



To	Hon David Seymour, Minister for Regulation		
Title	Regulatory Standards Bill - Proposed framework for considering exemptions	Number	MFR2025-235
Date	28 August 2025	Priority:	Medium
Action Sought	Agreement to approach and proposed framework	Due Date	4 September 2025
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Attachments	No	Security Level	IN CONFIDENCE

Executive Summary

1. This paper seeks your agreement to a proposed approach for developing an initial list of exemptions to be included in a notice issued as soon as the Regulatory Standards Bill (the Bill) comes into force, as agreed by Cabinet (CAB 25-MIN-0148 refers).
2. This approach would involve consideration by Cabinet of a proposed framework for identifying potential exemptions prior to identifying the specific legislation to be exempted in the initial notice. In our view, this will help to streamline the process for engaging with agencies and help to ensure a comprehensive and consistent approach, with a clear policy rationale for any exemptions proposed by departments. We also note that, based on the engagement we have had with agencies to date your Ministerial colleagues are likely to have a high level of interest in this framework.
3. The proposed framework seeks to balance practicality, appropriateness, and cost-effectiveness while ensuring the effectiveness and integrity of the Bill, and proposes the following classes of legislation could be exempted:
 - a. Legislation directly responding to a declared emergency
 - b. Legislation necessary to directly give effect to agreements entered into by the Crown (e.g. Treaty Settlement matters not already exempted by the Bill, or international obligations)
 - c. Legislation for which consistency assessment and review requirements would be an inappropriate intrusion of the executive into Parliamentary, judicial, or other independent affairs



- d. Legislation for which consistency assessment and review requirements are not cost-effective or valuable.
4. Should you agree to this approach, and subject to your feedback on the draft framework, the Ministry would prepare a draft Cabinet paper setting out the draft framework for your review.
5. Following Cabinet consideration of the framework, the Ministry would engage with agencies to identify specific exemptions, with a view to taking a proposed exemption notice to Cabinet by the end of this year.



Recommended Action

6. We recommend that you:
- a **agree** to take a draft framework for identifying exemptions to the requirements in the Regulatory Standards Bill to Cabinet by the end of September *Agree / Disagree*
 - b **provide** feedback on the draft exemptions framework outlined in this paper *Agree / Disagree*
 - c **agree** that, following Cabinet consideration of the draft framework, the Ministry will:
 - i. work with agencies to identify appropriate exemptions, consistent with the identified categories and provide you with further advice *Agree / Disagree*
 - ii. prepare a final Cabinet paper providing the draft initial notice for consideration by Cabinet by the end of this year *Agree / Disagree*
 - d **agree** that the Ministry for Regulation release this briefing in full following final Cabinet consideration of a notice. *Agree / Disagree*

s 9(2)(a)



Pip van der Scheer
Manager, Regulatory Management
System
Ministry for Regulation
Date: 28 August 2025

Hon David Seymour
Minister for Regulation

Date:



Purpose of Report

7. This paper seeks your agreement to:
 - a. a proposed approach for developing an initial list of exemptions to be included in a notice issued as soon as the Regulatory Standards Bill comes into force, as agreed by Cabinet (CAB 25-MIN-0148 refers)
 - b. a draft exemptions framework to support identification of these exemptions via departmental and Ministerial consultation.

Context

The Bill enables classes of legislation to be exempted by notice

8. The Bill provides for both primary and secondary legislation to be able to be exempted from consistency assessment and review requirements under the Bill via the issuing of notices. These exemptions are additional to those set out in the Bill itself (e.g. Treaty settlement legislation, rules of court and secondary legislation issued by the Chief of the New Zealand Defence Force). Exempted legislation is excluded entirely from the scope of the Bill. These exemptions are intended to provide for situations where it would not be appropriate or feasible for the Bill's requirements to apply.

Cabinet agreed that the Ministry would work with agencies to develop an initial list of proposed exemptions from the Bill requirements

9. During consultation on the Cabinet paper seeking policy decisions on the Bill, departments identified a wide range of legislation that they proposed be exempted from requirements under the Bill. Given that there was not enough time to fully consider all of these proposals, Cabinet agreed that the Ministry would work with agencies to develop an initial list of exemptions which could be included in a notice to be issued as soon as the Bill comes into force (CAB 25-MIN-0148 refers). Cabinet noted that grounds for exemption could include:
 - a. where it is not practical or appropriate to undertake consistency assessments (e.g. legislation to be passed in response to an emergency)
 - b. where it is not cost-effective to undertake consistency assessments (e.g. technical or minor legislation that is not already excluded)
 - c. to otherwise help align consistency requirements with relevant Government processes, such as regulatory impact analysis requirements.

Proposed process for identifying exemptions

10. We recommend that an exemptions framework be considered by Cabinet prior to identifying the specific legislation to be exempted in the initial notice. In our view, this will help to streamline the process for engaging with agencies and help to ensure a comprehensive and consistent approach, with a clear policy rationale for



any exemptions proposed by departments. We also note that, based on the engagement we have had with agencies to date your Ministerial colleagues are likely to have a high level of interest in this framework and in the final list of exemptions.

11. We therefore recommend that you take a paper to Cabinet by the end of September setting out an exemptions framework that could then be used to identify legislation or classes of legislation that would be included in the proposed notice. This would allow the exemptions framework to be tested with departments and Ministers prior to developing the list of final exemptions.
12. The final exemptions notice could then be provided to Cabinet for consideration before the end of this year (noting that the notice will need to be approved by a resolution of the House once the Bill has passed).

Proposed exemptions framework

The Ministry has developed a proposed framework for considering exemptions

13. The Ministry has developed a proposed exemptions framework for identifying potential exemptions, based on previous engagement with agencies and feedback from submissions to the Select Committee. It is intended that this framework will undergo further development during agency consultation ahead of informing the final list of exemptions.
14. In developing this framework the Ministry has sought to balance the desirability of:
 - a. preserving the broad application of the Bill, as too many exemptions will undermine its effectiveness
 - b. making exemptions as unambiguous as possible, limiting the need for discretion
 - c. avoiding costs and burden for agencies where there is not commensurate value in the resulting analysis.
15. On this basis, the Ministry has identified four possible categories of legislation or legislation making powers where exemptions should be considered on the basis of practicality, appropriateness and/or cost-effectiveness:
 - a. Legislation directly responding to a declared emergency
 - b. Legislation required to give effect to agreements
 - c. Legislation for which the consistency assessment and review requirements could be perceived as inappropriately intruding into the roles of Parliament, the courts, or certain parts of the Crown which are by convention independent
 - d. Legislation for which it is not cost-effective to apply the consistency assessment and review requirements on the grounds the legislation is



minor and technical, routine and uncontroversial, and/or administrative and not substantive.

Proposed category 1: Emergency legislation

16. This category would exempt legislation passed in direct response to a declared emergency. Declared emergency would, consistent with current RIA guidelines, cover legislation passed or amended when an emergency has been declared under a particular piece of legislation, for example under the Civil Defence Emergency Management Act 2022 or a biosecurity emergency as provided for under the Biosecurity Act 1993 and for the purposes of responding to the emergency. This category is not intended to broadly cover all legislation passed under urgency by the House.
17. Emergency legislation typically includes time-limited application or self-repeal clauses. This type of legislation can also be the subject of other after the fact scrutiny such as Royal Commissions of Inquiry.
18. The Minister, with the agreement of the House, would also maintain the option under the Bill to amend the notice and bring specific items of legislation back into the regime. The Ministry also notes that this type of legislation typically makes amendments to other Acts; those Acts would not be exempted and so any amended provisions within them would remain within the scope of the Bill.
19. Additionally, the principal Acts creating powers to make secondary legislation in emergencies would remain subject to the consistency assessment and review requirements, and as with primary legislation the House would retain the option to amend the notice and bring specific items of secondary legislation back into the regime.
20. The Ministry considers that this option best achieves the objectives of not impeding legitimately urgent legislation (which was raised as an issue by a number of submitters to the select committee), while being sufficiently targeted to ensure appropriate scrutiny remains in place.

Proposed category 2: Legislation giving effect to Crown agreements

21. This category would exempt legislation which is the minimum necessary to give effect to agreements which have been entered into by the Crown. This could cover agreements such as trade agreements and other international obligations, Treaty Settlements (where these are not already excluded by the Bill), and potentially other types of agreement to be identified during consultation.
22. In the Ministry's view, applying consistency assessment and review requirements to legislation that implements an agreement that has already been entered into by the Crown risks harming the Crown's reputation and introducing (either real or perceived) uncertainty for other parties. This approach is consistent with existing RIA practice.



23. In addition, international agreements are already subject to other Parliamentary scrutiny (such as the preparation of National Interest Assessments and consideration of international agreements by the Foreign Affairs, Defence and Trade Select Committee) which may lead to duplication of efforts, while providing little value.
24. The Ministry would work closely with the Ministry of Foreign Affairs and Trade on developing this category to ensure exemptions appropriately balance managing risk and providing the effective scrutiny intended by the Bill.

Treaty Settlement legislation

25. Treaty Settlement Bills and legislation are already excluded from requirements under the Bill, using a definition that is used in other legislation. The exclusion is intended to capture only that legislation that reflects an agreement between the Crown and iwi as provided for in a settlement deed and implemented in legislation.
26. We do not consider that the scope of Treaty related legislation considered for exemption by notice should be broader than that which was intended by the Bill. More extensive exemptions beyond legislation which is the minimum required to give effect Treaty Settlements would be inconsistent with the intent of the Bill that its requirements apply broadly.
27. However, there are a small number of items of legislation which are necessary to give effect to Treaty Settlements which have been identified as not being clearly covered by the wording in the Bill, but similar rationale for exemption exists, for example the Te Urewera Act 2014. We intend to resolve these uncertainties during agency consultation.

Proposed category 3: Legislation that relates to independent functions

28. The Ministry recommends legislation that relates to Parliamentary, judicial, or other independent functions be exempt. In line with the principles of the Bill and good legislative practice the Bill should seek to maintain comity and independence by not intruding into the specific roles of Parliament, the courts, or certain parts of the Executive which are by convention independent. This is consistent with some of the existing exclusions in the Bill such as secondary legislation made by the Speaker of the House of Representatives or legislation that is rules of court.

Proposed category 4: Legislation for which the consistency assessment and review requirements are not cost-effective or valuable

29. There is a large volume of legislation which is likely to have little to no effect on existing interests and liberties. This legislation is typically characterised by being one or more of the following:
 - a. Minor and technical
 - b. Routine and involving little or no discretion on the part of the maker



- c. Administrative rather than substantive (i.e. not imposing restrictions on rights and liberties of people)
30. In our view, reviews for this type of legislation would have limited value as it is unlikely for the results of the assessment to identify impacts on rights and liberties or to result in changes to the scope and content of the legislation, and the assessment would be of little interest to the public.
31. The Ministry considers that agency and Board efforts should instead be focused on the empowering provisions which create these administrative tools in order to assess their scope, use, value, and consistency with the principles.

There will be significant work required to identify legislation under this category

32. The Ministry intends to work with agencies to identify legislation which sits outside the intended focus of the Bill and may be suitable for exemption. This would need to balance the policy goals of ensuring breadth and effectiveness, avoiding ambiguity, and minimising regulatory costs.
33. This is likely to be a significant task. Multiple agencies have each identified that potentially hundreds of items of non-substantive secondary legislation are required each year.
34. Meeting the goal of having initial notices ready ahead of entry into force will require quick Cabinet decisions on the proposed framework and on the subsequent notice. It will likely also result in some legislation which is administrative in nature being missed from the initial notices. These could instead be included in a further notice at a later date.

Interface with existing review provisions in legislation

35. Some legislation already contains review requirements. We do not propose exempting legislation from the scope of the Bill on this basis as these reviews vary in scope. For example, the review provision in s 147 of the Dairy Industry Restructuring Act 2001 only requires that reviews be undertaken and presented to the House and does not directly require that these reviews evaluate the Act against the principles in the Bill such as liberties and taking of property. The more fundamental and wide-ranging approach taken by the Bill is intended to lay this over the top of all non-exempted legislation to achieve better quality legislation.

Next Steps

36. If you agree with the proposed approach outlined in this briefing, the Ministry will prepare a draft Cabinet paper for you to take to Cabinet before the end of September seeking agreement to use the draft framework to inform a draft initial list of exemptions.



Following Cabinet consideration of a framework

37. Following Cabinet's consideration of the framework the Ministry would work with agencies to identify appropriate exemptions, consistent with the identified categories and provide you with further advice.
38. A final Cabinet paper providing the draft initial notice would be prepared for your agreement and consideration by Cabinet before the end of the year, to support the notice being able to be made as soon as the Bill enters into force.

Furter advice on the future of RIA

39. The Ministry is separately developing advice on the future of RIA and the implementation of the Consistency Accountability Statement (CAS) regime, and this will be provided to you in September.