



Good law-making circular and section 26 guidance – Cabinet paper for consultation

Date:	27 November 2025	Priority:	Medium
Security classification:	In confidence	Tracking number:	MFR2025-320
Attachments:	Annex 1: Draft Cabinet paper Annex 2: Draft guidance		

Action sought

Required from	Action	Deadline
Hon David Seymour Minister for Regulation	Agree for officials to proceed to departmental consultation following your feedback on the draft Cabinet paper Discuss with officials at your meeting on 2 December 2025	4 December 2025

Contact for telephone discussion (if required)

Name	Position	Phone number	1 st contact
Harry Chapman	Lead Advisor, Regulatory Policy Design	s 9(2)(a)	<input type="checkbox"/>
Gwen Rashbrooke	Manager, Regulatory Policy Design	s 9(2)(a)	<input checked="" type="checkbox"/>

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's notes | <input type="checkbox"/> Withdrawn |

Comments

Annex 1 is not included in this proactive release. The final Cabinet paper is available at: <https://www.regulation.govt.nz/about-us/our-publications>

Annex 2 is withheld consistent with section 9(2)(h) of the Official Information Act 1982 to maintain legal professional privilege. The final Guidance issued under section 26 of the Regulatory Standards Act 2025 is available at: <https://www.regulation.govt.nz/about-us/our-publications/guidance-issued-under-section-26-of-the-regulatory-standards-act-2025/>



Good law-making circular and section 26 guidance – Cabinet paper for consultation

Date:	27 November 2025	Priority:	Medium
Security classification:	In confidence	Tracking number:	MFR2025-320

Executive Summary

This briefing provides you with a draft Cabinet paper for your feedback (**Annex 1**).

The Cabinet paper is an opportunity to streamline and strengthen the Regulatory Management System in the context of the new Regulatory Standards Act (the Act). The Cabinet paper is intended to:

- seek decisions to support effective implementation of the Act, including replacing existing Regulatory Impact Analysis and Disclosure Statement Cabinet Office circulars with a new Good Law-making circular
- attach draft guidance, which would subsequently be issued by you and the Attorney-General under section 26 of the Act, for Cabinet’s consideration.

The draft Cabinet paper largely reflects decisions you have already made. There are a few further decisions that we require from you in order to finalise the draft Cabinet paper. These further matters are, for the most part, relatively minor.

The more significant proposals relate to agencies being required to follow section 26 guidance, and to provide stakeholders with advance notice of major regulatory proposals. The attached draft is based on your agreement to our advice on these issues. We will reflect your decisions in an updated draft once we receive your feedback.

A first draft of the section 26 guidance is attached as **Annex 2** for any initial feedback. We are continuing to work through initial feedback received from the Crown Law Office (CLO), the Legislation Design and Advisory Committee and the Parliamentary Counsel Office (PCO). A final version will require joint approval from you and the Attorney-General.



Recommended action

We recommend that you:

- | | | |
|---|--|-------------------------|
| a | note that the attached draft Cabinet paper (Annex 1) reflects decisions you have already made, based on our advice in MFR2025-246, MFR2025-268 and MFR2025-277 | <i>Noted</i> |
| b | agree the Cabinet paper seek agreement that the following further minor matters be included in the Cabinet circular: <ul style="list-style-type: none">i. streamlining and simplifying the impact analysis exemption grounds, while retaining the consideration regarding impacts on property rightsii. requiring that Consistency Accountability Statements (CASs) and the summary of underpinning analysis be available for circulation as part of ministerial consultation on papers for Cabinet Legislation Committee (LEG)iii. updating the LEG Committee paper templates to include a section that records the conclusion of the CASiv. requiring Ministers' statements of reasons for any inconsistency to be provided to LEG Committeev. requiring that the explanatory notes of Bills, Government amendments, or new secondary legislation contain a link to the relevant agency's analysis underpinning their CAS | <i>Agree / Disagree</i> |
| c | agree that the Cabinet paper also seek agreement for the circular: <ul style="list-style-type: none">i. to set a requirement that agencies should follow the guidance made under section 26 of the Act when completing CASsii. to codify existing expectations by requiring major regulatory agencies to provide stakeholders with advance notice of major regulatory proposals that they expect will be adopted within a year | <i>Agree / Disagree</i> |
| d | provide any further feedback on the draft Cabinet paper | <i>Agree / Disagree</i> |
| e | agree for officials to proceed to departmental consultation once you have provided feedback on the draft Cabinet paper | <i>Agree / Disagree</i> |
| f | provide your initial feedback on the first draft of the section 26 guidance | <i>Agree / Disagree</i> |



Proactive release

- g **agree** that the Ministry for Regulation release this briefing in full once Cabinet decisions have been made and the circular published. *Agree / Disagree*

s 9(2)(a)

Gwen Rashbrooke
**Manager, Regulatory Policy
Design**
Ministry for Regulation
Date: 27 November 2025

Hon David Seymour
Minister for Regulation

Date:



Purpose of report

1. This briefing provides you with a draft Cabinet paper for your feedback. The Cabinet paper is intended to:
 - seek decisions to support effective implementation of the Act, including replacing existing Regulatory Impact Analysis and Disclosure Statement Cabinet Office circulars with a new Good Law-making circular
 - attach draft guidance, which would subsequently be issued by you and the Attorney-General under section 26 of the Act, for Cabinet’s consideration.
2. This briefing also seeks further decisions from you to enable finalisation of the draft Cabinet paper for ministerial consultation.

Draft Cabinet paper

3. We have previously provided you with advice on how to implement CAS and review requirements established by the Act, in a way that embeds the principles of responsible regulation throughout the policy and legislation development process, supports effective decision-making and transparency, and avoids unnecessary compliance costs (MFR2025-246, MFR2025-268 and MFR2025-277 refer).
4. The draft Cabinet paper attached as **Annex 1** reflects the decisions you have previously made in response to our advice.
5. In our drafting of the Cabinet paper, we have focussed on clarifying what the requirements of the Act are, how these will replace or align with existing requirements, and how this will result in strengthening or streamlining of the system.
6. There are a few further decisions that we require from you in order to finalise the draft Cabinet paper for ministerial and agency consultation. In the interests of time, the attached draft is based on your agreement to our advice on these issues. We will reflect your decisions in an updated draft once we receive your feedback.

Minor additions to the Cabinet paper

7. We have included an additional change to **streamline and simplify the exemption grounds** for Regulatory Analysis Summaries (RASs). We think there is an opportunity to condense these grounds and therefore make them more user friendly, while retaining the existing scope. The existing consideration of whether the proposal restricts the use and exchange of private property would be retained.
8. We are also working to ensure that the exemption grounds in the new circular – and therefore which proposals require a RAS – align as much as possible with proposals subject to the requirement for a CAS. We will provide you with an update on this work when we provide advice on exemptions for the requirement to provide a CAS. As part of this, we will consider options for exemptions or proportionate analysis for deregulatory proposals.
9. Where legislative proposals are submitted to Cabinet for approval, we are proposing a **requirement that CASs and the summary of underpinning analysis be available for circulation as part of ministerial consultation**. This will provide Ministers and their



advisors the opportunity to review the material in advance of the legislation's introduction and check consistency with the principles.

10. We also propose that the **Cabinet LEG Committee paper templates should be updated** to include a section noting whether the responsible agency has determined the legislation to be consistent or inconsistent with the Act's principles.
11. We also consider that the **Ministers' statements of reasons should be required to be provided to LEG Committee** when seeking approval to introduce Bills or Government amendments, or approval to promulgate relevant secondary legislation. You previously agreed that the CAS and underpinning analysis be provided to LEG Committee. Including the statement of reasons with these would support Ministers in their consideration of whether they think any inconsistencies are likely to be justified.
12. We also propose that **the explanatory notes of Bills, Government amendments, or new secondary legislation must contain a link to the relevant agency's analysis underpinning their CAS**. This would bring together the underpinning analysis with the other material already required by the Act to be included or linked in the legislation.

Requiring agencies to follow the section 26 guidance

13. Section 26 of the Act provides that you and the Attorney-General may issue guidance setting out recommended best practice or expectations on certain matters, including:
 - how the principles should be applied
 - how to review proposed or existing legislation for consistency with the principles
 - the content and presentation of CASs
 - how to prepare, publish, carry out and report on plans for regularly reviewing existing legislation.
14. We recommend that the Cabinet circular set a requirement that agencies should follow the guidance made under section 26 of the Act when completing CASs to follow this guidance, to help ensure consistent material is presented to the House and published. There is no statutory requirement for the guidance to be followed, so setting an administrative expectation will support consistent use of the guidance by those agencies subject to direction by Cabinet.
15. We are also anticipating that, while agencies that are not subject to direction by Cabinet cannot be required to follow the guidance material or Cabinet circular, it will still likely be used by them to ensure they can meet their statutory obligations under the Act.

Proposed codification of the requirement to provide advance notice of major regulatory measures

16. We also recommend that the Cabinet paper include a proposal that the Cabinet office circular set a requirement for major regulatory agencies to provide stakeholders with **advance notice of major regulatory proposals** that they expect will be adopted within a



year.¹ This would codify expectations on agencies which were last reaffirmed by Cabinet in 2023 [GOV-23-MIN-0028 refers]. Further detail on the requirements would then be set in guidance published by the Ministry for Regulation. This would help New Zealand to meet its obligation under the EU–NZ FTA to provide, at least annually, public notice of major regulations made by Order in Council it reasonably expects to adopt within a year concerning any matter covered by the Agreement.

17. The international obligations only apply to regulations made by Order in Council and within scope of the EU–NZ FTA, but we suggest there would be domestic benefits to extending the advance plan requirements to all major regulatory measures in primary or secondary legislation. Agencies would not be required to disclose intended primary legislation that has not yet been announced. We consider that providing stakeholders with advance notice of regulatory proposals will enhance their ability to engage with government policy changes and consultation that occurs, support consistency of legislation with the Act’s consultation principle, and ultimately lead to better advice to Ministers.

Section 26 guidance

18. An initial first draft of the section 26 guidance is attached as **Annex 2**, so you can see how it is developing and provide any initial feedback. Please note that this version of the guidance is the subject of legal advice from CLO and is therefore subject to legal privilege while it remains in draft form.
19. We are continuing to work with CLO and the PCO on the guidance, and have received some initial feedback from these agencies that we are still working through. We are also expecting feedback from the Legislation Design and Advisory Committee this week.

20. s 9(2)(h)

[Redacted content]

¹ There are 15 major regulatory agencies that administer almost all the significant regulatory systems, and legislation covered by New Zealand’s international commitments: the Department of Conservation, Department of Internal Affairs, Inland Revenue Department, Land Information New Zealand, Ministry for Primary Industries, Ministry for the Environment, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry of Transport, New Zealand Customs Service, Reserve Bank of New Zealand, and the Treasury.



- s 9(2)(h)
21. We are currently focusing on drafting the key content that the guidance would contain. As a result, the current document is long and repetitive in places. However, we intend to do further thinking about the best way to present the guidance - for instance, as a set of online documents supported by flowcharts and other aids to help users navigate through it.
 22. Following further engagement with CLO and the PCO, we will provide an updated draft to you and the Attorney-General for final approval. The final version will then be provided as an annex to the Cabinet paper in the new year.
 23. We understand the Attorney-General's office has been provided with a process update this week but will not receive a copy of the draft material until we have a version ready for final approval.

Next steps

24. Once you have provided us with your decisions on the recommendations in this report, along with any feedback on the draft Cabinet paper, we will proceed with departmental consultation on the Cabinet paper.
25. Ideally, we would include the final draft of the statutory guidance in the material for agency consultation. However, we may need to proceed to consultation in advance of the guidance being finalised, and circulate the guidance at a later date. We do not think this is problematic, given that the final draft would be provided to agencies for their reference rather than for substantive feedback.
26. We anticipate agency consultation on the draft Cabinet paper will start before the end of the year, and Ministerial consultation will commence as soon as possible in the new year.