

Public Records Bill

- What does it mean for you?

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What is it?

- Replaces Archives Act 1957
- Regulates management of “public records”
ie records created and maintained by public sector agencies (“public offices”)
- Also, but to lesser extent, for local authorities

Purpose

To enable the Government to be held accountable by –

- ensuring that full and accurate records of the affairs of central and local government are created and maintained
- providing for the preservation of, and public access to, records of long term value

(CI 3(c))

Who's covered?

Public Offices – ie

- legislative, executive, and judicial branches of the Government of New Zealand
- agencies or instruments of those branches of government
- includes: Departments, Officers of Parliament, State Enterprises, Crown Entities (incl Tertiary Education Institutions, State and Integrated Schools)

Schools – is this a change?

Definition is the same as in the Archives Act 1957 – but

- Archives Act did not provide examples of types of “public offices” – status of schools unclear
- Recent legal advice indicates schools are covered by the Archives Act
- PRB makes this clear

Development of PRB - Process

- Consultation 2000-2002
- Policy approved 2002/03
- Introduced September 2004
- Select Committee report 15 March 2005
- Next step – Second reading
- Enactment – September 2005?

Core provisions

- Public Offices must “create and maintain full and accurate records of its affairs in accordance with normal, prudent business practice..” (CI 17) NEW
- No “public records” may be destroyed or otherwise disposed of without authority of Chief Archivist – continues 1957 Act

New provisions

- Mandatory standards for records management – for creation, storage & disposal (CI 27)
- Annual report to Parliament on the state of recordkeeping in government (CI 32)
- Independent audits of recordkeeping in public offices (cl 33)
- Archives NZ make record disposal intentions available for public comment (CI 20(2))

New provisions (pt 2)

- Archives Council – to advise the Minister on recordkeeping and archives matters
- Made up of 7 members, must have “special knowledge and qualifications relevant to the functions of the Council” and two members must also “have a knowledge of tikanga Maori”

Archives

- Public offices transfer records to Chief Archivist at 25 years (cl 21). These become “public archives”; but..
- Electronic records may be kept in original office at Chief Archivist’s expense if this will aid their preservation (cl 22(1)(c))
- Transfer may be deferred by agreement between Chief Archivist and public office (cl 22(1)(b))

Approved Repositories

- Minister may approve repositories for holding “public archives”
- These repositories must be “a relevant body (such as a museum, a library, another archive, or an iwi-based or hapu-based repository)” (cl 26(1)(a))
- Continues provisions in the Archives Act but more flexible -

Access

- PRB resolves potential conflicts between Archives Act and other access legislation – eg OIA, Privacy
- At 25 years public offices decide records are either “open” or “restricted” access
- If restricted, continue to apply OIA, LGOIMA or other relevant legislation
- Public right to inspect, free of charge, open access records

Local authorities

- Local authorities subject to:
 - Standards
 - Access rules
 - Inspections
- Not subject to:
 - Audits
 - Reports to Parliament
 - Requirement to transfer archives to Chief Archivist

Local authorities -disposal

Records disposal for local authorities

- Chief Archivist identifies records as “protected”
- Protected records may not be disposed without authority of Chief Archivist
- Chief Archivist may require the transfer of the record or allow the disposal (all cl 40 – continues provisions of Local Government Act 1974)

Select Committee Changes

- Requirement to create and maintain records qualified “in accordance with normal, prudent business practice” (cl 17)
- definition of public record clarified “does not include records created by the academic staff or students of a tertiary education institution, unless the records have become part of the records of the institution” (cl 4)
- Penalties doubled as increased deterrent.

Next Steps ?

- Archives New Zealand planning implementation
- Standards development begins following passage of PRB
- Existing “standards” will not become mandatory on passage of PRB – must follow process in the Bill
- Schools Disposal Schedule being developed a major step towards operating effectively under the PRB.

Questions?

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