

LEGISLATIVE STATEMENT
for the Organic Products Bill
Second reading

Presented to the House of Representatives
in accordance with Standing Order 272

This legislative statement supports the second reading of the Organic Products Bill.

Introduction

1. Organic claims are credence claims that often attract premium prices which consumers cannot independently verify. Because of this difficulty, many of our key trading partners regulate organic claims and set production standards that must be used by businesses that wish to make those claims.

Background

2. The market for organic products is growing worldwide and New Zealand's market is no exception. New Zealand exports over half its organic production, which industry estimates at over \$600 million per year.
3. Under the current system, New Zealand businesses that make organic claims can choose to be certified to one of a range of private standards with different requirements, or to 'self-certify'. This can create inconsistency in organic claims, confusion for consumers and raise questions for international trading partners.
4. Regulation of organic claims is becoming more important to New Zealand's trading partners. The Organic Products Bill will give New Zealand a basis for negotiating market access to maintain and grow our organics exports. New rules in the European Union will require New Zealand to have domestic regulation of organic products and a treaty-level agreement to prevent exporters from incurring increased costs to access those markets.
5. The government consulted organic sector stakeholders in 2018 on the need for mandatory organic standards. The majority of respondents agreed a mandatory, government-backed standard was desirable for businesses and consumers. The Government decided the most effective way to enable mandatory standards was through a standalone Act.

Objectives of the Bill

6. The Bill has three objectives: to increase consumer confidence; to increase business certainty; and to promote international trade in organic products.

Increased consumer confidence

7. The Bill will create consistency amongst organic claims and decrease consumer confusion by enabling mandatory requirements to be set for any product sold, labelled or represented as 'organic'.
8. The Bill requires all businesses making organic claims for products covered by an organic standard to be approved by the relevant ministry. This will assure consumers and trading

partners that government has oversight of businesses making organic claims to ensure the integrity of the system, and has powers to enforce compliance.

9. The Bill also enables the creation of a public register of organic businesses that consumers can check to see if a business has been approved to make organic claims.

Increased business certainty

10. Under the current legislative framework – primarily the Fair Trading Act 1986– businesses are required to make sure claims about their products, such as their organic status, are not misleading. The Bill will increase certainty for businesses who make organic claims by specifying the requirements everyone must meet to make organic claims about their products.
11. The Bill does so by enabling requirements for organic production (organic standards) to be made in regulations and notices. Having a single set of standards to use will create a level playing field for businesses wanting to make organic claims. The Bill also enables administrative regulations to be set for demonstrating compliance and specifies the powers of organic products officers.
12. The Bill contains enforcement powers that specify penalties for non-compliance with the Bill. It also specifies which decisions of the relevant chief executives can be reviewed and how relevant chief executives should conduct reviews of those decisions.

Facilitating international trade

13. The Bill provides a regulatory framework for managing government assurances. It also establishes enforcement measures to protect New Zealand's trading reputation. The Bill empowers the government to set requirements for exported organic products and establishes mechanisms to recognise imports from countries whose regimes have equivalent outcomes. These measures are likely to:
 - a. increase trust with trading partners;
 - b. improve New Zealand's ability to negotiate better market access; and
 - c. state New Zealand's position on organics and allow us to defend it internationally.
14. Countries that regulate organic production are increasingly requesting that their trading partners also regulate organic claims. Currently, the Ministry for Primary Industries runs an administrative export programme, the Official Organic Assurance Programme, which enables exporters to access six key organic markets with a New Zealand government assurance.¹
15. The regulatory system the Bill establishes will facilitate international trade by establishing a basis for negotiating market access agreements. This will enable New Zealand businesses to keep making organic claims about their organic products when exporting to some of our major markets. It will also avoid businesses having to meet multiple and expensive compliance requirements imposed separately by each country they export to. This will enable businesses to reap the benefit of the premium prices that organic products attract and reduce regulatory compliance burden.

Special features of the Bill

16. While the Ministry for Primary Industries will administer the Bill, the Bill enables any ministry to regulate organic claims for products for which they are responsible. The Bill empowers ministries to develop organic production standards and the administration, monitoring and

¹ These are: The European Union, Switzerland, Taiwan, The United States, Taiwan, and Great Britain

enforcement of associated regulatory requirements. The Ministry for Primary Industries will administer organic standards and regulations for food, beverages, and plant and animal products as these products fall within that ministry's operating mandate. The flexibility in the Bill will enable other ministries to make organic standards for products that are not covered by existing organic standards. This will make the Bill more enduring.

Amendments recommended by the Primary Production Select Committee

17. The Primary Production Committee recommended some amendments to the Bill. Key amendments include:
 - a. A new title - The Organic Products and Production Bill. This more accurately describes what the Bill is regulating.
 - b. Enabling organic standards to be made with the involvement of stakeholders. This enables the experts in organic production to assist in making the production rules.
 - c. The ability for the relevant Minister to form a statutory advisory council to provide advice to the relevant chief executive on a range of matters related to organics. The members of any statutory advisory council will be paid for their time, but this will be fiscally neutral.
 - d. A definition of an organic product.
 - e. Provisions to ensure the chief executive of the relevant ministry has the ability to approve operators and cost recover before an organic standard made under the Bill enters into force. This will assist with the transition towards a new regulatory regime.
 - f. Provision for the relevant chief executive to create a register of permitted inputs for organic production. Businesses will be able to choose to use inputs from the register if they want to avoid the cost of having inputs assessed, which can be costly.
 - g. A clause restricting the use of information collected from or provided by an operator without the express permission.