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Wed, Jun 4, 2025 5:00 AM

Regulatory Standards Bill - what you need to know

Dr Mawera Karetai

You might remember a couple of months ago, while many of us were busy opposing the Treaty Principles Bill, the Coalition Government released a pre-submission request for submissions on the draft Regulatory Standards Bill.

There were over 23 000 submissions to this, and few of them were read. The Government has now released the actual Bill and, ironically, they pushed it through Parliament under urgency. Many people who submitted to the pre-submission draft do not realise that what they sent through last time does not count.

The draft Bill was amended and is now even more concerning, but there is a risk that engagement will be low (perhaps by design), due to people thinking they have had their say. Is this how the coalition does democracy - by sleight of hand and distraction? It increasingly feels that way.

I have read the draft Bill and the Bill itself, and I oppose the Regulatory Standards Bill (RSB) for several reasons. The Act Party-sponsored Bill prioritises neoliberal economic ideology, over the wellbeing of people, communities, and the environment, and it undermines Te Tiriti o Waitangi. The Bill makes no reference to Te Tiriti o Waitangi, and

the regulatory principles it proposes are rooted in Western, individualist legal traditions. This directly conflicts with the obligations of the Crown under Te Tiriti, which require partnership, protection, and the participation of Māori. A Bill that ignores Te Tiriti is constitutionally and morally flawed.

A few years ago, I had a conversation with Todd McClay, then Trade Minister under John Key's National government. I was concerned about the investor-state dispute settlement (ISDS) risk to Aotearoa in our trade agreements, based on the fact that we are a small and vulnerable economy, and a feather for each wind that blows.

Mr McClay explained to me that we have something special that gives us a unique level of protection in our rights to protect people and environment - te Tiriti o Waitangi. If you are unfamiliar with ISDS provisions, they are a mechanism allow foreign investors to sue governments in international tribunals if they believe their investments have been harmed by unfair or discriminatory regulation.

Eroding the power of Te Tiriti o Waitangi — whether explicitly or implicitly through laws such as the Regulatory Standards Bill — has serious strategic, legal, and economic consequences for Aotearoa New Zealand's trade agreements and exposure to ISDS cases. Here's how and why:



Many of Aotearoa's free trade agreements (FTAs), such as the CPTPP (Comprehensive and Progressive Agreement for Trans-Pacific Partnership), contain Treaty of Waitangi exceptions clauses. These allow the Government to take measures that fulfil its obligations under Te Tiriti — even if those measures might otherwise breach trade rules. If Te Tiriti is not upheld or is seen as symbolic rather than operative in domestic law, the Treaty exception clause becomes vulnerable. It could be argued that the Government isn't using the clause in good faith, or that the exception is invalid because the Crown isn't actually fulfilling Treaty obligations. This gives foreign

investors more grounds to challenge New Zealand's actions under ISDS mechanisms, claiming discrimination or unfair treatment.

Weakening Te Tiriti raises ISDS risk because it narrows the Government's defence when regulating in the public interest (e.g., for environmental protection or Indigenous rights). Investors may claim that Te Tiriti-based policies or regulations — like resource protections for Māori or iwi governance roles — are "unjustified" or not part of the legal framework if Te Tiriti is not consistently upheld. This could be weaponised in multi-million or billion-dollar lawsuits by foreign corporates. Te Tiriti provides a critical shield for progressive policy. Eroding it via mechanisms such as the Regulatory Standards Bill makes it harder to defend public-interest regulation (e.g., around land, water, or other taonga). It signals to trade partners and investors that indigenous rights are negotiable, which opens the door to greater scrutiny and legal challenges. Aotearoa New Zealand's reputation for progressive, Treaty-based governance is an asset in trade negotiations. Undermining Te Tiriti weakens New Zealand's standing, particularly with partners that value Indigenous rights, environmental sustainability, or human rights (e.g., Canada, EU). This can affect trade deal terms or access and reduce leverage when negotiating new protections or market access.

Outside of te Tiriti, there are other significant risks. The Bill elevates market-based principles such as economic efficiency, predictability, and minimal regulatory burden. These are not neutral values — they privilege corporate and private interests at the expense of public, environmental, and cultural wellbeing. It is effectively a tool for deregulation in disguise. Requiring every new regulation to pass a rigid set of economic and legalistic tests will deter bold, necessary lawmaking. This includes protections for the environment, Indigenous rights, workers' rights, or climate resilience. We cannot allow this Bill to freeze progress because it makes change legally risky.

The Bill shifts power from Parliament to unelected judges and bureaucrats, by enabling judicial review against vague "principles." This undermines democratic accountability. The public elects Parliament to make complex decisions — not courts to police ideological purity. One-size-fits-all regulatory standards don't work in the real world. Communities — especially Māori, rural, and vulnerable groups — need nuanced, locally-grounded regulation. This Bill makes that harder, not easier. It imposes abstract ideals that ignore lived experience. There has been no meaningful public consultation on whether New Zealand even wants this kind of law. It's being

driven by ideological interests, not grassroots needs. Any major shift in regulatory philosophy should require deep democratic debate and Treaty-based engagement — not just a select committee process.

I oppose the Regulatory Standards Bill. It represents an ideological push for deregulation that will weaken protections for people and the environment, undermine Te Tiriti o Waitangi, and hand power to unelected actors. It prioritises economic values over social justice, sustainability, and cultural integrity. We need regulation that protects and empowers — not one that polices change and privileges private interests.

Whether you agree with me or not, I encourage you to make a submission to this Bill. Make your voice count, and please especially make it count for the children and grandchildren in your life.

https://www.parliament.nz/en/ECommitteeSubmission/54SCFIN_SCF_E22299B3-B67B_4F74_022D_00DD0608D365/GuestSubmission

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