

Regulation in New Zealand Quick Guide

REGULATORY PRACTICE ESSENTIALS



At a glance

Regulation is all around us in our daily lives. It's in the workplace, the sports field, the home, the shopping mall – in our cities and the great outdoors.

Regulation protects our rights and safety, our property and the environment. When it works well, it is clear and easy for people to behave in ways that does not harm others.

The government of New Zealand uses regulation to protect the community from harm and to improve the standard of living of its people. Regulation is about influencing people's behaviour to improve outcomes for all New Zealanders. This involves laws, rules and other ways to influence what people do.

Key regulatory concepts

A regulator is the organisation with the authority to carry out regulatory activities in a certain area. It is authorised by Parliament.

A regulated party is a person or organisation that must comply with the laws and societal expectations of behaviour. This may be in their personal, social, recreational or work lives. Usually, people want to comply and act in the best interests of others, so regulation needs to give clear guidance on how to do that.

Public interest means making decisions or taking actions that benefit society in general, rather than serving the needs of an individual or a group.

A regulatory system is a set of formal and informal rules, norms and sanctions, given effect through the actions and practices of designated actors, that work together to shape people's behaviour or interactions in pursuit of a broad goal or outcome.

Regulatory practice refers to the activities and processes that regulators use to carry out their work. Good regulatory design and practice requires attention, skill and collaboration. Poor regulatory performance or regulatory failure is when harm occurs in the regulatory system.



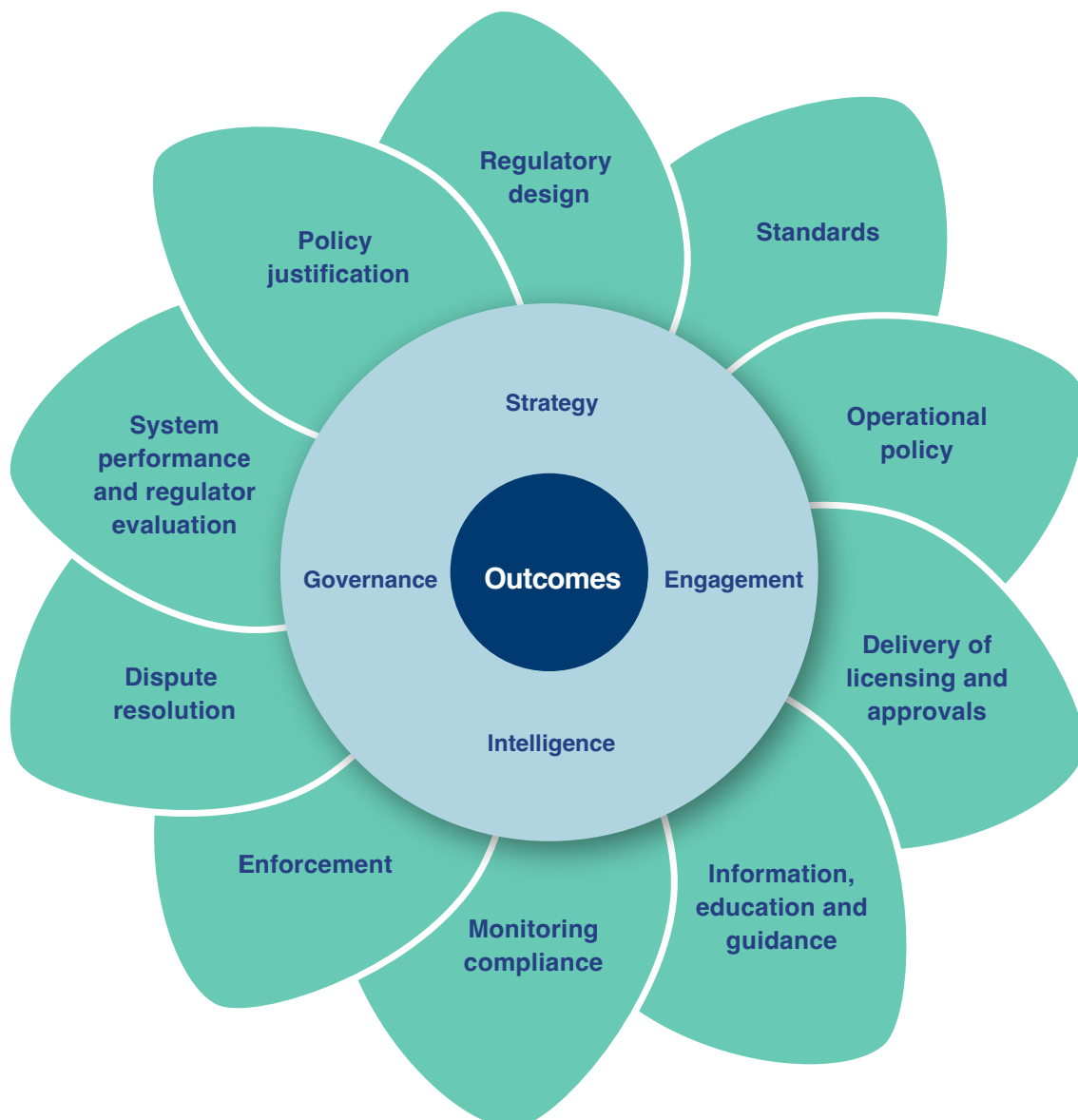
What is regulation?

The government of New Zealand uses regulation to protect the community from harm and to improve the standard of living of its people. Regulation is about influencing people's behaviour to improve outcomes for all New Zealanders. This involves laws, rules and other ways to influence what people do.

The rules, organisations and their practices – the whole regulatory system – work together to shape people's behaviour and interactions and improve the lives, work and businesses of all New Zealanders.

Regulatory functions

In order to make the intentions of the law come to life, government agencies and other organisations who have regulatory responsibilities carry out some or all the following functions:



The role of each regulatory function is listed below.

- **Policy justification:** sets out the social and economic outcomes that the government wants to achieve to reduce harm or improve living standards. This function analyses a concern and looks at practical ways (or levers) the government can use to address the issue. It involves assessing the impact the levers will have on markets and behaviours.
- **Regulatory design:** sets out the ways the regulation will be put into practice. This includes designing how government agencies and activities are configured and ensuring the new policy works alongside existing policies. It does this by asking questions like, how do the financial costs of regulation compare with the expected benefits? Should industry bodies be accountable for changing the behaviour of their members? Would creating new, or merging existing, government agencies deliver the right focus?
- **Standards:** these give regulated parties clarity on what good practice looks like and how to follow it. They are often developed by groups of experts convened by regulators or industry bodies.
- **Operational policy:** sets out the details on how the regulator carries out its work. It may include when the regulator intervenes, how decisions are made and by whom, and guidance for regulated parties on how to comply with the law. This gives clarity on what people can expect from the regulator.
- **Delivery of licensing and approvals:** regulators use these to allow or prevent regulated parties from operating or to make sure that they are suitably qualified to undertake particular activities.
- **Information, education and guidance:** where the regulator provides information and engages with regulated parties about their rights and responsibilities and how they can comply with the law.
- **Monitoring compliance:** where a regulator monitors and influences regulated parties to ensure they are complying with the law.
- **Enforcement:** where action is taken to hold regulated parties to account for non-compliance with the law. Enforcement action aims to ensure regulated parties return to meeting the required standards, remove them from the regulatory system or punish them when they don't comply.
- **Dispute resolution:** are the processes that a regulator follows when a regulated party disagrees with a regulator on the action it has taken. Dispute resolution aims to resolve this disagreement. Ways to do this include a judge reviewing the regulator's decision, a complaint assessment system or an independent review.
- **System performance and regulator evaluation:** where a regulator reviews whether its interventions are working as intended. Some of the outcomes the regulator wants to achieve are: Is the public receiving the expected benefits? Have regulated entities changed their behaviour in the expected ways? Regulators must do these reviews regularly and share the results of the evaluation with stakeholders.

Strategy, governance, engagement and intelligence are critical integrating functions. They ensure that all the regulatory functions are equipped to work collectively and effectively deliver on the outcomes.

Why regulate?

Regulation plays a crucial role in maintaining a safe, healthy and vibrant economy and society. Regulation protects individual, worker and property rights. It helps to preserve the environment, through limiting pollution, protecting biodiversity and mitigating the effects of climate change. It gives people confidence to invest, start businesses with ease and promote consumer confidence. It ensures fair competition for businesses.

Regulation ensures public goods and services, such as water and electricity, are delivered efficiently and fairly. It promotes the public interest and our individual and collective well-being.

Laws aren't always needed

If a system works well the government may decide it doesn't need to intervene with regulation.

Alternatively, where an activity may cause some harm, the government can choose another way to intervene, such as government subsidies, taxes or monetary policy.

Poor regulation can harm the wellbeing of New Zealanders. It can be seen by the public as unnecessary 'red tape' or 'paperwork'. It may be seen as burdensome and over-protective. It can lead to higher costs for businesses. It can prevent businesses trying out new ideas or products.

The government tries to get the balance right. A government may decide to use rules and regulatory activities to influence behaviour. This may be to influence people to act in a socially productive way, such as reducing drink driving. It may be to reduce harm, promote safety, improve living standards, stimulate the economy and protect our people and environment. When done well, regulation can positively contribute to New Zealand's living standards.

Key regulatory concepts

What is a regulator?

A regulator is the organisation with the authority to carry out regulatory activities in a certain area. It is authorised by Parliament.

Regulators carry out a range of regulatory activities. They have the authority to set standards, guidelines and rules to ensure that people work in a way that is legal, safe, fair and in the public interest. They take

a big picture view of the design of the regulatory system. They give advice to the government and write policy about changes to the law. Regulators monitor, evaluate and report on how effective the laws are at reducing harm or improving living standards. They administer and implement the laws and ensure people comply with the law.

Regulators also enforce the law and they must act within the powers written in the law. Regulatory powers differ for each regulator. They give the regulator the authority to ensure people comply with the law and ways they can respond if people don't comply. Some examples of regulatory powers are infringement notices or licensing restrictions. Regulators operate as a connector between the laws, and the people who need to comply with the law. Regulators translate the intentions behind the law into real world actions for people to follow. Regulators engage with regulated parties, other regulators, interest groups and other stakeholders to ensure that the benefits of the regulatory system are being achieved.

What is a regulated party?

A regulated party is a person or organisation that must comply with the laws and societal expectations of behaviour. This may be in their personal, social, recreational or work lives. Usually, people want to comply and act in the best interests of others, so regulation needs to give clear guidance on how to do that.

What does it mean to act in the public interest?

We may not always like being regulated, but most of us accept laws that reduce harm or improve living standards in our society are a good thing. We understand why we need to put our own interests to one side in place of the good of society.

Public interest means making decisions or taking actions that benefit society, rather than serving the needs of an individual or a particular group. We make decisions based on what is fair and just, rather

than on personal gain. We act to promote the good of society. Our decisions and activities provide an overall benefit to society, even if the law works against a part of society. It means improving everyone's wellbeing overall.

A regulatory system is a set of formal and informal rules, norms and sanctions, given effect through the actions and practices of designated actors, that work together to shape people's behaviour or interactions in pursuit of a broad goal or outcome.

It's helpful to break this down.

- **Formal rules** are the legislation that shapes people's behaviour and interactions. Formal rules can be laws, regulations, standards or by-laws.
- **Informal rules** are unwritten, tacit rules that are based on cultural or historical customs or social norms.
- **Norms** are the social expectations about behaviour, as well as the information, tools and support that help people act in line with the regulatory system purpose.
- **Sanctions** are the penalties for breaching the laws. Sanctions can include statutory notices, infringement fines, prosecution or revoking a licence.
- **Designated actors** are the people and organisations with a role to play in achieving the system's outcomes – some in government and some outside. For example, Chartered Accountants Australia and New Zealand is a private organisation that is crucial to regulating the accountancy profession. The 'broad goal or outcome' might be to reduce harm or to improve the lives of New Zealanders in some way.

Examples of regulatory systems are the immigration regulatory system which has the goal of 'migration that benefits the country'; and the fisheries regulatory system which has a goal of 'traditional and recreational fishing that is balanced with commercial interests over the long term'.

The Ministry for Regulation Te Manatū Waeture

The role of the Ministry for Regulation Te Manatū Waeture is to give New Zealanders confidence that regulation is effective and in proportion with protecting their individual and collective rights, resources, and liberties. The Ministry for Regulation Te Manatū Waeture has the following responsibilities:

- developing and upholding good regulatory principles and practice
- providing pragmatic advice and guidance
- working with other government agencies to identify and resolve problems with how regulatory systems are designed or being used
- enhancing the capability of regulatory leaders.

Regulatory practice

Regulatory practice refers to the activities and processes that regulators use to carry out their work. The practice covers the full life cycle of regulatory activities, from identifying the need for regulation, through to rulemaking and enforcing the law. It includes monitoring and assessing the effectiveness of regulatory policies. It aims to achieve the objectives of the regulatory system.

Regulatory practice includes the way people working in regulation go about their work. Good regulatory practice means having the right knowledge and skills to do the work well. It takes the right mindset and values, such as a public service ethos.

Good regulatory design and practice requires attention, skill and collaboration. Regulation applies to many different people and organisations in many different situations across New Zealand. It may need to apply to environments that are changing quickly. In some areas, technology and products are

evolving quickly. In others, it may be societal views and values that are changing. To keep up with these changes, the government can look to redesign the legislation, or the regulator can adapt its approach.

Poor regulatory performance or regulatory failure

The purpose of a regulatory system is to improve living standards, reduce or prevent harm. Poor regulatory performance or regulatory failure is when the harm occurs.

There are several ways this can happen. It can be through a regulator not monitoring compliance in one part of their system which allows risks to go unnoticed. It can also occur when positive things such as economic development and business innovation are reduced because the regulation hasn't kept up with technology or public values. It can be when the regulator isn't checking often enough on its practices to be sure they still work in the intended way.

It is important to note that poor regulatory performance isn't always uncovered by a sudden dramatic event. It can also be uncovered by new people with fresh eyes in a regulatory system asking questions. It can also become clear from an increase in public or business dissatisfaction.

What you can do to learn more about Regulation

Look at your organisation's website – what does it tell you about your organisation and how it sees its role, focus and regulatory priorities?

How does your role contribute to achieving that purpose?

Resources

[↗ Government Expectations for Good Regulatory Practice. Ministry for Regulation Te Manatū Waeture \(April 2017\)](#)

[↗ A Conversation About Regulatory Language. Ministry for Regulation Manatū Waeture. \(YouTube, 60 mins\)](#)

[↗ A Conversation About Regulatory Failure. Ministry for Regulation Manatū Waeture \(YouTube, 60 mins\)](#)

[↗ Strategic Intentions document. Ministry for Regulation \(September 2024\)](#)

Got questions? Get in touch

Email: systemcapability@regulation.govt.nz

Website: www.regulation.govt.nz