



To	<b>Hon David Seymour, Minister for Regulation</b>		
Title	<b>Regulatory Standards Bill: Draft Cabinet paper and implications of further changes to the proposal</b>	Number	<b>MFR2025-033</b>
Date	<b>7 March 2025</b>	Priority:	<b>High</b>
Action Sought	<b>Agree to the recommendations in this paper</b>	Due Date	<b>11 March 2025</b>
Contact Person	<b>Pip van der Scheer, Manager</b>	Phone	s 9(2)(h)
Contact Person	<b>Elisa Eckford, Lead Advisor</b>	Phone	s 9(2)(h)
Attachments	<b>Yes – Annexes 1 and 2</b>	Security Level	<b>IN CONFIDENCE</b>

*\*Annex 2 is withheld in full as legally privileged consistent with s9(2)(h) of the Official Information Act 1982*

### Executive summary

1. This report provides you with a draft Cabinet paper for your review as **Annex 1**, based on your decisions on our previous briefing to you (MFR2025-050 refers). In order to meet our agreed timeframes, we require your feedback on the draft paper by Tuesday 11 March.
2. To support your consideration of the paper, we have also attached updated drafting from the Parliamentary Counsel Office (PCO) as **Annex 2**. Note that the same caveats apply as to the previous drafting, including that this is an early draft prepared in advance of policy decisions and is a work in progress. It is incomplete and further work will be required. It has not yet been through the PCO's quality assurance processes, legal review, BORA vetting, or departmental consultation.
3. Some of the decisions you made in relation to our previous briefing are likely to have implications for the costs and potential workability of the proposal – in particular, in relation to:
  - broadening of consistency requirements to all secondary legislation by default
  - introduction of a 10-year time limit for assessing consistency of existing legislation, now including secondary legislation
  - requiring the Minister for Regulation to exempt non-material Government amendments from consistency assessment requirements
  - broadening of the Board's scope for conducting inquiries.
4. In relation to your decision to give the Board more flexibility to look into matters that may fall within the scope of other bodies, we still recommend that the Board should not be able to interfere with decisions that relate to a particular individual. This is because the focus of the Board is to assess whether legislation is consistent with the principles, not to resolve, remedy or revisit actions or the inaction of other bodies in respect to individual cases as a result of applying particular legislation.



5. We have not been able to fully consider the impacts of the above changes to the proposal in the time available. However, our initial assessment of some of the more significant implications that we have identified is set out in this briefing for your consideration.
6. We can provide you with further advice on any of these areas if you wish, noting that this would likely have an impact on agreed timeframes.

### Recommended action

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We recommend that you:

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| a | <b>note</b> that the Cabinet paper attached as Annex 1 is based on your decisions on our previous briefing to you (MFR2025-050 refers)  | <i>Noted</i>            |
| b | <b>provide feedback</b> on the draft Cabinet paper by Tuesday 11 March  | <i>Agree / Disagree</i> |
| c | <b>note</b> that, in the time available, we have not been able to fully consider the impact of changes made as a result of the above decisions  | <i>Noted</i>            |
| d | <b>note</b> that the extension of proposed consistency assessment requirements to all secondary legislation by default would likely have significant costs for agencies including local government and could cause other potential issues   | <i>Noted</i>            |
| e | <b>agree</b> that the Bill should bring in a requirement for consistency assessments of all secondary legislation only after there has been an opportunity to identify classes of secondary legislation that should be excluded from these assessments, and to issue notices to exclude them  | <i>Agree / Disagree</i> |
| f | <b>note</b> that changes to impose a 10-year timeframe for all entities to review their relevant legislation and to make the Minister for Regulation responsible for exempting Government amendments from consistency requirements, are likely to have some operational implications that will need to be worked through in more detail | <i>Noted</i>            |
| g | <b>agree</b> that the Regulatory Standards Board should not be able to consider decisions in individual cases   | <i>Agree / Disagree</i> |
| h | <b>agree</b> to proceed on the basis that the Regulatory Standards Board could investigate agencies' consistency assessments of Bills as introduced into the House and then submit a report with its findings to the select committee considering the Bill  | <i>Agree / Disagree</i> |



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| i | <b>note</b> that our initial analysis indicates additional costs across the public service of at least \$50 million each year on average for undertaking all initial reviews of existing primary and secondary legislation within ten years | <i>Noted</i>            |
| j | <b>agree</b> that we can proceed to departmental consultation on a draft Cabinet paper, updated to reflect your decisions on this briefing  | <i>Agree / Disagree</i> |
| k | <b>agree</b> that the Ministry for Regulation release this briefing following Cabinet decisions being taken, with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982           | <i>Agree / Disagree</i> |

s 9(2)(a)

**Pip Van der Scheer**

Manager, Regulatory Management System

Ministry for Regulation

Date: 7 March 2025

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**Hon David Seymour**

Minister for Regulation

Date:



### Purpose of report

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7. This report provides you with:
- a draft Cabinet paper for your review, based on your decisions on our previous briefing to you (MFR2025-050 refers)
  - further advice on the implications of some of these decisions for the costs and potential workability of the proposal.

### Draft Cabinet paper

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8. We have now prepared a draft Cabinet paper for your review. The paper is intended to ensure that you have the detailed authorisations required from Cabinet to enable you to issue PCO with drafting instructions.
9. The paper is drafted on the basis of your decisions on our previous briefing to you (MFR2025-050 refers), and some additional directions provided to us by your office. It reflects the following changes from the proposal set out in that briefing:
- the consultation principle has been narrowed to require that it applies only in relation to those who would be “directly and materially affected” by the legislation rather than those “substantially” affected
  - consistency assessments would now be required for all secondary legislation, rather than limited to secondary legislation set out in a notice issued under the Act
  - consistency assessments would now not be required for Members’ Bills (and would continue not to be required for Private and Local Bills)
  - Government amendments would now be exempted from consistency assessment requirements if the Minister for Regulation considers the amendment does not materially change the Bill, rather than the responsible Minister
  - responsible agencies would now be required to plan for all existing primary and secondary legislation they administer to be assessed for consistency no later than 10 years after the Bill has come into force
  - in addition to carrying out inquiries in relation to existing primary and secondary legislation that is subject to consistency assessments, the Regulatory Standards Board would now have the ability to assess agencies’ statements on consistency with the principles in relation to Bills that are currently before the House
  - the Board would now be able to consider any complaint even where it falls within the jurisdiction of an existing body – although we still recommend that the Board should not be able to interfere with decisions that relate to a particular individual. This is because the focus of the Board is to assess whether legislation is consistent with the principles, not to resolve, remedy or revisit actions or the inaction of other bodies in respect to individual cases as a result of applying particular legislation
  - the Board would now have a minimum of five members rather than three members.



10. Note that some sections of the Cabinet paper are yet to be drafted, and some are still under development. We will update the Cabinet paper with departmental comments following departmental consultation.
11. To support your consideration of the paper, we have also attached updated drafting from PCO as **Annex 2**. Note that the same caveats apply as to the previous drafting, including that this is an early draft prepared in advance of policy decisions and is a work in progress. It is incomplete and further work will be required. It has not yet been through PCO's quality assurance processes, legal review, BORA vetting, or departmental consultation.
12. We note that, in its latest drafting, PCO has used the term "consistency accountability statement" (CAS) to describe the statements that agencies would be required to make following the assessment of proposed or existing legislation for consistency with the principles. We have therefore referred to a CAS throughout the remainder of this briefing. Note however that we have not yet had time to reflect this development in the draft Cabinet paper.

### **Implications of decisions on previous briefing**

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13. Some of the decisions you made in relation to our previous briefing are likely to have implications for the costs and potential workability of the proposal.
14. In the time available, we have not been able to fully consider the impacts of these changes. However, our initial assessment of some of the implications that we have identified is set out below for your consideration. Note that we have not had the opportunity to fully check the numbers of pieces of secondary legislation set out below, and total numbers could be higher.

### **Broadening of consistency requirements to all secondary legislation by default**

15. A change in approach resulting in all secondary legislation being subject to consistency assessment requirements by default will extend the pieces of existing legislation covered initially from around 1,000 existing Acts to around 10,500 existing pieces of primary and secondary legislation (this number excludes local bylaws, which are discussed in paragraph 17 below). This includes around:
  - 2,500 pieces of existing secondary legislation drafted by PCO
  - Over 7,000 pieces of existing secondary legislation of varying size and complexity drafted by agencies that is then reported to PCO.<sup>1</sup>
16. This total would be augmented by approximately a further 1,400 pieces of new secondary legislation also requiring consistency assessments each year.
17. Reviewing this volume of secondary legislation within 10 years would impose significant costs on agencies, including organisations outside government (see the section on cost implications below for more details). This burden would also fall unequally, with 15 agencies likely administering more than 90 percent of all secondary legislation, and at

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<sup>1</sup> Note that this figure includes only secondary legislation drafted by PCO, and secondary legislation published by agencies based on self-reporting to PCO. PCO noted that actual figures could be higher than the reported number, given data limitations and questions about what counts as a separate instrument. This figure also does not include local government legislation (such as bylaws).

least three agencies (Ministry of Health, Ministry of Primary Industries, and Ministry of Business, Innovation and Employment) administering more than 900 pieces of secondary legislation each.

18. The inclusion of secondary legislation would likely also increase costs on local government through local bylaws being in scope. As of October 2023, there were approximately 900 bylaws referred to on council websites across New Zealand. While we have not been able to estimate the costs on local government in the time available, we understand that this could be significant.
19. As previously advised, much of this secondary legislation is minor or technical in nature (for example, the approximately 500 commencement orders for legislation, or the approximately 2,800 notices approving the supply of particular medicines under section 20 of the Medicines Act 1981). In these cases, the costs of undertaking and publishing a consistency assessment for each would likely outweigh the benefits.
20. There are also likely to be instances of secondary legislation where application of consistency requirements may raise other issues. For instance, the Ministry of Justice has already raised concerns about the treatment of court rules, which are a form of secondary legislation. Most court rules are made by the Governor-General by Order in Council, but only with the concurrence of the relevant Head of Bench and members of the Rules Committee. s 9(2)(h)

[REDACTED]

We expect a number of cases like this to be identified as a result of applying consistency assessments to secondary legislation by default.
21. We have identified some possible options below that could help manage the costs and operational implications discussed above.

*Allowing for more time to assess what secondary legislation should be excluded*

22. If you wish to proceed with the inclusion of secondary legislation, our recommended option is to have the requirement for assessing all secondary legislation for consistency with the principles coming into effect after there has been an opportunity to identify classes of secondary legislation that do not warrant these assessments, to allow you to issue notices to exclude unnecessary classes.
23. This could be done using existing provisions in the Bill – i.e. the secondary legislation consistency requirements coming into force by default after a period, or by Order in Council, and the ability to make notices excluding legislation from consistency assessment requirements. Using these provisions, the secondary legislation consistency requirements could come into effect in the scheme once the necessary thinking had been done to remove unnecessary secondary legislation from the scope.
24. This could help address any concerns about future difficulties in bringing secondary legislation into the scheme (because the Bill would still provide for all secondary legislation to be subject to consistency requirements unless explicitly excluded) but would enable a more managed approach to doing so.



## *Limiting application to certain classes of secondary legislation*

25. We also have considered options that would bring some, but not all, secondary legislation by default into the requirement for consistency assessments (for example, looking at secondary legislation by maker and choosing certain categories). As noted above, this would require further evidence-gathering and thinking to determine the likely impacts of different options, with subsequent implications for the timing of the Cabinet paper.

## *Limiting application to the flow of secondary legislation*

26. In addition, we considered an option where just new secondary legislation (approximately 1,000 pieces of legislation per year) is made subject to consistency assessments, and agencies are only required to review existing stocks of secondary legislation where that class is brought in by notice. However, this approach could potentially create a disincentive for agencies to review or reform secondary legislation, and would again require further thinking about impacts and any unintended consequences.

## **Introduction of 10-year time limit for assessing consistency of existing legislation**

27. You have agreed that the Bill should include a requirement for agencies to develop and periodically report against plans to review existing legislation covered by the Bill for consistency against the legislative design and relevant good law-making principles. This is intended to create transparency and incentivise agencies to make progress in carrying out reviews. We understand that you also intend to require a 10-year timeframe for all entities covered by the consistency assessment requirements to review all their legislation. This raises some operational implications.
28. By our estimate, this would require agencies to collectively review around 100 Public Acts and 970 pieces of existing secondary legislation each year, with the House receiving more than 100 individual CASs per year and agencies being required to publish around a further 970 CASs for secondary legislation. Our view is that this required pace would be extremely difficult to achieve for those agencies that are responsible for large volumes of legislation – for example, MBIE might need to complete consistency assessments for approximately 120 Acts and 1000 pieces of secondary legislation in total.
29. Experience with similar statutory obligations for reviews of legislation are not encouraging. The multi-year ‘Consistency 2000’ project, mandated by the Human Rights Act 1993 and begun in 1994, sought to review all Acts and regulations in force, and policies or administrative practices of the Government, to determine whether any of these conflicted with the provisions of the Human Rights Act, in advance of exemptions for government activities in the Act expiring at the start of 2000. This had agencies reviewing the material they administered, which was then reviewed by the Human Rights Commission, with results reported to the Minister of Justice. As we understand it, as the deadline for completing the work got closer, the Government decided to take a different approach to compliance with the Human Rights Act, at least in part because of the huge workload it entailed for agencies, so the project was scaled back and the government moved to have the legislation changed, including to drop the Commission’s responsibility for completing their report to the Minister. At the time the government took this decision, departments had only completed around one third of the expected self-review work and the Commission had made determinations on around six percent of the expected total.



Given the approximately 50 percent growth in the amount of legislation since that time, and the wide range of matters to be assessed, the current proposal seems likely to be a larger exercise than the Consistency 2000 project.

### **Requiring the Minister for Regulation to exempt amendments from consistency assessment requirements**

30. We have not yet had time to fully consider the implications of making the Minister for Regulation responsible for exempting Government amendments from consistency requirements. However, there could be some difficulties with this approach.
31. Under both the Cabinet Manual and Standing Orders, the responsible Minister is the member of the Executive who is solely responsible for a Bill to Cabinet and Parliament. The responsibilities include obtaining Cabinet agreement to substantive amendments that the Minister wishes to propose. Inserting the Minister for Regulation during the Parliamentary process would be inconsistent with these responsibilities, and with the Minister for Regulation not having a formal role at introduction. s 9(2)(h)
32. In addition, Government amendments proposed at the Committee of the Whole stage are usually developed and progressed swiftly. It is therefore unlikely that there would be time to come up to speed on the issue and make a thorough assessment on whether the amendment should be exempted from consistency requirements - the responsible Minister would likely be better placed to make that assessment. Deferring the assessment on whether an exemption can be granted for later would not serve any purpose in these cases, as the legislation would have passed.

### **Broadening of the Board's scope for conducting inquiries**

33. You have indicated that you wish the Board to be able to investigate agencies' consistency assessments of Bills once they are introduced into the House, to enable the Board to be able to step in immediately where an agency may have made a poorly substantiated CAS. You have also indicated you want the Board to be able to investigate the consistency of Acts as soon as they have come into force.
34. We note that the current design of the Board was based on the role of the courts in the 2021 Bill. On this basis, the Board's role was intended to prompt agencies and Ministers to be diligent in their consistency assessments because the Board may investigate later and arrive at different findings.
35. If the Board's role was to be extended to consider the consistency of legislation of Bills as introduced to the House, then we recommend that the best time for this to happen is once a Bill is in front of the relevant select committee. This could be done by the Board investigating agencies' CASs of Bills as introduced, and then submitting a report with its findings to the select committee considering the Bill. The Board's analysis submitted at select committee could become a further stream of advice for Parliament to consider, similar to the role of the Legislation Design and Advisory Committee (which is also a group housed within the Executive).
36. We do not recommend that the Board look at Bills at any other stage of the Parliamentary process because:



- a Bill cannot be amended before select committee, and after the select committee stage there may generally not be enough time for the Board's report to be developed and provided to the House in order to influence Cabinet decisions before changes at Committee of the Whole.
  - at the third reading stage, the Board's report is unlikely to have much influence as the House would have to decide to refer a Bill back to Committee of the Whole House, which rarely happens
  - the Board's intervention at these other stages could be inconsistent with conventions and principles such as separation of powers and Cabinet collective responsibility. Submitting its report at select committee stage would avoid the Board (as a part of the Executive) criticising the law-making decisions of the Legislature while that process is underway, because the Bill would still be in the form it was introduced by the responsible Minister.
37. We note that there are trade-offs between having the Board focused on investigating the consistency of Bills as soon as they are introduced and investigating the consistency of existing legislation, assuming that the Board will be operating within a largely fixed funding envelope. Our original advice was that the Board should be focused on investigating the large amount of existing legislation that will likely be inconsistent with the principles, with a view to incentivising Ministers and agencies to carry out consistency assessments of their stock of legislation. In our view, this reflects where there is the biggest gap in the Regulatory Management System (RMS) and where the Board could have the most effect. However, if the Board needs to dedicate significant time and effort to keeping up with the flow of legislation, this will mean they would be less able to focus on the stock of legislation.

### Implications for costs of the proposal

38. Automatically including all secondary legislation within scope of the Bill and introducing a 10-year deadline for reviews of existing legislation is likely to have significant resourcing implications for a broader range of agencies than previously anticipated.
39. We expect feedback on the likely cost implications during departmental consultation on the Cabinet paper, however our initial analysis indicates additional costs across the public service of at least \$50 million each year on average for undertaking regular reviews of existing primary and secondary legislation over the initial ten year period.<sup>2</sup>
40. This figure is based on what we believe would be the minimum requirement to undertake well-considered reviews and is costed at the midpoint of a Principal Advisor salary to reflect the technical and complex nature of the work.
41. We have grouped legislation into three categories:
- *Primary legislation and associated secondary legislation reviewed as a package.* This includes approximately 50 primary Acts and 750 associated pieces of secondary legislation per year, with 3 FTE.

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<sup>2</sup> This figure is in 2025 dollars and will rise over the ten- year period due to inflation.



- *Primary legislation with no associated secondary legislation.* This includes approximately 50 primary Acts per year, with 1 FTE.
  - *Remaining secondary legislation.* This is not packaged with a primary Act due to different administering agencies and/or its subject matter and complexity requires separate review. This includes approximately 250 pieces of secondary legislation per year with 0.25 FTE.
42. We note this figure is indicative and takes a generalised approach to the level of resourcing we think may be required. The scope and complexity of the work will have significant variation depending on the nature of the legislation being reviewed and subsequent guidance that will be produced to support agencies understanding of how to undertake reviews.
43. Some of this resourcing may be absorbed by agencies as part of, or in substitution for, existing regulatory stewardship activity. However, for many agencies we anticipate new resourcing will be required due to the low level of regulatory stewardship activity currently undertaken.
44. The costs will not be distributed evenly across the Public Service – as noted above, 15 agencies are responsible for more than 90 percent of all secondary legislation. We note there will also be additional costs associated with the inclusion of bylaws that are not included in the above figure.
45. In addition to the above costs for existing legislation, agencies will need to produce CASs for new legislation. We estimate the overall cost of producing these CASs (including supporting the responsible Minister to make statements to explain any inconsistencies) to be approximately \$3 million per year across the public service for primary legislation (around 100 per year) and PCO drafted secondary legislation (around 400 per year)<sup>3</sup>. The total cost increases to approximately \$8.6m per year when around 950 pieces of agency drafted secondary legislation are included per year. We note that the actual number of pieces of secondary legislation could be higher as volumes are self-reported by agencies to PCO. These figures do not include the likely costs associated with including by-laws for local government.
46. The costing in the above paragraph does not consider the potential resource implications agencies may have to ensure the process undertaken in the development of policy and corresponding legislation follows the principles. For example, if additional consultation is required to meet the good lawmaking principles, this may increase resourcing or extend the timeframe in which legislative development occurs. The costs of such considerations will be context specific and therefore we have not attempted to cost these.
47. Your office asked about the expected range of fees for the Board members. Based on guidance in CO (22)2 *Revised Fees Framework* for members appointed to bodies in which the Crown has an interest the proposed range for daily fees for the Regulatory Standards Board range between \$594 - \$1,265 for the Chair and \$446 - \$952 for members. This fees range results from placing the Board in the highest scoring level for Group 4: All Other

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<sup>3</sup> Assuming an average of 60 hours per piece of legislation.



Committees and Other Bodies after assessing the Board's functions and profile in line with CO (22) 2 guidance.

48. We note that there is provision in the circular for cases where a Minister believes there is a case to operate outside the parameters of the framework. In these cases, the Minister must consult with the Minister for the Public Service. If you wished to raise this during Ministerial consultation, we would first need to seek advice from the Public Service Commission.

### **Recommended way forward and next steps**

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49. We can provide you with further advice on any of these areas if you wish, noting that this would likely have an impact on agreed timeframes.
50. In order to meet those timeframes, we require your feedback on the draft Cabinet paper by Tuesday 11 March.
51. We would then need to proceed to departmental consultation immediately following that in order to provide you with a summary of departmental feedback, along with the final summary of submissions report, Regulatory Impact Statement and Treaty Impact Analysis by Wednesday 19 March, to support your consultation with your ministerial colleagues.

DRAFT

**In confidence**

Office of the Minister for Regulation

Chair, Cabinet Expenditure and Regulatory Review Committee

**POLICY APPROVALS FOR PROGRESSING A REGULATORY STANDARDS BILL****Proposal**

- 1 This paper seeks:
  - 1.1 final Cabinet decisions on an approach to the Regulatory Standards Bill, aimed at improving the quality of New Zealand's regulation
  - 1.2 agreement to issue drafting instructions to the Parliamentary Counsel Office (PCO) on the basis of this approach.

**Relation to government priorities**

- 2 The Coalition Agreement between the New Zealand National Party and ACT New Zealand includes a commitment to legislate to improve the quality of regulation, ensuring that regulatory decisions are based on principles of good law-making and economic efficiency, by passing the Regulatory Standards Act as soon as practicable.

**Executive summary**

- 3 [To come]

**Background**

- 4 Often when government regulates, key questions remain unanswered - including whether there's a real problem to solve, whether the benefits of regulating outweigh the cost, and where costs and benefits fall. This is coupled with a lack of transparency about whether new regulation meets accepted standards and, where it does not meet those standards, why it has still been proceeded with. Furthermore, because rules and regulations stay in place for a long period of time, it is difficult for the public to know who to hold to account for the costs they face from poor quality or unnecessary regulation. Even where regulation may be justifiable at a point in time, a lack of ongoing review and maintenance often create additional costs. These are the issues that the Regulatory Standards Bill seeks to address.
- 5 On 11 November 2024, Cabinet agreed to release the discussion document *Have your say on the proposed Regulatory Standards Bill* to consult on a proposed approach to the Bill (CAB-24-MIN-0437 refers). That consultation has now been completed, and a summary of submissions is attached as **Annex 1** to this paper.
- 6 After having considered the submissions, I have decided to proceed on the basis of a substantially similar approach to the one set out in the discussion document. However, I am proposing a number of amendments to the proposal to enhance its workability and effectiveness.
- 7 **[LEGALLY PRIVILEGED]** s 9(2)(h)

7.1 s 9(2)(h)

7.2 s 9(2)(h)

## Overview of proposed Bill

8 The Regulatory Standards Bill will aim to reduce the amount of unnecessary and poor regulation by increasing transparency and making it clearer where legislation does not meet standards. It will seek to bring the same discipline of regulatory management that New Zealand has for fiscal management by providing:

- 8.1 a benchmark for good legislation through a set of principles of responsible regulation (principles)
- 8.2 mechanisms to transparently assess the consistency of proposed and existing legislation with the principles (consistency assessment requirements)
- 8.3 a mechanism for independent consideration of the consistency of existing legislation, primarily in response to stakeholder concerns (a Regulatory Standards Board).

9 The Bill will also seek to strengthen regulatory quality by supporting the Ministry of Regulation in its regulatory oversight role.

## Purpose

10 I propose that the purpose of the Bill would be to:

- 10.1 promote the accountability of the Executive to Parliament in relation to the development of high-quality legislation and regulatory stewardship
- 10.2 support Parliament to scrutinise Bills and oversee the power to make delegated legislation.

## Principles

11 I propose that the Bill would include principles of responsible regulation, focused on the effect of legislation on existing interests and liberties, and on good law-making processes. The proposed principles would cover the following areas:

- 11.1 *Rule of law* - The law should be clear and accessible, the law should not adversely affect rights and liberties, or impose obligations, retrospectively; every person is equal before the law; there should be an independent, impartial judiciary; and issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion.
- 11.2 *Liberties* - 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, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person.
- 11.3 *Taking of property* - Legislation should not take or impair, or authorise the taking or impairing of, property without the consent of the owner

unless there is good justification for the taking or impairment, fair compensation for the taking or impairment is provided to the owner, and compensation is provided to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or impairment.

- 11.4 *Taxes, fees and levies* - Legislation should be consistent with section 22 of the Constitution Act 1986 (Parliamentary control of public finance); legislation should impose 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; and legislation should impose a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both the benefits/risks to that class of payers, and the costs of efficiently achieving the objective or providing the function.
- 11.5 *Role of courts* - Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation; and legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.
- 11.6 *Good law-making* – good law-making should include:
  - 11.6.1 consulting, to the extent practicable, the persons or representatives of the persons that the responsible Minister considers will be directly and materially affected by the legislation
  - 11.6.2 carefully evaluating the issue concerned, the effectiveness of any relevant existing legislation and common law; whether the public interest requires that the issue be addressed; any options (including non-legislative options) that are reasonably available for addressing the issue; and who is likely to benefit, and who is likely to suffer a detriment, from the legislation
  - 11.6.3 establishing that legislation should be expected to produce benefits that exceed the costs of the legislation to the public
  - 11.6.4 establishing that legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available.

### **Consistency assessment requirements**

- 12 For this proposal to make a difference to overall legislative quality, it will need to cover the broad range of organisations and individuals with responsibility for legislation, including secondary legislation. I therefore propose that new requirements for assessing the consistency of proposed and existing legislation with the above principles apply to:
  - 12.1 all administering agencies for legislation (including statutory Crown entities and the Reserve Bank of New Zealand)
  - 12.2 all makers of secondary legislation.

**Consistency assessment requirements for proposed legislation**

- 13 I propose that the Minister responsible for a Government Bill must ensure that the Bill's explanatory note includes a statement from the responsible Chief Executive<sup>1</sup> stating that the Bill has been assessed for consistency with all the principles and providing the results of that assessment. The Minister would also be required to make a statement explaining the reasons for any inconsistency that was identified by the agency.
- 14 I also propose that Government amendments to a Bill (i.e. amendment papers proposed by the Government) include the same statements by the responsible Minister and agency, unless the Minister for Regulation certifies that the amendment would not materially change the Bill. However, if it is not practical to complete these statements in the time available, the responsible Minister may present them to the House as soon as possible following consideration of the amendment.
- 15 I propose that the explanatory note to any proposed secondary legislation should contain the same notices as above – with the assessment of consistency done by the Chief Executive of the administering agency and the explanations for any inconsistency provided by the responsible Minister (or other maker).<sup>2</sup>

**Consistency assessment requirements for existing legislation**

- 16 Addressing the issue of outdated, unnecessary or poor-quality existing legislation will also be critical in lifting regulatory quality. I therefore propose that:
- 16.1 administering agencies be required to develop and periodically report against plans to review the consistency of existing legislation (both primary and secondary) that would be subject to the consistency review requirements above - with a further requirement to complete the initial consistency assessments of all this legislation no later than 10 years after the Regulatory Standards Bill comes into force
- 16.2 as agencies complete these reviews for each Act in accordance with their plans, the responsible Minister would be required to present to the House a statement from the responsible Chief Executive confirming that that Act had been assessed for consistency with the principles, and the results of that assessment. The responsible Minister would also have to present to the House a statement setting out reasons for any inconsistency identified or the proposed actions that would be taken to address the inconsistency.
- 17 I also propose that, as agencies complete these reviews in relation to secondary legislation, the responsible agency must ensure the publication of:

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<sup>1</sup> Being the Chief Executive of the agency primarily responsible for leading the development of that Bill

<sup>2</sup> Noting that, under the Legislation Act 2019, the maker in relation to secondary legislation is the person empowered to formally issue the secondary legislation. If the Governor-General is empowered to make that legislation (e.g. for regulations) the "maker" is the relevant Minister.

- 17.1 a statement by the Chief Executive of the administering agency that an assessment of the consistency of that secondary legislation has been carried out and the results of the assessment
- 17.2 a statement by the responsible Minister or maker explaining the reasons for any inconsistency identified or the proposed actions that would be taken to address the inconsistency.

**Other proposed provisions in relation to consistency assessment requirements**

- 18 It will be important that, when assessing the consistency of proposed or existing legislation, the responsible agency can make its own robust assessment. For that reason, I propose that the Bill provide that both the responsible Chief Executive and the responsible agency must act independently from the Minister or maker in relation to making the assessments of consistency described above.
- 19 In addition, in order to support agencies making these assessments, and Ministers in making their statements, I propose the Bill provide that the Minister for Regulation may issue guidance, including on:
  - 19.1 how the principles should be applied
  - 19.2 how to review legislation for consistency with the principles
  - 19.3 the content and presentation of the statements and plans required.

**Exclusions or exemptions from consistency assessment requirements**

- 20 To focus agency resources on legislation where assessments of consistency are most likely to materially improve regulatory quality, I propose that some types of Government legislation are excluded from consistency assessments, including:
  - 20.1 Imprest Supply Bills or Appropriation Bills
  - 20.2 Statutes Amendment Bills
  - 20.3 legislation that primarily relates to the repeal or revocation of legislation identified as spent
  - 20.4 revision bills prepared by PCO under subpart 3 of Part 3 of the Legislation Act 2019
  - 20.5 confirmation bills prepared under subpart 3 of Part 5 of the Legislation Act 2019
  - 20.6 Treaty Settlement Bills or any other bill that provides redress for Treaty of Waitangi claims
- 21 I also propose that the Minister for Regulation could issue a notice to specify a class of bills or secondary legislation that should be excluded from consistency assessments or review by the Board. These notices would need to be approved by the House. Some examples of when this power could be used could include:
  - 21.1 where it is not practical to undertake consistency assessments (e.g. legislation passed in response to an emergency)
  - 21.2 where it is not cost-effective to undertake consistency assessments (e.g. technical or minor legislation that is not already excluded)

- 21.3 to otherwise help align consistency requirements with regulatory impact analysis requirements.
- 22 This would also exempt Government amendments from consistency assessments and planned review where they relate to the classes of exempt legislation.

### **Regulatory Standards Board**

- 23 I propose that the Bill establish a Regulatory Standards Board to make its own independent assessments of the consistency of legislation. The Board would comprise between five and seven members appointed by the Minister for Regulation on the basis of that Minister's assessment of members having the requisite knowledge, skills and experience.
- 24 The Board would carry out inquiries either following a complaint, at the direction of the Minister, or on its own accord into whether legislation is inconsistent with the principles. Any recommendations it made would be non-binding.
- 25 The Board could investigate the consistency of legislation with the principles in two broad ways:
- 25.1 it could look at consistency assessments of Bills as introduced into the House, and provide a report to the Select Committee on its findings
- 25.2 it could look at existing legislation and carry out an inquiry into whether the legislation is consistent with the principles, and report to the Minister on its findings.
- 26 As well as providing an avenue for complaints about legislation that is inconsistent with the principles, the Board would therefore help create an incentive for Ministers and agencies to complete robust assessments of consistency with the principles.
- 27 To ensure that the Board offers a relatively low-cost, agile way to respond to complaints and assess consistency of legislation with the principles, I recommend that the Board:
- 27.1 focus only on legislation subject to consistency assessments
- 27.2 operates 'on the papers' rather than holding formal hearings.
- 28 With the exception of any information provided to a select committee, Board findings and key relevant supporting information would be published (subject to the equivalent provisions of the Official Information and Privacy Acts) to reinforce transparency. I also propose that the Board would provide to the Minister for Regulation an annual report summarising its recommendations and findings for the Minister to present to the House.
- 29 The Chief Executive of the Ministry for Regulation would be responsible for the provision of administrative and secretarial services to the Board.

### **Ministry for Regulation's regulatory oversight role**

#### **Establishing new oversight arrangements**

- 30 I propose that the Bill contain provisions to support the Ministry for Regulation in its regulatory oversight role. I therefore recommend that the Bill:

- 30.1 set a requirement 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<sup>3</sup>
- 30.2 set a power for the Ministry for Regulation to require provision of information from public service departments to support this regular reporting.

**New regulatory stewardship expectations for agencies**

- 31 Given known issues with New Zealand's stock of legislation, encouraging agencies to more actively steward their regulatory systems will be critical to improving the quality of regulation over time. I therefore recommend that the Bill require public service Chief Executives to uphold a principle to proactively steward the regulatory systems associated with the legislation they administer – this is aligned with duties under the Public Service Act 2020.
- 32 Agencies could be asked to supply information to the Ministry for Regulation to show what actions they have taken to fulfil the above requirements, as part of the Ministry's power to require provision of information. This would support the Ministry's preparation of its regular report on the Regulatory Management System. More details on the timing of such reports and the processes that would be followed would be set out in guidance.

**Provisions to support regulatory reviews**

- 33 One important way in which the Ministry is seeking to influence the quality of New Zealand's regulation is by conducting regulatory reviews to ensure that regulatory systems are achieving their objectives, do not impose unnecessary compliance costs, and do not unnecessarily inhibit investment, competition and innovation. These reviews are initiated by the Minister for Regulation, and terms of reference are set jointly with the responsible Minister(s) where appropriate.
- 34 To support the efficiency and effectiveness of these reviews, I propose that the Bill:
  - 34.1 provides information-gathering powers to enable the Chief Executive of the Ministry for Regulation to require information to be provided on request, to support the effective and efficient conduct of the Ministry's regulatory reviews from:
    - 34.1.1 public service agencies as defined in section 10(a) of the Public Service Act 2020)
    - 34.1.2 statutory Crown entities as defined in section 7(1)(a) of the Crown Entities Act 2004
    - 34.1.3 any entity that makes or administers secondary legislation, including local government

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<sup>3</sup> That is the set of policies, institutions, processes and tools used by central government to pursue and maintain good quality regulation.

- 34.1.4 any entity authorised by an Act to undertake a regulatory function, for example the Reserve Bank and statutory occupational licensing bodies
- 34.1.5 any entity contracted by the government to support the delivery of a regulatory function, also known as third-party service providers
- 34.2 sets a requirement for review reports to be presented to the House together with the Government's response.
- 35 The Bill would specify that the proposed information-gathering powers above would only be used when necessary for the effective and efficient conduct of the Ministry's regulatory reviews. It would also require that:
  - 35.1 in relation to information held by third party service providers, the Ministry would first seek this information from the public service agency that holds the contract, or make the request in conjunction with the responsible agency
  - 35.2 in relation to entities that make or administer secondary legislation and entities authorised to undertake a regulatory function (e.g. the Reserve Bank) the Ministry would make a request only if the information is not already available through a responsible government agency.

#### **Commencement and transitional arrangements**

- 36 I propose that the Bill come into force on 1 January 2026. I also propose that transitional arrangements provide for consistency assessment requirements for agencies and Ministers to be brought in via Order in Council, but commence no later than six months after the date the Bill comes into force. This will allow time for the development and testing of guidance, and to ensure agencies understand and can prepare to meet the new requirements.
- 37 The provisions of the Bill would duplicate elements of the current disclosure requirements set out in Part 4 of the Legislation Act 2019, and I therefore recommend that these requirements be repealed.
- 38 In my view, existing Cabinet-mandated provisions for disclosure requirements for bills and regulatory impact analysis for regulatory proposals can be adjusted where needed to support completion of required consistency assessments and avoid any duplication.

#### **[LEGALLY-PRIVILEGED] Provisions to reduce legal risk**

- 39 s 9(2)(h) [REDACTED]
- 39.1 s 9(2)(h) [REDACTED]
- 39.2 s 9(2)(h) [REDACTED]

#### **Cost-of-living implications**

- 40 There are no cost-of-living implications arising from the proposals in this paper.

**[LEGALLY-PRIVILEGED] Crown Law advice**

41 s 9(2)(h)

**Financial implications**

**Agency costs**

- 43 There are financial implications as a result of the proposals in this paper for all agencies with responsibility for administering primary and/or secondary legislation. Those costs will fall unevenly across agencies due to the significant range in the volume of legislation administered by different agencies. For example, 15 agencies likely administer more than 90 percent of all secondary legislation, and at least three agencies (Ministry of Health, Ministry of Primary Industries, and Ministry of Business, Innovation and Employment) administer more than 900 pieces of secondary legislation each.
- 44 Agencies will need to consider how to manage the resourcing implications within baseline or may need to seek additional funding through Budget processes. Some of this resourcing may be absorbed by agencies as part of, or in substitution for, existing regulatory stewardship activity.
- 45 We anticipate an annual cost for developing consistency statements for all new legislation as well as undertaking reviews of all existing legislation within the ten-year deadline set in the bill, if done well, to cost at a minimum of between \$50 – 60 million per year across the public service. This figure will rise over the ten-year period due to inflation.
- 46 This figure is indicative and takes a generalised approach to the level of resourcing that may be required. The scope and complexity of the work will have significant variation depending on the nature of the legislation being

reviewed and subsequent guidance that will be produced to support agencies understanding of how to undertake reviews.

47 There will also be financial implications for agencies to develop and report against plans for regularly reviewing legislation and providing information to the Ministry for Regulation to support the Ministry's regular reporting requirements. There may also be ad hoc costs associated with responding to complaints made to the Regulatory Standards Board. As the scope of these requirements are generally associated with reporting on activities that will be required by an agency, we do not anticipate agencies will need to develop significant amounts of new information to fulfil requirements, therefore these costs are likely to fall within baseline.

48 There are also likely to be costs arising from the application of the principles to policy initiatives, for example costs associated with more consultation or costs arising from providing compensation for any impairment of property. There are also likely to be other potential costs associated with the risks identified by CLO in its advice.

#### **Regulatory Standards Board**

49 We anticipate members of the Regulatory Standards Board will be paid based on Group 4, Level 1 of the Cabinet Fees Framework. Annual costs for fees and expenses are likely to be between \$160,000 – \$220,000 depending on the number of members and volume of work undertaken by the Board. Additional costs associated with supporting the role will be incurred by the Ministry for Regulation as outlined below.

#### **Ministry for Regulation**

50 The Ministry for Regulation will have additional costs associated with its new functions to provide system oversight and secretariat support to the Regulatory Standards Board. We anticipate annual costs of approximately \$1 million per year to provide the Board with administrative, technical and legal expertise.

51 Resourcing for the Ministry's system oversight role is likely to be an additional \$1.1 - \$1.4 million. This cost covers the resourcing associated with requirements set out in the Bill for producing and maintaining guidance, regular reporting on the state of the regulatory management system and supporting the responsible Minister to undertake their role in the issuing of notices to the House for classes of bills and acts that may be exempt from requirements, and providing approvals for exemptions to the requirements for Government amendments.

52 [To come – statement on whether new funding required to cover any of the above costs]

#### **Legislative implications**

53 The Regulatory Standards Bill was proposed as category 2 in the 2025 Legislation Programme (must be passed by the end of 2025).

## **Impact analysis**

### **Regulatory Impact Statement**

54 The Ministry for Regulation Regulatory Impact Analysis team has determined that a number of proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement. The exemptions are on the grounds that the proposals have minor economic, social, or environmental impacts given the changes are to the internal administrative or governance arrangements of the New Zealand government. Exempted proposals include strengthening regulatory stewardship expectations and parts of the proposal relating to the Ministry for Regulation's oversight function (excluding information-gathering powers). For the remaining proposals contained in this paper, a Regulatory Impact Statement has been completed and is attached in **Annex 2**.

55 [Statement to come]

### **Climate Implications of Policy Assessment**

56 [To come]

### **Population implications**

57 The Treaty Impact Analysis that accompanies this paper as **Annex 3** includes the Ministry for Regulation's analysis of the proposals from a Treaty of Waitangi perspective.

### **Human rights**

58 [To come]

### **Use of external resources**

59 The Ministry for Regulation has engaged two policy contractors to support the policy development process for the Regulatory Standards Bill, as well as some external support for analysing the overall view of submissions received through public consultation. Some external legal support has also been engaged.

## **Consultation**

### **Government agencies**

60 [To come]

### **Public consultation**

61 Public consultation on the proposal set out in the discussion document ran for just over eight weeks (19 November 2024 to 13 January 2025), with approximately 23,000 submissions received.

## **Communications**

62 [To come]

### **Proactive release**

63 I propose to proactively release this Cabinet paper and substantive advice (including briefings) related to the Regulatory Standards Bill, with appropriate redactions, once Cabinet decisions have been taken, in accordance with the Government's proactive release policy.

## Recommendations

64 The Minister for Regulation recommends that the Committee:

- a. **notes** the summary of submissions made on the discussion document *Have your say on the Regulatory Standards Bill* that Cabinet agreed to release in November 2024 (CAB 0437 refers) attached as Annex 1
- b. **notes** that, after having considered the submissions, I have decided to proceed on the basis of a substantially similar approach to the one set out in the discussion document

### Purpose

- c. **agree** that the purpose of the Bill would focus on:
  - i. promoting the accountability of the Executive to Parliament in relation to the development of high-quality legislation and regulatory stewardship
  - ii. supporting Parliament to scrutinise Bills and oversee the power to make delegated legislation

### Principles

- d. **agree** that the Bill would include principles covering the following areas:
  - i. *Rule of law* - The law should be clear and accessible, the law should not adversely affect rights and liberties, or impose obligations, retrospectively; every person is equal before the law; there should be an independent, impartial judiciary; and issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion
  - ii. *Liberties* - 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, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person
  - iii. *Taking of property* - Legislation should not take or impair, or authorise the taking or impairing of, property without the consent of the owner unless there is good justification for the taking or impairment, fair compensation for the taking or impairment is provided to the owner, and compensation is provided to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or impairment
  - iv. *Taxes, fees and levies* - Legislation should be consistent with section 22 of the Constitution Act 1986 (Parliamentary control of public finance); legislation should impose 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; and legislation should impose a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both the benefits/risks to that class of payers, and the costs of efficiently achieving the objective or providing the function
  - v. *Role of courts* - Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation; and legislation should make

rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

- vi. *Good law-making* – good law-making should include:
- consulting, to the extent practicable, the persons or representatives of the persons that the responsible Minister considers will be directly and materially affected by the legislation
  - carefully evaluating the issue concerned, the effectiveness of any relevant existing legislation and common law; whether the public interest requires that the issue be addressed; any options (including non-legislative options) that are reasonably available for addressing the issue; and who is likely to benefit, and who is likely to suffer a detriment, from the legislation
  - establishing that legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons
  - establishing that legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available

**Consistency assessment requirements**

- e. **agree** that the Bill apply new requirements for assessing the consistency of proposed and existing legislation with the above principles to:
- i. all administering agencies for legislation (including statutory Crown entities and the Reserve Bank of New Zealand)
  - ii. all makers of secondary legislation
- f. **agree** that the Bill provide that the Minister responsible for a Government Bill must ensure that its explanatory note includes:
- i. an independent statement from the responsible Chief Executive stating that the Bill has been assessed for consistency with all the principles and providing the results of that assessment
  - ii. a statement from the Minister explaining the reasons for any inconsistency that was identified
- g. **agree** that the Bill provide that, unless the Minister for Regulation certifies that a proposed Government amendment would not materially change a Bill, the responsible Minister must ensure the same statements as in (f) above are included in the explanatory note to that amendment
- h. **agree** that the Bill provide that, if it is not practical for the responsible Minister to complete the statements in (g) above in the time available, the responsible Minister may present them to the House as soon as possible following consideration of the amendment (except as provided in (h) below)
- i. **agree** that the Bill provide that the explanatory note to any proposed secondary legislation should contain the same notices as (f) above, with the independent assessment of consistency done by the Chief Executive of the administering

- agency and the explanations for any inconsistency provided by the responsible Minister (or other maker)
- j. **agree** that the Bill provide that agencies be required to develop and periodically report against plans to review existing legislation that is subject to consistency reviews for consistency with the principles
  - k. **agree** that the Bill provide that agencies be required to complete initial reviews of all legislation existing at the Bill's entry into force via the plan in (j) above within a period of 10 years unless the legislation is repealed or revoked before the review
  - l. **agree** that the Bill provide that, as agencies complete the reviews in (k) above for each Act, the responsible Minister would be required to present to the House:
    - i a statement from the responsible Chief Executive confirming that that Act had been assessed for consistency with the principles, and the results of that assessment
    - ii a statement from the Minister setting out reasons for any inconsistency identified or the proposed actions that would be taken to address the inconsistency
  - m. **agree** that the Bill provide that, as agencies complete the reviews in (k) above in relation to secondary legislation, the responsible agency must ensure the publication of:
    - i a statement by the Chief Executive of the administering agency that an assessment of the consistency of that secondary legislation has been carried out and the results of the assessment
    - ii a statement by the responsible Minister or other maker explaining the reasons for any inconsistency identified or the proposed actions that would be taken to address the inconsistency
  - n. **agree** that the Bill provide that both the responsible Chief Executive of the responsible agency must act independently from the Minister or maker in relation to making the assessments of consistency described above
  - o. **agree** that the Bill provide that the Minister for Regulation may issue guidance, including on:
    - i how the principles should be applied
    - ii how to review legislation for consistency with the principles
    - iii the content and presentation of the statements and plans required
  - p. **agree** that the Bill exclude some types of Government legislation from consistency assessments, including:
    - i Imprest Supply Bills or Appropriation Bills
    - ii Statutes Amendment Bills
    - iii legislation that primarily relates to the repeal or revocation of legislation identified as spent
    - iv revision bills prepared by PCO under the Legislation Act 2019

- v confirmation bills prepared by PCO under the Legislation Act 2019
- vi Treaty Settlement Bills or any other bill that provides redress for Treaty of Waitangi claims
- q. **agree** that the Bill should allow the Minister for Regulation to issue a notice, following approval by the House, to specify classes of bills or secondary legislation that should be excluded from consistency assessments or review by the Board

**Regulatory Standards Board**

- r. **agree** that the Bill should establish a Regulatory Standards Board to make its own independent assessments of the consistency of legislation
- s. **agree** that the Bill should provide for the Board to:
  - i comprise between five and seven members appointed by the Minister for Regulation on the basis of that Minister's assessment of members having the requisite knowledge, skills and experience.
  - ii carry out inquiries either following a complaint, at the direction of the Minister, or on its own accord into whether legislation is inconsistent with the principles
  - iii make non-binding recommendations
- t. **agree** that the Bill provide for the Board to investigate the consistency of legislation by:
  - i looking at consistency assessments of Bills as introduced into the House, and providing a report to Select Committees considering the bill on its findings
  - ii looking at existing legislation and carrying out an inquiry into whether the legislation is consistent with the principles, and reporting to the Minister on its findings
- u. **agree** that the Bill provide that the Board should:
  - i consider only legislation subject to consistency assessments
  - ii operate 'on the papers' rather than holding formal hearings
  - iii provide to the Minister for Regulation an annual report summarising its recommendations and findings for the Minister to present to the House.
- v. **agree** that the Chief Executive of the Ministry for Regulation would be responsible for the provision of administrative and secretarial services to the Board

**Ministry for Regulation's regulatory oversight role**

- w. **agree** that the Bill would:
  - i require public service Chief Executives to uphold a principle to proactively steward the regulatory systems associated with the legislation they administer
  - ii set a requirement 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
- iii set a power for the Ministry for Regulation to require provision of information from public service departments to support this regular reporting
- x. **agree** that the Bill would provide information-gathering powers to enable the Chief Executive of the Ministry for Regulation to require information to be provided on request, to support the effective and efficient conduct of regulatory reviews from:
- i public service agencies as defined in section 10(a) of the Public Service Act 2020)
  - ii statutory Crown entities as defined in section 7(1)(a) of the Crown Entities Act 2004
  - iii any entity that makes or administers secondary legislation, including local government
  - iv any entity authorised by an Act to undertake a regulatory function, for example the Reserve Bank and statutory occupational licensing bodies
  - v any entity contracted by the government to support the delivery of a regulatory function, also known as third-party service providers
- y. **agree** that the Bill would set a requirement for review reports to be presented to the House together with the Government's response
- z. **agree** that the Bill would specify in relation to the proposed information-gathering powers in (x) above:
- i the powers would only be used when necessary for the effective and efficient conduct of the regulatory reviews carried out by the Ministry for Regulation
  - ii in relation to information held by third party service providers, the Ministry would first seek this information from the public service agency that holds the contract, or make the request in conjunction with the responsible agency
  - iii in relation to entities that make or administer secondary legislation and entities authorised to undertake a regulatory function (e.g. the Reserve Bank) the Ministry would make a request only if the information is not already available through a responsible government agency

**Commencement and transitional arrangements**

- aa. **agree** that the Bill would come into force on 1 January 2026, with transitional arrangements providing for consistency assessment requirements for agencies and Ministers to be brought in via Order in Council, but commence no later than six months after the date the Bill comes into force
- bb. **agree** to the repeal of the current disclosure requirements set out in Part 4 of the Legislation Act 2019

[LEGALLY-PRIVILEGED] s 9(2)(h)

- cc. **agree** that the Bill include clauses clarifying that:

- i the purpose of the Bill is only given effect to by the specific provisions of the Bill
- ii the Bill does not confer or impose any legal rights or duties or affect the validity of any legislation.

**Financial and other implications**

- dd. **note** that the bill will have financial implications for all agencies who are responsible for administering primary and/or secondary legislation
- ee. **note/agree** [statement on whether new funding required]
- ff. **note** [statement on whether impact analysis requirements have been met]

**Next steps**

- gg. **authorise** the Minister for Regulation to instruct the Parliamentary Counsel Office to draft the Regulatory Standards Bill to implement the proposals described in this paper
- hh. **authorise** the Minister for Regulation to make technical policy decisions as needed to support the development of these drafting instructions not inconsistent with the decisions in the paper
- ii. **agree** to proactively release this Cabinet paper and substantive advice (including briefings) related to the Regulatory Standards Bill, with appropriate redactions, in accordance with the Government's proactive release policy.

Authorised for lodgement

Hon David Seymour  
Minister for Regulation