

Proposed Content of Orders in Council

Once the legislation setting up the new vocational system is passed, each Industry Skills Board (ISB) will need to be established through an Order in Council (Order). In this document we are providing some background information to help inform you and support your participation in the pre-consultation engagement we're conducting on what will go in these Orders.

What will be in each Order in Council?

Most of the things necessary for setting up an ISB are going to be in primary legislation: the Education and Training Act 2020. This is different from Workforce Development Councils (WDCs), where lots of things weren't set out in the Act and needed to be included in an Order in Council. For example, how members of an ISB are appointed will now be in the Act rather than in an Order.

Because of this difference in approach, the ISB Orders can be much shorter than those for the WDCs. But there are still some things that have to be in them, including the name of the ISB, the industries it covers, and any additional functions they might have beyond those set out in the Act. An Order can also explicitly include:

- Specifications for engaging with industries.
- Requirements for how an ISB uses its assets.
- Conditions on how an ISB does its work.
- Clarification of governance elements.

An Order can't change anything in the main Act, such as the number of Board members. While it can give an ISB additional functions, and some could be added in the future, none are being added to these first 'establishment' Orders.

What is being discussed now?

A lot of each Order's content will be technical. For example, it will state the date on which the ISB is established, ensure that a Chief Executive is employed, and require the ISB to produce an annual report. We aren't discussing those parts at this point, although you will have the opportunity to provide feedback on them when we consult on the full Orders later in the year.

But there are some important areas where we want to engage with you on what might be included in each Order. This will inform the actual Orders that are prepared once legislation passes.

We are seeking your views on proposed content in four areas, so that we can prepare Orders that reflect the viewpoints of each ISB's stakeholders. These areas are:

Managing Work-based Learning

As ISBs will manage apprenticeships and traineeships for some time, we think that there need to be some guardrails in each Order to prevent ISBs from mixing their temporary training management and their core standards-setting functions. But we also don't want these to be excessive on top of the standard Tertiary Education Commission and New Zealand Qualifications Authority (NZQA) processes that an ISB will need to follow.

We are proposing that the Orders specify that while an ISB is managing work-based learning, it should use its work-based learning assets and income to support work-based learning instead of mixing them with the assets and income linked to standards-setting. This includes the income it gets for running those programmes, to prevent cross-subsidisation and ISBs becoming reliant on training income. But we are also proposing that some of the income they receive can be used to support the additional governance and management costs to the ISB of offering that training.

Obligations to Collaborate

The main Act will require ISBs to collaborate with each other, as well as with providers, NZQA, and occupational regulators (like the Plumbers, Gasfitters, and Drainlayers Board). Given feedback received during the Select Committee process, we think that it would be good to include some more explicit requirements around collaborating with each other to meet the needs of industries that cross over coverage areas.

Industry Engagement

We see it as very important for the Orders to set some requirements for how an ISB engages with its industries. As ISBs need to manage their costs, each one's engagement approach will need to reflect the resources it has available as well as the needs of its sectors. This means these requirements will need to be flexible. We have looked over the feedback we received during earlier consultation, and are proposing to:

- require an ISB to establish sufficient national industry advisory groups for its industries to provide input into the performance of the ISB's functions and duties;
- clearly specify that these groups have a role in holding the ISB accountable for its performance for industry;
- 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
- require the ISB to develop a mechanism for regularly engaging with, and reporting to, its industries beyond setting up its advisory groups.

Statement of Strategic Direction

We are proposing that each ISB is required to produce, at least every three years, a Statement setting out their intended strategic direction for the next five years. This will have to include:

- How the ISB intends to perform its functions;
- How it will give effect to the Tertiary Education Strategy; and
- The measures it will use to assess performance against the Statement.

We are also proposing that an ISB must engage with its industries when developing this Statement, and that it must consult both the Minister for Vocational Education and vocational education providers (like Polytechnics, private training establishments, and Wānanga).

What happens next?

Once we have finished this engagement, the Ministry of Education will use your feedback and work with other agencies to develop the specific Orders for each ISB. The Minister for Vocational Education, on behalf of the Government, is responsible for finalising the content of each Order.

Each Order has to be formally consulted on before it can be issued by the Governor-General. We expect legislation to be passed in October, after which we will finish drafting each Order and consult with you on them. This means that in late October you will have the opportunity to comment on the specific language and requirements used in the Order that sets up each ISB, including the technical elements mentioned earlier.