

Submission to the Financial and Expenditure Committee on the Regulatory Standards Bill

23 June 2025

As the independent advocate working for and with mokopuna,¹ Mana Mokopuna – Children and Young People's Commission (Mana Mokopuna) **opposes the Regulatory Standards Bill (the Bill) in its entirety**, grounded in a children's rights perspective.

Summary

Given the statutory mandate of Mana Mokopuna, this submission is focussed on the potential impact of the Bill on the rights, interests, participation, and well-being of mokopuna (children and young people) in Aotearoa New Zealand. The importance of regulatory standards for mokopuna, including the intergenerational impacts, should not be underestimated.² Overall, Mana Mokopuna is concerned that the Bill is a missed opportunity to strengthen the regulatory framework for mokopuna. Specifically, the Bill:

- fails to give practical effect to Aotearoa New Zealand's obligation as a States Party to implement the UN Convention on the Rights of the Child (the Children's Convention) domestically;
- may impact negatively on the development of children's rights-based laws and regulations and the rights of mokopuna in Aotearoa New Zealand;
- fails to recognise the constitutional significance of te Tiriti o Waitangi (te Tiriti) and the impact this could have on the rights, interests and well-being of mokopuna Māori and their whānau, hapū and iwi;
- prioritises laws and regulations that promote equality before the law rather than equitable outcomes and the impact this could have on mokopuna who experience significant disparity in Aotearoa New Zealand, including mokopuna Māori and mokopuna whaikaha (children with disabilities);
- fails to recognise the Government's international obligations, particularly in relation to specific groups of children including indigenous children, mokopuna whaikaha and refugee children; and
- has been developed without mokopuna being involved or consulted, and without their views being taken into account.

On account of these negative impacts, Mana Mokopuna opposes the Bill in its entirety and recommends:

- the progress of the Bill is halted and a wider conversation be had on what makes for good law-making in Aotearoa New Zealand, including for all mokopuna, and whether current arrangements require change or not; and
- the Government develops a comprehensive strategy outlining how it will fulfil its legal obligation to implement the Children's Convention domestically, including how it will:
 - fully incorporate the Children's Convention in domestic legislation;

¹ We have adopted the term 'mokopuna' to describe all children and young people we advocate for. 'Mokopuna' brings together 'moko' (imprint or tattoo) and 'puna' (spring of water). Mokopuna describes that we are descendants, and or grandchildren, and how we need to think across generations for a better present and future. We acknowledge the special status held by mokopuna in their families, whānau, hapū and iwi and reflect that in all we do. Referring to children and young people we advocate for as mokopuna draws them closer to us and reminds us that who they are, and where they come from, matters for their identity, belonging and wellbeing at every stage of their lives.

² With approximately 1.2 million mokopuna aged under 18 in Aotearoa New Zealand they make up almost one quarter of the national population.

- conduct a full review of existing legislation to ascertain its compatibility with the Children's Convention and amend accordingly;
 - withdraw its general and specific reservations to the Children's Convention;
 - mandate that Child Impact Assessments must be part of all policy and legislative development processes to ensure comprehensive, intentional and meaningful consideration of children and their rights; and
 - resource the whole-of-government implementation of the Children's Convention, including by building the capacity of officials to integrate a child rights approach in policy making and legislative development.
- Should this Bill proceed, we strongly recommend that the Finance and Expenditure Committee recommends amendments to the Bill that address the key concerns we have raised in this submission; otherwise, at a minimum we recommend that:
 - Clause 8 of the Bill is amended to include a human rights principle with specific reference to children's rights, a Tiriti principle, and an international obligations principle to ensure that all the rights of all children, and the Government's obligations in relation to them, are considered when laws and regulations are developed or reviewed;
 - Clause 38 of the Bill is amended to require the Minister to appoint at least one member to the Regulatory Standards Board who has expertise in children's rights, including from a Tiriti perspective; and
 - when the responsible Minister or Attorney General provide guidance under clause 27 of the Bill on how to review proposed or existing legislation for consistency with the principles of responsible regulation, officials are directed to conduct a Child Impact Assessment to ensure comprehensive, intentional and meaningful consideration of children and their rights.

The Government's obligation to implement the Children's Convention

“Climate change, housing crisis, voting age, mental health, queer rights, disability rights, etc are all issues that impact young people and Government is doing practically nothing.”

(Mokopuna Survey 2021)³

1. The Children's Convention⁴ is an international treaty that outlines the fundamental human rights of every child, including their right to survival, development, education, healthcare, protection from harm, and to have a say in matters that affect them. The Children's Convention's central aim is to ensure, through social and legal reform, that every child has a happy, safe and fulfilling childhood.
2. The New Zealand Government ratified the Children's Convention in 1993 and is a primary duty-bearer under the Convention. The Government is legally obligated to “take all appropriate legislative, administrative, and other measures” to implement the rights recognised in the Children's Convention.⁵ This requires a regulatory framework that ensures laws and policies are

³ Mana Mokopuna (2021). *Mokopuna Voices Summary 2021*.

https://www.manamokopuna.org.nz/documents/568/New_Zealand_Childrens_Commissioner_Mokopuna_Voices_Summary_2021.pdf

⁴ See <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

⁵ Article 4 of the Children's Convention. For more information on how other States have implemented the Children's Convention see: UNICEF (2012). *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries*. https://www.unicef.org/uk/wp-content/uploads/2012/11/UNICEFUK_2012CRCImplementationreport-FINAL-PDF-version.pdf and

developed and operate in ways that support implementation of children's rights. Further information about Aotearoa New Zealand's implementation obligations under the Children's Convention is contained in **Appendix 1**.

3. Mana Mokopuna is therefore disappointed that the Bill does not recognise the importance of promoting and advancing children's rights and the Government's obligation to give effect to the Children's Convention as one of the Bill's 'Principles of Responsible Regulation'.⁶ In general, Mana Mokopuna also finds it concerning that upholding New Zealand's international obligations is not included as a key principle for responsible regulation. This is particularly the case in relation to other international instruments of significance for specific groups of children, including indigenous children, mokopuna whaikaha and refugee children.

The impact of the Bill on mokopuna

“ My family can mostly access the support they need. However, they do need to fight a lot for me. There are lot of inequities among the disabled community where we don't all get an equal chance to get the support that we need.”

(Mokopuna whaikaha)⁷

4. The regulatory framework impacts all areas of the lives of mokopuna, daily. Examples include regulation of the early childhood sector, legislation governing care arrangements, and the tax system. Taking a children's rights-based approach to policy and law-making ensures children's rights, interests and well-being are explicitly considered and provided for by Government, leading to better outcomes for children and an increased likelihood they will live healthy, safe and productive lives. For the Committee's reference, we have listed some key examples of policies, laws and regulations in Aotearoa New Zealand that either aim to improve or protect and advance children's rights in **Appendix 2**.
5. To further assist the Finance and Expenditure Committee's consideration of the Bill from a children's rights perspective, we have analysed in more detail how the Bill, if enacted, could impact on children's rights and the development of children's rights-based laws and regulations. In the interest of brevity, we have focussed on two example areas only (which are highly topical) – children's right to health and children's rights and the environment. However, Mana Mokopuna notes the Bill has the potential to negatively impact on the protection and advancement of all children's rights.

Children's right to health

6. The Children's Convention guarantees children the right to enjoy the highest attainable standard of health and the right to access to health care services, clean water, nutritious food, and a safe environment to help them stay healthy.⁸
7. A key issue of concern relating to children's right to health in Aotearoa New Zealand is their lack of access to healthy and nutritious food, which is leading to high rates of child obesity⁹ and child

<https://www.cypcs.org.uk/incorporationuncrc/> for more information on Scotland's journey to fully incorporate the Children's Convention into domestic law.

⁶ Clause 8.

⁷ Mana Mokopuna (2021). *Mokopuna Voices Summary 2021*.

https://www.manamokopuna.org.nz/documents/568/New_Zealand_Childrens_Commissioner_Mokopuna_Voices_Summary_2021.pdf

⁸ Article 24 of the Children's Convention.

⁹ 31.5% of children aged between 2-14 years are overweight or obese. Ministry of Health (2024). *New Zealand Health Survey: Annual Data Explorer*. <https://minhealthnz.shinyapps.io/nz-health-survey-2023-24-annual-data-explorer/> w_288c98ea11c44421b2e93447868f33ad/#!/home. Search terms: go to 'Explore indicators' section, select 'Children (aged 0 to 14 years)' as Population, 'Body size (including Obesity)' as Topic, and 'Overweight or Obese' as Indicator.

tooth decay.¹⁰ Regulations that limit the marketing of unhealthy foods to children,¹¹ require health star ratings on food packaging to be mandatory,¹² or apply a higher tax on unhealthy foods, such as a sugar tax,¹³ are examples of law-making measures that may help address these issues and improve child health outcomes in Aotearoa New Zealand.

8. As raised by some submitters in relation to the tobacco industry during consultations on the Bill's discussion document, Mana Mokopuna is concerned that these types of regulations – that would seek to restrict the business activities of the food and beverage industries – may be less likely to be pursued by the Government if the Bill is enacted due to:
 - its emphasis on individual liberties and property rights¹⁴ (which could include intellectual property rights related to product labelling);
 - its compensation provision,¹⁵ which could make the Government liable to pay compensation where corporations' property rights are taken or impaired; and
 - its ambition to limit the imposition of taxes, fees and levies.¹⁶
9. The Bill's lack of public good principles and reference to te Tiriti (which obliges the Government to actively protect the health of mokopuna Māori and address any health disparities they face), further heightens the risk that the Government may be less likely to champion regulations that are necessary to protect and advance children's right to health. We acknowledge that the Bill's 'Good law-making' principle refers to "the importance of carefully evaluating...whether the public interest requires that the issue be addressed...and who is likely to benefit, and who is likely to suffer a detriment, from the legislation". We are of the view, however, that Bill should contain a broader set of public good principles that clearly specify what public good considerations (for example, human rights, te Tiriti, social and environmental priorities) must be taken into account and balanced when laws and regulations are developed or reviewed. Otherwise, what constitutes the public interest and whether law or regulations reflect it, and who may benefit or not from a law or regulations, is open to wide interpretation. There is, therefore, a risk that the rights and interests of key members of society, including children, may be overlooked or not adequately considered.
10. Considering children's right to health, the Bill ignores the Government's obligation under the Children's Convention to ensure that the activities and operations of the business sector do not adversely impact on children's rights.¹⁷ New Zealand's business sector is also encouraged to respect and support children's rights in line with the Children's Rights and Business Principles,¹⁸ which identify a comprehensive range of actions that all business should take to prevent and address any adverse impact on children's human rights, as well as measures to help advance children's rights. For example, businesses should ensure that their products and services are safe and use marketing and advertising that respect and support children's rights.
11. In relation to children's rights and the business sector, the UN Committee on the Rights of the Child (the CRC Committee) has recommended that the New Zealand Government:¹⁹

¹⁰ See <https://www.health.govt.nz/news/better-oral-health-outcomes-as-400000-new-zealanders-gain-access-to-fluoridated-drinking-water>

¹¹ Garton, K., Gerritsen, S., Sing, F. et al. *Unhealthy food and beverage marketing to children on digital platforms in Aotearoa, New Zealand*. BMC Public Health 22, 2407 (2022). <https://doi.org/10.1186/s12889-022-14790-6>

¹² See <https://www.rnz.co.nz/news/national/515717/call-for-health-star-ratings-to-be-made-mandatory>

¹³ See <https://www.auckland.ac.nz/en/news/2020/03/13/evidence-clearly-favours-taxing-sugary-drinks.html>

¹⁴ Clause 8(b).

¹⁵ Clause 8(c).

¹⁶ Clause 8(d)-(f).

¹⁷ CRC Committee (2013). *General comment on State obligations regarding the impact of the business sector on children's rights*.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGC%2F16&Lang=en

¹⁸ See <https://www.unicef.org/media/96136/file/Childrens-Rights-Business-Principles-2012.pdf>

¹⁹ CRC Committee (2023). *Concluding observations on the sixth periodic report of New Zealand*.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?Lang=en&symbolno=CRC%2FC%2FNZL%2FCO%2F6, paragraph 13.

- ensure the legal accountability of New Zealand companies and their subsidiaries for violations of children's rights, including in relation to the environment and health;
- develops and implement a national action plan on business and human rights, in addition to the responsible business conduct strategy, through a multisectoral consultation with a focus on children's rights; and
- require companies to undertake assessments, consultations and make full public disclosure of the environmental, health-related and children's rights impacts of their business activities and their plans to address such impacts.

Children's rights and climate change

“Climate change is a national and global issue and I think the Government has not done enough to resolve this issue as well as it being an important issue to youth and rangatahi considering it is one of our biggest and something that will affect us in the future.”

(Mokopuna Survey 2021)²⁰

12. Climate change and its impact on all children's rights is a pressing concern for children in Aotearoa New Zealand and internationally. As stated by UNICEF, the climate crisis is a children's rights crisis as it is the greatest threat facing the world's children and young people.²¹
13. In response to the severity of the situation, the CRC Committee has emphasised the urgent need to address the adverse effects of environmental degradation, with a special focus on climate change, on the enjoyment of children's rights in relation to the environment, as well as their wider rights under the Children's Convention. The CRC Committee has clarified that States must ensure a clean, healthy and sustainable environment in order to respect, protect and fulfil children's rights and that they must:²²

“...take deliberate, specific and targeted steps towards achieving the full and effective enjoyment of children's rights related to the environment, including their right to a healthy environment, including through the development of legislation, policies, strategies or plans that are science-based and consistent with relevant international guidelines related to environmental health and safety and by refraining from taking retrogressive measures that are less protective of children.”
14. The CRC Committee also recognises the obligations of States to protect the interests of future generations by taking *“responsibility for foreseeable environment-related threats arising as a result of their acts or omissions now, the full implications of which may not manifest for years or even decades.”* We note that New Zealand has shown support for these commitments through its recent endorsement of the Pact for the Future and its accompanying Declaration on Future Generations²³ at the UN Summit of the Future in 2024.²⁴ We urge the Government to take actions that are consistent with both its duties and obligations under the Children's Convention and as a signatory to the Declaration on Future Generations, which requires taking an intergenerational approach to decision-making relating to policies, laws and practices that affect future generations, as well as children and young people today.
15. In addition to its obligations under the Children's Convention, Mana Mokopuna notes the Government also has obligations under te Tiriti and the Declaration on the Rights of Indigenous

²⁰ Mana Mokopuna (2021). *Mokopuna Voices Summary 2021*.

https://www.manamokopuna.org.nz/documents/568/New_Zealand_Childrens_Commissioner_Mokopuna_Voices_Summary_2021.pdf

²¹ UNICEF (2021). *The Climate Crisis is a Child Rights Crisis: Introducing the Children's Climate Risk Index*.

<https://www.unicef.org/reports/climate-crisis-child-rights-crisis>

²² CRC Committee (2023). *General comment on children's rights and the environment, with a special focus on climate change*.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGC%2F26&Lang=en

²³ See https://www.un.org/sites/un2.un.org/files/sof-pact_for_the_future_adopted.pdf

²⁴ See <https://www.mfat.govt.nz/en/media-and-resources/strengthening-of-the-united-nations-system-item-123-summit-of-the-future>

People (the Indigenous Declaration) to actively protect the natural environment both for and with Māori, including mokopuna Māori.

16. Mokopuna in Aotearoa New Zealand – including mokopuna Māori – have clearly expressed that mitigating climate change is a central concern and priority for them, with many advocating for strong and decisive action to be taken now to protect the environment for them and future generations.
17. Mana Mokopuna is concerned that laws and regulations that protect the environment and mitigate climate change may be less likely to be pursued by the Government if the Bill is enacted due to:
 - its emphasis on individual liberties and property rights (which would include the property and use rights of corporations);
 - its compensation provision, which could make the Government liable to pay compensation where landowners' or corporations' property or use rights are taken or impaired; and
 - its ambition to limit the imposition of taxes, fees and levies.
18. We are concerned about the ripple effects for mokopuna of these changes, given that they are the people who will inherit the impacts of decisions made for the longest time, as well as future generations.
19. The Bill's lack of public good principles relating to the environment or climate change and references to te Tiriti or the Indigenous Declaration, further heightens the risk that the Government may be less likely to champion regulations that are necessary to protect children's rights from the impacts of climate change, both now and in future, and advance their rights in relation to the environment. As noted above, we are not of the view that the Bill's good law-making principle would mitigate this risk, as it is open to wide interpretation and there is a risk that the rights and interests of key members of society, including children, may be overlooked or not adequately considered.
20. As noted above, the Bill also ignores the Government's obligation to ensure that the activities and operations of the business sector do not adversely impact on children's rights and the corporate responsibility of New Zealand's business sector to respect and support children's rights in line with the Children's Rights and Business Principles, which state that businesses should respect and support children's rights in relation to the environment and to land acquisition and use.
21. The Children's Convention recognises the rights of specific groups of children, including children with disabilities, indigenous children, refugee children, children in State care and protection, and children involved in the youth justice system. The CRC Committee has provided further commentary on what action States should take to better protect the rights of specific groups of children under the Children's Convention.²⁵ The rights of some of these groups of children are also affirmed and elaborated in other international instruments that New Zealand has ratified or endorsed.²⁶
22. To assist the Finance and Expenditure Committee's consideration of how the Bill could impact the rights of specific groups of children, by way of example we outline our concerns relating two groups of children, mokopuna Māori and mokopuna whaikaha.

²⁵ For example, the CRC Committee has issued General Comments on the rights of indigenous children, children with disabilities, children involved in child justice systems, and children in the context of international migration. See

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

²⁶ For example: Convention on the Rights of Persons with Disabilities; Declaration on the Rights of Indigenous Peoples; Convention Relating to the Status of Refugees; Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women; and, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Mokopuna Māori

“Bet you that the people in the beehive don't know what it means to be poor and to deal with racism.”

(Mokopuna Māori, aged 14-16, Remand Home)²⁷

23. Mokopuna Māori hold unique rights and protections as tangata whenua as affirmed in te Tiriti, and as indigenous children under international law, including the Indigenous Declaration and the Children's Convention.²⁸
24. The New Zealand Government has specific duties and obligations to mokopuna Māori due to these unique rights and protections that are additional to the duties and obligations the Government owes to all children of Aotearoa New Zealand. As made clear by the CRC Committee in its General Comment on indigenous children's rights, all the Children's Convention's provisions should be viewed through an indigenous lens when applied to the situation of indigenous children.²⁹
25. Despite these distinct rights and obligations, mokopuna Māori and their whānau experience some of the highest disparities across the population in relation to material hardship, food insecurity, hospitalisation rates, and other areas critical to wellbeing.³⁰ The CRC Committee has expressed deep concern about the inequitable survival and development outcomes for mokopuna Māori, including the disproportionate mortality rate for pēpi Māori, the suicide rate of rangatahi Māori, the overrepresentation of mokopuna Māori who are victims of homicide, family violence, child abuse and neglect, and the number of mokopuna Māori in State care and in conflict with the criminal justice system.³¹
26. In light of these stark inequities, the CRC Committee has most recently urged the Government to, *“systematically assess the impact of policies, legislation and government services in addressing the root causes of the vulnerability experienced by Māori children and their families, including the higher likelihood of living in deprivation and poverty.”*³²
27. The CRC Committee expects Governments to undertake special measures to ensure that indigenous children's rights are realised and the disparities they experience are reduced. In the Aotearoa New Zealand context, the Waitangi Tribunal has made it clear that achieving equality between mokopuna Māori and non-Māori mokopuna is not enough.³³ Instead the Government must take targeted actions that focus on ensuring the rights of mokopuna Māori, as tangata whenua, as te Tiriti partners, and as indigenous children, are realised and equitable outcomes are achieved.³⁴
28. Mana Mokopuna is concerned that if the Bill is enacted, the Government may be less likely to pursue laws and regulations that protect and advance the distinct rights of mokopuna Māori under

²⁷ Mana Mokopuna (2024). *“Without Racism Aotearoa Would be Better”: Mokopuna Share Their Experiences of Racism and Solutions to End it.* https://www.manamokopuna.org.nz/documents/728/Mana_Mokopuna_-_Without_racism_Aotearoa_would_be_better_Digital.pdf

²⁸ Te Puna Rangahau o te Wai Ariki | Aotearoa New Zealand Centre for Indigenous Peoples and the Law (2022). *Thematic Report: the Rights of Tamariki Māori in Aotearoa New Zealand.* <https://www.auckland.ac.nz/en/law/our-research/research-centres/te-puna-rangahau-o-te-wai-ariki/rights-of-tamariki-maori/submission-the-rights-on-the-child.html>

²⁹ CRC Committee (2009). *General comment: Indigenous children and their rights under the Convention on the Rights of the Child.* https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2F%2F11&Lang=en

³⁰ Ministry of Social Development (2024). *Annual report on the child and youth wellbeing strategy and child poverty related indicators.* <https://www.msd.govt.nz/documents/about-msd-and-our-work/child-youth-wellbeing/reports/child-and-youth-wellbeing-strategy-cpri-annual-report-july-2022-to-june-2023.pdf>

³¹ CRC Committee (2023). *Concluding observations on the sixth periodic report of New Zealand.* https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?Lang=en&symbolno=CRC%2F%2F2023%2F26, paragraph 39. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?Lang=en&symbolno=CRC%2F%2F2023%2F26

³² Ibid para 40.

³³ Waitangi Tribunal (2021). *He Pāharakeke, he Rito Whakakikinga Whāruarua: Oranga Tamariki Urgent Inquiry.* <https://www.waitangitribunal.govt.nz/en/news/tribunal-releases-report-on-oranga-tamariki>

³⁴ Te Puna Rangahau o te Wai Ariki | Aotearoa New Zealand Centre for Indigenous Peoples and the Law (2022). *Thematic Report: the Rights of Tamariki Māori in Aotearoa New Zealand.* <https://www.auckland.ac.nz/en/law/our-research/research-centres/te-puna-rangahau-o-te-wai-ariki/rights-of-tamariki-maori/submission-the-rights-on-the-child.html>

te Tiriti, the Children's Convention and the Indigenous Declaration, and address the inequities they face. This concern stems from three key aspects of the Bill:

- its failure to include giving effect to the articles of te Tiriti as a principle of responsible regulation;
- its failure to include giving effect to the Government's international obligations (including its commitments under the Indigenous Declaration) as a principle of responsible regulation; and
- its emphasis on prioritising law-making that promotes equality rather than equity.³⁵

29. Considering the constitutional significance of te Tiriti as one of the founding documents of Aotearoa New Zealand, and its well-established status as a key consideration in New Zealand's law-making processes,³⁶ it should be included as a principle of responsible regulation in the Bill. In the absence of the Bill's recognising te Tiriti as a key principle for good lawmaking in Aotearoa New Zealand, there is a danger that future laws will fail to give effect to obligations under te Tiriti and that existing laws which contain te Tiriti clauses or give effect to the Crown's te Tiriti obligations will be significantly amended, if not repealed,³⁷ as we have seen with section 7AA of the Oranga Tamariki Act 1989.³⁸ This would significantly affect the extent to which the rights of mokopuna Māori are recognised and given effect, as well as the rights of their whānau, hapū and iwi, which are inextricably linked.

Mokopuna whaikaha

“...If I am not in a warm, dry home I am susceptible to colds. I am not able to clear my throat because of cerebral palsy...”

(Mokopuna whaikaha)³⁹

30. Mokopuna whaikaha enjoy all the rights under the Children's Convention with Article 23 specifically recognising their right to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. The rights of mokopuna whaikaha are also recognised under the Convention on the Rights of Persons with Disabilities, including Article 7, which states they have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realise that right.
31. Despite these provisions, mokopuna whaikaha experience high levels of disparity in Aotearoa New Zealand. For example, 1 in 5 mokopuna whaikaha live in poverty and mokopuna whaikaha are 1.9 times as likely to live in households with severe material hardship when compared with non-disabled children.⁴⁰ Mokopuna whaikaha are also more likely to suffer from poor overall health, poor mental health and food insecurity compared to non-disabled children.⁴¹ When it comes to education, a significant proportion of mokopuna whaikaha experience exclusion and poor outcomes.⁴²
32. The CRC Committee has expressed its concern about the situation of mokopuna whaikaha in Aotearoa New Zealand, noting they are at higher risk of violence and abuse, and that their families disproportionately experience deprivation, poverty and inadequate housing conditions. It was also

³⁵ Clause 8(a)(iii).

³⁶ See Legislation Guidelines (2021 edition). <https://www.ldac.org.nz/guidelines/>

³⁷ We acknowledge the Bill states that legislation giving effect to te Tiriti settlements are exempt.

³⁸ See <https://www.manamokopuna.org.nz/publications/submissions/submission-on-oranga-tamariki-repeal-of-7aa-amendment-bill/>

³⁹ Mana Mokopuna (2021). *Mokopuna Voices Summary 2021*.

https://www.manamokopuna.org.nz/documents/568/New_Zealand_Childrens_Commissioner_Mokopuna_Voices_Summary_2021.pdf

⁴⁰ See <https://www.whaikaha.govt.nz/news/news/disabled-children-still-more-likely-to-live-in-material-hardship>

⁴¹ See <https://www.whaikaha.govt.nz/news/news/child-disability-health-data-available-for-the-first-time>

⁴² Education Review Office (2022). *Thriving at school? Education for disabled learners in schools*.

<https://evidence.ero.govt.nz/documents/thriving-at-school-education-for-disabled-learners-in-schools>

concerned about the significantly high proportion of adolescents with disabilities who are unemployed or are not enrolled in any education or training programme and has made a series of recommendations for the Government to undertake to address the disparities that mokopuna whaikaha face, including that their rights are more explicitly referenced in Aotearoa New Zealand's disability strategy.⁴³

33. Mana Mokopuna is concerned that if the Bill is enacted, the Government may be less likely to pursue laws and regulations that protect and advance the rights of mokopuna whaikaha, and address the inequities they face. This concern stems from two key aspects of the Bill:
 - its failure to include giving effect to the Government's international obligations (including its obligations under the Convention on the Rights of Persons with Disabilities) as a principle of responsible regulation; and
 - its emphasis on prioritising law-making that promotes equality rather than equity.⁴⁴

Children's right to participate and share their views

“ People only want to talk to the youth that they think deserve to be included, but they should talk to youth like us.”

(Mokopuna Māori, aged 14-16, Remand Home)⁴⁵

34. In addition to the issues we have shared above in relation to the substance of the Bill, we would also like to share our concerns, from a children's rights perspective, about the process followed to develop the Bill.
35. The right of mokopuna be consulted and have their views given weight during Government decision-making processes is guaranteed under the Article 12 of the Children's Convention. Article 12 requires the Government to listen to the voices of mokopuna when considering any legislation and legislative changes that affect mokopuna, such as those proposed in the Bill. This duty to listen requires the Government to actively facilitate the participation of mokopuna in its own processes, to listen to mokopuna, and to take their views and submissions seriously.⁴⁶
36. For mokopuna Māori, given the constitutional significance of the Bill, the Government's te Tiriti obligation to engage in transparent policy-making in consultation and partnership with Māori, including mokopuna Māori, is heightened.⁴⁷ The rights of Māori, including mokopuna Māori under the Indigenous Declaration, particularly the right to participate in State decision-making processes that affect them and for their free, prior and informed consent to be obtained where their rights are likely to especially impacted, are also activated.
37. However, we are not aware of any consultation with any mokopuna during the development of the Bill, which is inconsistent with their right to participate in matters affecting them under Article 12 of the Children's Convention, and the rights of mokopuna Māori under te Tiriti and the Indigenous Declaration. This failure to actively facilitate mokopuna participation in consultation on this kaupapa, a kaupapa which has significant, far-reaching implications for their present and future,

⁴³ CRC Committee (2023). *Concluding observations on the sixth periodic report of New Zealand*. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?Lang=en&symbolNo=CRC%2FC%2FNZL%2FCO%2F6, paragraph 30-31.

⁴⁴ Clause 8(a)(iii).

⁴⁵ Mana Mokopuna (2024). *"Without Racism Aotearoa Would be Better": Mokopuna Share Their Experiences of Racism and Solutions to End it*. https://www.manamokopuna.org.nz/documents/728/Mana_Mokopuna_-_Without_racism_Aotearoa_would_be_better_Digital.pdf

⁴⁶ For further information on children's participation rights and Government see: Children's Convention Monitoring Group (2019). *Getting It Right: Are We Listening?* <https://www.manamokopuna.org.nz/publications/reports/getting-it-right-are-we-listening/>

⁴⁷ Waitangi Tribunal (2025). *Interim Regulatory Standards Bill Urgent Report*. https://forms.justice.govt.nz/search/Documents/WT/WT_DOC_230792542/RS%20Bill%20W.pdf, paragraph 18.

disregards the rights of mokopuna to participate and have their voices heard and seriously considered in decisions that affect them.

38. We acknowledge the recent finding of the Waitangi Tribunal that the Crown must stop progressing the Bill and meaningfully engage with Māori on options for improving regulatory standards and whether any new legislation is needed to achieve the Government's reform objectives. Otherwise, the Crown would be in breach of te Tiriti and specifically the principles of partnership and active protection.⁴⁸
39. Mana Mokopuna wishes to stress to the Finance and Expenditure Committee that mokopuna are likely to have a significant interest in the Bill considering the ways it could impact on the protection and advancement of their rights, now and into the future, and they will want to express their views on the Bill. To demonstrate this, we would like to draw the Finance and Expenditure Committee's attention to the level of engagement by mokopuna on the Treaty Principles Bill. Despite there having been no consultation involving whānau and mokopuna Māori prior to that Bill being introduced to Parliament, and no child and youth-friendly consultation mechanisms or processes facilitated by Government in relation to the Bill, mokopuna shared their views on the Treaty Principles Bill and were involved in leading and supporting participation in relation to the Bill. For example, Te Rōpū Rangatahi o Ngāti Whakaue, a group of Ngāti Whakaue rangatahi, led a petition against the Treaty Principles Bill, which over 200,000 people have signed, including over 72,000 rangatahi.⁴⁹ More widely, there were many inspiring examples of mokopuna participating in, and in many instances, leading national conversations on issues that are of importance to them and all New Zealanders. From covering child-friendly news reports with Ministers and Members of Parliament,⁵⁰ to educating others through platforms like TikTok,⁵¹ organising and leading multiple national climate actions,⁵² protests against rape culture and sexism involving thousands of students,⁵³ and leading the largest peaceful protest in Aotearoa New Zealand's history,⁵⁴ mokopuna have consistently demonstrated their capability and willingness to participate and demonstrate active leadership and foresight on matters of national significance.
40. Mana Mokopuna also wants to take this opportunity to raise our concerns about the principle in the Bill relating to consultation, which recognises *"the importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation."*⁵⁵ We wish to emphasise that the Government is always obligated under the Children's Convention (and te Tiriti and the Indigenous Declaration in relation to mokopuna Māori) to consult with mokopuna and have their views given weight on issues that affect them and not only when it is reasonably practicable for the Government to do so.

Conclusion and recommendations

41. Mana Mokopuna **opposes the Bill in its entirety** as it negatively impacts on the rights, interests, participation, and well-being of mokopuna in Aotearoa New Zealand. The Bill is a missed opportunity to strengthen the regulatory framework for mokopuna. Specifically, the Bill:

⁴⁸ Ibid paragraphs 77-79.

⁴⁹ See <https://www.nzherald.co.nz/rotorua-daily-post/news/treaty-principles-bill-rotorua-youth-drive-huge-petition-against-bill-during-hikoi/GO4LZ355MNC75F2E7OJEGZRMXE/>

⁵⁰ See <https://www.youtube.com/watch?v=DSSK2CFot24>

⁵¹ See <https://www.nz.co.nz/news/te-manu-korihī/535244/maori-lawyer-goes-viral-for-educating-people-on-treaty-principles-bill>

⁵² The School Strike 4 Climate New Zealand (SS4CNZ) movement has so far organised and led over 200 events between 2019 and 2024. See <https://collections.tepapa.govt.nz/topic/11129>; <https://www.facebook.com/@schoolstrike4climatenz/>; www.1news.co.nz/2024/04/05/students-hit-the-streets-at-climate-strikes-across-the-country/

⁵³ See www.nz.co.nz/news/national/326507/%27we-will-not-put-up-with-rape-culture-any-longer%27;

www.stuff.co.nz/national/education/90374283/protest-at-parliament-against-rape-culture-in-schools

⁵⁴ See www.stuff.co.nz/te-ao-maori/360481678/hikoi-leader-excited-and-equally-nervous-ahead-march-treaty-waitangi

⁵⁵ Clause 8(j).

- fails to give practical effect to Aotearoa New Zealand's obligation to implement the Children's Convention domestically;
- may impact negatively on the development of child rights-based laws and regulations and the rights of mokopuna in Aotearoa New Zealand;
- fails to recognise the constitutional significance of te Tiriti and the impact this could have on the rights, interests and well-being of mokopuna Māori and their whānau, hapū and iwi;
- prioritises laws and regulations that promote equality before the law rather than equitable outcomes and the impact this could have on mokopuna who experience significant disparity in Aotearoa New Zealand, including mokopuna Māori and mokopuna whaikaha;
- fails to recognise the Government's international obligations, particularly in relation to specific groups of children including indigenous children, mokopuna whaikaha and refugee children; and
- has been developed without mokopuna being involved or consulted, and without their views being taken into account.

42. Mana Mokopuna recommends that:

- the progress of the Bill is halted and a wider conversation be had on what makes for good law-making in Aotearoa New Zealand, including for all mokopuna, and whether current arrangements require change or not; and
- the Government develops a comprehensive strategy outlining how it will fulfil its legal obligation to implement the Children's Convention domestically, including how it will:
 - fully incorporate the Children's Convention in domestic legislation;
 - remove its general and specific reservations to the Children's Convention;
 - conduct a full review of existing legislation to ascertain its compatibility with the Children's Convention and amend accordingly;
 - mandate that Child Impact Assessments must be part of all policy and legislative development processes to ensure comprehensive, intentional and meaningful consideration of children and their rights; and
 - resource the whole-of-government implementation of the Children's Convention, including by building the capacity of officials to integrate a child rights approach in policy making and legislative development.
- Should this Bill proceed we strongly recommend that the Finance and Expenditure Committee recommends amendments to the Bill that address the key concerns we have raised in this submission; otherwise, at a minimum recommend that:
 - Clause 8 of the Bill is amended to include a human rights principle with specific reference to children's rights, a Tiriti principle, and an international obligations principle to ensure that all the rights of all children, and the Government's obligations in relation to them, are considered when laws and regulations are developed or reviewed;
 - Clause 38 of the Bill is amended to require the Minister to appoint at least one member to the Regulatory Standards Board who has expertise in children's rights, including from a Tiriti perspective; and

- when the responsible Minister or Attorney General provide guidance under clause 27 of the Bill on how to review proposed or existing legislation for consistency with the principles of responsible regulation, officials are directed to conduct a Child Impact Assessment to ensure comprehensive, intentional and meaningful consideration of children and their rights.

Appendix 1 - Using the Children's Convention to reinforce and enhance regulatory standards

1. As a primary duty bearer under the Children's Convention, the New Zealand Government is legally obligated to "take all appropriate legislative, administrative, and other measures" to implement the rights recognised in the Children's Convention.⁵⁶ This includes undertaking a comprehensive and rigorous review of all domestic legislation to ensure full compliance with the Children's Convention and ensuring that the provisions of the Children's Convention are given legal effect within New Zealand's legal systems.⁵⁷
2. The UN Committee on the Rights of the Child (the CRC Committee) monitors the implementation of the Children's Convention by States parties and has emphasised the importance of ensuring that domestic law reflects the general principles in the Children's Convention.
3. When drafting laws, the CRC Committee has stated that Governments must ensure they align with the core principles and provisions of the Children's Convention, particularly:⁵⁸
 - Non-discrimination (Article 2): States must actively identify individual children and groups of children who experience discrimination in relation to their rights and address this discrimination through changes in legislation, administration and resource allocation. The CRC Committee also emphasises that the application of the non-discrimination principle of equal access to rights does not mean identical treatment.
 - Best interests of the child (Article 3): Every legislative, administrative and judicial body or institution is required to apply the best interests principle by systematically considering how children's rights and interests are or will be affected by their decisions and actions by, for example, a proposed or existing law or policy or administrative action or court decision.
 - Right to life, survival and development (Article 6): States should implement legislative and other measures aimed at promoting child's physical, mental, spiritual, moral, psychological and social development and achieving the optimal development for all children.
 - Right to be heard (Article 12): Children's views should be considered, especially in matters that directly affect them and this principle should be applied to all measures adopted by States to implement the Children's Convention.
4. The CRC Committee has stated that States must also undertake child rights impact assessments to assess the impact of any proposed law, policy or budgetary allocation that affects children and the enjoyment of their rights and that this process should be built into government at all levels and as early as possible in the development of policy.⁵⁹ Child rights impact assessments are central to helping civil servants to assess and consider the impact of policy-making and legislation, both proposed and existing, on children's rights and can also be used by parliamentarians to scrutinise the development and implementation of Government policy and legislation and assess whether

⁵⁶ Article 4 of the Children's Convention. For more information on how other States have implemented the Children's Convention see: UNICEF (2012). *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries*. https://www.unicef.org/uk/wp-content/uploads/2012/11/UNICEFUK_2012CRCImplementationreport-FINAL-PDF-version.pdf and <https://www.cypcs.org.uk/incorporationuncrc/> for more information on Scotland's journey to fully incorporate the Children's Convention into domestic law.

⁵⁷ CRC Committee (2003). *General measures of implementation of the Convention on the Rights of the Child*. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2F2003%2F5&Lang=en, paragraphs 18-19.

⁵⁸ Ibid paragraph 12.

⁵⁹ Ibid paragraph 45.

they are upholding or undermining children's rights.⁶⁰ The Ministry of Social Development has developed the Child Impact Assessment Tool for this purpose, but its application is not mandatory in Aotearoa New Zealand.⁶¹

5. The CRC Committee periodically examines whether States, including New Zealand, are discharging their implementation obligations. While acknowledging the various efforts the New Zealand Government has taken to implement the Children's Convention domestically,⁶² the CRC Committee consistently calls on the New Zealand Government to take more decisive and comprehensive action, including:⁶³

- fully incorporating the Children's Convention into the domestic law;
- making the application of the Child Impact Assessment Tool in the development of policy and legislation affecting children compulsory to ensure that government officials, legislators, and non-government service providers are trained on its use; and
- ensuring the Children's Convention Deputy Chief Executives Group possesses the authority and resources it requires to fulfil its obligations to co-ordinate and lead the whole-of-government implementation of the Children's Convention, including by building the capacity of officials to integrate a child rights approach in policy making and legislative development.

⁶⁰ Children's Rights Alliance for England (2021). *Using Children's Rights Impact Assessments to improve policy making for children*. <https://crae.org.uk/publications-and-resources/using-crias-improve-policy-making>

⁶¹ See <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html>

⁶² See section below on "How a Child Rights-Based Approach to Policy and Law-Making Creates Better Outcomes for Children" for examples.

⁶³ CRC Committee (2023). *Concluding observations on the sixth periodic report of New Zealand*. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?Lang=en&symbolno=CRC%2FC%2FNZL%2FCO%2F6, paragraphs 7-9.

Appendix 2 - the Bill's impact on children's rights

The regulatory framework impacts all areas of the lives of mokopuna, daily. Some key examples of policies, laws and regulations in Aotearoa New Zealand that either aim to improve, or protect and advance children's rights, include:

- Legislation relating to the Children's Commissioner: which establishes the role of the Children's Commissioner as an independent advocate for children and monitor of the Government's implementation of the Children's Convention. Current legislation also gives limited statutory recognition of the Children's Convention by including it in full in its second schedule.
- Repeal of section 59 of the Crimes Act 1961: which removed the entitlement of parents to use physical force to discipline or correct their children
- Care of Children Act 2004: which promotes children's welfare and best interests, and facilitates their development, by helping to ensure that appropriate arrangements are in place for their guardianship and care and recognises certain rights of children.
- Child and Youth Strategy: which responds to the requirement in the Children's Act 2014 to adopt a strategy to improve outcomes for children and youth.
- Child Poverty Reduction Act 2018: which aims to achieve a significant and sustained reduction in child poverty in Aotearoa New Zealand and requires the Government to set targets for reducing child poverty, report on progress towards those targets, and develop a strategy to promote child wellbeing.
- Amendments to the Oranga Tamariki Act 1989: which requires that decision-makers under the Act respect and uphold children's rights, including those under the Children's Convention.
- Healthy Homes Standards: which require rental properties to meet minimum standards to create safer and healthier living environments for mokopuna and their families or whānau and reduce negative health outcomes experienced by children living in cold, damp and mouldy homes.
- Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015: which help protect children by requiring people who work for government-funded organisations and with mokopuna to be safety checked, and to have these safety checks updated every 3 years.
- Amendments the Smoke-free Environments Act 1990: which prohibit smoking in vehicles carrying children under the age of 18 to reduce children's exposure to second-hand smoke and to better protect children and young people by reducing their access to vaping products.
- Education and Training Act 2020: which prohibits employers from employing children under 16 during school hours or when it would interfere with their attendance at school.