



## Regulatory Standards Act implementation: Updated draft section 26 guidance for referral to Attorney-General

<b>Date</b>	25 February 2026	<b>Priority</b>	High
<b>Security classification</b>	In confidence	<b>Tracking number</b>	MFR2026-039
<b>Attachments</b>	Annex 1: Updated draft guidance Annex 2: Updated draft guidance with tracked changes Annex 3: Cover letter for referral to the Attorney-General		

### Action sought

Required from	Action	Deadline
Hon David Seymour <b>Minister for Regulation</b>	<b>Agree</b> to refer the draft guidance to the Attorney-General	26 February 2026

### Contact for discussion if required

Name	Position	Phone number	1 <sup>st</sup> contact
Elisa Eckford	Lead Advisor, Policy	s 9(2)(a)	<input checked="" type="checkbox"/>
Pip van der Scheer	Manager, Regulatory Management System	s 9(2)(a)	<input 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 Withdrawn           |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 and Annex 2 are 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/>



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### Purpose

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This briefing provides you with:

- an updated draft of the guidance to be issued jointly by you and the Attorney-General under section 26 of the Regulatory Standards Act, for referral to the Attorney-General (attached as **Annex 1**)
- the draft guidance with changes tracked, to show what has changed from the previous version provided in MFR 2026-032 (attached as **Annex 2**)
- a draft cover letter for referral to the Attorney-General (attached as **Annex 3**)
- updated next steps.


### Recommended Action

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The Ministry for Regulation recommends that you:

- |   |  |                         |
|---|--|-------------------------|
| a | <b>agree</b> to refer the draft guidance attached as Annex 1 to the Attorney-General, and seek her agreement to circulate it to Ministers                                      | <i>Agree / Disagree</i> |
| b | <b>agree</b> that the Ministry for Regulation will test the guidance for workability with agencies alongside Ministerial consultation  | <i>Agree / Disagree</i> |
| c | <b>agree</b> that the Ministry will proactively release this paper at the appropriate time in accordance with Official Information Act 1982 and Privacy Act 2020 requirements. | <i>Agree / Disagree</i> |

s 9(2)(a)



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Pip van der Scheer  
**Manager, Regulatory Management System**  
Ministry for Regulation  
Date: 19 February 2026

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Hon David Seymour  
**Minister for Regulation**  
Date:



## Updates to guidance

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1. On 23 February, we received your further feedback on the draft guidance provided to you in MFR2026-032. This feedback included:
  - deletion of the paragraph referring to the need to consider and apply the principles of responsible regulation “in the context of other fundamental principles including...the Treaty of Waitangi/te Tiriti o Waitangi and New Zealand’s international obligations” (p. 7) - on the basis that the reference adds to the complexity of the matters that agencies are required to assess in the development and review of legislation, and that Cabinet is better placed to consider and trade off these potentially competing principles
  - removal of the reference to the *Policy framework for occupational regulation* Cabinet office circular, given the age of the circular (p. 8)
  - inclusion of an explicit definition of what a market failure is (p. 40)
  - deletion of the remaining references to “problem or opportunity” in line with previous feedback (p. 41).
2. The final draft guidance attached as **Annex 1** includes these changes. **Annex 2** provides you with a tracked change version so you can see what changes have been made to the previous version.

s 9(2)(h)

3. [LEGALLY PRIVILEGED s 9(2)(h)

4. s 9(2)(h)

## Referral to Attorney-General and next steps

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5. If you are comfortable with the current draft, we recommend that you refer the guidance to the Attorney-General for her consideration and input, and seek her agreement to share the draft guidance with all Ministers. A draft letter is attached to this briefing as **Annex 3**, should you wish to use it.
6. The table below sets out a proposed process and dates for finalising the guidance, which updates timing set out in MFR2026-014.

Next step	Date
Draft guidance referred from you to the Attorney-General	By Thursday 26 February



Next step	Date
Draft guidance circulated to Ministers for feedback and tested with agencies for workability	By week of Monday 2 March (dependent on Attorney-General's agreement)
Final comments reflected in guidance	Mid to late March
Guidance considered by Cabinet	From late March
Guidance issued	April onwards (once Part 2 of Act comes into force).

## **Proactive release**

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7. With your agreement, the Ministry will proactively release this paper at the appropriate time in accordance with Official Information Act 1982 and Privacy Act 2020 requirements to support transparency and public trust in decision-making processes.
8. The Ministry will not release draft guidelines while they are still in development.



## **Annex 1: Updated draft guidance**

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Annex 1 is withheld consistent with section 9(2)(h) of the Official Information Act 1982 to maintain legal professional privilege

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## **Annex 2: Updated draft guidance with changes tracked**

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Annex 2 is withheld consistent with section 9(2)(h) of the Official Information Act 1982 to maintain legal professional privilege

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# Briefing

MFR2026-039



**Ministry for Regulation  
Te Manatū Waeture**

## **Annex 3: Draft cover letter to Attorney-General**

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Hon Judith Collins KC  
Attorney-General

Dear Judith,

**Re: Guidance to be issued under section 26 of the Regulatory Standards Act 2025**

As you will be aware, the Regulatory Standards Act 2025 enables the Attorney-General to jointly issue guidance under section 26 of the Act with the Minister for Regulation, setting out best practice or our expectations on:

- 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 consistency accountability statements
- how to prepare, publish, carry out, and report on plans for regular review of legislation.

Officials from the Ministry for Regulation have been working closely with the Crown Law Office and the Parliamentary Counsel Office to develop this guidance, and a draft is attached for your review.

Subject to your consideration of the guidance, I propose that this draft be shared with Ministers prior to its consideration by Cabinet as an attachment to the draft Cabinet paper *Implementation of the Regulatory Standards Act: Strengthening and streamlining processes for making and reviewing regulation*.

At the same time, I propose it be circulated to agencies to help ensure it provides them with practical support to meet the requirements of the Act.

I look forward to receiving any comments you may have on the guidance, and your agreement to my proposed next steps.

Yours sincerely,

Hon David Seymour  
**Minister for Regulation**