



PSA 

Eco Network

PSA Eco Network submission on the proposed Regulatory Standards Bill

January 2025

Summary

The Public Service Association (PSA) Eco Network opposes the proposal for a Regulatory Standards Bill. Overall, we believe that a Regulatory Standards Bill:

- would unduly constrain government decision-making
- is not the best mechanism to improve our regulation
- is unlikely to improve New Zealand's regulation.

We have significant concerns about the scope of the proposed principles and recommend they be expanded to include Te Tiriti o Waitangi, the rights of the environment, and the rights of future generations.

We do not have confidence in the proposed checks and balances and suspect that they will increase work without being effective.

We are hesitant about the proposed Board and the mechanisms for support the Minister and Ministry of Regulation, and make some recommendations to support them to add value rather than be a burden.

We strongly urge the Minister for Regulation to consider non-legislative options for improving New Zealand's regulatory management system.

General comments about the proposals

We support the interim Regulatory Impact Statement (RIS) which notes the complexity of the regulatory management system and the many and varied pressures on agencies and regulation makers, and that these proposals are unlikely to change any of them.¹ We also agree that there is a lack of detailed analysis of the incentives and behavioural impacts that the proposals might create.

¹ [Interim Regulatory Impact Statement: Legislating to improve transparency of the quality of regulation](#)

We note that similar Bills have been rejected multiple times in the last two decades. The reasons those iterations were rejected remain relevant.

We are concerned that this Bill places an undue focus on the drafting of regulation and not the operational systems that make it a reality. Ensuring quality implementation of regulation is equally important, as this has a significant impact on how New Zealanders experience regulation.

We support encouragement for government agencies to undertake regulatory stewardship. However, there are better ways of doing it than this Bill, and we strongly recommend that any incentives or requirements come with increased funding and dedicated resources for those agencies. In our experience, public servants find poor regulatory stewardship as frustrating as system users and stakeholders. Often, they are very aware of challenges with specific regulatory systems and sincerely wish to do something about it. However, they may be constrained by resourcing within their agencies, which are often focused on delivering the priorities of the Government of the day.

Discussion Area 1: Proposed Principles

We have several concerns about the proposed principles.

First, it is reprehensible that the Treaty of Waitangi/te Tiriti o Waitangi and the rights of tangata whenua are not mentioned. Adherence with the Treaty of Waitangi/te Tiriti o Waitangi should be a central tenet of government regulation, and indeed all government action.

Second, the principles are unduly focused on individual rights and property rights, and do not sufficiently capture the responsibilities of individuals and property holders, nor the rights of the environment, the commons, and future generations. Regulations are not typically *for* the regulated parties – they are also created to protect and enhance the interests of the wider community, present and future.

More specifically, the principle that “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 costs of efficiently providing the good or service to which it relates.” Fees and levies have important roles in regulatory systems for internalising costs of operations that would otherwise be externalized to the environment and communities (e.g., pollution). In these cases, fees and levies often need to be significant, in order to disincentivise harmful behaviours, especially where activities are very profitable in the short term, but very harmful in the long term.

We are also concerned that the principles are overly vague and up-for-interpretation. For example, almost anyone would agree that regulation should not place ‘undue’ restrictions on individuals, but what restrictions were ‘undue’ or unjustified would be a matter for significant debate and differing perspectives.

Discussion Area 2: Checks and Balances

We are not convinced that the proposed checks and balance would help increase the quality of regulation. In particular, the allowance that Ministers can make regulations that don’t adhere to the

principles is a loophole that could easily become an over-used loophole. For example, government agencies are already required to present Regulatory Impact Statements (RISs) that must meet certain quality standards, but Governments can suspend these requirements to pass regulation that is a high priority to them regardless of the potential impacts. This includes the current Government, which suspended all RIS requirements to push through policies from their manifesto and coalition agreements in the first months of their administration. We are also concerned that the proposed checks and balances would put ineffective extra burdens on government agencies.

Discussion Area 3: Regulatory Standards Board

We are tentatively opposed to the Regulatory Standards Board. We are concerned that it would add significant work into the regulatory management system, without it being clear how it would directly improve the quality. While it could give frustrated individuals another avenue to feel heard and considered by government systems, we are also uncertain that it would necessarily provide a sense of closure for those individuals.

If the Board is established, we recommend the members of the board are appointed by multiple different government agencies responsible for delivering regulation and that there be a fixed term for members of the board. This is to ensure the board has the diverse skills and practical experience of regulation to provide effective advice. We also recommend that it includes expertise on environmental management, caring for the commons and long-term wellbeing. Expertise in these areas will ensure the board considers the risks and opportunities of climate change whilst helping to maintain New Zealand's reputation for effective regulation on the world stage.

Again, government agencies should be supported to respond and work with the Board in their review of regulation.

Discussion Area 4: Powers of the Minister and Ministry of Regulation

We do not oppose the Ministry for Regulation having information gathering powers, but strongly call on the Ministry to take a collaborative and co-operative approach in the first instance, and use formal information-gathering powers only as a last resort. We also strongly call on greater resourcing for agencies to fulfill such requests.

We do not oppose the Minister for Regulation having the power to call for reviews of different regulatory systems and to set timeframes for these. However, we do question the need for such a power, given that successive Governments are capable of instigating reviews of regulatory and operational systems, in line with their political preferences and the most pressing needs of the day. Giving such a power to a Minister of Regulation may cut across pre-existing systems of Ministerial power, creating confusion and animosity within government and Ministerial systems.

If such a power was created, we strongly recommended that the Minister would only be allowed to make such calls only after consultation with the agency/agencies and Minister(s) responsible for the

relevant regulatory system(s). This should be regarding the terms of reference, and the timeframes for such a review. We also strongly recommend that agencies be given resourcing in order to complete these reviews, either through new resourcing or through a reduction in other work. This should include adequate time to undertake the review, noting that these are rarely small feats. Such reviews should also require adequate engagement with stakeholders and tangata whenua. We also recommend that systems are put in place to support information sharing among agencies, to increase the capacity and capability of regulatory stewardship across government, such as is currently playing out with the second round of the Long-term Insights Briefings.

We recommend any reviews are only commissioned if the Ministry of Regulation can demonstrate evidence that there is a strong case for regulatory inefficiency. This would help protect the agency from perceived conflicts of interest whilst enabling effective resourcing of reviews. It would also reduce the risk of resources being used on inconclusive reviews.

We also recommend that if a requirement or ability is introduced for the Ministry for Regulation to produce a regular report for the Minister for Regulation to present to Parliament assessing the overall performance of the Regulatory Management System, this should be done in collaboration and co-operation with agencies, including the development of the analytical tools used to assess the performance of the system. However, we again support the Ministry and other agencies being adequately resourced to undertake this work. We recommend that Te Kawa Maataho/the Public Service Commission be involved in these reviews. The PSA would also welcome the opportunity to input into these reviews, as the capability and capacity of practitioners across the system is critical to well-functioning systems, and the PSA has a unique perspective to contribute on this.

About the PSA Eco Network

The PSA Eco Network represents over 3,000 workers across public and community services who are motivated to act to improve workplace sustainability and campaign for action on climate change across the public sector.

Our members come from across the public sector – from the core public service to local government, the health sector, and publicly funded community services. In many cases our members are motivated by the same knowledge and expertise that also enables them to deliver quality advice and public services. Our members see the importance of public and community services in leading a just transition to a low-emission, sustainable Aotearoa.

The PSA Eco Network is part of the New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi, the union representing almost 95,000 public and community service workers.

This submission has been developed by the convenors of the PSA Eco Network