



Parliamentary
Counsel's Office

Manual for the Drafting of Non-Government Legislation

12th edition

May 2019

*This manual contains arrangements and guidelines
for the drafting of non-Government legislation
(including proposed amendments to Bills before Parliament).*

*The arrangements are as agreed to by the Government.
The guidelines are as issued by the Parliamentary Counsel.*

Contact directory for the Parliamentary Counsel's Office

Parliamentary Counsel

Annette O'Callaghan (02) 9321 3300 or after hours (0407 266 635)

parliamentary.counsel@pco.nsw.gov.au

General Office number

Switchboard (02) 9321 3333

Email

parliamentary.counsel@pco.nsw.gov.au

After-hours service

The Parliamentary Counsel's Office will provide an after-hours service on the evenings when Parliament is sitting. The service is provided to assist with urgent amendments to Bills before Parliament. To request this after-hours service, you must contact the Office before 7 pm on the night concerned by phone ((02) 9321 3333) or email (parliamentary.counsel@pco.nsw.gov.au). If, unexpectedly, drafting services are needed after 7 pm, please contact the Parliamentary Counsel Annette O'Callaghan on 0407 266 635.

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Office website

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Legislation website

www.legislation.nsw.gov.au

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Arrangements for the drafting of non-Government legislation

These arrangements are as agreed to by the Government.

1 Drafting services

The Government has agreed that arrangements should (subject to the conditions mentioned below) continue under which the services of the Parliamentary Counsel's Office are available to non-Government parties, groups and members.

2 Scope of arrangements

The arrangements cover the drafting of both Bills and amendments to Bills before Parliament at the committee or consideration in detail stage.

3 Allocation of non-Government drafting hours

There will be a limitation on the hours of core drafting work devoted to these services. The following represents the allocation of hours on a six-monthly basis for the members of both Houses combined:

	<i>Hours</i>
3.1 Opposition total	250
3.2 Other non-Government members each	25

(Parties and groups to be aggregated, unless other arrangements are requested.)

The allocation will be reviewed in the event of changes in party or group structures.

4 Statements of credits

The Parliamentary Counsel will arrange for a statement of available hours to be forwarded if it appears likely that an allocation will be exhausted before the end of the six month period.

5 Accounting periods

The six-monthly periods will start from 1 January and 1 July, and will facilitate an orderly and manageable flow of work.

Unused credits will not be transferable to a following period.

6 Availability of services

Provision of these services is not to interfere with the Government's legislative program and is to be subject to the availability of legislative drafting and other resources in the Parliamentary Counsel's Office over any particular period of time.

Non-Government drafting work should as far as possible be carried out during non-peak periods of the year.

In particular, the Parliamentary Counsel will decline to draft large or multi-issue Bills if resources are not available. Preference will be given to minor, single-issue Bills.

7 Confidentiality

The Parliamentary Counsel will maintain the usual confidentiality in providing these services. Information will not be provided to the Government or elsewhere that would disclose the title, substance or originator of a Bill or that would disclose the substance or originator of proposed amendments drafted under these arrangements, unless the relevant document has been introduced or circulated by the originator, or unless the originator has requested the Parliamentary Counsel that this occur.

8 Guidelines

The Parliamentary Counsel may from time to time issue guidelines relating to the provision of these services, including guidelines about how and when requests for drafting services should be made. The Parliamentary Counsel may decline to proceed with a matter if the guidelines are not complied with.

9 Administration of the arrangements

The Parliamentary Counsel will administer the arrangements on an equitable basis, but the Parliamentary Counsel's decision should be regarded as final in the event of a dispute on any aspect.

10 Duration

These arrangements will be kept under review, and will continue until further notice or until the end of the 57th Parliament.

The arrangements will not be available when it becomes clear that there will be no opportunity for further legislation to be introduced in the 57th Parliament.

These arrangements operate as a revision of the arrangements that took effect as from April 1995.

Guidelines for the drafting of non-Government legislation

These guidelines are as issued by the Parliamentary Counsel, under the arrangements agreed to by the Government.

Under the arrangements agreed to by the Government, the Parliamentary Counsel's Office is available to draft all Bills and proposed amendments to Bills before Parliament for non-Government parties, groups and members.

The current arrangements, which took effect from April 1995, state that guidelines may be issued from time to time, including guidelines about how and when requests for drafting services should be made. The following guidelines are issued to assist members in these areas and to provide an indication of the simple and sensible procedures that should be adopted for the drafting of non-Government legislation. The guidelines are of course to be read in conjunction with the arrangements themselves.

Bills

1 Requests to be in writing

Requests for the drafting of a Bill should be made in writing, outlining the objects of the proposed Bill, indicating the proposed timetable for introduction and providing a contact name, telephone number and email address.

2 Address all requests to the Parliamentary Counsel

Requests initiating new drafting work should be made in writing to the Parliamentary Counsel, not to an individual officer of the Parliamentary Counsel's Office. This procedure will avoid correspondence being delayed. The Parliamentary Counsel will allocate each project to an available officer. The preferred method of receiving requests is by email but requests by mail are also accepted. A contact directory for the Parliamentary Counsel's Office appears at the front of this manual.

3 Requests should not be in the form of a draft Bill

Requests in the form of a draft Bill are not favoured. If a Bill only is provided, the Parliamentary Counsel's Office can generally provide only a limited service, restricted to correcting formal matters.

4 Drafting officer will make contact

The officer to whom the project is allocated will make contact to elucidate details, if necessary, and one or more drafts will be provided for comment.

5 Notices of motion prepared by PCO

Notices of motion for the introduction of Bills are prepared by the Parliamentary Counsel's Office. Advice is needed in advance about the proposed timing of giving notice so that notices can be prepared by the Office and delivered on time.

Generally, notices of motion should not be given until the Bill has been drafted. If given beforehand, the Bill may not be ready when required for introduction or the notice may not reflect the ultimate form of the Bill.

6 Publishing and quality control of draft Bills

After a Bill has been drafted and the content settled, it undergoes a publishing process and a number of editorial and quality control processes to ensure the Bill complies with the required standards for introduction and for immediate publication on the Parliament House website. Those procedures are required before printed tabling copies can be prepared and are not usually commenced until the member advises that the content of the draft has been settled. The several days required for those publishing and other processes should be factored into consideration of the timing of introduction.

7 Tabling copies for introduction into Parliament

Tabling copies of Bills for introduction are prepared by the Parliamentary Counsel's Office and hand delivered to the member's office at Parliament House. Sufficient notice should be given to enable the tabling copies to be prepared and delivered. If the publishing and quality control processes have not yet been undertaken, several days' notice should be given. Where the Bill has already undergone those processes, tabling copies should be requested the day before they are needed for introduction.

Note. The presence of a "Draft" banner on the Bill or an absence of line numbers on the right-hand side of the Bill are indications that the Bill is not yet ready for tabling.

Amendments to Bills before Parliament

8 Requests to be in writing unless urgent

Requests for the drafting of proposed amendments to Bills should be made in writing and emailed to the Parliamentary Counsel. Instructions for proposed amendments should be in narrative or prose form, and preferably not in the form of draft legislation. Contact details should be provided. A contact directory for the Parliamentary Counsel's Office appears at the front of this manual.

9 Address all requests to the Parliamentary Counsel

Requests initiating amendments to Bills should be made to the Parliamentary Counsel, not to an individual officer of the Parliamentary Counsel's Office. This procedure will avoid correspondence being delayed. The Parliamentary Counsel will allocate each project to an available officer. A contact directory appears at the front of this manual.

10 Notice of amendments to Clerks

Finalised amendments to Bills should be given to the appropriate Procedure Clerk in the Legislative Assembly or Legislative Council as soon as possible, to enable circulation in the House.

11 Amendments to Bills not intended for passage

As a rule, proposed amendments will not be drafted for Bills that are merely released or tabled in Parliament for exposure purposes or that are known not to be proceeding further in the legislative process in their current form.

12 Conscience votes

When a conscience vote is to be allowed on a particular Bill, the Parliamentary Counsel's Office will draft amendments to Bills for individual members. Government or Opposition members should consult either the Premier's office or the Leader of the Opposition's office, as appropriate, on whether proposed amendments are part of the agreed conscience vote arrangements and comply with other approval processes.

General matters

13 Allow PCO adequate time for drafting

Although the Parliamentary Counsel's Office will make every attempt to provide legislation in accordance with the known timetable, adequate time should be allowed for a drafting project. If the time allowed is manifestly inadequate and would impose an unreasonable burden, the Parliamentary Counsel will decline to proceed with the project.

14 Allow PCO adequate time to prepare material

As the notice of motion and printed copies of Bills for tabling take time to prepare, your assistance is requested in letting the Parliamentary Counsel know in a realistic timeframe the dates when the notice is to be given and when it is expected that the Bill will be introduced.

15 After-hours service on sitting nights

Ordinarily drafting services to assist with the preparation amendments to Bills are provided by the Parliamentary Counsel's Office during ordinary business hours. However, the Office can provide, on request, an after-hours service for urgent drafting on the evenings when Parliament is sitting. To request this after-hours service you must contact the Office before 7 pm on the night concerned by phone ((02) 9321 3333) or email (parliamentary.counsel@pco.nsw.gov.au).

16 Any changes should be made by PCO

The documents provided by the Parliamentary Counsel's Office (notices of motion, Bills, and proposed amendments to Bills) for use in Parliament should always be used in the form in which they are provided. To avoid unintended consequences, unauthorised changes or unauthorised redrafting of documents prepared by the Office must not be made or undertaken. The Office will expeditiously attend to any necessary changes or redrafting. The continued provision of services is dependent on observance of this understanding.

17 Legislative proposals can be discussed

The Parliamentary Counsel or nominated senior officers will be available to discuss legislative proposals for the purpose of establishing priorities and timetables. Contact should be made with the Parliamentary Counsel.

18 PCO will ordinarily deal only with member or staff

This drafting service is provided for the benefit of non-Government parties, groups and members. Accordingly, the Parliamentary Counsel's Office will deal with members or their staff. Care should be taken in arranging for matters to be handled by external third parties, in order to avoid the impression that external pressure groups are controlling the agenda and to ensure that the member is fully informed of the effect of a draft and the available alternatives. Generally speaking, the Parliamentary Counsel's Office will send drafts to members or their staff only, unless the member requests that the Office follow other arrangements in the particular case.

19 Allocated hours should be used carefully

As members are aware, there are maximum allocated hours for drafting non-Government work. The Parliamentary Counsel's Office will treat any approach for drafting by a member of a non-Government party, group or an independent member (or their staff) as an official request for drafting time by the party, group or member. Parties, groups or independent members will, therefore, need to ensure that drafting hours are not wasted on projects that are not likely to be endorsed for introduction.

20 Inform PCO of abandoned projects

The Parliamentary Counsel should be informed as soon as possible whether any drafting project has been abandoned or put on hold, so that allocated drafting hours are not wasted.

21 PCO drafting service is confidential

The services of the Parliamentary Counsel's Office as outlined in these guidelines are provided on a confidential basis, as described in the arrangements.

22 Accountability

As part of its accountability to government for the use of official resources, the Parliamentary Counsel's Office reports on the level of usage of these services on a periodic basis.

23 Guidelines subject to change

These guidelines will be supplemented and revised as necessary.

2nd edition 1995
3rd edition 1997
4th edition 1999
5th edition 2000
6th edition 2003
7th edition 2004
8th edition 2007
9th edition 2010
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