

# The Treasury

## Disestablishment of the Productivity Commission Information Release

April 2024

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Key to sections of the Act under which information has been withheld:

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- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment;
- [36] 9(2)(h) - to maintain legal professional privilege
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## Treasury Report: New Zealand Productivity Commission Act Repeal Bill: Approval for Introduction

<b>Date:</b>	12 January 2024	<b>Report No:</b>	T2024/37
		<b>File Number:</b>	SH-11-1-3-1-2-4

### Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Nicola Willis)	<b>Provide feedback</b> , if any, on the attached Cabinet paper	15 January 2024
Minister for Regulation (Hon David Seymour)	<b>Agree</b> to late lodge the Cabinet paper, subject to any requested changes, by Tuesday 16 January	
	<b>Note</b> the revised timeline for Cabinet approval and the introduction of the Bill to the House	

### Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Hilary Devine	Senior Analyst, Economic Strategy	[39]	[35]
Kerryn Fowle	Director, Economic Strategy		✓

### Actions for the Minister's Office Staff (if required)

<p><b>Return</b> the signed report to Treasury.</p> <p><b>Lodge</b> the Cabinet paper with Cabinet office</p>
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Note any feedback on the quality of the report

**Enclosure:** Yes (attached): Annex 1 Draft Cabinet paper; Annex 2 Departmental Disclosure Statement; Annex 3 Draft New Zealand Productivity Commission Act Repeal Bill

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### Recommended Action

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We recommend that you:

- a **note** the timeline for the Cabinet approval and the introduction of the Bill to the House has been revised to 30 January 2024, from 12 February 2024.
- b **provide** feedback, if any, on the attached draft Cabinet paper “*New Zealand Productivity Commission Act Repeal Bill: Approval for Introduction*” by 16 January 2024.
- c **agree** to late lodge the paper for consideration by Cabinet Business Committee on Wednesday 17 January.

*Agree/disagree.*

Kerryn Fowle  
**Director, Economic Strategy**

Hon Nicola Willis  
**Minister of Finance**

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Hon David Seymour  
**Minister for Regulation**

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## Purpose of Report

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1. This report provides you with the draft Cabinet paper “New Zealand Productivity Commission Act Repeal Bill: Approval for Introduction”. The attached Cabinet paper seeks agreement to introduce legislation to repeal the New Zealand Productivity Commission Act 2010 (the Act) and to disestablish the Productivity Commission (the Commission).
2. This report seeks agreement to late lodgement of the paper, subject to any requested changes, by Tuesday 16 January, ahead of consideration by the Cabinet Business Committee on Wednesday 17 January.

## Context

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3. On 18 December 2023 Cabinet discussed the formal disestablishment of the Productivity Commission set out in the Government’s 100-Day Plan. This requires a Bill to repeal the New Zealand Productivity Commission Act 2010. The intention is to pass the repeal legislation through all stages under urgency in February [CAB-23-SUB-0495].
4. This Cabinet paper outlined the approach to the disestablishment process, which would see the Commission begin winding up as soon as possible, ending no later than the end of February 2024.
5. Cabinet invited the Minister of Finance to issue drafting instructions to the Parliamentary Counsel Office (PCO) for a Bill to repeal the Act; disestablish the Commission; terminate positions of the existing board members/ Commissioners; terminate any remaining employment positions; and transfer any remaining assets, liabilities and reporting obligations to the Treasury as monitoring department to complete the winding up process.
6. A Letter of Expectations (LoE) was sent to the Productivity Commission’s Chair on 19 December 2023, that formally advised the Commission of Cabinet’s intended approach to disestablish the Commission and of Cabinet’s expectation that the wind up of its operations occurs as soon as possible and no later than end of February 2024.

## Timing and commencement date

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7. Since the 18 December Cabinet meeting, the timeline has been brought forward by two weeks to accommodate the legislative timetable in the House.
8. Subject to your approval, the Cabinet paper will go to the Cabinet Business Committee (CBC) on 17 January 2024 and Cabinet on 23 January 2024. With Cabinet’s approval, the Bill will then be introduced to the House on 30 or 31 January 2024.
9. The revised timeline is below:

<b>Milestone/Activity</b>	<b>Previous Cabinet timeline agreed 18 December 2023</b>	<b>Revised timeline</b>
Cabinet approves introduction of Bill	12 February 2024	23 January 2024
Bill introduced to the House and passed through all stages under urgency	Next available sitting day in February 2024 after Cabinet approves introduction of the Bill	Introduction on 30 or 31 January 2024  First reading, second reading, Committee of the Whole House, and third reading stages as soon as possible on sitting days on or after the Bill's introduction
Royal Assent	Before 20 February 2024	Before 29 February 2024
Act commences	20 February 2024	29 February 2024

10. Although the legislative date has been brought forward, we recommend the commencement date remain 29 February 2024. The LoE sent to the Chair of the Commission stated that the Minister of Finance's expectations was that all substantive operations of the Productivity Commission would cease by the end of February and the Productivity Commission's wind down process is now being planned accordingly. This date has been communicated to staff.
11. The period to end of February is essential to provide both the Commissioners and staff certainty about the process and timeframe for disestablishment, including required notice periods and redundancies. It also allows officials time to arrange for the wrap up and transfer of outstanding assets and liabilities to the Treasury where they are to be managed on the disestablishment of the Commission.
12. Engagement with the Commission staff indicated that they planning for the wind up and are progressing well to achieve the deadline of the end of February 2024.

## Process and next steps

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13. Given the tight timeframes we suggest that there is no Ministerial consultation on the Cabinet paper and that discussion can be undertaken at CBC ahead of Cabinet. The relevant departments have been consulted in the drafting process and their comments have been incorporated.
14. The Cabinet paper and draft Bill will be lodged late on Monday 15 or Tuesday 16 January, for CBC on Wednesday 17 January. If further changes are needed these can be actioned, and the paper can be lodged straight to Cabinet for consideration on Tuesday 23 January, with Prime Minister's Office (PMO) approval. Minor changes and refinements can still be made to the Bill until it is introduced to the House.