

The Treasury

Disestablishment of the Productivity Commission Information Release

April 2024

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Cabinet

Minute of Decision

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Disestablishing the Productivity Commission

Portfolios **Regulation / Finance / Public Service**

On 18 December 2023, Cabinet:

- 1 **noted** that the Government's 100-Day Plan includes plans for the establishment of a new regulation agency and disestablishment of the Productivity Commission (the Commission) [CAB-23-MIN-0468];

Productivity Commission disestablishment

- 2 **noted** that disestablishment of the Commission requires legislation to:
 - 2.1 repeal the New Zealand Productivity Commission Act 2010 and remove references to the Commission in other Acts;
 - 2.2 disestablish the Commission;
 - 2.3 terminate the positions of existing board members/Commissioners;
 - 2.4 dissolve any remaining employment positions within the Commission;
 - 2.5 transfer any remaining assets, liabilities and reporting obligations to the Crown as necessary to complete the winding up process;
- 3 **noted** that the Commission and its board will continue to exist as a matter of law until the disestablishment legislation comes into effect;
- 4 **invited** the Minister of Finance to issue drafting instructions to the Parliamentary Counsel Office for a Bill to:
 - 4.1 repeal the New Zealand Productivity Commission Act 2010;
 - 4.2 disestablish the Commission;
 - 4.3 terminate positions of the existing board members/Commissioners;
 - 4.4 dissolve any remaining employment positions within the Commission;
 - 4.5 transfer any remaining assets, liabilities and reporting obligations to the Treasury;

- 5 **authorised** the Minister of Finance and the Minister for Regulation to make additional policy decisions, consistent with the general policy intent, on issues that arise in drafting and passage through the House;
- 6 **authorised** the Minister of Finance and the Minister for Regulation to make minor and technical changes to the policy decisions in the paper under CAB-23-SUB-0495, consistent with the general policy intent, on issues that arise in drafting and passage through the House;
- 7 **noted** the Minister of Finance and the Minister for Regulation’s intention to return to Cabinet for approval to introduce the Bill on 12 February 2024;
- 8 **noted** that the Minister of Finance will provide written guidance to the Commission’s board confirming the Government’s intention to introduce a Bill repealing the New Zealand Productivity Commission Act 2010 and disestablishing the Commission;
- 9 **noted** that the Minister of Finance intends to work with the Commission’s board to ensure its affairs are in order to the extent possible to manage the operational wind up of the entity (to the extent permitted by law) in advance of legislative disestablishment;
- 10 **noted** that a place will be sought on the 2024 Legislation Programme for this Bill, with a category 2 priority (must be enacted in 2024);

Financial implications

- 11 **noted** that the core funding for the Commission is through a non-departmental output expense appropriation “Inquiries and Research into Productivity-Related Matters” in Vote Finance of \$5.930 million per annum;
- 12 **noted** that for the 2023/24 financial year to date, \$3.953 million has been advanced to the Commission, and a balance of \$1.977 million remains within the appropriation described above;
- 13 **noted** that as at 30 June 2023, the Commission had \$2.995 million in cash reserves on its balance sheet;
- 14 **noted** that while the intention is that the Commission will meet disestablishment expenses (including but not limited to the payment of redundancies and meeting any residual management responsibilities) to the extent possible from its cash reserves described above, depending on timing of repeal of the relevant legislation it may be necessary to transfer some of this funding to the Treasury to meet these disestablishment expenses;
- 15 **noted** that, in addition to expenses associated with disestablishment, there will likely be a number of Commission assets (e.g., website and information management) that will need to be managed by Treasury, and appropriated for within the Treasury;
- 16 **authorised** the Minister of Finance (as responsible Minister for the Commission) and the relevant Associate Minister of Finance with delegated authority to act as Minister of Finance on Vote Finance (joint Ministers) jointly to:
- 16.1 approve any changes to operating and capital baselines necessary to enable the Treasury to meet any disestablishment expenses and manage assets after the Commission has been disestablished, including establishing new appropriations as necessary;

- 16.2 agree to carry-forward unspent funding into the next financial year as necessary in case of delay, on the condition that any such changes to baselines are fiscally neutral overall;
- 17 **agreed** that any baseline funding for 2023/24 and outyears for the non-departmental output expense appropriation “Inquiries and Research into Productivity-Related Matters” in Vote Finance and remaining net assets of the Commission that are not required to be transferred to enable the Treasury to meet any disestablishment expenses and manage assets after the Commission has been disestablished be returned to the centre as part of the baseline update process, once these amounts have been finally determined;
- 18 **noted** that the Treasury will advise and seek agreement of the relevant appropriation Minister(s) for appropriate end-of-year performance information for inclusion in the 2023/24 Supplementary Estimates for any existing and new appropriations affected by the changes described above;
- 19 **noted** that there may be ongoing costs beyond the 2023/24 financial year, for example ongoing storage costs, and that officials will consider options for how to manage these once the extent of these ongoing costs is confirmed;
- 20 **noted** that work is underway on a new regulatory agency, and that the Minister for Regulation will report back to Cabinet in the New Year on funding arrangements for the new agency, consistent with the 100-Day Plan;
- 21 **authorised** the Minister for Regulation (as responsible Minister for the new regulation agency), the Minister of Finance and the relevant Associate Minister of Finance with delegated authority to act as Minister of Finance on Vote Finance to jointly approve any changes to operating baselines necessary to enable the Treasury to meet any establishment expenses for the new regulatory agency, including establishing new appropriations as necessary on the condition that any such changes to baselines are fiscally neutral overall.

Rachel Hayward
Secretary of the Cabinet