



# Cabinet Office Circular

CO (06) 3

17 July 2006

---

*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.*

---

**Enquiries:**

*Kirsten Ferguson, Ministry of  
Justice Ph 494-9713*

*Amanda Powell, Legislation  
Coordinator, Cabinet Office  
Ph 471-9643*

All Ministers  
All Chief Executives

Copies to:  
All Senior Private Secretaries  
All Office Solicitors  
Chief Parliamentary Counsel  
Clerk of the House of Representatives

## Development of Statutes Amendment Bill 2006

1 Cabinet has agreed to the inclusion in the 2006 Legislation Programme of a Statutes Amendment Bill, for introduction by the end of 2006. This circular sets out the process for developing the Bill. The process adopts the streamlined approach to seeking cross-party support that was approved by Cabinet in 2005 for late inclusions of items in the Statutes Amendment Bill (No 5). This Circular replaces Cabinet Office Circulars CO (04) 3 and CO (05) 3.

**Key deadlines:**

- Departments are to submit potential items for inclusion in the Bill (as approved by the portfolio Minister) to the Ministry of Justice by **Friday, 18 August 2006** (see paragraphs 8 to 11 for the steps to be followed).
- Departments are to send drafting instructions the Parliamentary Counsel Office by **Friday, 8 September 2006** (see paragraph 14).

## The nature and content of the Bill

- 2 Statutes Amendment Bills are designed as vehicles for technical and short amendments to a range of Acts; extensive amendments to Acts are not appropriate for inclusion in a Statutes Amendment Bill.
- 3 Statutes Amendment Bills must be non-controversial. It is important that all elements of the Bill are appropriate for inclusion in this type of Bill and that they have been the subject of prior consultation with all parties in the House. If any Member of Parliament objects to a clause of a Statutes Amendment Bill during its consideration by the committee of the whole House, it will be struck out of the Bill [Standing Order 300(2)]. The aim is to avoid this by engaging in full, cross-party consultation before including clauses in the Bill.
- 4 The Statutes Amendment Bill 2006 will comprise items approved by any Minister (or identified by Cabinet) which involve technical, short and non-controversial amendments to Acts relevant to the Minister's portfolio area. For proposals to come within the scope of a Statutes Amendment Bill they must consist entirely of amendments to an Act or the repeal (without replacement) of an existing Act. Consequential amendments, consequential repeals, application provisions, and savings and transitional provisions are permissible. Stand-alone provisions, including the creation of a new principal Act, are normally ruled out. Amendments that the portfolio Minister considers require policy consideration by a Cabinet committee or by Cabinet will almost certainly be unsuitable, as will those requiring in-depth discussion by party caucuses.
- 5 A finite allocation of drafting time has been made for the preparation of the Bill and for its support through the House. Key deadlines must be met in order to ensure proposed amendments can be included in the Bill.

## The process for developing the Bill

### *Roles of Ministers and departments*

- 6 Individual departments are responsible for identifying and developing amendments to Acts they administer. Portfolio Ministers will approve potential amendments within their portfolio areas and undertake any necessary consultation with the Labour and Progressive Party caucuses.
- 7 The Associate Minister of Justice (Hon Clayton Cosgrove) is the Minister in charge of the Bill and will co-ordinate the inclusion of items in the Bill and the cross-party consultation process. The Ministry of Justice will co-ordinate the administrative aspects of the development of the Bill.

### *Identify potential amendments*

- 8 The **first step** is for a department to identify amendments that it considers appropriate for inclusion in the Bill and clear these as appropriate with other departments with a direct interest. Departments must be satisfied that proposed amendments are technical, short and non-controversial and otherwise consistent with the content requirements described in paragraph 4. In identifying potential amendments, departments should consult their legal departments which should, at an early point, contact the appropriate team leader in the Parliamentary Counsel Office to clarify whether potential amendments are suitable. Advice on whether a proposal complies with the Standing Orders of the House may be sought from the Office of the Clerk of the House of Representatives [Milton Hollard, ph: 471 9442].

### ***Obtain approval of portfolio Minister***

- 9 The **second step** is for the department to brief the Minister responsible for the principal Act and obtain that Minister's approval for the proposed amendment and for the proposal to proceed to cross-party consultation. The department's briefing to the portfolio Minister should include:
- i. A letter from the portfolio Minister to the Minister in charge of the Bill seeking to include the proposed amendment in the Bill; and
  - ii. A letter from the portfolio Minister to the leader of each non-government Parliamentary party seeking support for the proposed amendment. This letter should clearly cite in full the sections of the principal Act proposed to be amended, and provide information on the proposed amendment and the reasons for it. The letter should also provide contact details for an official who can respond to queries from the Parliamentary parties on the substance of the proposed item.
- 10 The portfolio Minister will need to undertake consultation with the Labour and Progressive coalition caucuses, as necessary, in the normal way.

### ***Provide information to Ministry of Justice***

- 11 The **third step** is for departments to provide all relevant briefing material and correspondence, once approved and signed by the portfolio Minister, to the Ministry of Justice by **Friday, 18 August 2006** (Kirsten Ferguson, Legal Adviser, Ministry of Justice, ph 494-9713; fax 494-9839; email [kirsten.ferguson@justice.govt.nz](mailto:kirsten.ferguson@justice.govt.nz)). The Ministry of Justice will brief the Minister in charge of the Bill, Hon Clayton Cosgrove, on all proposals tendered by portfolio Ministers, on an aggregated basis.

### ***Parliamentary parties consulted***

- 12 The **fourth step** is for cross-party support letters to be sent to the Parliamentary parties under a letter signed by Mr Cosgrove. The Parliamentary party leaders will be asked to respond to the Ministry of Justice, which will notify departments and the Parliamentary Counsel Office of the outcome of the consultation process. It is anticipated that this process will be completed by 22 September 2006 at the latest.
- 13 While the cross-party support process is co-ordinated through the Minister in charge of the Bill, any questions from the Parliamentary parties about the substance of a proposed amendment will be directed to the designated contact person or portfolio Minister.

### ***Submit drafting instructions to Parliamentary Counsel Office***

- 14 The **fifth step** is for the department to send drafting instructions to the Parliamentary Counsel Office team leader responsible for the department's drafting by **Friday, 8 September 2006**. Instructions should clearly indicate whether the proposed amendment has, or is still awaiting, cross-party support. The Parliamentary Counsel Office will not normally begin drafting any amendment for which confirmation of support from all parties has not been obtained.
- 15 Parts of the Bill, when drafted and settled with instructing departments, are sent by Parliamentary Counsel to the Ministry of Justice which will co-ordinate the Ministry of Justice and the Crown Law Office for vetting the proposals for consistency with the provisions of the New Zealand Bill of Rights Act 1990.

## **Timing of introduction**

- 16 The intention is to finalise the Bill for introduction and first reading before the House adjourns in December 2006.

Diane Morcom  
Secretary of the Cabinet