

Parliamentary Counsel's Office

Overview and highlights 2007–08

The Parliamentary Counsel's Office (PCO), which is a separate office within the Department of Premier and Cabinet, 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 online and printed publications.

Highlights and achievements for the year included:

- Meeting the demands of the Government's legislative program, with a high volume of complex and challenging items of draft legislation completed (e.g. in the areas of planning, political donations, electricity restructure) and completed and improved drafting turnaround times for statutory instruments.
- Streamlining planning law by enhancing the environmental planning instrument drafting program and accelerating drafting turnaround times.
- Improving public access to the law by developing the legislation website.
- Streamlining the statute book and helping to reduce red tape by repealing unnecessary laws.

During the reporting year the Office maintained its very high work output. A detailed report of the Office's programs and services is set out below, featuring comprehensive 5 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 138 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 2008.

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

	2003–04	2004–05	2005–06	2006–07	2007–08
Bills introduced	139	108	113	108	138
Pages	3,837	4,053	2,934	3,268	3,897
Bills exposed	4	8	5	6	4
Pages	152	604	422	265	189
Amendments in committee	109	105	60	93	91

Note: A complete list of Bills introduced or formally exposed during 2007–08 is online at 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.

	2003-04	2004-05	2005-06	2006-07	2007-08
Non-Government Bills introduced	22	23	18	22	21
Pages	231	240	162	230	237
Non-Government amendments in committee	271	220	123	147	171

Note: Details of the non-Government drafting service are contained in the *Manual for the Drafting of Non-Government Legislation* published by the Office online at www.pco.nsw.gov.au.

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 245 Acts and instruments and repealed 184 Acts and instruments. The program has been in place for 20 years and is widely accepted as an effective and economical means of making minor amendments and removing unnecessary laws.

The program has three aspects. The first is the making of minor, non-controversial amendments, sponsored by Ministers. The second is the making of amendments of a purely statute law revision nature, sponsored by PCO. The third is the repeal of unnecessary Acts. 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 the preparation of uniform or complementary legislation, the promotion of consistent styles of legislation in Australia and

New Zealand, and the exchange of ideas. The Committee only met on six occasions during the reporting period, as the electronic exchange of documents was increasingly used to deal with 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 electricity and gas laws, co-operatives legislation, personal property security, dangerous goods, spent convictions and criminal law.

The PCO maintains a website relating to the work of the Committee, including the protocol for the drafting of uniform legislation (www.pco.nsw.gov.au/uniform_legislation.htm).

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 83 percent were completed within this target — which is a record achievement. Although the overall volume of instruments fell, this remains a very high volume program.

	2003-04	2004-05	2005-06	2006-07	2007-08
Number completed	837	814	827	696	671
% within 10 days or less	-	46	51	47	58
% within 11–20 days	75	26	21	22	25
% within 21–40 days	16	16	16	19	10
% after 40 days	9	12	12	12	7

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

Rules of court

The statutory rules drafted by PCO include the Uniform Civil Procedure Rules and specific 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 the rewriting of the Land and Environment Court Rules, and further drafting of 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 enhanced during 2006–07 through additional funding and staffing resources together with improved procedures. This enhancement continued to deliver improved turnaround times for EPIs in 2007–08, with the highest ever percentage of EPIs being completed within 20 working days (92 percent of the 375 instruments completed).

	2003-04	2004-05	2005-06	2006-07	2007-08
Number completed	564	480	433	337	375
% within 10 days or less	-	57	58	71	65
% within 11–20 days	72	18	17	18	27
% within 21–40 days	19	15	13	7	7
% after 40 days	9	10	12	4	1

Legislative publishing

Bills

PCO publishes Bills for introduction into Parliament and republishes them if they are amended during the Parliamentary process. During the reporting year, these services required the production of 4,600 original pages and over 430,000 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 of them. 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.

	2003-04	2004-05	2005-06	2006-07	2007-08
Statutory instruments	692	625	774	570	481
Pages	4,015	3,402	6,307	4,422	4,696

Paper 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 119 titles comprising 10,280 pages were produced this year.

	2003-04	2004-05	2005-06	2006-07	2007-08
Titles	102	102	99	95	119
Pages	10,082	10,272	10,950	10,364	10,280

Annual volumes

PCO aims to provide the material for annual volumes of legislation to the Department of Commerce within 6 weeks of the end of each year.

The material for the 2007 volumes was provided on 26 February 2008.

Electronic service delivery

The PCO provides free access to an authoritative, up-to-date collection of NSW legislation through its legislation website which is the official NSW Government site for the online publication of legislation. The website is in the process of being redeveloped to enhance service delivery, including the delivery of official online notification of the making of statutory instruments. The new site is currently operating in test mode and being quality assured and externally reviewed before public release in August 2008. During the reporting year, maps for local environmental planning instruments were added to the site and the first official online notification took place (the consolidated Road Rules 2008 were published online on 13 June).

The legislation website currently delivers the following features:

- A dynamic up-to-date collection of NSW Acts and subordinate legislation, including environmental planning instruments.
- Detailed maps (in zoomable PDF) for standard 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 2007–08, there were over 1.7 million visits to the legislation website, an average of 4,831 visits per day. The website is one of the 30 most popular NSW Government websites.

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 103 separate matters during the year.

	2003–04	2004–05	2005–06	2006–07	2007–08
Items of major advice	60	93	88	109	103

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 the maintenance of current, historical and repealed versions for over:

- 7,300 Acts
- 3,900 statutory instruments
- 2,300 environmental planning instruments.

The database represents 7.1 gigabytes of data and is directly accessible online 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, online 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. PCO also updates the database within three working days of any amendment commencing. These turnaround times were met during the reporting period except for a few instances when the service was affected by web hosting failures.

	2003–04	2004–05	2005–06	2006–07	2007–08
New Acts captured	134	131	122	82	119
New statutory instruments captured	77	75	131	74	87
Amendments incorporated (creating a new version)	1,574	1,375	1,900	1,148	1,167
Other updates made	2,028	2,283	2,483	1,922	2,657
Other significant instruments captured	184	53	83	31	3

Legislation information hotline service

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

	2003-04	2004-05	2005-06	2006-07	2007-08
Phone inquiries	1,737	1,619	1,703	1,522	1,277
E-mail inquiries	347	397	526	467	486

Legislation information publications

PCO compiles the following legislation information publications, which are available on the legislation website (www.legislation.nsw.gov.au) and supplied to the Department of Commerce for printing 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 online and deliver them to the Department of Commerce within ten working days of each issue date. The information publications were all produced on time during the reporting period.

Weekly Bulletin

This is an online and e-mail service covering NSW legislative events that have occurred during the week. The service is published each Friday afternoon and can be accessed from www.legislation.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 service continues to be very popular and has over 2,400 subscribers.

Challenges and priorities

The main challenges and priorities for the PCO over the reporting year were the further enhancement of electronic services through the Process Automation System (PAS) project; the on-going succession planning for specialist senior positions; and the

management and drafting of environmental planning instruments flowing from new planning reforms. These items will continue to be priorities in 2008-09.

Enhancement of electronic services

During the previous reporting year, the Legislation Information System (LEGIS) was implemented. This is a sophisticated document management, tracking and business automation system that has improved the efficiency of the production of legislation. The completion of LEGIS has also enabled the final part of the PAS project — the redesign and enhancement of the legislation website — as it underpins the entire online publishing process.

During 2007-08 the legislation website was redesigned and rebuilt on new system architecture and placed on new servers. The site was released in test mode for selective external review in July with plans to release it to the public in August 2008. The move to the e-notification of statutory instruments is expected to start on an incremental basis in 2008-09. (The first instrument, the consolidated Road Rules 2008, was published in this way in June.)

Succession planning

The drafting of 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 have indicated their intention to 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 the next generation of legislative drafters have developed the necessary skills and knowledge to take on these senior roles. Annual recruitment programs are conducted and followed by tailored on-the-job training and a peer review system facilitates the development of new drafting staff.

Environmental planning instruments (EPI) program

The drafting of 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 commenced in 2006-07. The Office was provided with additional resources and prepared itself to meet the increased workload. This has demonstrably improved drafting turnaround times for the EPI program as a whole.

Streamlining the statute book

The PCO is working to streamline the NSW Statute Book and help reduce red tape by repealing unnecessary laws. During the reporting year 184 Acts were repealed by the Statute Law Revision Program and further Acts are being identified for repeal in the coming year.