

# Kindergartens Aotearoa

Waiho i te toipoto, kaua i te toiroa

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Finance and Expenditure Committee  
Parliament Buildings  
Wellington

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## Submission on Regulatory Standards Bill

Kindergartens Aotearoa is a collective of early childhood education (ECE) service providers operating over 260 licensed centre-based and home-based services across the country<sup>1</sup> catering for over 12,000 children each day. We also provide social services to many families and young people in our regions.

### **Kindergartens Aotearoa strongly opposes the Regulatory Standards Bill.**

We have first-hand experience of the principles set out in the Bill being applied to regulation. Currently, ECE regulations are primarily focused on the interests of young children. The recent review of ECE regulations and subsequent recommendations, shifted the focus to the interests of business.

As service providers, we have considerable experience working within the regulatory system across government institutions. As not-for-profit, community-based ECE service providers we have no issue with the current regulations as they have been developed to protect the physical and educational well-being and interests of babies and young children. Government invests almost \$3 billion in ECE each year. We believe being accountable through regulation for the receipt and expenditure of public funds, is both fair and reasonable and an expectation of tax payers.

In our experience, it is the interpretation and application of regulations that is problematic - the so called 'red tape'. We note the examples given by Ministers of why the regulatory system needs to be overhauled, often refer to the interpretation or application of a regulation rather than the regulation itself. The examples mask the true intent of the Bill which is to advantage individual freedoms over the public good.

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<sup>1</sup> Our services are located in communities in Whangaparāoa north of Auckland, Coromandel, Bay of Plenty, Murupara, Wairoa, Napier, Taranaki, Whanganui, the Central Plateau, Horowhenua, Wairarapa, Whanganui-a-Tara, the Christchurch metropolitan area and greater Canterbury district, the West Coast, and Central and Southern Otago.

Kindergartens Aotearoa strongly opposes the Regulatory Standards Bill as it:

- is based on a false premise;
- undermines our democratic process and institutions;
- undermines Te Tiriti o Waitangi;
- impacts the well-being of children; and
- is an unnecessary exercise.

## 1 Purpose of regulation

The Ministry for Regulation states: <sup>2</sup>

*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.*

The Bill ignores this fundamental premise of regulation, instead favouring individual freedoms at the expense of the public good. It is totally unacceptable.

The ECE sector was the first to be reviewed by the Ministry of Regulation in 2024. In our submission to the regulatory review team we noted the approach "... introduces a technical lens to the review and prompts the question 'who's interests are served' in applying the principles."

We know first-hand, the impact of the Bill. The ECE review report was released just prior to Christmas last year, setting out 15 recommendations. There was no opportunity for sector or public scrutiny of the report's conclusions or recommendations. The Minister for Regulation accepted the recommendations in their entirety at the time, as did Cabinet three months later.

Although many of the recommendations related to interpretation and application of regulations and inter-agency relationships, significant changes were recommended which clearly reflect the primacy of business owners' interests over the interests of children and quality service provision. Promoting individual interest over the collective interest is a core principle of the Bill and one we do not accept.

## 2 False premise

In his introductory remarks to the initial discussion document on the proposed Bill in 2024, the Minister for Regulation stated "Most of New Zealand's problems can be traced to poor productivity, and poor productivity can be traced to poor regulations." There is no evidence this is the case and to state it as fact is misleading. Further, to build the argument in support of the proposed Bill based on such false premise is deeply flawed and irresponsible.

Introducing the Bill on 22 May 2025, the Minister noted it was a "... critical piece of legislation .... for improving the long-term quality of regulation ... and ultimately allowing New Zealanders to live longer, healthier and wealthier lives." <sup>3</sup>

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<sup>2</sup> <https://www.regulation.govt.nz/our-work/the-regulatory-management-system>

<sup>3</sup> Hansard Report, Thursday 22 May 2025 - Volume 784 <https://www.parliament.nz/en/pb/hansard-debates>

We fail to see how the Bill could deliver these outcomes for all New Zealanders when history clearly shows that *without* regulation inequities are exacerbated, communities are marginalised, and the poverty gap increases.

The Bill introduces principles of ‘good regulation’ based on questions such as ‘what is the problem we are trying to solve’ and ‘what are the costs and benefits’ of regulation. The answers to those questions are different according to the lens through which the question is being examined. In ECE for example, a business owner may want to determine the ratio of adults to children to keep costs low. The government may want to optimise children’s well-being and learning by regulating appropriate ratios. Who is right under the Bill?

### **3 Democratic process and institutions**

Our democratic process allows us to shape the values we want to underpin our regulatory framework. What we value as important for our children, families and communities now and for future generations, underpins policy which is then upheld and supported by our regulatory system.

The Bill threatens the foundations of our democracy. It removes the responsibility of our elected representatives to protect the interests of all New Zealanders. It prioritises individual interests over collective interests, impacting cultural, social, environmental and economic outcomes across all communities. The Bill divests significant powers to the Minister of Regulation to call for investigations and to make decisions. It undermines trust and confidence in our regulatory and legislative system.

The Bill distances the courts from impartial decision-making, ignoring the volume of regulation supporting rights and protections for all under our laws. Individuals including corporations would be able to take claims that government decisions breach the Bill’s principles directly to the ministerial appointed Regulatory Standards Board. The court would have no role in holding government law makers to account.

It is deeply disturbing that after three attempts to introduce the Bill, the government has already agreed to introduce the legislation as part of the coalition agreement. This makes a mockery of due process, undermines political and public checks and balances, and shakes public confidence in our elected representatives.

### **4 Te Tiriti o Waitangi**

Te Tiriti o Waitangi is our nation’s founding document, based on partnership between Māori and the Crown. It underpins our legal and social framework - this Bill undermines that framework. In its advice to government on the Principles of the Treaty of Waitangi Bill (Treaty Principles Bill), the Ministry of Justice recommended the status quo to ensure treaty obligations are upheld, maintain clarity and certainty, promote social cohesion and consensus, and maintain constitutional legitimacy. It is Te Tiriti o Waitangi that would “... ultimately allow(ing) New Zealanders to live longer, healthier and wealthier lives ..”

The government voted down the Treaty Principles Bill in April 2025. It is disingenuous of government to now seek to effectively affect the same changes proposed by that Bill, through the Regulatory Standards Bill. That is a breach of public trust and is totally unacceptable.

Parliament acknowledged the principles of Te Tiriti o Waitangi in legislation in 1975, and since then the Waitangi Tribunal and courts have presided over their interpretation and application. The Bill removes Te Tiriti o Waitangi from the list of considerations that inform regulation including legislation, aside from treaty settlements. This amounts to a unilateral attempt to vary, amend or alter the place of Te Tiriti in the constitutional foundation of our nation.

## 5 Well-being of children

In ECE, regulation has come about in response to research evidence on the optimum learning and environmental conditions for babies and young children. When in an ECE setting, the vast majority of children currently enrolled in a service are independent of their parents and caregivers. As such, parents and caregivers are reliant on regulation to ensure their child is not only safe from physical harm but is also benefiting culturally and developmentally.

Proven benefits of ECE shape policy and investment, supported by regulation to ensure those benefits are realised. Regulation ensures services meet the intent of government policy and are accountable for the use of public funds. Regulation assures us as a society that standards and protections are in place.

The Bill threatens the well-being and safety and the quality of education provision, for babies and young children and for the staff who work with them in ECE services. Regulation advantaging service owners' interests mean owners would have more freedom to determine how they operate their services, including decisions on health and safety practice, curriculum, and employment matters.

As a corporate or company, priority interest is to the shareholder. Maximising profit for shareholders drives corporate behaviour which in a state of minimal regulation will likely negatively impact children's learning and well-being and the government and public will not realise the benefits their social investment.

We are concerned that many ECE services operated as private businesses, used the review of ECE regulations to drive down quality and reduce teachers' pay thereby increasing their profit margins. New Zealand has some of the highest fees for participation in ECE in the world, while spending almost \$3 billion of public money on subsidies to ECE services. The Bill will exacerbate the situation to put owner interests ahead of the public good.

Providers would be at liberty to challenge Ministry of Education policy introducing new requirements for qualified teachers for example, on the basis that it would diminish their profitability. Moreso, the Bill could undermine current regulatory provisions retrospectively after 10 years. Not only could children's physical well-being be at risk but also teaching and learning, effectively usurping government's own intentions to lift educational outcomes.

## 6 Unnecessary exercise

The Bill is unnecessary. We have existing systems of regulatory monitoring and control which if warranted, could be strengthened - for example strengthening parliamentary oversight. Such alternatives would be much cheaper and much less damaging to our democracy. Issues of interpretation, application and consistency could be easily remedied through inter-agency collaboration and co-operation, and agreeing and streamlining requirements both at local and central government levels.

## 7 Conclusion

**Kindergartens Aotearoa strongly opposes the Regulatory Standards Bill.** Our experience of the principles set out in the Bill being applied to regulation, shifted the focus of ECE regulations primarily on the interests of young children to the interests of business.

The Bill fundamentally changes our legal framework and is a unilateral attempt to vary, amend or alter the place of Te Tiriti o Waitangi in the constitutional foundation of our nation. The Bill is based on a false premise, undermines our democratic process and institutions, impacts the well-being of children, families and society, and is an unnecessary exercise.

Contending the Bill will improve the quality of regulation “... and ultimately allow[ing] New Zealanders to live longer, healthier and wealthier lives” is simply not true. History clearly shows that *without* regulation inequities are exacerbated, communities are marginalised, and the poverty gap increases.

**We recommend the Finance and Expenditure Committee reject the Bill.**

We would be happy to appear before the committee to present our submission. Please get back to me should you require clarification or any further information

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Ngā mihi nui

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