Consistency Accountability Statements (CAS) for commencement orders

What are commencement orders?

Commencement orders are a type of secondary legislation which have the effect of bringing other legislation (either primary or secondary) into force. They are typically used when it is not practical to set a commencement date for legislation in the legislation itself.

Commencement orders are currently not excluded from the Regulatory Standards Act 2025 requirements

Despite the reference to commencement orders in the explanatory note for the Regulatory Standards (Excluded Legislation) Notice 2026 (the Notice), commencement orders are not excluded in the Notice itself. We expect this discrepancy to be considered as part of the review of the Notice planned for 12-24 months from the date of the Notice.

How should agencies approach Consistency Accountability Statements for commencement orders

Consistency Accountability Statements (CAS) for commencement orders only need to consider the Principles of Responsible Regulation as they relate to that commencement order. They do not need to repeat any CAS already produced for the legislation being commenced.

Generally, this means that a CAS for a commencement order should consider the impacts of the commencement date (and any other conditions or features of the commencement order). This could include, but is not limited to;

- Whether the commencement date impacts on the ability of the responsible agency to identify and develop effective arrangements for implementing the legislation (for example, if the proposed commencement date is meaningfully sooner than anticipated in original policy decisions) (see s 9(k) of the Act)
- Whether the date creates retrospective effects or obligations (see 9(a)(ii) of the Act).

As with any other CAS, it is ultimately for the administering agency to determine which principles are relevant and whether there is an inconsistency with those principles. For further guidance on applying the principles when preparing a CAS, see the statutory guidance:

Guidance issued under section 26 of the Regulatory Standards Act 2025