

Regulatory Systems (Occupational Regulation) Amendment Bill

Government Bill

As reported from the Education and Workforce Committee

Commentary

Recommendation

The Education and Workforce Committee has examined the Regulatory Systems (Occupational Regulation) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

The Regulatory Systems (Occupational Regulation) Amendment Bill is one of four bills that would amend regulatory systems administered by the Ministry of Justice.¹ Regulatory systems amendment bills are designed to address numerous smaller issues and make improvements to various Acts across a sector. The proposed amendments in the four bills were assessed as likely to attract broad political support, and capable of being progressed relatively quickly. Also, they would not make major changes to policies or systems, or have significant financial implications.

The policy objective of this bill is to improve the operations and efficiency of three occupational regulation regimes. It aims to do so by:

- strengthening the ability of occupational regulators to protect consumers
- increasing the efficiency of the regulatory regimes
- removing inconsistent or redundant provisions in legislation
- aligning legislation to increase transparency

¹ The other bills are the Regulatory Systems (Courts) Amendment Bill, the Regulatory Systems (Tribunals) Amendment Bill, and the Anti-Money Laundering and Countering Financing of Terrorism Amendment Bill. They are being considered by the Justice Committee.

- reducing unnecessary costs and compliance burdens by making the level of regulation proportionate to the potential risk to the consumer.

The bill would amend the following Acts and associated secondary legislation:

- Lawyers and Conveyancers Act 2006, with consequential amendment to the Lawyers and Conveyancers Act (Lawyers: Complaints Service and Standards Committees) Regulations 2008
- Prostitution Reform Act 2003
- Real Estate Agents Act 2008, with consequential amendments to the Crown Entities Act 2004 and the Real Estate Agents (Licensing) Regulations 2009.

For a detailed explanation of the bill's changes to the above Acts, we refer readers to the summary in the Ministry of Justice's initial briefing to this committee.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the two main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Amendments to the Real Estate Agents Act

Requirement to supply specified documents

Section 12 of the Real Estate Agents Act sets out the functions of the Real Estate Agents Authority, which include:

- investigating and initiating proceedings in relation to offences under the Act or any other enactment
- investigating any act, omission, allegation, practice, or other matter that indicates or appears to indicate unsatisfactory conduct, or misconduct, by a licensee.

However, the Authority cannot require that information be provided to support these investigations and can only request information by consent.

Clause 19 would insert new section 24A into the Act to empower the Authority to require a licensee to supply any specified documents to assist in investigating their compliance with the Act and any associated regulations or practice rules. The Authority would also be empowered to require any specified documents from someone who was not licensed in some circumstances. It would need to reasonably suspect that a person was unlicensed and carrying out real estate agency work or had otherwise contravened the Act, regulations, or practice rules.

We note that two existing provisions allow documents to be obtained to support the exercise of functions under the Act. Under sections 25 and 26, the Authority may take possession of certain documents in situations of suspected theft or improper conduct related to money or other property. The Authority must be satisfied that there are reasonable grounds to believe that the agent or officer of the company has been guilty of the behaviour. Under section 85, a Complaints Assessment Committee may call for information or documents. The committee members must believe on reasonable grounds that they need to exercise the power to carry out their inquiry. We consider that a similar threshold of “believe on reasonable grounds” should apply to proposed new section 24A, and recommend amending it to this effect.

The requirement to supply documents in clause 19 as introduced would only apply to the person being investigated. However, we recognise that, in instances of unlicensed trading, a party other than the person suspected of the illegal activity may hold relevant information. Examples include an agency where the suspected unlicensed person worked, or a party to a transaction resulting from unlicensed trading activity. We therefore recommend amending section 24A to specify that the power would apply to any person.

Unsatisfactory conduct

Section 72 of the Act provides that a licensee is guilty of unsatisfactory conduct if they carry out real estate agency work that:

- falls short of the standard that a reasonable member of the public is entitled to expect from a reasonably competent licensee
- contravenes a provision of the Act or any regulations or rules made under the Act
- is incompetent or negligent
- would reasonably be regarded by agents of good standing as being unacceptable.

Clause 27, which would replace section 72, would expand the types of behaviour that could be considered unsatisfactory conduct, by removing the reference to “real estate agency work”. We understand that this amendment is in response to complaints about poor conduct by licensees that is not connected to a specific transaction. However, the conduct is still related to a licensee’s behaviour while doing their job or clearly reflects poorly on the real estate profession.

Proposed new section 72(b)(iii) states that a licensee is guilty of unsatisfactory conduct if they engage in conduct that agents of good standing would reasonably regard as being unacceptable. We were advised that this provision is intended to capture conduct that is linked to the licensee’s professional role and is unacceptable because it affects consumer confidence in the profession. We consider that making this link clearer would remove the risk of ambiguity and provide clear direction to the Complaints Assessment Committees and Disciplinary Tribunal. We recommend amending proposed section 72 accordingly.

Appendix

Committee process

The Regulatory Systems (Occupational Regulation) Amendment Bill was referred to this committee on 18 February 2025. We invited the Associate Minister of Justice to provide an oral submission on the bill. She did so on 4 June 2025.

We called for submissions on the bill with a closing date of 1 April 2025. We received and considered submissions from 27 interested groups and individuals. We heard oral evidence from 6 submitters at hearings in Wellington and by videoconference.

Advice on the bill was provided by the Ministry of Justice. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Katie Nimon (Chairperson)

Carl Bates (Deputy Chairperson)

Camilla Belich (until 12 March 2025)

Shanan Halbert (from 12 March 2025)

Francisco Hernandez

Grant McCallum

Dr Parmjeet Parmar

Hon Willow-Jean Prime (from 12 March 2025)

Hon Jan Tinetti (until 12 March 2025)

Hon Phil Twyford

Dr Vanessa Weenink

Related resources

The documents we received as advice and evidence are available on the Parliament website.

**Regulatory Systems (Occupational Regulation)
Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Nicole McKee

Regulatory Systems (Occupational Regulation) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Regulatory Systems (Occupational Regulation) Amendment Act **2024**.

2 Commencement

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- (1) **Part 3** (except **section 18**) comes into force 8 months after Royal assent.
- (2) The rest of this Act comes into force on the day after Royal assent.

Part 1

Amendments to Lawyers and Conveyancers Act 2006

3 Principal Act

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This Part amends the Lawyers and Conveyancers Act 2006.

4 Section 31 amended (Exceptions to section 30)

Repeal section 31(1).

5 New section 38A inserted (Undertakings given by conveyancing practitioner to be enforceable)

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After section 38, insert:

38A Undertakings given by conveyancing practitioner to be enforceable

- (1) An affected person may make an application for summary judgment in relation to an undertaking given by a conveyancing practitioner that has not been carried out. 20
- (2) The High Court may, if satisfied that the undertaking has not been carried out, make 1 or more orders the court thinks fit to remedy the breach or to put the affected person as near as practicable in the position the person would have been in if the undertaking had been carried out, including (without limitation) the following: 25
 - (a) an order that the conveyancing practitioner do the act or refrain from doing the act:
 - (b) an order requiring the conveyancing practitioner to pay to the affected person or to a client of the conveyancing practitioner (or both) who has suffered, or is likely to suffer, loss because the undertaking has not been carried out, compensation for the loss: 30
 - (c) any other order or relief that the court thinks fit in the circumstances.
- (3) In this section,—

affected person, in relation to an undertaking, means—

- (a) the person to whom the undertaking was given; and
- (b) if the person to whom the undertaking was given was acting as the agent of a principal, the principal

undertaking means a promise or guarantee, given by a conveyancing practitioner in the course of carrying on business as a conveyancer, that an act will be done, or will not be done, by the conveyancing practitioner or another person.

6 Section 135 amended (Appropriate complaints service)

In section 135(1), replace “sections 132 and 134, is the complaints service established under section 121(1) by the New Zealand Law Society and the complaint must” with “sections 132, 134, and **135A**, is the complaints service established under section 121(1) by the New Zealand Law Society and the complaint may”.

7 New section 135A inserted (Complaints service to undertake initial assessment on receipt of complaint)

After section 135, insert:

135A Complaints service to undertake initial assessment on receipt of complaint

On receiving a complaint under section 135(1), the complaints service must undertake an initial assessment of the complaint and, following that assessment, decide whether to—

- (a) refer the complaint to a Lawyers Standards Committee for consideration; or
- (b) take no action, or, as the case requires, no further action on the complaint if the service considers that—
 - (i) the length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made is such that an investigation of the complaint is no longer practicable or desirable; or
 - (ii) the subject matter of the complaint is trivial; or
 - (iii) the complaint is frivolous or vexatious or is not made in good faith; or
 - (iv) the person alleged to be aggrieved does not desire that action be taken or, as the case may be, continued; or
 - (v) the complainant does not have sufficient personal interest in the subject matter of the complaint; or
 - (vi) there is in all the circumstances an adequate remedy or right of appeal, other than the right to petition the House of Representa-

tives or to make a complaint to an Ombudsman, that it would be reasonable for the person aggrieved to exercise.

8 New section 272A inserted (Certain persons not providing regulated services)

After section 272, insert:

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272A Certain persons not providing regulated services

- (1) This section applies to every member of a Lawyers Standards Committee, an investigator appointed under section 144, and every staff member or officer of the New Zealand Law Society who holds a practising certificate as a lawyer.
- (2) The person **is not providing regulated services** when performing duties or functions or exercising powers under Part 7 of this Act.
- (3) To avoid doubt, **subsection (2)** does not prevent a complaint from being laid under this Act against a person to whom this section applies in relation to conduct described in section 7(1)(b)(ii) or 12(c).

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9 Schedule 1 amended

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In Schedule 1, replace clause 22(5) with:

- (5) A power of attorney given by a practitioner to whom this schedule applies by virtue of section 44(1)(a), (b), or (c) is revoked by operation of law when the practitioner to whose practice it relates commences practice as a co-director or in partnership with any other practitioner (or practitioners).

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Consequential amendment to Lawyers and Conveyancers Act (Lawyers: Complaints Service and Standards Committees) Regulations 2008

10 Principal regulations

Section 11 amends the Lawyers and Conveyancers Act (Lawyers: Complaints Service and Standards Committees) Regulations 2008.

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11 Regulation 9 replaced (Procedure on receipt of complaint)

Replace regulation 9 with:

9 Administrative provisions relating to receipt of complaint

- (1) When a complaint is received, the complaints service must—
 - (a) acknowledge receipt of that complaint in writing; and
 - (b) as soon as is reasonably practicable, undertake an initial assessment of the complaint and decide how to proceed with the complaint in accordance with **section 135A**.
- (2) If a complaint is referred to a Standards Committee in accordance with **section 135A(a)** of the Act, the complaints service must—

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- (a) advise the firm to which, or the person or persons to whom, the complaint relates of their right to make a written submission to the Standards Committee; and
 - (b) notify the firm to which, or the person or persons to whom, the complaint relates; and 5
 - (c) provide a copy of the complaint to that firm, that person, or those persons.
 - (3) If a complaint is referred to a Standards Committee in accordance with **section 135A(a)** of the Act and it relates to matters that arose during the course of a person's employment by a lawyer or an incorporated law firm, the complaints service must also provide a copy of the complaint to that lawyer or that incorporated law firm unless, in the opinion of the complaints service, there are special circumstances that make it inappropriate to do so. 10
- Compare: 2006 No 1 s 135(1)

Part 2 15

Amendments to Prostitution Reform Act 2003

- 12 Principal Act**
- This Part amends the Prostitution Reform Act 2003.
- 13 Section 36 amended (Disqualification from holding certificate)**
- (1) Replace section 36(2)(b)(iv) and (v) with: 20
 - (iv) sections 231 to 239 (burglary, robbery, and blackmail):
 - (v) sections 243 to 245 (money laundering):
 - (2) In section 36(2)(d)(ii), replace “section 12AB, or section 12B” with “or section 12AB”.

Part 3 25

Amendments to Real Estate Agents Act 2008

- 14 Principal Act**
- This Part amends the Real Estate Agents Act 2008.
- 15 Section 4 amended (Interpretation)**
- (1) In section 4(1), definition of Authority, delete “Agents”. 30
 - (2) In section 4(1), insert in its appropriate alphabetical order:

approved form means a form approved and issued under **section 156A**
- 16 Part 2 heading amended**
- In the Part 2 heading, delete “Agents”.

17 Section 10 amended (Authority established)

In section 10, delete “Agents”.

18 Section 13 amended (Membership of Authority)

(1) In section 13(3), delete “and that member must be a lawyer of not less than 7 years’ legal experience”.

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(2) Replace section 13(4) with:

(4) The Minister must appoint—

(a) at least 2 members who are licensees or former licensees:

(b) at least 1 member who is a lawyer of not less than 7 years’ legal experience.

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(3) Repeal section 13(5).

19 New section 24A and cross-heading inserted

After section 24, insert:

Power to require specified documents

24A Power to require specified documents

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(1) ~~The Authority may by notice, require a licensee to supply the Authority with any specified document within 10 working days or any longer time specified by the Authority, in order to investigate the licensee’s compliance with—~~

~~(a) this Act and any regulations made under this Act;~~

~~(b) any practice rules made by the Authority.~~

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(2) **Subsection (3)** ~~applies if the Authority has reasonable grounds to suspect that a person—~~

~~(a) is carrying out real estate agency work and the person is unlicensed and not exempt from this Act; or~~

~~(b) has otherwise contravened this Act or any regulations made under this Act or any practice rules made by the Authority.~~

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(3) ~~If this subsection applies, the Authority may, by notice, require the person to supply to the Authority, within 10 working days or any longer time specified by the Authority, any specified document that the Authority considers relevant to establishing whether the person has contravened this Act or any regulations made under this Act or any practice rules made by the Authority.~~

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(1) This section applies if the Authority has reasonable grounds to believe that—

(a) a licensee is contravening, or has contravened, this Act or any regulations or rules made under this Act; or

(b) a person—

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- (i) is carrying out real estate agency work and the person is unlicensed and not exempt from this Act; or
 - (ii) is otherwise contravening, or has otherwise contravened, this Act or any regulations or rules made under this Act.
- (2) The Authority may, by written notice, require any person to supply the Authority with any specified document that the Authority reasonably requires for the purpose of investigating whether a contravention referred to in **subsection (1)** is occurring or has occurred. 5
- (3) The specified document must be supplied to the Authority within 10 working days after the date on which the notice is given or within any longer time specified in the notice. 10
- (4) In this section, **specified document** means a document that—
 - (a) ~~belongs to the~~ is or has been in the possession or control of an organisation, entity, or person that is subject to a requirement under this section; or 15
 - (b) in the course of the organisation's, entity's, or person's business, is or has been in the possession or control of any officer, employee, or person acting on behalf of that organisation, entity, or person.—
 - (i) ~~the organisation, entity, or person; or~~
 - (ii) ~~any officer, employee, or person acting on behalf of that organisation, entity, or person.~~ 20
- (5) Nothing in this section limits or affects the Authority's powers under section 26.

20 Section 36 amended (Entitlement to licence)

- (1) In section 36(1)(d), replace “has” with “subject to **subsection (4)**, has”. 25
- (2) After section 36(1)(e), insert:
 - (f) in the case of an individual whose licence was cancelled under section 54(d) and who is applying for a licence within 12 months of that cancellation, has completed any outstanding continuing education required by practice rules made by the Authority. 30
- (3) In section 36(2)(d), replace “has” with “subject to **subsection (4)**, has”.
- (4) After section 36(2)(d), insert:
 - (e) in the case of an individual whose licence was cancelled under section 54(d) and who is applying for a licence within 12 months of that cancellation, has completed any outstanding continuing education required by practice rules made by the Authority. 35
- (5) After section 36(3), insert:
- (4) For the purposes of this section, the Registrar may exempt an applicant from the requirement in subsection (1)(d) or (2)(d) to have the prescribed qualifica-

tions if the applicant has previously been issued with a licence under this Act and the Registrar is satisfied that the applicant can demonstrate sufficient knowledge and experience of real estate agency work.

21 Section 37 amended (Persons prohibited from being licensed)

Replace section 37(1)(d)(i) with:

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- (i) whose licence has, within the preceding 5 years, been cancelled under section 54(c), (e), (f), or (g); or

22 Section 38 replaced (Application for licence)

Replace section 38 with:

38 Application for licence

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An application for a licence must—

- (a) be made to the Registrar in the approved form and contain the prescribed content (if any); and
- (b) be accompanied by a declaration, made in the form prescribed in the Oaths and Declarations Act 1957, that the person is eligible to obtain a licence by virtue of section 36 and is not prohibited from being licensed under section 37; and
- (c) be accompanied by the prescribed fee (if any).

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Compare: 1976 No 9 s 18

23 Section 43 amended (Registrar to license applicant or decline application)

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In section 43(2)(b), replace “prescribed form” with “approved form”.

24 Section 52 amended (Renewal of licence)

(1) Replace section 52(1) with:

(1) An application for renewal of a licence must—

- (a) be made to the Registrar in the approved form, either before the date on which the licence expires or within 12 months after the date on which the licence expires; and
- (b) be accompanied by the prescribed fee (if any).

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(2) Replace section 52(5) with:

(5) The grant of a renewal of a licence takes effect,—

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- (a) in a case where the application for renewal was made before the expiry of the licence, from the date of expiry of the previous licence;
- (b) in a case where the application for renewal was made after the expiry of the previous licence but within 12 months after that expiry, on the date on which the Registrar re-enters the applicant’s name on the register.

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25 Section 54 amended (Cancellation of licence)

- (1) After section 54(d), insert:
- (da) if the person, at any time, ceases to be eligible to hold a licence on 1 or more of the grounds set out in section 37; or
- (2) After section 54(h), insert:
- (i) in the case of a licensee company, 10 working days after the licensee's sole agent licence is cancelled under this section, unless a temporary licence holder or a new agent licence holder has been appointed for the licensee company.

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26 Section 62 amended (Temporary licence)

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- (1) In section 62(2), replace “prescribed form” with “approved form”.
- (2) After section 62(2)(d), insert:
- (da) in the case of a licensee company whose sole licence holder is deceased, has been adjudicated bankrupt, or is sick, absent, or otherwise temporarily prevented from carrying on business as a real estate agent, another officer of the company; or
- (3) After section 62(4), insert:
- (5) The Registrar may grant a temporary licence to a person who has applied for permission to carry on or appoint some other person to carry on the licensee's business if satisfied that the applicant is a fit and proper person to hold the licence.

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27 Section 72 replaced (Unsatisfactory conduct)

Replace section 72 with:

72 Unsatisfactory conduct

For the purposes of this Act, a licensee is **guilty of unsatisfactory conduct** if the licensee—

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- (a) the licensee carries out real estate agency work that is incompetent or negligent; or
- (b) ~~engages in the licensee's~~ conduct—
- (i) ~~that~~ falls short of the standard that a reasonable member of the public is entitled to expect from a reasonably competent licensee; or
- (ii) ~~that~~ contravenes this Act or any regulations or rules made under this Act; or
- (iii) ~~that agents of good standing would reasonably regard as being unacceptable.~~

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- (iii) would reasonably be regarded by agents of good standing as being unacceptable conduct of a licensee.

28 New section 146A inserted (Offence to fail to comply with requirement to supply document under section 24A)

After section 146, insert:

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146A Offence to fail to comply with requirement to supply document under section 24A

- (1) A person commits an offence if the person, without reasonable excuse, fails or refuses to comply with a requirement to provide a document to the Authority in accordance with a notice given under **section 24A**.
- (2) Every person who commits an offence against this section is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$10,000; or
- (b) in the case of a company, to a fine not exceeding \$50,000.

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29 Subpart 4 heading in Part 6 amended

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In Part 6, in the subpart 4 heading, after “Regulations”, insert “and approved forms”.

30 Section 156 amended (Regulations)

Replace section 156(1)(c) with:

- (c) prescribing the content (if any) of licence applications required under this Act:
- (ca) prescribing the form, manner, or content of notices or any other documentation or information required under this Act:

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31 New section 156A inserted (Authority may approve forms)

After section 156, insert:

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156A Authority may approve forms

The Authority may approve forms for the purposes of sections **38(a)**, 43(2)(b), **52(1)(a)**, and 62(2).

Consequential amendment to Crown Entities Act 2004

32 Principal Act

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Section 33 amends the Crown Entities Act 2004.

33 Schedule 1 amended

In Schedule 1, Part 1, item relating to Real Estate Agents Authority, delete “Agents”.

Consequential amendments to Real Estate (Licensing) Regulations 2009

- 34 Principal regulations**
Sections 35 and 36 amend the Real Estate Agents (Licensing) Regulations 2009.
- 35 Regulation 6 revoked (Forms)** 5
Revoke regulation 6.
- 36 Schedule 2 revoked**
Revoke Schedule 2.

Legislative history

18 December 2024
18 February 2025

Introduction (Bill 116–1)
First reading and referral to Education and Workforce
Committee