



COVERSHEET

Minister	Hon Andrew Bayly	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Modernising the Companies Act 1993 and Making Other Improvements for Business	Date to be published	15 August 2024

List of documents that have been proactively released

Date	Title	Author
31 July 2024	Modernising the Companies Act 1993 and Making Other Improvements for Business	Office of the Minister for Commerce and Consumer Affairs
31 July 2024	Modernising the Companies Act 1993 and Making Other Improvements for Business ECO-24-MIN-0149 Minute	Cabinet Office
31 July 2024	Appendix 1: Proposals in the Companies Act, Limited Partnerships Act, and Insolvency Act with a Regulatory Impact Analysis Exemption	MBIE
31 July 2024	Appendix 2: Amendments to RSB 3 proposals	MBIE
31 July 2024	Appendix 3: Regulatory Impact Statement: Companies Act 1993 Modernisation and Simplification Changes	MBIE
31 July 2024	Appendix 4: Regulatory Impact Statement: Making it easier for government agencies to require an NZBN	MBIE
31 July 2024	Appendix 5: Better Visibility of Individuals Who Control Companies and Limited Partnerships CAB-21-MIN-0539.01 Minute	Cabinet Office
31 July 2024	Appendix 6: NZBN legislative proposals – additional detail	MBIE
31 July 2024	Appendix 7: Business registers and associated legislation in scope for NZBN changes	MBIE

Information redacted

YES / NO (please select)

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Confidential advice to Government.

Regulatory Impact Statement: Making it easier for government agencies to require an NZBN

Purpose of Document	
Decision sought:	Changes to section 29 of the New Zealand Business Number (NZBN) Act 2016
Advising agencies:	MBIE
Proposing Ministers:	Minister for Small Business and Manufacturing
Date finalised:	25 July 2024
Problem Definition	
<p>Government agencies are not routinely using the NZBN identifier and data on the NZBN Register when transacting with businesses. One reason for this are the current legislative settings, which constrain government agencies from making NZBN usage compulsory.</p>	
Executive Summary	
<p>The NZBN is a unique global business identifier available to every New Zealand business. It was established to make business to government and business to business interactions faster, by enabling core business information to be prepopulated.</p> <p>The NZBN is linked to core business data held on the NZBN Register such as legal name, trading name, owners/ directors' names and address. All companies have NZBNs, as do most small businesses and sole traders. Getting an NZBN is easy and costs nothing.</p> <p>Full use of the NZBN by government and business will lower transaction costs and facilitate the shift to a digital economy. In the future, the NZBN will also underpin digital identity for NZ businesses (much as Realme does for individuals). But for these benefits to be realised, the NZBN needs to be used widely.</p> <p>In particular, government agencies need to make the NZBN a more integral part of their transactions with suppliers and customers. This will in turn motivate businesses to get an NZBN and keep their data complete and up to date.</p> <p>When the NZBN was introduced, a Government Direction was put in place requiring that agencies either start using it, or (at minimum) consider introducing it. The vision behind this Direction was that government would ask businesses for their data once only, and subsequently this core information would be sourced directly from the NZBN register.</p> <p>Implementation by agencies has remained patchy, however, and eight years after the NZBN Act was passed, this vision is still some way from being achieved.</p> <p>Section 29 of the NZBN Act is contributing to this problem. It sets out that if a government agency wants to require an NZBN as a condition of service, it must undertake regulatory analysis, consult with the Office of the Privacy Commissioner (OPC) and then obtain Cabinet's approval for an Order in Council (a two-stage Cabinet process). This process is time and resource intensive, and as such has had very limited use.</p> <p>From an ICT design perspective, the issue is that if an NZBN cannot be made mandatory, it is often easier and cheaper not to build it in at all. Also, the s29 requirements send a</p>	

confused signal – on one hand, the Government Direction requires that agencies use the NZBN, while on the other, s29 appears to indicate a low level of comfort with that use.

MBIE considers that s29 is unnecessarily constraining NZBN usage. Whilst it is highly protective of people's privacy, time has proven the privacy risks posed by NZBN information are low. Furthermore, a separate legislative proposal being advanced alongside this one will enable individuals to have NZBN data fields suppressed if they consider that making them public could impact their or their family's privacy or safety.

MBIE considers that change is warranted. This view is supported by government departments we have consulted with, and Business New Zealand. The OPC was not able to provide input, due to competing priorities.

In this RIS, we analyse three alternative options. Our overarching objective is to increase uptake and use of the NZBN across the economy, and to improve the accuracy and availability of the data on the NZBN register. For this RIS, our specific objective is to increase utilisation of the NZBN in business to government interactions, by making it easier for agencies to require an NZBN as a condition of service.

Option One – the Minister responsible for the NZBN and the Minister responsible for the agency wanting to require an NZBN would jointly agree its mandatory use. Agencies would need to provide the same information currently provided to Cabinet, including the results of consultation with the OPC. Whilst slightly less time consuming and highly privacy protective, in our view this option is still more onerous than necessary.

Option Two – the NZBN Registrar would be responsible for approving mandatory NZBN use upon application from agencies. The statutory assessment criteria would remain, but there would be no Cabinet process nor any need to consult with the OPC. The need for approval from the NZBN Registrar will ensure that agencies are abiding by the purposes of the NZBN Act.

Option Three (recommended) – agencies make their own decisions about whether their processes should include mandatory use of the NZBN, without any requirement for consultation with the OPC or statutory assessment criteria. Mandatory use decisions would need to be consistent with the purposes of the NZBN Act, and with any other legislation governing the service in question.

There are no direct implementation costs associated with this option as the proposal is merely making it administratively easier for government agencies to require an NZBN when they opt to do so. The process for obtaining and maintaining an NZBN for businesses is quick and easy, so there are no compliance costs for businesses.

Limitations and Constraints on Analysis

The principal constraint is that there is no certainty that even with an easier process to make NZBN usage mandatory, agencies will choose to do so. While the agencies we have consulted with support the change, they have not committed to making use of a more facilitative legislative process. This means that we cannot be certain that the proposed change will actually increase NZBN usage (and therefore bring New Zealand closer to realising its potential economic benefits).

A low level constraint is a lack of international data relating to the process government agencies need to undertake to utilise their respective unique identifiers. The Australian Business Number, for example, was established on a different premise (as part of the tax system) and its mandatory use is built into their tax system. Singapore's business identifier was introduced to support a range of e-business initiatives and is mandatory for all

businesses. This makes it challenging to draw direct comparisons. What is clear is that the respective business identifiers in these two countries are used more widely.

Responsible Manager

Kate Challis

Manager, Small Business and Manufacturing Policy

MBIE

25 July 2024

Quality Assurance (completed by QA panel)

Reviewing Agency: MBIE

Panel Assessment & Comment: An internal quality assurance panel convened by MBIE has reviewed the Impact Statement and considers that it meets the Quality Assurance criteria for Ministers to make informed decisions on the proposal in this paper that is subject to RIA requirements.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The NZBN is a unique digital identifier which contains core business information that businesses can use in interactions with government and with each other.

This information, called primary business data (PBD), is kept on the NZBN Register. All incorporated entities (companies, limited partnerships, overseas companies, building societies etc) are automatically given an NZBN as part of the incorporation process. NZBNs are not compulsory for unincorporated entities (sole traders, partnerships and trusts). Around one million incorporated entities have an NZBN, and around 180,000 unincorporated entities.

When it was introduced, the NZBN was envisioned as a means of fundamentally changing how businesses interact with government and with each other, ultimately contributing to increased digitalisation and productivity. It would achieve this by removing the requirement for companies to continually provide the same information to government agencies, and each other. Furthermore, NZBN data could be used for market research, to facilitate international trade, and as a means of verifying a company's identity.

But for the NZBN to be useful, it has to be used widely, especially by government agencies. Several issues are constraining uptake and use of the NZBN, including:

- Government agencies are not routinely using the NZBN in their interactions with businesses, diminishing the need for businesses to get an NZBN and keep their data complete and up to date.
- Too much information for unincorporated entities is set to 'private', affecting the availability of data on the NZBN Register.
- Some NZBN data fields are not verified (due to the cost and complexity this would involve), so the NZBN register can't always be taken as authoritative

This RIS addresses the first issue listed above. MBIE is working on separate proposals relating to the other issues. These proposals do not reach the threshold for a RIS.

NZBN use by government agencies has not reached the desired level

The NZBN Act contains a mix of voluntary and mandatory elements. Overall, the legislative design appears to imply that NZBN usage should be "as voluntary as possible." When the NZBN was introduced, it was expected that government agencies and businesses would see its benefits and use it widely. This being the case, no consideration was given to making it compulsory across the board.

At the time, business stakeholders welcomed the idea of providing core business information to government in one place at one time. But they also noted that if it became "just another business identifier" it would have failed. Policy papers at the time noted that a potential Catch-22 might occur – where agencies don't use the NZBN because the Register doesn't provide complete or accurate information, and businesses don't enter that information or keep it up to date because agencies don't use it.

In response, the government issued Government Directions to departments and Crown entities, requiring them (in essence) to phase in use of the NZBN as fast as was practical. Despite these Directions being in place since 2016, however, this Catch-22 is now at least partially realised.

A 2023 survey of NZBN usage by government departments found that implementation of the Directions has been patchy at best. For example, while 75% of respondents can identify a business by its NZBN without requiring an additional identifier, only 30% can electronically access NZBN data. Around 25% have considered replacing another identifier with the NZBN, but only one has actually done so.

Agencies have advanced several reasons for this slow progress:

- the data held on the NZBN register is often incomplete, and for unincorporated entities, too much is set to private (meaning it doesn't show up in search results)
- replacing agency-specific identifiers with the NZBN is costly, and furthermore, the NZBN Register (even if fully complete and up to date) will normally only contain some of the information that agencies need
- the voluntary nature of the NZBN makes it a low investment priority. There will never be certainty that businesses' information will be complete, up to date and public.

What is the policy problem or opportunity?

MBIE considers that more emphasis needs to be placed on the original NZBN policy intent for business to 'tell government once'. Quality and efficiency gains can be made from business data that comes from a single, verified and trusted source. Government agencies stand to make reputational gains by using the NZBN to prepopulate their forms, rather than making businesses provide the same information repeatedly.

Small businesses are disproportionately affected by government form filling requirements as they are time poor and don't have specialised staff to perform these administrative functions. 'Telling government once' would come with obvious savings in time and compliance costs. Given that 98% of businesses in New Zealand are small, the positive benefits that come with optimal use of the NZBN could have a significant effect on productivity.

Requirements in section 29 of the NZBN Act are deterring agencies from building the NZBN into their systems

Section 29 of the NZBN Act states:

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister made in accordance with subsection (2), make regulations authorising a government agency to require an eligible entity, or a class of eligible entity, to which the agency provides services to register for an NZBN and provide that NZBN to the agency.

(2) Before making a recommendation under subsection (1), the Minister must—

(a) consult the Privacy Commissioner and take into account the potential privacy effects of the authorisation; and

(b) have regard to the following matters:

(i) the advantages and disadvantages, for eligible entities, of the authorisation; and

(ii) the potential effects of the authorisation on the government agency's costs.

This means that, if a government agency wants to require businesses to provide their NZBN in an application process, it must get Cabinet approval for an Order in Council, following regulatory analysis and consultation with the Privacy Commissioner. This process is both time and resource intensive. As such, mandatory use has only been invoked four times since 2016, for the:

1. Covid-19 Resurgence Support Payment
2. Small Business Cashflow Scheme
3. Digital Boost educational programme, and
4. Accredited Employer visa programme.

In the instance of 1, 2 and 3 above, the s29 requirements did not need to be followed because the Orders were issued in reliance on the COVID-19 Public Health Response Act 2020. Therefore, in reality, the s29 process has been used once only in eight years.

In our conversations with government agencies, we have heard that the s29 requirements are contributing to patchy NZBN use, for two reasons:

- The prospect of having to undertake regulatory analysis, obtain Privacy Commissioner and Cabinet consent for an Order in Council and prepare two Cabinet papers deters agencies and Ministers from entering into the process to make an NZBN a mandatory part of an application process. This in turn limits the extent to which the NZBN is used by agencies (because if it can't be made mandatory, it's easier from a process design perspective to not use it at all).
- The s29 requirements could be taken to suggest that the Government has a level of scepticism in relation to the benefits of NZBN, given it has instituted a process whereby its benefits and potential privacy impacts must be considered on each occasion a government agency wants to mandate its usage.

Section 29 was strengthened during the NZBN Bill's passage through Parliament, to provide more assurance over risks to privacy

The requirement in s29 for agencies to consult with the Office of the Privacy Commissioner (OPC) is meant to address concerns the Commissioner raised at the time it was being established. Namely, that the NZBN could become a de facto requirement based on only operational considerations, at the detriment of business's right to control their information.

This concern was documented in the Regulatory Impact Statement (RIS) published in 2014. Here, the OPC agreed that the "concern could be managed through the NZBN legislation requiring agencies to consider privacy issues before they require the mandatory use of the NZBN." The RIS (titled *Extending the New Zealand Business Number*), further states:

The NZBN registrar would be responsible for determining whether the legislated criteria to permit mandatory use have been met by agencies. The legislated criteria are proposed to be:

- a. nature of the agency, for example the scope and function of the agency and the range of business sophistication of its customers*
- b. benefits to the agency*
- c. nature of the services provided to the business by the agency*
- d. benefits to the individual arising out of the services provided by the agency*
- e. the costs and benefits to businesses and NZBN registered entities more generally*
- f. privacy impacts, with consultation with the Privacy Commissioner.*

These criteria should ensure that there is an appropriate balance between the costs and benefits of mandating use of the NZBN and remove the risk of an excessive focus on operational benefits to the detriment of other outcomes. They are consistent with information matching criteria in the Privacy Act 1993.

These concerns were reflected in the design of the NZBN Act 2016 as it was introduced, and in particular the specific requirements of s29. In the Bill's select committee phase, the Commerce Committee decided to strengthen this provision. Its report says:

Delegated power to authorise an agency to require an entity's NZBN

The power to authorise a government agency to require an entity to register for, and provide, an NZBN would be delegated by clause 29. The clause intends to grant agencies flexibility to adopt the NZBN system at times most suitable to them. However, given the element of compulsion and the privacy implications for entities, we recommend inserting new subclause 29(2). This would require the Minister, when recommending regulations, to consult the Privacy Commissioner. It would also require the Minister to consider the advantages and disadvantages of the authorisation for eligible entities and the potential effects on costs for the government agency.

But experience since the NZBN Act was passed suggests the privacy risks are low

The s29 provisions were included in the NZBN Act as a universal business number was a new concept at the time. From today's perspective, however, it is arguable that s29 is not necessary to protect people's privacy.

- **Businesses must already supply their core data in interactions with agencies.** Agencies routinely ask businesses for core information before providing a service. In the absence of receiving that information, the service in question is unlikely to be provided. The NZBN simply shortcuts the process of obtaining this information. A principled argument can be made that, when seeking a service from government, a business has an obligation to be transparent about basic information such as its name, who owns it, and where it operates.
- **A separate legislative proposal being advanced alongside this one would see a process put in place to suppress personal information.** Cabinet agreed in 2018 that unincorporated businesses' legal/trading names, and owners/directors' names should be public by default, in the same way as it is for companies.
To manage any risks around this, Cabinet also agreed that a person may apply to the NZBN Registrar to suppress this information if releasing it would risk their or their family's personal safety or privacy. Legislation to progress this was delayed by COVID-19 and other competing priorities and will now be advanced alongside changes to s29.
- **Government agencies must adhere to the Privacy Act.** All government agencies are bound by the Privacy Act in respect of the collecting, holding and using all personal information, including that held on the NZBN Register.
- **The Privacy Commissioner has oversight of the NZBN register.** The Privacy Commissioner may require the NZBN Registrar to report on the operation of the register and the collection and handling of personal information in it. This provision (s35 of the NZBN Act) enables the Commissioner to assess the effects that the register has on the privacy of individuals in business.
- **In practice, no privacy issues have emerged in relation to the NZBN.** There have been no reported privacy breaches or privacy-related complaints reported to MBIE during the times that mandatory use has been required. The COVID-19 related services were provided to a large number of businesses, including many sole traders.
- **Parliament's Regulations Review Committee can review any PBD changes.** If the Committee considers that a new data field isn't actually core business information, it can recommend disallowing that change.

Section 2: Deciding upon an option to address the policy problem

What objectives are sought in relation to the policy problem?

Our overarching objective is to increase uptake and use of the NZBN across the economy, and to improve the accuracy and availability of the data on the NZBN register. For this RIS, our specific objective is to increase utilisation of the NZBN in business to government interactions, by making it easier for agencies to require an NZBN as a condition of service.

What criteria will be used to compare options to the status quo?

Options will be assessed based on the following criteria:

Table One: Assessment Criteria

Effective	The changes will help improve NZBN uptake and usage.
Efficient	The option is practical and safeguards scarce agency resources.
Protective	The regulatory requirements will protect people’s privacy and ensure mandatory use of the NZBN accords with the NZBN Act’s purposes.

Three options for change are evaluated below.

Option One: Joint Ministers may approve mandatory use. Retain statutory assessment criteria and requirement to consult with the Privacy Commissioner

Under this option, the Minister responsible for the NZBN (currently the Minister for Small Business and Manufacturing) and the Minister responsible for the agency concerned would jointly agree its mandatory use. There would be no Cabinet process, but the agencies would need to provide Ministers with the same information that is currently provided to Cabinet. This includes the result of consultation with the OPC.

Option Two - NZBN Registrar decides on mandatory use applications, after considering statutory assessment criteria

This option would remove the need for an Order in Council and the requirement to consult with OPC. Instead, government agencies could apply to the NZBN Registrar (a statutory role housed in MBIE) for approval to make NZBNs mandatory. In reaching a decision, the Registrar would need to consider the same statutory criteria as set out in s29 now.

Option Three (recommended) - Government agencies can make the decision to require an NZBN independently, without statutory requirements for consultation or assessment criteria

Under this option, agencies could decide on their own whether to require an NZBN as a condition of service. Formal responsibility for this decision would sit with the agency Chief Executive. The NZBN Act would enable a government agency to require an eligible entity to obtain and provide an NZBN for the relevant service; but only if doing so would be consistent with the purposes of the NZBN Act and any relevant legislation under which the agency provides the service in question.

How do the options compare to the status quo/counterfactual?

<i>Criteria</i>	Status Quo	Option One – Joint Ministers may approve mandatory use. Retain statutory assessment criteria and requirement to consult with the Privacy Commissioner.	Option Two – NZBN Registrar decides on mandatory use applications, after considering statutory assessment criteria.	Option Three (recommended) – Government agencies can make the decision to require an NZBN independently, without statutory requirements for consultation or assessment criteria.
Effective	A government agency can require an NZBN as a condition for providing service, but it first must gain Cabinet consent for an Order in Council.	<p>+</p> <p>This option would make the s29 process less difficult, as it removes the requirement for an Order in Council. It retains the need to consult with the OPC, making it a multi-step and possibly lengthy process. As such, the option is unlikely to be significantly more effective than the status quo.</p>	<p>++</p> <p>The Registrar has a statutory obligation to promote the NZBN and we expect that she or he would work alongside agencies to assess which of their processes are suitable for mandatory NZBN use.</p> <p>That said, the Registrar is unlikely to be across all situations where mandatory NZBN use may be appropriate, and involvement of any third party still introduces potential for complexity and delay.</p>	<p>+++</p> <p>Decisions to proceed with mandatory use would sit with the agency concerned and would likely be taken at Service Design level. This is the most nimble and responsive approach – some business services are set up at short notice and decisions about what information requirements will be mandatory are taken at pace.</p> <p>There is a risk that the self-reliance involved makes agencies <i>less</i> inclined to make provision of an NZBN mandatory, as they would then need to own this decision themselves. But We expect that (as with option 2) the NZBN Registrar would work alongside agencies to assess which of their processes are suitable for mandatory NZBN use.</p>

<p>Efficient</p>	<p>The process requires an agency to prepare two Cabinet papers and PCO to draft an Order in Council.</p>	<p>+</p> <p>The process is more efficient than the status quo. Nonetheless, the requirement to prepare a Joint Ministers paper still imposes a resource burden that agencies may not see as justified.</p>	<p>++</p> <p>The NZBN Registrar could proactively engage with agencies to help them develop the required information, in the right form. This would reduce the need for involvement from agency policy teams, and hence save resource.</p>	<p>+++</p> <p>The option is the most efficient, as under this option there would be no need for government agencies to consult externally.</p>
<p>Protective</p>	<p>The process requires each agency to consult with the OPC.</p>	<p>+++</p> <p>This option retains the statutory requirement for a consultation with the OPC. This ensures a high level of privacy protectiveness. The need for a Joint Ministers paper with statutory assessment criteria would ensure that any intended mandatory use complied with the intent.</p>	<p>++</p> <p>The NZBN Registrar has a clear interest in preserving the NZBN's reputation and ensuring that it is used appropriately. The Privacy Commissioner already has statutory authority to inquire into the operation of the NZBN Register, thus maintaining the Registrar's incentives to ensure an appropriate level of privacy protection.</p> <p>This option would risk role clarity for the NZBN Registrar, as it puts them in the dual role of both encouraging agencies to request mandatory NZBN use, and deciding on those same applications.</p>	<p>+</p> <p>Delegating decisions to authorise mandatory use to agencies, without need for external involvement, could be perceived as creating a situation where agencies are free to prioritise their administrative convenience.</p> <p>There is some risk that agencies take divergent approaches to making NZBNs mandatory, in ways that don't align well with the purposes of the NZBN Act. To mitigate this risk the Registrar would need to proactively monitor agency decisions on mandatory usage, and intervene where appropriate. This role falls within the Registrar's existing statutory responsibilities, which state that she/he needs to 'uphold the integrity of the NZBN and the register.'</p>

<p>Overall Assessment</p>	<p>Over the last nine years the s29 process has been used very sporadically. Agencies report that its time and resource intensive requirements deter them from using it. The process prioritises privacy to the point where it is not efficient or effective. The status quo risks the NZBN becoming 'just another business number'.</p>	<p>This option maintains a high level of protections but is only slightly more effective and efficient. Notably, the statutory requirement to consult with the Privacy Commissioner is in itself a disincentive to engage with it.</p>	<p>This option is more effective and efficient, while maintaining a strong degree of protection. The requirement for the NZBN Registrar to authorise mandatory use would provide a single point of accountability and ensure that the decision rests with an entity that has a vested interest in maintaining the NZBN's reputation.</p>	<p>This is the most efficient option, and in our view is the most likely to significantly increase usage of the NZBN by government agencies. It is also the most consistent with the existing Government Directions regarding NZBN use.</p> <p>While it is the least protective, the requirement for mandatory use to be consistent with the NZBN Act's purposes and with any other legislation governing the service in question would ensure that agencies can't override legislation via administrative decisions.</p>
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What do NZBN stakeholders think?

Government agencies agree with the case for change

MBIE wrote to 25 government departments subject to NZBN Direction and asked whether they supported changing s29. We received 12 responses, with 10 agencies supporting the case for change. Agency responses included that they were looking for:

- a pragmatic solution that provides a greater level of flexibility to require an NZBN, without having to go through a resource intensive Cabinet Process
- a process that it would enable them to fully benefit from the established NZBN verification process for more application processes, particularly those with shorter lead times, such as unexpected events.

The Department of Internal Affairs' Digital Identity Regulator stated that "use of NZBN is to be encouraged across all of government service delivery, as it is key enabler to automate processes (including cross-agency / inter-organisational processes), from identifying parties in a transaction, to data sharing and improved reporting."

Business NZ and the Small Business Advisors also support changing s29

MBIE also consulted with Business NZ and the (Cabinet appointed) Small Business Advisors:

- Business NZ stated that, eight years after the NZBN Act was passed, changing s29 can now be justified. It agrees that, as proposed, mandatory usage should be considered in light of the circumstances of the agency service in question. It commented that, if agreed, the change would benefit from clear communication to businesses.
- Business NZ does not support a blanket requirement for all trading entities to have an NZBN and maintain their NZBN data, however, particularly if this was to come with new compliance obligations (eg a new annual return process, and/or penalties for non-compliance).
- The Small Business Advisors are a small group with longstanding expertise managing and advising small businesses, who provide independent advice to the Minister for Small Business and Manufacturing. They are very supportive changing s29. One of the Small Business Advisors described the current Order in Council process as 'antiquated'

The Office of the Privacy Commissioner has not been able to provide a view

At the time of writing, the OPC has not yet been able to provide comment on this proposal. We understand that OPC resource is thinly stretched at present, due to the large number of requests they need to deal with. Arguably, this situation reinforces the case for change, as the current process requires the OPCs' involvement in every instance.

The recommended option is consistent with advice provided by the Legislation Design and Advisory Committee (LDAC)

LDAC's advice was that any recommended option should not create a supplementary power that allows agencies to impose conditions on an entity that could not have otherwise been required under the legislation governing the regime. To ensure this, the ability to require an NZBN would be limited to situations where it is consistent with any legislation governing the regime under which it is being required, as well as being consistent with the purposes of NZBN Act.

What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	No direct costs associated with preferred option	Low	High
Regulators	As above	Low	Medium/High
Others (eg, wider govt, consumers)	As above	Low	High
Total monetised costs	As above	Low	Medium/High
Non-monetised costs	As above	Low	High
Additional benefits of the preferred option compared to taking no action			
Regulated groups	n/a	-	-
Regulators	The proposed changes will make it easier for government agencies to require an NZBN as a condition to providing a service. Further benefits arise from time savings in identification of businesses during the transaction process, leading to increased efficiency and productivity benefits for both businesses and government.	Over time, we expect to see higher rates of usage of the NZBN by government agencies, and higher level of accuracy associated with data on the NZBN Register, as businesses with existing NZBNs will need to update their data upon application for government service. Agencies will make decisions to use the NZBN as their IT systems are enabled to use the NZBN. We recognise that, in some cases, this might take a period of multiple years as agencies work through technical aspects of implementation on 'case by case' basis.	Medium
Others (eg, wider govt, consumers, etc.)	MBIE expects that more unincorporated entities (sole-traders, partnerships and trusts) will obtain an NZBN. Getting an NZBN is quick and easy, and it only take minutes to apply online. Applications are free of charge.	As above	Medium

Total monetised benefits	Ongoing	Medium	Medium
Non-monetised benefits	Ongoing	Medium	Medium

Section 3: Delivering the recommended option

How will the new arrangements be implemented? How will the new arrangements be monitored, evaluated, and reviewed?

There is a low implementation risk associated with the proposed change. Mandatory NZBN use has already been tried and tested, most notably, to access business support during COVID-19. The number of NZBNs issued to unincorporated entities rose sharply over this period, but no complaints were received.

Agencies would not be required to take any action if the proposed change is agreed. Rather, it makes the process for making NZBNs mandatory in respect of particular services more straightforward. The required technology to support these decisions (i.e. the NZBN Application Programming Interface and other bulk data sharing tools) already exists.

If the recommended option is included in legislation, MBIE would expect that this provision could commence shortly after the legislation comes into effect. The NZBN Registrar will take a lead role in educating agencies about the new process and assisting them to make use of it, through:

- **a communications plan** to inform government agencies subject to the NZBN Directions of the change
- **guidance** for agencies considering making NZBN use mandatory for particular services, providing case examples and tips for streamlining the process
- **monitoring usage** of the new provision to ensure that it is being used appropriately, and that any queries and concerns are quickly and effectively addressed.