



Parliamentary Counsel's Office

Parliament House

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Overview 2006–07

The Parliamentary Counsel's Office (PCO) provides the Government with a comprehensive and integrated range of high quality services for the drafting and development of legislation, the publication of legislation, and the giving of advice and information about legislation. The Office also provides up-to-date public access to legislation through the official NSW legislation website (www.legislation.nsw.gov.au) and other on-line and printed publications.

For most of the reporting year, PCO was a separate office within The Cabinet Office. On 27 April 2006, it became a separate office within the new Department of Premier and Cabinet. Previous annual reports can be accessed at www.pco.nsw.gov.au.

In 2006–07, the PCO's net cost of services was \$7.289 million, which was slightly below budget. Staffing levels increased during the year (an average EFT of 52.2) as a result of the enhanced environmental planning instrument (EPI) program, but were affected later in the year by resignations and retirements. The Office relocated to new premises in December as a result of the sale of the Goodsell Building and the relocation was achieved within a very short timeframe, within budget and with no disruption to services.

During the reporting year the office maintained its very high work output. A detailed report of the office's programs and services follows, featuring comprehensive five year workflow figures and performance targets.

Performance

Legislative drafting

Bills

Where practicable, bill drafting work was done on a collegiate basis using small drafting teams. 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. These intensive quality control systems remained in place despite frequently tight deadlines. The PCO maintained a formal after-hours drafting and support service on parliamentary sitting nights.

Government bills and amendments in committee

A total of 108 Government bills were introduced. For reasons of confidentiality only those bills introduced into Parliament or formally exposed are reported. However, a number of bills were completed but not proceeded with, or were in the course of preparation, at 30 June 2007.

All bills and amendments in committee required by the Government were drafted on time and provided in accordance with the Government's parliamentary program.

	2002–03	2003–04	2004–05	2005–06	2006–07
Bills introduced	119	139	108	113	108
Pages	4,047	3,837	4,053	2,934	3,268
Bills exposed	4	4	8	5	5
Pages	344	152	604	422	265
Amendments in committee	155	109	105	60	93

Note: A complete list of all bills introduced or formally exposed appears on www.pco.nsw.gov.au.

Non-Government bills and amendments in committee

PCO continued to provide a complete drafting service for non-Government members of parliament. The office drafts non-Government bills and amendments in committee as requested, subject to the Government's legislative priorities and the availability of resources, and in accordance with arrangements approved by the Government.

	2002–03	2003–04	2004–05	2005–06	2006–07
Non-Government bills introduced	24	22	23	18	22
Pages	279	231	240	162	230
Non-Government amendments in committee	312	271	220	123	147

Note: Details of the non-Government drafting service are contained in the *Manual for the Drafting of Non-Government Legislation* published by the office.

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 attends meetings of the committee and briefs it on the status of draft bills.

Statute Law Revision Program

Two statute law bills were introduced and passed. These bills amended 327 acts and instruments and repealed 42 acts and instruments. The program has been in place for 20 years and is widely accepted as an effective and economical means of dealing with 'house-keeping' and minor amendments.

The program has three aspects. The first is making minor, non-controversial amendments sponsored by Ministers. The second is making amendments of a purely statute law revision nature sponsored by PCO. The third is repealing unnecessary acts, also sponsored largely by the office. PCO is responsible for co-ordinating the program, in association with policy officers in the Department of Premier and Cabinet.

Australasian Parliamentary Counsel's Committee

The committee consists of the heads of the legislative drafting offices of all Australian jurisdictions and also of New Zealand. The NSW Parliamentary Counsel is the current secretary. The committee provides a forum for preparing uniform or complementary legislation, promoting consistent styles of legislation in Australia and New Zealand, and the exchange of ideas. The committee met on four occasions during the reporting period, with the electronic exchange of documents increasingly used to manage the growing demand for national uniform legislation.

A significant amount of uniform and complementary legislation was completed or progressed during the reporting period including provisions relating to national legal profession model laws, consumer credit code legislation, national rail safety legislation, national gas and electricity laws, professional standards, coroners, uniform evidence law and criminal law.

During the reporting year, the Parliamentary Counsel established a website relating to the work of the committee which includes developing a protocol for drafting uniform legislation which is published on that website.

Statutory instruments

PCO aims to draft and provide opinions on 70 percent of statutory instruments within a 20 working day period. During the reporting year, some resources were diverted to the environmental planning instrument program. As a result, of the 696 statutory instruments (including proclamations and orders) drafted during the reporting period, 69 percent were completed within this target.

	2002-03	2003-04	2004-05	2005-06	2006-07
Number completed	684	837	814	827	696
% within 10 days or less	-	-	46	51	47
% within 11-20 days	74	75	26	21	22
% within 21-40 days	17	16	16	16	19
% after 40 days	9	9	12	12	12

Note: A list of the principal statutory instruments gazetted appears on www.pco.nsw.gov.au.

Rules of court

The statutory rules drafted by PCO include rules of court for the Supreme Court and other courts and tribunals. In the reporting period, most of the work of the office in this area was related to drafting uniform civil procedure rules.

Tabling

The centralised scheme for notifying Parliament of regulations and other statutory instruments that require tabling continued to operate efficiently and effectively. Under the system, PCO identifies those instruments that are required to be tabled in Parliament and that either House of Parliament may disallow, and provides the necessary documents for Parliament on a weekly basis.

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 in the Gazette. The volume of subordinate legislation in force has continued to decline since the inception of the program, from 976 instruments comprising approximately 15,000 pages as at 1 July 1990 to 376 instruments comprising 7,617 pages as at 1 September 2007. The first 16 stages of the program were reported on in detail in previous PCO annual reports. Stage 17 of the program was completed on 1 September 2007.

Instruments dealt with by Stage 17	
Total instruments dealt with under this stage	129
Instruments dealt with that were granted postponements of repeal in previous stages	76
Outcome of Stage 17	
Instruments granted postponement of repeal in this stage by s. 11 order	66
Instruments that had their staged repeal date extended by other amending legislation	5
Instruments repealed under the Act by a replacement instrument or under another Act	53
Number of new instruments made under this stage	45

Environmental planning instruments

PCO drafts and provides legal opinions on environmental planning instruments (EPIs) before they are made under the *Environmental Planning and Assessment Act 1979*. The instruments consist of State environmental planning policies, regional environmental plans and local environmental plans. The office aims to provide opinions on 70 percent of environmental planning instruments within a 20 working day period. This program was significantly strengthened during 2006–07 through additional funding and staffing resources together with improved procedures. The additional staff and revised procedures are already improving general turnaround times for EPIs, with the highest ever percentage of EPIs being completed within 20 working days (89 percent of the 337 instruments completed).

	2002–03	2003–04	2004–05	2005–06	2006–07
Number completed	683	564	480	433	337
% within 10 days or less	-	-	57	58	71
% within 11–20 days	78	72	18	17	18
% within 21–40 days	16	19	15	13	7
% after 40 days	6	9	10	12	4

Legislative publishing

Bills

PCO publishes bills for introduction into Parliament and republishes them if they are amended during the parliamentary process. Bills released as exposure drafts are also produced. During the reporting year, these services required the production of almost 3,500 original pages and over

333,000 impressions were provided for Parliament using the office's in-house printing facility. All publishing deadlines were met and, as a result of stringent quality control checks, were free from significant printing errors.

Statutory instruments

PCO produces typeset-quality proofs of instruments, which are then generally submitted to the Executive Council. The office transmits the approved instruments electronically to the Department of Commerce for publication in the Gazette and subsequently extracts the instruments from the Gazette and produces individual pamphlet copies. All statutory rules and other instruments were prepared and delivered to the Department of Commerce within the office's target of three working days of gazettal.

	2002–03	2003–04	2004–05	2005–06	2006–07
Statutory instruments	807	692	625	774	570
Pages	5,293	4,015	3,402	6,307	4,422

Reprints

This has been a consistently high-volume program for many years. An annual target of 10,000 pages is set under PCO's paper reprints policy. A total of 10,364 pages were produced in 2006–07.

	2002–03	2003–04	2004–05	2005–06	2006–07
Titles	104	102	102	99	95
Pages	10,278	10,082	10,272	10,950	10,364

Annual volumes

PCO aims to provide the material for annual volumes of legislation to the Department of Commerce within six weeks of the end of each year. The material for the 2006 volumes was provided on 13 February 2007.

Electronic service delivery

PCO continues to provide free access to an authoritative, up-to-date collection of NSW legislation through its legislation website. In April 2006, the website was given statutory recognition under Part 6A of the *Interpretation Act 1987* as the official NSW Government site for the on-line publication of legislation. The website is in the process of being redeveloped to improve service

delivery, including the delivery of official on-line publication of statutory instruments in 2007–08.

The legislation website currently delivers the following

- A dynamic up-to-date collection of NSW acts and subordinate legislation, including environmental planning instruments
- Superseded and repealed versions of these laws to provide point-in-time access and searches
- An archival collection of acts and items of subordinate legislation going back to 1990
- A growing collection of older historical versions of selected titles, such as the *Crimes Act 1900*
- Advanced searching and linking facilities
- A range of information guides about legislation, including the weekly bulletin of legislative activity

The number of visits to the website continues to increase. In 2006–07, there were over 1.6 million visits to the legislation website, an average of 4,504 visits per day.

PCO also provides electronic files of bills to Parliament for inclusion on its website and intranet and to the Department of Commerce for printing and distribution to subscribers and purchasers of printed legislation.

Advice and information

Legal and administrative advice

In addition to the advice provided to Ministers and Departments in the course of drafting legislation, PCO provided major formal advice on 109 separate matters during the year.

	2002–03	2003–04	2004–05	2005–06	2007–08
Items of major advice	53	60	93	88	109

Legislation database

The compilation of the database has been developed in conjunction with the office's publishing activities. NSW acts and subordinate legislation are captured on a systematic basis and stored in SGML

format. All superseded versions are preserved so as to provide a point-in-time research facility for the public and PCO staff. The database was maintained throughout the reporting period and involved maintaining current, historical and repealed versions for over

- 6,700 acts
- 3,500 statutory instruments
- 2,000 environmental planning instruments

The database represents 5.5 gigabytes of data and is directly accessible on-line and free-of-charge via the legislation website. Source data from the database continued to be made available to government agencies and commercial publishers in XML format. A copy is also provided to the Australasian Legal Information Institute (AustLII) for use on its free, cross jurisdictional, on-line service.

PCO aims to capture all new acts and principal statutory instruments (including environmental planning instruments) within three working days of authorisation by Parliamentary officers following assent, or gazettal of instruments. Also, it updates the database within three working days of any amendment commencing. These turnaround times were met during the reporting period and some significant repealed acts were added to the database.

	2002–03	2003–04	2004–05	2005–06	2006–07
New acts captured	10	134	131	122	82
New statutory instruments captured	17	77	75	131	74
Amendments incorporated (creating a new version)	438	1,574	1,375	1,900	1,148
Other updates made	758	2,028	2,283	2,483	1,922
Other significant instruments captured	120	184	53	83	31

Note: Legislation database performance has been measured since 1 January 2003.

Legislation information hotline service

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

	2002-03	2003-04	2004-05	2005-06	2006-07
Phone inquiries	1,998	1,737	1,619	1,703	1,522
E-mail inquiries	457	347	397	526	467

Legislation information publications

PCO compiles the following legislation information publications, which are available at www.legislation.nsw.gov.au and supplied to the Department of Commerce to arrange print production and distribution

- Quarterly editions of the *Legislation in Force* guide
- *Status of Statutory Rules* guide (issued on 1 January, 1 May and 1 September)
- Annual volumes of statutes, explanatory notes and statutory instruments

The office aims to compile and publish these guides on-line and deliver them to the Department of Commerce within 10 working days of each issue date. The information publications were all produced on time during the reporting period.

Weekly bulletin

This is an on-line and e-mail service covering NSW legislative events of the week. The service is published each Friday afternoon and can be accessed from www.legislation.nsw.gov.au or www.pco.nsw.gov.au. It includes

- Details of bills introduced, amended or passed by the NSW Parliament and acts assented to by the Governor
- Statutory instruments (regulations, proclamations, environmental planning instruments etc) gazetted
- Details of any bills released for public exposure purposes
- Paper reprints of NSW legislation completed
- Legislation website developments

This innovative service has proved to be very popular and has over 2,300 subscribers.

Challenges and emerging issues

The main on-going challenges facing PCO over the reporting year were the further improvement of electronic services through the Process Automation System (PAS) project; the on-going succession planning for specialist senior positions; and managing and drafting environmental planning instruments flowing from new planning reforms.

Enhancement of electronic services

PCO was funded over three years to develop a process automation system (PAS) to integrate and automate much of the end-to-end business processes and on-line service delivery associated with its core legislative drafting and publishing functions. This includes

- An electronic data management and workflow system integrated with the current SGML-based environment
- A catalogue of all items of NSW legislation to provide a “cradle to the grave” legislation life-cycle management system that can be used for status tracking and to provide new and more comprehensive on-line services
- An e-publication system for the more effective on-line publication of new statutory instruments
- On-line publication of maps to underpin the new standard LEPs
- The enhancement of the on-line version of legislation, leading to its official authorisation
- Greater automation of work processes

During the reporting period, the major component of PAS, the Legislation Information System (LEGIS), was implemented. LEGIS will improve the efficiency of the production of legislation through increased automation and tracking of workflow and business processes. Substantial work was also undertaken on developing the final stage of the PAS project—the redesign and enhancement of the legislation website. The redesign and enhancements require some refinement and testing but are expected to be implemented in 2007–08. The website enhancements will build on the technical advances delivered by LEGIS to enhance electronic service delivery of legislation and related information and facilitate the move to e-publication, giving the public more timely, authoritative and cost-effective access to NSW legislation.

Succession planning

Drafting legislation requires a pool of specialist legal staff with the necessary legislative drafting skills and experience to prepare complex and accurate drafts within short deadlines. A number of senior, very experienced drafters will retire in the next five years. The office has been proactive in recruiting and training new legislative drafters to entry and mid-level positions to ensure that the next generation of legislative drafters has developed the necessary skills and knowledge to fill these senior roles. Annual recruitment programs are conducted and followed by tailored on-the-job training and a peer review system to facilitate the development of new drafting staff. The recruitment action undertaken in 2006 to boost the EPI drafting program also resulted in appointing experienced legislative drafters.

Environmental planning instruments (EPI) program

Drafting new standard instruments for each local government area (in connection with a staged repeal process of existing local plans) that flow from the 2005 planning reforms began during the reporting year. The office was provided with additional resources and has prepared itself to meet the expected increase in workload, but this remains unpredictable in terms of timing and extent.