



Summary of Underpinning Analysis: Education and Training (System Reform) Amendment Act 2026 Commencement Order (No 2) 2026

Agency responsible	Ministry of Education
Portfolio	Education
Date finalised	21/07/2026
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), the New Zealand School Property Agency (NZSPA) Establishment Board, and the Treasury have been closely involved in developing the proposed commencement date. Officials and the Establishment Board support 1 October 2026 as the date to establish NZSPA. The Public Service Commission has also been informed.

Wider public consultation has also occurred through the Select Committee process, where the public had an opportunity to submit on the establishment of NZSPA. The Ministry has also undertaken regional hui to inform impacted staff of the upcoming changes.

The proposed commencement date of 1 October 2026 allows for key implementation tasks and operational system changes to be completed to support



the establishment of the NZSPA. This date has also been informed by an independent readiness review to provide assurance that the NZSPA can operate lawfully and effectively from day one.

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 establishment of NZSPA as a new Crown entity.

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 commencement date of 1 November 2026 would not require further legislative action. However, 1 October 2026 has been assessed as the appropriate commencement date to support a successful establishment. An OIC is required to give effect to the preferred commencement date of 1 October 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 has developed an implementation plan for the establishment of NZSPA. The Establishment Board for the NZSPA was appointed in December 2025 to support the transition of school property to a new Crown entity. An Implementation Business Case was provided to Cabinet in April 2026 [SOU-26-MIN-0032]. An independent readiness review has



also been completed in July 2026 to provide assurance that the NZSPA can operate lawfully and effectively from day one.

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 establishing NZSPA were considered as part of the policy decisions agreed by Cabinet in June 2025 [CAB-25-MIN-0219], ahead of being included in the Act.

The proposed commencement date of 1 October 2026 in the OIC is not expected to impose additional costs on the public beyond those already associated with the establishment of NZSPA provided for in the Act. The OIC is expected to support the benefits intended by the Act by enabling the effective establishment of the new entity as soon as practicable.

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 provisions which relate to the NZSPA come into force on a single date set by Order in Council or on 1 November if not brought into force before then.

An OIC is required to bring the provisions into force on the preferred date of 1 October 2026. This date is considered the most effective and proportionate option because it will enable the benefits of the new entity to be realised sooner, while allowing sufficient time for the Ministry to prepare for establishment. Setting the date through the mechanism provided in the Act also provides certainty and transparency for affected agencies, schools, 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 sets out matters relating to the establishment of NZSPA as a new Crown entity, including relevant powers to support its functions and the membership of its Board. The Act makes clear that provisions relating to NZSPA 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

The establishment of NZSPA furthers a proposal from the Ministerial Inquiry into School Property, which provided its report in June 2024. The inquiry was informed by numerous interviews with education sector stakeholders and information from schools, unions, construction and real estate entities, and the public.

The final report of the Inquiry is publicly available here: [Microsoft Word - Report of the Ministerial Inquiry into School Property - Final draft.docx](#)

Relevant international treaties, standards and obligations

NOT APPLICABLE

Departures from the Legislation Guidelines

NOT APPLICABLE

Other unusual provisions or features

NOT APPLICABLE