

PARLIAMENTARY COUNSEL'S OFFICE

PCO is a separate office that provides the government with a comprehensive and integrated range of high quality services for drafting and developing legislation, publishing legislation and providing advice and information about legislation to government.

PERFORMANCE HIGHLIGHTS

- Meeting demands of the government's legislative program by completing a high volume of complex items of draft legislation, including draft legislation for the white paper on the planning law reform.
- Maintaining prompt turnaround times for finalising statutory instruments, including environmental planning instruments.
- Improving public access to NSW legislation by enhancing the NSW legislation website by adding Really Simple Syndication (RSS) feeds and improving the processing and updating of the website. This led to a substantial boost in visitors to the website.

Resources

PCO's expenditure was almost \$500,000 below its \$9.009 million budget (due to the difficulty in engaging specialist drafting and editorial staff). Full-time equivalent (FTE) staffing levels were at historically low levels with an average FTE of 41.5 over the year.

Legislative drafting services

Bills

Where practicable, Bill drafting work was done on a collegiate basis. Draft Bills continued to be scrutinised by a group of the most senior drafters and all Bills received comprehensive editorial, legal, and quality assurance checks.

PCO, as a service to Parliament, publishes Bills and republishes amended Bills for all stages of the parliamentary process and provides electronic copies for publication on the Parliament House website. PCO also provides bulk printed copies of introduced or republished Bills and vellums for assent by the Governor.

Government Bills and amendments in committee

This year 109 Government Bills were introduced. For reasons of confidentiality only those Bills introduced into Parliament or formally exposed were reported. However, at 30 June 2013 a number of Bills were completed but not proceeded with or were in the course of preparation.

Bills and amendments in committee required by the government were drafted in accordance with the government's parliamentary program.

	2008 –2009	2009 –2010	2010 –2011	2011 –2012	2012 –2013
Bills introduced	113	127	98	99	109
Pages	3,395	3,417	2,800	2,945	3,650
Bills exposed	5	6	3	2	6
Pages	278	340	139	86	423
Amendments in committee	69	121	96	59	67

Cabinet Standing Committee on Legislation

The Cabinet Standing Committee on Legislation streamlines the process of finalising and programming the introduction of government Bills. The Parliamentary Counsel attended 21 meetings of the committee and briefed it on the status of draft Bills.

Non-government Bills and amendments in committee

PCO continued to provide a drafting service for non-government Members of Parliament. PCO drafts non-government Bills and amendments in committee as requested. This is subject to the government's legislative priorities and the availability of resources, and in accordance with arrangements approved by the government.

	2008 –2009	2009 –2010	2010 –2011	2011 –2012	2012 –2013
Non-government Bills introduced	15	22	18	17	16
Pages	187	190	229	185	207
Non-government amendments in committee	193	141	180	384	231

Statute Law Revision Program

The Statute Law Revision Program has been an effective and economical means of making minor amendments and removing unnecessary laws. The program, which has run for almost 30 years, has three aspects:

- Making minor, non-controversial amendments, sponsored by ministers.
- Making amendments of a purely statute law revision nature, sponsored by PCO.
- Repealing Acts and instruments that are redundant or of no practical utility.

Two Statute Law Bills were introduced and passed. These Bills amended 162 Acts and instruments and repealed seven Acts and instruments.

Australasian Parliamentary Counsel's Committee

The Australasian Parliamentary Counsel's Committee consists of heads of the legislative drafting offices of all Australian jurisdictions and also of New Zealand. The NSW Parliamentary Counsel is the current secretary/chair. The committee provides a forum for: preparing uniform or complementary legislation; promoting consistent styles of legislation in Australia and New Zealand; and exchanging ideas. The committee met three times. Documents were increasingly exchanged electronically to deal with the growing demand for uniform or complementary legislation.

The committee also holds an annual IT Forum for drafting offices to exchange information on the development of legislative drafting and publishing systems, including the delivery of legislative information to the public. The NSW PCO was the host jurisdiction for the 2012–2013 IT Forum.

The NSW PCO maintains a website (www.pcc.gov.au) relating to the work of the committee, including the protocol for the drafting of uniform legislation.

Statutory instruments

This excludes the Staged Repeal Program and Environmental Planning Instruments (EPIs).

PCO aims to draft and provide legal opinions on at least 70 per cent of statutory instruments within 20 working days. In 2012–2013, 83 per cent were completed within this target.

	2008 –2009	2009 –2010	2010 –2011	2011 –2012	2012 –2013
Number completed by PCO	714	656	761	639	724
Percentage within 10 days or less	58	56	57	61	63
Percentage within 11–20 days	23	19	21	21	20
Percentage within 21–40 days	10	14	14	15	12
Percentage after 40 days	9	11	9	4	5

The statutory instruments drafted by PCO include the Uniform Civil Procedure Rules and specific rules of court for the Supreme Court and other courts and tribunals.

PCO continued to operate the centralised scheme for notifying Parliament of regulations and other statutory instruments that require tabling. Under the scheme, PCO identifies and provides to Parliament those instruments that are required to be tabled in Parliament and which either House of Parliament may disallow.

Staged Repeal of Subordinate Legislation Program

The *Subordinate Legislation Act 1989* provides for the staged repeal of statutory rules following the fifth anniversary of their date of publication. PCO manages this program including drafting new instruments made under the program. Stage 22 of the program was completed on 1 September 2012.

Instruments dealt with by stage 22	
TOTAL instruments dealt with under this stage	122
Instruments dealt with that were granted postponements of repeal in previous stages	80
Outcome of stage 22	
Instruments granted postponement of repeal in this stage by section 11 order	64
Instruments that had their staged repeal date extended by other amending legislation	6
Instruments repealed under the Act by a replacement instrument or under another Act	44
Number of new instruments drafted and made under this stage	41
Outcome of all stages since 1990	
Number of instruments as at 1.7.1990	976
Number of instruments as at 1.9.2012	345
Number of pages as at 1.7.1990	15,000
Number of pages as at 1.9.2012	7,740

Environmental Planning Instruments

PCO drafts and provides legal opinions on EPIs before they are made under the *Environmental Planning and Assessment Act 1979*. The instruments consist of state environmental planning policies and local environmental plans.

PCO aims to draft and provide legal opinions on at least 70 per cent of EPIs within 20 working days. PCO continues to achieve turnaround times well above the established target, with 94 per cent of EPIs completed within 20 working days in 2012–2013.

	2008 —2009	2009 —2010	2010 —2011	2011 —2012	2012 —2013
Number completed by PCO	336	446	565	606	740
Percentage within 10 days or less	56	64	72	83	78
Percentage within 11–20 days	32	32	25	12	16
Percentage within 21–40 days	11	3	2	4	5
After 40 days	1	1	1	1	1

This year the rollout of new standard instrument local EPIs for each local government area continued at an increased pace.

	2009 —2010	2010 —2011	2011 —2012	2012 —2013
Number of principal standard instrument local EPIs officially made under section 33A	10	17	34	50
Number of other principal local EPIs officially made that reflect current standard instrument template	8	0	2	0

PCO provides a specialist service for checking and publishing maps, which includes details of land zonings, building heights, heritage areas and lot sizes on the NSW legislation website. New standard instrument local EPIs and many state environmental planning policies now use maps to provide most of the development controls for the land concerned. This provides the public and those engaged in planning with high quality, zoomable PDFs of current maps and point-in-time maps as development controls are changed. PCO processed 606 sets of maps, with an average of 25 maps per set.

Legal and administrative advice

PCO provides advice to ministers and departments in the course of drafting legislation, including in connection with legislative proposals.

Public access to law services

Legislation website

PCO provides free access to an authoritative, up-to-date collection of NSW legislation through its legislation website www.legislation.nsw.gov.au.

PCO undertakes an ongoing review of the website and makes improvements as resources allow. This year PCO provided a RSS service, which improved users' ability to monitor legislation changes. Improvements were also made to back-end processing of legislative data published on the website, enabling faster website

updates. Website usage is closely monitored. Statistics showed a sustained increase in the site's use of approximately 30 per cent from October 2012 (now averaging 457,330 hits per day). This rise follows the introduction of: RSS feeds; a range of information tables; and Bills information pages.

The legislation website now delivers the following features:

- Dynamic up-to-date collection of NSW Acts and subordinate legislation, including EPIs. This collection in HTML is authorised under the *Interpretation Act 1987* as correct.
- Official online notification of the making of new statutory instruments, including EPIs.
- Superseded and repealed versions of legislation to provide point in time access and searches (also authorised in HTML).
- Static archival collection of Acts dating back to 1824 and a range of subordinate legislation.
- Consultation drafts of Bills and copies of Bills (including explanatory notes) at all stages of the parliamentary process and amendments in committee.
- Information tables about legislation.
- RSS feeds for users to monitor legislation.

Legislation database

The NSW legislation website provides public access to the legislation database, which is compiled in conjunction with PCO's publishing activities. NSW Acts and principal statutory instruments, including EPIs, are captured on a systematic basis, updated when amended and stored in Standard Generalised Markup Language (SGML) format. All superseded versions are preserved to provide a point-in-time repository.

The following current, historical and repealed SGML versions were maintained:

- over 12,300 versions of Acts
- over 6,400 versions of statutory instruments (excluding EPIs)
- over 4,100 versions of EPIs.

PCO continued to make source data from the database available to government departments, commercial publishers, the Australasian Legal Information Institute (AustLII) and the Judicial Commission in XML format.

PCO aims to capture all new Acts and instruments in SGML, and update Acts and instruments when amended, within three working days. Over 99 per cent of updates were completed within this turnaround time. The few exceptions were during periods where the target was impracticable due to the very large volume of legislation updated.

	2008 —2009	2009 —2010	2010 —2011	2011 —2012	2012 —2013
New Acts captured	146	127	101	99	98
New principal statutory instruments and EPIs captured	89	86	118	78	114
Amendments incorporated (creating a new version)	1,777	1,997	1,313	1,325	1,409
Other updates made	2,381	2,650	2,224	2,236	2,236

The SGML collection (including In Force PDFs) represents 19.6 gigabytes of data.

Official online notification of statutory instruments

PCO has provided official notification of the making of new statutory instruments on the NSW legislation website since 2009. Previously, these instruments were published in the printed NSW Government Gazette.

	2008 —2009	2009 —2010	2010 —2011	2011 —2012	2012 —2013
Statutory instruments (excluding EPIs)					
Number officially made	520	384	506	436	469
Pages	3,944	2,693	4,582	3,301	4,260
EPIs					
Number officially made	147	184	220	235	241
Pages	2,018	2,906	3,037	5,383	7,136

Weekly email service and RSS feeds

In association with the online publication of instruments, PCO provides a weekly email service that lists and links instruments officially notified on the website and other legislation events (such as Bills introduced and passed).

As expected, the introduction of RSS feeds saw a decline in subscribers for the manually compiled email service, given the RSS feeds provide more timely information about legislation. Nevertheless, the email service continues to be popular with 3,249 subscribers.

Legislation information service

PCO provides a telephone and email service to respond to public inquiries about the status of NSW legislation and related matters.

	2008 –2009	2009 –2010	2010 –2011	2011 –2012	2012 –2013
Phone inquiries	1,240	1,807	1,661	1,858	1,835
Email inquiries	510	546	786	547	395

General developments

In the years ahead, in addition to meeting the needs of the government's legislative agenda, PCO will need to manage the impact of proposed planning reforms on drafting and publishing workloads.

PCO aims to provide all drafting and publishing staff with skills and experience across all program areas to meet the varying peak periods for each drafting and publishing program. This requires a broad training program for staff, which includes specialist areas such as planning instrument drafting, database management and map checking. However, this year staff development and succession planning activities have been heavily impacted by historically low staff numbers, retirements and the need to accommodate flexible work practices, parental leave and other career breaks. A range of temporary and long-term plans have been implemented to address this challenge so PCO can continue to deliver a high standard of legislative drafting and publishing services into the future.

PCO runs a continuing professional development program for drafting staff who are barristers or solicitors. The NSW Bar Association and the Law Society of NSW have approved the program. The program involves drafting circulars and other relevant materials, and attendance at a range of in-house presentations and training sessions. In addition, individual drafters prepare and present papers at seminars and conferences.

PCO is also active in developing the legislative drafting profession internationally through: ongoing involvement in the Commonwealth Association of Legislative Counsel (with the NSW Parliamentary Counsel elected to the Governing Council of the Association in 2013); hosting visits from other jurisdictions; and training drafters from other jurisdictions through AusAid and other programs. This year PCO officers delivered presentations to the lawyers participating in the Legislative Drafting Capacity Building in East Africa program and hosted a lawyer from Botswana for a two-week placement as part of that program.