

Duties of Statutory Officers (Census and Other Remedial Provisions) Bill

Government Bill

Explanatory note

General policy statement

Census

This Bill defers the taking of the census of population and dwellings (**census**) from this year to 2013. The Canterbury earthquake on 22 February affected the viability of a census in 2011. The deferral of the census is achieved by amending the current formulation in the Statistics Act 1975 for a census of population and dwellings to be undertaken “in the year 1976 and in every fifth year thereafter” by substituting “2013” for “1976”. The Bill also obviates the need for the current Proclamation process appointing the day and timing of the census by the Governor-General by enabling the Government Statistician to appoint the day and timing by notice in the *Gazette* as soon as practicable after the legislation comes into force. This streamlined process relates only to the 2013 census and is made in light of public announcements already issued on the next census and will allow notification of the actual day in a more timely manner. If the Bill is not enacted and in force before the end of 2011, the Government Statistician would be in breach of the statutory obligation to undertake a census in 2011.

Parliamentary Counsel Office

There is also an urgent need to enact provisions enabling the Chief Parliamentary Counsel to delegate his or her functions, responsibilities, duties, and powers (as proposed in *clauses 60 to 62* of the Legislation Bill). This is necessary to enable the Parliamentary Counsel Office to be effectively managed during any period of secondment or other period of absence of the Chief Parliamentary Counsel, during any incapacity of the Chief Parliamentary Counsel, or while that position is vacant. Unlike the Clerk of the House of Representatives Act 1988, the Statutes Drafting and Compilation Act 1920 does not contain a delegation power. The Bill amends the Statutes Drafting and Compilation Act 1920 to provide such a power for the Chief Parliamentary Counsel.

Regulatory impact statement

Statistics New Zealand produced a regulatory impact statement on 6 April 2011 to help inform the Government's policy decisions relating to the 2011 census.

A copy of this regulatory impact statement can be found at—

- http://www.stats.govt.nz/about_us/policies-and-guidelines/ris-2013-census-options.aspx
- <http://www.treasury.govt.nz/publications/informationreleases/ris>.

Clause by clause analysis

Clause 1 relates to the Title of the Bill.

Clause 2 provides that the Act comes into force on the day after the date on which it receives the Royal assent.

Part 1 Statistics Act 1975

Clause 3 provides that this Part amends the Statistics Act 1975 (the **principal Act**).

Clause 4 amends section 23 of the principal Act.

Subclause (1) amends section 23(1) by postponing from 2011 to 2013 the next census of population and dwellings. A census will have to be taken every 5 years after 2013.

A census was due to be taken on 8 March 2011 but the Proclamation giving effect to this was revoked by a Proclamation in the *Gazette* on 3 March 2011.

Subclause (2) adds *new subsections (4) and (5)* to enable the Statistician to appoint the day and timing of the 2013 census by notice in the *Gazette*. The notice must be given as soon as practicable after *subsection (4)* comes into force. The new subsections obviate the need for a Proclamation to be made in this case, but the Statistician's additional obligation under section 23(3) to publish information about the census in newspapers and by other means will apply to this census.

Part 2

Statutes Drafting and Compilation Act 1920

Clause 5 provides that this Part amends the Statutes Drafting and Compilation Act 1920 (the **principal Act**).

Clause 6 inserts into the principal Act *new sections 8B to 8D*, which provide for the delegation of functions, responsibilities, duties, and powers by the Chief Parliamentary Counsel. The principal Act currently makes no provision for such delegations and this clause will remedy that deficiency. The clause implements a recommendation in the Law Commission's Report 107 (*Review of the Statutes Drafting and Compilation Act 1920*) and mirrors the general position of chief executives under the State Sector Act 1988.

New section 8B enables the Chief Parliamentary Counsel to delegate his or her functions, responsibilities, duties, or powers to any Parliamentary Counsel or other staff member of the Parliamentary Counsel Office. This provision is similar to section 12 of the Clerk of the House of Representatives Act 1988, except that it requires the Chief Parliamentary Counsel to put in place an appropriate delegation to enable a person to act in place of the Chief Parliamentary Counsel during any absence or incapacity of the Chief Parliamentary Counsel or during any vacancy in the office of Chief Parliamentary Counsel.

New section 8C relates to a person acting in place of the Chief Parliamentary Counsel while the Chief Parliamentary Counsel is absent or incapacitated or during any vacancy in the office of Chief Parliamentary Counsel, and ensures that the person acting in that capacity has the necessary legal authority to do so.

New section 8D provides for the revocation of delegations and is similar to section 13 of the Clerk of the House of Representatives Act 1988.

Hon Maurice Williamson

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(Census and Other Remedial
Provisions) Bill**

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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the Duties of Statutory Officers (Census and Other Remedial Provisions) Act **2011**.

2 Commencement 5
This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Statistics Act 1975**

3 Principal Act amended 10
This Part amends the Statistics Act 1975.

4 Census of population and dwellings

(1) Section 23(1) is amended by omitting “1976” and substituting “2013”.

(2) Section 23 is amended by adding the following subsections: 15

“(4) Despite subsection (2), in the case of the 2013 census of population and dwellings, the Statistician must, by notice given in the *Gazette* as soon as practicable after the commencement of this subsection, appoint the day on which the census must be taken and the time with reference to which the particulars must relate. 20

“(5) The notice given under **subsection (4)** must be treated for all purposes as a Proclamation made under subsection (2), and subsection (3) applies with the necessary modifications.”

Part 2 25
**Statutes Drafting and Compilation Act
1920**

5 Principal Act amended
This Part amends the Statutes Drafting and Compilation Act 1920. 30

6 New sections 8B to 8D inserted

The following sections are inserted after section 8A:

“8B Delegation of functions, responsibilities, duties, or powers

“(1) The Chief Parliamentary Counsel—

“(a) may from time to time, either generally or particularly, 5
delegate to any Parliamentary Counsel or other staff
member of the Parliamentary Counsel Office any of
the functions, responsibilities, duties, or powers of the
Chief Parliamentary Counsel, including functions or
powers delegated to the Chief Parliamentary Counsel 10
under any Act:

“(b) must ensure that an appropriate delegation is at all times 15
in place under this section to enable a person to act in
place of the Chief Parliamentary Counsel during any ab-
sence or incapacity of the Chief Parliamentary Counsel
or during any vacancy in the office of Chief Parliamen-
tary Counsel.

“(2) The person to whom any functions, responsibilities, duties, or 20
powers are delegated under this section may perform or exer-
cise those functions, responsibilities, duties, or powers in the
same manner and with the same effect as if they had been con-
ferred on that person directly by this Act and not by delegation.

“(3) Subsection (2) is subject to any general or special directions 25
given or conditions imposed by the Chief Parliamentary Coun-
sel.

“(4) A person purporting to act under any delegation under this 30
section is, in the absence of proof to the contrary, presumed
to be acting in accordance with the terms of the delegation.

“(5) A delegation under this section may be made to—

“(a) a specified person or persons of a specified class; or 30

“(b) the holder or holders for the time being of a specified 35
position, or of a specified class of positions.

“(6) No delegation under this section affects or prevents the per- 35
formance or exercise of any function, responsibility, duty, or
power by the Chief Parliamentary Counsel, or affects the re-
sponsibility of the Chief Parliamentary Counsel for the actions
of any person acting under the delegation.

**“8C Absence or incapacity of Chief Parliamentary Counsel
or vacancy**

- “(1) A person who holds a delegation referred to in **section 8B(1)(b)** may act in place of the Chief Parliamentary Counsel while the Chief Parliamentary Counsel is absent or incapacitated or during any vacancy in the office of Chief Parliamentary Counsel. 5
- “(2) No acts done by the person acting in place of the Chief Parliamentary Counsel under **subsection (1)** may, in any proceedings, be questioned on the ground that the occasion for the authorisation had not arisen or had ceased. 10

“8D Revocation of delegations

- “(1) A delegation under **section 8B** is revocable at any time in writing.
- “(2) A delegation, until it is revoked, continues to have effect according to its terms even if the Chief Parliamentary Counsel by whom it was made has ceased to hold office. 15
- “(3) A delegation made by a Chief Parliamentary Counsel who has ceased to hold office continues to have effect as if made by the successor in office of that Chief Parliamentary Counsel.” 20
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