

Nurses Society of New Zealand Submission on the Regulatory Standards Bill

1. **Nurses Society of New Zealand/Te Kahui Tapuhi of Aotearoa and Te Uniana o NSNZ Incorporated (“NSNZ”)** is the second-largest professional body and union for nurses in Aotearoa New Zealand. NSNZ represents and provides services to a significant number of registered nurses across all parts of the health service. NSNZ focuses on all issues which may impact nurses professionally and, more generally, as well as on any issue apposite to the health sector and public health.
2. The Regulatory Standards Bill is promoted under the guise of efficiency and clarity, allegedly for the benefit and fairness of all. However, in our view, the bill seeks to unduly promote property and corporate rights to the detriment of public and community interests.
3. Our main concerns are:
 - a. the bill is an attempt to impose a narrow ideology of one sector on the executive, the parliament, and the community at large;
 - b. in practice, it may be used to prioritise economic interests for private actors without sufficient regard to collective interests and the community;
 - c. it is notably silent on te Tiriti o Waitangi, which risks undermining tino rangatiratanga;
 - d. adequate guidelines for drafting and enacting legislation are already in place;
 - e. it prescribes principles and a structure to solve a problem or problems that does/do not exist.

Principles of responsible regulation – liberties and taking of property

4. The notion that “every person is equal before the law” sounds entirely reasonable and welcome; however, in reality this principle could be applied to make it harder to promote equity in law, policymaking and practice. Likewise, it may create problems for how te Tiriti o Waitangi is interpreted and applied.
5. Prima facie, the proposed principle that “legislation should not unduly diminish a person’s liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property,” sounds entirely reasonable. That is, on the surface, it could be seen as promoting individual rights and freedoms. But, in reality, it could be used to protect corporate liberties and property rights, at the expense of the wider public good.
6. Questions also arise regarding what “fair compensation” would look like and how compensation would be provided “to the extent practicable, by or on behalf of the persons who obtain the benefit”.
7. Moreover, the fact that the bill indicates that any new legislation that decreases corporate profits may be subject to legal action is problematic. Arguably, this could create unintended, adverse consequences.

8. Although it has been asserted by the Minister for Regulations that the bill would only have consequences for the executive branch of government, the implications of “good law-making” are such that once written into law, courts will be required to consider any or all the principles in the bill. Again, this could have further unintended consequences.
9. Compliance with the bill’s principles and process may impose unnecessary additional costs for the executive and the parliament, as well as the public.

No consideration of te Tiriti o Waitangi

10. Referring to the bill’s principle of good law-making, NSNZ questions how law-making could ever be good in Aotearoa New Zealand if there is no consideration of te Tiriti.
11. The focus on individual property rights indicates obvious tensions with the collective rights guaranteed to hapū, rangatira and Māori under te Tiriti.
12. The lack of meaningful consultation throughout the process of the bill’s development constitutes a significant breach of te Tiriti. Indeed, it is noteworthy that a Waitangi Tribunal report called for a halt to the process, so as to allow for this consultation.
13. At the very least, the complete omission of te Tiriti from the bill creates uncertainty as to how the principles of the bill will interact in practice with te Tiriti obligations.
14. The bill is widely viewed as a different strategy towards the same goals of the Treaty Principles Bill. That bill was, rightly, widely opposed and ultimately rejected by parliament. Hence, there is obviously a clear public mandate for rejecting this new bill.
15. Proper acknowledgement of te Tiriti principles is important in all statutes and regulations applying to health professionals, as well as all health and related services as a whole. Anything that undermines this would be a backward step. Incorporating te Tiriti principles in such legislation for the health professions and health sectors is widely accepted by health providers.

Disproportionate control given to the Ministry for Regulation, the Regulatory Standards Board and Minister

16. This bill would clearly require all new legislation to comply with and, presumably, refer to the bill’s principles.
17. It is concerning that the Minister for Regulation would have unilateral control to appoint board members. Moreover, the Minister would also be given disproportionate power to dictate what is “good law.” As the current Minister has clearly demonstrated a disregard for te Tiriti and equity in general, this is particularly concerning.
18. If the bill is enacted, any recommendations made by the Regulatory Standards Board should be absolutely non-binding. This is particularly important because the board members are all appointed by the Minister.

Existing processes

19. The Legislation Design and Advisory Committee (LDAC) is just one of the existing “best-practice” law-making guidelines. The changes proposed by the current bill could make law-making unnecessarily more complicated and cause delays.
20. It is also notable that the LDAC has questioned the capacity of the bill to improve upon existing practices and has suggested the bill has the potential to cause significant, unintended consequences.
21. Furthermore, it should be noted that even the Ministry for Regulation itself has expressed concerns regarding the bill and stated that many of the same benefits could be achieved with fewer costs, by expanding upon the existing disclosure statement régime
22. The bill, in various forms, has already been rejected three times. The previous round of submissions on this bill were largely opposed.

Summary

23. NSNZ opposes this bill, and it urges the committee to recommend to the parliament that it does not proceed. In summary, our reasons include the points below:
 - a. The bill prioritises economic profit for private corporations and individual property rights over wider collective interests and public good.
 - b. It constitutes a significant breach of te Tiriti o Waitangi.
 - c. There already are adequate law-making guidelines in place.
 - d. No democratic mandate exists for passing the bill.
 - e. There is no support for it from its own Ministry.
 - f. The wider public do not support this bill and do not want the ideology behind the bill in its laws and regulations. Public consensus is clear – all legislation should uphold te Tiriti and advance equity for all.

NURSES SOCIETY OF NEW ZEALAND *Te Kāhui Tapuhi o Aotearoa & Te Uniana o NSNZ Inc*

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