

Regulatory Improvement Bill

Government Bill

As reported from the Commerce Committee

Commentary

Recommendation

The Commerce Committee has examined the Regulatory Improvement Bill and recommends that it be passed with the amendments shown.

Introduction

The Regulatory Improvement Bill proposes a number of small but important changes to various Acts, which are designed to improve the regulatory framework and reduce the compliance burden on businesses.

The bill would amend the Companies Act 1993, the Conservation Act 1987, the Designs Act 1953, the Fisheries Act 1996, the Gas Act 1992, the Hazardous Substances and New Organisms Act 1996, the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, the Reserves Act 1977, and the Weights and Measures Act 1987.

This commentary does not cover technical, clarifying, or consequential amendments.

Commencement

We recommend an amendment to clause 2(1) of the commencement clause to make it more certain when Part 3 of the bill, which amends the Designs Act 1953, would come into force. Clause 2(1) as introduced states that Part 3 of the bill will come into force on a date to be appointed by the Governor-General by Order in Council. The reason given for this in the explanatory note is to allow time for regulations to be made to give effect to the changes introduced by the legislation. On the principle that the public, particularly those who would be directly affected by legislation, should know when legislation comes into force, and because of the uncertainty caused by Parliament delegating commencement to the Executive, this method of commencement is considered appropriate only in rare and exceptional circumstances where it is clearly justifiable.

That the Minister is uncertain when the regulations will be ready is not in our view an adequate reason.

We therefore recommend that clause 2(1) be amended so that Part 3 of the legislation (except clause 14) would come into force on the earlier of either 12 months after the date of the Royal assent or a date to be appointed by the Governor-General by Order in Council. This should allow sufficient time for regulations to be made to give effect to the changes introduced by the legislation.

Inspection of registered designs

We recommend the insertion of new clause 12A, which inserts new section 30(5) into the Designs Act 1953. Section 30(5) gives specific authorisation for the Commissioner to publish bibliographical details of design applications. The Commissioner has released this information in the past, but confusion has arisen over whether the Act as it stands in fact permits this. As the publication of details is desirable to keep the public informed of applications being made, we believe this situation should be rectified by inserting into the Act an explicit authorisation to publish these details.

Restoration of lapsed copyright in registered design and restoration of design applications

We recommend amendments to clause 13, which inserts new sections 41A to 41F into the Designs Act 1953. Sections 41A to 41F allow the restoration of lapsed copyright in registered designs. We believe it would be similarly advantageous to allow the restoration of design applications, which would bring the Designs Act 1953 into line with the Patents Act 1953 (and the Patents Bill currently before the House) which allows both.

We therefore recommend the insertion of new sections 41G to 41J to achieve this.

Amendments to material incorporated by reference in regulations

We recommend the amendment of clause 46 and the insertion of new clause 46A. Clause 46 amends section 141A of the Hazardous Substances and New Organisms Act 1996, which relates to incorporation by reference of material into regulations and other instruments. This clause, however, differs from the Parliamentary Counsel Office's proposed new standard clauses for incorporation by reference. The standard clauses prepared by the Parliamentary Counsel Office give effect to principles established by the Regulations Review Committee in its inquiry into material incorporated by reference in 2004. In its 2008 report on this matter the Regulations Review Committee recommended that such clauses be included in the Legislation Advisory Committee's guidelines, and enacted in a statute of general application so that they need not be re-enacted each time they were required. The Government agreed with both recommendations.

As we are advised that there is no reason that these clauses should deviate from the proposed standard clauses, apart from the exceptions discussed below, we recommend that this bill be amended to conform with them.

We agree that the mechanism for amendment to incorporated material by notification in the *Gazette* should be retained, as this method has been specifically safeguarded by an express requirement that this material be brought to the attention of the Regulations Review Committee.

We agree that the requirements for consulting on proposed amendments to material incorporated in an instrument match the consultation requirements that apply to the instrument itself. Similarly, we agree the requirements for providing access to material incorporated in an instrument other than regulations should largely match the requirements for providing access to the instrument itself. In the case of regulations, the ministry must ensure that copies of incorporated material were available for purchase, which might include the ministry advising where copies could be purchased.

Plant Variety Rights Act 1987

We considered whether the restoration provisions inserted into the Designs Act 1953 by clause 13 should also be inserted into the Plant Variety Rights Act 1987 as similar issues may arise in this area.

We consider that the current provisions of the Act work well and give the Commissioner of Plant Variety Rights discretion as to whether to cancel a plant variety right because of the non-payment of the renewal fee. We consider that the proposed procedure would introduce unwarranted additional complexity and costs for plant variety rights owners and the Plant Variety Rights Office.

Genetically-modified organisms

We received two submissions addressing Part 6 of the bill, which amends the Hazardous Substances and New Organisms Act 1996. The submitters sought amendments to parts of the Act that address genetically-modified organisms. As nothing in this bill addresses or affects the regulation of genetically-modified organisms, as any changes to the regulation of such organisms is likely to be contentious, and as the purpose of a regulatory improvement omnibus bill is to address minor regulatory problems, we believe this bill is an inappropriate means to address these issues.

Appendix

Committee process

The Regulatory Improvement Bill was referred to the committee on 12 May 2009. The closing date for submissions was 16 July 2009. We received and considered 10 submissions from interested groups and individuals. We heard three submissions.

We received advice from the Ministry of Economic Development, the Ministry of Consumer Affairs, the Department of Conservation, the Ministry for the Environment, the Ministry of Fisheries, the Ministry of Agriculture and Forestry, and the Environmental Risk Management Authority.

Committee membership

Hon Lianne Dalziel (Chairperson)

John Boscawen

Clare Curran

Te Ururoa Flavell

Raymond Huo

Melissa Lee

Peseta Sam Lotu-Iiga

Katrina Shanks

Jonathan Young

Regulatory Improvement Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Rodney Hide

Regulatory Improvement Bill

Government Bill

Contents

		Page
1	Title	5
2	Commencement	5
Part 1		
Companies Act 1993		
3	Principal Act amended	5
4	Appointment of auditors	5
Part 2		
Conservation Act 1987		
5	Principal Act amended	6
6	Applications for leases, licences, etc	6
7	Process for complete application	6
8	Term of concession	7
9	Transitional provision for application for licence with term not exceeding 10 years or permit	7
10	Transitional provision for application for concession if process initiated	7
Part 3		
Designs Act 1953		
11	Principal Act amended	8
12	Period of copyright	8
12A	Inspection of registered designs	8
13	New headings and sections 41A to 41J inserted	8

Regulatory Improvement Bill

Restoration of lapsed copyright in registered design

41A	Restoration of lapsed copyright in registered design	8
41B	Persons who may make request for restoration of copyright	9
41C	When request for restoration of copyright may be made	9
41D	Commissioner's consideration of whether prima facie case has been made out for restoration	10
41E	Notice of opposition and reasonable opportunity to be heard	10
41F	Order to be made on payment of unpaid fees	10

Restoration of design applications

41G	Request for restoration of abandoned design application	11
41H	When request for restoration of application may be made	12
41I	Notice of opposition	12
41J	Commissioner to determine matter	13
14	Regulations	13
15	Consequential amendment to Copyright Act 1994	14

Part 4

Fisheries Act 1996

16	Principal Act amended	14
17	Catch to be counted against annual catch entitlement	14
18	New sections 76A and 76B inserted	15
76A	Application for catch balancing relief	15
76B	Effect of granting catch balancing relief	17

Part 5

Gas Act 1992

19	Principal Act amended	17
20	Application	18

Part 6

Hazardous Substances and New Organisms Act 1996

21	Principal Act amended	18
22	Interpretation	18
22A	Meaning of term new organism	18
22B	Powers, functions, and duties of Authority	18

Regulatory Improvement Bill

23	Delegation by Authority	18
24	Application under section 34 may be treated as application under section 38A	19
25	New section 38BA inserted	19
	38BA Rapid assessment of risk for importation or release of new organisms with controls	19
26	Determination of applications to import or release new organisms with controls	20
27	Application for containment approval for new organisms	20
28	New section 42C inserted	20
	42C Rapid assessment of adverse effects for development in containment, etc, of certain new organisms	20
29	Determination of application	21
30	Applications required to be publicly notified	21
31	Time limits and waivers	21
32	Grounds for reassessment of a substance or organism	21
33	Reassessment	22
34	New section 63B inserted	22
	63B Proposal for group standard may be consulted on in same way as reassessment	22
35	Issue of test certificates by test certifiers	22
36	Register of test certificates	23
37	Delegation by approved person	23
38	Revocation of test certificates for approved fillers and approved handlers	24
39	When group standards may be issued or amended	24
40	Enforcement of Act	24
41	Enforcement of Act in respect of new organisms	24
42	Enforcement of Act in respect of hazardous substances in place of work	25
43	Offences	25
44	New sections 109A and 109B inserted	25
	109A Time for laying information	25
	109B Extension of time for laying information	25
45	Strict liability and defences	26
46	Incorporation of material by reference	26
46A	New sections 141B to 141I inserted	28
	141B Amendment to, or replacement of, material incorporated by reference	28
	141C Proof of material incorporated by reference	29

Regulatory Improvement Bill

141D	Material incorporated by reference that ceases to have effect	29
141E	Notice must be provided to committee responsible for examining regulations	30
141F	Requirement to consult on proposal to amend or replace material incorporated by reference	30
141G	Access to material incorporated by reference in regulations	31
141H	Access to material incorporated by reference in group standard, notice of transfer, or code of practice	32
141I	Application of Acts and Regulations Publication Act 1989 and Regulations (Disallowance) Act 1989	33
47	Additional matters to be included in statement of intent	33
48	Additional reporting requirements	34
49	Transitional provision for applications	34
50	Transitional provision for reassessment of hazardous substance	34
51	Transitional provision for aerodromes	34
52	Transitional provision for cost recovery	34
53	Transitional provision for laying information	35

Part 7

**Ministry of Agriculture and Fisheries (Restructuring)
Act 1995**

54	Principal Act amended	35
55	Section 18 repealed	35
56	Section 19 repealed	36
57	Consequential amendments to Fisheries Act 1996	36
58	Consequential amendment to Pork Industry Board Act 1997	36
59	Transitional provision	37

Part 8

Reserves Act 1977

60	Principal Act amended	37
61	Licences to occupy reserves temporarily	37
62	Transitional provision for application for licence	37

Part 9

Weights and Measures Act 1987

63	Principal Act amended	37
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64 Act not to apply to water, electricity, or gas 38

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Regulatory Improvement Act **2008**.

2 Commencement

(1) ~~Part 3 (apart from section 14) comes into force on a date to be appointed by the Governor-General by Order in Council.~~ 5

(1) Part 3 (except section 14) comes into force on the earlier of the following:

(a) the day that is 12 months after the date on which this Act receives the Royal assent;

(b) a date to be appointed by the Governor-General by Order in Council. 10

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Companies Act 1993**

15

3 Principal Act amended

This Part amends the Companies Act 1993.

4 Appointment of auditors

(1) Section 196 is amended by repealing subsection (3) and substituting the following subsection: 20

“(3) Nothing in subsection (2) applies to a company—

“(a) to which section 19 of the Financial Reporting Act 1993 applies; or

“(b) that is an issuer within the meaning of section 4 of that Act.” 25

(2) Section 196(8) is repealed.

Part 2 Conservation Act 1987

- 5 Principal Act amended**
This Part amends the Conservation Act 1987.
- 6 Applications for leases, licences, etc** 5
Section 17R is amended by adding the following subsection as **subsection (2)**:
“(2) However, a person must not apply to the Minister for a concession if—
“(a) the Minister has exercised a power under section 17ZG(2)(a) to initiate a process that relates to such an application for a concession; and
“(b) the application would be inconsistent with the process.”
- 7 Process for complete application**
(1) Section 17T is amended by inserting the following subsection after subsection (1): 15
“(1A) However, the Minister must not consider an application made in breach of **section 17R(2)**.”
(2) Section 17T(4) is amended by omitting “Before granting any lease or licence” and substituting “Before granting any lease, or any licence with a term (including all renewals) exceeding 10 years,”. 20
(3) Section 17T(5) is amended by—
(a) omitting “Before granting any permit or easement” and substituting “Before granting any licence with a term (including all renewals) not exceeding 10 years, or any permit or easement,”; and 25
(b) omitting “the permit” and substituting “the licence, permit,”.
(2) Section 17T(4) and (5) are repealed and the following subsections substituted: 30
“(4) Before granting a lease, or a licence with a term (including all renewals) exceeding 10 years, in respect of a conservation area, the Minister must give public notice of the intention to do so. 35

- “(5) Before granting a licence with a term (including all renewals) not exceeding 10 years, or a permit or easement, in respect of a conservation area, the Minister may give public notice of the intention to do so if, having regard to the effects of the licence, permit, or easement, he or she considers it appropriate to give the notice. 5
- “(6) **Subsections (4) and (5)** do not apply to the grant of a lease or licence resulting from the exercise of a right of renewal, or a right to a new lease or licence, that is contained in a lease or licence. 10
- “(7) Section 49 applies to a public notice given under **subsection (4) or (5).**”
- 8 Term of concession**
Section 17Z(2) is amended by omitting “5” and substituting “10”. 15
- 9 Transitional provision for application for licence with term not exceeding 10 years or permit**
- (1) This section applies to an application made under Part 3B of the principal Act, before the commencement of **this Part**, for— 20
- (a) a licence with a term (including all renewals) not exceeding 10 years; or
- (b) a permit.
- (2) The application must be dealt with— 25
- (a) as if **this Part** had not been enacted if, before the commencement of **this Part**, the Minister publicly notified his or her intention to grant the licence or permit:
- (b) in accordance with the principal Act as amended by **this Part** in all other cases.
- 10 Transitional provision for application for concession if process initiated** 30
- (1) This section applies if, before the commencement of **this Part**, the Minister exercised a power under section 17ZG(2)(a) to initiate a process that relates to any application for a concession. 35

- (2) The principal Act, as amended by **this Part**, applies to the process, and any application for a concession to which the process relates, which is made or proposed to be made on or after the commencement of **this Part**, must be dealt with accordingly. 5

Part 3 Designs Act 1953

11 Principal Act amended

This Part amends the Designs Act 1953.

12 Period of copyright 10

(1) Section 12(2) is amended by omitting “prescribed form” and substituting “prescribed manner”.

(2) Section 12 is amended by adding the following subsection:

“(3) Subsection (2) is subject to **sections 41A to 41F** (which provide for the restoration of lapsed copyright in a registered design).” 15

12A Inspection of registered designs

Section 30 is amended by adding the following subsection:

“(5) However, nothing in this section prevents the Commissioner from publishing any of the following: 20

“(a) the date of an application for the registration of a design:

“(b) the number of an application for the registration of a design:

“(c) any details of an application for the registration of a design that are required to be in the application form.” 25

13 New headings and sections 41A to 41F 41J inserted

The following headings and sections are inserted after section 41:

“Restoration of lapsed copyright in registered design” 30

“41A Restoration of lapsed copyright in registered design

“(1) This section applies if the period of copyright in a registered design has ended by reason of a failure to make an application

under section 12(2) or to pay the prescribed fee under section 12(2) (or both).

- “(2) The Commissioner must, on a request made in the prescribed manner and in accordance with **sections 41B to 41F**, by order extend the period of copyright in a registered design for a second or third period of 5 years as provided for in section 12(2) if the Commissioner is satisfied that the relevant failure to comply with section 12(2) was unintentional. 5
- “(3) A request for an order under this section must contain a statement that fully sets out the circumstances that led to the relevant failure to comply with section 12(2). 10
- “(4) The Commissioner may require the person who makes the request to provide any further evidence that the Commissioner thinks fit.
- “(5) An appeal to the Court may be made from any decision of the Commissioner under this section or **sections 41B to 41F**. 15

“**41B Persons who may make request for restoration of copyright**

- “(1) A request for an order under **section 41A** may be made by the person who ~~is~~ was the registered proprietor or, if that person is deceased, by that person’s personal representative. 20
- “(2) If there ~~are~~ were 2 or more registered proprietors, the request for an order under **section 41A** may, with the leave of the Commissioner, be made by 1 or more of them without joining the others. 25

“**41C When request for restoration of copyright may be made**

- “(1) A request for an order under **section 41A** may only be made within the prescribed period.
- “(2) However, the Commissioner may extend the period within which a request may be made if the Commissioner is satisfied that there was no undue delay in making the request. 30
- “(3) The person who makes the request must, for the purposes of **subsection (2)**, provide the Commissioner with a statement that fully sets out the circumstances that caused the delay and the reasons why the delay is not undue. 35
- “(4) The Commissioner may require that person to provide any further evidence that the Commissioner thinks fit.

“41D Commissioner’s consideration of whether prima facie case has been made out for restoration

“(1) The Commissioner must, after considering a request made in accordance with **sections 41A to 41C**, give the person who made the request a reasonable opportunity to be heard if the Commissioner is not satisfied that a prima facie case has been made out for an order under **section 41A**. 5

“(2) The Commissioner must publish a request made in accordance with **sections 41A to 41C** in the ~~journal~~ *Journal* if the Commissioner is satisfied that a prima facie case has been made out for an order under **section 41A**. 10

“41E Notice of opposition and reasonable opportunity to be heard

“(1) Any person may, within the prescribed period, give notice to the Commissioner of opposition to an order being made under **section 41A** on either or both of the following grounds: 15

“(a) that the relevant failure to comply with section 12(2) was not unintentional:

“(b) if the period within which a request for an order under **section 41A** may be made is extended under **section 41C**, that the delay in making the request was undue. 20

“(2) The Commissioner must notify the person who made the request if a person has given notice under **subsection (1)** and provide the person who made the request with a copy of that notice. 25

“(3) The Commissioner must give the person who made the request and the opponent a reasonable opportunity to be heard before the Commissioner decides the case.

“41F Order to be made on payment of unpaid fees

“(1) If the Commissioner has published a request under **section 41D**, he or she must make an order under **section 41A** in accordance with the request after the prescribed period for giving notice of opposition if— 30

“(a) all unpaid prescribed fees are paid; and

“(b) all other prescribed additional penalties (if any) are paid; and 35

“(c) either—

- “(i) no notice of opposition is given within the prescribed period; or
- “(ii) the decision of the Commissioner is in favour of the person who made the request (in the case of a notice of opposition having been given within the prescribed period). 5
- “(2) An order for the extension of the period of copyright in a registered design—
- “(a) may be made subject to a condition requiring the registration of any matter if the provisions of this Act concerning entries in the register of designs have not been complied with; and 10
- “(b) must contain, or be subject to, the provisions that are prescribed for the protection or compensation of persons who availed themselves, or took definite steps by way of contract or otherwise to avail themselves, of the design between the date when the period of copyright ended and the date on which the request is published under **section 41D**; and 15
- “(c) may be made subject to any other conditions that the Commissioner thinks fit. 20
- “(3) If any condition of an order under this section is not complied with by the registered proprietor, the Commissioner may revoke the order and give any directions that are consequential on the revocation that the Commissioner thinks fit. 25
- “(4) The Commissioner must, before the Commissioner makes a decision under **subsection (3)**, give the registered proprietor a reasonable opportunity to be heard.

“Restoration of design applications

- “41G Request for restoration of abandoned design application** 30
- “(1) This section applies if an application for the registration of a design is abandoned under section 7(4).
- “(2) The applicant may make a request to the Commissioner in the prescribed manner for an order to restore the application and to extend the period for complying with the requirements imposed on the applicant by or under this Act to a date that is specified in the order. 35

- “(3) Every request for an order must contain a statement that fully sets out the circumstances that led to the abandonment under section 7(4).”
- “(4) The Commissioner must, after considering a request, give the person who made the request a reasonable opportunity to be heard if the Commissioner is not satisfied that the default or neglect on the part of the applicant that resulted in the application being abandoned under section 7(4) was unintentional.” 5
- “(5) The Commissioner must publish the request in the *Journal* if the Commissioner is satisfied that the default or neglect on the part of the applicant that resulted in the application being abandoned under section 7(4) was unintentional.” 10
- “(6) An appeal to the Court may be made from any decision of the Commissioner under this section or **sections 41H to 41J**.”
- “41H When request for restoration of application may be made”** 15
- “(1) A request under **section 41G** may only be made within the prescribed period.”
- “(2) However, the Commissioner may extend the period within which a request may be made if the Commissioner is satisfied that there was no undue delay in making the request.” 20
- “(3) The applicant must, for the purposes of **subsection (2)**, provide the Commissioner with a statement that fully sets out the circumstances that caused the delay and the reasons why the delay is not undue.”
- “(4) The Commissioner may require the applicant to provide any further evidence that the Commissioner thinks fit.” 25
- “41I Notice of opposition”**
- “(1) Any person may, within the prescribed period, give notice to the Commissioner of opposition to an order being made under **section 41J** on either or both of the following grounds:” 30
- “(a) that the default or neglect on the part of the applicant that resulted in the application being abandoned under section 7(4) was not unintentional;
- “(b) if the period within which a request under **section 41G** may be made is extended under **section 41H**, that the delay in making the request was undue.” 35

“(2) The Commissioner must notify the applicant if a person has given notice under **subsection (1)** and provide the applicant with a copy of that notice.

“(3) The Commissioner must give the applicant and the opponent a reasonable opportunity to be heard before the Commissioner decides the case. 5

“41J Commissioner to determine matter

“(1) The Commissioner must, after the expiry of the prescribed period for giving notice of opposition under **section 41I**,—

“(a) by order restore the application and extend the period for complying with the requirements imposed on the applicant by or under this Act to a period that is specified in the order if the Commissioner is satisfied that— 10

“(i) the default or neglect on the part of the applicant that resulted in the application being abandoned under section 7(4) was unintentional; and 15

“(ii) if the period within which a request under **section 41G** may be made was extended under **section 41H**, there was no undue delay in making the request; or 20

“(b) dismiss the request.

“(2) An order under this section must contain, or be subject to, the provisions that are prescribed for the protection or compensation of persons who availed themselves, or took definite steps by way of contract or otherwise to avail themselves, of the design between the date when the application became abandoned and the date on which the request is published under **section 41G**. 25

“(3) The Commissioner must publish in the *Journal* the making of an order under **subsection (1)** after that order is made.” 30

14 Regulations

Section 46(2) is amended by inserting the following paragraphs after paragraph (c):

“(caa) for prescribing the manner in which applications may be made under section 12(2): 35

“(ca) for regulating the procedure to be followed in connection with a request to the Commissioner under **sections**

41A to 41F (including providing for when and how requests must be made, the period for giving notice of opposition, penalties payable under **section 41F**, and the matters referred to in **section 41F(2)(b)**):

“(cb) for regulating the procedure to be followed in connection with a request to the Commissioner under **sections 41G to 41J** (including providing for when and how requests must be made, the period for giving notice of opposition, and the matters referred to in **section 41J(2)**):”. 5
10

15 Consequential amendment to Copyright Act 1994

- (1) This section amends the Copyright Act 1994.
- (2) Section 74 is amended by adding the following subsection:
- “(4) If the registered protection in New Zealand of a design that has ceased to have effect is restored by an order made under **section 41A** of the Designs Act 1953, nothing done under subsection (1) in the period beginning with the day on which the protection ceased to have effect and ending with the close of the day on which the order is made constitutes an infringement of copyright in any literary or artistic work or copy of the work forming part of the design.” 15
20

Part 4 Fisheries Act 1996

16 **Principal Act amended**
This Part amends the Fisheries Act 1996. 25

17 **Catch to be counted against annual catch entitlement**

- (1) Section 76(1) is amended by inserting “**76A**,” after “In this section and sections”.
- (2) Section 76(6) is amended by inserting the following paragraph after paragraph (a): 30
- “(ab) 5 working days after the chief executive gives written notice to a commercial fisher under **section 76A(6)** of the chief executive’s decision to grant or refuse catch balancing relief; or”.

18 New sections 76A and 76B inserted

The following sections are inserted after section 76:

“76A Application for catch balancing relief

“(1) In this section and **section 76B**,—

“**close of registration**, in relation to a stock, means the close 5
of the 15th day after the end of the fishing year for the stock

“**original owner** means the person who, at the close of regis-
tration, owned the specific amount of annual catch entitlement
for which the chief executive grants catch balancing relief
under this section 10

“**specific amount** means the specific amount of annual catch
entitlement for which the chief executive grants relief.

“(2) A commercial fisher may, at any time before the close of the
15th day of the third month after the end of a fishing year,
apply to the chief executive for catch balancing relief for any 15
amount of annual catch entitlement for a stock for the fishing
year.

“(3) The chief executive may grant an applicant catch balancing
relief for any specific amount of annual catch entitlement that
is equal to or less than the amount for which the applicant 20
applied.

“(4) The chief executive may grant catch balancing relief for a spe-
cific amount of annual catch entitlement only if he or she is
satisfied that—

“(a) the applicant has received written notice from the chief 25
executive that, at the close of registration, the appli-
cant’s reported catch for the stock for the fishing year
exceeded the applicant’s annual catch entitlement for
the stock for the fishing year by at least the specific
amount; and 30

“(b) at the close of registration, the original owner owned
at least the specific amount of annual catch entitlement;
and

“(c) either—

“(i) the applicant believed on reasonable grounds that 35
at least the specific amount of annual catch en-
titlement had been transferred to the applicant be-
fore the close of registration; or

- “(ii) at least the specific amount of annual catch entitlement would have been transferred to, or owned by, the applicant before the close of registration, if not for a mistake made by the applicant or any other person; and 5
- “(d) at the close of registration, the original owner’s annual catch entitlement for the stock for the fishing year exceeded the original owner’s reported catch for the stock for the fishing year by at least the specific amount; and
- “(e) the original owner has consented in writing to the applicant being treated as the owner of at least the specific amount of annual catch entitlement on and from the close of registration; and 10
- “(f) it would be unjust to refuse to grant the applicant catch balancing relief for the specific amount of annual catch entitlement; and 15
- “(g) if an amount of additional annual catch entitlement has been allocated to the original owner under section 67A, but would not have been allocated if the original owner had not owned the specific amount of annual catch entitlement on the close of registration, adequate arrangements have been made to transfer that amount of additional annual catch entitlement to the Crown. 20
- “(5) In considering whether to grant an applicant catch balancing relief, the chief executive may request and consider any information that he or she thinks relevant, such as— 25
- “(a) information about transfers of annual catch entitlement to or from the applicant or the original owner, or about other transactions involving the applicant or the original owner: 30
- “(b) information about the applicant’s usual arrangements for acquiring annual catch entitlement to balance the applicant’s reported catch:
- “(c) any submissions by the applicant that it would be unjust to refuse catch balancing relief. 35
- “(6) The chief executive must give written notice, to the applicant and the original owner, of the chief executive’s decision to grant or refuse catch balancing relief.

- “(7) Any deemed value amount demanded by the chief executive that may be affected by an application for catch balancing relief remains payable despite the application having been made.
- “**76B Effect of granting catch balancing relief**
- “(1) If the chief executive decides to grant an applicant catch balancing relief for a specific amount of annual catch entitlement under **section 76A**, the chief executive must— 5
- “(a) recalculate the annual deemed value amount (if any) for which the applicant is liable, by performing the comparison and calculations referred to in section 76(1B) and (2A) as if the applicant had owned the specific amount of annual catch entitlement at the close of registration; and 10
- “(b) include in the written notice given to the applicant under **section 76A(6)** notice of the annual deemed value amount, recalculated under **paragraph (a)**, for which the applicant is liable; and 15
- “(c) remit to the applicant the difference between the annual deemed value amount previously calculated and the amount recalculated under **paragraph (a)**. 20
- “(2) For the purpose of section 79(1),—
- “(a) any reduction in the annual deemed value amount owed by an applicant that results from the recalculation under **subsection (1)(a)** takes effect on the date that written notice of the recalculated amount is given under **subsection (1)(b)**; and 25
- “(b) if a fishing permit ceases to be suspended because of the recalculation, the suspension ends no earlier than the date the written notice of the recalculated amount is given.” 30

Part 5

Gas Act 1992

19 Principal Act amended

This Part amends the Gas Act 1992.

20 Application

Section 3 is amended by adding the following subsection:

- “(3) Despite subsection (2)(d), that paragraph does not apply in relation to Part 4A and, accordingly, Part 4A applies to any gas used as a feedstock.”

5

Part 6 Hazardous Substances and New Organisms Act 1996

21 Principal Act amended

This Part amends the Hazardous Substances and New Organisms Act 1996.

10

22 Interpretation

- (1) The definition of **aerodrome** in section 2(1) is repealed.
 (2) Section 2(1) is amended by repealing the definition of **conditional release approval** and substituting the following definition:

15

“**conditional release approval** means an approval under section **38BA** or **38C**”.

22A Meaning of term new organism

Section 2A(2)(a)(i) is amended by inserting “35 or” after “section”.

20

22B Powers, functions, and duties of Authority

Section 11(2) is amended by omitting “(1)(fb)” and substituting “(1)(fc)”.

23 Delegation by Authority

25

- (1) Section 19(1) is amended by inserting “whether or not that person is a member of the Authority,” after “delegate to any person,”.
 (2) Section 19(1) is amended by repealing paragraph (b) and substituting the following paragraph:
- “(b) any power that may be delegated under subsection (2); and”.

30

- (3) Section 19(2) is amended by inserting “in writing” after “The Authority may delegate”.
- (4) Section 19(2)(a) is amended by omitting “sections 35, 42, 42A, or 42B” and substituting “sections 35, **38BA**, 42, 42A, 42B, or **42C**”. 5
- (5) Section 19(2) is amended by inserting the following paragraph after paragraph (ca):
“(cb) the power to decide any application under section 28, if it is not publicly notified under section 53(2), to its chief executive:”. 10
- (6) Section 19(2)(ha) is amended by omitting “for an approved filler or an approved handler”.
- (7) Section 19(3) is amended by omitting “subsection (2) of”.
- 24 Application under section 34 may be treated as application under section 38A** 15
Section 38B is amended by adding “, and sections 38A, **38BA**, 38C, and 53(1)(ab) apply accordingly”.
- 25 New section 38BA inserted**
The following section is inserted after section 38B:
“38BA Rapid assessment of risk for importation or release of new organisms with controls 20
“(1) If the Authority receives an application under section 38A in respect of a new organism (other than a genetically modified organism), the Authority may make a rapid assessment of the adverse effects of importing the organism for release or releasing the organism from containment. 25
“(2) The Authority may approve the application and grant a conditional release approval with controls if the Authority is satisfied that—
“(a) the organism is not an unwanted organism as defined in the Biosecurity Act 1993; and 30
“(b) after the controls are imposed, the organism will comply with section 35(2)(b).”

26 Determination of applications to import or release new organisms with controls

Section 38C(1) is amended by omitting “The Authority may approve an application made under section 38A and grant a conditional release approval with controls, but only if the Authority determines that,—” and substituting “If an application made under section 38A is not approved under **section 38BA**, the Authority may approve the application and grant a conditional release approval with controls if the Authority determines that,—”. 5 10

27 Application for containment approval for new organisms

Section 40 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) Every person intending to import any new organism into containment, or develop or field test any new organism in containment, must apply to the Authority for approval to do so before importing, developing, or field testing the organism.” 15

28 New section 42C inserted

The following section is inserted after section 42B:

“42C Rapid assessment of adverse effects for development in containment, etc, of certain new organisms” 20

- “(1) If the Authority receives an application under section 40 in respect of a new organism (other than a genetically modified organism), the Authority may make a rapid assessment of the adverse effects of importing the organism into containment, or of developing or field testing the organism in containment. 25

- “(2) If the Authority is satisfied that the importation, development, or field testing is low-risk, in accordance with regulations made under **subsection (3)**, the Authority may approve the application and impose controls providing for each of the matters specified in Part 2 of Schedule 3 as the Authority thinks fit. 30

- “(3) The Governor-General may, by Order in Council, make regulations specifying the circumstances in which there is a low risk of adverse effects from— 35

“(a) importing a new organism (other than a genetically modified organism) into containment; or

“(b) developing or field testing a new organism (other than a genetically modified organism) in containment.”

29 Determination of application

Section 45(1) is amended by omitting “section 42 or section 42A or section 42B” and substituting “section 42, 42A, 42B, 5 or **42C**”.

30 Applications required to be publicly notified

(1) Section 53(1) is amended by repealing paragraph (a).

(2) Section 53(1)(ab) is amended by adding “, if the application has not been approved under **section 38BA**”. 10

(3) Section 53 is amended by repealing subsection (2) and substituting the following subsection:

“(2) The Authority may, if it considers that there is likely to be significant public interest, publicly notify—

“(a) an application under section 40 in respect of a new organism (other than a genetically modified organism), if the application has not been approved under **section 42C**; or 15

“(b) an application under section 40 to import into containment or develop in containment a genetically modified organism, if the application has not been approved under section 42, 42A, or 42B; or 20

“(c) an application under section 28, if the application has not been approved under section 28A.”

31 Time limits and waivers 25

Section 59(1)(b) is amended by omitting “38I, 42, 42A, or 42B” and substituting “**38BA**, 38I, 42, 42A, 42B, and **42C**”.

32 Grounds for reassessment of a substance or organism

Section 62(4) is amended by—

(a) inserting “**38BA**,” after “32,”; and 30

(b) inserting “**42C**,” after “42B,”.

33 Reassessment

Section 63(2)(c) is amended by omitting “section 45” and substituting “section 42, 42A, 42B, **42C**, or 45”.

34 New section 63B inserted

The following section is inserted after section 63A: 5

“63B Proposal for group standard may be consulted on in same way as reassessment

“(1) This section applies if the Authority—

“(a) decides to reassess a hazardous substance under section 63A without publicly notifying the reassessment in accordance with section 53; and 10

“(b) proposes to issue, amend, or revoke (under section 96B) a group standard that applies to the hazardous substance, on similar grounds to the grounds for deciding to reassess the substance. 15

“(2) The Authority may consult on the following matters, in accordance with section 63A(5), as if they were part of the reassessment:

“(a) the proposal to issue, amend, or revoke the group standard: and 20

“(b) its assessment of the matters referred to in section 96C(1)(h)(ii).

“(3) If the Authority consults in accordance with **subsection (2)**, then the public notice requirements of sections 96C(1)(h) and (2) and 96D do not apply.” 25

35 Issue of test certificates by test certifiers

(1) Section 82(4) is amended by inserting “, unless a conditional test certificate is issued under **subsection (4A)**,” after “he or she shall”.

(2) Section 82 is amended by inserting the following subsections after subsection (4): 30

“(4A) A test certifier may issue a conditional test certificate for a hazardous substance location if he or she considers, on reasonable grounds, that the failure to meet the relevant requirements for the hazardous substance location is minor and technical in nature. 35

- “(4B) A conditional test certificate must—
- “(a) specify the requirements that have not been met; and
 - “(b) specify the date by which the requirements must be met; and
 - “(c) state that the certificate expires on the close of the day specified under **paragraph (b)** if the requirements have not been met by then. 5
- “(4C) A conditional test certificate expires on the close of the day specified under **subsection (4B)(b)** if the requirements specified under **subsection (4B)(a)** have not been met by then. 10
- “(4D) In all other respects, a conditional test certificate is a test certificate for the purposes of this Act.
- “(4E) In **subsection (4A)**, **hazardous substance location** has the same meaning as in regulation 3 of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001.” 15

36 Register of test certificates

- (1) Section 82A(3) is amended by adding “; and” and also by adding the following paragraph:
- “(g) in the case of a conditional test certificate issued for a hazardous substance location,— 20
 - “(i) details of the hazardous substance location; and
 - “(ii) the relevant requirements for the hazardous substance location that have not been met; and
 - “(iii) the date by which the requirements must be met.”
- (2) Section 82A(4)(c) is amended by adding “; or” and also by adding the following subparagraph: 25
- “(v) is necessary to plan for responses to any emergency (as defined in section 46).”
- (3) Section 82A(5) is amended by inserting the following paragraph after paragraph (b): 30
- “(ba) the chief executive of the New Zealand Fire Service:”.

37 Delegation by approved person

Section 82B(1) is amended by omitting “section 82A(5)(a) and (b)” and substituting “section 82A(5)(a), (b), or (ba)”.

38 Revocation of test certificates for approved fillers and approved handlers

- (1) The heading to section 82C is amended by omitting “**for approved fillers and approved handlers**”.
- (2) Section 82C(1) is amended by omitting “issued to an approved filler or an approved handler (as the case may be)” 5
- (3) Section 82C(1) is amended by adding “; or” and also by adding the following paragraph:
- “(d) has not met, or continued to meet, any requirement for which the test certificate was issued.” 10
- (4) Section 82C(9) is repealed.

39 When group standards may be issued or amended

Section 96C is amended by adding the following subsection:

- “(3) However, the Authority may, on its own initiative, amend a group standard under section 96B without complying with subsections (1) and (2) of this section, if it considers that the amendment is minor in effect or corrects a minor or technical error.” 15

40 Enforcement of Act

Section 97(1)(e) is amended by omitting “in, on, or at any aircraft or aerodrome” and substituting “in or on any aircraft”. 20

41 Enforcement of Act in respect of new organisms

Section 97A is amended by inserting the following subsection after subsection (4):

- “(4A) The enforcement agency’s costs of enforcing this Act in respect of new organisms are to be treated as if they were costs of administering the Biosecurity Act 1993, and— 25
- “(a) may be recovered in accordance with section 135 of that Act; and
- “(b) may be funded by a levy imposed under section 137 of that Act; and 30
- “(c) may be prescribed, in regulations made under section 165(1)(s) of that Act, as costs that are recoverable.”

- 42 Enforcement of Act in respect of hazardous substances in place of work**
 Section 97B(3) is amended by repealing the definition of **enforcement agency** and substituting the following definition:
“enforcement agency— 5
“(a) means the chief executive of the department responsible for the administration of the Health and Safety in Employment Act 1992; and
“(b) includes, in relation to a particular industry, sector, or type of work, the chief executive of an agency designated under section 28B(1) of that Act to administer that Act for the particular industry, sector, or type of work”.
- 43 Offences**
 Section 109(2) is repealed.
- 44 New sections 109A and 109B inserted** 15
 The following sections are inserted after section 109:
“109A Time for laying information
“(1) An information in respect of an offence against this Act that relates to a hazardous substance may be laid by any person at any time within 6 months after the earlier of— 20
“(a) the date when the incident, situation, or set of circumstances to which the offence relates first became known to the person; or
“(b) the date when the incident, situation, or set of circumstances to which the offence relates should reasonably have become known to the person. 25
“(2) An information in respect of an offence against this Act that relates to a new organism may be laid by any person at any time within 2 years after the time when the matter of the information arose. 30
“(3) Subsection (1) is subject to section 109B.
- “109B Extension of time for laying information**
“(1) The District Court may, on application by any person, extend the time for the person to lay an information under **section 109A(1).** 35

- “(2) The application must be made within the 6-month period that applies to the person under **section 109A(1)**.
- “(3) The court must not grant an extension unless it is satisfied that—
- “(a) the person reasonably requires longer than the 6-month period to decide whether to lay an information; and 5
 - “(b) the reason for requiring the longer period is that the investigation of the events and issues surrounding the alleged offence is complex or time-consuming; and
 - “(c) it is in the public interest in the circumstances that an information is able to be laid after the 6-month period expires; and 10
 - “(d) laying the information after the 6-month period expires will not unfairly prejudice the proposed defendant in defending the charge. 15
- “(4) The court must give the following persons an opportunity to be heard:
- “(a) the person seeking the extension:
 - “(b) the proposed defendant.”
- 45 Strict liability and defences 20**
- Section 117 is amended by adding the following subsection:
- “(4) It is a defence to prosecution for any offence specified in section 109(1)(e)(ii) or (iii) that, at the time of the alleged offence, the defendant was the holder of a conditional test certificate issued under **section 82(4A)** that— 25
- “(a) specified, as requirements that had not been met, the controls that it is alleged that the defendant failed to comply with; and
 - “(b) had not expired under **section 82(4C)**.”
- 46 Incorporation of material by reference 30**
- (1) Section 141A(1) is amended by repealing paragraph (a) and substituting the following paragraphs:
- “(a) standards, requirements, or recommended practices of national or international organisations:
 - “(ab) standards, requirements, or recommended practices prescribed in any country or jurisdiction or by any group of countries.” 35

- (2) Section 141A is amended by repealing subsection (3) and substituting the following subsections:
- “(3) Material has legal effect as part of the regulations, group standard, notice of transfer, or code of practice in which the material is incorporated by reference. 5
- “(3A) ~~An amendment to, or replacement of, material has legal effect as part of the regulations, group standard, or code of practice in which the material is incorporated by reference only if a notice is published in the *Gazette*—~~
- “(a) ~~stating that the amendment or replacement has legal effect as part of the relevant regulations, group standard, or code of practice; and~~ 10
- “(b) ~~specifying the date of the notice, or a later date, as the date on which the amendment or replacement has legal effect.~~ 15
- “(3B) ~~If material ceases to have effect, it ceases to have legal effect as part of the regulations, group standard, or code of practice in which the material is incorporated by reference only if a notice is published in the *Gazette*—~~
- “(a) ~~stating that the material ceases to have legal effect as part of the relevant regulations, group standard, or code of practice; and~~ 20
- “(b) ~~specifying the date of the notice, or a later date, as the date on which the material ceases to have legal effect.~~
- “(3C) ~~An amendment to, or replacement of, material does not have legal effect as part of a notice of transfer in which the material is incorporated by reference.~~ 25
- “(3D) ~~Material that ceases to have effect does not cease to have legal effect as part of a notice of transfer in which the material is incorporated by reference.~~ 30
- “(3E) The following persons may publish a notice in the *Gazette* stating or specifying the matters referred to in **subsection (3A) or (3B)**:
- “(a) the Minister, in the case of material incorporated in regulations; 35
- “(b) the Authority, in the case of material incorporated in a group standard or code of practice.²²
- (3) Section 141A(4) is amended by—

- (a) inserting “by reference” after “If any material is incorporated”; and
- (b) omitting “by reference under subsection (1)”.
- (3) Section 141A(4) is repealed.
- (4) Section 141A is amended by adding the following subsection: 5
- “(5) If material is incorporated by reference, with legal effect, under this section, the material forms part of the relevant regulations, group standard, notice of transfer, or code of practice for all purposes, but—
- “(a) the Acts and Regulations Publication Act 1989 does not apply to the material; and 10
- “(b) section 4 of the Regulations (Disallowance) Act 1989 does not apply to the material.”
- 46A New sections 141B to 141I inserted**
- The following sections are inserted after section 141A: 15
- “141B Amendment to, or replacement of, material incorporated by reference**
- “(1) An amendment to, or replacement of, material has legal effect as part of the regulations, group standard, or code of practice in which the material is incorporated by reference only if a notice is published in the *Gazette*— 20
- “(a) stating that the amendment or replacement has that effect; and
- “(b) specifying the date of the notice, or a later date, as the date on which the amendment or replacement has that effect. 25
- “(2) The following person may publish the notice:
- “(a) the Minister, in the case of material incorporated in regulations; or
- “(b) the Authority, in the case of material incorporated in a group standard or code of practice. 30
- “(3) The notice must not be published unless the amendment or replacement material is of the same general character as the material amended or replaced.
- “(4) An amendment to, or replacement of, material does not have legal effect as part of a notice of transfer in which the material is incorporated by reference. 35

“141C Proof of material incorporated by reference

- “(1) A copy of material that is incorporated by reference in regulations, including any amendment to, or replacement of, that material, must be—
- “(a) certified as a correct copy of the material by the chief executive of the Ministry for the Environment; and 5
 - “(b) retained by that chief executive or the chief executive of the Authority.
- “(2) A copy of material that is incorporated by reference in a group standard, notice of transfer, or code of practice, including any amendment to, or replacement of, that material, must be— 10
- “(a) certified as a correct copy of the material by the chief executive of the Authority; and
 - “(b) retained by that chief executive.
- “(3) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation of that material in the regulations, group standard, notice of transfer, or code of practice. 15

“141D Material incorporated by reference that ceases to have effect 20

- “(1) If material ceases to have effect, it ceases to have legal effect as part of the regulations, group standard, or code of practice in which the material is incorporated by reference only if a notice is published in the *Gazette*—
- “(a) stating that the material ceases to have that effect; and 25
 - “(b) specifying the date of the notice, or a later date, as the date on which the material ceases to have that effect.
- “(2) The following person may publish the notice:
- “(a) the Minister, in the case of material incorporated in regulations; or 30
 - “(b) the Authority, in the case of material incorporated in a group standard or code of practice.
- “(3) Material that ceases to have effect does not cease to have legal effect as part of a notice of transfer in which the material is incorporated by reference. 35

“141E Notice must be provided to committee responsible for examining regulations

If a notice is published in the *Gazette* under **section 141B or 141D** in relation to material incorporated in regulations or a group standard, the following person must promptly provide a copy of the notice to the chairperson of the committee of the House of Representatives responsible for examining regulations:

- “(a) the chief executive of the Ministry for the Environment, in the case of material incorporated in regulations; or**
- “(b) the chief executive of the Authority, in the case of material incorporated in a group standard.**

“141F Requirement to consult on proposal to amend or replace material incorporated by reference

“(1) The Minister must comply with subsection (2) before publishing a notice in the *Gazette* under section 141B stating that an amendment to, or replacement of, material has legal effect as part of the regulations in which the material is incorporated by reference.

“(2) The Minister must notify and consult on the proposed amendment to, or replacement of, material in accordance with section 141 (with all necessary modifications) as if the proposed amendment or replacement were a proposed Order in Council.

“(3) The chief executive of the Authority must comply with subsection (4) before publishing a notice in the *Gazette* under section 141B stating that an amendment to, or replacement of, material has legal effect as part of the group standard or code of practice in which the material is incorporated by reference.

“(4) The chief executive must notify and consult on the proposed amendment to, or replacement of, material,—

- “(a) in the case of a group standard, in accordance with sections 53 to 61 (with all necessary modifications) as if the proposed amendment or replacement were an application under section 96B to amend a group standard; or**
- “(b) in the case of a code of practice, in accordance with section 79(2) and (3) (with all necessary modifications)**

as if the proposed amendment or replacement were a code proposed for approval.

“(5) A failure to comply with this section does not invalidate regulations that incorporate material by reference or a group standard or code of practice that incorporates material by reference. 5

“141G Access to material incorporated by reference in regulations

“(1) This section applies if material is incorporated by reference in regulations.

“(2) The chief executive of the Ministry for the Environment must— 10

“(a) make the material referred to in **subsection (5)** (the **incorporated material**) available for inspection during working hours, free of charge, at—

“(i) the head office of the Ministry; and 15

“(ii) any other places that the chief executive may, at his or her discretion, determine are appropriate; and

“(b) ensure that copies of the incorporated material are available for purchase by members of the public at a reasonable price; and 20

“(c) make copies of the incorporated material available, free of charge, on an Internet site maintained by or on behalf of the Ministry, unless doing so would infringe copyright in that material or be inconsistent with any other enactment or rule of law; and 25

“(d) give notice in the *Gazette*—

“(i) stating that the incorporated material is available for inspection during working hours, free of charge, and specifying the places at which it can be inspected; and 30

“(ii) stating that copies of the incorporated material can be purchased and specifying the places at which they can be purchased; and

“(iii) if applicable, stating that the incorporated material is available on the Internet, free of charge, and specifying the Internet site address. 35

“(3) The chief executive—

- “(a) may make copies of the incorporated material available in any other way that he or she considers appropriate in the circumstances; and
- “(b) must, if **paragraph (a)** applies, give notice in the *Gazette* stating that the incorporated material is available in other ways and specifying details of where or how it can be accessed or obtained. 5
- “(4) The chief executive may comply with **subsection (2)(c)** by providing a hypertext link from an Internet site maintained by or on behalf of the Ministry to a copy of the incorporated material that is available, free of charge, on an Internet site that is maintained by or on behalf of someone else. 10
- “(5) The material is—
- “(a) material incorporated by reference in regulations:
- “(b) any amendment to, or replacement of, that material that is incorporated in the regulations, or the material referred to in **paragraph (a)** with the amendments or replacement material incorporated: 15
- “(c) if the material referred to in **paragraph (a) or (b)** is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material. 20
- “(6) A failure to comply with this section does not invalidate regulations that incorporate material by reference.
- “**141H Access to material incorporated by reference in group standard, notice of transfer, or code of practice** 25
- “(1) This section applies if material is incorporated by reference in a group standard, notice of transfer, or code of practice.
- “(2) The chief executive of the Authority must—
- “(a) make the material referred to in **subsection (3)** (the **incorporated material**) available for inspection by members of the public free of charge; and 30
- “(b) ensure that copies of the incorporated material are available for purchase by members of the public at a reasonable price; and 35
- “(c) give notice in the *Gazette*—

- “(i) stating that the incorporated material is available for inspection free of charge and specifying the places at which it can be inspected; and
- “(ii) stating that copies of the incorporated material can be purchased and specifying the places at which they can be purchased. 5
- “(3) The material is—
- “(a) material incorporated by reference in a group standard, notice of transfer, or code of practice:
- “(b) any amendment to, or replacement of, that material that is incorporated in the group standard or code of practice, or the material referred to in **paragraph (a)** with the amendments or replacement material incorporated: 10
- “(c) if the material referred to in **paragraph (a) or (b)** is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material. 15
- “(4) A failure to comply with this section does not invalidate a group standard, notice of transfer, or code of practice that incorporates material by reference. 20

“1411 Application of Acts and Regulations Publication Act 1989 and Regulations (Disallowance) Act 1989

- “(1) The Acts and Regulations Publication Act 1989 does not apply to material incorporated by reference in regulations, group standards, notices of transfer, or codes of practice, or to an amendment to, or replacement of, that material. 25
- “(2) The Regulations (Disallowance) Act 1989 applies to regulations, group standards, and notices of transfer that incorporate material by reference, but does not apply to codes of practice that incorporate material by reference. 30
- “(3) However, nothing in section 4 of the Regulations (Disallowance) Act 1989 requires material (including an amendment to, or replacement of, that material) that is incorporated by reference in regulations, group standards, or notices of transfer to be presented to the House of Representatives.” 35

47 Additional matters to be included in statement of intent
Section 147(3) is repealed.

48 Additional reporting requirements

Section 148(b) is repealed.

49 Transitional provision for applications

- (1) This section applies to an application under section 28, 34, 38A, or 40 of the principal Act received by the Authority before the commencement of **this Part**. 5
- (2) The application must be dealt with as if **this Part** had not been enacted.

50 Transitional provision for reassessment of hazardous substance 10

- (1) This section applies if, before the commencement of **this Part**,—
- (a) the Authority decided to reassess a hazardous substance under section 63A of the principal Act; and
- (b) the Authority proposed to issue, amend, or revoke, under section 96B of the principal Act, a group standard that applied to the hazardous substance, on similar grounds to the grounds for deciding to reassess the substance. 15
- (2) The decision and proposal must be dealt with as if **this Part** had not been enacted. 20

51 Transitional provision for aerodromes

Anything done, before the commencement of **this Part**, in enforcing the principal Act in relation to an aerodrome may be completed as if **this Part** had not been enacted. 25

52 Transitional provision for cost recovery

- (1) This section applies to any costs of enforcing the principal Act in respect of a new organism incurred by the enforcement agency (as defined by section 97A of the principal Act).
- (2) The costs— 30
- (a) must be dealt with as if **this Part** had not been enacted, if they were incurred before the commencement of **this Part**; or

- (b) may be recovered in accordance with the principal Act as amended by **this Part**, if they were incurred on or after the commencement of **this Part**, regardless of when the enforcement to which the costs relate occurred. 5

53 Transitional provision for laying information

- (1) **Subsection (2)** applies to an information in respect of an offence against the principal Act that relates to a hazardous substance.
- (2) The information must be laid— 10
- (a) as if **this Part** had not been enacted, if the incident, situation, or set of circumstances to which the offence relates occurred before the commencement of **this Part**; or
- (b) in accordance with the principal Act as amended by **this Part** in all other cases. 15
- (3) **Subsection (4)** applies to an information in respect of an offence against the principal Act that relates to a new organism.
- (4) The information must be laid— 20
- (a) as if **this Part** had not been enacted, if the matter of the information arose before the commencement of **this Part**; or
- (b) in accordance with the principal Act as amended by **this Part** in all other cases.

Part 7 25

**Ministry of Agriculture and Fisheries
(Restructuring) Act 1995**

- 54 Principal Act amended**
This Part amends the Ministry of Agriculture and Fisheries (Restructuring) Act 1995. 30
- 55 Section 18 repealed**
Section 18 is repealed.

56 Section 19 repealed

Section 19 is repealed.

57 Consequential amendments to Fisheries Act 1996

- (1) This section amends the Fisheries Act 1996.
- (2) Section 268(1) is amended by repealing paragraph (a) and substituting the following paragraph: 5
“(a) the person is liable to pay a levy imposed under section 264; and”.
- (3) Section 268(1)(b) is amended by omitting “or additional amount”. 10
- (4) Section 268(1) is amended by repealing paragraph (c) and substituting the following paragraph:
“(c) payment of the outstanding levy has not been waived under section 267(2).”
- (5) Section 268(3)(a) is amended by omitting “(including an additional amount payable under section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995)”. 15
- (6) Section 269(1) is amended by repealing paragraph (a) and substituting the following paragraph:
“(a) the person is liable to pay a levy imposed under section 264; and”. 20
- (7) Section 269(1)(b) is amended by omitting “or additional amount”.
- (8) Section 269(1) is amended by repealing paragraph (c) and substituting the following paragraph: 25
“(c) payment of the outstanding levy has not been waived under section 267(2).”
- (9) Section 269(6)(a) is amended by omitting “(including any additional amount payable under section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995)”. 30

58 Consequential amendment to Pork Industry Board Act 1997

- (1) This section amends the Pork Industry Board Act 1997.
- (2) Section 37 is amended by repealing subsection (6) and substituting the following subsection: 35

“(6) All levy money received by the Director-General must be accounted for in full to the Board, subject to section 17(2) and (3) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997.”

- 59 Transitional provision** 5
Any amount that is payable under section 18 of the principal Act immediately before the commencement of **this Part** remains payable as if that section had not been repealed.

Part 8

Reserves Act 1977 10

- 60 Principal Act amended**
This Part amends the Reserves Act 1977.
- 61 Licences to occupy reserves temporarily** 15
Section 74(4) is amended by omitting “5” and substituting “10”.
- 62 Transitional provision for application for licence**
- (1) This section applies to an application made before the commencement of **this Part** for a licence under section 74 of the principal Act.
- (2) The application must be dealt with— 20
- (a) as if **this Part** had not been enacted if, before the commencement of **this Part**, public notice of the proposed licence was given under section 74(3) of the principal Act:
- (b) in accordance with the principal Act as amended by **this Part** in all other cases. 25

Part 9

Weights and Measures Act 1987

- 63 Principal Act amended** 30
This Part amends the Weights and Measures Act 1987.

64 Act not to apply to water, electricity, or gas

Section 38(c) is amended by inserting “that is in a liquid form” after “liquefied petroleum gas”.

Legislative history

9 September 2008
12 May 2009

Introduction (Bill 298–1)
First reading and referral to Commerce Committee
