



Cabinet Office

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Circular

26 November 2013

Intended for All Ministers
All Chief Executives
Chief Parliamentary Counsel
Speaker of the House of Representatives
General Manager, Parliamentary Service

2014 Legislation Programme: Requirements for Submitting Bids

Introduction

- 1 This circular sets out the requirements for the preparation of requests (“bids”) from Ministers for bills to be awarded places on the 2014 Legislation Programme.
- 2 Information on the Legislation Programme, including the priority categories assigned to bills, can be found on the *CabGuide* website:
<http://www.cabguide.cabinetoffice.govt.nz/procedures/legislation#legislation-programme>.

Invitation to submit proposals, deadline and format

- 3 Ministers are asked to arrange for bids for the 2014 Legislation Programme to be delivered to the Legislation Coordinator in the Cabinet Office by **10am on Tuesday, 21 January 2014**.
- 4 The standard format for bids can be found on the *CabGuide* website:
<http://www.cabguide.cabinetoffice.govt.nz/procedures/legislation/bills-seeking-priority>. Note that no CAB 100 or CAB 101 form is required.
- 5 Each bid must be signed by the Minister, or in the case of multiple bids, attached under a covering letter signed by the Minister. Where a Minister is submitting more than one bid in a portfolio, the bids must be provided under a covering letter signed by the Minister that ranks all bids in that portfolio.
- 6 Please provide two hard copies of each bid. In addition, a Microsoft Word version of each bid must be emailed to the Legislation Coordinator using the address at the bottom of this circular. The electronic version of a bid can be unsigned.

Process for developing the Legislation Programme

- 7 Bids will be summarised and submitted in summary to the Cabinet Legislation Committee (LEG) for consideration and for the initial determination of priorities. The draft Legislation Programme as agreed by LEG will be confirmed by Cabinet.

Items for which a bid is required

- 8 A place on the annual Legislation Programme must be sought for the following:
- every bill that is currently before the House or a select committee;
 - bills that are currently undergoing policy development work, or are being drafted, and have a place on the previous (2013) Legislation Programme; and
 - policy proposals that may result in a bill in 2014 (including bills likely to be proposed in Law Commission reports).
- 9 New bills can be added to the Legislation Programme during 2014. However, it is preferable that bills be included in the Legislation Programme at the beginning of the year to assist with the planning of House time and the allocation of drafting resources.
- 10 There is no need for departments to make bids for contingency bills.

Statutes Amendment Bills

- 11 In recent years, Statutes Amendment Bills have been introduced almost annually to promote minor, technical, non-urgent, and uncontroversial amendments to a collection of Acts. It is likely that a new Statutes Amendment Bill will be included in the 2014 Legislation Programme.
- 12 Departments preparing bids for minor amending bills should include at least a preliminary assessment of whether these bills might qualify for inclusion in a future Statutes Amendment Bill. Where it is important or essential to pass a minor amending bill by a particular date, state this clearly, so that a decision can be made as to whether the item is appropriate, on timing grounds, to proceed in a Statutes Amendment Bill.

Secondary legislation

- 13 Where bills proposed for inclusion in the 2014 Legislation Programme also require the drafting of associated regulations, the extent of this requirement is to be described in the bid and must factor in the time required to complete the legislative package.

Priorities, support arrangements, planning and capacity

- 14 Ministers are asked to approach their proposals for bills in light of the government's overall priorities and support party arrangements.

- 15 In making recommendations to their Ministers, departments should ensure that realistic project planning is in place to take into account the time that is required for policy development, drafting (including time for Parliamentary Counsel Office (PCO) quality control standards of peer review and proof reading to be carried out), Bill of Rights Act 1990 vetting and Cabinet's approval. For bids for new bills, they must also ensure that an achievable timetable has been discussed with the PCO. If the PCO advises that the proposed timetable is not realistic then this advice must be included in the bid.
- 16 Departments responsible for bills that have a place on the 2013 Legislation Programme but have had introduction deferred due to outstanding drafting instructions, must put in place realistic project planning to ensure that the bill meets its proposed timetable in 2014.
- 17 2014 is an election year and as such it is likely that there will be less House time for bills than in other years. When seeking a priority for a new bill to be passed in 2014, departments should be aware that, for most bills, instructions must be provided to the PCO as soon as possible in the first quarter of 2014 and that the bill must be ready for introduction by May 2014, otherwise the priority may be lost.
- 18 Departments should also be aware that between 4 and 6 months is the standard time to allow for select committee consideration of a bill, and that the Standing Orders provide that any shorter timeframe is a time-unlimited debatable motion in the House.
- 19 Departments seeking a priority for a new bill to be introduced in 2014 should take into account that instructions will need to be provided to the PCO by the end of the second quarter of 2014. Any delays encountered at the policy development stage cannot be made up by shortening the time allowed to PCO to draft a bill. Instead, departments should revise their implementation plans and seek a new priority if appropriate.

Discharging existing bills

- 20 The compilation of the Legislation Programme is also a timely opportunity for Ministers to consider whether they wish to have an existing bill discharged from the Order Paper. To do so, a Minister should propose a priority category '8' in the relevant bid (meaning that the bill is 'not to proceed'). Discharging a bill must be undertaken in consultation with the Office of the Leader of the House.

Role of the Parliamentary Counsel Office

- 21 It is the statutory role of the PCO to draft the bills approved for introduction in the government's Legislation Programme. The Inland Revenue Department is specifically authorised to draft certain revenue legislation. With that exception, departments should prepare material for possible inclusion in their Ministers' bids on the basis that drafting will be undertaken by, or under the control of, the PCO.
- 22 The PCO is available for general consultation to assist departments to prepare bids. In particular, the PCO can provide advice to departments to assist in identifying the size and complexity of a particular bill and the proposed timeframe for its introduction and passage. Departments should contact the PCO team leader responsible for their legislation: Melanie Bromley (phone 817 9644), Mark Gobbi (817 9272), Julie Melville (phone 817 9270), or Richard Wallace (phone 817 9328).

- 23 Ministers may ask the PCO to provide an assessment of the size of the drafting task associated with each proposed bill or substantive Supplementary Order Paper (SOP), to help to size the programme realistically in relation to drafting resources and House time. Unclear definition of the scope and content of a bill or SOP can contribute to the overestimation of the drafting task. This could reduce the chances of the bill gaining a place on the programme.

Preparing drafting instructions

- 24 The best bills result from proper collaboration between the instructing department and the drafter. In particular, good drafting instructions are essential to ensure the timely and efficient drafting of legislation. The PCO can advise on the preparation of drafting instructions (contacts are set out in paragraph 22 above). Departments are encouraged to take advantage of this opportunity, and to use the publication *A Guide to Working with the Parliamentary Counsel Office* (edition 3.6), which is available at <http://www.pco.parliament.govt.nz/working-with-the-pco/>.
- 25 Departments are also referred to the material contained in the *Legislation Advisory Committee Guidelines – Guidelines on Process and Content of Legislation, 2001 edition and amendments*: <http://www2.justice.govt.nz/lac/index.html>.

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