

# Recommendation: Review existing New Zealand legislation

## Key points

- Most of New Zealand's statute book was written before advanced AI existed. Some of it will work as intended, but it will not all be adequate. A Bill is currently in train to address a gap in relation to deepfakes in both the Crimes Act 1961 and the Harmful Digital Communications Act 2015.
- We recommend the Government undertakes a targeted review of New Zealand legislation to ensure it is adequate to address the risks and societal consequences of advanced AI.
- This review should include privacy, criminal, electoral, consumer and infrastructure law. Where there are gaps, legislative changes should be made.

## Why it matters

Most legislation in New Zealand was not developed with advanced AI in mind. Some of the potential gaps and emerging risks facing New Zealanders could include the following:

- The Privacy Act 2020 does not address automated decision-making, [a gap the Office of the Privacy Commissioner has raised](#) on several occasions.
- Electoral law requires promoter statements and caps spending but says nothing about synthetic campaign material or automated persuasion.
- The Evidence Act 2006 has no dedicated provision for authenticating audio and video, which leaves courts to resolve challenges case by case. That will get harder as synthetic recordings become both cheap to produce and difficult to distinguish from genuine ones.
- The Fair Trading Act 1986 does not clearly resolve who is responsible when a firm's AI system misleads a customer.
- Voice cloning used in scams sits awkwardly across fraud provisions written for human deception.

The Deepfake Digital Harm and Exploitation Bill exists because the Crimes Act and Harmful Digital Communications Act did not clearly cover synthetic intimate images. Submitters on the Bill, including the Law Association and the Human Rights Commission, flagged several wider gaps in New Zealand law.

It passed its first reading unanimously and it has been through the Select Committee process, but it only exists because it was drawn from the members' ballot by chance. Finding gaps in our laws by ballot luck, after victims have already been harmed, is not an adequate approach to managing the evolving risks posed by AI.

Discovering gaps and fixing them only after harm arrives is the most expensive way to tackle the problem and it is less effective as real harms could have been prevented with a more proactive approach.

## What we're proposing

We recommend the Government directs a cross-portfolio review to:

- Identify legislation most exposed to AI risks: an indicative priority list would include the Privacy Act 2020, Crimes Act 1961, Evidence Act 2006 and Harmful Digital Communications Act 2015,

electoral law, the Fair Trading Act 1986, and sector regulation for critical infrastructure and financial services.

- Assess each against realistic AI scenarios: does the law still deliver its purpose when the regulated activity involves AI?
- Recommend targeted amendments within each framework where gaps are found.
- State clearly where existing law is adequate: a positive finding is equally valuable for public confidence and investment certainty.
- Report to Cabinet within 12 months.

This is not a proposal for an AI Act or for new regulatory bodies; this is a review of existing laws.

## The opportunity for New Zealand

Review and amendment of New Zealand's existing laws can be conducted more quickly than developing new ones as it would make use of existing legal frameworks, institutions, regulators and enforcement. This review could also help build knowledge and capability that will be necessary to continue to regulate advanced AI as it develops.

The Deepfake Digital Harm and Exploitation Bill is proof that gaps exist and they can be fixed: a tweak to existing laws to address a specific, well-defined problem, with support across Parliament. The review would focus on identifying other similar gaps systematically, rather than waiting for the harm to arise.

Clarity for regulators leads to certainty for business. It can often be unclear how decades-old legislation applies to new technology and this review could help clarify the law where necessary.

## How it could be done

This would be a standard government review, led by public officials which could be run as a coordinated cross-portfolio review, or as a prioritised rolling programme targeting specific pieces of legislation sequentially.

The review would work within existing legislative frameworks, recommend changes through normal government processes, and treat “no change needed” as a legitimate and useful conclusion.

## International precedent

Australia examined the case for dedicated AI legislation and chose, initially, to identify and fix gaps in existing laws: the same exercise this paper proposes. It has now gone further and [established an Office of AI and has announced it will introduce a set of Australian Standards for AI](#).

The UK asked its regulators to assess and report on AI within their own remits rather than creating a new legal framework.

The EU took a different path and introduced a [comprehensive new AI Act](#).

## Frequently asked questions

**Didn't the government already conclude existing laws cover AI?** It has stated that as its approach and in many cases that may be true. But the deepfake gap was real, and we consider there could be several others, including in privacy, consumer and electoral law. A review would establish where other targeted amendments are needed.

**Why not just fix problems as they arise?** That is the current model. It means every gap is discovered once harm has been caused, and fixed only if the issue happens to find a parliamentary champion. A systematic review is faster, fairer and cheaper than responding after harms have become serious.

**Won't a review create regulatory uncertainty?** The opposite. A time-bound review with published conclusions and a plan for legislative updates would provide certainty.