

House of Representatives

Supplementary Order Paper

Tuesday, 23 May 2017

Food Safety Law Reform Bill

Proposed amendments

Hon David Bennett, in Committee, to move the following amendments:

Clause 2

In *clause 2(1)*, replace “force of” (page 13, line 7) with “force on”.

New clause 3A

After *clause 3* (page 14, after line 6), insert:

3A Section 9 amended (Meaning of food)

(1) Replace section 9(1)(c)(iii) with:

(iii) any substance that—

(A) is used only as a medicine or is a controlled drug or psychoactive substance; but

(B) is not the subject of a declaration referred to in paragraph (b)(vii); or

(2) Replace section 9(4) with:

(4) In this section,—

animal has the meaning given by section 4(1) of the Animal Products Act 1999

controlled drug has the meaning given by section 2 of the Misuse of Drugs Act 1975

medicine has the meaning given by section 3 of the Medicines Act 1981

psychoactive substance has the meaning given by section 9 of the Psychoactive Substances Act 2013.

New clause 31B

After *clause 31A* (page 23, after line 21), insert:

31B Section 353 amended (Chief executive may delegate)

In section 353(2), replace “powers in sections 289 and” with “power in section”.

New clauses 40A to 40C

After *clause 40* (page 25, after line 27), insert:

40A Section 397 amended (Minister may adopt joint food standards)

- (1) In section 397(1), after “imported into”, insert “, or exported from,”.
- (2) After section 397(3), insert:
- (4) The effect of adopting a joint food standard is that a person who manufactures or prepares food for sale in New Zealand, or sells food in New Zealand, or imports food into, or exports food from, New Zealand must comply with the requirements of the adopted food standard in relation to that food.

40B Section 400 amended (Amendment and revocation of adopted joint food standards)

Replace section 400(2) with:

- (2) An amendment to an adopted food standard under subsection (1)(a) or (b) must, subject to this section, be adopted in the same way as a joint food standard is adopted.
- (3) Sections 397 and 398 apply, subject to any necessary modifications, in respect of—
 - (a) the adoption of an amendment to an adopted food standard except that section 397(2) and (3) does not apply if the amendment corrects an error or omission in that standard:
 - (b) the revocation of an adopted food standard.

40C Section 404 amended (Minister may issue domestic food standards)

In section 404(1), after “imported into”, insert “, or exported from,”.

New clause 43A

After *clause 43* (page 26, after line 26), insert:

43A Section 421 amended (Pre-commencement standards)

After section 421(5), insert:

- (6) If a food standard to which subsection (2) applies cannot be amended under section 404 because the requirements of section 404(1)(a) are not satisfied, the Minister may, by notice, amend the standard if the Minister—
- (a) is satisfied that the amendment could have been made under section 11C of the Food Act 1981 (had it been in force); and
 - (b) is satisfied that the amendment does not have the effect of extending the application of the standard; and
 - (c) has taken into account the matters described in section 404(2); and
 - (d) is satisfied that there has been appropriate consultation on the amendment in accordance with section 379.
- (7) Sections 398 to 402 apply, subject to any necessary modifications, in respect of an amendment made under **subsection (6)**.

Clause 99

Replace *clause 99* (page 42, lines 11 to 24) with:

99 Section 60B replaced (Exemption from requirements of food standards where appropriate)

Replace section 60B with:

60B Exemption from animal product standards where appropriate

- (1) The Director-General may, by notice under **section 167(1)**, exempt any 1 or more classes or descriptions of animal material or animal product that is intended for export from New Zealand from the requirements of any animal product standard or supplementary notice.
- (2) The Director-General may do so only if satisfied that it is appropriate to do so having regard to the requirements of the relevant overseas market.
- (3) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations granting exemptions of the kind referred to in **subsection (1)**.
- (4) The Minister may not recommend the making of regulations under **subsection (3)** unless satisfied that it is appropriate to do so having regard to the requirements of the relevant overseas market.

Clause 112

In *clause 112*, after *new section 77E(b)(iii)* (page 45, after line 35), insert:

- (iv) if the person is subject to a notice made under section 167(1), that notice.

New clause 120A

After *clause 120* (page 48, after line 19), insert:

120A Section 86 amended (Delegation by Director-General)

In section 86, delete “, except the power to issue statements under section 84”.

Clause 206

In *clause 206*, after *new section 54E(b)(ii)* (page 79, after line 18), insert:

- (iii) if the person is subject to a notice made under **section 120(1)**, that notice.

New clause 208A

After *clause 208* (page 81, after line 6), insert:

208A Section 61 amended (Delegations by Director-General)

In section 61, delete “, except the power to issue statements under section 60”.

Schedule 1

In *Schedule 1*, *new Schedule 1*, *clause 4(2)(a)(ii)*, after “repealed by” (page 105, line 11), delete “the”.

Explanatory note

This Supplementary Order Paper amends the Food Safety Law Reform Bill.

Clause 2 is amended to correct a typographical error.

Amendments to Food Act 2014

New clause 3A amends the definition of food in section 9 of the Food Act 2014 (the **Act**). Food means anything that is used, capable of being used, or represented as being for use, for human consumption (whether raw, prepared, or partly prepared), and—

- includes the things listed in section 9(1)(b); and
- excludes the things listed in section 9(1)(c).

An Order in Council made under section 393 may declare a thing to be a food or not to be a food for the purposes of the Act. Currently, a substance that is used only as a medicine or that is a controlled drug or psychoactive substance is excluded from being a food by section 9(1)(c)(iii). The effect of the amendment is that if an Order in Council declares one of those substances to be a food for the purposes of the Act, the substance is not excluded from being a food.

New clause 31B amends section 353. Section 353 allows the chief executive to delegate powers and functions under the Act except the power to issue privileged state-

ments and emergency notices. This amendment removes the restriction on delegating the power to issue privileged statements.

New clause 40A amends section 397, which enables the adoption of joint food standards. The amendment—

- provides that an adopted joint food standard can relate to food exported from New Zealand; and
- states the effect of the adoption of a joint food standard for a person who manufactures or prepares food for sale in New Zealand, or sells food in New Zealand, or imports food into, or exports food from, New Zealand.

New clause 40B amends section 400 to provide consistency in the incorporation of amendments to an adopted joint food standard. An amendment to an adopted food standard must be adopted in the same way as a joint food standard is adopted.

New clause 40C amends section 404 to provide that domestic food standards may also relate to food exported from New Zealand.

New clause 43A relates to food standards from the Food Act 1981 that have been transitioned as domestic food standards under section 421(2) of the Food Act 2014. The purpose of the amendment is to enable those transitioned food standards to be amended if the requirements for amending domestic food standards in section 404(1)(a) of the Food Act 2014 are not satisfied. The Minister may amend a transitioned food standard subject to certain requirements being met, including the requirement that the amendment must not have the effect of increasing the scope of the standard.

Amendments to Animal Products Act 1999

Clause 99, which amended section 60B of the Animal Products Act 1999 (the **AP Act**), is replaced with a new clause that will replace section 60B. The only additional change to section 60B is to remove the ability to grant exemptions from the food standards issued under the Food Act 2014. This power is unnecessary as exemptions from those standards may be granted under the Food Act 2014.

Clause 112, new section 77E is amended so that the requirement to comply with verification obligations includes obligations imposed by notices made under section 167(1) of the AP Act.

New clause 120A is inserted to amend section 86 of the AP Act. Section 86 allows the Director-General to delegate powers and functions under the Act, other than the power to issue statements under section 84. This amendment removes that restriction, thus allowing the delegation of the section 84 power.

Amendments to Wine Act 2003

Clause 206, new section 54E and *new clause 208* are amendments to the Wine Act 2003 to mirror the changes being made in *clause 112* and *new clause 120A* in relation to the AP Act.

Departmental disclosure statement

The Ministry for Primary Industries is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2017&no=316&>.

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement on 16 March 2017 to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

A copy of this regulatory impact statement can be found at—

- <http://www.treasury.govt.nz/publications/informationreleases/ris>