



Summary of Underpinning Analysis: Education and Training (System Reform) Amendment Order 2026

Agency responsible	Ministry of Education
Portfolio	Education
Date finalised	14/07/2026
Identification Number	N/A

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation

Inconsistency identified? NO

Summary of agency analysis

Consultation has been undertaken with the agencies directly and materially affected by the proposed Order in Council (OIC) to an extent reasonably practicable. The Ministry of Education (the Ministry) and the Education Review Office (ERO) have been closely involved in developing the proposed commencement date. Both agencies support 1 September 2026 as the date for transferring regulatory functions to ERO.

Wider public consultation has also occurred through the Select Committee process, where the public had an opportunity to submit on the transfer of regulatory functions to ERO.

The proposed commencement date of 1 September 2026 enables the planned transfer of regulatory functions to continue, aligns with communications already provided to Ministry staff and enables a 10-week transition period from Third Reading of the Bill on 23 June to the implementation date for the transfer of functions.

Good law-making: 9(j)

The importance of carefully evaluating—



- **the issue concerned; and**
- **the effectiveness of any relevant existing legislation and common law; and**
- **whether the public interest requires that the issue be addressed; and**
- **any options (including non-legislative options) that are reasonably available for addressing the issue; and**
- **who is likely to benefit, and who is likely to suffer a detriment, from the legislation**

Inconsistency identified? NO

Summary of agency analysis

The substantive policy issues, options, public interest considerations and impacts on different groups were considered as part of the policy development process to support the enactment of the Education and Training (System Reform) Amendment Act 2026 (the Act).

The proposed OIC is limited to setting the commencement date for provisions in that Act that provide for the transfer of regulatory functions for early childhood education (ECE), private schools and school hostels from the Ministry to ERO.

The Act provides that the relevant provisions come into force on a single date set by OIC or 1 November 2026 at the latest. A 1 November 2026 commencement date would not require further legislative action. However, a 1 September 2026 is the planned commencement date to support a successful transfer of functions. An OIC is required to give effect to the preferred commencement date of 1 September 2026.

Good law-making: 9(k)

The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation

Inconsistency identified? NO

Summary of agency analysis

The Ministry and ERO have identified and developed an implementation plan for the transfer of regulatory functions. Both agencies have been working together on the steps and actions required to support the transfer, including roles and responsibilities, implementation risks and resourcing requirements.



Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons

Inconsistency identified? NO

Summary of agency analysis

The expected costs and benefits of transferring regulatory functions to ERO were considered as part of the policy decisions, ahead of being included in the Act.

The proposed commencement date of 1 September 2026 in the OIC is not expected to impose additional costs on the public or regulated persons beyond those already associated with the transfer provided for in the Act. It is expected to support the benefits intended by the Act by enabling an orderly transfer of functions to ERO.

Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available

Inconsistency identified? NO

Summary of agency analysis

The Act provides for the transfer of regulatory functions to ERO to commence on a single date set by OIC, or on 1 November 2026 at the latest if not commenced earlier.

An OIC is required to bring the provisions into force on the preferred date of 1 September 2026. This date is considered the most effective and proportionate option because it supports the Government's priority to clarify system roles and responsibilities as soon as practicable, while allowing sufficient time for the Ministry and ERO to prepare for the transfer. Setting the date through the mechanism provided in the Act also provides certainty and transparency for regulated parties, affected agencies, and the public.

Rule of Law: 9(a)(i)

The law should be clear and accessible

Inconsistency identified? NO

Summary of agency analysis

The Act is publicly available on the New Zealand Legislation website. The Act clearly identifies the regulatory functions in relation to ECE, private schools and school hostels that



will transfer to ERO, and it is clear that the transfer of these functions will come into effect on a single date set by OIC, or on 1 November 2026 at the latest if not commenced earlier.

The OIC will be notified in the New Zealand Gazette. The OIC does not create complex new rights or obligations. Its effect is to bring existing provisions of the Act into force on the specified commencement date.

Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Rule of Law: 9(a)(iii)

Every person is equal before the law

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis



Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-

- there is a good justification for the taking or severe impairment; and
- fair compensation for the taking or severe impairment is provided to the owner; and
- the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis



Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and
- the costs of efficiently achieving the objective or providing the function

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

Additional information

Relevant publicly available inquiry, review, or evaluation reports

Relevant international treaties, standards and obligations

Departures from the Legislation Guidelines



Other unusual provisions or features