



To	Hon David Seymour, Minister for Regulation		
Title	RSB – Response to question from FEC	Number	MFR2025-255
Date	15 September 2025	Priority:	High
Action Sought	Note the response to FEC	Due Date	16 September 2025
Contact Person	Pip van der Scheer, Manager, Regulatory Management System	Phone	s 9(2)(a)
Contact Person	Olivia Cross, Principal Advisor, Policy	Phone	s 9(2)(a)
Attachments	Yes (Annex 1)	Security Level	IN CONFIDENCE

Purpose

1. This briefing provides you with the Ministry for Regulation's response to a further question received from the Finance and Expenditure Committee (FEC), for your information (**Annex 1**).

Recommended action

We recommend that you:

- a **note** that the Ministry's response as set out in Annex 1 has been provided to FEC *Noted*
- b **agree** that the Ministry for Regulation release this briefing at an appropriate time following the report back to the House by the FEC, with any information needing to be withheld done so in line with 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: 15 September 2025

Hon David Seymour

Minister for Regulation

Date:

IN CONFIDENCE



Ministry response to FEC question

2. During consideration of the revision-tracked version (RT version) of the Regulatory Standards Bill, FEC requested confirmation that secondary legislation associated with establishment of Mātaihai reserves would be covered by the exclusions related to the definitions of 'Treaty settlement Bill' and 'Treaty settlement Act'.
3. Our response is attached as **Annex 1** for your information.
4. The response provides an additional recommendation, consistent with the Bill's policy intent to clarify that the definition of Treaty settlements Bills and Acts includes part of a Bill or Act where that part is stated to be redress for Treaty of Waitangi claims.

Next steps

5. We have provided a copy of our response to the Clerk of the Committee today. FEC will further consider the Bill on Wednesday 17 September.
6. We understand from the Clerk of the Committee that deliberation on the Bill is tentatively scheduled for 8 October 2025. We anticipate that this timing will mean the Bill will likely be reported back to the House during the week of 15 October.
7. We note this timing differs from the update provided in the weekly report, as the update from the Clerk was received late Friday afternoon.



Ministry for Regulation
Te Manatū Waeture

Regulatory Standards Bill

Response to question from the Finance and
Expenditure Committee

15 September 2025



Contents

Exclusion of Mātaimai Reserves from the Bill.....2

Exclusion of Mātaaitai Reserves from the Bill

1. On 10 September, the Committee requested officials confirm that secondary legislation associated with Mātaaitai reserves would be covered by the exclusions related to the definitions of 'Treaty settlement Bill' and 'Treaty settlement Act'.
2. As noted to the Committee, the policy intent is that any legislation that gives effect to a Treaty settlement is intended to be exempted. This secondary legislation therefore should be excluded completely from the provisions of the Bill.

Definition of Treaty settlement legislation

3. Clause 5 of the Bill defines 'Treaty settlement Act' and 'Treaty settlement Bill' as follows:

Treaty settlement Act means—

- (a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; and
- (b) any other Act that provides redress for Treaty of Waitangi claims, including an Act that provides collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by other legislation

Treaty settlement Bill means—

- (a) a Bill that, if enacted, will be listed in Schedule 3 of the Treaty of Waitangi Act 1975; and
- (b) any other Bill that provides redress for Treaty of Waitangi claims, including a Bill that provides collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by other legislation.

4. Treaty settlement Bills, Acts and subsequent secondary legislation are all exempt from the provisions of the Bill, reflecting the policy intent that an agreement between the Crown and iwi as provided for in a Treaty of Waitangi settlement deed and implemented in legislation would be excluded.

Mātaaitai reserves

5. The mechanism for empowering a Minister to declare a Mātaaitai reserve is provided for in section 186 of the Fisheries Act 1996. Regulations under that section ('mataaitai regulations') are secondary legislation and therefore are subject to the requirements in the Bill unless an exemption applies.
6. The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 ('Fisheries Settlement Act') includes in section 10 the obligation that the Minister of Fisheries will recommend the making of mataaitai regulations under s 186 of the Fisheries Act 1996 to:

recognise and provide for customary food gathering by Māori and the special relationship between tangata whenua and those places which are of customary food gathering importance (including tauranga ika and mahinga mataaitai), to the extent that such food gathering is neither commercial in any way nor for pecuniary gain or trade.

7. For the purpose of providing redress for Treaty of Waitangi claims, in line with the policy intent, mataitai regulations made to give effect to section 10 of the Fisheries Settlement Act should be exempt.
8. However, under the current definition of Treaty settlement Act in the Regulatory Standards Bill, secondary legislation is only clearly captured if it is made under a 'Treaty settlement Act.' The Fisheries Settlement Act is the legislation that provides mataitai regulations are Treaty of Waitangi redress, but only s 186 of the Fisheries Act 1996 (rather than the Act in its entirety) carries out this effect. The Fisheries Act neither states that mataitai regulations are redress under a Treaty settlement Act, nor is itself wholly a Treaty Settlement Act for the purposes of the Bill. It could therefore be interpreted that secondary legislation made under that section is not exempt.

The Bill could be clearer

9. Following the Committee's question we have given further consideration to this matter and believe the policy intent could be more clearly articulated in the Bill to clarify that a part of an Act, Bill, or piece of secondary legislation could fall within the exclusions for Treaty settlement legislation provided it is to give effect to a Treaty settlement. This approach is consistent with the policy intent of the Bill.
10. For Māitaitai reserves, for example, we would not want the exclusion to be interpreted as applying to the whole Fisheries Act 1996 on the basis only s 186 was captured, or not applying to s 186 on the basis that the Fisheries Settlement Act was somehow more responsible for providing the redress.

Recommendation

11. To provide additional clarity we recommend making an amendment to the definitions of 'Treaty settlement Bill' and 'Treaty settlement Act' to include the concept of 'part of' a Bill or Act.
12. We understand PCO has suggested the following, which we support, and recommend to the Committee:

Treaty settlement Act means—

- (a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; and
- (b) any other Act, or part of an Act, that provides redress for Treaty of Waitangi claims, including an Act, or a part of an Act, that provides collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by other legislation

Treaty settlement Bill means—

- (a) a Bill that, if enacted, will be listed in Schedule 3 of the Treaty of Waitangi Act 1975; and
- (b) any other Bill, or part of a Bill, that provides redress for Treaty of Waitangi claims, including a Bill, or a part of a Bill, that provides collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by other legislation.