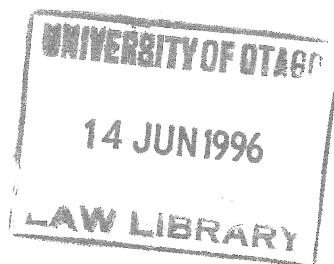


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HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 21 May 1996

HAZARDOUS SUBSTANCES AND NEW ORGANISMS BILL

Proposed Amendments

Hon. SIMON UPTON, in Committee, to move the following amendments:

Clause 2: To omit from the definition of the term "enforcement officer", the expression "91", and substitute the expression "91A" (page 8, line 36).

To add to the definition of the term "firework" the words "or vertical or horizontal flight" (page 9, line 35).

To omit the definition of the term "net national benefit" (page 11, lines 32 to 34).

To omit from the definition of the term "ship", the words "Shipping and Seamen Act 1952", and substitute the words "Maritime Transport Act 1994" (page 14, line 23).

Clause 5A: To add the following paragraph:

"(f) New Zealand's international obligations."

Clause 6A: To omit subclause (1) (page 19, lines 28 to 32), and substitute the following subclauses:

"(1) The Governor-General may from time to time, by Order in Council, establish a methodology (which includes an assessment of monetary and non-monetary costs and benefits) for making decisions under Part IV of this Act; and the Authority shall consistently apply that methodology when making such decisions.

"(1A) Before making any recommendation for the purpose of making any Order in Council under subsection (1) of this section, the Minister shall request the Authority to—

"(a) Develop a proposed methodology; and

"(b) Establish a process that the Minister considers gives the public adequate time and opportunity to make submissions on the proposed methodology to the Authority; and

"(c) Advise the Minister of any submissions received, and any comments the Authority wishes to make on the submissions, or the proposed methodology—

and the Minister shall have regard to those submissions and comments.

“(1B) A failure to comply with subsection (1A) of this section shall not affect the validity of any Order in Council made under subsection (1) of this section.

“(1c) Notwithstanding section 52 of this Act, the Authority shall not proceed to determine any application made under Part IV of this Act until an Order in Council has been made under subsection (1) of this section.”

Clause 6E: To omit subclause (1) and substitute the following subclause:

“(1) Every person who imports, possesses, or uses a hazardous substance or new organism shall ensure that—

“(a) Any adverse effect caused by an act or omission of that person in relation to that substance or organism on any other person or the environment is avoided, remedied, or mitigated; and

“(b) No action or omission by that person will contravene any requirement or control on that substance or organism imposed by this Act.”

Clause 16: To omit from subsection (1)(a) the words “manufactured, or field tested:” (page 28, lines 30 and 31), and substitute the words “or manufactured:”.

Clause 21: To omit the word “beneficial” wherever it occurs, and substitute in each case the word “positive”.

To omit the word “lifestyle” (page 32, line 8), and substitute the word “lifecycle”.

To omit the expression “73” from subclause (2) (page 32, line 24), and substitute the expression “68A”.

Clause 26: To omit subclause (2) and substitute the following subclause:

“(2) Every application shall be in the prescribed form and shall include—

“(a) Any information prescribed; and

“(b) Information on all occasions where the organism has been considered by the government of any prescribed state or country or by any prescribed organisation and the results of such consideration; and

“(c) The identification of the organism; and

“(d) Any likely inseparable organisms; and

“(e) All the possible adverse effects of the organism on the environment; and

“(f) The affinities of the organism with other organisms in New Zealand; and

“(g) The potential use for the organism.”

Clause 31: To omit the word “beneficial” from subclause (1)(a)(iii) (page 40, line 4), and substitute the word “positive”.

To omit the word “beneficial” from subclause (1)(b)(ii) (page 40, line 20), and substitute the word “positive”.

To omit from subclause (2B) the word “of” (page 41, line 6), and substitute the word “after”.

To omit from subclause (2B) the word “of” (page 41, line 8), and substitute the word “after”.

Clause 33: To omit subclause (2) (page 42, line 32 to page 43 line 7), and substitute the following subclause:

“(2) Every application shall be in the prescribed form and shall include any information prescribed, information on all occasions where the organism has been considered by the government of any prescribed state or country, or by any prescribed organisation, and the results of such consideration, information about the containment system for the organism, and—

“(a) For the development of a genetically modified organism—

“(i) The identification of the organism; and

“(ii) The description of the project and the experimental procedures to be used; and

“(iii) The details of the biological material to be used; and

“(iv) The expression of foreign deoxyribonucleic acid (DNA); and

“(v) All the possible adverse effects of the organism on the environment:

“(b) For field testing and large scale fermentation of a genetically modified organism—

“(i) The identification of the organism; and

“(ii) The purposes of the field testing and large scale fermentation; and

“(iii) The genetic modifications of the organism to be tested; and

“(iv) The nature and method of field trials and the experimental procedures to be used; and

“(v) All the possible adverse effects of the organism on the environment.”

Clause 45: To omit from subclause (2) (b) (page 51, line 24) the word “of”, and substitute the word “after”.

Clause 46: To omit from subclause (2) the word “of” (page 52, line 7), and substitute the word “after”.

Clause 49: To omit from subsection (6) (a) (page 55, line 41), the expression “1981”, and substitute the expression “1967”.

Clause 50A (1): To omit the words “Notwithstanding anything in the Official Information Act 1982 where,” (page 56, lines 17 and 18), and substitute the word “Where”.

Clause 58 (1): To omit the expression “55” (page 64, line 12), and substitute the expression “55A”.

Clause 81 (a): To omit the expression “73” (page 82, line 12), and substitute the expression “68A”.

Clause 82 (1): To omit the expression “73” (page 82, line 31), and substitute the expression “68A”.

Clause 89 (1): To omit the expression “73” (page 84, line 12), and substitute the expression “68A”.

Clause 91 (1): To omit paragraph (b) (page 87, line 36 to page 88, line 3) and substitute the following paragraph:

“(b) The chief executive of the department of state that is for the time being responsible for the administration of the Gas Act 1992 shall ensure the provisions of this Act are enforced in, on, at, or around any

distribution system, gas installation, or gas appliance:”.

To add to paragraph (h) the following subparagraph:

“(iv) Shall ensure that the provisions of this Act are enforced in or on those premises specified in paragraphs (a) to (g) of this section in respect of any substances to which Part XIII of this Act applies.”

Clause 98: To omit from subclause (1), the words “, under section 91 of this Act,” (page 97, line 13).

To omit from subclause (7), the words “but nothing in section 111 (4) of this Act shall apply in relation to a notice of appeal lodged under section 111 (3) of this Act (as applied by this subsection).” (page 98, lines 12 to 14).

Clause 99: To omit subparagraph (iii) from subclause (1) (e) (page 98, lines 40 and 41).

To omit from subclause (2) the expression “(a)” (page 99, line 27).

Clause 111: To omit subclause (4) (page 110, lines 4 to 6), and substitute the following subclause:

“(4) Any person who lodges a notice of appeal under **subsection (3)** of this section may apply to the District Court for a stay of the compliance order until the determination of the appeal.”

Clause 122: To omit from subclause (1)(ab) the word “Services” (page 113, line 20), and substitute the word “Service”.

To omit from subclause 3 (a) the expression “91” (page 114, line 7), and substitute the expression “91A”.

To omit from subclause 4 (c) the word “Services” (page 114, line 22), and substitute the word “Service”.

Clause 127: To insert in subclause (1), after the words “made under” the words “**section 6A (1)**,” (page 120, line 5).

Clause 128 (6): To omit paragraph (a) (page 122, lines 2 to 11) and substitute the following paragraph:

“(a) There is a provision in that other Act that expressly provides that controls made under that other Act for specified purposes may contravene the provisions of regulations made under this Act; and”.

Clause 129: To omit subclause (1) (page 122, lines 13 to 15), and substitute the following subclause:

“(1) In this section, “hospital” means any premises licensed for use as a hospital under the Hospitals Act 1957.”

Clause 134A: To insert, after the expression “XV” in subclause (1) (page 126, line 34), the word “of”.

To insert, after the expression “XV” in subclause (2) (page 126, line 39), the word “of”.

Clause 136 (1): To omit the expression “235” (page 127, line 28).

Clause 138 (1) (a): To omit the expression “235,” (page 129, line 27).

Clause 142 (1) (b): To omit the expression “235,” (page 132, line 35).

Clause 143: To omit the expression “235,” (page 133, line 23).

Clause 198: To omit subclause (1) (page 167, lines 10 to 13) and substitute the following subclause:

“(1) Any person may apply to the Authority for a licence for the purposes of section 192 of this Act and the Authority may

grant a licence subject to such conditions as it thinks fit in the interests of public safety or for the protection of any property.”

Clause 201: To omit from clause 201 (1) (page 169, lines 2 and 4), the word “Authority” wherever it occurs and substitute in each case the words “relevant territorial authority”.

To omit from clause 201 (2) (page 169, lines 9 and 10) the word “Authority” wherever it occurs, and substitute in each case the words “relevant territorial authority”.

To omit subclause (4) (page 169, lines 16 to 20), and substitute the following subclauses:

“(4) The territorial authority may, unless the Authority directs that the Authority or another territorial authority shall renew a licence or any class of licence, grant a renewal of a licence—

“(a) On the same terms and conditions as the previous licence; or

“(b) Unconditionally, if the previous licence was granted unconditionally—

or may refuse to grant a renewal of a licence if the licence holder has breached any regulations which apply in accordance with **section 202** of this Act.

“(4A) Section 137 (8) and 137 (9) of this Act shall apply to the grant or refusal of any licence under **subsection (4)** of this section.

“(4B) Any renewal granted under **subsection (4)** of this section shall be a permission for the purposes of **section 138 (d)** of this Act.”

Clause 204: To omit the expression “234, and 235” (page 171, line 34) and substitute the expression “and 234”.

First Schedule: To omit clause 18 (page 195), and substitute the following clause:

“18. For the purposes of **clause 17** of this Schedule, a member has a pecuniary interest if that pecuniary interest is one to which section 6 of the Local Authorities (Members’ Interests) Act 1968 would apply if he or she were a member of a local authority.”

Third Schedule: To add to Part II (page 206) the following new clause:

“5. Controls imposed by an approval may specify the qualifications required of the person responsible for implementing those controls.”

Fourth Schedule: To amend the following items:

1991, No. 69—The Resource Management Act 1991: To insert in the second column of the item amending section 62 of the Resource Management Act 1991, after the expression “section 62 (1) (ha)” (page 219), the words “(as inserted by section 34 (1) of the Resource Management Act 1993)”.

1991, No. 150—The Building Act 1991: To omit from the second column the item amending section 44 (2) of the Building Act 1991, and substituting the following items:

“By inserting in section 44 (1), after paragraph (k), the following paragraph:

“(ka) Any stationary container; or”.

“By inserting in section 44, after subsection (1), the following subsection:

'(1A) A compliance schedule shall be required for any building that is a stationary container.'

"By inserting in section 44, after subsection (7), the following subsection:

'(7A) Where a compliance schedule has already been issued in respect of a building which is, or contains, a stationary container, the territorial authority that issued the compliance schedule may amend that schedule to include a requirement for a test certificate in accordance with **subsection (5A)** of this section.'

To insert in the second column of the item amending section 44 (5A) of the Building Act 1991, after the expression "(1)" (page 221), the expression ", (1A)".

1993, No. 95—The Biosecurity Act 1993

To insert in the second column of the item amending the definition of the term "restricted organism" in the Biosecurity Act 1993, after the expression "1994" (page 225), the words "(including any approval deemed to have been so granted under sections 236 (1), 236 (3), 236 (8) (a), 237 (1), 237 (2), 238, 240 (1), and 240 (3) of that Act):".

To omit from the second column of the item amending section 28 (2) of the Biosecurity Act 1993 the words "give a biosecurity clearance for" (page 227) and substitute the word "authorise".

To omit from the second column the item amending section 40 (1) of the Biosecurity Act 1993.

To omit from the item amending the Seventh Schedule of the Biosecurity Act 1993 the expression "1992" (page 231), and substitute the expression "1972".

Fifth Schedule:

1991, No. 150—The Building Act 1991: To add after the expression "1974" in the item repealing part of the Fourth Schedule of the Building Act 1991, the words "and the Toxic substances Act 1979."

Seventh Schedule:

To omit the expression "1946" (page 270, item 2), and substitute the expression "2946".

To insert, after the words "N-normal-Butylimidazole . . . 2690" (page 272, item 18), the item "N-normal-Butyliminazole . . . 2690".

To omit the words "Hexachlorobenzene . . . 2279" (page 278, item 27) and substitute the words "Hexachlorobenzene . . . 2729".

To omit the words "Perchlorobenzene . . . 2279" (page 278, item 28) and substitute the words "Perchlorobenzene . . . 2729".

To omit the expression "2585" (page 318, item 30), and substitute the expression "2582".

EXPLANATORY NOTE

All amendments to clauses other than those clauses listed below make further consequential amendments to the changes made by the Select Committee or correct minor errors.

The proposed amendment to *clause 5A* makes New Zealand's international obligations a matter relevant to the purpose of the Act.

The proposed amendment to *clause 6A* sets out a procedure to establish the methodology to be used by the Authority in making decisions under Part IV of the Act. The methodology is established by Order in Council after the Authority has established a process that the Minister considers gives the public adequate time and opportunity to make submissions on the proposed methodology. A failure to comply with the requirements of *subclause (1A)* do not affect the validity of any Order in Council made under *subclause (1)* of the clause. No application can be determined under Part IV of the Act by the Authority until an Order in Council has been made establishing the methodology.

The proposed amendments to *clauses 26 and 33* clarify the requirements to provide information for the development, field testing, and large scale fermentation of a genetically modified organism.

The proposed amendment to *clause 50A* removes a provision which purports to override the Official Information Act 1982. As the provisions of *clause 50A* are consistent with the Official Information Act 1982, the proposed amendment clarifies the relationship between the two provisions.

The proposed amendment to *clause 91 (1)(h)* leaves dangerous goods enforcement responsibilities with territorial authorities while those goods are covered by the transitional provisions.

The proposed amendment to *clause 99 (2)* (to omit the expression "(a)") ensures that the commencement of time for laying an information is the same for all offences under *clause 99 (1)*.

The proposed amendment to *clause 11* ensures that lodging an appeal under this section against a compliance order does not operate as a stay on that order but any person may apply to the District Court for a stay of the order.

The proposed amendments to *clauses 198 and 201* ensure that the Authority can grant dangerous goods licences for new facilities but that renewals of licences are to be undertaken by territorial authorities unless the Authority directs otherwise.

The amendment to the *Third Schedule* and the Third amendment in the *Fourth Schedule* to the Biosecurity Act 1993 enables the Authority to specify the requirements for a person to operate a containment facility rather than requiring that person to be registered by the Director-General of Agriculture.

The proposed amendments in the *Fourth Schedule* to the Building Act 1991 clarify the requirements relating to compliance schedules for stationary containers.

The proposed amendment in the *Fourth Schedule* to the term "restricted organism" in the Biosecurity Act 1993 ensures that certain organisms covered by the transitional provisions are included as restricted organisms.