



To	<b>Hon David Seymour, Minister for Regulation</b>		
Title	<b>Regulatory Standards Bill: Decisions needed to proceed on the basis of the discussion document proposal</b>	Number	<b>MFR2025-050</b>
Date	<b>28 February 2025</b>	Priority:	<b>High</b>
Action Sought	<b>Agree to the recommendations in this paper</b>	Due Date	<b>3 March 2025</b>
Contact	<b>Pip van der Scheer, Manager</b>	Phone	s 9(2)(a)
Contact	<b>Elisa Eckford, Lead Advisor</b>	Phone	s 9(2)(a)
Attachments	<b>Yes – Annexes 1 and 2</b>	Security	<b>IN</b>

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

## Executive summary

- Following your consideration of briefing MFR2025-042, we will proceed to drafting a Cabinet paper for Ministerial consultation on the basis of a substantially similar proposal to the one set out in the discussion document *Have your say on a proposed Regulatory Standards Bill*.
- Given the proposal in the discussion document is set out at a high level, we have been working to identify the more detailed decisions needed from you to support drafting of a Cabinet paper.
- Through this work, we have identified a number of areas where we recommend some changes to the proposal set out in the discussion document, which nonetheless do not substantively change the overall approach. These changes are based on:
  - our assessment of how best we can ensure the workability of the proposal
  - the further analysis required to give effect to the policy intent in the legislative drafting.
- [LEGALLY PRIVILEGED]** s 9(2)(h)  
[REDACTED]
- In summary, there are five main areas where we recommend changes to the proposal in the discussion document:
  - We recommend that the components of the Bill that deal with assessment of consistency with principles, including provision for the Regulatory Standards Board (the Board), focus specifically on primary and secondary legislation in line with the 2021 Bill. The components of the Bill that deal with the Ministry's oversight and review role (including its proposed new powers) would then focus more broadly on the operation of regulatory systems.
  - We recommend that the purpose clause and the provisions for consistency and recourse mechanisms are situated more clearly in the context of Parliament's



legislative scrutiny role and Ministers' accountability to Parliament for exercise of their responsibilities under the Bill – while still achieving the objectives of strengthened transparency and accountability.

- We recommend that both existing legislation and legislative proposals are assessed only against the legislative design and good lawmaking principles, and not the regulatory stewardship principles, which would be picked up instead under the part of the Bill that would provide for regulatory stewardship expectations for agencies. This also means the proposed Board would focus on consistency of existing legislation with the legislative design and relevant good lawmaking principles. This is more consistent with the approach taken in the 2021 Bill to consistency assessment and recourse, while still addressing issues of regulatory stewardship through the Bill.
  - Rather than responsible Ministers and agencies having 'sufficient regard' to the principles when developing or reviewing regulation, we recommend that agencies' and Ministers' responsibilities are framed in terms of ensuring that a statement is produced that confirms proposed legislation has been assessed for consistency with the principles, any inconsistencies disclosed, and the reasons for any inconsistencies identified explained.
  - We recommend that the Bill requires disclosure of consistency assessments, and any reasons for inconsistency, at the point of introduction of a Bill or Government amendment, or at the point of making secondary legislation.
6. **Annex 1** sets out in more detail where we are recommending changes to the proposal (without changing the substantive approach).
7. We have also made recommendations that, in our view, will help ensure the workability of the Bill, including that:
- the Bill would come into force on 1 January 2026, with transitional arrangements providing for consistency assessment requirements for Ministers and agencies to commence no later than six months after this date (or earlier if brought in by the Minister for Regulation via Order in Council) - this is to allow time for the development and testing of guidance, as well as working with agencies to ensure they understand and can prepare for the new obligations
  - consistency assessments would only be required for secondary legislation that is part of a class of secondary legislation set out in a notice jointly issued by the Minister and the Attorney-General, and approved by the House. Taking this approach would help to keep the scope of the Bill manageable initially and ensure a relatively smooth transition to the new arrangements, with the Bill still enabling a broad range of secondary legislation to be brought into the scheme over time
  - additional provisions are included in relation to information-gathering powers – for third party service providers, seeking information from the public service agency who holds the contract, or making the request in conjunction with the responsible agency; and seeking information directly from entities that make or administer secondary legislation and entities authorised to undertake a regulatory function (e.g. the Reserve Bank and statutory occupational licensing bodies) only if the information is not already available through a responsible government agency. This would help to



reduce compliance and resource burdens on entities outside of core government agencies.

8. The remainder of the recommendations in the report reflect how the proposal in the discussion document would need to be given effect in legislation – including arrangements for consistency assessments of different types for proposed and existing legislation, and for the establishment and operation of the proposed Board.
9. The Attorney-General has already granted approval for Parliamentary Counsel Office (PCO) to do initial drafting work on the principles and related components of the Bill prior to Cabinet approvals, to support your decision-making and ministerial consultation. The drafting has proceeded on the basis that the Attorney-General's approval extends to how the principles are provided for, and how they apply via assessments of consistency and the role of a Regulatory Standards Board. This means that the provisions relating to the Ministry's roles and powers, and any general regulatory stewardship responsibilities, are not yet captured in the drafting.
10. PCO's initial drafting is set out in **Annex 2**. Please note 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, Bill of Rights Act (BORA) vetting, or departmental consultation.
11. Once you have considered the advice in this briefing and made decisions on the recommendations, we will work to provide you with a Cabinet paper for your review by Thursday 6 March. In order to meet this timeline, we will need your decisions on this briefing by Monday 3 March.
12. We will also continue to work with PCO to provide an updated draft of relevant components of the Bill to support Ministerial consultation on the Cabinet paper beginning Monday 17 March.
13. In addition, we recommend that early consultation (i.e. ahead of a draft Cabinet paper) is undertaken with the Attorney-General on the basis of your decisions in this briefing, and we will discuss with your office how we can support this process.

## Recommended action

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- |     |  |              |
|-----|--|--------------|
| 14. | We recommend that you:   |              |
| a   | <b>note</b> that we are seeking your detailed decisions to support drafting of a Cabinet paper for Ministerial consultation on the basis of a substantially similar proposal to the one set out in the discussion document | <i>Noted</i> |
| b   | <b>note</b> that <b>Annex 1</b> sets out where we are recommending changes to the proposal (without changing the substantive approach)   | <i>Noted</i> |
| c   | <b>note</b> that <b>Annex 2</b> provides initial drafting from the Parliamentary Counsel Office (PCO) based on the recommendations in this briefing, to assist your decision-making  | <i>Noted</i> |



### Overall scope and application and commencement

- d **agree** that:
- i. the components of the Bill that deal with assessment of consistency with the principles of responsible regulation focus specifically on legislation Agree /  
Disagree
  - ii. the components of the Bill that deal with the Ministry's oversight role and agencies' responsibilities for stewardship focus more broadly on regulatory systems Agree /  
Disagree
- e **agree** that the Act would apply to:
- all administering agencies for legislation Agree /  
Disagree
  - all makers of secondary legislation
  - all Ministers with responsibility for administering legislation
- f **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 commence no later than six months after this date (or earlier if brought in by the Minister for Regulation via Order in Council) Agree /  
Disagree

### Purpose

- g **agree** that the Bill:
- i. should have a purpose focused on:
    - promoting the accountability of the Executive to Parliament for the development of legislative proposals and the exercise of stewardship over regulatory systems Agree /  
Disagree
    - supporting Parliament's ability to scrutinise Bills
    - supporting Parliament in overseeing and controlling the use of delegated powers to make legislation
  - ii. should indicate that the purposes are only given effect to by the specific provisions of the Bill Agree /  
Disagree
  - iii. should clarify that it does not confer or impose any legal rights or duties or affect the validity of any legislation Agree /  
Disagree

### Principles

- h **agree:**
- i. that both existing and proposed legislation should be assessed for consistency only against the legislative design and good lawmaking principles, and not the regulatory stewardship principles Agree /  
Disagree



- |   |   |                     |
|---|---|---------------------|
| i | that the elements of the regulatory stewardship principles not captured in the good lawmaking principles should instead be provided for in regulatory stewardship expectations for agencies | Agree /<br>Disagree |
|---|---|---------------------|

*Consistency mechanisms for proposed legislation*

- |      |  |                     |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
|------|--|---------------------|---|---------------------|-----|----------------|---------------------|------|-----------------------|---------------------|-----|--|---------------------|--|
| j    | <b>agree</b> that the Bill should provide for consistency assessments to be done only at the point of introduction of a legislative proposal of Government amendment, or at the point of making secondary legislation  | Agree /<br>Disagree |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
| k    | <b>note</b> that agencies could still be required to assess regulatory proposals against the principles of responsible regulation prior to Cabinet decisions being made (e.g. by incorporating consideration of the principles into Cabinet's existing requirements for Regulatory Impact Analysis)  | Noted               |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
| l    | <b>agree</b> that: <ul style="list-style-type: none"> <li>• consistency assessments should only be required for proposed secondary legislation that is part of a class of secondary legislation that has been brought into the scheme via a notice jointly issued by the Minister and the Attorney-General, and approved by the House</li> <li>• all other proposed secondary legislation should be initially exempt – apart from secondary legislation that would be made under this Act</li> </ul>   | Agree /<br>Disagree |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
| m    | <b>agree</b> to the consistency assessment arrangements set out in paragraph 57 of the briefing for: <table border="0" style="margin-left: 20px;"> <tr> <td style="vertical-align: top;">i.</td> <td>Government Bills</td> <td style="vertical-align: top; text-align: right;">Agree /<br/>Disagree</td> </tr> <tr> <td style="vertical-align: top;">ii.</td> <td>Members' Bills</td> <td style="vertical-align: top; text-align: right;">Agree /<br/>Disagree</td> </tr> <tr> <td style="vertical-align: top;">iii.</td> <td>Government amendments</td> <td style="vertical-align: top; text-align: right;">Agree /<br/>Disagree</td> </tr> <tr> <td style="vertical-align: top;">iv.</td> <td>Classes of secondary legislation covered by the consistency requirements</td> <td style="vertical-align: top; text-align: right;">Agree /<br/>Disagree</td> </tr> </table> | i.                  | Government Bills  | Agree /<br>Disagree | ii. | Members' Bills | Agree /<br>Disagree | iii. | Government amendments | Agree /<br>Disagree | iv. | Classes of secondary legislation covered by the consistency requirements | Agree /<br>Disagree |  |
| i.   | Government Bills   | Agree /<br>Disagree |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
| ii.  | Members' Bills   | Agree /<br>Disagree |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
| iii. | Government amendments  | Agree /<br>Disagree |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
| iv.  | Classes of secondary legislation covered by the consistency requirements   | Agree /<br>Disagree |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |
| n    | <b>agree</b> that: <table border="0" style="margin-left: 20px;"> <tr> <td style="vertical-align: top;">i.</td> <td>a Government amendment should also be exempted from consistency assessment requirements where the responsible Minister is of the view that it does not materially change the bill</td> <td style="vertical-align: top; text-align: right;">Agree /<br/>Disagree</td> </tr> </table>   | i.                  | a Government amendment should also be exempted from consistency assessment requirements where the responsible Minister is of the view that it does not materially change the bill | Agree /<br>Disagree |     |                |                     |      |                       |                     |     |  |                     |  |
| i.   | a Government amendment should also be exempted from consistency assessment requirements where the responsible Minister is of the view that it does not materially change the bill  | Agree /<br>Disagree |   |                     |     |                |                     |      |                       |                     |     |  |                     |  |



- |      |   |                     |
|------|---|---------------------|
| ii.  | the Minister should be required to include a statement to that effect in the explanatory note to that amendment   | Agree /<br>Disagree |
|      |   |                     |
| iii. | when there is not enough time to prepare them beforehand, consistency assessments of Government amendments should instead be presented to the House following parliamentary consideration of that amendment | Agree /<br>Disagree |

## *Consistency mechanisms for existing legislation*

- |     |   |                     |
|-----|---|---------------------|
| o   | <b>agree</b> 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 | Agree /<br>Disagree |
| p   | <b>agree</b> to the consistency assessment requirements set out in paragraphs 63 to 64 of the briefing for:   |                     |
| i.  | existing primary legislation  | Agree /<br>Disagree |
| ii. | existing secondary legislation  | Agree /<br>Disagree |

## *Other consistency mechanism provisions*

- |   |  |                     |
|---|--|---------------------|
| q | <b>agree</b> that makers of legislation (Ministers for Bills, Ministers or agencies for secondary legislation) should be required to make statements confirming consistency assessments with the relevant principles have been carried out, and reasons for any inconsistency identified | Agree /<br>Disagree |
| r | <b>agree</b> that the responsible Chief Executive should be required to act independently of the Minister when making the above statements and carrying out consistency assessments  | Agree /<br>Disagree |
| s | <b>agree</b> that the Minister for Regulation should be able to issue guidance to support consistency assessments as set out in paragraphs 66 to 67 of the briefing  | Agree /<br>Disagree |
| t | <b>agree</b> that the Bill should exclude from consistency assessments the types of Government bills and resulting Acts set out in paragraph 70 of the briefing  | Agree /<br>Disagree |
| u | <b>agree</b> that the Minister for Regulation and the Attorney-General should be able to jointly issue a notice, approved by the House, to specify additional classes of Bills and resulting Acts that should be excluded from consistency assessment or review by the Board             | Agree /<br>Disagree |
| v | <b>agree</b> that the disclosure statement requirements in Part 4 of the Legislation Act 2019 (not yet in force) should be repealed  | Agree /<br>Disagree |



## Recourse mechanism

- |   |   |                     |
|---|---|---------------------|
| w | <b>agree</b> that the Board should, at the behest of the Minister, on its own accord, or following a complaint:   |                     |
|   | <ul style="list-style-type: none"> <li>carry out an inquiry into whether existing legislation in scope of the Bill is inconsistent with the legislative design and relevant good lawmaking principles</li> <li>report its findings and recommendations to the Minister</li> </ul>   | Agree /<br>Disagree |
| x | <b>agree</b> that the Board should be required to annually provide to the Minister a summary of its recommendations and findings to present to Parliament   | Agree /<br>Disagree |
| y | <b>agree</b> that the Board should be prohibited from carrying out an inquiry into a piece of legislation if:   |                     |
|   | <ul style="list-style-type: none"> <li>less than two years have passed since the legislation came into force, or the Board reviewed it last</li> <li>the Bill does not require consistency assessments on that kind of legislation</li> <li>the complaint concerns the performance or non-performance of a particular act, or about a particular result, or in respect of a particular person</li> <li>the Board considers the complaint is more properly considered by another person or body</li> </ul> | Agree /<br>Disagree |
| z | <b>agree</b> that the Bill should provide for the Board's characteristics and duties set out in paragraphs 86 to 95 of the briefing   | Agree /<br>Disagree |

## Regulatory stewardship expectations for agencies (not reflected in Annex 2)

- |    |  |                     |
|----|--|---------------------|
| aa | <b>agree</b> that the Bill should require public service Chief Executives to uphold a principle to proactively steward regulatory systems  | Agree /<br>Disagree |
| bb | <b>note</b> that the proposal in the discussion document included a power for the Ministry for Regulation to require provision of information from public service departments to support the production of a regular report on the overall performance of the Regulatory Management System | Noted               |
| cc | <b>note</b> that agencies could be asked to report against the regulatory stewardship requirement (referred to in recommendation aa) to the Ministry, via the Ministry's power to require provision of information   | Noted               |



### *Information-gathering powers (not reflected in Annex 2)*

dd **agree** that:

- i. for third party service providers, information should be sought from the public service agency who holds the contract, or the request should be made in conjunction with the responsible agency Agree /  
Disagree
- ii. information-gathering powers should be used in relation to entities that make or administer secondary legislation and entities authorised to undertake a regulatory function only if the information is not already available through a responsible government agency Agree /  
Disagree

### *Next steps*

ee **note** the next steps set out in paragraphs 109 to 111 of the briefing Noted

### *Proactive release*

- ff agree 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. Agree /  
Disagree

s 9(2)(a)

### **Pip Van der Scheer**

Manager, Regulatory Management System

Ministry for Regulation

Date: 20 February 2025

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### **Hon David Seymour**

Minister for Regulation

Date:



## Purpose of report

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15. Following your consideration of briefing MFR2025-042, we will proceed to drafting a Cabinet paper for Ministerial consultation on the basis of a substantially similar proposal to the one set out in the discussion document *Have your say on a proposed Regulatory Standards Bill*.
16. This briefing:
  - provides more detailed recommendations on how this proposal could be provided for in legislation
  - highlights where recommendations in this briefing involve changes to the proposal, without substantively changing the approach set out in the discussion document (see **Annex 1**)
  - provides initial drafting of key parts of the proposed Bill (see **Annex 2**).

## Overall approach

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17. You have indicated your intention to seek Cabinet decisions by April and introduce a Bill in May.
18. The proposal in the discussion document is set out at a high level, and we have therefore been working to identify the more detailed decisions needed from you to support drafting of a Cabinet paper.
19. We also have been working with PCO on the basis of the Attorney-General's approval for early drafting of components of the Bill, on how the proposal could best be given effect to in legislation, and what Cabinet decisions would be needed for drafting the Bill.
20. Through this work, we have identified a number of areas where we recommend some changes to the proposal set out in the discussion document, which nonetheless do not substantively change the overall approach. These changes are based on:
  - our assessment of how best we can ensure the workability of the proposal
  - the further analysis required to give effect to the policy intent in the legislative drafting.
21. On the basis of our discussion with you on 24 February, and your direction to proceed on the basis of a substantially similar proposal to the one set out in the discussion document (MFR2025-42 refers), this briefing does not provide advice beyond the areas outlined above. This includes advice relating to provision for the Treaty of Waitangi /te Tiriti o Waitangi and Māori rights and interests, for instance how provision for these matters could be made in relation to the Board.

22. **[LEGALLY PRIVILEGED]** s 9(2)(h)

s 9(2)(h)



s 9(2)(h)

23. We have also noted areas where we propose that the Attorney-General could play a role, reflecting her role as Senior Law Officer of the Crown, and as Minister responsible for the CLO, PCO and the Legislation Design and Advisory Committee, with responsibilities relating to legislative quality.
24. For your ease of reference, **Annex 1** summarises the changes we are proposing to the discussion document proposal.
25. The Attorney-General has already granted approval for PCO to do initial drafting work on the principles and related components of the Bill prior to Cabinet approvals, to support your decision-making and ministerial consultation. The drafting has proceeded on the basis that the Attorney-General's approval extends to how the principles are provided for, and how they apply via assessments of consistency and the role of a Regulatory Standards Board. That approval does not extend to drafting in relation to the Ministry's oversight and review role, or agencies' responsibilities for stewardship, in advance of Cabinet decisions.
26. PCO's initial drafting is set out in **Annex 2**. Please note 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.

## Recommended approach to components of Bill

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27. This section sets out our recommendations to enable you to make decisions on key components of the Bill.

## Overall scope and application

28. To ensure that your primary objectives in relation to enhancing the transparency of regulatory quality are achieved, we are proposing slight amendments throughout the proposal to clarify the focus of different components of the Bill:
  - we recommend that the components of the Bill that deal with transparent assessment of consistency with principles, including a proposed new recourse mechanism to consider claims of inconsistency, focus specifically on legislation (comprising Acts of Parliament and secondary legislation as defined in the Legislation Act 2019)
  - we recommend that the components of the Bill that deal with the Ministry's oversight and review role (including its proposed new powers) and agencies' responsibilities for stewardship focus more broadly on regulation<sup>1</sup> (including the operation of regulatory systems).
29. This approach brings the components relating to consistency more into line with the 2021 Bill, better reflects how the proposed principles operate, and helps to clarify agencies' and the proposed Board's responsibilities for applying the principles. This approach has some implications for the current regulatory stewardship principles, which are discussed in more detail below.

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<sup>1</sup> As defined in the discussion document, 'regulation encompasses any government intervention (including legislation) that is intended to direct or influence people's behaviour, or how they interact with each other.'



30. We also recommend that the Act apply to:
- all administering agencies for legislation (including statutory Crown entities and the Reserve Bank of New Zealand)
  - all makers of secondary legislation
  - all Ministers with responsibility for administering legislation.
31. This ensures all entities and Ministers with responsibilities for legislation would be covered, and enables broad application of the consistency assessment requirements to classes of secondary legislation (e.g. bylaws) over time if desired.

## Commencement

32. We recommend that the Bill come into force on 1 January 2026, with transitional arrangements providing for consistency assessment requirements for Ministers and agencies to commence no later than six months after this date (or earlier if brought in by the Minister for Regulation via Order in Council).
33. This is to allow time for the development and testing of guidance, as well as working with agencies to ensure they understand and can prepare for the new obligations.

## Purpose

### *Purpose clause*

34. We recommend that a purpose clause be used to frame the Bill's purpose in terms of the Executive's accountability to Parliament for the quality of the legislative proposals it puts forward, and of existing legislation.
35. More specifically, we recommend that the Bill's purpose focus on:
- promoting the accountability of the Executive to Parliament for the development of legislative proposals and the exercise of stewardship over regulatory systems
  - supporting Parliament's ability to scrutinise Bills
  - supporting Parliament in overseeing and controlling the use of delegated powers to make legislation.
36. **[LEGALLY PRIVILEGED]** s 9(2)(h)

### *How the purpose is given effect*

37. We recommend that the Bill specify how it will give effect to its purpose (by reference to the main components of the proposal) and be clear that those are the only way in which the Act would be given effect to.
38. This would involve inclusion of a clause that would indicate that the purposes are only given effect to by:
- setting out the principles of responsible regulation



- providing for consistency reviews and disclosure of reasons for any inconsistency identified
  - establishing a Regulatory Standards Board to carry out inquiries into the consistency of existing legislation with the principles of responsible regulation
  - supporting the Ministry in its regulatory oversight role.
39. We also recommend the Bill specify that it does not confer or impose any legal rights or duties or affect the validity of any legislation.
40. **[LEGALLY PRIVILEGED]** s 9(2)(h)

## Principles

### *Good lawmaking and legislative design principles*

41. We are not proposing any substantive changes to the scope or wording of these principles on the basis of your previous decisions.
42. However, we recommend minor changes to the way the good lawmaking principles are framed to make them easier to apply both to legislative proposals and existing legislation.
43. This is because many of the good lawmaking principles refer to the process that should be followed in the making of legislation (for instance that a cost-benefit analysis has been completed). However, after the legislation is passed, particularly if some significant time has elapsed, the processes that were followed at the time the proposal was being developed are less helpful to review than whether (for instance) the benefits of the legislation currently outweigh its costs.
44. We also recommend that requirements for assessing the consistency of existing legislation refer to the 'relevant' good lawmaking principles, as it is unlikely that the consultation principle in particular will be useful when applied some time after a law came into force.

### *Regulatory stewardship principles*

45. A set of newly developed regulatory stewardship principles were included in the discussion document, alongside the legislative design and good law-making principles.
46. These regulatory stewardship principles were developed in part because of the difficulty of applying some of the good lawmaking principles to existing legislation. However, the drafting now makes specific provision for applying the good lawmaking principles to existing legislation.
47. We are therefore now proposing that both existing and proposed legislation would be assessed for consistency only against the legislative design and good lawmaking principles, and not the regulatory stewardship principles.



48. In our view, this approach:
- improves clarity in that it requires the exact same set of principles to be applied to both proposed and existing legislation
  - better reflects our proposed focus of consistency assessments on legislation rather than on regulatory systems more broadly (the focus of most of the regulatory stewardship principles)
  - reflects that the regulatory stewardship principles work better as expressions of things to be done or considered rather than standards to be attained – and therefore don't sit well with most of the other principles.
49. There are some elements of the regulatory stewardship principles that are not captured in the good lawmaking principles e.g. the focus on regulatory capability and capacity. We propose that these elements could be picked up instead in the part of the Bill that would provide for regulatory stewardship expectations for agencies, for instance as part of underpinning guidance. This part of the Bill is not yet drafted because it is not covered by the Attorney-General's permissions for drafting in advance.

## Consistency mechanisms for regulatory proposals

*How mechanisms would be applied to new regulatory proposals*

50. Our previous advice was that responsible Ministers and agencies should have 'sufficient regard' to the principles when developing or reviewing regulation.
51. **[LEGALLY PRIVILEGED]** s 9(2)(h)  
[REDACTED]
52. Instead, we recommend an approach where agencies' and Ministers' responsibilities are framed in terms of ensuring that a statement is produced that confirms proposed legislation has been assessed for consistency with the principles, any inconsistencies disclosed, and the reasons for these inconsistencies explained. The exact way this would happen would change slightly depending on the type of regulatory proposal – this is set out below in more detail.
53. This statement would go into the explanatory note for Bills and Government amendments so as to bring any inconsistencies identified to the attention of the House, as well as being published in the explanatory note for secondary legislation so it is available to the general public.
54. **[LEGALLY PRIVILEGED]** s 9(2)(h)  
[REDACTED]



55. In addition, we recommend that disclosing consistency assessments and any reasons for inconsistency identified are done at the point of introduction of a Bill, or at the point of making secondary legislation. Agencies could still be required to assess regulatory proposals against the principles of responsible regulation prior to Cabinet decisions being made if Cabinet chose but, in line with all other Cabinet requirements, this would be required through the Cabinet Manual and/or by incorporating consideration of the principles into Cabinet's existing requirements for Regulatory Impact Analysis (CO (24) 7).
56. **[LEGALLY PRIVILEGED]** s 9(2)(h)  
[REDACTED]
57. The discussion below provides more details on how consistency assessment requirements would work under this approach in relation to different types of regulatory proposals.
- *Government bills* - We recommend the Minister responsible for a government bill must ensure that its explanatory note includes a statement (or links to a statement) from the Chief Executive of the agency primarily responsible for leading the development of the legislation that the bill has been assessed for consistency with all the principles, and the results of that assessment; and a statement from the responsible Minister explaining the reasons for any inconsistency identified.
  - *Members' bills* - Similar to the 2021 Bill, we recommend that the member of Parliament who is in charge of a Bill must provide the select committee with a statement that confirms that the bill has been assessed for consistency with all the principles, and the results of that assessment, and explain any inconsistency identified.
  - *Government amendments* - We recommend that explanatory notes to Government amendments to bills that the responsible Minister considers materially change the bill must include the same statements as for Government bills - except where this is impractical (see exemptions section below).
  - *Secondary legislation* - We recommend that, for classes of secondary legislation covered by the consistency assessment requirements (coverage of secondary legislation is covered in more detail below), the head of the administering agency of the instrument (usually the responsible Chief Executive) must ensure that its explanatory note includes a statement that confirms that the secondary legislation has been assessed for consistency with the principles, and the results of that assessment; and a statement from the maker<sup>2</sup> explaining the reasons for any inconsistency identified.
58. In relation to proposed secondary legislation, we recommend that:
- consistency assessments are only required for secondary legislation that is part of a class of secondary legislation set out in a notice jointly issued by the Minister and the Attorney-General, and approved by the House

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<sup>2</sup> 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 for that secondary legislation or instrument.



- all other secondary legislation would be exempt – apart from secondary legislation that would be made under this Act (e.g. the notices specifying which classes of secondary legislation should be subject to consistency assessment requirements).
59. Given the amount of secondary legislation that is made, taking this approach would help to keep the scope of the Bill manageable initially and ensure a relatively smooth transition to the new arrangements (i.e. agencies could initially focus on the consistency of their primary legislation). But the Bill would still enable a broad range of secondary legislation to be brought into the scheme over time, including bylaws, where considered appropriate following a consistency assessment with the principles of the Act, and a Ministerial statement giving reasons for any inconsistency identified.

#### *Requirement for agencies to review existing legislation*

60. The discussion document proposed requirements for agencies in relation to assessing existing legislation for consistency with the principles.
61. Building on that approach, we recommend that the Bill includes 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.
62. More details about these plans and reporting, e.g. in relation to timing, what they should contain, and how they would be published would be provided in the guidance issued by the Minister for Regulation under this Act.

#### *Assessment of existing primary legislation*

63. We recommend that when agencies are reviewing primary legislation for which they are responsible, in accordance with the periodic plan above, the responsible Minister would be required to present to the House:
- a statement made by the responsible Chief Executive confirming that the legislation has been assessed for consistency with the legislative design principles and the relevant good lawmaking principles, and the results of that assessment
  - a statement made by the responsible Minister about the reasons for any inconsistency identified and any proposed actions to remedy that inconsistency.

#### *Assessment of existing secondary legislation*

64. We recommend that, when responsible agencies are reviewing any secondary legislation that is subject to consistency assessment requirement, in accordance with the periodic plan above, the responsible agency must ensure the publication of:
- a statement from the head of the administering agency for the instrument (usually the responsible Chief Executive) that confirms that the secondary legislation has been assessed for consistency with the legislative design principles and the relevant good lawmaking principles, and the results of that assessment
  - a statement from the maker explaining the reasons for any inconsistency identified, and any proposed actions to remedy that inconsistency.



## *Provisions for independence*

65. To ensure the robustness of consistency assessments, we recommend that both the responsible Chief Executive and the responsible agency must act independently of the maker when making the above statements and carrying out assessments of consistency.

## *Guidance*

66. In line with the proposal in the discussion document, we recommend that the Minister may issue guidance, including on:
- how the principles should be applied
  - how to review proposed or existing legislation for consistency with the principles
  - the content and presentation of statements of consistency/reasons for inconsistency in relation to both reviews of proposed and existing legislation.
67. We recommend (again consistent with the 2021 Bill) that the guidelines would not have the force of law.
68. **[LEGALLY-PRIVILEGED]** s 9(2)(h)

## *Exclusions or exemptions from consistency assessment requirements*

69. As previously advised, we propose some specific exclusions and provisions for some exemptions set out in the Bill to avoid unnecessary compliance where assessments of consistency are not likely to materially improve regulatory quality.
70. Consistent with previous advice, we recommend that some types of *Government bills* are excluded from consistency assessments:
- Imprest Supply Bills or Appropriation Bills
  - bills that are Statutes Amendment Bills under the rules and practice of the House of Representatives
  - legislation that primarily relates to the repeal or revocation of legislation identified as spent
  - revision bills prepared under subpart 3 of Part 3 of the Legislation Act 2019
  - bills prepared for the purposes of confirmation under subpart 3 of Part 5 of the Legislation Act 2019
  - Treaty Settlement Bills, or legislation that gives effect to, or is otherwise related to, full and final Treaty settlements.
71. Further, we recommend that the Minister for Regulation and the Attorney-General could jointly issue a notice to specify a class of bills 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:

- where it is not practical to undertake consistency assessments (e.g. legislation passed in response to an emergency)
- where it is not cost-effective to undertake consistency assessments (e.g. technical or minor bills that are not already excluded)
- to otherwise help align consistency requirements with regulatory impact analysis requirements.

72. This would also exempt *Government amendments* (i.e. amendment papers proposed by the Government) from consistency assessments where they relate to the classes of exempt bills.

73. We also recommend that:

- a Government amendment is also exempted from consistency assessment requirements where the responsible Minister is of the view that it doesn't materially change the bill, and that the Minister must include a statement to that effect in the explanatory note to that amendment
- when there is not enough time to prepare them beforehand, consistency assessments of Government amendments can instead be presented to the House following Parliamentary consideration of that amendment.

74. To ensure consistency in the Bill's treatment of proposed and existing legislation, we recommend applying the same exemptions across both. In practice, this would mean that:

- exemptions for Government bills would also apply to the resulting Act if the bill becomes a principal Act
- Amendment Acts would generally fall outside the scope of the consistency assessments, as their provisions would be captured as part of the assessment of the principal legislation (i.e. the Act that was amended).

*How arrangements would fit with existing processes*

75. We recommend that the disclosure statement requirements in Part 4 of the Legislation Act 2019 (not yet in force) are repealed. Bringing Part 4 into force alongside the Bill would mean having similar legislation with overlapping subject matter in place at the same time. Having the two statutory regimes operating together could be confusing, including misalignment in legislation covered and the processes for setting detailed requirements or guidance.

76. The current Cabinet-mandated disclosure statements already report on matters relating to several of the principles of responsible regulation, while also providing other information of value to people scrutinising legislative proposals. As a result, disclosure statement expectations and processes can be readily adjusted to accommodate, support and complement the statements of consistency required under the Bill. We will advise on how this can be done as the Bill progresses, so that changes are made in time for the Bill coming into force.



77. This Bill could also leverage the existing regulatory impact analysis system – for instance by ensuring that expectations for the provision and quality assurance of regulatory impact analysis will support the later completion of required statements about the consistency of proposed legislation, particularly with the good law-making principles.

## Recourse mechanism

### *Board functions*

78. As well as providing an avenue for complaints about legislation that is inconsistent with the principles, our understanding is that the Board proposed in the discussion document is intended to help create an incentive for Ministers and agencies to complete robust assessment of consistency with the principles – similar to the role of the courts in the 2021 Bill.

79. As set out in the discussion document, the Board would achieve this by:

- assessing the consistency of existing legislation with the principles based on a complaint, as well as by undertaking reviews on its own behest or at the direction of the Minister for Regulation
- following its assessment, issuing non-binding recommendations independent from Ministers and agencies.

80. We therefore recommend that the Board would:

- carry out an inquiry either following a complaint, at the direction of the Minister, or on its own accord, into whether existing legislation in scope is inconsistent with the legislative design and relevant good lawmaking principles
- report its views on these inquiries to the Minister, including any non-binding recommendations to agencies.

81. [LEGALLY PRIVILEGED] s 9(2)(h)

82. We therefore recommend that the Board provide to the Minister an annual report to table before Parliament a summary of its recommendations and findings. This approach broadly aligns with the proposal in the discussion document that the Board's reports are presented to the House to help strengthen Parliamentary scrutiny. We propose that reporting would be on an annual basis to promote efficiency and optimal use of Board and administrative resources, while still achieving the outcome intended.

### *Board scope*

83. As indicated in the discussion document, the Board is intended to be an agile and low-cost mechanism. Therefore, in setting the recommended scope of the Board, we have considered how best to define its scope to avoid duplication and focus its resources where it is most likely to make a difference.



84. You have previously agreed that the Board should focus on review of existing legislation, and that the Board should not:
- cut across any existing complaint mechanisms
  - consider decisions made by Ministers or agencies in relation to individual cases.
85. To ensure that the Board is not duplicating effort we recommend that the Board must not carry out an inquiry if:
- less than two years have passed since the legislation came into force or since the Board has completed an inquiry into the legislation – this would help avoid continual re-reviewing of contentious legislation while also creating an incentive for agencies and Ministers to review their existing legislation
  - it relates to any secondary legislation that is not subject to consistency assessments and regular review as specified in the Bill
  - the complaint relates to particular actions, results or people, or relates to any matter that the board considers is more properly considered by some other person or body (for example, the Regulations Review Committee of the House of Representatives responsible for the review of secondary legislation).

#### *Operation of the Board*

86. The discussion document proposed that the Board would operate ‘on the papers’ (i.e. it would not hold formal hearings) and on the basis of reasonably available information. Also, the discussion document indicates that the Board would have some discretion in relation to whether to consider claims of inconsistency.
87. Furthermore, the discussion document proposed that, to ensure transparency, the Board’s reports would be published subject to the Official Information Act and the Privacy Act. We continue to support this approach and suggest the activities of the Board generally be subject to the Official Information Act.<sup>3</sup> We recommend that the reports are published on the Ministry for Regulation website (as secretariat to the Board).
88. In addition, we propose that prior to publication, and following best practice, the Board is required to provide its final report setting out its opinion to the Chief Executive of the responsible agency or agencies (copied to their responsible Minister(s)) and any complainant.

#### *Board form, membership and duties*

89. The proposal in the discussion document included very little detail on the form, membership and duties of the proposed Regulatory Standards Board.
90. Based on our analysis of provisions for similar Boards in legislation, we recommend that the Bill sets a core set of provisions determining its size, how members would be

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<sup>3</sup> Note as the Board is not a separate legal entity, it cannot be listed in Schedule 2 of the Official Information Act 1982. After discussion with PCO, we therefore suggest that all information held by the Board be considered held by the Ministry, for the purposes of the Official Information Act.



appointed and removed, and what duties it would owe (and to whom), while leaving a degree of flexibility to ensure that it can adapt to future circumstances.

91. In relation to the Board form and membership, we recommend that the Bill provide for the following characteristics:
- It must have no fewer than three and no more than seven members.
  - The Minister for Regulation must appoint the Board members based on the Minister's assessment of them having the appropriate knowledge, skills and experience to assist the board to perform its functions.
  - An appointment of a member of the Board must be made by notice in the Gazette.
  - Board members would serve a term of three years, could be reappointed, and would continue to hold office until they are re-appointed themselves or a successor is appointed, or the Minister decides the position will be vacant (outside the minimum).
  - The Minister may at any time remove a member of the Board from office by written notice to the member.
  - A member of the Board may resign from office by written notice to the Minister. Resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.
  - A member of the Board is not entitled to any compensation for ceasing, for any reason, to hold office.
  - Board members would be remunerated in line with the fees framework set out in Cabinet Office Circular CO (22) 2.
92. In proposing individual and collective duties of the Board, we consider it important that people have trust that the Board will act independently of particular interests, and operate with a high degree of transparency.
93. We therefore recommend that each Board member would have a duty to:
- act independently
  - make decisions free from bias and predetermination
  - declare any real or perceived conflicts of interest as soon as practicable after the member becomes aware of the potential conflict (or in advance, if before an appointment)
  - act reasonably and in good faith
  - not disclose information.
94. We also recommend that the Board have a collective duty to act in accordance with its functions and perform those functions efficiently and effectively, and consistently with the purpose of the Bill.
95. In addition, we recommend that:
- members would be accountable to the Minister for Regulation for performing their duties as members, reflecting that the Minister appoints them



- members would not be liable for any act or omission in good faith and in the performance of the Board's functions – to give Board members certainty that they will not be unfairly implicated in civil proceedings for decisions or omissions they made in good faith
- the Board must report to the Minister for Regulation annually regarding its activities to enhance the accountability and transparency of the Board's operations. The Minister would then table the Board's report to the House as soon as practicable after receiving the report.
- The Chief Executive of the Ministry for Regulation would be responsible for the provision of administrative and secretarial services to the Board.

## Ministry's oversight role

96. The discussion document set out a series of proposals to help the Ministry for Regulation to take on a strong regulatory oversight role.
97. The Attorney-General's permissions for advance drafting do not capture provisions relating to this area of the discussion document (including proposed information-gathering powers and new agency responsibilities) and these proposals are therefore not reflected in the drafting in **Annex 2**. However, we will need Cabinet decisions in all these areas to proceed to final drafting of the Bill.

### *General regulatory oversight provisions*

98. In line with the proposals in the discussion document, we recommend that the Bill would:
  - 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
  - set a power for the Ministry for Regulation to require provision of information from public service departments to support this regular report.

### *Regulatory stewardship expectations for agencies*

99. The discussion document proposed a broad requirement for agencies in relation to the regular review and maintenance of the legislation they administer.
100. In line with the discussion document, we recommend that:
  - the Bill would require public service Chief Executives to uphold a principle to proactively steward regulatory systems – this is aligned with duties under the Public Service Act 2020.<sup>4</sup>
  - agencies could be asked to report against this requirement to the Ministry, as part of the Ministry's power to require provision of information – in order to 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.

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<sup>4</sup> See s 12(1)(e) of this Act.



## *Provisions to support regulatory reviews*

101. The discussion document set out that the Bill would:

- provide for the Minister for Regulation to initiate regulatory reviews and set terms of reference for reviews
- 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 reviews from:
  - public service agencies as defined in section 10(a) of the Public Service Act 2020)
  - statutory Crown entities as defined in section 7(1)(a) of the Crown Entities Act 2004
  - any entity that makes or administers secondary legislation, including local government
  - any entity authorised by an Act to undertake a regulatory function, for example the Reserve Bank and statutory occupational licensing bodies
  - any entity contracted by the government to support the delivery of a regulatory function, also known as third-party service providers
- set a requirement for review reports to be presented to the House together with the Government's response.

102. Any information gathering powers would not override prohibitions or restrictions on the sharing of information already set down in legislation.

103. Consistent with best practice legislative design, these proposed information-gathering powers (and the power outlined above) would be drafted to be clear they will only be used when necessary for the effective and efficient conduct of the function (in this case, regulatory reviews).

104. Based on our further analysis of information-gathering powers in other legislation, we note that the proposed powers are broader and less clearly defined than other powers, particularly those in the Public Finance Act 1989. In addition, as previously advised, the use of the power to obtain information directly from local government will likely be contentious and could be contested in litigation.

105. We therefore recommend some additional provisions around the use of information-gathering powers to clarify their use, including:

- for third party service providers, seeking information from the public service agency who holds the contract, or make the request in conjunction with the responsible agency
- including a provision for information sharing powers to be used in relation to entities that make or administer secondary legislation and entities authorised to undertake a regulatory function (e.g. the Reserve Bank and statutory occupational licensing bodies) only if the information is not already available through a responsible government agency.



106. In our view, these additional provisions could help to reduce compliance and resource burdens on entities outside of core government agencies, as information would only be sourced directly when it is not available from a responsible government agency. In some instances, this would also reduce duplication when information has already been provided to a government agency. These provisions would also help maintain vertical lines of accountability as far as possible.
107. The Public Service Commission has noted that the additional provisions do not appear to assist local government as there may not be a relevant government agency to direct a request to in the first instance.
108. In our view, if information was needed directly from local government, we would expect in practice that the information would be requested voluntarily through existing consultation and engagement processes before the powers are used.

## Next steps

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109. Once you have considered the advice in this briefing and made decisions on the recommendations, we will work to provide you a Cabinet paper for your review by Thursday 6 March. In order to meet this timeline, we will need your decisions on this briefing by Monday 3 March.
110. We will also continue to work with PCO to provide an updated draft of relevant components of the Bill to support Ministerial consultation on the Cabinet paper, expected to begin the week of Monday 17 March.
111. In addition, we recommend that early consultation (i.e. ahead of a draft Cabinet paper) is undertaken with the Attorney-General on the basis of your decisions in this briefing, and we will discuss with your office how we can support this process.



## Annex 1: Comparison between discussion document proposal and current recommendations

See: [Slides to accompany MFR2025-026.pptx](#)



**Ministry for Regulation  
Te Manatū Waeture**

# Comparison between discussion document proposal and current recommendations

Annex 1 to MFR2025-050

# Application and commencement

Proposal in discussion document	Current recommended approach
The Bill would cover both new legislation and existing regulation.	We have added more detail on the issues and propose that: <ul style="list-style-type: none"><li>• the components of the Bill that deal with assessment of consistency with the principles of responsible regulation focus specifically on legislation (Acts of Parliament and secondary legislation defined in the Legislation Act 2019)</li><li>• the components of the Bill that deal with the Ministry's oversight and review role and agencies' responsibilities for stewardship focus more broadly on regulatory systems</li></ul>
Matter not included in the discussion document	We recommend that the Act applies to: <ul style="list-style-type: none"><li>• all administering agencies for legislation (including statutory Crown entities and the Reserve Bank of New Zealand)</li><li>• all makers of secondary legislation</li><li>• all Ministers with responsibility for administering legislation.</li></ul>
Matter not included in the discussion document	The Bill would come into force on 1 January 2026, with transitional arrangements providing for consistency assessment requirements to commence after six months, or earlier if brought in by the Minister for Regulation via Order in Council.



# Purpose

Proposal in discussion document	Current recommended approach
<p>The discussion document did not include a proposed purpose statement for the Bill.</p>	<p>The Bill's purpose would focus on:</p> <ul style="list-style-type: none"><li>• promoting the accountability of the Executive to Parliament for the development of legislative proposals and the exercise of stewardship over regulatory systems</li><li>• supporting Parliament's ability to scrutinise Bills</li><li>• supporting Parliament in overseeing and controlling the use of delegated powers to make legislation</li></ul> <p>Include a clause in the Purpose section indicating that the purposes are only given effect to by the specific provisions of the Bill.</p> <p>The Bill would clarify that it does not confer or impose any legal rights or duties or affect the validity of any legislation.</p>



# Regulatory responsibility principles

Proposal in discussion document	Current recommended approach
Legislative design principles;  Good law-making principles; and  Regulatory stewardship principles	<p>No substantive changes to the scope or wording of the principles. But do recommend:</p> <ul style="list-style-type: none"><li>• minor changes to the way the good lawmaking principles are framed to make them easier to apply to legislative proposals and existing legislation</li><li>• both existing and proposed legislation would be assessed for consistency only against the legislative design and good lawmaking principles, and not the regulatory stewardship principles</li></ul> <p>Given the recommendation set out in bullet point two, we are therefore now proposing the elements of the regulatory stewardship principles that are not captured in the good lawmaking principles are instead provided for in the part of the Bill that sets out regulatory stewardship expectations for agencies.</p>



# Consistency mechanisms – approach

Proposal in discussion document	Current recommended approach
Responsible Ministers and agencies should have “sufficient regard” to the principles when developing or reviewing regulation.	Agencies and Ministers' responsibilities are framed in terms of ensuring a statement is produced that confirms proposed legislation has been assessed for consistency with the principles, any inconsistencies disclosed and the reasons for any inconsistencies explained.
For new legislation, consistency requirements would apply prior to a proposal coming to Cabinet, primary legislation being introduced into the House or secondary legislation being made and published.	The Bill should provide for consistency assessments to be done only at the point of introduction of a legislative proposal or at the point of making secondary legislation.
For existing legislation, consistency requirements would be provided for as part of a requirement on both Ministers and agencies to review regulation for which they are responsible against the regulatory stewardship principles.	<p>No substantive change to the overall requirement – agencies would still be required to develop and periodically report against plans to review existing legislation.</p> <p>Existing legislation would now be assessed against the legislative design and relevant good law-making principles, not the regulatory stewardship principles, consistent with the approach for new legislation.</p>



# Consistency mechanisms – exemptions

Proposal in discussion document	Current recommended approach
The Bill would exclude legislation that gives effect to, or is otherwise related to, full and final Treaty settlements.	<p>To avoid unnecessary compliance where assessments of consistency are not likely to materially improve regulatory quality, we propose that the additional following categories of Bills are excluded:</p> <ul style="list-style-type: none"><li>• Imprest Supply Bills or Appropriation Bills</li><li>• bills that are Statutes Amendment Bills under the rules and practice of the House of Representatives</li><li>• bills that primarily relate to the repeal or revocation of legislation identified as spent</li><li>• revision bills prepared under subpart 3 of Part 3 of the Legislation Act 2019</li><li>• bills prepared for the purposes of confirmation under subpart 3 of Part 5 of the Legislation Act 2019</li></ul> <p>To future proof the Act we also propose the Minister for Regulation and the Attorney-General should be able to jointly issue a notice, approved by the House, to specify classes of Bills and resulting Acts that should be excluded from consistency statements.</p>
The Bill would enable the Minister for Regulation to determine which types of regulation are required to comply with consistency requirements. Other regulation not covered by the direction would be exempt.	<p>No substantial change proposed – some additional detail provided.</p> <p>We propose consistency assessments should only be required for proposed secondary legislation that is part of a class of secondary legislation that has been brought into the scheme via a notice jointly issued by the Minister and the Attorney-General, and approved by the House.</p>



# Regulatory Standards Board – functions

Proposal in discussion document	Current recommended approach
The Board would be assessing the consistency of existing legislation with the principles based on a complaint, as well as by undertaking reviews on its own behest or at the direction of the Minister for Regulation	No substantive change proposed.  The Board would carry out inquiries following a complaint, at the direction of the Minister, or on its own accord, into whether existing legislation in scope is inconsistent with the legislative design and relevant good lawmaking principles.
Following its assessment, the Board would be issuing non-binding recommendations independent from Ministers and agencies	No change proposed
The Board's reports are presented to the House to help strengthen Parliamentary scrutiny	No substantive change proposed – we recommend that the Minister for Regulation presents to the House annually a summary of the Board's recommendations and findings.



# Regulatory Standards Board – scope and operation

Proposal in discussion document	Current recommended approach
The Board is intended to be an agile and low-cost mechanism that should focus on review of existing legislation and not cut across any existing complaint mechanisms or consider decisions made by Ministers or agencies in relation to individual cases.	<p>The same with some specificity added, including that the Board should not launch an inquiry into a complaint about inconsistent legislation if:</p> <ul style="list-style-type: none"><li>• less than two years have passed since the legislation came into force, or the Board reviewed it last</li><li>• the Bill does not require consistency assessments on that kind of legislation</li><li>• the complaint concerns the performance or non-performance of a particular act, or about a particular result, or in respect of a particular person</li><li>• the Board considers the complaint is more appropriately considered by another person or body</li></ul>
The Board's reports would be published subject to the Official Information Act and the Privacy Act.	<p>No change proposed – some additional detail provided.</p> <p>We recommend that prior to publication, and following best practice, the Board is required to provide its final report setting out its opinion to the chief executive of the responsible agency or agencies (copied to their responsible Minister(s)) and the complainant.</p>



# Ministry's oversight role – expectations for agencies

Proposal in discussion document	Current recommended approach
Government agencies would be required to regularly review, maintain and improve legislation they administer – building on requirements that are set out in Section 12 of the Public Service Act 2020.	<p>We suggest a change that continues to build on Section 12 of the Public Service Act that requires public service Chief Executives to uphold a principle to proactively steward regulatory systems.</p> <p>Government agencies could be asked to report against this requirement to the Ministry, as part of the Ministry's power to require provision of information to support the Ministry's preparation of its regular report on the Regulatory Management System.</p>
Government agencies would be required to develop and periodically report against plans to review existing legislation for consistency with the regulatory stewardship principles.	No substantive change to requirement, but government agencies would now be required to assess existing legislation against the legislative design and relevant good law-making principles.



# Ministry's oversight role – information-gathering powers for regulatory reviews

Proposal in discussion document	Current recommended approach
<p>Information-gathering powers to enable the Chief Executive of the Ministry to require information to be provided on request to support the effective and efficient conduct of reviews from:</p> <ul style="list-style-type: none"><li>• public service agencies as defined in section 10(a) of the Public Service Act 2020)</li><li>• statutory Crown entities as defined in section 7(1)(a) of the Crown Entities Act 2004</li><li>• any entity that makes or administers secondary legislation, including local government</li><li>• any entity authorised by an Act to undertake a regulatory function, for example the Reserve Bank and statutory occupational licensing bodies</li><li>• any entity contracted by the government to support the delivery of a regulatory function, also known as third-party service providers</li></ul>	<p>The Ministry recommends two additional provisions around the use of information-gathering powers:</p> <ul style="list-style-type: none"><li>• for third party service providers, seeking information from the public service agency who holds the contract, or make the request in conjunction with the responsible agency</li><li>• including a provision for information sharing powers to be used in relation to entities that make or administer secondary legislation and entities authorised to undertake a regulatory function (e.g. the Reserve Bank and statutory occupational licensing bodies) only if the information is not already available through a responsible government agency</li></ul>

