



# Submission on the Regulatory Standards Bill

## About the Public Health Communication Centre

The Public Health Communication Centre (PHCC) is an independently funded organisation dedicated to increasing the reach and impact of public health research in Aotearoa New Zealand. We are hosted by the Department of Public Health at the University of Otago Wellington. The Centre has a range of public health and science communication experts. The Directors/Co-Directors are Professors Michael Baker, Nick Wilson and Simon Hales.

The PHCC identifies and promotes opportunities to improve public health, equity, and sustainability, and communicates these ideas to the public, media, and decision-makers.

The PHCC opposes the Regulatory Standards Bill.

We would like to present in person to the committee.

### The PHCC has five main reasons for opposing the Bill:

- **Public health and wellbeing excluded**  
The Bill's principles **exclude promoting public health or human wellbeing**, omitting values foundational to modern welfare states.
- **Lack of reference to Māori rights**  
The proposed principles exclude any reference to te Tiriti of Waitangi, the principles of te Tiriti or protecting Māori rights and interests which are fundamental to advancing health equity goals in Aotearoa New Zealand.
- **Public health protections undermined**  
By enforcing a narrow 'private harm' standard and rejecting the 'public harm principle', the Bill would **limit the government's ability to act in the public interest**, limiting the scope for future public health protections.
- **Chilling effect on public health measures**  
The 'takings or impairment' principle would enable commercial interests to seek **public compensation if public health regulations reduce their profits**, undermining measures like tobacco and alcohol controls or clean air laws.
- **Environmental and public health risks ignored**  
The proposed framework **ignores ecological integrity and prudent stewardship**, risking harm to both environmental and public health objectives.

We attach to this submission an article which elaborates on these issues further. The article, published on the Public Health Communication Centre website, was authored by Emeritus Prof Jonathan Boston, Prof Michael Baker, Prof Andrew Geddis, Dr Carwyn Jones, Rt Hon Sir Geoffrey Palmer. We support the content of this article and note the evidence sources that it draws on.

### ATTACHMENT: Text of the article

[\*\*Regulatory Standards Bill threatens the public interest, public health and Māori rights\*\*](#) published on the *Public Health Expert Briefing*, 12 June 2025.

**ATTACHMENT: Text of the article ‘Regulatory Standards Bill threatens the public interest, public health and Māori rights,’ published on the *Public Health Expert Briefing*, 12 June 2025.**



## **Regulatory Standards Bill threatens the public interest, public health and Māori rights**

12 June 2025

Authors: Jonathan Boston, Michael Baker, Andrew Geddis, Carwyn Jones, Geoffrey Palmer

### **Summary**

The Regulatory Standards Bill aims to establish “a benchmark for good legislation through a set of principles of responsible regulation”, thereby enhancing governmental accountability and regulatory stewardship. It contains a variety of mechanisms, outlined below, that seek to ensure both new and existing legislation conform to these principles. Similar Bills, promoted since the 2000s by the ACT party, have been consistently rejected by previous governments—for good reasons.

The Regulatory Standards Bill raises fundamental concerns—constitutional, legal, administrative, philosophical, and ethical. In essence, it seeks to impose a quasi-libertarian conception of ‘good legislation’ and a ‘good society’, one demonstrably antithetical to many core values underpinning modern welfare states. The proposed principles, for instance, exclude any reference to promoting public health or human wellbeing or protecting the environment. If implemented, they would also enable commercial interests to claim public compensation for any detrimental impact of public health regulations, thereby undermining public health measures.

[The Regulatory Standards Bill](#) (RSB) was introduced into Parliament on 19 May 2025. It is currently being considered by the Finance and Expenditure Committee. [Public submissions](#) close at 1.00pm on Monday 23 June. This Briefing summarises the key provisions of the Bill and outlines why submissions should be made opposing it, adding to previous critical analyses of earlier versions of the Bill.<sup>1,2</sup>

The RSB establishes a set of “principles for responsible regulation” to provide a “benchmark for good legislation”.<sup>3</sup> It is intended that most proposed Bills, along with existing legislation, will be assessed for their consistency with the proposed principles. Departmental chief executives will be required to produce “consistency accountability statements” identifying any inconsistencies, while Ministers will be required, when introducing new Bills, to provide reasons for any inconsistencies. Further, a new

independent Regulatory Standards Board will assess proposed and existing legislation for inconsistencies, while various other changes will be implemented with the aim of enhancing regulatory stewardship. Ostensibly, the RSB is designed to enhance the accountability of the Executive to Parliament. But the Bill can more accurately be viewed as a mechanism to reorient policy-making and legislation in a quasi-libertarian direction.

**The main concerns with RSB can be summarised as follows:**

### **A fundamental philosophical objection**

The RSB assumes that universally applicable principles can be devised and agreed to assess whether proposed and existing legislation is 'good' or 'responsible'. But this assumption is fatally flawed. This is because there are multiple distinct ethical values (eg, liberty, justice, allocative efficiency, privacy, security, peace, reconciliation, minimising harm, wise stewardship, ecological integrity).<sup>4</sup> Many of these values, like justice or fairness, have numerous dimensions and are open to radically different interpretations. Many are also in tension, if not direct conflict. Understandably, successive governments have divergent priorities and pursue different goals. Attempting in a democracy to impose a common yardstick, benchmark or performance standard for judging all existing and future legislation will inevitably fail.

### **Constitutional objections**

While the RSB does not create constitutionally superior law, it is nonetheless constitutionally significant. In effect, it would establish a "regulatory constitution"<sup>5</sup> or a "second Bill of Rights",<sup>6</sup> influencing and constraining the purposes for which public power can be employed in accordance with a set of principles that are philosophically narrow and ideologically skewed towards libertarianism. The aim, in other words, is to ensure that virtually all legislation is tested against a highly specific template or "control gate", one that disregards the principles and articles of te Tiriti o Waitangi, ignores Māori rights and interests,<sup>7</sup> and discounts most of the core values underpinning modern welfare states. As such, the RSB seeks to create an anti-Treaty and anti-welfare state quasi-constitution.

### **Many questionable principles**

Many of the proposed "principles of responsible regulation" are questionable.<sup>8</sup> Some are vague. Others are legally novel. Yet others are philosophically flawed. Moreover, many principles that have guided the development of modern welfare states, including improving public health and ensuring environmental sustainability, are excluded. To illustrate briefly, one of the Bill's principles states that "every person is equal before the law". But many laws are not designed to treat people equally; rather, they seek to provide well-reasoned and justifiable grounds for distinguishing between people, thereby enabling unequal treatment (eg, based on individuals' distinctive circumstances and needs).<sup>9</sup> Further, according to the RSB's 'liberties principle', the only ground for diminishing "a person's liberty, personal security, freedom or choice or action, or rights to own, use, and dispose of property", is to protect the "liberty, freedom or right of another person". Philosophically, this is known as the 'private harm principle'.<sup>10</sup> But there is also a long-established 'public harm principle' which justifies constraining liberty to protect the public interest. Yet the public harm principle is excluded from the Bill's principles. This means that government measures to protect the public interest, minimise public harm or safeguard the environment will be inconsistent with the proposed 'benchmark for good legislation'.

### **Harmful impact on public health and the environment**

Given the wording of the proposed ‘principles of responsible regulation’ and the omission of many vital ethical principles, the RSB, if implemented in its current form, risks undermining public health and critical environmental values, such as ecological integrity, biodiversity and prudent stewardship. Indeed, this appears to be the Bill’s intention.

### **Chilling effect on public health measures**

The Bill’s principles, if adhered to, would make it harder to protect the public health from likely harms. For instance, the ‘takings or impairment’ principle would enable commercial interests to seek public compensation if legislation impairs their intellectual property or reduces their profits. Public health examples where compensation could potentially be claimed include: tobacco controls such as denicotinisation of cigarettes, alcohol restrictions such as sponsorship bans, controls on unhealthy food and drink such as limiting marketing to children, and clean air provisions such as mandating emissions reductions by industry.

### **Make a submission**

It is important that this Bill is rejected. [Submissions to the Finance and Expenditure Committee](#) considering the Bill can be made up till 1.00pm on Monday 23 June 2025. There are many resources available for those wishing to prepare submissions, including the documents released by the Minister for Regulation in May 2025, the Report of the Waitangi Tribunal on the Proposed Regulatory Standards Bill, and a submission from the lead author of this Briefing

### **What this Briefing adds**

- The Regulatory Standards Bill seeks to impose a narrow and contested set of “principles for responsible regulation” for assessing most existing and future legislation in Aotearoa New Zealand.
- Many of the proposed principles are seriously flawed and are open to strong constitutional, legal, administrative, and ethical objections.
- The proposed principles exclude any reference to te Tiriti of Waitangi, the principles of te Tiriti or protecting Māori rights and interests.
- The proposed principles exclude the public harm principle and any goal to promote the public interest. As such, they pose a danger to public health and environmental sustainability.
- The proposed ‘takings or impairment’ principle, by requiring public compensation for any loss of profits caused by public health regulations, would have a chilling effect on important public health measures.

### **Implications for policy and practice**

- The Regulatory Standards Bill should be rejected.
- The public are encouraged to [make submissions to the Finance and Expenditure Committee](#) before 1.00pm on Monday 23 June 2025

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