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Ministry for Regulation,
Wellington.

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Submission on Proposed Regulatory Standards Bill

Thank you for the opportunity to make a submission on the proposed Regulatory Standards Bill. This proposal is of serious concern to Peace Movement Aotearoa¹ and our members and supporters for the reasons outlined below: essentially, it is unnecessary, and overrides existing legal obligations and judicial processes to promote a particularly narrow ideological position.

Comments on the proposed Bill

We are deeply concerned that this proposal has been put forward in the context of a coalition government that appears intent on: reneging on its obligations under te Tiriti o Waitangi (the Treaty of Waitangi, hereafter referred to as te Tiriti) and human rights law; removing legislative protections that have been put in place to ensure protection for the environment, biodiversity and human health and wellbeing; and removing access to judicial processes.

We note that the aim of the proposed Bill is stated as being “*to improve the quality of regulation in New Zealand so regulatory decisions are based on principles of good law-making and economic efficiency*”². ‘Economic efficiency’ is not, and should not be, the sole outcome or even the main priority of “*good law-making*” - yet that seems to be the underlying purpose of this proposal. Any short-term benefits of ‘economic efficiency’ may very well have long-term costly and harmful impacts in relation to the environment and social wellbeing, a possibility that is completely ignored in the proposed Bill.

We do not support the concept of the leader of a small minority political party inventing “principles” based on their particular ideological position and attempting to impose those principles on all legislation to be enacted in future, whether by way of fictional principles around te Tiriti (as in the Principles of the Treaty of Waitangi Bill) or in this proposed Bill.

We do not support a proposal by the leader of a small minority political party to bypass established judicial processes in favour of the “*establishment of a Regulatory Standards Board rather than giving a role to the courts in finding legislation inconsistent*”³ - a panel that he will appoint to make decisions about “*principles*” that he himself has proposed.

Given the origins of this proposal, we are not surprised that the “*proposals do not include a principle related to the Treaty / te Tiriti and its role as part of good law-making, meaning that the Bill is effectively silent about how the Crown will meet its duties under the Treaty / te Tiriti in this space*”⁴.

We have, however, noted with great interest that Ministry of Regulation officials have helpfully provided a list of the existing Treaty principles in law and three more that could usefully be included in any Regulatory Standards Bill in their Preliminary Treaty Impact Analysis⁵ - that is the only part of this proposal that bears any resemblance to something that would be of benefit to all New Zealanders and to future generations.

As with other proposed legislation put forward over the past year, we note that Ministry officials were severely constrained as to what advice they were permitted to provide as detailed in the Interim Regulatory Impact Statement⁶.

Nevertheless, the Ministry has rightly recommended the way forward lies with “*an enhanced disclosure statement regime with enhanced obligations*”⁷ rather than new legislation, and the quality assurance panel found there is insufficient analysis to “*make the case that the extent of legislative changes proposed (indicated in the RIS as being the discussion document proposal) are necessary to have an impact on lifting the quality of regulation*”⁸.

Recommendations

The key elements of the proposed Bill have already been rejected by parliament on three occasions and we recommend that this edition be scrapped now, before being introduced.

There are other mechanisms to improve regulation - if there is an actual need for that - as outlined by the Ministry in the Interim Regulatory Impact Statement, or by greater use of existing parliamentary Select Committees, such as the Regulations Review Committee.

If this Bill is to be introduced to parliament, we strongly recommend it include the Treaty principles detailed by the Ministry in the Preliminary Treaty Impact Analysis; and details the human rights articulated in the International Covenant on Economic, Social and Cultural Rights (which New Zealand is a state party to, but that are not currently included in domestic law) as key indicators of good law-making to improve the quality of regulations.

Thank you for your consideration of our comments.

References

¹ Peace Movement Aotearoa is the national networking peace organisation, established in 1981 and registered as an Incorporated Society in 1982. Our purpose is networking and providing information and resources on peace, humanitarian disarmament, justice and human rights issues. We have extensive national networks which include more than one hundred and fifty contacts for national or local peace, disarmament, human rights, justice, faith-based and community organisations, and more than seven thousand individuals. We regularly provide information to UN human rights treaty monitoring bodies, and to Special Procedures and mechanisms of the Human Rights Council, on a range of issues impacting Aotearoa New Zealand.

² ‘Have your say on the proposed Regulatory Standards Bill’, Ministry of Regulation, November 2024,

³ As at note above

⁴ Preliminary Treaty Impact Analysis for the proposed Regulatory Standards Bill, Ministry for Regulation

⁵ As at note above, p 3

⁶ Interim Regulatory Impact Statement: Legislating to improve transparency of the quality of regulation, Ministry of Regulation, 30 October 2024

⁷ As at note above, p 3

⁸ As at note above, p 5