Regulatory Stewardship
Legislative tools for the adaptation of regulatory systems

Policy Forum on Policy and Law

Denny Kudrna

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Key messages

New impetus for regulatory stewardship development

Regulatory stewardship: an alternative to set & forget

Regulatory Systems Amendment Bill: legislative tool for adaptation

Regulatory stewardship strategy
New impetus

Recent changes

- Regulatory System Stewardship and Assurance lead (2020): TSY secretary appointed by Te Kawa Mataaho
- Regulatory Stewardship CEs group (2020) provides collective leadership and support for RSSA lead
- Public Service Act (2020): stewardship upgraded to one of the five public service principles
- OECD (2020) Best practice for reviewing the stock of regulation; OECD (2021) Agile regulation for innovation

Established building blocks

- Government Expectations for Good Regulatory Practice (2017)
- Regulatory stewardship reporting by major departments (2016)
- G-REG Regulatory practice qualifications (2015)
- Productivity Commission report on regulatory institutions and practice (2014) – the set & forget diagnosis
- State Sector Act amendment (2013): stewardship defined as obligation for public service CEs

Regulatory stewardship idea
Keeping regulatory systems fit for purpose

**Regulatory system =
societal asset in need of monitoring and care**

- Regulatory stewardship adapts regulatory systems to keep them fit for purpose in a changing environment
  - Changing market, societal and government expectations
  - Changing technologies and international practices
  - Unexpected shocks and crises

**Regulatory system =
key legislation + operational & policy agencies**

- Whole-of-system view is a precondition for stewardship (legislation-only view is too narrow)
- Productivity Commission (2014) estimated there are about 200 major regulatory systems
- ~120 systems are described and about a third of those covered by some form of active stewardship

Regulatory stewardship challenge
Moving beyond set & forget

Set & forget

policy agency disengages after the regulatory reform and adaptation is only responsive

Operational agencies left to steward systems on their own

- Limited oversight of risks/issues increases the risk of regulatory failures
- Limited adaptation options undermine the fitness for purpose over time
- Policy agencies re-engage for major reforms that are costly and need to be done more often

Set & adapt

policy and operational agencies continue to collaborate on proactive adaptation

Collaborative stewardship by operational and policy agencies

- Ongoing monitoring and triaging of risks/issues makes timely identification and escalation more likely
- Adaptation tools keep the systems fit for purpose in a dynamic and complex environment
- Adaptation over the life-cycle of the system reduces frequency of costly reforms

Regulatory stewardship model
Stewardship tools

Monitoring

The collaboration of lead and participating agencies on identifying:
- Opportunities to
  - lift growth & living standards
  - reduce compliance costs
- Vulnerabilities
  - in individual systems
  - across systems

Triaging

- Triaging insights from monitoring and developing response recommendations for the responsible CE.
- Responsible CE can ask RSSA lead and RegCEs for targeted support and collaboration.

Implementing

Operational improvements by agencies

Escalating

Budget and/or legislative bids when major investment or changes are needed

Compendium of stewardship tools (under development)

New tool: Guidance on identifying and responding to vulnerabilities
Existing tools supporting any part of the regulatory life-cycle:
- Policy Project, RIA, LDAC legislation guidelines, G-REG, PIF, etc.
- Agency good practice cases/tools: issue registers, peer-reviews, rolling assessments, deep-dives etc.

Legislative tools

- Regulatory Systems Amendment Bills
- Statutes Amendment Bills
- Revision Bills
- Statuses Repeal Bills

Regulatory stewardship model
"Lower stakes" legal adaptation tools

Regulatory Systems Amendment Bill

- Maintains the effectiveness and efficiency of the regulatory systems
- MBIE, MoT and DIA developed 5 of these omnibus bills
- Each Bill amended 6 to 24 acts

Statutes Amendment Bill

- Omnibus bill for short, technical and non-controversial amendments to a range of Acts
- Regular cycle based on Cabinet Circular (CO (20) 11 for 2021)

Revision Bill

- Attorney-General prepares a revision programme for each three-year period
- PCO prepares the bills with the responsible department
- Must be certified by a panel of eminent lawyers

Statuses Repeal Bill

- One-off bill in 2017 repealed over 120 redundant pieces of legislation

Regulatory Systems Amendment Bill
Some insights

- **Purpose**

  - Improvements in effectiveness and efficiency of regulatory systems

    - more than technical changes in Statutes Amendment Bills

    - policy changes limited to the continuous improvement, repairs, and maintenance of regulatory systems – i.e. not intended significant changes to policy

  - The restricted scope of changes intended to secure cross-party support in the House to amend many acts relatively quickly

- **Advantages**

  - Cognate/Omnibus bill optimizes the use of the parliamentary time (i.e. addresses the key set & forget driver identified by ProdCom)

- **Challenge**

  - Protect the integrity of the proposal to secure cross-party support (avoiding politically controversial changes)

Regulatory Systems Amendment Bill	Agency	Months from Intro to Assent	# of acts amended
Regulatory Systems Amendment Bill (No 1) - Building and housing - Commercial matters - Workplace relations	MBIE	5 [10/16 – 3/17]	20
Local Government Regulatory Systems Amendment Bill	DIA	9 [6/18 – 3/19]	5
Regulatory Systems Amendment Bill (No 2) - Economic development - Housing - Workforce	MBIE	11 [12/18 – 11/19]	24
Regulatory Systems (Transport) Amendment Bill	MoT	13 [2/20 – 3/21]	6
Regulatory Systems Amendment Bills (No 3) and (No 4)	MBIE	In progress	-

Q&A

More information:

www.treasury.govt.nz/information-and-services/regulation/regulatory-stewardship

Contacts:

Regulatory Strategy Team
denny.kudrna@treasury.govt.nz