



To	Hon David Seymour, Minister for Regulation		
Title	Regulatory Standards Bill: Implementing CASs and embedding the RSB's principles in the policy system	Number	MFR2025-246
Date	12 September 2025	Priority:	Medium
Action Sought	Agree to the recommendations set out in this briefing	Due Date	18 September 2025
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Attachments	No	Security Level	IN CONFIDENCE

Executive summary

This briefing outlines key decisions required to implement Consistency Accountability Statements (CASs) under the Regulatory Standards Bill (RSB), and to embed the RSB's principles in the policy making process.

The RSB requires agencies to review legislation for consistency with the principles of responsible regulation and disclose any inconsistency in CASs. This paper focuses on implementation of CASs for new legislation progressing through Cabinet, and we will advise separately on a proposed approach to implementing CAS and review requirements for existing legislation.

Our intention is to implement the requirements of the RSB in an efficient way that enables the provision of more digestible information to support decision-making by Ministers, while reducing unnecessary compliance cost on agencies. This paper proposes a cohesive system that integrates the CASs and supporting analysis into the broader policy development process.

This proposed approach would replace and streamline current administrative requirements for impact analysis and disclosure statements, currently set via Cabinet Office Circulars. The good law-making principles of the RSB mean that some key parts of Regulatory Impact Statements (RISs) would be retained in some form under this approach, including problem definitions, options analysis, and cost-benefit analysis.



However, the requirements would be set with a view to ensuring the effectiveness of the RSB and overall efficiency of the Regulatory Management System.

The Bill only requires CASs to be produced immediately prior to legislation being introduced or made. [Legally privileged s 9(2)(h)

However, there would be significant benefits from RSB principles being considered earlier, at the policy-making stage. Therefore, we propose additional *non-statutory* requirements (which could, for example, be implemented through a Cabinet Office Circular) to supplement the statutory requirements by:

- requiring analysis supporting the production of CASs for new legislative policy proposals – primarily relating to the good law-making principles – to be undertaken in advance of policy decisions
- requiring the above analysis be succinctly summarised and provided to Cabinet to accompany policy decisions, in line with a template to be developed by the Ministry for Regulation
- that CASs (along with consistency analysis) should be provided to Cabinet Legislation Committee (LEG), replacing the requirement for Disclosure Statements
- treating inconclusive assessments in the same way as assessments identifying inconsistency, with reasons required from the Minister.

If you agree with our recommended approach, we seek your agreement to draft a Cabinet paper to seek the necessary approvals and begin work on second-order implementation matters for a new Cabinet Office Circular.

We wish to discuss timing of the Cabinet paper with you in light of the desire to have certainty on the future requirements well ahead of the RSB requirements coming into force, so that we and agencies can prepare accordingly.



Recommended action

We recommend that you:

CAS requirements and Cabinet decision-making

- a** **note** that the Bill requires the explanatory note to relevant new primary and secondary legislation to include or link to a Consistency Accountability Statement (CAS), certifying that the legislation has been assessed for consistency with the principles of responsible regulation, and identifying any inconsistencies *Noted*
- b** **[LEGALLY PRIVILEGED** s 9(2)(h) *Noted*

]
- c** **note** that many of the principles nonetheless relate to the policy development process, and/or to the substance of policy approvals sought from Cabinet, prior to the drafting of legislation *Noted*
- d** **agree** that, to support effective implementation of CASs, it would be desirable for Cabinet:

 - i. to be made aware of any inconsistencies with the principles that have been identified during the policy approval stage *Agree / Disagree*
 - ii. to be provided with the relevant supporting analysis leading to the identification of these inconsistencies *Agree / Disagree*
 - iii. to set further expectations to disincentivise agencies from providing ‘inconclusive’ assessments of consistency *Agree / Disagree*
- e** **note** that these requirements would support the effective operation of the Regulatory Standards Board as well as effective decision-making by Cabinet *Noted*

Proposed approach for new regulatory proposals requiring Cabinet approval

- f** **agree in principle** to the following non-statutory requirements for new regulatory proposals requiring Cabinet approval:



- i. Agencies to prepare an initial analysis of consistency of proposals with the good law-making and other relevant principles prior to the policy approval stage *Agree / Disagree*
 - ii. Cabinet to be provided at the policy approval stage with a short summary of this analysis *Agree / Disagree*
 - iii. LEG Committee to be provided with CASs accompanied by a short summary of the underpinning analysis, alongside legislation that requires CASs *Agree / Disagree*
 - iv. the relevant Minister to provide reasons to LEG Committee where an agency's assessment of consistency is 'inconclusive', on the basis that this should be treated as an inconsistency *Agree / Disagree*
- g agree in principle** that this new approach would replace current Regulatory Impact Analysis and Disclosure Statement requirements set out in Cabinet Office Circulars *Agree / Disagree*

Further details on the proposed approach

- h agree** that the Ministry for Regulation should develop and provide you with more detailed advice on the proposed approach, including:
- i. template(s) to support the consistent presentation of the analysis referred to in recommendation f(ii) in a concise way (to replace the RIS template) *Agree / Disagree*
 - ii. identification of exemptions to proposed requirements (e.g. for minor and technical proposals)
 - iii. publication requirements for the analysis referred to in recommendation f(ii)

Development of a Cabinet Office Circular

- i agree** that subject to your decisions on the above:
- i. the Ministry should draft a Cabinet paper seeking approval for the above matters to be included in a new Cabinet Office Circular *Agree / Disagree*
 - ii. requirements in a new Circular would be operational from the time that the CAS requirements come into force
 - iii. the timing of a new Circular becoming operational would be aligned with the discontinuation of the



current Disclosure Statement Cabinet Office Circular
and Impact Analysis Cabinet Office Circular

- j** **agree** to discuss timing of a Cabinet paper with officials *Agree / Disagree*
- k** **agree** that the Ministry for Regulation release this briefing once consequent Cabinet decisions are made to approve the final circular, subject to redactions consistent with the Official Information Act 1982 *Agree / Disagree*

s 9(2)(a)

Pip van der Scheer
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Ministry for Regulation
Date: 12 September 2025

Hon David Seymour
Minister for Regulation

Date:



Purpose of report

1. In preparation for the enactment of the Regulatory Standards Bill (RSB), we are considering how it will be implemented in practice.
2. To maximise the impact of the RSB, we need to both implement the Consistency Accountability Statement (CAS) requirements and also embed the RSB's principles through requirements and best practice across all stages of the policy design and legislative implementation process.
3. It will be important to do this in a way that produces digestible and critical information for Ministers, while minimising the compliance burden on agencies.
4. We have identified some key design choices we need your approval for, including:
 - that analysis supporting the production of CASs should be undertaken during the policy development process
 - that this supporting analysis should be submitted to Cabinet when policy decisions are sought
 - that CASs (along with consistency analysis) should be provided to Cabinet at the LEG Committee stage, replacing the requirement for Disclosure Statements
 - that inconclusive assessments are treated in the same way as assessments identifying inconsistency, with reasons required from the Minister.

Context

The RSB requires CASs to be produced

5. The RSB will introduce a requirement to produce CASs to provide transparency on whether proposed and existing legislation are inconsistent with the principles of responsible regulation (the principles).
6. Clause 5 of the RSB defines a CAS as a statement from the chief executive of the responsible agency that
 - confirms that the agency has reviewed the Bill, Government amendment, or proposed secondary legislation – and its process for developing it (for new legislation only) – for consistency with the principles; and
 - summarises any inconsistency with the principles that is identified in the review.
7. CASs need to be included (or linked to) in a Bill, material Government amendment, or proposed secondary legislation's explanatory note when a Bill or Government amendment paper is introduced or when the secondary legislation is published or made.

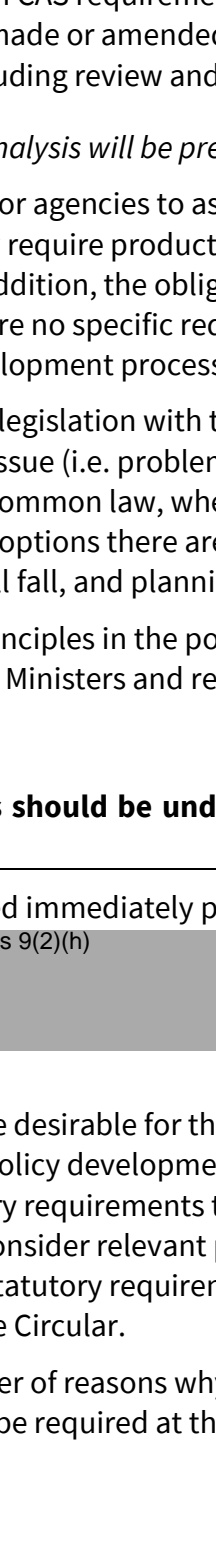


- CASs are required to be produced for both new and existing legislation (following a review). This briefing focuses primarily on CAS requirements for new legislation as it goes through the Cabinet process to be made or amended. We will advise separately on proposals for existing legislation, including review and CAS requirements.

The RSB contemplates that good law-making analysis will be prepared to inform CASs


- The RSB sets out a high-level obligation for agencies to assess consistency against the principles, but it does not specifically require production or publication of the analysis supporting the assessment. In addition, the obligation to produce a CAS relates to drafted legislation, and there are no specific requirements to assess consistency earlier in the legislative development process.
- Assessments of consistency of proposed legislation with the good law-making principles would include evaluating the issue (i.e. problem definition), the effectiveness of existing legislation and common law, whether the public interest requires the issue to be addressed, what options there are to solve the issue, where the costs and benefits of the proposal will fall, and planning for implementation, etc.
- We recommend embedding the RSB's principles in the policy system whilst providing more digestible information to Ministers and reducing unnecessary compliance cost on agencies.

Analysis supporting the production of CASs should be undertaken during the policy development process

- The Bill only requires CASs to be produced immediately prior to legislation being introduced or made. [**Legally privileged** ^{s 9(2)(h)} 
- However, as discussed below, it would be desirable for the RSB principles to be considered earlier than this, during the policy development process. Consequently, we recommend introducing non-statutory requirements to supplement the statutory ones and require agencies to consider relevant principles earlier in the policy development process. Such non-statutory requirements could, for example, be implemented through a Cabinet Office Circular.
- In the sections below, we set out a number of reasons why analysis supporting the principles ('supporting analysis') should be required at the policy development and decision-making stage.



Requiring supporting analysis to be undertaken at the policy decisions stage provides an opportunity to embed the RSB principles into the policy process

15. As set out later in this briefing, we recommend that the CAS itself should be provided at Cabinet Legislation Committee. This aligns with the statutory requirements of the RSB, but it is too late to be useful for policy development. If an inconsistency was identified at this late stage, it may be difficult, time-consuming and costly to change the policy.
16. Requiring an earlier assessment at the policy decisions stage, through non-statutory mechanisms (e.g. a Cabinet Office Circular) would help to embed the principles of responsible regulation into the policy development process.
17. For example, we think undertaking supporting analysis at the policy decisions stage could provide an ‘early warning’ that policy proposals could be or are likely to be inconsistent with some of the principles of the RSB. This would enable either a change in policy approach, or – at the very least – greater awareness about likely inconsistencies.
18. It will not be straightforward to identify inconsistency with some of the principles until the legislation is drafted and the CAS is prepared (e.g. the principle in clause 8(a)(i) that the law should be clear and accessible). However, where it is possible, it will be a valuable exercise. For example, officials may identify prior to Cabinet policy decisions that a proposal likely impairs or takes property without fair compensation, or may identify that there is no planned consultation with those parties directly and materially affected by a proposal.
19. Finally, requiring an earlier assessment should also result in higher quality CASs when legislation is introduced, with more information readily available to agencies when preparing CASs.
20. **[Legally privileged** ^{s 9(2)(h)} **]**

The existence of supporting analysis earlier in the policy process will provide the Regulatory Standards Board – and other stakeholders – with a greater evidence base for scrutinising legislation

21. Under the RSB (clause 30), the Regulatory Standards Board needs to operate ‘on the papers’ (i.e. cannot hold hearings). The Board also does not have the power to require information to be produced. The Board, and the secretariat supporting it, will be able to operate more effectively when considering CASs and conducting its inquiries if it is working with an evidence base which clearly relates to the good law-making principles (and other principles as relevant) prepared earlier in the policy process.



22. The same principle applies to scrutiny of regulatory proposals by other agencies prior to Cabinet decisions, and the ability for stakeholders to scrutinise decisions once they have been made.

New Zealand has international obligations in relation to impact analysis

23. New Zealand has international free trade agreement obligations relating to good regulatory practice. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and Free Trade Agreements with the United Kingdom and European Union include provisions that expect or require the government to undertake public consultation, or to maintain processes and mechanisms to conduct impact assessments and to publish the findings of those assessments, for a range of proposed regulatory measures. Impact analysis is standard in all OECD countries.
24. The proposals in this section will help us to meet these international obligations.

Supporting analysis should be submitted to Cabinet when policy decisions are sought

A summary of supporting analysis should be produced and presented to Cabinet

25. We have recommended above that all proposals subject to a CAS should be required to undertake supporting analysis prior to policy decisions being taken to Cabinet. There are options around how that analysis is presented to support policy decisions and the production of the eventual CAS.
26. Where proposals are being considered by Cabinet, we recommend the supporting analysis should be summarised into a document and presented to Cabinet along with the Cabinet paper seeking policy decisions and approval to instruct Parliamentary Counsel Office for drafting. This achieves a number of objectives:
 - **Presenting the analysis to Cabinet provides agencies' analysis to other Ministers.** Cabinet papers do not necessarily include problem definitions, alternative options, or cost benefit analysis, whereas supporting analysis could ensure transparency of these elements.
 - **Having supporting analysis summarised into a statement provides transparency for stakeholders and will be an important piece of evidence for the Regulatory Standards Board.** We consider the Board, and the secretariat supporting it, will be able to operate much more effectively if analysis is summarised into a document which enables them to assess consistency with the principles, rather than the information being scattered across a number of other pieces of advice.
 - **A summary of supporting analysis would be a useful tool for agencies to scrutinise regulatory proposals** during agency consultation and provide advice to their Ministers. For example, the Ministry for Regulation routinely uses RISs



under the current system to test whether agencies have undertaken a rigorous problem definition, options analysis, cost benefit analysis, etc.

Subject to your decisions, we intend to draft a template to support consistent presentation of the supporting analysis at the policy decisions stage

27. There are choices about the format of the supporting analysis document. Compared to the current format of RISs, we think the format could be streamlined, and supporting expectations put in place, such that the documents are much shorter and more accessible for Ministers.
28. If you agree with our suggested approach we will develop a template. As part of the design process, we will consider the extent to which the format of the analysis:
 - encourages rigour in agency thinking
 - is efficient to produce
 - provides Cabinet with free and frank advice
 - is easy for Ministers to use
 - increases transparency and accountability (including transparency for the Regulatory Standards Board)
 - facilitates analysis of proposals against the RSB's principles.

The process for CASs to be provided to Cabinet

29. To encourage agencies and Ministers to ensure legislative proposals are consistent with the principles, and to support effective Cabinet decision-making, we recommend that CASs and any accompanying Ministerial reasons statements be provided to LEG Committee when seeking approval to introduce Bills or Government amendments, or approval to promulgation for new secondary legislation.
30. In effect, this would mean requirements to provide LEG Committee with agency Disclosure Statements under Cabinet Circular [CO(13)3] *Disclosure Requirements for Government Legislation* would be replaced with requirements to provide a completed CAS, and these requirements would extend to proposed secondary legislation that goes through Cabinet.

What should be covered in or alongside CASs for proposals subject to Cabinet decisions

CASs should be accompanied by a summary of agencies' consistency analysis

31. We also recommend that completed CASs and Ministerial reasons statements be accompanied by a short summary of the underpinning analysis showing why a proposal has been assessed as consistent or inconsistent, ensuring agencies are 'showing their working' to support their assessments.



32. Providing this information will show how agencies reached their conclusions, resulting in more informative and robust CASs. In addition, provision of this information would make it easier for the Ministry, and (once published) the Regulatory Standards Board and public to make a judgment on whether the agency is undertaking assessment obligations in accordance with the requirements of the RSB.
33. We would expect agencies to already be undertaking and recording the basis of their assessment of consistency for internal purposes. Therefore, the additional cost to agencies of our proposed requirement should be minimal.

Setting an expectation that inconclusive assessments are considered to be inconsistent

34. There may be cases where an agency considers it is inconclusive whether legislation is consistent with one or more of the principles. At this stage it is not clear how often this could occur.
35. The RSB does not contemplate this outcome, and so the requirement for a Ministerial statement explaining the Government's reasons for inconsistency does not extend to an inconclusive outcome. There is a risk that, if allowed for (or not explicitly disallowed), inconclusive outcomes could be incentivised and overused to avoid triggering the provisions under the RSB to provide an explanation for inconsistency. This could result in higher levels of actual non-compliance with the principles without justification provided, as well as less informative CASs for the House, the Board, the Ministry and external parties (including the public). This could lessen the impact of CASs and put at risk the RSB's ability to achieve its purposes in the longer-term.
36. This risk should be addressed through the development of materials to support agencies in their approaches. We recommend you agree that inconclusive assessments should be treated as inconsistencies, which would therefore warrant a statement from the responsible Minister or maker of legislation explaining the reasons for the inconsistency. This approach could be implemented through a Cabinet Office Circular.

We recommend a new Cabinet Office Circular that would replace two existing ones

37. Cabinet noted in May 2025 that you would report back on proposed changes to the Cabinet Office Circulars for Disclosure Requirements for Government Legislation [CO(13)3] and Impact Analysis Requirements [CO(24)7], to ensure alignment with the RSB.
38. We consider the best way to implement these decisions is to replace these two Circulars with a new Circular.



39. We are therefore seeking your approval to draft a Cabinet paper to seek approval to the various matters covered in this briefing, to be included in a new Cabinet Office Circular.
40. We recommend that the requirements in the new Cabinet Office Circular should be operational from the time that the CAS requirements come into force, and that this timing is aligned with the discontinuation of the current Disclosure Statement Cabinet Office Circular and Impact Analysis Cabinet Office Circular.

Clause 27 guidance will also support agencies in producing CASs

41. We will separately provide advice to you on the guidance under clause 27 of the RSB, which is jointly issued by you and the Attorney-General.
42. As this is statutory guidance issued under the RSB, its content is judicially reviewable, and the scope should be limited to the specific requirements in the Bill, including:
 - how the principles of responsible regulation should be applied
 - how to review proposed or existing legislation for consistency with the principles of responsible regulation
 - the content and presentation of CASs.
43. This guidance will provide more detail on how agencies should meet the specific CAS requirements – for instance, providing a CAS template that should be used and setting out processes to be followed in the presentation and publication of CASs.

Risks

44. There is likely to be a heightened level of public interest in changes to the RIA system in light of the connection to the RSB, and any attempt to streamline – or remove – the RIA system may be criticised by some stakeholders.
45. We have not yet been able to undertake consultation with other government agencies. We intend to consult agencies later in the process once a draft Cabinet paper has been prepared.

Next steps

46. Subject to your decisions in this briefing, we wish to discuss timing of the Cabinet paper with you in light of the desire to have certainty on the future requirements well ahead of the RSB requirements coming into force, so that we and agencies can prepare accordingly.
47. We will also provide advice on second-order matters that could be included in a new Cabinet Office Circular to support the successful implementation of the RSB.