has the principal Act been amended in the last year or will it be amended in the near future? If so, explain why this amendment is needed now, why it was not made as part of the previous legislation, and what consideration has been given to undertaking a broader review or rewrite of the legislation.

Compliance

- 10 Indicate whether the Bill is likely to comply with each of the following, with reasons if the Bill is not expected to comply:
- 10.1 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 10.2 the principles and guidelines set out in the Privacy Act 2020 (if the legislation raises privacy issues, indicate whether the [Privacy Commissioner](#) agrees that it complies with all relevant principles);
 - 10.3 the principles of the Treaty of Waitangi;
 - 10.4 the relevant international standards and obligations; and
 - 10.5 the [Legislation Guidelines \(2021 edition\)](#), which are maintained by the Legislation Design and Advisory Committee.

Binding on the Crown

- 11 At the policy development stage a Cabinet committee must decide whether the Bill should bind the Crown. Provide advice, if possible, on what is likely to be recommended. See the Cabinet Office circular [Acts Binding the Crown: Procedures for Cabinet Decision](#) [CO (02) 4] for further guidance.

Consultation

- 12 Summarise the [consultation on policy issues](#) that has already taken place or will be needed with each of the following groups, as well as the results of any consultation that has already taken place:
- 12.1 [relevant government departments or other public bodies](#); and

12.2 [relevant private sector organisations](#) and public consultation processes.

- 13 If consultation on policy issues has not yet been completed, indicate the date by which it is expected to be completed.
- 14 Indicate whether the proposed Bill will be referred to the Legislation Design and Advisory Committee for advice and, if not, explain why. If consultation is indicated, this should be factored into the legislative timeline.
- 15 Indicate whether an exposure draft of the Bill will be released for consultation before the Bill is introduced and, if so, provide details about why, when, how, and who to.
- 16 Summarise the consultation that has already taken place or will be needed with Ministers, Government parties, and other parties represented in Parliament.

Secondary legislation

- 17 Is secondary legislation likely to be needed within 12 months of the Bill being enacted to give effect to the provisions in the Bill? If so, summarise briefly the secondary legislation that will be needed, its likely timing (taking into account the [28-day rule](#)), and the likely size of the drafting task involved to develop it.

Timeline

- 18 If the Bill must come into force by a particular date, give the date and explain why. If it is proposed that the Bill be expedited faster than standard timelines (see below) explain why.
- 19 Summarise the proposed timing for the legislation in chronological order, with as much specificity as possible, as follows (providing Cabinet or Cabinet committee references where any deadlines have been established by Cabinet or Cabinet committee decision):

<i>Step</i>	<i>Proposed date</i>	<i>Consistency assurance</i>
Date on which final policy approvals were, or will be, obtained from Cabinet		Describe process before or since this date (e.g. consultation, discussion documents). If a Bill had a place on an earlier Legislation Programme but did not proceed, explain why the bill did not proceed as planned and why the proposed new timeline can be met.
Date on which complete drafting instructions were or will be sent to PCO		Note the period between submission of instructions and approval for introduction that is provided for drafting and consultation on the draft Bill – relate your estimate for this phase to the expected length and complexity of the Bill. PCO gives advice on how to estimate these matters. This date should be at least three months (depending on expected length and complexity of the Bill) before the date on which the Bill will go to Justice (or Crown Law if applicable) (see below). If there will be an exposure draft, at least two additional months are needed between these dates. If not, give reasons. Note any concerns expressed by PCO.
Date by which the Bill will be released for exposure draft (if an exposure draft is planned)		Allow enough time to amend the Bill in response to comments from the exposure draft before the Bill goes to Justice (or Crown Law if applicable).
Date by which the Bill will go to the Ministry of Justice (or Crown Law if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990		This date must be at least two weeks prior to the paper being considered by LEG.
Dates on which the Bill will be before LEG and Cabinet for approval for introduction		

Date by which any policy decisions for associated secondary legislation will be before Cabinet		This date should be before the first reading of the Bill. Give reasons if not.
Date requested for introduction of the Bill		
Date of report back from select committee		<p>Allow six months for the select committee process (or, at a minimum, four months). Give reasons if a period of less than six months is proposed, and consult the office of the Leader of the House and record the outcome of the consultation.</p> <p>If new policy is proposed to be added to a Bill at select committee, this date should be no less than six months from the first reading of the Bill, and a select committee extension should be sought if it has an earlier report back date set at present.</p>
Date on which final policy approvals will be obtained from Cabinet for any substantive Amendment Paper (AP) to Bill (if already introduced)		Describe the process before or since this date (e.g. consultation, discussion documents).
Date on which final drafting instructions were or will be sent to PCO for any substantive AP to Bill (if already introduced)		<p>This date should be at least 2 months (depending on expected length and complexity of the AP) before the date on which the substantive AP will be submitted to Cabinet for approval.</p> <p>Note any concerns expressed by PCO.</p>
Date by which final drafting instructions for any associated secondary legislation will be sent to PCO		This date should be before the committee of the whole House stage of the Bill. Give reasons if not.
Date of enactment		
Date of commencement		

Recommendations

- 20 The Minister [of/for xx] recommends that the Committee:
- 20.1 note that the [title] Bill will [briefly summarise the policy to be implemented by the Bill];
 - 20.2 note that the [title] Bill ranks [xx] within the bids from my [name of portfolio] portfolio;
 - 20.3 approve the inclusion of the [title] Bill in the 2024 Legislation Programme, with a priority [xx] (give the proposed priority number and brief description of priority);
 - 20.4 (for priority 2 or 3 Bills only) note that the recommended priority is sought to [set out reason why the Bill must or should be passed in 2024 here];
 - 20.5 note that drafting instructions will be provided to the Parliamentary Counsel Office by [date];
 - 20.6 note that the Bill should be introduced no later than [date];
 - 20.7 note that the Bill should be passed no later than [date].

Authorised for lodgement

Hon Jane Smith
Minister of
Examples