Te Tāhuhu o te Mātauranga
Ministry of Education

Report: Proposed Content of Industry Skills Board Orders in Council

To:	Hon Penny Simmonds, Minister for Vocational Education		
Cc:	Hon Erica Stanford, Minister of Education Hon Dr Shane Reti, Minister for Universities		
Date:	28/08/2025	Deadline:	1/09/2025
Security Level:	In-Confidence	Priority:	High
From:	9(2)(a) VET Programme Manager	Phone:	9(2)(a)
Drafter:	9(2)(a)	METIS No:	1352459

Why are we sending this to you?

- You are receiving this because decisions are required on what to include in the Orders in Council for Industry Skills Boards.

What action do we need, by when?

- We are seeking your agreement to the proposed content of the Orders.
- Please return the signed paper by 1 September 2025 and indicate if you wish to discuss with officials.

Key facts, issues and questions

- Each Industry Skills Board will require its own Order in Council but, unlike the Workforce Development Councils' Orders, the content of these will be identical other than in name and specified industries.
- To ensure greater uniformity, a number of provisions have been moved to primary legislation meaning the ISB Orders will be significantly shorter than those for Workforce Development Councils.

Alignment with Government priorities

1. This report supports the redesign of the vocational education and training (VET) system, which is one of your priorities for the Vocational Education portfolio.

Background

2. The Education and Training (Vocational Education and Training System) Amendment Bill (the Bill) sets out the process for establishing Industry Skills Boards (ISBs) through the making of Orders in Council.
3. Each ISB requires its own Order. However, unlike Orders for the Workforce Development Councils (WDCs) that they are replacing, these are intended to have standardised content.[1] To further support greater uniformity and consistency, many of the provisions in the current WDC Orders have been shifted into the Bill for ISBs (for example, appointment processes, duties of members, and other machinery and transition provisions).
4. Orders in Council are also required to disestablish each WDC. These will specify the date that the relevant WDC is to be disestablished and, if necessary, provide for the distribution of any residual assets and liabilities at the date of disestablishment.

The Bill sets out requirements for Orders that establish an ISB

5. Each Order in Council is required to (*must*) set out:
   - 5.1. the ISB's name;
   - 5.2. the one or more specified industries that the ISB covers;
   - 5.3. any additional functions conferred on the ISB; and
   - 5.4. additional matters relating to the governance of the ISB, although these are subject and subordinate to the provisions set out in the primary legislation.
6. An Order *may* also set out:
   - 6.1. the means by which industries can engage with the ISB (e.g. requirements for sector advisory groups);
   - 6.2. prescriptions on how the ISB can use its assets;
   - 6.3. conditions on how the ISB undertakes its functions, duties, and powers; and
   - 6.4. matters necessary to clarify governance arrangements.
7. Consultation with the relevant ISB's industry is required before an Order is made or amended. There needs to be a period of formal consultation on each Order following the passage of the Bill. To meet the current timelines, we propose early pre-consultation engagement on drafting proposals for the Orders so that the formal consultation period can be undertaken over one week.

[1] The Bill enables the Minister for Vocational Education to amend each Order. This allows industry-specific elements to be added to an ISB's Order in the future if that proves necessary.

We are proposing a uniform and straightforward approach to ISB Orders

8. Officials from the Ministry, the TEC, and NZQA have considered the provisions in the current WDC Orders and assessed whether they are relevant for ISBs, or if new and/or amended ones are required. We have also considered relevant feedback from previous consultation rounds, such as the importance of industry engagement.

9. Because much of the governing arrangements for ISBs are now in the Bill, the ISB Orders can be considerably shorter than those for WDCs.

10. Following public submissions on the Bill to the Select Committee, two additional areas have been identified and agreed by the select committee for inclusion in the Orders. These relate to:

    10.1. collective representation of employers and employees, and

    10.2. the use of fee income and assets relating to the provision of work-based training during the transition period.

11. We also propose that the Orders include a requirement for an ISB to maintain existing provision for work-based training during the transition period.

12. Table 1 sets out the necessary provisions that we have identified for the ISB Orders. The numbering of provisions used here is for ease of reference when discussing this paper and may not correspond to clauses and numbering in the final Orders.

Table 1: Proposed content of Industry Skills Board Orders in Council

Title, commencement and interpretation	
1. Title	A standard clause setting out the title of the Order
2. Commencement	A standard clause that specifies the date when the Order comes into force. This may be shortly after the intended date on which the Order will be made by the Governor-General - assuming the 28-day rule is waived.
3. Interpretation	A standard clause setting out the definitions of specific terms used in the Order (e.g. 'Specified industries' refers to the industries listed in Schedule 1).
Establishment and coverage of the Board	
4. Industry Skills Board established	This clause establishes the ISB and states its name.
5. Coverage of Board	This clause provides for the industry coverage of the ISB as set out in Schedule 1.
Training activities during transition period	
6. Obligation to maintain training activities where reasonable	This clause sets out the ISB's obligation during the transition period to maintain the provision of training activities transferred by NZIST to the ISB.

7. Restriction on use of assets for training activities	This clause sets out the restrictions on use and disposal of assets relating to the provision of training activities transferred by NZIST to the ISB.
8. Board's use of fee income for training activities	This clause provides for limitations on the use or application of fees payable by trainees to the Board during the transition period.
Functions, planning and reporting	
9. Statement of strategic direction	This clause requires the ISB to issue a 5-year statement, and to include its industries, the Minister, and VET providers in its development.
10. Annual report	This clause sets out the requirement for an ISB to publish an annual report on its operations, activities, and financial performance.
Industry engagement and collaboration with other industry training boards	
11. Industry engagement	This clause sets out requirements for the ISB to engage with its industries and sub-sectors (for example, through establishing industry stakeholder groups).
12. Collaboration with other ISBs	This clause clarifies expectations relating to the statutory duty of ISBs to collaborate with each other.
13. Employer and employee advisory groups	This clause enables an ISB to establish an employer and employee advisory committee where there may not be adequate collective representation of employers or employees in the membership of the Board as a whole.
Appointment of general manager and staff	
14. Employment of general manager and other employees	This clause requires the ISB to employ a general manager and enables the ISB to employ other staff as required for the performance of the Board's functions
Schedules	
15. Schedule 1 – Coverage of the Board	This schedule sets out the industry coverage of the ISB with sector descriptions and reference to the Australia and New Zealand Standard Industrial Classification 2006 (ANZSIC) codes, published by Statistics New Zealand

12. The '**Title, commencement and interpretation**' and '**Establishment and coverage of the Board**' sections contain largely *pro forma* clauses required for the Orders to be issued. '**Appointment of general manager and staff**' is needed to ensure ISBs employ a General Manager / chief executive or equivalent. We discuss the remaining sections below.

Functions, planning and reporting

Statement of strategic direction

13. Currently the WDCs are required to each produce, at least every three years, a Statement setting out their intended strategic direction for the next five years. When developing its Statement, a WDC is required to engage with its industries and must consult with the Minister, industries and with vocational education providers before issuing it.

14. The Statement must include at minimum:

    14.1. How the Council intends to perform its functions;
    14.2. How it will give effect to the Tertiary Education Strategy; and
    14.3. The measures used to assess performance against the Statement.

15. This has been a valuable accountability and engagement document, and so we propose ISBs also be required to produce one. As well as providing a basis for measuring performance, the process of developing the Statement will be a useful mechanism for ensuring that industries, the Minister, polytechnics, and other VET providers have input into the long-term work and approach of the ISBs.

Annual Report

16. This is a largely standard provision that will require the ISB to produce an annual report, including audited financial statements. We propose retaining the requirement that this report include an outline of progress against the Statement of Strategic Direction.

17. Currently the WDC Orders also specify that this report be provided both to the industries the Council covers, and to the Minister. Including industries helps ensure standards-setters are accountable to their industries so we propose retaining this requirement in the Orders for ISBs.

Industry engagement and collaboration with other Industry Skills Boards

Industry engagement

18. To ensure ISBs are seen as genuinely industry-led, regular and high-quality engagement with their industries will be critical. We strongly recommend that ISBs, like WDCs, have provisions setting out requirements for engagement with their industries.

19. A view that has been consistent across all the VET consultations, including in Select Committee submissions on the Bill, is that formal requirements for ISBs to maintain industry advisory groups or similar engagement models are necessary.

20. The industry engagement clauses in each current WDC Order are set out in Appendix 1. While there are significant variations, there are also common elements including establishment of industry advisory/stakeholder groups. The Engineering/Manufacturing, Construction, and Primary sectors WDCs all have obligations for broader engagement with their industries and relevant industries.

21. Based on what has worked well with the current Orders and along with feedback from consultations over the past year, we recommend that ISB industry engagement provisions:

21.1. require the establishment of sufficient national industry advisory groups for the ISB's industries to provide input into the performance of the ISB's functions and duties;

21.2. clearly specify a role for these groups in holding the ISB accountable for its performance for industry;

21.3. require the ISB to engage with industry associations and peak bodies, to understand their plans and strategies, and to identify opportunities for the ISB to contribute to those plans and strategies; and

21.4. require the ISB to develop a mechanism for regularly engaging with, and reporting to, its industries beyond the establishment of its industry advisory groups.

22. How ISBs will engage with industry has been a prominent theme in all rounds of consultation, and there is likely to be considerable interest from industries on this issue. The ISB Boards will agree how to apply the industry engagement requirements in 2026.

Collective Representation

23. Following submissions on the Bill at Select Committee, the revision-tracked version now requires ISBs to make arrangements for the inclusion of collective representation of employers and employees in their industry. Unlike WDCs, they will not be required to have a minimum number of groups nominated by and representing any groups.

24. We anticipate that ISBs will meet these legislative requirements in part through the nomination and appointment of ISB members. To allow for situations where this is not practicable, we propose that each Order would allow an ISB to instead establish an employer and employee advisory group to the ISB.

Collaboration with other ISBs

25. Current WDC Orders all contain a 'Collaboration with other WDCs' provision, which supplements the requirements set in the primary legislation. These provisions require:

25.1. Identifying industries where close collaboration with other Councils is needed to meet training needs.

25.2. Developing engagement models – for both industries and other Councils – that ensures those needs are met.

25.3. Coordinating activities with other Councils.

26. We recommend carrying this over for ISBs as was signalled in the Departmental Report to the Select Committee considering the Bill.

Training activities during the transition period

27. While ISBs are managing work-based learning (WBL) on a temporary basis only, it would be both useful and prudent to include provisions in the Orders to support the ISBs' management of WBL activities over this period. Under the empowering provisions for the Orders, it is permissible to set conditions on how ISBs perform their functions and use their assets in the secondary legislation.

28. The ISBs will be subject to normal investment and quality assurance processes from the TEC and NZQA, so any requirements set by the Order should be additional and

achievable without the ISB needing to significantly invest in new capability or infrastructure (that it will need only temporarily).

29. The focus of these provisions would be on how WBL is managed by the ISB during the transition period. However, provisions could also support the process of transitioning WBL out to providers.

30. Our initial consideration has identified where provisions in the Orders could add value and support the management of WBL training activities, as follows:

    30.1. **Use of Work-based Learning Assets**. You have previously confirmed a decision that the ISBs would manage WBL divisions as distinct units and to not mix the operations of their 'standards-setting' functions and 'training' functions [METIS 1344041 refers]. A way to support this though the Orders could be by requiring the creation of organisational and financial 'firewalls' between these functions, including with regard to income from fees. This would both assist in a smoother transition of WBL to providers and avoid ISBs developing business models that were funded through cross-subsidising their core functions from training activities.

    30.2. **Transition Requirements**. The transition of WBL from ISBs to providers will primarily be subject to the investment guidance and approval of plans by the TEC, but it may also be appropriate to set some requirements for the ISB in the Order.

    30.3. **Disposal Requirements**. In some cases, an ISB may end up with a small number of residual assets once they have transferred WBL to all available providers, and the transition period has ended. The Orders can set rules to govern how assets must be treated in these cases.

Disestablishment of Workforce Development Councils

31. The Orders in Council required to disestablish each WDC need to specify the date that the relevant WDC is to be disestablished and, if necessary, provide for the distribution of any residual assets and liabilities at the date of disestablishment. We will come back to you with further advice regarding proposals for the distribution of any residual assets and liabilities closer to the time.

Next Steps

Timeline for Orders in Council process

32. Below sets out the steps required and proposed timeline for the Orders in Council

Activity / Task	Due date
Advice to Minister	28 August
Minister feedback and decisions	1 September
Consultation material and stakeholder engagement plan to Minister	4 September
Minister feedback	9 September
Preliminary consultation	9 – 23 September
Analysis and recommendation on Orders to Minister	3 October
Minister feedback and decisions	7 October
Drafting instructions issued to PCO	7 October
Draft Cabinet paper and Orders to Minister for approval	16 October

Minister feedback and approval to undertake formal consultation	21 October
Short sector consultation following Royal Assent of Bill	21 – 29 October
Advice to Minister confirming details of Orders and Cabinet paper	30 October
Minister feedback and approval to go for agency and Ministerial consultation	31 October
Agency and Ministerial consultation following Royal Assent of Bill	3 – 7 November
Incorporate any feedback into Orders and Cabinet paper and further draft to Minister	11 November
Finalise Cabinet paper and lodge for EXP Committee	13 November

33. Please either confirm our recommended approach or indicate if you wish to discuss the proposals in this paper with officials.

34. We will continue to work with the TEC to develop consultation materials to be used in pre-consultation engagement We will then work with PCO to further develop drafting proposals for specific provisions. Final drafting instructions for the Orders cannot be issued until the Bill has been passed.

Annexes

The following are annexed to this paper:

Annex 1: Industry Engagement Clauses in Workforce Development Council Orders in Council

Recommended Actions

The Ministry of Education recommends you:

a. **discuss** with officials the proposed content of Orders in Council set out in Table 1

Yes / No

b. **note** that Orders in Council are required to disestablish Workforce Development Councils

Noted

c. **agree** that

i. An Industry Skills Board will be required to produce a Statement of Strategic Direction

Agree / Disagree

ii. An Industry Skills Board's Annual Report must be provided to both the Minister and its industries

Agree / Disagree

iii. An Industry Skills Board's Order in Council will include industry engagement requirements

Agree / Disagree

iv. An Industry Skills Board will be permitted to meet its collective representation requirements as far as practicable through an advisory group, if it cannot do so through its Board members

Agree / Disagree

v. An Industry Skills Board's Order in Council will include provisions relating to collaboration with other Industry Skills Boards

Agree / Disagree

vi. An Industry Skills Board's Order in Council will include provisions governing work-based learning and associated assets during the transition period

Agree / Disagree

Proactive Release:

d. **agree** that the Ministry of Education release this paper once the secondary legislation instruments have been issued and published with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

Agree / Disagree

9(2)(a)

VET Programme Manager

Te Pou Kaupapahere

28/08/2025

Hon Penny Simmonds

Minister for Vocational Education

30/08/25

Te Tāhuhu o te Mātauranga
Ministry of Education

Annex 1: Industry Engagement Clauses in Workforce Development Council Orders in Council

WDC	Hanga-Aro-Rau (Engineering & Manufacturing)	Muka Tangata (Primary)	Ringa Hora (Services)	Toi Mai (Creative)	Toitū te Waiora (CHESS)	Waihanga Ara Rau (Construction)
Industry Engagement Provisions	The Council must— (a) establish enough national industry advisory groups to— (i) provide a mechanism for the specified industries to provide input into the performance of the Council's functions; and (ii) enable industry to raise issues and concerns about the governance, management, and operation of the Council; and (b) share information with the national industry advisory groups about how the Council has performed its functions; and (c) establish mechanisms for regular reporting to participants in the specified industries and the national advisory groups.	**(1)** The Council may establish industry stakeholder groups to enable persons or bodies having an interest in the specified industries (including, without limitation, industry associations and industry peak bodies, trade unions, learners, Māori, and Pacific peoples), as determined by the Council, to engage with the Council in relation to the performance or exercise of its functions, duties, and powers, including for the following purposes: (a) to gain deeper understanding of the breadth of the specified industries: (b) to gain deeper understanding of the current, emerging and future skill requirements of employees working in the specified industries: (c) to identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women, and people with disabilities, within the specified industries or as part of a wider group of learners coming within the coverage of other workforce development councils: (d) to enable the specified industries to raise issues and concerns about the governance, management, and operation of the Council. **(2)** The Council must engage with iwi, Māori, and statutory national Māori bodies connected to the specified industries to the extent necessary to give effect to the functions of the Council, including by acting in a manner that contributes to an education system that honours Te Tiriti o Waitangi and supports Māori–Crown relationships. **(3)** The Council must engage with industry associations and industry peak bodies to understand and contribute to strategies developed by those industry associations and industry peak bodies. **(4)** The Council must engage with unions regarding the performance or exercise of its functions, duties, and powers.	The Council must make arrangements (for example, by establishing industry stakeholder groups) for ensuring that the specified industries have an adequate opportunity to provide input to the Council in support of the performance of its functions, including (without limitation)— (a) providing information and views— (i) that assist the Council in formulating its advice to the TEC on investment in vocational education and training and workforce planning for the specified industries; and (ii) on the current and future skills and knowledge requirements in the specified industries; and (iii) on reviews of industry qualifications; and (iv) on career pathways into and within the specified industries; and (v) that assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries; and (b) enabling the specified industries to raise issues and concerns about the governance, management, and operation of the Council.	**(1)** The Council must make arrangements (for example, by establishing stakeholder groups) to ensure that persons or bodies who have an interest in the specified industries (including employers and Māori employers, industry bodies, employees, independent earners, iwi and hapū partners, and learners) have adequate opportunity to provide input that will assist the Council in the performance of its functions. **(2)** Without limiting subclause (1), the arrangements must ensure that the specified industries are able to— (a) provide information and views— (i) on the current and future skills and knowledge requirements of the specified industries; and (ii) on reviews of industry qualifications; and (iii) on career pathways into and within the specified industries; and (iv) that will assist the Council in formulating its advice to the TEC on investment in vocational education and training and workforce planning to address the needs of the specified industries; and (v) that will assist the Council to undertake strategic workforce leadership and research and to provide advice and support to the specified industries; and (b) raise issues and concerns about the governance, management, and operation of the Council.	**(1)** The Council must make arrangements (for example, by establishing industry stakeholder groups) to ensure that the specified industries have adequate opportunity to provide input that will assist the Council in the performance of its functions. **(2)** Without limiting subclause (1), the arrangements must ensure that the specified industries are able to— (a) provide information and views— (i) on the current and future skills and knowledge requirements of the specified industries; and (ii) on reviews of industry qualifications; and (iii) on career pathways into and within the specified industries; and (iv) that will assist the Council in formulating its advice to the TEC on investment in vocational education and training and workforce planning to address the needs of the specified industries; and (v) that will assist the Council to undertake strategic workforce leadership and research and to provide advice and support to the specified industries; and (b) raise issues and concerns about the governance, management, and operation of the Council	**(1)** The Council must establish enough national industry advisory groups to enable the specified industries to provide input that will assist the Council in the performance of its functions. **(2)** The Council must develop and implement an engagement model that sets out the means by which the specified industries may engage with the Council and advise and assist the Council in performing its functions. **(3)** The engagement model must— (a) take into account the needs of particular industries and specialist areas within the coverage of the Council and the specified industries as a whole; and (b) specify the means by which a specified industry can raise any concerns arising from the Council's performance of its functions; and (c) describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least 1 annual meeting with representatives of the specified industries.