



21 October 2024

Tēnā koe

Official Information Act request

Thank you for your email of 28 September 2024 requesting information and clarification about ministerial directives and 'unofficial' legislation.

I have considered your request under the Official Information Act 1982. Please find my decision on each part of your request set out separately below.

- *Ministerial directive: I would like to know what laws apply to enable ministerial directives to trump existing law and how these directives are implemented at the ground level, including any training material regarding this.*

Most of New Zealand's official legislation is available on the New Zealand Legislation website, here: www.legislation.govt.nz. Ministerial directions, welfare programmes, and amending instruments are made under section 7 or 101 of the Social Security Act 2018 (the Act) and signed by the relevant Minister(s). These are secondary legislation and form part of the law. These are published on the Ministry of Social Development's (the Ministry's) website, and notices are published on the Gazette, here: www.gazette.govt.nz.

From time to time, the Minister may give the Ministry written directions about how the Ministry performs or exercises its duties, functions, or powers under enactments in, or made under, the Act and/or the New Zealand Superannuation and Retirement Income Act 2001. Section 7 of the Act enables the Minister to issue binding ministerial directions:

www.legislation.govt.nz/act/public/2018/0032/latest/DLM6783125.html.

In terms of how ministerial directions (and welfare programmes) are implemented 'at a ground level', the Ministry's operational policy is available on the Work and Income Manuals and Procedures (MAP) website, here:

www.workandincome.govt.nz/map/index.html.

- *Unofficial legislation: I would like to know what laws enable the use of unofficial legislation as well as receive a copy of any and all unofficial legislation produced in the last 12 months.*

To clarify, ministerial directions and welfare programmes are not 'unofficial legislation'. Rather, the 'unofficial' *versions* of the legislation – as noted on the MAP website – are where the Ministry has converted the official signed version of a welfare programme, ministerial direction or an instrument that has amended that programme or direction, to a more 'user-friendly' version for staff and the public to use.

The unofficial versions will usually be labelled either 'unofficial version' or 'unofficial consolidated version.' 'Consolidated' means that the welfare programme or ministerial direction includes all the changes, authorised under section 7 or 101 of the Act, made to it over time. An appendix at the end of the consolidated version outlines all the amendments made to the welfare programme or ministerial direction over time.

Notice of any changes to welfare programmes and ministerial directions (including the signed version and link to the Gazette notice) is available on the Ministry's website, here: www.msd.govt.nz/about-msd-and-our-work/about-msd/legislation/notice-of-change/index.html.

You can access the last 12 months of unofficial versions through the Work and Income Manuals and Procedures (MAP) website, at this link: www.workandincome.govt.nz/map/legislation/index.html. You can find this under the headings 'Ministerial directions' or 'Welfare programmes.'

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

pp. 

Magnus O'Neill
General Manager
Ministerial and Executive Services