Derek Gill, Stevie Shipman and Karl Simpson

The Growth in the Supply of Legislation in New Zealand

Abstract

The number of words used in the New Zealand statutes has grown steadily since 1908, but dramatically from the 1960s. The growth rate is similar under both Labour and National administrations and does not coincide with conventional narratives of deregulation and re-regulation.

This growth in the New Zealand statute book was not the result of technical factors such as plain language drafting or greater use of secondary rules. Instead, the growth reflects substantive factors, with increases in the depth and the breadth of regulation. Regulatory inflation and policy accumulation are general trends not unique to New Zealand. More research is needed to underpin careful stewardship of the stock of regulation without resorting to arbitrary policy rules such as a 'two for one' policy.

Keywords policy accumulation, regulatory inflation, stock of regulation, New Zealand legislation

Derek Gill has spent most of his career working on public management and public regulatory issues at the New Zealand Treasury, at the OECD, as a deputy at what is now called the Public Service Commission, and as a researcher at the School of Government at Victoria University of Wellington. He is a board member at IPANZ and several other NGOs, and a research associate at NZIER and the School of Government. This article is prepared in his university capacity. **Stevie Shipman** is a research analyst at the Parliamentary Counsel Office and is pursuing degrees in law and commerce at Victoria University of Wellington. **Karl Simpson** is deputy chief parliamentary counsel for system and stewardship at the Parliamentary Counsel Office. During his career, Karl has served as a policy adviser, lawyer and senior manager, and as a member of the Legislation Design and Advisory Committee – the common thread being legislative and regulatory design. His contribution, and that of the Parliamentary Counsel Office, to this article (along with the underlying dataset) reflect the office's objective: promoting high-quality legislation that is easy to find, use and understand, and to that end, exercising stewardship over New Zealand's legislation as a whole.

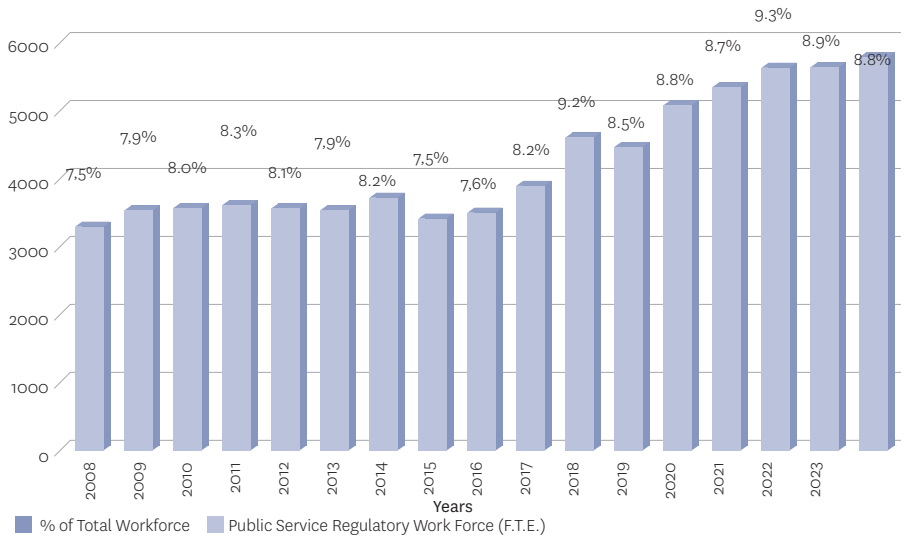
> Counting regulations in a meaningful way and measuring their cumulative economic impact are both astonishingly difficult tasks.
>
> —Stuart Shapiro, 2023

Introduction: the changing role of the state – shrinking or growing?

The role of the state and how that has changed in New Zealand is a contentious issue and the debate is often conducted in an evidence-free zone. On the one hand, claims are made about the shrinking or hollowing out of the state, while counterclaims are made about regulatory inflation and the growth of the state.

Previous research reported in *Policy Quarterly* in 2016 by Gill and Gemmell looked at the state in New Zealand from a range of perspectives – the state as producer, employer, investor, spender and taxer. To oversimplify a more complicated story, outside of privatisations of producers of market goods and services, the size of the New Zealand state has not changed very much since the early 1970s relative to the economy as a whole. This dataset is currently being updated for more recent

Figure 1: Regulatory workforce of the public service



Source: Public Service Commission

developments, including a rapid expansion in state spending and employment under the Ardern administration and the extent to which this can be explained by programmes that were a response to Covid-19. These findings will be published in a forthcoming issue of *Policy Quarterly*.

New time series data on the size of the regulatory state

'Regulation' is used here in the broad sense of the verb 'to regulate'. Government regulation means the use of legal instruments to give effect to a government policy intervention. As such, it can be distinguished from other interventions, such as spending on subsidies, transfers or taxation. Because of a lack of data on regulation, the earlier research avoided addressing the issue of the 'state as a regulator'. This was a major omission, as inspectors and regulatory officers are the single largest occupation in the public service workforce, and this grouping does not include public servants who are involved in the design of regulations and other occupations involved in the administration of regulations. This article summarises the key findings from an exploratory study undertaken jointly by Karl Simpson of the Parliamentary Counsel Office, Stevie Shipman and Derek Gill that addressed the state's role as a regulator. The project developed a measure for the regulatory state, the size of the statute book, and then explored how it has changed over time in New Zealand. The project had two parts: developing a consistent time series on the regulatory stock, and then undertaking an initial exploration of the drivers of the trends and patterns that emerged.

Specifically, the project has generated a time series of stocks and flows of all primary legislation (number of public Acts, pages and words) since 1908. In addition, consistent time series flow data is now also available for selected secondary legislation and administrative instruments since 1908, with stock and flow data from 2008. We have focused on principal public Acts, which means that for the estimates of the regulatory stock, the effect of amendment acts or new acts replacing existing acts – such as the Public Service Act 2020 replacing the State Sector Act 1988 – are netted out.

The analysis undertaken to date was a first-pass examination of trends with the aim of encouraging other researchers to explore the dataset in more detail. The project had a positive not normative focus, focusing on 'what is' instead of 'what ought to be' with the aim of creating a more informed understanding of the factors contributing to the growth in the statute book.

All measures can be misleading, but some are useful

As the opening quotation highlights, assessing the size of the regulatory state is a difficult and nuanced topic that is often avoided because of a shortage of reliable data and the absence of a single, robust theoretical framework that can be applied. Our newly developed dataset seeks to overcome the first obstacle – lack of reliable data. The resulting dataset highlights some interesting patterns and challenges.

John Dillinger, a notorious bank robber during the Great Depression, apparently said that he robbed banks because 'that's where the money is'. In this project we focused on the statute book, as that is where the data was. There are several other potential measurement points with respect to the regulatory state – inputs, outputs and impacts.

The regulatory workforce

On inputs, there is some occupational data available from the Public Service Commission on the number of public servants who are inspectors or regulators. However, there are a number of limitations with this series: it is only available since 2008; it does not include the wider state sector, where the majority of public employees work; it has data quality problems, as some agencies' occupational coding is quite idiosyncratic; and it does not capture policy analysts involved in the design of regulations or other occupations involved in the administration of regulations. Currently, there is no definitive measure of the regulatory workforce in all public agencies or the New Zealand-wide regulatory workforce, although the Ministry for Regulation is planning to address this issue starting in 2025.

Figure 1 shows the number of public servants who are classified as inspectors or regulators (excluding tax inspectors and prison officers) and the percentage share of the total public service workforce. It shows that the regulatory workforce in public service departments was relatively stable in the Key–English National administration (2008–16), but grew rapidly thereafter, making up an increasing share of the public service workforce and nearly doubling in size.

Regulatory compliance burden

On outputs, the OECD standard cost model provides a systematic and internationally comparable approach to capturing regulatory burden. Previous New Zealand research (Destremau and Gill, 2015) assessed the costs facing New

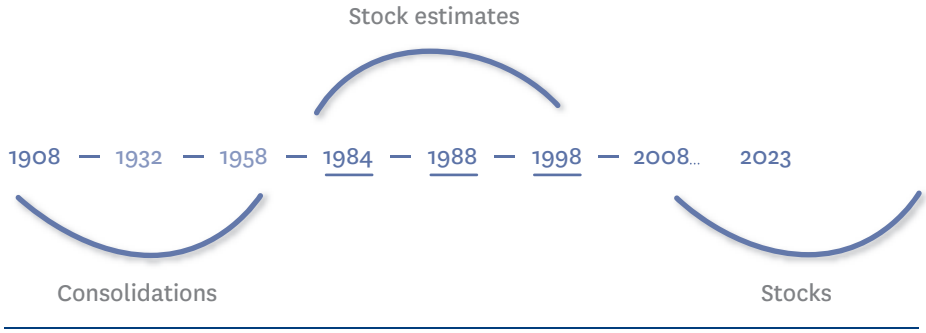
Zealand businesses in complying with New Zealand government taxes and regulations. The central estimates for 2012 for the compliance cost for regulation was NZ$2.8 billion (1.4% of GDP), compared to NZ$2.2 billion (1.1% of GDP) for taxation. While these are large numbers, the estimates are in line with comparable jurisdictions. However, there were very wide confidence intervals around the central estimates due to data quality concerns and data gaps. New Zealand currently lacks consistent cross-sectional data on compliance costs across firm sizes, and there are no estimates available on how regulatory burdens have changed over time.

Regulation costs and benefits

On impacts, there has been no systematic research undertaken in New Zealand. The OECD 2023 product market regulation (PMR) indicators place New Zealand on the OECD average for product market regulatory settings that encourage competition and ensure a level playing field among firms. This ranking is a significant relative decline from the leading position New Zealand enjoyed in the 1990s. However, the OECD's survey only covers selected economic regulations affecting business, which is only a small part of the overall regulatory framework.

In the United States there are estimates using bottom-up cost benefit and top-down econometric methods that yield dramatically different results. Bottom-up estimates based on the major new rules examined by the Office of Management and Budget suggest that the benefits from those individual new regulations typically outweigh the costs by between four and eight times (Shapiro, 2023, p23). In contrast, some top-down econometric studies generate extensive costs of regulation (Crain and Crain (2014) estimate 12% of GDP), due to the combined effects of administrative compliance burdens and regulation slowing down the growth in innovation and productivity. These later studies have come under sustained criticism both for the robustness of the findings and for lack of attention to estimating the potential benefits from regulation. As Shapiro observed, 'it is reasonable to argue that there has not yet been a top-down study of regulatory impact that meaningfully addresses the cumulative effect of regulations. Perhaps such a study is impossible' (Shapiro, 2023, p.27).

Figure 2: Joining up electronic data and paper records



Source: Parliamentary Counsel Office

Green tape or red tape?

The more fundamental point is that the overall impact of regulation is ambiguous in terms of its effect on efficiency and the distribution of costs and benefits. While government regulatory action generally starts with positive intentions, there are legitimate concerns about 'red tape', compliance costs and perverse outcomes. By contrast, 'green tape' regulation plays a positive role, including providing regimes that are enabling and empowering. As Gill emphasises:

> A well-designed regulation plays an important role in promoting productivity and economic development, thereby enhancing the wider social wellbeing ... Looking back in history, the introduction of legislation enabling the creation of the limited liability company was crucial to transforming England into the 'workshop of the world' and enabling the industrial revolution to spread throughout the West. A more recent example is the European Union's adoption of the GSM standard, which became the global standard for cellphones, thereby enabling a global market for devices. (Gill, 2024, p.2)

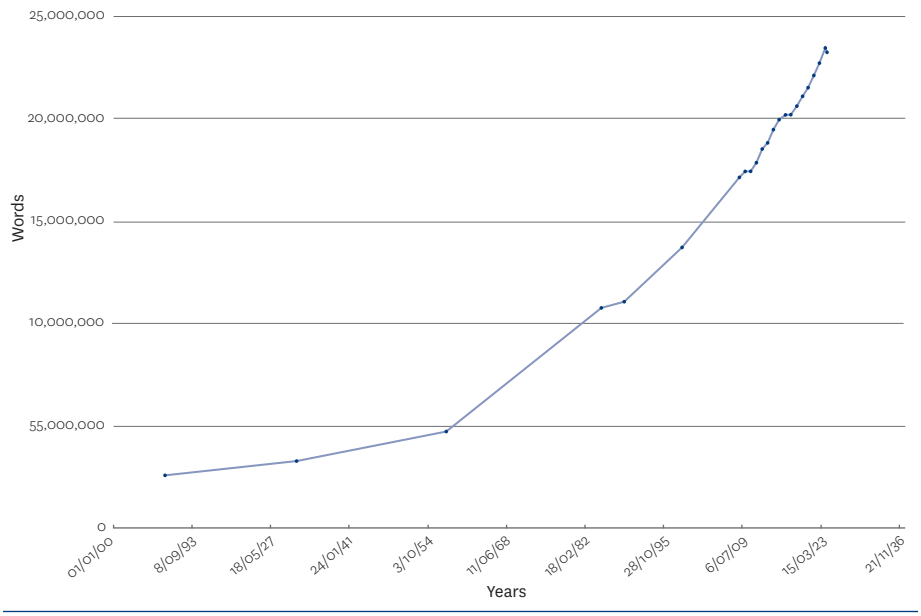
As Geoff Lewis observed recently, '[r]egulations can both support and damage productivity', although he also noted there is 'a tendency towards excessive regulation' (Lewis, 2024). See Gill (2011, at 7.7.2) for a discussion of the bias towards using regulations rather than spending or other budgeted interventions.

Defining and measuring government regulation

In this project we used a narrow legal definition of government regulation: statutes and secondary legislation, including regulations made by order in council and other instruments, published by the Parliamentary Counsel Office. We are aware that a significant proportion of secondary legislation is published by public agencies outside the public service (including, for example, transport rules) and by local government, and that some broader definitions of regulation are valid. However, legislation made by Parliament and central government and published by the Parliamentary Counsel Office was the best place to start because systematic structured sources of data were readily available. There has been little change in the number of words used in imperial, local, provincial and private Acts since 1908 (Shipman, 2024). The discussion which follows therefore focuses on principal public Acts, as these make up almost all of the statute book and account for all the growth that has occurred.

Creating the dataset required joining disparate paper records and electronic datasets, as shown in Figure 2. The Parliamentary Counsel Office has structured reliable electronic data since 2008 associated with the New Zealand Legislation website. This dataset provides robust data on stocks and flows of new primary and secondary legislation (number, pages, words) published by the office from 2008 to 2023. The stock data only includes principal public Acts, whereas the flow data also includes amendments Acts, which are subsumed into the principal Act when they come into force.

Figure 3: Consistent growth in the stock of words in force in Public Acts



Source: Parliamentary Counsel Office

The Parliamentary Counsel Office also has reliable data for flows of new primary legislation for every year prior to 2008, derived from electronic scanning of the annual bound volumes of statutes. This provides robust data for flow – the number of Acts and words enacted each year. This flow data represents the inflows of Acts and words, but outflows (i.e., repeals) are not possible to derive from this data. As a result, a different method was required to derive annual stock data.

Paper-based consolidations, which included all acts in force at a point of time, were available for 1908, 1932 and 1958, which enabled the creation of stock estimates for these data points. Filling in data points during the intermediate years between 1958 and 2008 involved some sustained research effort to combine the table of New Zealand Acts and ordinances, the reprinted Statutes of New Zealand series and New Zealand Statutes volumes. This provided stock estimates for 1984, 1988 and 1998 (see Shipman, 2024 for a discussion).

Rapid growth in the supply of primary regulation

Our resulting estimates of regulatory stocks over time provided interesting and often unexpected patterns. In summary, we found that:

- The stock of words in public Acts has accelerated dramatically from around 1960. There has also been a marked increase in the number of words over the 15 years since 2008 (36% growth – about 2.4% per year).
- The stock of the number of Acts in New Zealand grew, but at a slower rate than words, then levelled off before the 1980s. That means that the average length of each principal Act is increasing.
- That growth means that the stock of current legislation has doubled in size since 1988, to more than 23 million words (whereas in 1908 it was just 2.5 million words).
- Flow is also ramping up: over the last ten years, Parliament has enacted more than a million words a year on average. Every year, New Zealand replaces many old laws and enacts a lot of new – and often longer – laws. However, the flow of new Acts has declined since the peak recorded in the 1980s to long-term historical levels, again reflecting that Acts are growing in length.
- The size of the stock of secondary legislation that the Parliamentary Counsel Office publishes is growing at almost the same rate as primary legislation. This means that there is no evidence of systematic substitution between primary legislation and secondary regulations. This analysis cannot (yet) take into account the full extent of secondary legislation published by other agencies, but we expect to see similar trends.

Figure 3 shows the growth in the word count of the statute book from 1908 through to 2023. It measures the stock (i.e., the words used in public Acts that were in force in those years). For most of the 20th century limited data points are available (1908, 1932, 1958, 1984, 1988), but after 2008 robust annual data is available. The long-term trend is upwards sloping, with a turning point (evident in the flow data) in the early 1960s. Converting this to the number of paper volumes, in 1908 this consolidated 'statute book' filled six volumes; in 1988 it filled 25; in 2008, 40; and by early 2024 it filled 55.

While the general long-term trend growth in primary public regulation was not unexpected, the shape and rate of change were a surprise. The recent growth does not coincide with conventional narratives (including by one of the authors) of deregulation in the 1980s and early 1990s, followed by regulatory reform and growing regulatory management since the early 21st century. Deregulation resulting in the repeal of existing statutes would result in limited flow (repeal Acts are brief) and a consequent fall in the stock. Instead, New Zealand seems to fit with Vogel's hypothesis (Vogel, 1996) that regulatory reform in advanced industrial countries simultaneously leads to freer markets and more rules.

The number of public Acts has levelled off

Given the growth in the number of words in the statute book, we expected to see similar trends in the stock of public Acts in force. But what we found regarding the stock of principal public Acts in force was surprising, with the number of acts levelling off before the 1980s (see Figure 4). This shows that Acts are getting longer, rather than there being more of them. Note that the dip in 2017 reflects the impact of the clean-up achieved by the Statutes Repeal Act 2017.

Figure 5 shows the annual flow of new public Acts (including amendment Acts). This includes a peak in 1990 before a steady decline thereafter. The rapid growth in the flow of new Acts post-World War Two fits with the perception of the growth in the regulatory state over that time with the expansion of the regulation of consumer and workplace safety and environmental

standards, as well as economic activity in the era. However, it is harder to identify the trend to re-regulation and regulatory reform after the 1990s in the macro-level data.

The levelling-off in the stock and the flow of new public Acts may partly be the result of changes Parliament adopted in 1995 to the formal rules around the scope of legislation. These changes were based on the principle that each bill should have only one broad subject area and limited the circumstances for introducing an omnibus bill.[1] This may also have contributed to the consolidation of existing principal Acts, such as the Contract and Commercial Law Act 2017, and reduced the proliferation of new principal Acts.

More recently, the introduction of the regulatory stewardship approach in the State Sector Amendment Act 2013 has meant departments are more likely to treat all the legislation in the relevant regulatory system as part of a coherent whole, bringing separate Acts together, as well as making them more likely to repeal redundant Acts. (See Denny Kudrna's article in this issue of *Policy Quarterly* on regulatory stewardship generally and regulatory systems amendment bills in particular.)

These are fruitful areas for further research at the regulatory system or domain level. It would also be instructive to isolate the impact of the rapid reforms of the fourth Labour government (1984–90), as the number of words increased while the number of Acts in force declined slightly.

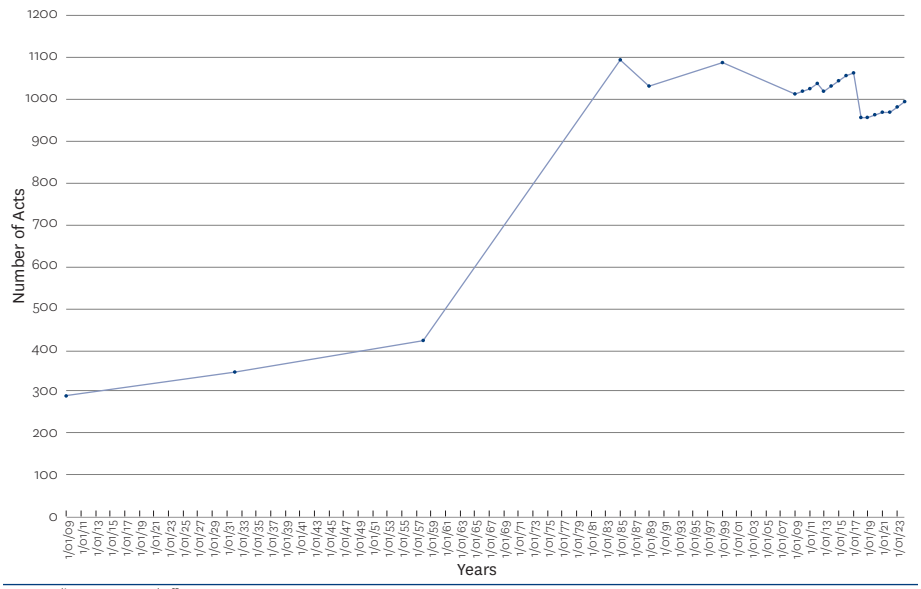
The flow trend in words aligns with the stock trend

While the number of principal Acts enacted per year has shown a decrease in recent years, the number of words enacted per year has increased, albeit with significant volatility year on year. Figure 6 shows the flow in words contributed by principal and amendment Acts every year from 1909 to 2023. This trend is reasonably consistent with the growth in stock described above.

New Zealand is not an outlier

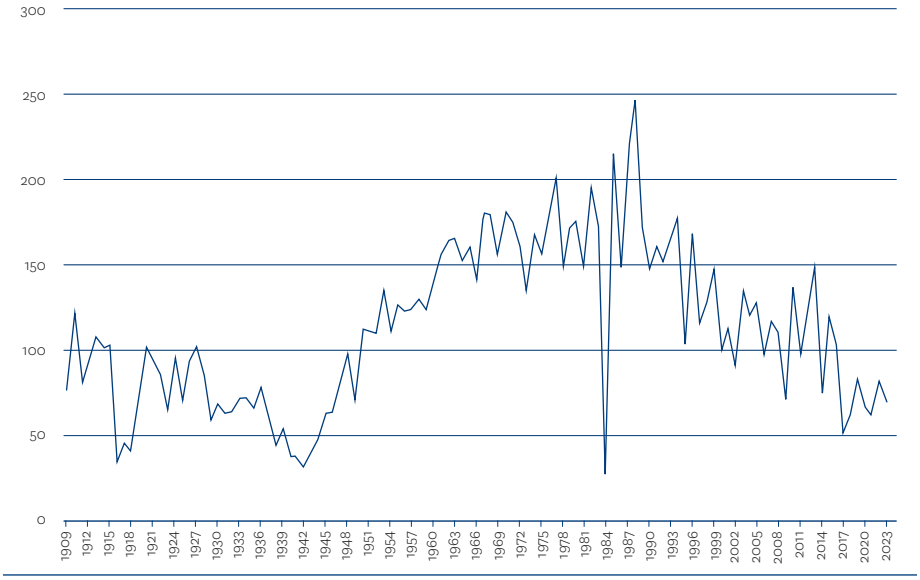
Looking at the data for other jurisdictions as well as the academic literature, it is clear that in the growth in its statute book New Zealand is not an outlier. The policy accumulation literature suggests

Figure 4: Levelling out of the stock of the Public Acts in force



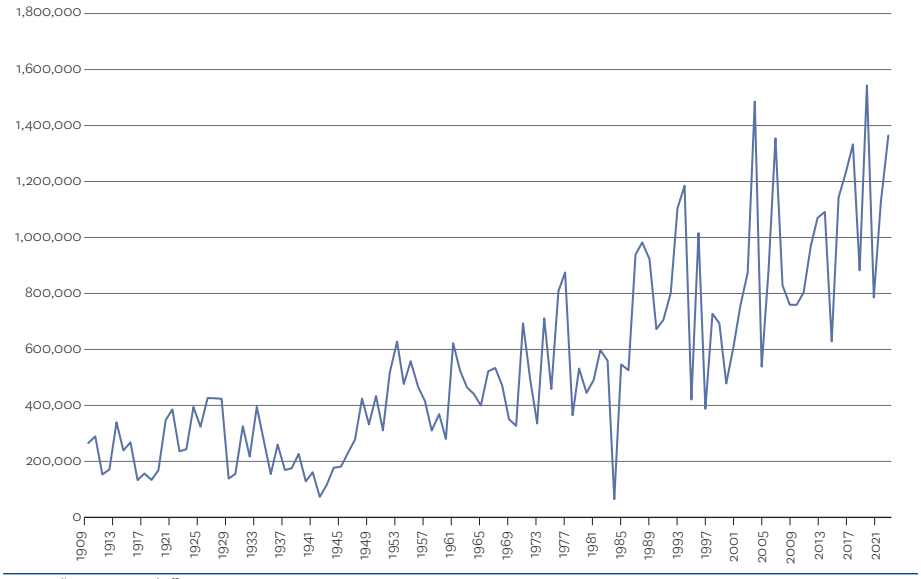
Source: Parliamentary Counsel Office

Figure 5: Flow in the number of new Public Acts since 1909



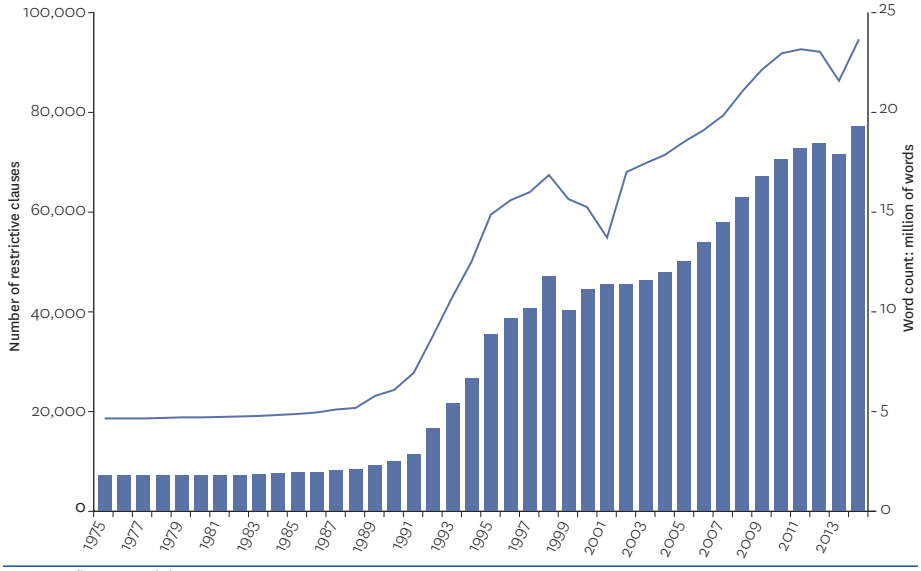
Source: Parliamentary Counsel Office

Figure 6: Growth in the flow of words in Public Act from 1909 to 2023



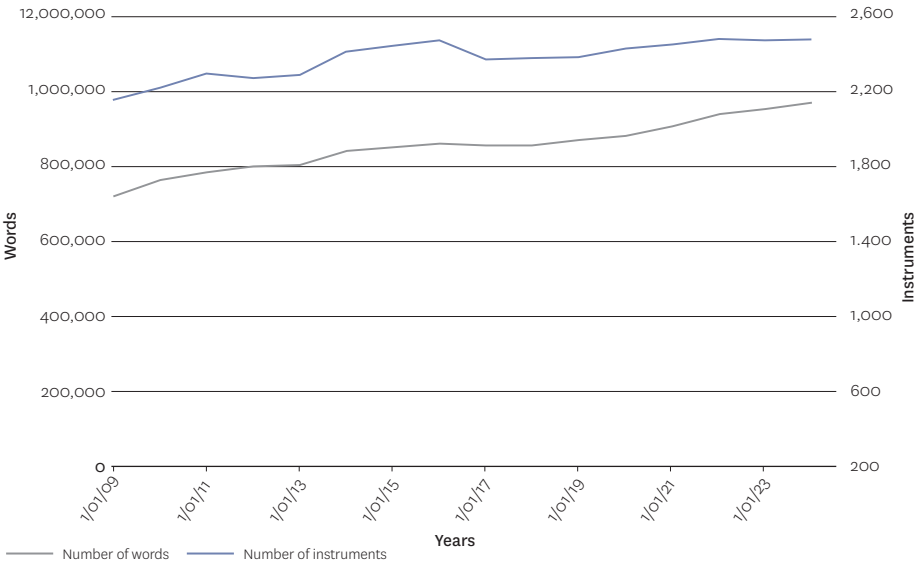
Source: Parliamentary Counsel Office

Figure 7: Similar growth in total words and restrictive words used in the Australian Federal Statute book



Source: Australian Law Commission

Figure 8: Steady growth in secondary legislation instruments and words



that government regulation is part of a wider trend across OECD countries that includes policies, targets and other instruments as well as regulatory rules (see Hinterleitner, Knill and Steinebach, 2023 for a survey).

Looking across the Tasman, Figure 7 shows two series: first, the growth in the number of words in Australian federal statutes, and second, the number of restrictive words that the laws contain. (The latter refers to the text analysis technique developed by the Mercatus Institute to estimate the number of binding constraints imposed by using the words 'shall', 'must', 'may not', 'required' and 'prohibited'.) Both series show a steady rate of increase since 1990. The Australian data covers a much shorter period (from 1975), but the inflexion point appears to be much later in Australia compared to that of New Zealand. There is scope for further econometric analysis to explore the determinants of the growth rates and inflexion points across a range of countries.

Form versus substance – what contributes to the growth in the regulatory stock

Thus far we have discussed the datasets developed on the stock and flow of primary and selected secondary legislation. We now turn to exploring what would explain the growth in the size of the statute book. In order to assess whether this growth reflects technical legal changes rather than a substantive increase, we explored two broad lines of enquiry.

The impact of plain language drafting

One possible technical legal factor is the impact of changes in drafting style with the introduction of plain language drafting after 1999. A small sample of rewrites was inconclusive on the impact, with some increasing the word counts and some reducing. To illustrate the order of magnitude of the possible impact, a drafting style increase of 5% would create a 0.5% p.a. initial increase in the word stock in Acts before tapering off.

It is important to note that the formal introduction of plain language drafting style in 1999 significantly post-dates the turning point in the early 1960s. Secondly, since 1990, word count stock growth is consistently above 2% p.a., which is significantly more than the likely effect of plain language drafting, estimated at around 0.5% p.a. increase from 1999. On balance the judgement was reached that the likely effect of plain language drafting was a significant but small positive effect.

Impact of secondary legislation

The other potential technical legal change relates to the possibility that there was a systematic change in regulatory style with the locus of rule-making shifting from primary to secondary legislation. Figure 8 shows the steady growth in the number of instruments as well as the number of words in secondary legislation published by the Parliamentary Counsel Office since 2008. It suggests that there is no evidence of systematic substitution between primary and secondary legislation, as the latter is growing at a similar rate to the former. A future line of enquiry would be to analyse the growth in secondary legislation published by other agencies or in other forms of regulation. That data is not, however, readily available and would require analysis of individual regulatory systems.

Increases in the breadth/reach of government regulation

Since technical legal changes don't appear to explain much of the growth in the statute book, an alternative line of enquiry would be the extent to which the growth reflects an extension and breadth of coverage in the regulatory state. This expansion could reflect new frontiers, such as space policy (for example, the Outer Space and High-altitude Activities

Act 2017), new technologies, and growing social complexity and diversity. It is possible that these new domains are more complex and integrating the new regime into the corpus of law requires more clauses because it is necessary to deal with possible interactions with existing Acts. Wagner's law of increased state activity suggests that public spending increased faster than GDP. Applied to regulation, this suggests that increasing living standards would lead to increased demand for regulations such as environmental protection.

Expansion of the breadth of legislative coverage would be expected to result in a growth in the number of statutes and the predominance of principal Acts over amendment Acts. However, Figures 4 and 5 show that the overall stock of the number of statutes in force has levelled off, while the number of new Acts has declined steadily since the peak recorded in the 1980s.

Figure 9 shows that more words are contributed by principal Acts than amendment Acts. However, looking through the volatility, there appears to be a trend growth in amendment Acts consistent with more intensive regulation in the same domain. At the same time, the word growth seen in principal Acts is consistent with increases in the breadth and reach of regulation. It is not possible to draw clear conclusions from the relative use of amendments and principal legislation at the aggregate level, because either a new principal Act or an amendment Act could be used to regulate a new area or to adjust regulation of an existing area. The choice of whether to amend, or to repeal and replace, an existing principal Act is based on a number of factors, including how frequent and substantive prior amendments have been, and whether the change is thought to be fundamental or adjusting. The current data is therefore inconclusive as to whether regulation of new areas is a significant factor.

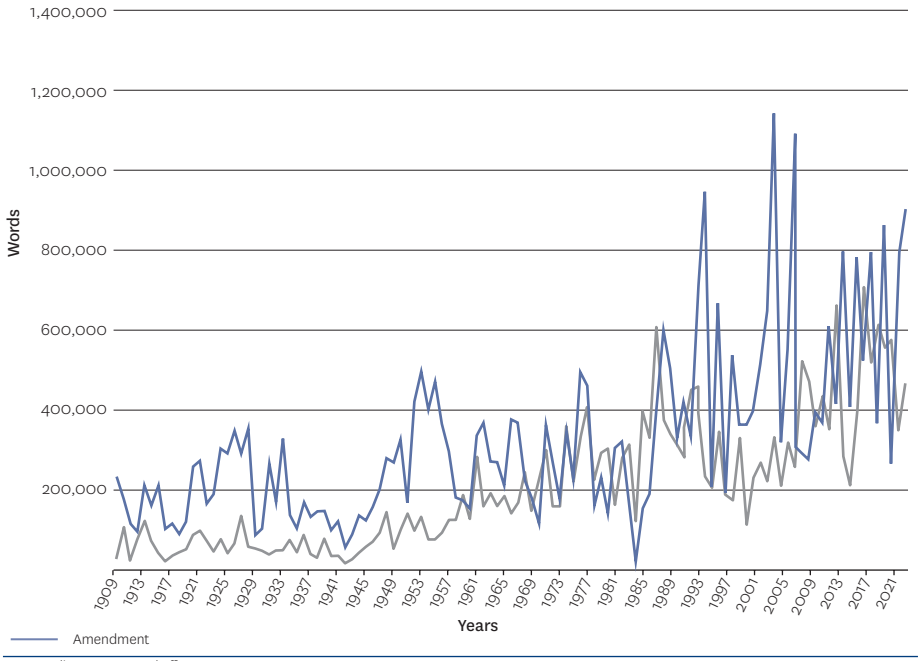
Increases in the depth and granularity of statutes

If technical factors and the increased coverage of legislation does not account for the extent of the growth in the statute book, then the remaining contributing factor is the increase in the depth and granularity of statutes. Here it is only possible to speculate on the factors that might contribute. These include:

- a shift to regulating with greater specificity, as over the last 30 years New Zealand has gone through a shift from liberalisation to re-regulation as successive governments have sought to control regulatory risks (such as the reform of the Building Act);
- a shift to more risk-focused or performance-based regulation – the 'smarter' or more nuanced we want to be with regulation, the likelihood that more categories and complexity are required increases. This is usually accompanied by both regulator discretion and the use of secondary legislation, so smarter regulation does not necessarily mean less regulation;
- increasing international pressures to regulate, as with more interconnected markets comes more pressure for regulation (for example, anti-money laundering);
- an increasing demand for rules or limits around the use of administrative discretion, as stakeholders often seek more certainty and prescription in law in order to increase its predictability and lessen the legislative risks for them.

Further analysis is required to unpick the relative importance of these explanations. The most fruitful line of enquiry is likely to be to perform a comparative analysis of regulatory systems.

Figure 9: Steady but volatile growth in the flow of words used in new principal and amendment acts since 1908



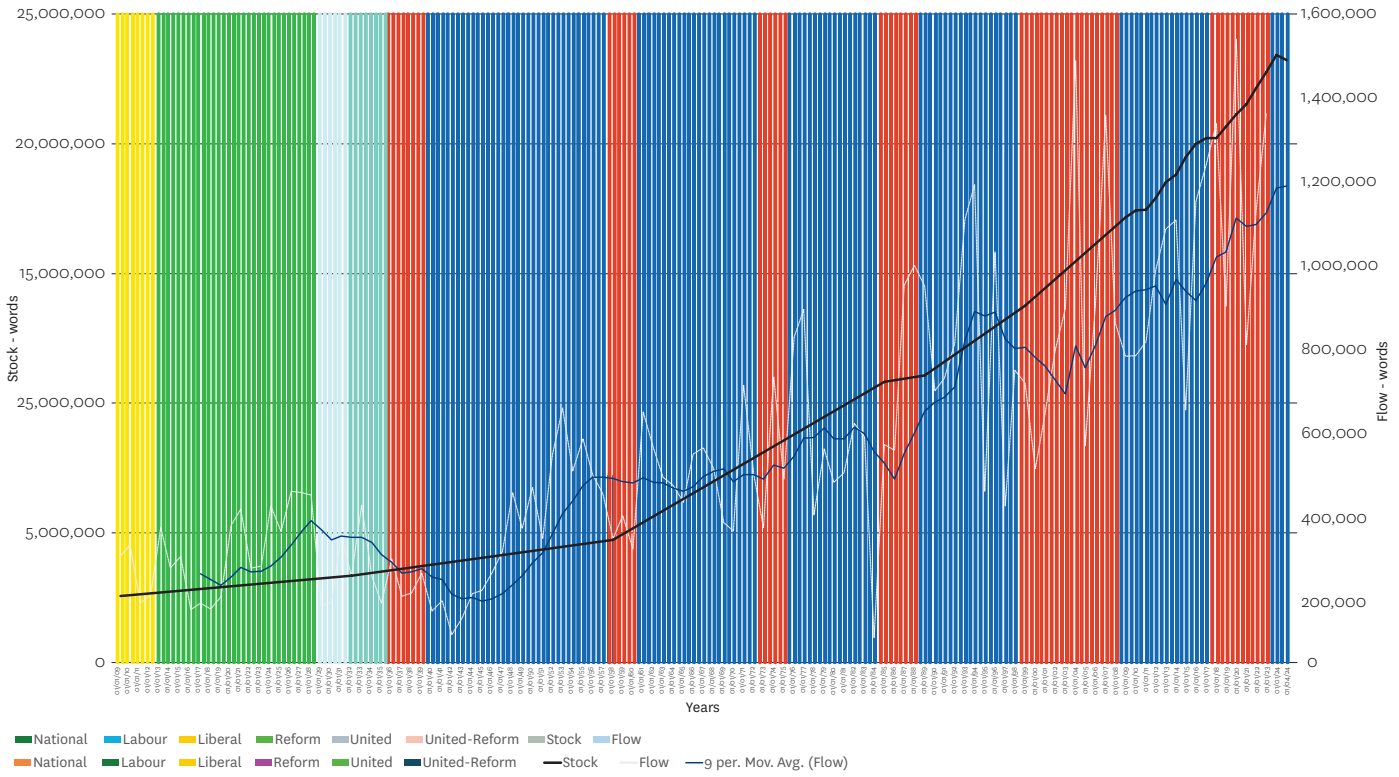
Source: Parliamentary Counsel Office

Understanding the causal factors that drive the growth in government regulation

A brief literature scan identified a plethora of potential drivers and some literature at the sectoral level (regulation of the environment or of infrastructure), but there is currently no systematic cross-sectoral empirical analysis or testing of the 'relative importance of the various drivers of policy growth and how they interrelate'. Hinterleitner, Knill and Steinebach (2023) provide a useful synthesis of the multidisciplinary literature, drawing from political science, law, public administration and economics. Their review identified one demand-side and three supply-side drivers in operation. On the demand side, they highlighted the increasing societal complexity and interconnectedness, which requires more rules. On the supply side they suggested the roles of:

- 'political competition' – policy growth is an unintended side effect of competition for votes;
- 'institutional fragmentation' – the distribution of policymaking power across governance layers, producing complex, cobbled-together policies;
- bureaucratic processes:
  - 'rachet effect' – policy accumulation over time as new rules are added but rarely removed;
  - 'rules breed rules' – cascading effects where rules at one level lead to more rules at other levels.

Figure 10: The growth in the stock of government regulation by political administration



Source: the authors

The analysis presented about the lack of clear evidence on increases in the breadth and reach of regulation raises doubts that new developments have contributed to the accelerating growth in the words used in the statute book since the 1980s. Some of the concerns about 'rules breeding rules' cascading through the levels of governance seem more applicable to EU jurisdictions with multiple levels of government than to New Zealand with its very centralised unitary state.

Recent scholarship also suggests that globalisation and liberalisation are often accompanied by the expansion of regulatory rules and agents (Vogel, 1996). However, this literature seems to focus on the regulation of economic transactions, so its generalisability is unclear. Nevertheless, it appears to have limited applicability to other regulatory domains, such as criminal law, and human and civil rights.

Role of political competition

One line of enquiry which does readily lend itself to examination is the role of political competition. Overseas studies have found that political competition affects what domains are regulated and that political competition does not significantly change the trend rate of growth in the stock of public regulation.

Causal empiricism based on Figure 10 suggests little significant difference in the growth rate in the words in the statute book under different administrations, with the steady growth in the stock and the smoothed trend of the new flow slowly accelerating over the period. The lack of annual stock data before 2009 makes formally testing the impact of different political parties in government difficult.

Although annual stock is not available before 2009, it is possible to calculate the approximate compound annual growth rate (CAGR) between National-led and Labour-led administrations since 1984 using the nearest available data point. Table 1 shows the compound annual growth rates for different administrations. After allowing for plain language drafting post 1999, there is no significant difference between administrations. In short, the time period appears to have more explanatory power as the CAGR was 1.5% in early 20th century, 1.5% in the 26 years to 1958, and an average of over 2% post 1990.

Caveats cautions and conclusions

All good research needs to be accompanied by appropriate health warnings and caveats. As H.L. Mencken observed, 'For every complex problem there is an answer that is clear, simple, and wrong'.[2]

Table 1: Compound annual growth rates in the words used in the statute book under recent administrations

Period	Labour	National
1984-1988	0.6%	
1989-1998		2.1%
1999-2008	2.5%	
2008-2017		1.9%
2018-2023	2.1%	
Average GAGR	1.7%	2.0%

Source: the authors

In this research we have collected data to count the number of statutes, as well as the words (and the pages) in those statutes. This was based on data availability, but also because words in statutes are often used as a proxy for the growth in the supply of regulation. In focusing on words as a measure, we are also conscious of several caveats:

- more words may provide more clarity, increase regulatory effectiveness and reduce administrative compliance costs;
- not all rules are equally enforced (law in action);
- more words may not result in more stringent regulations or more intensive enforcement;

- there is growing scholarly attention to the role of soft law, including private standards and regulations, in shaping economic activity and wider social interactions.

In short, more words in government regulations may imply more complexity, but does not automatically mean there is increased regulatory intensity or burdens of compliance. Alternative approaches, such as the standard cost model, attempt to assess the intensity of regulation, but this requires consistent data on administrative burdens which is not currently available in New Zealand.

Nonetheless, this line of enquiry has opened up some important questions. It suggests that the stock of central government regulation has grown significantly. While US data suggests that the estimated benefits from new regulations typically outweigh the costs by between four and eight times (Shapiro, 2023, p.23), poor regulations impose unnecessary costs relative to the benefits. Poorly designed new regulations layered upon earlier rules result in complex, poorly integrated policy regimes, which raises compliance costs and reduces the effectiveness of regulations. The limited available evidence for New Zealand suggests that the administrative and compliance costs of regulation are significant (1.4% of GDP in 2012). The overseas evidence suggests that the cumulative burden of regulations falls most heavily on smaller businesses and people who are more disadvantaged (Herd and Moynihan, 2018). Unpacking what is contributing to the growth in the regulatory stock provides the understanding required to underpin efforts to reduce the burden of regulations. This is particularly important when the costs are disproportionate to the benefits or fall disproportionately on the most disadvantaged, who are least able to adjust their circumstances.

The literature on policy accumulation highlights that New Zealand is not immune to the broader policy accumulation whereby regulatory rules combine with other policy interventions and policy targets to create a more general problem of policy growth.

Both of these issues – the growth in the regulatory stock and the wider accumulation of policy – are worthy of further investigation. In other countries – notably the Trump administration in the US – the growth in the number of regulations and words within those regulations is used as a measure of the growth of the regulatory state. This becomes the basis for the need for 'regulatory rescission' and recourse to arbitrary policy rules such as a 'two for one' policy. Without a systematic empirical investigation of the attributes of the growth and the factors acting as drivers in New Zealand, we risk ad hoc policy responses that do not address the root causes or even the main symptoms of policy growth.

1 See discussion in Clerk of the House of Representatives, 2024, chapter 34.10 on omnibus bills.
2 https://en.wikiquote.org/wiki/H._L._Mencken.

References

Clerk of the House of Representatives (2023) *Parliamentary Practice in New Zealand*, https://www.parliament.nz/en/visit-and-learn/how-parliament-works/parliamentary-practice-in-new-zealand/

Crain, W.M. and N.V. Crain (2014) *The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business*, National Association of Manufacturers

Destremau, K. and D. Gill (2015) *Quantifying the Value of Effort: the costs to New Zealand businesses to comply with New Zealand government taxes and regulations*, Wellington: NZIER for the Ministry of Business, Innovation and Employment

Gemmell, N. and D. Gill (2016) 'The myth of the shrinking state: what does the data show about the size of the state?', *Policy Quarterly*, 12 (3), pp.3–12

Gill, D. (2011) 'Regulatory management in New Zealand: what, how and why?', in S. Frankel (ed.), *Learning from the Past, Adapting for the Future: regulatory reform in New Zealand*, Wellington: LexusNexus NZ, https://www.regulatorytoolkit.ac.nz/resources/papers/book-1/regulatory-management-in-new-zealand-what,-how-and-why

Gill, D. (2019) 'Regulatory management toolkit', public discussion document 2019/3, NZIER, https://www.nzier.org.nz/publications/regulatory-management-toolkit-nzier-public-discussion-document-20193

Gill, D. (2024) *A Regulatory Policy Toolkit to Improve Productivity,* Asian Productivity Organization, https://www.apo-tokyo.org/publications/a-regulatory-policy-toolkit-to-improve-productivity/

Herd, P. and D. Moynihan (2018) *Administrative Burden: policymaking by other means*, Russell Sage Foundation

Hinterleitner, M., C. Knill and Y. Steinebach (2023) 'The growth of policies, rules, and regulations: a review of the literature and research agenda', *Regulation and Governance*, 18 (2), https://doi.org/10.1111/rego.12511

Lewis, G. (2024) 'Regulation and productivity: is there a connection? And who cares?', *Asymmetric Information*, 1 September, https://nzae.substack.com/p/regulation-productivity-lewis

Public Service Commission (2024) 'Workforce date – workforce size', https://www.publicservice.govt.nz/research-and-data/workforce-data-public-sector-composition/workforce-data-workforce-size

Shapiro, S. (2023) 'Counting regulatory burden: a call for nuance', https://ssrn.com/abstract=4546994; http://dx.doi.org/10.2139/ssrn.4546994

Shipman, S. (2024) 'The changing size of the regulatory state in New Zealand 1908–2023', Parliamentary Counsel Office, available on request

Vogel, S.K. (1996) *Freer Markets, More Rules: regulatory reform in advanced industrial countries*, Ithaca: Cornell University Press