



Legislation (Publication) Regulations 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 13th day of September 2021

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 147 of the Legislation Act 2019—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Attorney-General.

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Regulations

1 Title

These regulations are the Legislation (Publication) Regulations 2021.

2 Commencement

These regulations come into force on 28 October 2021.

3 Meaning of published on maker's website

A requirement that secondary legislation or other information be **published on the maker's website** is met if the secondary legislation or information is published on an Internet site—

- (a) that is maintained by or on behalf of—
 - (i) the maker; or
 - (ii) if the maker is a Minister, the Governor-General, or the House of Representatives, the administering agency for the secondary legislation; and
- (b) from which members of the public can access and download it free of charge at all times (as far as practicable).

4 Meaning of notified in *Gazette*

- (1) A requirement that secondary legislation be **notified in the *Gazette*** is met if notice of its making is published in the *Gazette*.
- (2) The notice must include the following information about the secondary legislation:
 - (a) its Title;
 - (b) the date on which it was made;
 - (c) the empowering provision under which it was made;

- (d) the administering agency responsible for administering it;
- (e) the Internet site where it is published;
- (f) a statement that it is secondary legislation for the purposes of the Legislation Act 2019.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

Part 1

Publishing and making available certain secondary legislation

6 Purpose

This Part sets out the minimum requirements for publishing, notifying, and otherwise making available secondary legislation (the **publication requirements**) for the purposes of section 74(1)(aa) of the Legislation Act 2019.

7 Secondary legislation to which this Part applies

The publication requirements apply to secondary legislation that—

- (a) is not published by the PCO; and
- (b) is made under an empowering provision that—
 - (i) is enacted on or after 28 October 2021; or
 - (ii) is listed in Schedule 2.

8 Publication requirements for secondary legislation

- (1) The publication requirements for secondary legislation are that—
 - (a) it must be—
 - (i) published on the maker’s website; and
 - (ii) notified in the *Gazette*; and
 - (b) if there are any customised requirements for it under Schedule 3, they must be met.
- (2) The publication requirements must be met as soon as practicable after the secondary legislation is made.
- (3) However, if Schedule 3 provides that a customised requirement applies instead of a requirement that applies under subclause (1)(a)(i) or (ii), that subparagraph does not apply.
- (4) This regulation is also subject to regulation 9.

9 When publication is not required

- (1) The publication requirements in regulation 8 do not apply to secondary legislation that is made under an empowering provision listed in Part 1 of Schedule 4.
- (2) The publication requirements in regulation 8 do not apply to secondary legislation that is made under an empowering provision listed in Part 2 of Schedule 4 if (or to the extent that) the grounds set out in that schedule for that provision are met.

**Part 2
Other matters****10 Information required in PCO notification in *Gazette***

For the purposes of section 69(2) of the Legislation Act 2019, the information required to be published in the *Gazette* is the information listed in regulation 4(2).

11 Official versions of legislation

- (1) This regulation sets out the requirements for official versions of legislation for the purposes of section 78 of the Legislation Act 2019.
- (2) An official electronic version must be published on the legislation website (<http://www.legislation.govt.nz>).
- (3) An official printed version must be published by or on behalf of the PCO.
- (4) An official version must have a representation of the New Zealand Coat of Arms on its front page.
- (5) An official version may also contain a statement to the effect that it—
 - (a) is issued under the authority of the New Zealand Government; or
 - (b) is issued under the authority of the Legislation Act 2019, or was originally issued under the Legislation Act 2012 or a corresponding former Act.
- (6) There may be electronic and printed official versions of the same legislation.

12 Revocation

The Legislation (Official Versions) Regulations 2015 (LI 2015/267) are revoked immediately after section 11(2)(c) of the Legislation (Repeals and Amendments) Act 2019 comes into force.

Schedule 1
Transitional, savings, and related provisions

r 5

Part 1
Provisions relating to these regulations as made

There are no transitional, savings, or related provisions in these regulations as made.

Schedule 2**Provisions to which section 74(1)(aa) of Legislation Act 2019 applies**

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The provisions listed in this table are empowering provisions to which section 74(1)(aa) of the Legislation Act 2019 applies. (As a result, Part 1 of these regulations applies to secondary legislation made under those provisions.)

Empowering legislation**Empowering provisions**

Legislation Act 2019

ss 76, 107

Schedule 3

Customised publication requirements

r 8

Part 1

Interpretation

1 Up-to-date versions of secondary legislation

- (1) A requirement in Part 2 of this schedule that up-to-date versions of secondary legislation be **published on the maker's website** is met if, each time the secondary legislation is amended, an up-to-date version of it is published on the maker's website as soon as practicable after it is amended.
- (2) An **up-to-date version** of secondary legislation that has been amended means a version of the secondary legislation that incorporates the amendments so that it shows the secondary legislation as amended.
- (3) An up-to-date version of secondary legislation must—
 - (a) specify the date up to which it incorporates amendments; and
 - (b) include, or be published with, a list of the amending legislation that has been incorporated.
- (4) An up-to-date version may also show the secondary legislation as it would be amended by amendments that have not yet come into force if it clearly indicates that those amendments have not yet come into force.
- (5) A requirement to publish up-to-date versions of secondary legislation is in addition to the requirement to publish the amending secondary legislation.

2 Available for inspection and purchase

- (1) A requirement in Part 2 of this schedule that secondary legislation or other information be **made available for inspection** is met if it is available for inspection at the specified place by any person during ordinary office hours and free of charge.
- (2) A requirement in Part 2 of this schedule that secondary legislation be **made available for purchase** is met if printed copies of it are available for purchase on request by any person for a reasonable charge.
- (3) If secondary legislation is required to be available for inspection or purchase or both, the notification in the *Gazette* under regulation 8(1)(a)(ii) must include details of where it is available.

Part 2

Customised publication requirements for secondary legislation

There are no customised publication requirements in these regulations as made.

Schedule 4

When publication is not required

r 9

Part 1

Publication not required

The publication requirements in regulation 8 do not apply to secondary legislation made under an empowering provision listed in this table.

Empowering legislation	Empowering provision(s)
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There are no provisions listed in Part 1 in these regulations as made.

Part 2

Publication not required if grounds met

The publication requirements in regulation 8 do not apply to secondary legislation made under an empowering provision listed in this table if (or to the extent that) the qualifying grounds are met.

Empowering legislation	Empowering provision(s)	Qualifying criteria Publication requirements do not apply if
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There are no provisions listed in Part 2 in these regulations as made.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under the Legislation Act 2019 (the **Act**) and come into force on 28 October 2021.

Applicable publication requirements

Section 74 of the Act requires the maker of certain secondary legislation to publish, notify, and make it available in accordance with the requirements applying under regulations made under the Act. These regulations set out those requirements.

These requirements apply to secondary legislation that—

- is not published by the PCO; and
- is made under an empowering provision that—
 - is enacted on or after 28 October 2021; or
 - is listed in *Schedule 2*. These are provisions whose administering agency has requested that the publication requirements in these regulations apply instead of the publication requirements that otherwise apply under section 74(1)(a) of the Act (*see Schedule 2*).

The minimum requirements for this secondary legislation are that it be notified in the *Gazette* and published on the maker's website. The regulations also allow for customised publication requirements to be imposed for particular empowering provisions (*see Schedule 3*).

When publication is not required

In rare cases, it is appropriate for secondary legislation not to be published because it contains sensitive information, such as information affecting matters of national security. *Regulation 9* and *Schedule 4* provide for this possibility. In some cases, the disapplication of the publication requirements will apply to all secondary legislation made under an empowering provision. In other cases, the disapplication will apply only if, or to the extent that, specified criteria are met.

There are currently no empowering provisions listed in *Schedule 4*. However, the mechanism for this to be done is included now so that it is already in place if circumstances arise in the future when it is appropriate to allow certain secondary legislation not to be published. It is anticipated that if a Bill includes a new empowering provision for secondary legislation and it would be appropriate to not require it to be published, the Bill will also include an amendment to these regulations to add the provision to *Schedule 4*. This will ensure that the proposal to not require publication is subject to Parliamentary scrutiny as part of the Bill.

Other matters

The Act requires the PCO to notify in the *Gazette* the secondary legislation that it publishes. *Regulation 10* requires the PCO to include in the notice the same information that makers are required to include when they notify their secondary legislation.

Section 78 of the Act provides for the PCO to publish official versions of legislation in electronic and printed form. For a document to be recognised as an official version of legislation, it must comply with the requirements set by regulations. *Regulation 11* continues the requirements that applied under the equivalent provision of the Legislation Act 2012, so the regulations made under the 2012 Act are revoked.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 16 September 2021.

These regulations are administered by the Parliamentary Counsel Office.