

**Reprint
as at 6 April 2012**



Biosecurity Act 1993

Public Act 1993 No 95
Date of assent 26 August 1993
Commencement see section 1(2)

Contents

	Page
Title	10
1 Short Title and commencement	10
Part 1	
Preliminary	
2 Interpretation	10
3 Application of Act to syndromes of uncertain origin	21
4 Application of Act to fish and mammals taken in exclusive economic zone	21
5 Act binds the Crown	22
6 Land May include parts of boundary roads	22
7 Relationship with other enactments	22
7A Relationship with Resource Management Act 1991	24
Part 2	
Functions, powers, and duties	
<i>Ministers</i>	
8 Responsibilities of responsible Minister	26

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Agriculture and Forestry.

9	Powers of responsible Minister	26
10	Functions of Ministers in relation to proposed national pest management strategies	27
11	Other powers of Ministers	28
12	Responsible Minister May require information	29
	<i>Local authorities</i>	
13	Powers of regional councils	29
14	Powers of territorial authorities	30
15	Transfer of powers, etc, by local authorities	31
	Part 3	
	Importation of risk goods	
16	Purpose of Part 3	33
	<i>Arrival of craft</i>	
17	Notice of intended arrival of craft in New Zealand	33
18	Arrival of craft in New Zealand	34
19	Persons in charge of certain craft to obey directions of inspector or authorised person	35
	<i>Import health standards</i>	
20	Import health permits [<i>Repealed</i>]	36
21	Criteria for issue of import health permits [<i>Repealed</i>]	36
22	Import health standards	36
22A	Process for independent review panel to be established	38
23	Revocation and variation of import health permits [<i>Repealed</i>]	39
24	Exemptions from requirement for import health permit [<i>Repealed</i>]	39
	<i>Clearance of risk goods</i>	
25	Goods to be cleared for entry into New Zealand	39
25A	Organisms illegally present in New Zealand [<i>Repealed</i>]	39
26	Clearances	39
27	Inspector to be satisfied of certain matters	40
28	Restrictions on giving clearances	40
28A	Dealing with suspected new organism	41
28B	Biosecurity clearance for certain new organisms and qualifying organisms	42
29	Restricted organisms to be contained	42
	<i>Inspections, declarations, etc</i>	
30	Uncleared imports	42
30A	Processing unaccompanied goods	43

31	Boarding of craft	43
32	Powers relating to craft	44
33	Risk goods on board craft	44
34	Disembarkation	45
35	Duties of people in biosecurity control areas	47
36	Movement of risk goods	47
37	Approval of ports as places of first arrival	47
37A	Approval of arrival of craft at port not approved as place of first arrival	49
37B	Suspension of approval	49
37C	Port operators	50
37D	Director-General to consult chief executives	50
38	Importers' records	51
39	Approval of transitional facilities and containment facilities	51
40	Approval of facility operators	53
41	Designation of quarantine area	53
	<i>Definitions for information-sharing provisions</i>	
41A	Definitions	54
	<i>Interim arrangements for information sharing</i>	
41B	Purpose of sections 41C to 41E	56
41C	Interim collection of border information	57
41D	Requirement by or under this Act to supply border information is complied with if information is supplied to Customs or other agency	57
41E	Interim access to border information	58
41F	Expiry of sections 41B to 41E and agreements made under section 41E	58
	<i>Information sharing for joint border management</i>	
41G	Collection of border information	59
41H	Requirement by or under this Act to supply border information is complied with if information is supplied to Customs or other agency	59
41I	Ministry May access border information	60
	Part 4	
	Surveillance and prevention	
42	Purpose of Part 4	60
43	Duty to provide information	61
44	General duty to inform	62
45	Notifiable organisms	62

46	Duty to report notifiable organisms	63
47	Imported risk goods [<i>Repealed</i>]	63
48	Power to require information	64
49	Use of information	64
50	Identification systems	65
51	Duties relating to identification of organisms	65
52	Communication of pest or unwanted organism	66
53	Duties of owners of organisms	66

Part 5

Pest management

54	Purpose of Part 5	67
55	Powers for purpose of pest management strategy and small-scale management programme	67

National pest management strategies

56	Preparation of national pest management strategy	68
57	Notification of proposal by Minister	68
58	Request to notify national proposal	70
59	Minister May refuse to notify suggested strategy in certain circumstances	71
60	Preparation and contents of proposal for national pest management strategy	71
61	Funding information required in proposal	73
62	Notification of proposed national pest management strategy	74
63	Board of inquiry	75
64	Public notification of inquiry [<i>Repealed</i>]	76
65	Submissions to the board of inquiry [<i>Repealed</i>]	76
66	Summary of submissions, notification and conduct of hearing	76
67	Matters to be considered and board of inquiry's report	77
68	Making of national pest management strategy	77
69	Duties of Ministers in relation to proposed national pest management strategies	78
69A	Contents of national pest management strategy	79
69B	Strategy rules	79
69C	Incorporation by reference	82
69D	Exemption power of Minister	82
70	Orders to be laid before House of Representatives	83

Regional pest management strategies

71	Preparation of regional pest management strategy	83
72	Notification of proposal by regional council	83

73	Consultation	85
74	Request to notify regional proposal	85
75	Council May refuse to notify suggested strategy in certain circumstances	86
76	Preparation and contents of proposal for regional pest management strategy	86
77	Funding information required in proposal	89
78	Notification of proposed regional pest management strategy	89
79	Hearings commissioners	91
79A	Summary of submission, notification, and conduct of hearing	91
79B	Regional matters to be considered and regional council's report	91
79C	Notification of decision	93
79D	Reference of decision on submissions to Environment Court	93
79E	Hearing by Environment Court	94
79F	Final consideration of regional pest management strategy	94
80	Regional pest management strategy to be processed like national pest management strategy <i>[Repealed]</i>	94
80A	Contents of regional pest management strategy	94
80B	Strategy rules	95
80C	Incorporation by reference	97
80D	Exemption power of regional council	98
81	Implementation of regional pest management strategy	99
82	Powers that May not be delegated	99
83	Councils May act jointly	99
	<i>National and regional pest management strategies</i>	
84	Management agencies	101
85	Operational plans	101
86	Compensation	103
87	Crown obligations	104
88	Duration and review of pest management strategies	104
88A	Minor changes to strategy	107
89	Strategy May relate to several pests	107
	<i>Funding of strategies</i>	
90	Strategy May impose levy	108
91	Orders to be confirmed	108
92	Restrictions on levies	108
93	Contents of levy provisions in strategy	110

93A	Trust accounts for levy money payable to management agency	111
94	Effect of levy	113
95	Financial provisions	113
95A	Orders to provide for statements, accounts, and records to be kept	114
95B	Compliance audits	114
95C	Purpose of compliance audits	115
95D	Power of auditors to require production of statements, accounts, and records	116
96	Resolution of disputes	117
97	Regional strategy to be funded by rates	118
97A	Approval of regional pest management strategy <i>[Repealed]</i>	119
98	Contents of rating provisions in strategy <i>[Repealed]</i>	119
99	Making and levying of rates <i>[Repealed]</i>	119
99A	Funding powers of regional councils for national pest management strategies	119
99B	Limitation on expenditure	120
	<i>Management of unwanted organisms present on small scale</i>	
100	Regional council May without pest management strategy undertake small-scale management of unwanted organisms	120
100A	Exercise of powers in respect of unwanted organism	121

Part 6

Administrative provisions

Appointments and delegations

101	Chief technical officers	122
102	Deputy chief technical officers	123
103	Inspectors, authorised persons, and accredited persons	123
104	Authorised persons to comply with instructions	125
105	Delegation to authorised persons	126

Administrative powers

106	Power to require assistance	127
107	Power of inspectors to detain people	127
108	Power to search people	128
109	Power of inspection	129
110	Warrant to inspect dwellinghouse, marae, etc	131
111	Entry in respect of offences	132
112	Duties on exercising power of entry	134

113	Power to record information	135
114	General powers	135
114A	Application of articles or substances from aircraft	135
115	Use of dogs and devices	137
116	Power to seize and dispose of unauthorised goods	137
117	Expenses and compensation	139
118	Power to seize evidence	139
119	Power to seize abandoned goods	139
120	Power to intercept baggage, etc	140
121	Power to examine organisms	140
121A	Power to apply article or substance to place	142
121B	Prohibition or control of certain tests	142
122	Power to give directions	143
123	Power to vaccinate, etc	143
124	Power to destroy organism on non-payment of fees	143
125	Transitional facility direction	144
126	Inspection of and intervention in transitional facilities and containment facilities	144
127	Destruction of imported organisms	145
128	Power to act on default	146
129	Liens	147
	<i>Place and area controls</i>	
130	Declaration of restricted place	147
131	Declaration of controlled area	149
132	Road blocks, cordons, checkpoints, etc	150
133	Duration of place and area declarations	153
134	Enforcement of area controls	153
	<i>Recovery of costs</i>	
135	Options for cost recovery	154
136	Failure to pay	155
137	Levies	156
138	Orders to be confirmed	156
139	Restrictions on levies	157
140	Contents of levy order	157
140A	Trust accounts for levy money payable to Director-General	158
141	Effect of levy order	160
141A	Orders to provide for records to be kept for Director-General's levy	160
141B	Compliance audits for Director-General's levy	160
141C	Purpose of compliance audits for Director-General's levy	161

141D	Power of auditors to require production of statements and records	162
142	Resolution of disputes	163
Part 7		
Exigency actions		
143	Purpose of Part 7	164
144	Declaration of biosecurity emergency	164
145	Emergency powers	165
146	Duration of emergency	166
147	House of Representatives to be informed	166
148	Revocation by House of Representatives of biosecurity emergency	167
149	Compensation <i>[Repealed]</i>	167
150	Biosecurity emergency regulations	167
151	Emergency regulations to be confirmed	168
152	Provisional control action	169
153	Compensation following investigation of pests <i>[Repealed]</i>	170
Part 8		
Enforcement, offences, and penalties		
154	Offences	170
155	Proof of permission, etc	174
156	Liability of principals and agents	174
157	Penalties	175
158	Fines to be paid to management agency instituting prosecution	176
159	Proceedings for infringement offences	177
159A	Accelerated infringement notice procedure for border infringement offences	178
160	Payment of infringement fees	181
160A	Procedure for certain declaration offences <i>[Repealed]</i>	181
161	Evidence in proceedings	181
162	Time for laying informations	184
Part 9		
Miscellaneous provisions		
162A	Compensation	184
163	Protection of inspectors and others	185
164	Liability for goods	185
164A	Procedure for giving directions or making requirements	186
164B	Application of section 164A	188
164C	Registration of unwanted organisms	188
165	Regulations	188

165A	Regulations relating to definition of biosecurity-related border management function in section 41A	192
166	General provisions as to regulations	192
167	Repeals and revocations	194
168	Enactments amended	194

Part 10

Savings and transitional provisions

169	Savings of Animals Act 1967 for limited administrative purposes <i>[Repealed]</i>	194
170	Savings of Plants Act 1970 for limited administrative purposes	194
171	Savings of Apiaries Act 1969 for limited administrative purposes <i>[Repealed]</i>	194
172	Transition of emergency proclamations	195
173	Transitional continuance of regulations	195
174	Transitional provision concerning inspectors, etc	195
175	Transition of quarantine appointments	196
176	Transition of import permits and exemptions <i>[Repealed]</i>	196
177	Transition of notices under section 13A of Animals Act 1967	196
178	Transitional control of brucellosis and tuberculosis in cattle and tuberculosis in deer	197
179	Transitional control of agricultural pests <i>[Expired]</i>	197
180	Compensation for certain slaughtered animals <i>[Expired]</i>	197
181	Transitional control of plant pests <i>[Expired]</i>	197
182	Transitional control of bee diseases <i>[Expired]</i>	197
183	Transitional control of hydatids <i>[Expired]</i>	198
184	Designated ports of entry	198
184A	Designated as approved, or approved, ports	198
185	Expiration of sections 179 to 183	200
185A	Organisms illegally present in New Zealand at commencement of Hazardous Substances and New Organisms Act 1996	201

Schedule 1

Matters for consideration in the preparation of proposals for pest management strategies

[Repealed]

202

Schedule 2

Board of inquiry procedure

203

Schedule 3	207
Enactments repealed	
Schedule 4	210
Enactments amended	
Schedule 5	211
Regulations amended	
Schedule 6	212
Orders in Council and notices revoked	
Schedule 7	214
Regulations and orders continuing in force <i>[Spent]</i>	
Schedule 8	215
Approved places of first arrival in New Zealand	
Schedule 9	216
Designated as approved, or approved, ports	

An Act to restate and reform the law relating to the exclusion, eradication, and effective management of pests and unwanted organisms

1 Short Title and commencement

- (1) This Act May be cited as the Biosecurity Act 1993.
- (2) This Act shall come into force on 1 October 1993.

**Part 1
Preliminary**

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—
approved means approved by the Director-General
approved identification means any method of identifying animals or animal products approved under section 50 or prescribed under this Act

arrive in New Zealand,—

- (a) in relation to an aircraft, means to land (whether or not on land) in New Zealand territory after a flight originating outside New Zealand territory:
- (b) in relation to any other craft, means to anchor, berth, or come ashore in New Zealand territory after a voyage originating outside New Zealand territory:
- (c) in relation to a person, means to reach land within New Zealand territory after a flight or voyage originating outside New Zealand territory

authorised person means a person for the time being appointed an authorised person under section 103

Authority means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

biosecurity clearance means a clearance under section 26 for the entry of goods into New Zealand

biosecurity control area means a place that is—

- (a) part of a port approved as a place of first arrival in accordance with section 37(1); and
- (b) by written agreement with the port's operator, under the control of the Director-General for the purposes of this Act

border infringement offence means an infringement offence specified as a border infringement offence by regulations made under this Act

chief executive means the head of a department; and includes a chief executive appointed under the State Sector Act 1988

chief technical officer means a person appointed a chief technical officer under section 101

consultation includes actions taken before the enactment of this Act in anticipation of its enactment; and **consult** has a corresponding meaning

containment condition that is still operative, at any time, means a condition of a kind authorised by section 13(2)(ab)(i) of the Animals Act 1967—

- (a) in the case of a condition requiring an organism to be held indefinitely, where the condition has not before that time been revoked; and
- (b) in the case of a condition requiring an organism to be held for a specified period, where the period has not before that time expired; and
- (c) in the case of a condition requiring an organism to be held until the happening of a specified event, where the event has not before that time happened

containment facility means a place approved in accordance with section 39 for holding organisms that should not, whether for the time being or ever, become established in New Zealand

controlled area means an area for the time being declared under subsection (2) of section 131 to be an area that is controlled for the purposes of that section

conveyance includes any craft, truck, cargo container, horse-box, wagon, cart, dray, cage, kennel, or vehicle that is or has been used for the conveyance of, or has come into contact with, any organism or organic material

costs and benefits includes costs and benefits of any kind, whether monetary or non-monetary

craft includes any aircraft, ship, boat, or other machine or vessel used or able to be used for the transportation of people or goods, or both, by air or sea

department has the same meaning as in the State Sector Act 1988

Director-General means the chief executive of the Ministry

environment includes—

- (a) ecosystems and their constituent parts, including people and their communities; and
- (b) all natural and physical resources; and
- (c) amenity values; and
- (d) the aesthetic, cultural, economic, and social conditions that affect or are affected by any matter referred to in paragraphs (a) to (c)

exclusive economic zone means the zone of that name described in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

goods means all kinds of moveable personal property

import, subject to section 4, means bring within New Zealand territory from outside that territory; and **imported** has a corresponding meaning

import health standard means a document issued under section 22

incidentally imported new organism has the same meaning as in section 2(1) of the Hazardous Substances and New Organisms Act 1996

infringement fee means the amount prescribed by regulations made under this Act as the infringement fee for an infringement offence

infringement offence means an offence prescribed by regulations made under this Act as an infringement offence

inspector means a person who is appointed an inspector under section 103

local authority means a regional council or territorial authority

management agency means the department, authority, or body corporate specified in a pest management strategy as the agency given the task of implementing the strategy

marae includes the area of land on which all buildings such as the wharenui (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings are situated

Minister means a Minister of the Crown; and

- (a) in relation to a national pest management strategy, means the Minister who recommended the making of the order under section 68 making the strategy; and
- (b) in relation to a proposal for a national pest management strategy that has been notified, means the Minister who notified the proposal

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

natural and physical resources means—

- (a) organisms of all kinds; and
- (b) the air, water, and soil in or on which any organism lives or May live; and
- (c) landscape and land form; and
- (d) geological features; and
- (e) structures of all kinds; and
- (f) systems of interacting living organisms and their environment

new organism has the same meaning as in section 2 of the Hazardous Substances and New Organisms Act 1996

New Zealand territory means the land and the waters enclosed by the outer limits of the territorial sea (as described in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977)

occupier,—

- (a) in relation to any place physically occupied by any person, means that person; and
- (b) in relation to any other place, means the owner of the place; and
- (c) in relation to any place, includes any agent, employee, or other person, acting or apparently acting in the general management or control of the place

organic material, subject to subsection (2), means any material that is or contains—

- (a) material derived from an organism; or
- (b) an excretion or secretion of an organism,—
(whether or not it also contains material derived from a human being or contains the secretions of a human being)

organism—

- (a) does not include a human being or a genetic structure derived from a human being;
- (b) includes a micro-organism;
- (c) subject to paragraph (a), includes a genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of an entity):

- (d) includes an entity (other than a human being) declared by the Governor-General by Order in Council to be an organism for the purposes of this Act:
- (e) includes a reproductive cell or developmental stage of an organism:
- (f) includes any particle that is a prion

other department means a department of State other than the Ministry

other Minister means a Minister other than the responsible Minister

person includes the Crown, a corporation sole, and a body of persons (whether corporate or unincorporate)

pest means an organism specified as a pest in a pest management strategy

pest agent, in relation to any pest, means any organism capable of—

- (a) helping the pest replicate, spread, or survive; or
- (b) interfering with the management of the pest

pest management strategy and **strategy** mean a strategy, made under Part 5, for the management or eradication of a particular pest or pests

place includes any building, conveyance, craft, land, or structure, and the bed and waters of the sea and any canal, lake, pond, river, or stream

port includes an airport, anchorage, harbour, and wharf

prescribed means prescribed by regulations made under this Act

principal officer means,—

- (a) in relation to a regional council, its chief executive; and
- (b) in relation to a region, the chief executive of the region's regional council;—

and includes an acting chief executive

quarantine means confinement of organisms or organic material that may be harbouring pests or unwanted organisms

quarantine area means a place so designated under section

41

reasonable charge means a charge calculated by the Director-General having regard to the direct and indirect costs of performing the activity concerned

region, in relation to a unitary authority, means the region in respect of which it has the functions, duties, and powers of a regional council

regional council includes the Chatham Islands Council and a unitary authority

regulations means regulations made under this Act

responsible Minister means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

restricted organism means any organism for which a containment approval has been granted in accordance with the Hazardous Substances and New Organisms Act 1996 (including any approval deemed to have been granted under sections 254(1), 254(3), 254(8)(a), 255(1), 255(2), 256, 258(1), and 258(3))

restricted place means any place that an inspector or an authorised person has declared to be a restricted place under section 130

risk goods means any organism, organic material, or other thing, or substance, that (by reason of its nature, origin, or other relevant factors) it is reasonable to suspect constitutes, harbours, or contains an organism that May—

- (a) cause unwanted harm to natural and physical resources or human health in New Zealand; or
- (b) interfere with the diagnosis, management, or treatment, in New Zealand, of pests or unwanted organisms

road includes all bridges, culverts, and fords forming part of any road

rule means a rule included in a pest management strategy in accordance with section 69B or section 80B

small-scale management programme means a small-scale management programme declared under section 100

territorial authority means a territorial authority within the meaning of the Local Government Act 2002

threatened species includes any species within the meaning given to the terms extinct in the wild, critically endangered, endangered, and vulnerable by the International Union for Conservation of Nature and Natural Resources

transitional facility means:

- (a) any place approved as a transitional facility in accordance with section 39 for the purpose of inspection, storage, treatment, quarantine, holding, or destruction of uncleared goods; or
- (b) a part of a port declared to be a transitional facility in accordance with section 39

unauthorised goods means any goods that are—

- (a) uncleared goods in a place that is not a transitional facility or a biosecurity control area (other than goods that, in accordance with the authority of an inspector, are—
 - (i) proceeding from a transitional facility or a biosecurity control area to a transitional facility, biosecurity control area, or a containment facility; or
 - (ii) being exported from New Zealand); or
- (b) uncleared goods that are in a transitional facility or a biosecurity control area to which those goods proceeded, other than in accordance with the authority of an inspector, from some other transitional facility, or biosecurity control area, and have not later received the authority of an inspector to remain there; or
- (c) goods which have been given a biosecurity clearance by an inspector following receipt by that inspector of false, incomplete, or misleading information concerning the goods; or
- (d) a restricted organism in a place that is not a containment facility (other than an organism that,—
 - (i) in accordance with the authority of an inspector, is proceeding from a transitional facility, biosecurity control area, or a containment facility to another transitional facility, biosecurity control area, or containment facility; or
 - (ii) is in a transitional facility or biosecurity control area to which it has proceeded in accordance with the authority of an inspector; or

- (iii) in accordance with the authority of an inspector, is being exported from New Zealand); or
- (e) a restricted organism that is in a containment facility to which it proceeded other than in accordance with the authority of an inspector, and has not later received the authority of an inspector to remain there

uncleared goods means imported goods for which no biosecurity clearance has been given

unitary authority has the meaning given to it by section 5(1) of the Local Government Act 2002

unwanted organism means any organism that a chief technical officer believes is capable or potentially capable of causing unwanted harm to any natural and physical resources or human health; and

- (a) includes—
 - (i) any new organism, if the Authority has declined approval to import that organism; and
 - (ii) any organism specified in Schedule 2 of the Hazardous Substances and New Organisms Act 1996; but
- (b) does not include any organism approved for importation under the Hazardous Substances and New Organisms Act 1996, unless—
 - (i) the organism is an organism which has escaped from a containment facility; or
 - (ii) a chief technical officer, after consulting the Authority and taking into account any comments made by the Authority concerning the organism, believes that the organism is capable or potentially capable of causing unwanted harm to any natural and physical resources or human health

working day means any day except—

- (a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (ab) the day observed in the region of a regional council as the anniversary day of the province of which the region forms part; and

- (b) a day in the period commencing on 20 December in any year and ending with 15 January in the following year.
- (2) No goods are an organic material by virtue only of being or containing cardboard, coal, paper, petroleum oil, or a substance derived from coal or petroleum oil.
- (3) For the purposes of this Act any organism May be specified, whether in a pest management strategy or for any other purpose, by reference to—
 - (a) its scientific name; or
 - (b) the name of a disease it causes; or
 - (c) both.
- (4) *[Repealed]*

Section 2(1) **Authority**: substituted, on 1 July 2011, by section 53(1) of the Environmental Protection Authority Act 2011 (2011 No 14).

Section 2(1) **biosecurity control area**: substituted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **border infringement offence**: inserted, on 22 April 2010, by section 4 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 2(1) **confine**: repealed, on 26 November 1997, by section 2(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **containment facility**: substituted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **designated port of entry**: repealed, on 26 November 1997, by section 2(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **exclusive economic zone**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **import health permit**: repealed, on 26 November 1997, by section 2(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **import health standard**: substituted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **incidentally imported new organism**: inserted, on 9 April 2008, by section 4 of the Biosecurity Amendment Act (No 2) 2008 (2008 No 21).

Section 2(1) **infringement fee**: inserted, on 22 April 2010, by section 4 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 2(1) **infringement offence**: inserted, on 22 April 2010, by section 4 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 2(1) **Minister**: substituted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **natural and physical resources**: inserted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **natural resources**: repealed, on 26 November 1997, by section 2(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **new organism**: inserted, on 29 July 1998, by section 128(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **New Zealand territory**: amended, on 26 November 1997, by section 2(3)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **New Zealand territory**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **organism** paragraph (f): added, on 26 November 1997, by section 2(3)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **pest management strategy** and **strategy**: amended, on 26 November 1997, by section 2(4) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **principal officer**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **quarantine**: inserted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **quarantine facility**: repealed, on 26 November 1997, by section 2(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **regional council**: amended, on 1 November 1995, by section 36 of the Chatham Islands Council Act 1995 (1995 No 41).

Section 2(1) **restricted organism**: substituted, on 29 July 1998, by section 128(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **restricted place**: amended, on 26 November 1997, by section 2(5) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **risk goods**: substituted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **road**: inserted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **rule**: inserted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **small-scale management programme**: inserted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **territorial authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **threatened species**: inserted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **transitional facility**: substituted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **treatment**: repealed, on 26 November 1997, by section 2(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **unauthorised goods**: substituted, on 26 November 1997, by section 2(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **unitary authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **unwanted organism**: substituted, on 29 July 1998, by section 128(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(1) **working day** paragraph (ab): inserted, on 26 November 1997, by section 2(6) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 2(4): repealed, on 8 July 2003, by section 3 of the Biosecurity Amendment Act 2003 (2003 No 38).

3 Application of Act to syndromes of uncertain origin

- (1) This subsection applies to a syndrome if—
 - (a) the scientific community generally accepts that—
 - (i) it is probably caused by an organism; but
 - (ii) there is no satisfactory proof that it is in fact caused by an organism; or
 - (b) the scientific community generally accepts that—
 - (i) it is caused by an organism; but
 - (ii) there is no satisfactory evidence available as to the identity or nature of the organism causing it.
- (2) This Act shall have effect as if every syndrome to which subsection (1) applies is in fact caused by an organism, which May be specified (in a pest management strategy or for any other purpose) by reference to the name generally accepted by the scientific community for that syndrome.
- (3) In this section, **syndrome** means a group of characteristic symptoms, behaviours, or symptoms and behaviours, generally recognised by the scientific community as proceeding or being likely to proceed from a single cause.

4 Application of Act to fish and mammals taken in exclusive economic zone

This Act shall have effect in relation to fish (within the meaning of section 2 of the Fisheries Act 1983) and marine mammals (within the meaning of section 2 of the Marine Mammals Protection Act 1978),—

- (a) taken in the exclusive economic zone; and
 - (b) carried on board a foreign licensed vessel, a vessel registered under the Fisheries Act 1983, or a vessel operated by the Crown,—
- as if they are not imported goods.

5 Act binds the Crown

Except as is provided in section 87, this Act binds the Crown.

6 Land May include parts of boundary roads

- (1) Where any pest management strategy applies to land adjoining a road, that strategy May state that the land includes, for the purposes of the strategy, all or any of the portions of road bounded by—
 - (a) the boundary of that land abutting that road; and
 - (b) lines extended from the end of that portion of boundary to the middle line of the road; and
 - (c) the middle line of the road connecting those extended lines.
- (2) Any person required or authorised by or under any pest management strategy to do anything on or in relation to land, where the pest management strategy provides that the land includes portions of road in accordance with subsection (1), is also required or authorised to do that thing on those portions of the road.
- (3) Nothing in subsection (2) authorises any person to damage any road.

Section 6: substituted, on 26 November 1997, by section 3 of the Biosecurity Amendment Act 1997 (1997 No 89).

7 Relationship with other enactments

- (1) Nothing in any enactment specified in this section affects the performance or exercise of any power, function, or duty conferred by Part 7.
- (2) Except—
 - (a) to the extent provided in subsections (1), (5), and (6) and section 7A; and
 - (b) to the extent that those enactments are expressly amended by section 168(1),—this Act must not be construed so as to affect or derogate in any way from the provisions of the Soil Conservation and Rivers Control Act 1941, the Forests Act 1949, the Wildlife Act 1953, the Health Act 1956, the Animal Welfare Act 1999, the Wild Animal Control Act 1977, the Reserves Act 1977, the National Parks Act 1980, the Fisheries Act 1983, the

Conservation Act 1987, the Trade in Endangered Species Act 1989, or the Resource Management Act 1991.

- (3) This Act must not be construed so as to affect or derogate in any way from the provisions of the Customs and Excise Act 1996 and, in particular, the provisions of this Act do not affect the obligations of any person under the Customs and Excise Act 1996 in relation to goods.
- (4) The provisions of this Act in so far as they relate to risk goods must not be construed to take precedence over the powers provided under the Misuse of Drugs Act 1975 in relation to any controlled drug (as defined in section 2(1) of that Act).
- (5) The provisions of the Wild Animal Control Act 1977 do not apply to prevent or inhibit the exercise of any powers under the Biosecurity Act 1993 on any land (other than land administered under the Acts listed in Schedule 1 of the Conservation Act 1987) when those powers are used in respect of—
 - (a) a pest; or
 - (b) an unwanted organism—that May be transmitted by any animal to which the Wild Animal Control Act 1977 applies.
- (6) The provisions of the Wildlife Act 1953 (including any regulations made under that Act)—
 - (a) do not apply to prevent or inhibit the exercise or performance of any powers, functions, or duties under this Act when those powers, functions, or duties are exercised or performed in respect of an unwanted organism; and
 - (b) do not allow or authorise the contravention of any provision of this Act in respect of wildlife that is also an unwanted organism.

Section 7: substituted, on 26 November 1997, by section 4 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 7(2): amended, on 1 January 2000, by section 194 of the Animal Welfare Act 1999 (1999 No 142).

Section 7(2)(a): amended, on 8 July 2003, by section 4(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 7(5): amended, on 8 July 2003, by section 4(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 7(6): added, on 8 July 2003, by section 4(3) of the Biosecurity Amendment Act 2003 (2003 No 38).

7A Relationship with Resource Management Act 1991

- (1) Where any action taken in accordance with any provision in Part 6 in an attempt to eradicate any organism would be in breach of the provisions of Part 3 of the Resource Management Act 1991, the responsible Minister May exempt the actions taken in relation to that organism from the provisions of Part 3 of the Resource Management Act 1991 for up to 20 working days if that Minister is satisfied that it is likely that—
 - (a) the organism is not established in New Zealand, the organism is not known to be established in New Zealand, or the organism is established in New Zealand but is restricted to certain parts of New Zealand; and
 - (b) the organism has the potential to cause all or any of significant economic loss, significant adverse effects on human health, or significant environmental loss if it becomes established in New Zealand or if it becomes established throughout New Zealand; and
 - (c) it is in the public interest that action be taken immediately in an attempt to eradicate the organism.
- (2) Before making a decision under subsection (1), the responsible Minister must consult the relevant consent authority (to the extent that is possible in the circumstances), and May consult such other persons as the responsible Minister considers are representative of the persons likely to be affected by the eradication attempt.
- (3) After making a decision under subsection (1), the responsible Minister must give public notice of the Minister's decision in such a manner as the Minister thinks fit.
- (4) The public notice must specify—
 - (a) the organism to be eradicated; and
 - (b) the principal actions that May be taken in the attempt to eradicate the organism; and
 - (c) the areas affected by the action.
- (5) A failure to comply with the provisions of subsections (2) and (3) does not affect the validity of any exemption given under this section.
- (6) Where any action has been exempted from Part 3 of the Resource Management Act 1991 under subsection (1) and the responsible Minister considers that it is necessary to continue

action beyond the duration of the exemption to attempt to eradicate the organism, that Minister May recommend that regulations be made continuing the exemption and the Governor-General May from time to time, by Order in Council, make regulations for that purpose.

- (7) Regulations made under this section come into force on the date of notification in the *Gazette*, or at the time specified in the regulations, whichever is the later, and continue in force until revoked or until a date not later than the day 2 years after the regulations came into force when the regulations expire and are deemed to have been revoked.
- (8) Where an exemption is granted under subsection (1) or by regulations made under subsection (6), the provisions of Part 3 of the Resource Management Act 1991 do not apply to the actions taken to eradicate the organism while the exemption is in force.
- (9) Where an exemption from the provisions of the Resource Management Act 1991 has been granted under subsection (1) or by regulations made under subsection (6) and that exemption has ended (either by the expiry of the exemption under subsection (1) or by the revocation of the regulations, as the case May be), the provisions of the Resource Management Act 1991 then apply and the responsible Minister must remedy or mitigate the adverse effects of any actions taken under Part 6 and to which the provisions of the Resource Management Act 1991, but for the exemption under this section, would otherwise have applied.
- (10) For the purposes of this section, **consent authority** has the same meaning as in section 2(1) of the Resource Management Act 1991.

Section 7A: inserted, on 26 November 1997, by section 4 of the Biosecurity Amendment Act 1997 (1997 No 89).

Part 2

Functions, powers, and duties

Ministers

8 Responsibilities of responsible Minister

- (1) In addition to being responsible for the administration of this Act, the responsible Minister has responsibility for—
 - (a) providing for the co-ordinated implementation of this Act:
 - (b) recording and co-ordinating reports of suspected new organisms:
 - (c) managing appropriate responses to such reports.
- (2) Section 9 does not limit or affect the generality of subsection (1).

9 Powers of responsible Minister

- (1) The responsible Minister has power to—
 - (a) perform the functions in section 7A:
 - (b) perform the functions specified in section 10 in relation to those national pest management strategies,—
 - (i) where the responsible Minister has prepared a proposal under section 56; or
 - (ii) where some other person has requested the responsible Minister to notify a proposal:
 - (c) recommend to the Governor-General the making of Orders in Council under section 45(3):
 - (d) recommend to the Governor-General under section 137(1) the making of Orders in Council imposing levies, and perform other functions in relation to levies:
 - (e) recommend to the Governor-General under section 165 the making of regulations.
- (2) The responsible Minister must not delegate to any person the exercise of any of the powers specified in subsection (1)(a), (c), (d), and (e).

Section 9: substituted, on 26 November 1997, by section 5 of the Biosecurity Amendment Act 1997 (1997 No 89).

10 Functions of Ministers in relation to proposed national pest management strategies

- (1) Any Minister who prepares a proposal for a national pest management strategy under section 56, or who has been requested to notify a proposal for a national pest management strategy, has the function of—
- (a) publicly notifying the proposed strategy under section 62(1):
 - (b) deciding under section 63 whether to appoint a board of inquiry to inquire into and report on the proposed strategy:
 - (c) where this Act requires the appointment of a board of inquiry to inquire into and report on the proposed strategy,—
 - (i) appointing the board under section 63(1):
 - (ii) causing under section 67(3) copies of the report, and all recommendations (if any) on the proposed strategy, made to the Minister by the board under section 67(2), to be sent to every person who made a submission to the board, and every other person or body the Minister thinks appropriate, and to be published:
 - (iii) causing public notice to be given under section 67(3) of where and how persons can obtain copies of the report and recommendations:
 - (iv) considering under section 69(1)(a)(i) the report made by the board under section 67(2) on the proposed strategy:
 - (d) considering whether or not to recommend to the Governor-General under section 68, the making of an order making the strategy concerned, and if so, doing so:
 - (e) if an order under section 68 has been made that makes the proposed strategy,—
 - (i) laying a copy before the House of Representatives under section 70; and
 - (ii) appointing a management agency in respect of the strategy under section 84(4); and
 - (iii) disallowing under section 85(4) the operational plan or any part of that plan; and

- (iv) reviewing the strategy in accordance with this Act; and
 - (v) under this Act, amending or revoking the strategy:
 - (f) recommending under section 90 the making of Orders in Council imposing levies payable to the management agency that is responsible for implementing the strategy and performing other functions in relation to levies.
- (2) No Minister may delegate to any person the performance of any of the functions specified in subsection (1)(c)(i), (d), (e), and (f).

Section 10: substituted, on 26 November 1997, by section 6 of the Biosecurity Amendment Act 1997 (1997 No 89).

11 Other powers of Ministers

- (1) Any Minister has power to—
- (a) direct the forfeiture of organisms and organic material under section 134(3):
 - (b) take action under sections 144 and 147 in relation to biosecurity emergencies:
 - (c) take action under section 145 in relation to biosecurity emergencies:
 - (d) recommend to the Governor-General under section 150(1) the making of biosecurity emergency regulations, and where such regulations are made, the Minister has the duty of laying them before the House of Representatives under section 150(5):
 - (e) declare a provisional control programme under section 152(1):
 - (f) extend under subsection (3) of section 152 a provisional control programme.
- (2) A Minister must not delegate to any person the exercise of the powers specified in subsection (1)(b), (d), (e), and (f).

Section 11: substituted, on 26 November 1997, by section 7 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 11(2): amended, on 7 May 1999, by section 2 of the Biosecurity Amendment Act 1999 (1999 No 29).

12 Responsible Minister May require information

- (1) The responsible Minister May ask any regional council or management agency to give the responsible Minister, in a form the responsible Minister specifies, any information relating to the exercise or performance of any of its functions, powers, or duties under this Act or under any pest management strategy—
 - (a) in the possession of the council or agency; or
 - (b) capable of being obtained by the council or agency without unreasonable difficulty or expense,—that the responsible Minister reasonably requires.
- (2) A regional council or management agency shall give the responsible Minister any information the responsible Minister has asked for under subsection (1) as soon as is reasonably practicable after being asked to do so.

Local authorities

13 Powers of regional councils

- (1) Every regional council has, in relation to its region, power to—
 - (a) cause to be carried out, for the purposes of Part 5,—
 - (i) monitoring to determine whether or not there are present; and
 - (ii) surveillance of—
pests, pest agents, and unwanted organisms:
 - (b) provide, in accordance with relevant pest management strategies, for the assessment and management or eradication of pests:
 - (c) prepare proposals for, notify, make, and implement pest management strategies:
 - (d) if a regional pest management strategy notified by the council has been made under this Act,—
 - (i) appoint a management agency in respect of the strategy under section 84(4):
 - (ii) disallow the operational plan or any part of that plan under section 85(4):
 - (iii) review, amend, or revoke a strategy in accordance with this Act:
 - (e) declare and implement a small-scale management programme under section 100:

- (f) where the council has, under section 100, agreed or arranged that steps to bring an organism under control should be taken by some person or persons other than the council, to meet (in part or in whole) the costs to that person or those persons of the taking of those steps:
 - (g) gather information, keep records, undertake research, or do any other similar thing, if doing so is necessary or desirable to enable it to act effectively under this Act:
 - (h) take any action contemplated by or necessary for giving effect to any provision of this Act.
- (2) Subject to sections 97 and 97A, every regional council has all the powers of a territorial authority under section 14; and every reference in that section to a territorial authority (or territorial authorities) must be read as including a reference to a regional council (or regional councils).

Section 13: substituted, on 26 November 1997, by section 8 of the Biosecurity Amendment Act 1997 (1997 No 89).

14 Powers of territorial authorities

Every territorial authority has power to—

- (a) take any action any natural person could take under Part 5:
- (b) act as a management agency under a pest management strategy:
- (c) take any action provided for or required by any pest management strategy:
- (d) if, and only if,—
 - (i) a pest management strategy provides for certain actions to be taken; but does not expressly provide for them to be taken by territorial authorities, territorial authorities of a class or description to which the authority belongs, or the authority; and
 - (ii) the management agency for the strategy agrees with the authority that the authority will take those actions and the agency will meet the authority's costs in doing so,—to take those actions:
- (da) to the extent only that any national pest management strategy provides for—

- (i) territorial authorities; or
 - (ii) territorial authorities of a class or description to which the authority belongs; or
 - (iii) the authority,—
to make contributions towards the costs of the implementation of that strategy, to make such contributions (from the authority's general funds or from any fund dedicated for the purpose):
- (db) to set and assess rates under the Local Government (Rating) Act 2002 for the purpose of making any contributions that the authority is empowered by paragraph (da) to make:
 - (e) gather information, keep records, undertake research, or do any other similar thing, if doing so is necessary or desirable to enable it to act effectively under this Act:
 - (f) perform or exercise any function, power, or duty whose performance or exercise is for the time being transferred to it under section 15:
 - (g) perform or exercise any other function, power, or duty conferred on it by this Act.

Section 14(d): substituted, on 1 July 1994, by section 3 of the Biosecurity Amendment Act 1994 (1994 No 24).

Section 14(da): inserted, on 1 July 1994, by section 3 of the Biosecurity Amendment Act 1994 (1994 No 24).

Section 14(db): substituted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

15 Transfer of powers, etc, by local authorities

- (1) Subject to subsections (2) and (3), a local authority that has an operation under this Act (in this section referred to as the transferor) May transfer the performance of the operation to another local authority (in this section referred to as the transferee), if—
 - (a) it has used the special consultative procedure specified in section 83 of the Local Government Act 2002; and
 - (b) in the case of an operation under or relating to a national pest management strategy, before using that procedure it has served notice on the Minister of its intention to do so; and

- (c) in the case of an operation under or relating to a regional pest management strategy,—
 - (i) it is a regional council, and no other regional council is involved in the plan; or
 - (ii) before using that procedure it has served notice on every regional council involved in the plan (other than itself, if it is a regional council) of its intention to do so; and
- (d) it agrees with the transferee that the transfer is desirable on the grounds of—
 - (i) efficiency; and
 - (ii) technical or special capability or expertise on the part of the transferee,—by (and subject to any terms and conditions contained in) a written agreement with the transferee.
- (2) The transferor shall not transfer—
 - (a) the performance of the function of notifying or making any regional pest management strategy under Part 5; or
 - (b) the exercise of the power of transfer conferred by subsection (1).
- (3) The agreement shall contain provisions dealing with the revocation and relinquishment of the transfer; and
 - (a) the transferor May change or revoke the transfer; and
 - (b) the transferee May relinquish the transfer,—accordingly.
- (4) While the operation remains transferred to the transferee,—
 - (a) the transferee's functions, powers, and duties shall be deemed to be extended to the extent necessary to enable it to undertake the operation; but
 - (b) the transferor shall continue to be responsible for the operation.
- (5) In this section—

operation means a function, power, or duty

perform includes exercise.

Section 15(1): amended, on 26 November 1997, by section 9(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 15(1)(a): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 15(2)(a): amended, on 26 November 1997, by section 9(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Part 3

Importation of risk goods

16 Purpose of Part 3

The purpose of this Part is to provide for the effective management of risks associated with the importation of risk goods.

Section 16: amended, on 26 November 1997, by section 10 of the Biosecurity Amendment Act 1997 (1997 No 89).

Arrival of craft

17 Notice of intended arrival of craft in New Zealand

(1) The person in charge of any craft proceeding to New Zealand territory from outside New Zealand territory shall, unless there are reasonable grounds for not doing so,—

(a) give the Director-General notice of when and where, approximately, the craft will enter New Zealand territory, and—

(i) the designated port of entry where it is intended that the craft will first arrive in New Zealand; or

(ii) if it is impossible or impracticable to proceed to any designated port of entry, the destination where it is intended that the craft will first arrive in New Zealand; and

(b) proceed directly to, and arrive in New Zealand at, that port or destination.

(2) Where—

(a) any person in charge of any craft has given the Director-General notice under subsection (1) or this subsection; and

(b) the craft has not arrived in New Zealand since the notice was given; and

(c) the person learns that it is impossible or impracticable to proceed to the designated port of entry or destination notified,—

the person shall, unless there are reasonable grounds for not doing so,—

- (d) give the Director-General notice of where, approximately, the craft is, and—
 - (i) notice of a designated port of entry where it is now intended that the craft will first arrive in New Zealand, if it is possible and practicable to proceed to such a port; or
 - (ii) notice of the destination where it is now intended that the craft will first arrive in New Zealand, if it is impossible or impracticable to proceed to any designated port of entry; and
 - (e) proceed directly to, and arrive in New Zealand at, that port or destination.
- (3) For the purposes of this section, **designated port of entry** means—
- (a) a port of entry approved under this Act as a place of first arrival—
 - (i) for all craft; or
 - (ii) for craft of the kind and description of the craft and, where applicable, arriving for the purposes of the craft; or
 - (b) a port approved under section 37A for the arrival of the craft.

Section 17(3): added, on 26 November 1997, by section 11 of the Biosecurity Amendment Act 1997 (1997 No 89).

18 Arrival of craft in New Zealand

- (1) The person in charge of any craft that arrives at a place in New Zealand—
- (a) shall, if—
 - (i) the person has not notified the Director-General under section 17; or
 - (ii) the place is not the port or destination notified (or, as the case may be, last notified) under section 17,—give the Director-General notice of where and (approximately) when the craft arrived; and
 - (b) shall prevent risk goods from leaving the craft without the permission of an inspector.

- (2) The person in charge of any such craft shall, if so required by an inspector, pay a bond for such amount not exceeding \$10,000 as the inspector May require to secure due compliance with subsection (1)(b).

Compare: 1967 No 50 s 18

19 Persons in charge of certain craft to obey directions of inspector or authorised person

- (1) This section applies to a craft, and place in New Zealand, if—
- (a) the craft arrives in New Zealand there; or
 - (b) the craft is carrying risk goods that it was carrying when it arrived in New Zealand at some other place.
- (2) Where this section applies to a craft and place, the person in charge of the craft shall—
- (a) obey every reasonable direction given by an inspector as to—
 - (i) the movement of the craft in the place; or
 - (ii) the unloading or discharge of risk goods or the disembarkation of crew or passengers from the craft; or
 - (iii) measures (including any bond required under section 18(2)) to ensure that any risk goods not intended to be unloaded or discharged from the craft are maintained in a secure place under the control of that person; and
 - (b) within the required time or times, deliver to an inspector a report, in such manner and form, and containing such particulars verified by declaration, and with such supporting documents, as May be required; and
 - (c) answer all questions relating to the craft or its cargo, crew, passengers, stores, or voyage, asked by an inspector;—

and every person disembarking from the craft shall, on request by an inspector, make his or her baggage available for inspection by the inspector.

Import health standards

Heading: substituted, on 26 November 1997, by section 12(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

20 Import health permits*[Repealed]*

Section 20: repealed, on 26 November 1997, by section 12(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

21 Criteria for issue of import health permits*[Repealed]*

Section 21: repealed, on 26 November 1997, by section 12(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

22 Import health standards

- (1) The Director-General May, following the recommendation of a chief technical officer, issue an import health standard specifying the requirements to be met for the effective management of risks associated with the importation of risk goods before those goods May be imported, moved from a biosecurity control area or a transitional facility, or given a biosecurity clearance; and May, in a like manner, amend or revoke any import health standard so issued.
- (1A) An import health standard issued under this section applies to goods the importation of which involves, or might involve, an incidentally imported new organism.
- (2) If an import health standard requires a permit to be obtained from the Director-General before the goods can be imported, moved from a biosecurity control area or a transitional facility, or given a biosecurity clearance, the Director-General May, if he or she thinks fit, issue the permit.
- (3) Nothing in this Act obliges the Director-General to have an import health standard in force for goods of any kind or description if, in the Director-General's opinion, the requirements that could be imposed on the importation of those goods would not be sufficient to enable the purpose of this Part to be met if the importation of those goods were permitted.
- (4) An import health standard issued under this section May apply to goods of a certain kind or description imported from—
 - (a) a country or countries specified in the import health standard; or
 - (b) countries of a kind or description specified in the import health standard; or

- (c) all countries; or
 - (d) a location or locations specified in the import health standard.
- (5) When making a recommendation to the Director-General in accordance with this section, the chief technical officer must have regard to the following matters:
- (a) the likelihood that goods of the kind or description to be specified in the import health standard May bring organisms into New Zealand:
 - (b) the nature and possible effect on people, the New Zealand environment, and the New Zealand economy of any organisms that goods of the kind or description specified in the import health standard May bring into New Zealand:
 - (c) New Zealand's international obligations:
 - (d) such other matters as the chief technical officer considers relevant to the purpose of this Part.
- (6) Before making a recommendation to the Director-General on the issue or amendment of an import health standard, the chief technical officer must, unless the standard needs to be issued or amended urgently, or unless the chief technical officer considers that the amendment is minor, consult with those persons considered by the chief technical officer to be representative of the classes of persons having an interest in the standard.
- (7) The consultation May be on the import health standard or on a document that analyses or assesses the risks associated with the goods or class of goods to which the goods belong.
- (8) Before making a recommendation to the Director-General in accordance with this section the chief technical officer must give notice of the intention to make the recommendation to the chief executive of every department of State whose responsibilities for natural resources or human health May be adversely affected by the issue, amendment, or revocation of the relevant standard.
- (9) The Director-General must maintain a register of the import health standards (as amended from time to time) issued under this section.

- (10) The register must be available for public information and inspection at the office of the Director-General during normal office hours.

Section 22: substituted, on 26 November 1997, by section 13 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 22(1A): inserted, on 9 April 2008, by section 5 of the Biosecurity Amendment Act (No 2) 2008 (2008 No 21).

22A Process for independent review panel to be established

- (1) The Director-General must, by notice in the *Gazette*, set out the process by which an independent review panel is to be established to review whether, in developing an import health standard, there has been sufficient regard to the scientific evidence about which a person consulted under section 22(6) has raised a significant concern.
- (2) The notice required by subsection (1) must cover the following matters:
- (a) the criteria for setting up an independent review panel; and
 - (b) how the Director-General will appoint an independent review panel, including the knowledge and experience required for appointees; and
 - (c) the procedures to be followed by—
 - (i) a person eligible to seek a review under subsection (1); and
 - (ii) an independent review panel, in undertaking its review; and
 - (d) the reporting requirements for an independent review panel.
- (3) The Director-General must receive any report from an independent review panel and, as soon as is reasonably practicable, determine the issue in dispute after taking into account the findings and recommendations of the independent review panel, giving reasons for that determination.
- (4) The Director-General must issue a notice under subsection (1) not later than 1 July 2008.

Section 22A: inserted, on 9 April 2008, by section 6 of the Biosecurity Amendment Act (No 2) 2008 (2008 No 21).

23 Revocation and variation of import health permits

[Repealed]

Section 23: repealed, on 26 November 1997, by section 12(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

24 Exemptions from requirement for import health permit

[Repealed]

Section 24: repealed, on 26 November 1997, by section 12(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Clearance of risk goods

25 Goods to be cleared for entry into New Zealand

- (1) No person May cause or permit any uncleared goods imported on any craft to leave that craft, except to proceed to a transitional facility or a biosecurity control area.
- (2) No person May cause or permit any uncleared goods that are in a transitional facility or biosecurity control area to leave that facility or area, except—
 - (a) to proceed, in accordance with the authority of an inspector, to another transitional facility, containment facility, or biosecurity control area; or
 - (b) in accordance with the authority of an inspector, to be exported from New Zealand.
- (3) Authority to move uncleared goods given by an inspector in accordance with this section, May be given subject to conditions.

Section 25: substituted, on 26 November 1997, by section 14 of the Biosecurity Amendment Act 1997 (1997 No 89).

25A Organisms illegally present in New Zealand

[Repealed]

Section 25A: repealed (without coming into force), on 26 November 1997, by section 127(1)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

26 Clearances

Subject to sections 27 and 28, any inspector May give a clearance for the entry into New Zealand of any goods.

27 Inspector to be satisfied of certain matters

An inspector shall not give a biosecurity clearance for any goods unless satisfied that the goods are not risk goods; or satisfied—

- (a) that the goods comply with the requirements specified in an import health standard in force for the goods (or goods of the kind or description to which the goods belong); and
- (b) that there are no discrepancies in the documentation accompanying the goods (or between that documentation and those goods) that suggest that it may be unwise to rely on that documentation; and
- (c) in the case of an organism, that the goods display no symptoms that may be a consequence of harbouring unwanted organisms; and
- (d) that the goods display no signs of harbouring organisms that may be unwanted organisms; and
- (e) there has been no recent change in circumstances, or in the state of knowledge, that makes it unwise to issue a clearance.

Section 27(a): substituted, on 26 November 1997, by section 15 of the Biosecurity Amendment Act 1997 (1997 No 89).

28 Restrictions on giving clearances

- (1) An inspector must not give a biosecurity clearance for goods that are or contain an organism specified in Schedule 2 of the Hazardous Substances and New Organisms Act 1996 or for a new organism.
- (1A) However, subsection (1) does not prohibit an inspector from giving a biosecurity clearance for goods the importation of which involves, or might involve, an incidentally imported new organism.
- (2) Where any new organism is an organism for which—
 - (a) the Authority has given approval for importation into containment in accordance with sections 42 or 45 of the Hazardous Substances and New Organisms Act 1996: and
 - (b) there is in existence a containment facility approved as meeting the standard set by the Authority; and

(c) the organism is able to go to that facility,—
any inspector May authorise that organism to go to that containment facility.

Section 28: substituted, on 29 July 1998, by section 130 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 28(1A): inserted, on 9 April 2008, by section 7 of the Biosecurity Amendment Act (No 2) 2008 (2008 No 21).

28A Dealing with suspected new organism

- (1) Any inspector May seize any organism which the inspector has reason to believe May be a new organism.
- (2) The provisions of sections 116 and 117 apply to any organism seized under subsection (1) as if that organism were unauthorised goods.
- (3) A chief technical officer May permit an organism seized under this section to be held in the custody of the Director-General for so long as is necessary for the importer to apply to the Authority for a determination under section 26 of the Hazardous Substances and New Organisms Act 1996 that the organism is, or is not, a new organism.
- (4) Where an organism is held in accordance with this section, the estimated costs and expenses of the custody and maintenance of the organism must be paid in advance to the Director-General by the importer.
- (5) When the Director-General's custody of an organism ceases, the Director-General must calculate the actual and reasonable costs and expenses of holding the organism and, if those actual and reasonable costs—
 - (a) exceed the amount paid in accordance with subsection (4), the balance of the costs and expenses are recoverable as a debt due to the Crown from the importer:
 - (b) are less than the amount paid in accordance with subsection (4), the overpayment must be refunded to the importer.
- (6) Where any organism held under subsection (3) is declared to be a new organism, the chief technical officer May, either generally or in any particular case, give any reasonable directions as to the disposal of, or any other dealing with, that organism, but must not give a biosecurity clearance for that organism.

Section 28A: inserted, on 29 July 1998, by section 130 of the Biosecurity Amendment Act 1997 (1997 No 89).

28B Biosecurity clearance for certain new organisms and qualifying organisms

Section 28 does not apply to—

- (a) a new organism that is subject to a conditional release approval granted under section 38C of the Hazardous Substances and New Organisms Act 1996; or
- (b) a qualifying organism approved for importation for re-release with controls under section 38I of that Act.

Section 28B: inserted, on 30 October 2003, by section 3 of the Biosecurity Amendment Act (No 2) 2003 (2003 No 57).

29 Restricted organisms to be contained

- (1) No person May cause or permit any restricted organism that is in a transitional facility, a biosecurity control area, or a containment facility to leave that facility or area, except—
 - (a) to proceed, in accordance with the authority of an inspector, to a transitional facility, a biosecurity control area, or a containment facility; or
 - (b) in accordance with the authority of an inspector, to be exported from New Zealand.
- (2) Authority to move a restricted organism given by an inspector in accordance with this section May be given subject to conditions.

Section 29: substituted, on 26 November 1997, by section 16 of the Biosecurity Amendment Act 1997 (1997 No 89).

Inspections, declarations, etc

30 Uncleared imports

- (1) An inspector May require people arriving in New Zealand—
 - (a) to make declarations in a specified manner as to whether they have any specified goods in their possession as part of their personal effects or baggage; and
 - (b) to surrender to an inspector control of any uncleared imported risk goods to enable them to be disposed of in accordance with this Act.

- (2) Every person arriving in New Zealand shall permit any inspector to inspect and examine any specified goods in his or her possession as part of his or her personal effects or baggage, and afford to the inspector all reasonable facilities and assistance in carrying out the inspection and examination.

Compare: 1967 No 50 s 22

30A Processing unaccompanied goods

- (1) Where any imported goods other than goods inspected, examined, or surrendered in accordance with section 30 or section 35, are in a transitional facility or biosecurity control area, an inspector May, for the purpose of determining whether the goods are, or contain, risk goods,—
- (a) open any bag, box, parcel, container, or other thing containing the goods:
- (b) inspect the goods.
- (2) Where any goods in a transitional facility or biosecurity control area are, or contain, risk goods or unauthorised goods, section 116 applies to those goods as if the goods were unauthorised goods seized in accordance with that section.
- (3) For the purposes of this section an inspector May, at any reasonable time or times, enter any transitional facility or biosecurity control area and the provisions of section 112 apply.

Section 30A: inserted, on 26 November 1997, by section 17 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 30A(1): amended, on 8 July 2003, by section 5 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 30A(2): amended, on 20 September 2007, by section 4 of the Biosecurity Amendment Act 2007 (2007 No 41).

Section 30A(2): amended, on 8 July 2003, by section 5 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 30A(3): amended, on 8 July 2003, by section 5 of the Biosecurity Amendment Act 2003 (2003 No 38).

31 Boarding of craft

- (1) Subject to subsection (2), an inspector May, for the purpose of ascertaining the presence of risk goods, require the person in charge of—
- (a) any craft, used for the transportation of people or goods, or both, by air, that is within New Zealand territory; or

- (b) any craft, used for the transportation of people or goods, or both, by sea, that is within the area of sea adjacent to New Zealand and bounded by the outer limits of the contiguous zone of New Zealand—
to—
 - (c) bring the craft to for boarding on being so directed by an inspector; and
 - (d) by all reasonable means, facilitate the boarding of the craft by an inspector.
- (2) A craft carrying an inspector who gives a direction under this section must be clearly identifiable as being a craft in the service of the Crown.

Section 31(1): substituted, on 1 August 1996, by section 2 of the Biosecurity Amendment Act (No 2) 1996 (1996 No 78).

32 Powers relating to craft

- (1) Subject to subsection (2), any person who has the power under any provision in this Act to enter any craft and who has reasonable grounds to suspect that a craft in New Zealand territory contains any unwanted organism May direct the master or other person in charge of the craft to—
- (a) move it to and stop it at any place within New Zealand territory; or
 - (b) move it and keep it outside New Zealand territory; or
 - (c) take any specified action on or in respect of the craft.
- (2) Before exercising a power conferred by subsection (1), the person who proposes to exercise the power shall consult the chief executives of—
- (a) the New Zealand Customs Service; and
 - (b) the Ministry of Agriculture and Forestry.

Section 32(2)(a): amended, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 32(2)(b): amended, on 1 March 1998, pursuant to section 5(1)(d) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

33 Risk goods on board craft

- (1) Where there are any risk goods on board a craft that has entered New Zealand territory from outside New Zealand territory, an inspector May direct the master or other person in charge of

the craft to take (as the master or person thinks fit) one of the following steps:

- (a) deal with the goods in a manner specified by the inspector while the craft is in New Zealand territory; or
 - (b) move the craft outside New Zealand territory (immediately, or within a period specified by the inspector); or
 - (c) destroy the goods in a place and manner approved by the inspector for the purpose.
- (2) Subject to subsection (3), where the master or person in charge of a craft fails or refuses to comply with a direction under subsection (1), any inspector May—
- (a) direct the master or other person in charge of the craft to move the craft outside New Zealand territory (immediately, or within a period specified by the inspector); or
 - (b) seize and destroy the risk goods concerned.
- (3) Where—
- (a) an inspector gives a direction under subsection (1) in respect of goods of a particular kind or description on board a craft of a particular kind or description; and
 - (b) there are for the time being in force under this Act regulations prescribing the manner in which risk goods of that kind or description should be dealt with while on board a craft of that kind or description,—
- compliance with those regulations shall be deemed to be a sufficient compliance with the direction.
- (4) Nothing in this section limits or affects the generality of section 32.

34 Disembarkation

- (1) For the purpose of ascertaining the presence of or controlling any risk goods, a person on board a craft that has arrived in New Zealand shall obey every reasonable direction given to the person concerning disembarkation—
- (a) by an inspector; or
 - (b) on the direction of an inspector, by the person in charge of the craft or a crew member of the craft.
- (2) Unless otherwise directed by an inspector, every person arriving in New Zealand shall—
- (a) go directly to a biosecurity control area; and

- (b) remain there for such reasonable time as an inspector May require to ascertain the presence of any risk goods.
- (3) This subsection applies to a person and a biosecurity control area if the person is required by subsection (2) to go directly to the biosecurity control area and remain there for such reasonable time as an inspector May require to ascertain the presence of any risk goods.
- (4) An inspector, and any person the inspector calls to the inspector's assistance, May use such force as is reasonably necessary to—
 - (a) compel to go to the biosecurity control area concerned a person to whom subsection (3) applies who has been directed by the inspector to go directly there; but—
 - (i) has failed or refused to do so within a reasonable time of being so directed; or
 - (ii) has attempted to go instead to some other place; or
 - (b) detain in the biosecurity control area concerned a person to whom subsection (3) applies who—
 - (i) has been required by the inspector to remain there for a reasonable time to ascertain the presence of any risk goods; but
 - (ii) has attempted to leave the biosecurity control area in contravention of the requirement; or
 - (c) stop, return to, and detain in the biosecurity control area concerned a person to whom subsection (3) applies who has gone to the biosecurity control area, and—
 - (i) has been required by the inspector to remain there for a reasonable time to ascertain the presence of any risk goods; but
 - (ii) has left the biosecurity control area in contravention of the requirement; or
 - (d) stop, return to, and detain in the biosecurity control area concerned a person to whom subsection (3) applies who has gone to the biosecurity control area, but left before the inspector has—
 - (i) required the person to remain there; or

- (ii) had a reasonable time to ascertain the presence of any risk goods.
- (5) Every person who has disembarked from a craft that has arrived in New Zealand, whether or not the person boarded the craft in New Zealand, shall make his or her accompanying baggage available for inspection by an inspector.

Compare: 1967 No 50 s 22

35 Duties of people in biosecurity control areas

Every person who is at any time in a biosecurity control area shall, for the purposes of this Part,—

- (a) obey any reasonable direction of an inspector in relation to risk goods; and
- (b) answer all questions asked by an inspector that are necessary for the inspector to ascertain the presence, nature, origin, or itinerary of any risk goods; and
- (c) make available for examination by an inspector any goods in his or her possession or under his or her immediate control so that the inspector may ascertain the presence of risk goods.

Compare: 1967 No 50 s 22

36 Movement of risk goods

Any person who moves or wants to move risk goods within a biosecurity control area shall comply with all reasonable directions given to that person by an inspector concerning the movement of those goods.

Section 36: amended, on 26 November 1997, by section 18 of the Biosecurity Amendment Act 1997 (1997 No 89).

37 Approval of ports as places of first arrival

- (1) The Director-General may, by written notice to the operator of a port, approve a port as a place of first arrival for all craft or craft of specified kinds or descriptions if satisfied that there are available, and capable of operating to approved standards, all arrangements, facilities (other than office and parking facilities), and systems that the Director-General for the time being reasonably requires, in relation to that port, for the purposes of this Part.

- (2) An approval given under subsection (1) May limit the arrival of craft to arrivals for the purposes specified in the approval.
- (3) The Director-General must, when considering the arrangements, facilities, and systems available at a port in accordance with subsection (1), have regard to—
 - (a) the alternative arrangements, facilities, and systems that are or could be made available; and
 - (b) the cost to the port operator of each alternative arrangement, facility, and system; and
 - (c) the extent to which each alternative arrangement, facility, and system would assist the Director-General in managing the risks associated with the importation of risk goods.
- (4) All arrangements, facilities (other than office or parking facilities), and systems required in accordance with subsection (1) are available for use by the Crown at no expense to the Crown.
- (5) The Director-General must,—
 - (a) within 28 days after approving a port in accordance with subsection (1), publish in the *Gazette* a notice specifying the name of the port, the day on which it was so approved, any limitation on the kind or description of craft for which the port was approved, any limitation on arrivals to specified purposes, and a place where the notice of approval May be inspected; and
 - (b) at all reasonable times make the written notice available for inspection at the place specified in the *Gazette* notice.
- (6) The Director-General must be satisfied of the matters referred to in subsection (1), whether or not all of the arrangements, facilities, and systems are under the control of the operator of the port concerned.
- (7) Before taking any action under this section, the Director-General must consult in accordance with section 37D.
- (8) Where approval is declined under this section, the Director-General must give reasons for his or her decision.
- (9) Where a decision under this section is made by a person acting under the delegated authority of the Director-General, the

port operator is entitled to have the decision reviewed by the Director-General.

Section 37: substituted, on 26 November 1997, by section 19 of the Biosecurity Amendment Act 1997 (1997 No 89).

37A Approval of arrival of craft at port not approved as place of first arrival

- (1) The Director-General May approve the arrival of a craft at a port that is not approved under section 37 as a place of first arrival for any craft, for craft of the kind or description of that craft, or for craft arriving for the purpose of that craft, if—
 - (a) a person has requested approval for that craft to arrive in New Zealand at that port; and
 - (b) the Director-General is satisfied that the risks associated with the importation of risk goods can be managed by imposing conditions on the arrival of the craft at that port.
- (2) The approval of the Director-General May be given subject to those conditions that the Director-General considers will manage the risks associated with the importation of risk goods.
- (3) Before taking action under this section, the Director-General must consult in accordance with section 37D.

Section 37A: inserted, on 26 November 1997, by section 19 of the Biosecurity Amendment Act 1997 (1997 No 89).

37B Suspension of approval

- (1) If the Director-General is no longer satisfied that the provisions of section 37(1) are being met for a port, the Director-General May,—
 - (a) by written notice to its operator, suspend the port's approval under section 37(1) for a specified period or until a specified action is taken; or
 - (b) by written notice in the *Gazette*, revoke the port's approval under section 37(1); or
 - (c) by written notice in the *Gazette* and written notice to the port's operator, vary the port's approval under section 37(1) by varying the kind or description of craft for which the port is approved as a place of first arrival, or

by varying the purposes of arrival for which the port is approved as a place of first arrival.

- (2) Before taking action under this section, the Director-General must consult in accordance with section 37D.
- (3) In exercising a power under this section, the Director-General must observe the rules of natural justice.
- (4) Where a decision under this section is made by a person acting under the delegated authority of the Director-General, the port operator is entitled to have the decision reviewed by the Director-General.

Section 37B: inserted, on 26 November 1997, by section 19 of the Biosecurity Amendment Act 1997 (1997 No 89).

37C Port operators

- (1) Nothing in section 37 authorises a port operator to require any user of a port—
 - (a) to use or patronise facilities under the operator's control; or
 - (b) to contribute, directly or indirectly, towards the expense of operating facilities under the operator's control that the user has not used or patronised.
- (2) No operator of a port May wilfully or recklessly represent that the port is an approved place of first arrival for any craft other than craft specified in the approval.
- (3) No operator May wilfully or recklessly represent that the port is an approved place of first arrival where no approval has been given or an approval has been suspended or revoked.

Section 37C: inserted, on 26 November 1997, by section 19 of the Biosecurity Amendment Act 1997 (1997 No 89).

37D Director-General to consult chief executives

The Director-General must not take any action under sections 37, 37A, or 37B without consulting the chief executives of—

- (a) the New Zealand Customs Service; and
- (b) the Ministry of Health; and
- (c) the New Zealand Police; and
- (d) the Ministry of Transport; and

- (e) every other department of State whose operations May, in the Director-General's opinion, be affected by the action.

Section 37D: inserted, on 26 November 1997, by section 19 of the Biosecurity Amendment Act 1997 (1997 No 89).

38 Importers' records

Every person who by way of commerce imports or causes to be imported any risk goods shall keep at that person's place of business, or at some other approved place in New Zealand, such records in respect of those goods, in such manner, and for such period of time, as May be prescribed.

39 Approval of transitional facilities and containment facilities

- (1) The Director-General May, after consulting with the persons that the Director-General considers to be representative of the classes of persons likely to have an interest in the proposed standard, approve standards for building, maintaining, or operating transitional facilities.
- (2) Any person May apply in an approved form to the Director-General for the approval of any place as a transitional facility or a containment facility.
- (2A) The Director-General must consider every application for approval of a place as a containment facility made under subsection (2) and,—
 - (a) if the application complies with the requirements of this Act; and
 - (b) if the place meets the relevant standards approved by the Authority in accordance with the Hazardous Substances and New Organisms Act 1996,—the Director-General May approve the place as a containment facility.
- (3) The Director-General must consider every application for approval of a place as a transitional facility made under subsection (2) and—
 - (a) if the application complies with the requirements of this Act; and

- (b) if the place meets the relevant standards approved under subsection (1),—
the Director-General May approve the place as a transitional facility for the purpose specified in the approval.
- (4) A transitional facility approval given in accordance with this section must, where the approval specifies, expire at a time specified in the approval or upon the occurrence of an event specified in the approval.
- (5) A transitional facility approval given in accordance with this section May specify the uncleared goods that May be held in the facility.
- (6) A containment facility approval given in accordance with this section May specify the organisms that May be held in the facility.
- (7) The Director-General May, by written notice to the operator of a transitional facility, or a containment facility, cancel an approval for a transitional facility, or a containment facility, or a part of an approval relating to 1 or more uses of a transitional facility, where—
- (a) the facility no longer complies with the relevant standards; or
- (b) the Director-General is satisfied that the facility is no longer used for the purpose or 1 or more of the purposes specified in the approval.
- (8) In exercising a power under subsection (7), the Director-General must observe the rules of natural justice.
- (9) The Director-General May, if he or she thinks fit and without an application from any person, declare specified parts of ports approved as places of first arrival to be transitional facilities.

Section 39: substituted, on 26 November 1997, by section 20 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 39(1): amended, on 29 July 1998, with application to new organisms, by section 131(1)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 39(2A): inserted, on 29 July 1998, by section 131(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 39(3): amended, on 29 July 1998, by section 131(1)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 39(3): amended, on 29 July 1998, by section 131(1)(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

40 Approval of facility operators

- (1) Any person May apply, in an approved form, to the Director-General for approval as the operator of a specified transitional facility or specified containment facility.
- (2) Every application must be accompanied by such further information as the Director-General May require.
- (3) The Director-General must consider every application made under subsection (1) and, if satisfied—
 - (a) that the applicant is a fit and proper person to be the operator of the transitional facility or containment facility specified in the application; and
 - (b) the applicant is able to comply with the operating standards for that facility,—
may approve the applicant as the operator of that facility.
- (4) The Director-General May, by written notice to a person, cancel that person's approval to operate a specified transitional facility or a specified containment facility where—
 - (a) the person is no longer operating the facility in compliance with the operating standards for the facility; or
 - (b) the person has ceased to act as operator of the facility; or
 - (c) the person is no longer a fit and proper person to operate the facility.
- (5) In exercising a power under subsection (4), the Director-General must observe the rules of natural justice.
- (6) No person May operate or purport to operate a transitional facility or a containment facility unless the person is approved as an operator of that facility.

Section 40: substituted, on 26 November 1997, by section 21 of the Biosecurity Amendment Act 1997 (1997 No 89).

41 Designation of quarantine area

- (1) The Director-General May by notice in the *Gazette* designate any place to be a quarantine area, and May at any time revoke or vary such a designation.
- (2) An inspector May, by the display of a clearly visible notice within a biosecurity control area, designate any place within that biosecurity control area to be a quarantine area.

- (3) A designation under subsection (2) shall ordinarily expire after 48 hours, or when sooner revoked; but it May be extended once by an inspector for a further period of not more than 48 hours.
- (4) Every quarantine area shall be under the direct control of an inspector.
- (5) No person shall, knowing that an area is a quarantine area, enter, leave, or use the area for any purpose, without the permission of the inspector who has control of the area.

Definitions for information-sharing provisions

Heading: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41A Definitions

In this section and sections 41B to 41I, unless the context otherwise requires,—

access, in relation to any information, means search, inspect, copy, process, analyse, manipulate, receive, or otherwise make use of the information in a way that is consistent with the purpose for which access has been allowed

agency includes a government department or Crown entity

biosecurity-related border management function means—

- (a) any function, duty, or power imposed or conferred on the Ministry by or under this Part:
- (b) any other function, duty, or power imposed or conferred on the Ministry by or under this Act that is necessary—
 - (i) to achieve the purpose of this Part; or
 - (ii) for the administration of this Part:
- (c) any function, duty, or power imposed or conferred on the Ministry by or under any of the following Acts in relation to the effective management of risks associated with the movement of goods, persons, or craft into or out of New Zealand:
 - (i) the Food Act 1981:
 - (ii) the Hazardous Substances and New Organisms Act 1996:

- (iii) the Agricultural Compounds and Veterinary Medicines Act 1997:
- (iv) the Animal Products Act 1999:
- (v) the Wine Act 2003:
- (vi) any other Act that is specified by the Governor-General, by Order in Council made under section 165A, to be an Act for the purposes of this definition

border information—

- (a) means information—
 - (i) that is required to be supplied to the Ministry or the Customs by or under this Act or the Customs and Excise Act 1996, or both, for a border protection purpose; or
 - (ii) that is otherwise lawfully supplied or collected for a border protection purpose; and
- (b) includes, without limitation, information about—
 - (i) goods, persons, or craft:
 - (ii) import or export transactions:
 - (iii) importers or exporters; and
- (c) also includes data or information that is derived from, or related to, any information referred to in paragraphs (a) and (b) or any analysis of that information

border protection purpose means any lawful purpose relating to, or connected with, the performance or exercise of either or both of the following, as the case May be:

- (a) a biosecurity-related border management function:
- (b) a customs-related border management function

chief executive means the chief executive of the Customs

computer system—

- (a) means—
 - (i) a computer; or
 - (ii) 2 or more interconnected computers; or
 - (iii) any communication links between computers or from computers to remote terminals or other devices; or
 - (iv) 2 or more interconnected computers combined with any communication links between comput-

ers or from computers to remote terminals or other devices; and

- (b) includes any part of the items described in paragraph (a) and all related input, output, processing, storage, software, or communication facilities, and stored information

Customs—

- (a) means the New Zealand Customs Service; and
- (b) includes the chief executive and any Customs officer

customs-related border management function means any function, duty, or power imposed or conferred on the Customs by or under the Customs and Excise Act 1996 that is necessary—

- (a) to achieve the purpose of that Act; or
- (b) for the administration of that Act

Joint Border Management System or **JBMS** means an integrated border management computer system that—

- (a) is designed for the collection, storage, and use of border information by the Ministry and the Customs; and
- (b) is administered by, and under the control of, the Customs

Ministry includes—

- (a) the Director-General; and
- (b) any inspector appointed under section 103.

Section 41A: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

Interim arrangements for information sharing

Heading: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41B Purpose of sections 41C to 41E

The purpose of sections 41C to 41E is to support certain interim information-sharing measures (relating to joint border management initiatives between the Ministry and the Customs) that are required to be in place until the JBMS becomes operational by allowing—

- (a) the Ministry or an agency appointed under section 41C to collect or store any border information:

- (b) the Customs to access that border information for a customs-related border management function.

Section 41B: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41C Interim collection of border information

- (1) The Ministry May—
 - (a) collect any border information:
 - (b) store any border information.
- (2) If the border information is personal information, subsection (1) applies despite anything in information privacy principle 2 or 3 of the Privacy Act 1993.
- (3) The Minister May appoint any agency (in addition to, or instead of, the Customs) to exercise any of the powers conferred on the Ministry by subsection (1).

Section 41C: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41D Requirement by or under this Act to supply border information is complied with if information is supplied to Customs or other agency

- (1) A person must be taken to have complied with a requirement by or under this Act to supply any border information to the Ministry if, instead of to the Ministry, the person supplies the border information to—
 - (a) the Customs, for the purposes of, and in accordance with, section 282F(1) of the Customs and Excise Act 1996:
 - (b) an agency appointed under section 41C(3), for the purposes of, and in accordance with, section 41C(1) of this Act or section 282F(1) of the Customs and Excise Act 1996.
- (2) However, subsection (1) does not apply if the Director-General has given the person a written notice requiring the border information to be supplied to the Ministry instead of to the Customs or an agency appointed under section 41C(3).

Section 41D: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41E Interim access to border information

- (1) The Director-General May, in accordance with a written agreement entered into by the Director-General and the chief executive, allow the Customs to access any border information that was or is collected or stored before, on, or after the commencement of this section.
- (2) If the border information is personal information, subsection (1) applies despite anything in information privacy principle 10 or 11 of the Privacy Act 1993.
- (3) An agreement must state—
 - (a) the purpose of the agreement; and
 - (b) the border information that can be accessed; and
 - (c) the conditions subject to which the border information will be accessed; and
 - (d) how the Customs will use the border information (including the limits on any further disclosure by the Customs); and
 - (e) the method and form of access.
- (4) An agreement May be varied by the Director-General and the chief executive in writing.
- (5) The Director-General and the chief executive must consult the Privacy Commissioner before entering into or varying an agreement.
- (6) To avoid doubt, nothing in subsection (1) limits or prevents the Customs from carrying out an analysis of any border information to which it has access under that subsection for the purpose of examining risk patterns or risk profiles in relation to any or all of the following:
 - (a) goods, persons, or craft:
 - (b) import or export transactions:
 - (c) importers or exporters.

Section 41E: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41F Expiry of sections 41B to 41E and agreements made under section 41E

Sections 41B to 41E and any agreement made under section 41E expire, or must be taken to have expired, on the date of

expiry of sections 282E to 282H of the Customs and Excise Act 1996 (as provided for in section 282I of that Act).

Section 41F: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

*Information sharing for joint border
management*

Heading: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41G Collection of border information

- (1) The Ministry May—
 - (a) collect any border information:
 - (b) store any border information in the JBMS.
- (2) If the border information is personal information, subsection (1) applies despite anything in information privacy principle 2 or 3 of the Privacy Act 1993.
- (3) The Minister May appoint any agency (in addition to, or instead, of the Customs) to exercise any of the powers conferred on the Ministry by subsection (1).

Section 41G: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41H Requirement by or under this Act to supply border information is complied with if information is supplied to Customs or other agency

- (1) A person must be taken to have complied with a requirement by or under this Act to supply any border information to the Ministry if, instead of to the Ministry, the person supplies the border information to—
 - (a) the Customs, for the purposes of, and in accordance with, section 282J(1) of the Customs and Excise Act 1996:
 - (b) an agency appointed under section 41G(3), for the purposes of, and in accordance with, section 41G(1) of this Act or section 282J(1) of the Customs and Excise Act 1996.
- (2) However, subsection (1) does not apply if the Director-General has given the person a written notice requiring the border

information to be supplied to the Ministry instead of to the Customs or an agency appointed under section 41G(3).

Section 41H: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

41I Ministry May access border information

- (1) The Ministry May access any border information stored in the JBMS that is needed for, or relevant to, a biosecurity-related border management function.
- (2) If the border information is personal information, subsection (1) applies despite anything in information privacy principle 10 of the Privacy Act 1993.
- (3) Subsections (1) and (2) apply to any border information stored in the JBMS, whether the border information was or is collected—
 - (a) before, on, or after the commencement of this section; or
 - (b) by an agency appointed under section 41G(3).
- (4) To avoid doubt, nothing in subsection (1) limits or prevents the Ministry from carrying out an analysis of any border information to which it has access under that subsection for the purpose of examining risk patterns or risk profiles in relation to any or all of the following:
 - (a) goods, persons, or craft:
 - (b) import or export transactions:
 - (c) importers or exporters.

Section 41I: inserted, on 6 April 2012, by section 4 of the Biosecurity Amendment Act 2012 (2012 No 26).

Part 4 Surveillance and prevention

42 Purpose of Part 4

The purpose of this Part is to provide for the continuous monitoring of New Zealand's status in regard to pests and unwanted organisms—

- (a) to facilitate the provision of assurances and certificates in relation to exports of organisms and their products; and

- (b) as a basis for the proper administration of this Act, including the institution of precautionary actions, emergency and exigency arrangements, and pest management strategies; and
- (c) to monitor the effect of pest management strategies; and
- (d) otherwise to enable any of New Zealand's international reporting obligations and trading requirements to be met.

43 Duty to provide information

- (1) For the purposes of this Part, an inspector or authorised person May require any person referred to in subsection (2)—
 - (a) to provide any information held by the person concerning pests, pest agents, unwanted organisms, or risk goods that the inspector or authorised person believes on reasonable grounds is necessary to ascertain the presence or distribution in New Zealand of pests, pest agents, or unwanted organisms (or pests or unwanted organisms of a particular kind or description); and
 - (b) to provide such assistance as the inspector or authorised person reasonably requests to enable or facilitate the acquisition, collection, and recording of any such information ascertained.
- (2) The persons referred to for the purposes of subsection (1) are—
 - (a) every person who owns, manages, or otherwise controls the means by which and the sources from which information required under subsection (1) May be generated; and
 - (b) every person who owns, manages, or otherwise controls any organism, organic material, or risk goods that May be monitored for the purposes of this Part.

Compare: 1969 No 53 s 6

Section 43(1)(a): amended, on 1 January 2005, by section 3(1) of the Biosecurity Amendment Act 2004 (2004 No 106).

Section 43(1)(a): amended, on 26 November 1997, by section 22 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 43(2)(b): amended, on 1 January 2005, by section 3(2) of the Biosecurity Amendment Act 2004 (2004 No 106).

44 General duty to inform

- (1) Every person is under a duty to inform the Ministry, as soon as practicable in the circumstances, of the presence of what appears to be an organism not normally seen or otherwise detected in New Zealand.
- (2) The duty to inform does not apply in relation to an organism that is seen or otherwise detected in a place where it may lawfully be present in accordance with an approval given under the Hazardous Substances and New Organisms Act 1996.

Section 44: substituted, on 8 July 2003, by section 6 of the Biosecurity Amendment Act 2003 (2003 No 38).

45 Notifiable organisms

- (1) *[Repealed]*
- (2) The Governor-General may, by Order in Council, declare any organism to be a notifiable organism.
- (3) The Governor-General may, by Order in Council, made on the recommendation of the responsible Minister, declare any pest to which a regional pest management strategy relates to be an organism notifiable within the region, or within any specified part of the region, of the regional council or regional councils concerned.
- (4) The responsible Minister shall not recommend the making of an order under subsection (3), unless—
 - (a) the regional council or regional councils concerned have asked the Minister to do so; and
 - (b) the Minister is satisfied that it is in the public interest to do so.
- (5) The responsible Minister must not recommend the making of an order under subsection (2) in respect of any organism which has been approved for release in New Zealand by the Authority in accordance with the Hazardous Substances and New Organisms Act 1996 unless that Minister has first consulted with the Authority.

Section 45(1): repealed, on 26 November 1997, by section 35(2)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 45(5): added, on 29 July 1998, by section 132 of the Biosecurity Amendment Act 1997 (1997 No 89).

46 Duty to report notifiable organisms

- (1) Every person who—
- (a) at any time suspects the presence of an organism in any place in New Zealand; and
 - (b) suspects that it is for the time being declared to be a notifiable organism under subsection (2) of section 45; and
 - (c) believes that it is not at the time established in that place; and
 - (d) has no reasonable grounds for believing that the chief technical officer is aware of its presence or possible presence in that place at that time,—
- shall without unreasonable delay report to the chief technical officer its presence or possible presence in that place at that time.
- (2) Every person who—
- (a) at any time suspects the presence of an organism in a place in the region, or in any part of the region, of a regional council; and
 - (b) suspects that it is for the time being declared to be an organism notifiable within the region or part under subsection (3) of section 45; and
 - (c) believes that it is not at that time established in that place; and
 - (d) has no reasonable grounds for believing that the chief technical officer is aware of its presence or possible presence in that place at that time,—
- shall without unreasonable delay report to the chief technical officer its presence or possible presence in that place at that time.

Section 46(1)(b): amended, on 26 November 1997, by section 35(2)(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

47 Imported risk goods

[Repealed]

Section 47: repealed, on 26 November 1997, by section 24 of the Biosecurity Amendment Act 1997 (1997 No 89).

48 Power to require information

- (1) A chief technical officer May, by notice in writing, require the person in charge of premises used for investigating organisms or organic material, or any person employed in a professional or technical capacity in any area of biological science, to—
- (a) supply the chief technical officer with information held by that person on the incidence, prevalence, or distribution of specified organisms; or
 - (b) permit the chief technical officer, or a person authorised in writing by that officer, to have access to, inspect, and test or sample specimens of any organism or tissues or parts of an organism or organic material held by that person or on those premises.
- (1A) A chief technical officer May, by notice in writing, require any person who has expertise or knowledge in an area of biological science to supply the chief technical officer with information held by that person on the incidence, prevalence, or distribution of specified organisms.
- (2) Except in relation to circumstances concerning which a regulation makes contrary provision, the reasonable expenses of a person who supplies information to a chief technical officer in response to a requirement under this section will be reimbursed out of money appropriated by Parliament for the purpose if those expenses would not have been incurred but for the requirement.

Section 48(1): substituted, on 26 November 1997, by section 25 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 48(1A): inserted, on 26 November 1997, by section 25 of the Biosecurity Amendment Act 1997 (1997 No 89).

49 Use of information

Any information acquired by a chief technical officer under this Part May be published for the purpose of communicating the animal or plant health status of New Zealand, or the occurrence (in New Zealand or overseas) of pests or unwanted organisms.

50 Identification systems

- (1) The Director-General May, from time to time, approve systems administered by specified persons for the purpose of enabling the identification of organisms and their products and associated premises.
- (2) The Director-General May approve identification systems under this section for any of the following purposes:
 - (a) facilitating pest management;
 - (b) marking the presence or absence in organisms of particular qualities relating to the purposes of this Act;
 - (c) meeting the certification requirements of overseas authorities in respect of New Zealand exports.
- (3) When considering the approval of an identification system under this section, the Director-General shall ensure that the identifications to be used—
 - (a) provide unique, clear, and lasting identification having regard to the purpose for which the identifications are needed; and
 - (b) do not create confusion with any other generally used system of identification.
- (4) Regulations made under this Act May require persons of any kind or description to use one of any 1 or more identification systems approved under this section and notified in the *Gazette* in accordance with subsection (5).
- (5) The Director-General May, by notice in the *Gazette*, specify the identification systems that May be used to comply with regulations made under this Act; and must keep, and make publicly available, a register of all *Gazette* notices made under this section.

Section 50(1): substituted, on 26 November 1997, by section 26(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 50(4): substituted, on 26 November 1997, by section 26(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 50(5): added, on 26 November 1997, by section 26(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

51 Duties relating to identification of organisms

- (1) No person shall remove, alter, or deface any approved identification that has been used in relation to an organism except

with the written permission of an inspector or with reasonable excuse.

- (2) No person shall knowingly use in relation to any organism—
 - (a) an identification forming part of an approved identification system that the person is not entitled to use in relation to that organism; or
 - (b) any mark that is likely to be mistaken for or confused with an identification forming part of an approved identification system.
- (3) No person required by regulations made under this Act to use one of any 1 or more identification systems notified in the *Gazette* shall fail to do so.

Section 51(3): amended, on 26 November 1997, by section 26(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

52 Communication of pest or unwanted organism

No person shall knowingly communicate, cause to be communicated, release, or cause to be released, or otherwise spread any pest or unwanted organism except—

- (a) in the course of and in accordance with a pest management strategy; or
- (b) as provided in an emergency regulation made under section 150; or
- (c) for a scientific purpose carried out with the authority of the Minister.
- (d) as permitted either generally or specifically by a chief technical officer.

Compare: 1967 No 50 s 38; 1967 No 147 s 111

Section 52 heading: amended, on 26 November 1997, by section 27(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 52: amended, on 26 November 1997, by section 27(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 52(d): added, on 26 November 1997, by section 27(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

53 Duties of owners of organisms

- (1) Subject to subsection (2), the owner or person in charge of an organism which that person knows or suspects constitutes, contains, or harbours a pest or unwanted organism must not—

- (a) cause or permit that organism to be in a place where organisms are offered for sale or are exhibited; or
 - (b) sell or offer that organism for sale; or
 - (c) propagate, breed, or multiply the pest or unwanted organism or otherwise act in such a manner as is likely to encourage or cause the propagation, breeding, or multiplication of the pest or unwanted organism.
- (2) A chief technical officer May permit an owner or person in charge of an organism to carry out an act otherwise prohibited by this section.
- (3) Permission given under this section must be given either by notice in the *Gazette* or in writing to the owner or person in charge of an organism.

Compare: 1967 No 50 s 49; 1970 No 151 s 28; 1978 No 15 s 49

Section 53(1): substituted, on 26 November 1997, by section 28(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 53(2): substituted, on 26 November 1997, by section 28(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 53(3): added, on 26 November 1997, by section 28(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Part 5 Pest management

54 Purpose of Part 5

The purpose of this Part is to provide for the effective management or eradication of pests and unwanted organisms.

Section 54: substituted, on 26 November 1997, by section 29 of the Biosecurity Amendment Act 1997 (1997 No 89).

55 Powers for purpose of pest management strategy and small-scale management programme

- (1) The management or eradication of pests must be in accordance with pest management strategies made in accordance with this Part.
- (2) Every pest management strategy or notice declaring a small-scale management programme must specify which of the powers in Part 6 May be exercised in the implementation

of that strategy or programme and only those powers May be used to implement the strategy or programme.

- (3) Where any provision in Part 6 confers a power on a management agency, that power May be exercised by a management agency only if it is acting in the implementation of a pest management strategy for which it is the management agency, and that strategy specifies the power as one which May be exercised to implement the strategy.
- (4) An authorised person May exercise a power conferred on an authorised person by Part 6 to implement a pest management strategy or small-scale management programme only if the strategy or notice declaring the programme specifies the power as one which May be exercised to implement the strategy or programme and that authorised person was appointed for the purposes of that strategy or programme.

Section 55: substituted, on 26 November 1997, by section 30 of the Biosecurity Amendment Act 1997 (1997 No 89).

National pest management strategies

56 Preparation of national pest management strategy

A Minister or any person May prepare a proposal for a national pest management strategy.

Section 56: substituted, on 26 November 1997, by section 31 of the Biosecurity Amendment Act 1997 (1997 No 89).

57 Notification of proposal by Minister

- (1) A Minister May notify, in accordance with section 62, a proposal for a national pest management strategy only if the Minister is of the opinion that—
- (a) the benefits of having a pest management strategy or strategies in relation to each organism to which the strategy would apply outweigh the costs, after taking account of the likely consequences of inaction or alternative courses of action; and
 - (b) the net benefits of national intervention exceed the net benefits of regional intervention; and
 - (ba) where funding proposals for the strategy require persons to meet directly the costs of implementing the strategy,—

- (i) the benefits that will accrue to those persons as a group will outweigh the costs; or
 - (ii) those persons contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the strategy; and
 - (c) each organism in respect of which the strategy is under consideration is capable of causing at some time a serious adverse and unintended effect in relation to New Zealand on 1 or more of the following:
 - (i) economic well-being; or
 - (ii) the viability of threatened species of organisms, the survival and distribution of indigenous plants or animals, or the sustainability of natural and developed ecosystems, ecological processes, and biological diversity; or
 - (iii) soil resources or water quality; or
 - (iv) human health or enjoyment of the recreational value of the natural environment; or
 - (v) the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga; and
 - (d) the implementation of the proposed strategy would not be contrary to New Zealand's international obligations.
- (2) In addition to the requirements in subsection (1), a Minister May notify, in accordance with section 62, a proposal for a national pest management strategy only if the Minister is of the opinion that each organism in respect of which the strategy is under consideration—
 - (a) is not known to be established in New Zealand, but if the organism were so established, it would have the potential to cause significant economic loss or environmental degradation, or both, and it could be eradicated or effectively managed; or
 - (b) is of restricted distribution or abundance, or restricted distribution and abundance, in New Zealand, but the organism has the potential to cause significant economic loss or environmental degradation, or both, and it could be eradicated or effectively managed; or

- (c) is of widespread distribution in all or part of New Zealand and—
 - (i) effective action in respect of the organism would be impracticable without a national strategy; and
 - (ii) the potential economic, social, or environmental damage or loss of not taking action on a national basis would be significant.

Section 57 heading: substituted, on 26 November 1997, by section 32 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 57(1): amended, on 26 November 1997, by section 32(1)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 57(1)(a): amended, on 26 November 1997, by section 32(1)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 57(1)(ba): inserted, on 26 November 1997, by section 32(1)(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 57(1)(c): amended, on 26 November 1997, by section 32(1)(d) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 57(1)(c)(ii): amended, on 26 November 1997, by section 32(1)(e) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 57(2): amended, on 26 November 1997, by section 32(2)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 57(2): amended, on 26 November 1997, by section 32(2)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

58 Request to notify national proposal

- (1) Any person may, by notice in writing to a Minister whose responsibilities might be adversely affected by an organism, request that Minister to notify in accordance with section 62 a proposal for a national pest management strategy in relation to that organism.
- (2) Where a Minister is requested to notify a proposal in accordance with this section, the Minister must do so unless section 59 applies, and if,—
 - (a) in the Minister's opinion, the proposal complies with section 57; and
 - (b) in the Minister's opinion, the person making the request has consulted with persons likely to be affected by the strategy, or representatives of persons likely to be affected by the strategy.
- (3) Where a proposal is notified after a request made in accordance with this section, the Minister may, if he or she thinks fit,

require the person who has given notice in writing to pay all or part of the costs of processing the proposal in accordance with sections 62 to 69, and the strategy May be processed only to the extent that the person meets his or her share of the costs.

Section 58: substituted, on 26 November 1997, by section 33 of the Biosecurity Amendment Act 1997 (1997 No 89).

59 Minister May refuse to notify suggested strategy in certain circumstances

The Minister May refuse to notify a proposal under section 62, if satisfied on reasonable grounds that—

- (a) it does not comply with this Part; or
- (b) it has not been described clearly enough to be readily understood; or
- (c) *[Repealed]*
- (d) both—
 - (i) at a time within the 3 years before the proposal was submitted to the Minister, a board of inquiry completed an inquiry under this Part into a proposal whose substance was broadly the same as its substance; and
 - (ii) there is not available any significant evidence relating to it that was not available at that time; or
- (e) it has little or no merit in relation to the management or eradication of the organism to which it relates; or
- (f) it is frivolous or vexatious.

Section 59(c): repealed, on 26 November 1997, by section 34 of the Biosecurity Amendment Act 1997 (1997 No 89).

60 Preparation and contents of proposal for national pest management strategy

A proposal for a national pest management strategy must specify the following matters:

- (a) the proposer of the strategy;
- (b) the organism or organisms to which the strategy is to apply and any other organisms intended to be controlled;
- (c) in relation to each organism to which the strategy would apply, or each class or description of organism to which

- the strategy would apply, the reasons for the strategy including a description of the adverse effects of the organism, or the class or description of organism:
- (d) the management agency that is to be responsible for implementing the strategy:
 - (e) the proposed period for which the strategy will remain in force:
 - (f) in relation to each organism to which the strategy would apply, or each class or description of organism to which the strategy would apply, the objectives of the strategy and the principal measures proposed to be taken to achieve those objectives:
 - (g) any alternative measures that it would be reasonable to take to achieve the objectives of the strategy, and the reasons for preferring the measures specified in accordance with paragraph (f) as the measures proposed to be taken:
 - (h) the intended scope and purpose of each proposed strategy rule, and the rules for which it is proposed that a breach of the rule will be an offence under this Act:
 - (i) whether any land will include portions of adjoining road for the purposes of the strategy in accordance with section 6, and if so, the portions of road that are proposed to be included:
 - (j) the actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer's opinion) have on the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga:
 - (k) the actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer's opinion) have on—
 - (i) the environment; and
 - (ii) the marketing overseas of New Zealand products:
 - (l) an analysis of the benefits and costs of the strategy in relation to each organism to which the strategy would apply, or each class or description of organism to which the strategy would apply, and the reasons why a national

strategy is more appropriate than a regional strategy or regional strategies:

- (m) the anticipated costs of implementing the strategy, how those costs are to be funded, and the funding information required to be included by section 61:
- (n) the basis, if any, on which compensation is to be paid by the management agency in respect of losses incurred as a direct result of the implementation of the strategy, and information concerning the disposal of the proceeds of any receipts arising in the course of implementing the strategy:
- (o) the powers to be used in accordance with section 55 to implement the strategy:
- (p) where the proposed strategy would affect another pest management strategy, the proposed means of co-ordination:
- (q) the proposed means for measuring the extent to which the objectives of the strategy are being achieved:
- (r) the actions (including the making of contributions towards the costs of implementation) that it is proposed May be taken in relation to the strategy by local authorities, local authorities of a specified kind or description, or specified local authorities.

Section 60: substituted, on 26 November 1997, by section 35(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

61 Funding information required in proposal

A proposal for a national pest management strategy must specify, in relation to each organism to which the strategy would apply, or in relation to each class or description of organism to which the strategy would apply, the following matters:

- (a) the extent to which any persons, or persons of any class, kind, or description are likely to benefit from the strategy:
- (b) the extent (if any) to which any persons, or persons of any class, kind, or description by their activities or inaction contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the pest management strategy:

- (c) the rationale for the proposed allocation of costs, including, where it is proposed that the strategy should be funded by a levy in accordance with sections 90 to 96,—
 - (i) the matters required to be specified in accordance with section 93(1); and
 - (ii) how the proposed levy will comply with section 92(1)(d), (e), (f), and (g):
- (d) whether any unusual administrative problems or costs are expected in recovering the costs allocated to any of the persons who are to be required to pay.

Section 61: substituted, on 26 November 1997, by section 36 of the Biosecurity Amendment Act 1997 (1997 No 89).

62 Notification of proposed national pest management strategy

- (1) The Minister shall publicly notify a proposed national pest management strategy by—
 - (a) publishing a notice in the *Gazette*; and
 - (aa) publishing a notice in 1 or more daily newspapers circulating in the major metropolitan areas; and
 - (b) giving such other notification as the Minister considers appropriate having regard to the nature and distribution of the organism concerned and the persons (including regional councils) likely to have an interest in the proposal; and
 - (c) if the responsible Minister is not the proposer of the strategy, sending a copy to the responsible Minister for co-ordination purposes.
- (2) Every notice under this section must include—
 - (a) a description of the proposed strategy;
 - (b) a statement that submissions on the proposed strategy may be made in writing to the Minister by any person;
 - (c) a closing date for submissions (which must not be earlier than 20 working days after notification under this section);
 - (d) a statement that every submission should state—

- (i) those aspects of the proposed strategy that the submission supports; and
 - (ii) those aspects of the proposed strategy that the submission opposes; and
 - (iii) the reasons for the support and opposition identified; and
 - (iv) any specific alternatives to the proposed strategy that the person making the submission wishes to recommend; and
 - (v) whether the person making the submission wishes to be heard in respect of that submission if an inquiry is held:
- (e) a list of the places where a copy of the proposal for the strategy May be obtained or inspected:
 - (f) an address for submissions.
- (3) Any person May make a submission to the Minister about a proposed national pest management strategy notified in accordance with this section, and every submission must contain the matters specified in subsection (2)(d).

Section 62(1)(aa): inserted, on 26 November 1997, by section 37(1)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 62(1)(c): amended, on 26 November 1997, by section 37(1)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 62(2): substituted, on 26 November 1997, by section 37(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 62(3): added, on 26 November 1997, by section 37(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

63 Board of inquiry

- (1) The Minister must appoint a board of inquiry to inquire into and report on every proposal for a pest management strategy notified in accordance with section 62, unless, after having regard to the submissions made to the Minister, the Minister is satisfied that there is no significant body of persons who—
- (a) would be affected by the implementation of the proposed strategy; and
 - (b) are opposed to a significant element of the proposed strategy.
- (2) A board of inquiry shall—

- (a) comprise not fewer than 3 and not more than 5 members; and
 - (b) have a presiding member appointed either by the Minister or, if the Minister declines to do so, by the members.
- (2A) Where the Minister appoints a board of inquiry in accordance with subsection (1), the Minister must forward all submissions received under section 62 to that board.
- (3) Every board of inquiry shall be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there May, if the Minister so directs, be paid to any member of the board of inquiry, out of money appropriated by Parliament for the purpose,—
- (a) remuneration by way of fees, salary, or allowances in accordance with the Act; and
 - (b) travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of the board of inquiry,—
- and the provisions of that Act apply accordingly.

Section 63(1): substituted, on 26 November 1997, by section 38(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 63(2A): inserted, on 26 November 1997, by section 38(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

64 Public notification of inquiry

[Repealed]

Section 64: repealed, on 26 November 1997, by section 37(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

65 Submissions to the board of inquiry

[Repealed]

Section 65: repealed, on 26 November 1997, by section 37(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

66 Summary of submissions, notification and conduct of hearing

Schedule 2 shall apply in respect of an inquiry by a board of inquiry into a proposed national pest management strategy; and the proposer of the strategy and every person who made a

submission under section 62 shall have the right to be heard at any such inquiry.

Section 66: amended, on 26 November 1997, by section 39(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 66: amended, on 26 November 1997, by section 39(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

67 Matters to be considered and board of inquiry's report

- (1) In considering a proposed national pest management strategy, a board of inquiry shall have regard to—
 - (a) all submissions; and
 - (b) all relevant provisions of this Part; and
 - (c) any other matters it thinks fit.
- (2) On completion of its inquiry, the board of inquiry shall prepare a written report on the proposed national pest management strategy and the matters raised by the inquiry, and shall make such recommendations to the Minister as it determines are appropriate in the circumstances.
- (3) After receiving a report from a board of inquiry, the Minister shall ensure that—
 - (a) a copy of the report is sent to every person who made a submission to the board of inquiry and to every other person the Minister considers appropriate having regard to the nature and distribution of the organism concerned; and
 - (b) the report is published; and
 - (c) public notice is given of where and how copies of the report can be obtained.

68 Making of national pest management strategy

- (1) Subject to section 69, the Governor-General may, by Order in Council made on the recommendation of a Minister, make a national pest management strategy.
- (2) The Order in Council made under this section must include all the matters required in a national pest management strategy by section 69A.
- (3) The strategy rules in an order made under this section are deemed to be regulations for the purposes of the Regulations (Disallowance) Act 1989.

Section 68: substituted, on 26 November 1997, by section 40 of the Biosecurity Amendment Act 1997 (1997 No 89).

69 Duties of Ministers in relation to proposed national pest management strategies

- (1) The Minister shall not recommend the making of an order under section 68 making a national pest management strategy—
- (a) where the Minister has appointed a board of inquiry to inquire into and report on the proposed strategy, without considering—
 - (i) the report, and any recommendations, of the board; and
 - (ii) a report on that report, any such recommendations, and the strategy itself, made to the Minister by the appropriate chief executive:
 - (b) in any other case, without considering a report on the strategy made to the Minister by the appropriate chief executive.
- (1A) Where the proposed strategy has not been considered by a board of inquiry, the Minister must not recommend the making of a strategy if that strategy differs significantly in its effect from the relevant provisions in the proposal notified in accordance with section 62.
- (2) The Minister shall not recommend the making of an order under section 68 making a national pest management strategy unless satisfied, on reasonable grounds,—
- (a) of the matters specified in section 57(1); and
 - (b) that there is likely to be adequate funding for the implementation of the strategy for its proposed duration or 5 years (whichever is the shorter); and
 - (c) *[Repealed]*

Section 69(1): amended, on 26 November 1997, by section 41(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 69(1A): inserted, on 26 November 1997, by section 41(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 69(2): amended, on 26 November 1997, by section 41(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 69(2)(c): repealed, on 26 November 1997, by section 41(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

69A Contents of national pest management strategy

A national pest management strategy must specify the following matters:

- (a) the pest or pests to be managed or eradicated:
- (b) the objectives of the strategy, and a general description of the principal measures to be taken to implement the strategy:
- (c) the management agency that is responsible for implementing the strategy:
- (d) the period for which the strategy will remain in force:
- (e) the powers to be used in accordance with section 55 to implement the strategy:
- (f) the strategy rules, if any, made in accordance with this Act:
- (g) the portions of road, if any, that are included as adjoining land, in accordance with section 6, for the purposes of the strategy:
- (h) the basis, if any, on which compensation is to be paid by the management agency in respect of losses incurred as a direct result of the strategy:
- (i) the sources of funding for the implementation of the strategy, and the limitations, if any, on how the funds collected from those sources May be used to implement the strategy:
- (j) the actions (including the making of contributions towards the costs of implementation) that May be taken in relation to the strategy by local authorities, local authorities of a specified kind or description, or specified local authorities.

Section 69A: inserted, on 26 November 1997, by section 42 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 69A(b): substituted, on 8 July 2003, by section 7(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

69B Strategy rules

- (1) A national pest management strategy made by Order in Council under section 68, May include rules made for all or any of the following purposes:

- (a) requiring any person to take specified actions which will enable the management agency to determine or monitor the presence or distribution of the pest or any pest agent:
- (b) requiring any person to keep records of actions taken in accordance with rules made under this section and to send specified information based on those records to the management agency:
- (c) requiring the identification of specified goods:
- (d) prohibiting or regulating specified methods that May be used in the management of the pest:
- (e) prohibiting or regulating activities which May affect measures taken to implement the strategy:
- (f) requiring audits or inspections of specified actions:
- (g) specifying, for the purposes of section 52(a), the circumstances in which the pest May be communicated, released, or otherwise spread:
- (h) requiring the occupier of any place to take specified actions to control or eradicate the pest or a specified pest agent on that place:
- (i) requiring the occupier of any place to take specified actions to control or eradicate the habitat of the pest or the habitat of a specified pest agent on that place:
- (j) prohibiting or regulating specified activities by the occupier of a place where those activities will promote the habitat of the pest on that place:
- (k) requiring the occupier of a place to carry out specified activities to promote the presence of organisms that assist in the control of the pest on that place:
- (l) prohibiting or regulating specified activities by the occupier of a place, which deter the presence on that place of organisms that assist in the control of the pest:
- (m) requiring the occupier of any place to carry out specified treatments or procedures to assist in preventing the spread of the pest:
- (n) requiring the owners or persons in charge of goods to carry out specified treatments or procedures to assist in preventing the spread of the pest:

- (o) requiring the destruction of goods in circumstances where the goods May contain or harbour the pest, or otherwise pose a risk of spreading the pest:
 - (p) prohibiting or regulating specified uses of goods that May promote the spread or survival of the pest:
 - (q) prohibiting or regulating the holding or disposal of organic material:
 - (r) prohibiting or regulating the use of specified practices in the management of organisms that May promote the spread or survival of the pest:
 - (s) prohibiting or regulating the movement of goods that May contain or harbour the pest or otherwise pose a risk of spreading the pest.
- (2) A Minister must not recommend the making of an Order in Council under section 68 unless the Minister has had regard to—
- (a) the extent to which each rule included in the strategy is likely to assist in achieving the objectives of the strategy; and
 - (b) the extent to which each rule included in the strategy is likely to restrict the rights of individuals.
- (3) A rule May specify that a breach of the rule creates an offence under section 154(q).
- (4) A rule May provide that no exemptions from any requirement of the rule May be granted under section 69D.
- (5) A rule May—
- (a) apply generally throughout New Zealand or within a specified part or parts of New Zealand:
 - (b) apply generally or with respect to different classes of persons, places, goods, or other things:
 - (c) apply generally or at any specified time of each year.
- (6) Where a rule applies to a specified part or parts of New Zealand, other rules relating to the same subject matter May be made for other specified parts of New Zealand.
- (7) So far as the bylaws of any local authority are inconsistent with or repugnant to any rule made under this Act in force in the same locality, the bylaws must be construed subject to the rules.

Section 69B: inserted, on 26 November 1997, by section 42 of the Biosecurity Amendment Act 1997 (1997 No 89).

69C Incorporation by reference

- (1) Any written material or document that, in the opinion of the Minister, is too large or otherwise impractical to be printed as part of a rule included in a pest management strategy May be incorporated by reference.
- (2) Any material incorporated by reference under this section is deemed for all purposes to form part of the rule, but any amendment to the material by the person or organisation originating it does not come into force as a rule until a rule to that effect has been made under this Act.
- (3) All material incorporated by reference under this section must be available at the office of the management agency for that strategy and copies of that material must be available for purchase for a reasonable charge.

Section 69C: inserted, on 26 November 1997, by section 42 of the Biosecurity Amendment Act 1997 (1997 No 89).

69D Exemption power of Minister

- (1) The Minister May, upon such conditions as he or she considers appropriate, exempt any person from any requirement in any rule included in a national pest management strategy made under this Act.
- (2) Before granting an exemption under this section, the Minister must be satisfied in the circumstances of each case that—
 - (a) the requirement has been substantially complied with and that further compliance is unnecessary; or
 - (b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; or
 - (c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or
 - (d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case,—

and that the granting of the exemption will not significantly prejudice the attainment of the objectives of the strategy.

- (3) The Minister May, upon such conditions as he or she thinks fit, exempt all persons, or any specified class of persons, persons in any specified place, or persons responsible for specified goods or things from any requirement in any rule included in a national pest management strategy made under this Act, if the Minister is satisfied that events have occurred that make the prescribed requirements unnecessary or inappropriate.
- (4) The number and nature of exemptions granted under this section must be notified as soon as practicable in the *Gazette*.
- (5) Nothing in this section applies in any case where any rule specifically provides that no exemptions are to be granted.

Section 69D: inserted, on 26 November 1997, by section 42 of the Biosecurity Amendment Act 1997 (1997 No 89).

70 Orders to be laid before House of Representatives

As soon as is practicable after an order has been made under section 68, the Minister who recommended its making shall lay a copy before the House of Representatives.

Regional pest management strategies

71 Preparation of regional pest management strategy

A regional council or any other person May prepare a proposal for a regional pest management strategy.

Section 71: substituted, on 26 November 1997, by section 43 of the Biosecurity Amendment Act 1997 (1997 No 89).

72 Notification of proposal by regional council

- (1) A regional council May notify, in accordance with section 78, a proposal for a regional pest management strategy only if it is of the opinion that—
 - (a) the benefits of having a regional pest management strategy in relation to each organism to which the strategy would apply outweigh the costs, after taking account of the likely consequences of inaction or alternative courses of action; and

- (b) the net benefits of regional intervention exceed the net benefits of an individual's intervention; and
 - (ba) where funding proposals for the strategy require persons to meet directly the costs of implementing the strategy—
 - (i) the benefits that will accrue to those persons as a group will outweigh the costs; or
 - (ii) those persons contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the strategy; and
 - (c) each organism in respect of which the strategy is under consideration is capable of causing at some time a serious adverse and unintended effect in relation to the region on 1 or more of the following:
 - (i) economic well-being; or
 - (ii) the viability of threatened species of organisms, the survival and distribution of indigenous plants or animals, or the sustainability of natural and developed ecosystems, ecological processes, and biological diversity; or
 - (iii) soil resources or water quality; or
 - (iv) human health or enjoyment of the recreational value of the natural environment; or
 - (v) the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga.
- (2) *[Repealed]*
- (3) *[Repealed]*

Section 72 heading: amended, on 26 November 1997, by section 44 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 72(1): amended, on 26 November 1997, by section 44(1)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 72(1)(a): amended, on 26 November 1997, by section 44(1)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 72(1)(ba): inserted, on 26 November 1997, by section 44(1)(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 72(1)(c): amended, on 26 November 1997, by section 44(1)(d) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 72(1)(c)(ii): amended, on 26 November 1997, by section 44(1)(e) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 72(2): repealed, on 26 November 1997, by section 44(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 72(3): repealed, on 26 November 1997, by section 44(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

73 Consultation

- (1) During the preparation of a proposed regional pest management strategy, a regional council shall consult—
 - (a) those Ministers whose responsibilities May be affected by the strategy; and
 - (b) local authorities that May be so affected; and
 - (c) the tangata whenua of the area who May be so affected, through iwi authorities and tribal runanga.
- (2) A regional council May consult any other person during the preparation of a proposed regional pest management strategy.

74 Request to notify regional proposal

- (1) Any person May, by notice in writing to a regional council, request that council to notify a proposal for a regional pest management strategy under section 78.
- (2) Where a regional council is requested to notify a proposal in accordance with this section, the council must do so unless section 75 applies, and if,—
 - (a) in the opinion of the council, the proposal complies with the provisions of section 72; and
 - (b) in the council's opinion, the person making the request has consulted with persons likely to be affected by the strategy, or representatives of persons likely to be affected by the strategy.
- (3) Where a proposal is notified after a request made in accordance with this section, the regional council May, if it thinks fit, require the person who has given notice in writing to pay all or part of the costs of processing the proposal in accordance with sections 78 to 79F, and the strategy May be processed only to the extent that the person meets his or her share of the costs.

Section 74: substituted, on 26 November 1997, by section 45 of the Biosecurity Amendment Act 1997 (1997 No 89).

75 Council May refuse to notify suggested strategy in certain circumstances

A regional council May refuse to notify a proposal for a strategy under section 78, if satisfied on reasonable grounds that—

- (a) it does not comply with this Part; or
- (b) it has not been described clearly enough to be readily understood; or
- (c) *[Repealed]*
- (d) both—
 - (i) at a time within the 3 years before the proposal for the strategy was submitted to the council, an inquiry was completed into a proposal for a regional pest management strategy whose substance was broadly the same as its substance; and
 - (ii) there is not available any significant evidence relating to it that was not available at that time; or
- (e) it has little or no merit in relation to the management or eradication of the organism to which it relates; or
- (f) it is frivolous or vexatious.

Section 75: amended, on 26 November 1997, by section 46(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 75(c): repealed, on 26 November 1997, by section 46(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 75(d)(i): substituted, on 26 November 1997, by section 46(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

76 Preparation and contents of proposal for regional pest management strategy

- (1) A proposal for a regional pest management strategy must specify the following matters:
 - (a) the proposer of the strategy;
 - (b) the organism or organisms to which the strategy is to apply and any other organisms intended to be controlled;
 - (c) in relation to each organism to which the strategy would apply, or each class or description of organism to which the strategy would apply, the reasons for the strategy, including a description of the adverse effects of the organism, or the class or description of organism:

- (d) the management agency that is to be responsible for implementing the strategy:
- (e) the proposed period for which the strategy will remain in force:
- (f) in relation to each organism to which the strategy would apply, or each class or description of organism to which the strategy would apply, the objectives of the strategy and the principal measures proposed to be taken to achieve those objectives:
- (g) any alternative measures that it would be reasonable to take to achieve the objectives of the strategy and the reasons for preferring the measures specified in accordance with paragraph (f) as the measures proposed to be taken:
- (h) each proposed strategy rule, an explanation of each proposed rule, and, if it is proposed that a breach of the rule will be an offence under this Act, a statement to that effect:
- (i) whether land will include portions of adjoining road for the purposes of the strategy in accordance with section 6, and if so, the portions of road that are proposed to be included:
- (j) the actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer's opinion) have on the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga:
- (k) the actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer's opinion) have on—
 - (i) the environment; and
 - (ii) the marketing overseas of New Zealand products:
- (l) an analysis of the benefits and costs of the strategy (including the reasons why the strategy is more appropriate than relying on the voluntary actions of persons) in relation to each organism to which the strategy would apply:

- (m) the anticipated costs of implementing the strategy, how those costs are to be funded, and the funding information required to be included by section 77:
 - (n) the basis, if any, on which compensation is to be paid by the management agency in respect of losses incurred as a direct result of the implementation of the strategy, and information concerning the disposal of the proceeds of any receipts arising in the course of implementing the strategy:
 - (o) the powers to be used in accordance with section 55 to implement the strategy:
 - (p) where the proposed strategy would affect another pest management strategy, the proposed means of co-ordination:
 - (q) the proposed means for measuring the extent to which the objectives of the strategy are being achieved:
 - (r) the actions (including the making of contributions towards the costs of implementation) that it is proposed May be taken in relation to the strategy by local authorities, local authorities of a specified kind or description, or specified local authorities.
- (2) *[Repealed]*
- (3) A proposal for a regional pest management strategy May provide that the regional council shall itself be the management agency for the strategy, or May specify a department, body, or other authority as the management agency.
- (4) A proposal for a regional pest management strategy shall not be inconsistent with—
- (a) any national or regional pest management strategy (whether relating to the same region or any other region or regions) concerning the same organism; or
 - (b) any regulation; or
 - (c) any regional policy statement or regional plan prepared under the Resource Management Act 1991.

Section 76(1): substituted, on 26 November 1997, by section 47 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 76(2): repealed, on 26 November 1997, by section 47 of the Biosecurity Amendment Act 1997 (1997 No 89).

77 Funding information required in proposal

A proposal for a regional pest management strategy must specify, in relation to each organism or in relation to each class or description of organism to which the strategy would apply, the following matters:

- (a) the extent to which any persons or persons of any class, kind, or description are likely to benefit from the strategy:
- (b) the extent (if any) to which any persons or persons of any class, kind, or description by their activities or inaction contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the pest management strategy:
- (c) the rationale for the proposed allocation of costs, including, where it is proposed that the strategy should be funded by a levy in accordance with sections 90 to 96,—
 - (i) the matters required to be specified in accordance with section 93(1); and
 - (ii) how the proposed levy will comply with section 92(1)(d), (e), (f), and (g):
- (d) whether any unusual administrative problems or costs are expected in recovering the costs allocated to any of the persons who are to be required to pay.

Section 77: substituted, on 26 November 1997, by section 48 of the Biosecurity Amendment Act 1997 (1997 No 89).

78 Notification of proposed regional pest management strategy

- (1) A regional council must publicly notify a proposed regional pest management strategy—
 - (a) by publishing a notice in 1 or more daily newspapers circulating within the council's region; and
 - (b) by giving such further notice, if any, as the regional council considers appropriate having regard to the nature and distribution of the organism concerned and the persons likely to have an interest in the proposal.
- (2) Every notice under this section must include—
 - (a) a description of the proposed strategy:

- (b) a statement that submissions on the proposed strategy May be made in writing to the regional council by any person:
 - (c) a closing date for submissions (which must not be earlier than 20 working days after notification under this section):
 - (d) a statement that every submission should state—
 - (i) those aspects of the proposed strategy that the submission supports; and
 - (ii) those aspects of the proposed strategy that the submission opposes; and
 - (iii) the reasons for the support and opposition identified; and
 - (iv) any specific alternatives to the proposed strategy that the person making the submission wishes to recommend; and
 - (v) whether the person making the submission wishes to be heard in respect of that submission:
 - (e) a list of the places where a copy of the proposed strategy May be obtained or inspected:
 - (f) an address for submissions.
- (2A) Any person May make a submission to the regional council about a proposed regional pest management strategy notified in accordance with this section, and every submission must contain the matters specified in subsection (2)(d).
- (3) A regional council shall provide 1 copy of a proposed pest management strategy without charge to—
- (a) the responsible Minister and every other Minister whose responsibilities May be affected by the strategy; and
 - (b) all territorial authorities in the region and adjacent local authorities that May be so affected; and
 - (c) the tangata whenua of the area that May be so affected, through iwi authorities and tribal runanga.
- (4) A regional council shall make a proposed regional pest management strategy that it has notified available in every place in its region that it considers appropriate, having regard to the nature and distribution of the organism concerned and the persons likely to have an interest in the proposal.

Section 78(1): substituted, on 26 November 1997, by section 49(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 78(2): substituted, on 26 November 1997, by section 49(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 78(2A): inserted, on 26 November 1997, by section 49(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 78(3)(a): amended, on 26 November 1997, by section 49(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 78(4): amended, on 26 November 1997, by section 49(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

79 Hearings commissioners

- (1) A regional council May appoint a hearings commissioner to inquire into and report on a proposal for a regional pest management strategy it has notified.
- (2) The council shall pay the hearings commissioner—
 - (a) remuneration by way of fees, salary, or allowances; and
 - (b) travelling allowances and travelling expenses in respect of time spent travelling for the purposes of the inquiry,—as the council agrees with the commissioner.

79A Summary of submission, notification, and conduct of hearing

Every proposal for a regional pest management strategy must be subject to an inquiry, Schedule 2 applies in respect of that inquiry as though the inquiry were undertaken by a board of inquiry, and every person who made a submission on that proposed regional pest management strategy has the right to be heard at the inquiry.

Section 79A: inserted, on 26 November 1997, by section 50(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

79B Regional matters to be considered and regional council's report

- (1) In considering a proposed regional pest management strategy, a regional council—
 - (a) must have regard to—
 - (i) all submissions; and
 - (ii) all relevant provisions of this Part; and

- (iii) a report on the proposed regional pest management strategy made to it by its principal officer; and
 - (iv) any report and any recommendations of a hearings commissioner; and
 - (b) where the strategy includes provision for funding, the strategy in accordance with section 97 must have regard to—
 - (i) the extent to which the proposal for the pest management strategy gave notice of the intention to provide in the strategy for wholly or partially funding the strategy in accordance with section 97; and
 - (ii) the extent of consultation with the ratepayers for the rating units on which the rate or rates are likely to be assessed and the views of those ratepayers; and
 - (iii) all views expressed to the regional council by any other person concerning the proposal to fund the strategy in accordance with section 97; and
 - (iv) all other relevant matters known to the council; and
 - (c) must be satisfied on reasonable grounds of the matters in section 72(1).
- (2) On completion of its consideration, the council must prepare a written report on the proposed regional pest management strategy and the matters raised by the submissions, and must give its decision which must include the regional pest management strategy and the reasons for accepting or rejecting any submissions or group of submissions.
- (3) The decision of the regional council may include any consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.
- (4) The regional council must give public notice of the decision and the pest management strategy.

Section 79B: inserted, on 26 November 1997, by section 50(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 79B(1)(b)(ii): substituted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

79C Notification of decision

At the same time as a regional council gives public notice of its decision, it must serve on every person who made a submission on a provision, a copy of its decision on that provision.

Section 79C: inserted, on 26 November 1997, by section 50(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

79D Reference of decision on submissions to Environment Court

- (1) Any person who made a submission on a proposed regional pest management strategy May refer to the Environment Court—
 - (a) any provision included in the proposed regional pest management strategy, or a provision which the decision on submissions proposes to include in the regional pest management strategy; or
 - (b) any matter excluded from the proposed regional pest management strategy, or a provision which the decision on submissions proposes to exclude from the regional pest management strategy,—
if that person referred to that provision or matter in that person's submission on the proposed regional pest management strategy.
- (2) Any reference to the Environment Court under this section must be lodged with the Environment Court within 15 working days of service of the decision of the regional council and must state—
 - (a) the reasons for the reference and relief sought; and
 - (b) the address for service of the person who made the reference; and
 - (c) any other matters required by regulations.
- (3) A person who makes a reference to the Environment Court under this section must serve a copy of the notice within 5 working days after the reference is lodged with the Environment Court, on—
 - (a) the regional council; and

- (b) every person who made a submission on that provision or matter.

Section 79D: inserted, on 26 November 1997, by section 50(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

79E Hearing by Environment Court

- (1) The Environment Court must hold a public hearing into any provision or matter referred to it.
- (2) Where the Environment Court holds a hearing into any provision or matter of a proposed regional pest management strategy, that reference is an appeal and the Environment Court May confirm, or direct the regional council to modify, delete, or insert, any provision or matter which is referred to it.

Section 79E: inserted, on 26 November 1997, by section 50(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

79F Final consideration of regional pest management strategy

- (1) A regional council must make a regional pest management strategy once it has made the amendments as directed by the Environment Court.
- (2) A strategy must be made under this section by affixing the seal of the regional council to the document.
- (3) The regional council must provide 1 copy of each regional pest management strategy made by the council to every public library in its area.

Section 79F: inserted, on 26 November 1997, by section 50(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

80 Regional pest management strategy to be processed like national pest management strategy

[Repealed]

Section 80: repealed, on 26 November 1997, by section 50(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

80A Contents of regional pest management strategy

A regional pest management strategy must specify the following matters:

- (a) the pest or pests to be managed or eradicated:

- (b) the objectives of the strategy, and a general description of the principal measures to be taken to implement the strategy:
- (c) the management agency that is responsible for implementing the strategy:
- (d) the period for which the strategy will remain in force:
- (e) the powers to be used in accordance with section 55 to implement the strategy:
- (f) the strategy rules, if any, made in accordance with this Act:
- (g) the portions of road, if any, that are included as adjoining land, in accordance with section 6, for the purposes of the strategy:
- (h) the basis, if any, on which compensation is to be paid by the management agency in respect of losses incurred as a direct result of the strategy:
- (i) the sources of funding for the implementation of the strategy, and the limitations, if any, on how the funds collected from those sources May be used to implement the strategy:
- (j) the actions (including the making of contributions towards the costs of implementation) that May be taken in relation to the strategy by local authorities, local authorities of a specified kind or description, or specified local authorities.

Section 80A: inserted, on 26 November 1997, by section 51 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 80A(b): substituted, on 8 July 2003, by section 8(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

80B Strategy rules

- (1) A pest management strategy made under section 79F May include rules for all or any of the following purposes:
 - (a) requiring any person to take specified actions which will enable the management agency to determine or monitor the presence or distribution of the pest or any pest agent:
 - (b) requiring any person to keep records of actions taken in accordance with rules made under this section and to send specified information based on those records to the management agency:

- (c) requiring the identification of specified goods:
- (d) prohibiting or regulating specified methods that May be used in the management of the pest:
- (e) prohibiting or regulating activities which May affect measures taken to implement the strategy:
- (f) requiring audits or inspections of specified actions:
- (g) specifying, for the purposes of section 52(a), the circumstances in which the pest May be communicated, released, or otherwise spread:
- (h) requiring the occupier of any place to take specified actions to control or eradicate the pest or a specified pest agent on that place:
- (i) requiring the occupier of any place to take specified actions to control or eradicate the habitat of the pest or the habitat of a specified pest agent on that place:
- (j) prohibiting or regulating specified activities by the occupier of a place where those activities will promote the habitat of the pest on that place:
- (k) requiring the occupier of a place to carry out specified activities to promote the presence of organisms that assist in the control of the pest on that place:
- (l) prohibiting or regulating specified activities by the occupier of a place, which deter the presence on that place of organisms that assist in the control of the pest:
- (m) requiring the occupier of any place to carry out specified treatments or procedures to assist in preventing the spread of the pest:
- (n) requiring the owners or persons in charge of goods to carry out specified treatments or procedures to assist in preventing the spread of the pest:
- (o) requiring the destruction of goods in circumstances where the goods May contain or harbour the pest, or otherwise pose a risk of spreading the pest:
- (p) prohibiting or regulating specified uses of goods that May promote the spread or survival of the pest:
- (q) prohibiting or regulating the holding or disposal of organic material:

- (r) prohibiting or regulating the use of specified practices in the management of organisms that May promote the spread or survival of the pest:
 - (s) prohibiting or regulating the movement of goods that May contain or harbour the pest or otherwise pose a risk of spreading the pest.
- (2) A rule May provide that no exemptions from any requirement of the rule May be granted under section 80D.
 - (3) A rule May—
 - (a) apply generally throughout the region or within a specified part or parts of the region:
 - (b) apply generally or with respect to different classes of persons, places, goods, or other things:
 - (c) apply generally or at any specified time of each year.
 - (4) Where a rule applies to a specified part or parts of the region, other rules relating to the same subject matter May be made for other specified parts of the region.
 - (5) So far as the bylaws of the regional council or a territorial authority are inconsistent with or repugnant to any rule made under this Act in force in the same locality, the bylaws must be construed subject to the rules.
 - (6) In the event of an inconsistency between regulations made under this or any other Act or the rules in a national pest management strategy, and the rules in a regional pest management strategy, the regulations or rules in a national pest management strategy prevail.
 - (7) A rule May specify that a breach of the rule creates an offence under section 154(r).
 - (8) Notwithstanding any rule of law to the contrary, a strategy rule May not be declared invalid for unreasonableness.

Section 80B: inserted, on 26 November 1997, by section 51 of the Biosecurity Amendment Act 1997 (1997 No 89).

80C Incorporation by reference

- (1) Any written material or document that, in the opinion of the regional council, is too large or otherwise impractical to be printed as part of a rule included in a pest management strategy May be incorporated by reference.

- (2) Any material incorporated by reference under this section is deemed for all purposes to form part of the rule but any amendment to the material by the person or organisation originating it does not come into force as a rule until a rule to that effect has been made under this Act.
- (3) All material incorporated by reference under this section must be available at the office of the management agency for that strategy, and copies of that material must be available for purchase for a reasonable charge.

Section 80C: inserted, on 26 November 1997, by section 51 of the Biosecurity Amendment Act 1997 (1997 No 89).

80D Exemption power of regional council

- (1) The regional council May, if the regional council considers it appropriate and upon such conditions as the regional council considers appropriate, exempt any person from any specified requirement in any rule included in a regional pest management strategy in accordance with this Act.
- (2) Before granting an exemption under this section, the regional council must be satisfied in the circumstances of each case that—
 - (a) the requirement has been substantially complied with and that further compliance is unnecessary; or
 - (b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; or
 - (c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or
 - (d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case,—and that the granting of the exemption will not significantly prejudice the attainment of the objectives of the strategy.
- (3) The regional council May, upon such conditions as it thinks fit, exempt all persons or any specified class of persons, persons in any specified place, or persons responsible for specified goods or things, from any requirement in any rule included in a regional pest management strategy made under this Act if

the regional council is satisfied that events have occurred that make the prescribed requirements unnecessary or inappropriate.

- (4) The number and nature of exemptions granted under this section must be recorded by the regional council in a register; and the register must be available for public inspection during the normal office hours of the regional council.
- (5) Nothing in this section applies in any case where any rule specifically provides that no exemptions are to be granted.

Section 80D: inserted, on 26 November 1997, by section 51 of the Biosecurity Amendment Act 1997 (1997 No 89).

81 Implementation of regional pest management strategy

Except as otherwise provided in this Act, the Local Government Act 2002 shall apply to the implementation of a regional pest management strategy by a regional council.

Section 81: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

82 Powers that May not be delegated

A regional council is not capable of delegating (whether under clause 32 of Schedule 7 of the Local Government Act 2002 or any other provision of that Act or any other Act)—

- (a) the power to appoint a hearings commissioner to inquire into and report on a proposal for a regional pest management strategy it has notified; or
- (b) the power to make, review, amend, or revoke a regional pest management strategy; or
- (c) the power to declare a small-scale management programme under section 100

Section 82: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

83 Councils May act jointly

- (1) Any 2 or more regional councils May separately notify and make a joint regional pest management strategy; and in that case,—
 - (a) the strategy shall indicate—

- (i) whether it is to be implemented by all the councils, some of them only, or only 1 of them; and
 - (ii) if it is to be implemented by 2 or more councils, the extent (if any) to which those councils are to be empowered to implement it outside their own regions; and
 - (b) the strategy shall not have effect unless made by all the councils; and
 - (c) subject to subsection (2), if the strategy is made, it shall have effect, and this Act shall have effect in relation to it,—
 - (i) in the case of a strategy to be implemented by 1 council only, as if the regions of the councils are a single region, whose council that 1 council is; and
 - (ii) In the case of a strategy to be administered by 2 or more councils, as if each of those councils, and the principal officer of each of those councils, is, to the extent specified in the strategy, capable of exercising in the region of another of the councils that jointly proposed it the powers that would be exercisable under or in respect of the strategy if it were a strategy to be implemented by that council only; and
 - (d) except as provided in paragraphs (a) to (c),—
 - (i) this Act shall have effect; and
 - (ii) if made, the strategy shall be implemented,—
accordingly.
- (2) Nothing in subsection (1)(c) limits or affects the powers of a regional council in relation to the amendment or revocation of a regional pest management strategy.

Section 83(1): amended, on 26 November 1997, by section 53(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 83(1)(b): amended, on 26 November 1997, by section 53(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 83(1)(b): amended, on 26 November 1997, by section 53(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 83(1)(c): amended, on 26 November 1997, by section 53(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 83(1)(d)(ii): amended, on 26 November 1997, by section 53(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

National and regional pest management strategies

84 Management agencies

- (1) Every pest management strategy shall specify the management agency that is to have responsibility for implementation of the strategy.
- (2) A management agency May be a department, a regional council, a territorial authority, or a body corporate.
- (3) In determining who shall be the management agency for a pest management strategy, the Minister or regional council, as the case May be, shall take into consideration—
 - (a) the need for accountability to those persons who will provide the funds to implement the strategy; and
 - (b) the acceptability of the agency to those persons who will provide the funds to implement the strategy and those who will be subject to management provisions under the strategy; and
 - (c) the capacity of the agency, including the competence and expertise of its employees and contractors available to it, to manage the strategy.
- (4) If a management agency for a pest management strategy resigns by notice in writing to the Minister or regional council, or goes into liquidation, or ceases to exist, the Minister or regional council, as the case May be, May, without following the required procedure for amending the strategy, appoint some other qualified body to be the management agency for that strategy and shall publicly notify any such appointment.

85 Operational plans

- (1) The management agency for every pest management strategy shall—
 - (a) within 3 months after the strategy is made, prepare an operational plan for its implementation; and
 - (b) review the operational plan annually, and, if the agency thinks fit, amend it; and

- (c) prepare a report on the operational plan and its implementation not later than 5 months after the end of each financial year; and
 - (d) make copies of the operational plan and report on its implementation available to the public at cost.
- (2) The report required by subsection (1)(c) to be prepared in respect of an operational plan May form part of a regional council's annual report; but in that case—
 - (a) the council May make it available to the public by supplying only an extract from the annual report; and
 - (b) whatever form it May be made available in, the council shall charge the public no more than the cost of supplying such an extract.
- (3) The management agency for a pest management strategy shall supply copies of every operational plan prepared under subsection (1)(a), every operational plan amended under subsection (1)(b), and every report prepared under subsection (1)(c), to—
 - (a) the responsible Minister; and
 - (b) in the case of a national pest management strategy, the Minister who recommended the Order in Council making the pest management strategy; and
 - (c) in the case of a regional pest management strategy, every regional council that made it.
- (4) The Minister who recommended the making of the Order in Council making the strategy (in the case of a national pest management strategy) and the regional council that made the strategy (in the case of a regional pest management strategy) May,—
 - (a) at any time before being notified under subsection (3) of the preparation or amendment of an operational plan; or
 - (b) not later than 20 working days after being so notified,— give the management agency written notice that the Minister or the regional council (as the case May be) intends to disallow the plan or any part of the plan on the grounds that the Minister or the regional council believes that the plan or that part of the plan is inconsistent with the strategy.
- (5) Unless the Minister or regional council later gives the management agency concerned written notice that the Minister or

regional council is now prepared to allow the plan, or a part of a plan, in respect of which the Minister or the regional council gave the agency notice under subsection (4), the plan or part of a plan is of no effect.

Section 85(1)(a): amended, on 26 November 1997, by section 54(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 85(3)(b): substituted, on 26 November 1997, by section 54(2)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 85(3)(c): amended, on 26 November 1997, by section 54(2)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 85(4): substituted, on 26 November 1997, by section 54(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 85(5): substituted, on 26 November 1997, by section 54(4) of the Biosecurity Amendment Act 1997 (1997 No 89).

86 Compensation

- (1) A pest management strategy shall not provide for or permit the payment of compensation to a person—
 - (a) in respect of income derived from feral or wild organisms and adversely affected by the implementation of the strategy; or
 - (b) who fails to comply with the strategy; or
 - (c) in respect of loss suffered before the time when an inspector or authorised person establishes the presence of the pest on the premises of the person.
- (2) A pest management strategy May provide for or permit the payment of compensation to a person who at the time an organism is declared to be a pest is deriving income from domesticated organisms of the species whose feral or wild population is a pest and whose organisms are necessarily destroyed in the course of implementing the strategy.
- (3) Subject to subsection (4), where—
 - (a) any person owns domesticated organisms—
 - (i) that are infected by a pest to which a pest management strategy relates; or
 - (ii) that are pest agents in relation to such a pest; or
 - (iii) whose feral or wild population is such a pest; and
 - (b) any of those organisms are necessarily destroyed in the course of implementing the strategy; and

- (c) there are net proceeds available from the disposal of the organisms destroyed,—
subsection (4) applies to those net proceeds.
- (4) Net proceeds to which this subsection applies—
 - (a) if the pest management strategy concerned does not provide for the payment of compensation to the owner of organisms destroyed, shall be paid to the owner:
 - (b) if the compensation payable to the owner under the strategy is less than those proceeds, shall be paid to the owner instead of compensation:
 - (c) except as provided in paragraphs (a) and (b), shall be retained by the management agency concerned.
- (5) Any dispute concerning the eligibility for or amount of compensation shall be submitted to arbitration.

87 Crown obligations

- (1) A national pest management strategy shall impose obligations and costs on the Crown according to its tenor.
- (2) The Governor-General May, by Order in Council, approve the application of a regional pest management strategy or any part of it to the Crown; and—
 - (a) except to the extent that such an order so provides, the strategy shall not have the effect of imposing costs or obligations on the Crown; and
 - (b) where a strategy has been amended, it shall not have the effect of imposing costs or obligations on the Crown in addition to those previously provided for except to the extent that a further such order so provides.

88 Duration and review of pest management strategies

- (1) In this section, a reference to **the Minister** or **regional council** is a reference to the Minister or regional council, as the case May require, who notified the proposal for the pest management strategy.
- (2) A pest management strategy ceases to have effect—
 - (a) when the Minister or regional council declares by public notice that the purpose of the strategy has been achieved; or

- (b) after the expiry of the period specified in the strategy;
or
 - (c) when, following a review carried out in accordance with this section, the strategy is revoked,—
whichever event occurs first.
- (3) The Minister or a regional council May review a pest management strategy in accordance with this section at any time—
- (a) if the Minister or regional council has reason to believe that the strategy is failing to achieve its purposes; or
 - (b) if the Minister or regional council has reason to believe that relevant circumstances have changed to a significant extent since the strategy commenced; or
 - (c) if the strategy is due to expire in less than 12 months and—
 - (i) any person requests the Minister or regional council to notify a proposal to extend the duration of the strategy; or
 - (ii) the Minister or regional council proposes to extend the duration of the strategy—
- and May, following the review, amend or revoke the strategy in accordance with this section, or leave the strategy unchanged.
- (4) Where the review of a pest management strategy has commenced in accordance with this section and that strategy would otherwise expire in accordance with the terms of the strategy during the review, that strategy continues in force until amended or revoked on completion of the review, including the completion of any rights of appeal.
- (5) Where any person requests the Minister or regional council to notify a proposal to extend the duration of a strategy in accordance with subsection (3)(c)(i)—
- (a) the Minister or regional council May refuse to notify a proposal if the provisions of sections 59 or 75 (as the case May be) apply:
 - (b) the review May be processed only so far as the costs of the review are met by that person.
- (6) Where a pest management strategy has been in force for 5 years or more and it is more than 5 years since the strategy has been reviewed in accordance with this section, the Minister or regional council must proceed to review the strategy in

accordance with this section and May, following the review, amend or revoke the strategy in accordance with this section, or leave the strategy unchanged; and this review is a cost of the strategy.

- (7) A review of a national pest management strategy is commenced by a proposal notified in accordance with section 62 and the provisions of sections 63 to 70 apply to that review with any necessary modifications.
- (8) A review of a regional pest management strategy is commenced by a proposal notified in accordance with section 78 and the provisions of sections 79 to 83 apply to that review with any necessary modifications.
- (9) A proposal must state whether it is proposed that the strategy be amended or revoked or left unchanged, the proposed amendments, if any, in full, and the reasons for the proposed result of the review.
- (10) Every notification of a proposal for a review must—
 - (a) describe the proposed result of the review; and
 - (b) state where the proposal can be inspected; and
 - (c) include a statement that submissions on the proposal may be made in writing by any person to the Minister or regional council, as the case may be; and
 - (d) include a closing date for submissions (which is not earlier than 20 working days after public notice of the proposal is given); and
 - (e) include a statement that every submission should state whether the person making the submission wishes to be heard in respect of that submission if an inquiry is held.
- (11) On completion of the review the Governor-General may, by Order in Council made on the recommendation of a Minister, amend or revoke a national pest management strategy; and in that event the Minister must present a copy of the order, and where appropriate the strategy as amended, to the House of Representatives.
- (12) An order made under this section is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

- (13) On completion of the review a regional council May, by affixing the common seal of the council, amend or revoke a regional pest management strategy.
- (14) The regional council must provide 1 copy of each amended regional pest management strategy made by the regional council to every public library in its area.

Section 88: substituted, on 26 November 1997, by section 55 of the Biosecurity Amendment Act 1997 (1997 No 89).

88A Minor changes to strategy

- (1) Subject to subsection (4), a national pest management strategy May be amended from time to time, on the recommendation of the Minister, by the Governor-General by Order in Council without a review of the strategy under section 88.
- (2) An order made under this section is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.
- (3) Subject to subsection (4), a regional pest management strategy May be amended from time to time by a regional council by resolution without a review of the strategy in accordance with section 88.
- (4) A strategy May be amended in accordance with this section only if the Minister or regional council is satisfied that the amendment will not have any significant effect on the rights and obligations (including obligations to contribute to the costs of the strategy) of any person.
- (5) In this section, a reference to **the Minister** or **regional council** is a reference to the Minister or regional council, as the case May require, who notified the proposal for the pest management strategy.

Section 88A: inserted, on 26 November 1997, by section 56 of the Biosecurity Amendment Act 1997 (1997 No 89).

89 Strategy May relate to several pests

A pest management strategy May relate to 2 or more pests, and May provide for differing action to be taken in respect of different pests.

*Funding of strategies***90 Strategy May impose levy**

- (1) Subject to section 92, the Governor-General May, by Order in Council made on the recommendation of a Minister, impose a levy payable to a management agency for the purposes of wholly or partially funding the implementation of a pest management strategy.
- (2) Every order under subsection (1) shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

Section 90(1): amended, on 26 November 1997, by section 57 of the Biosecurity Amendment Act 1997 (1997 No 89).

91 Orders to be confirmed

- (1) Where in any year an order under section 90(1) has been made on or after 1 January and before 1 July, and—
 - (a) has not been revoked with effect on or before 1 July in the next year; and
 - (b) has not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of the Regulations (Disallowance) Act 1989,—
it shall be deemed to have been revoked with the close of 30 June in that next year unless it has been confirmed by an Act of Parliament passed on or before that day.
- (2) Where in any year an order under section 90(1) has been made after 30 June and on or before 31 December, and—
 - (a) has not been revoked with effect on or before 1 January in the year after the next year; and
 - (b) has not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—
it shall be deemed to have been revoked with the close of 31 December in the year after the year in which it was made, unless it has been confirmed by an Act of Parliament passed on or before that day.

92 Restrictions on levies

- (1) A Minister shall not recommend the making of an order under section 90(1) in respect of the management agency under any

pest management strategy unless the Minister is satisfied, on the basis of information and evidence that the Minister regards as satisfactory, that—

- (a) persons likely to be affected by the payment or collection of the levy have been consulted; and
- (b) persons opposing the levy's imposition have had a reasonable opportunity to put their views to the Minister; and
- (c) all views put to the Minister about the proposed imposition of the levy have been given due regard; and
- (d) the imposition of the levy is the most appropriate means of funding the pest management strategy, or the part of the strategy concerned, having regard to the extent to which the levy would target—
 - (i) persons likely to benefit from the implementation of the strategy; and
 - (ii) persons who by their activities or inaction contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the strategy; and
- (e) *[Repealed]*
- (f) *[Repealed]*
- (g) *[Repealed]*
- (h) if the levy is imposed on quantities of a commodity imported into New Zealand, its imposition will not constitute a non-tariff barrier and will not be contrary to New Zealand's international legal obligations; and
- (i) the management agency will have in place adequate systems of accounting to persons who will be responsible for paying the levy; and
- (j) all other relevant matters known to the Minister have been properly considered.

(2) *[Repealed]*

Section 92(1): amended, on 26 November 1997, by section 58 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 92(1)(d): substituted, on 8 July 2003, by section 9(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 92(1)(e): repealed, on 8 July 2003, by section 9(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 92(1)(f): repealed, on 8 July 2003, by section 9(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 92(1)(g): repealed, on 8 July 2003, by section 9(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 92(2): repealed, on 8 July 2003, by section 9(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

93 Contents of levy provisions in strategy

- (1) Every order under section 90 providing for the imposition of a levy payable to a management agency for the purposes of the strategy shall specify—
- (a) the persons responsible for paying the levy; and
 - (b) the basis on which the amount of levy is to be calculated or ascertained; and
 - (c) the persons (if any) to be exempt from paying the levy; and
 - (d) the persons responsible for collecting the levy from those responsible for paying it; and
 - (e) how the management agency is to spend the levy and consult with those persons responsible for paying the levy; and
 - (f) when and how the levy is to be paid; and
 - (g) whether the levy is to be paid at a single rate or 2 or more different rates; and if at different rates, the places, goods, or other things to which the different rates May apply; and
 - (h) in respect of each rate of levy, the maximum rate of levy; and
 - (ha) how the management agency is to set the actual rate or rates of levy; and
 - (i) how the rates of the levy and variations of rates are to be notified; and
 - (j) whether or not the persons collecting the levy are entitled to recover the cost of levy collection and the estimated amount.
- (2) An order under section 90 providing for the imposition of a levy May prescribe any of the following matters:
- (a) the making of returns to the management agency or some other person or body for the purpose of enabling

or assisting the determination of amounts of levy payable:

- (b) the circumstances in which, and conditions subject to which, persons may be allowed extensions of time for the payment of any levy:
- (c) the payment of additional or increased levy when amounts of levy otherwise payable have been paid late, paid in part, or not paid at all.
- (d) the holding of funds from which payments of levy are to be made, on trust in separate accounts.
- (e) a method of paying the levy that may be used by persons who object on conscientious or religious grounds to paying the levy in the manner otherwise provided in the order.

Section 93(1): amended, on 26 November 1997, by section 59(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 93(1)(g): substituted, on 26 November 1997, by section 59(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 93(1)(h): substituted, on 26 November 1997, by section 59(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 93(1)(ha): inserted, on 26 November 1997, by section 59(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 93(2): amended, on 26 November 1997, by section 59(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 93(2)(d): added, on 26 November 1997, by section 59(4) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 93(2)(e): added, on 8 July 2003, by section 10 of the Biosecurity Amendment Act 2003 (2003 No 38).

93A Trust accounts for levy money payable to management agency

- (1) Where an order under section 90 provides that funds from which payments of levy are made are to be held on trust in separate accounts, the persons responsible for collecting the levy must each keep a bank account (in this section referred to as a trust account) at a registered bank within the meaning of the Reserve Bank of New Zealand Act 1989; and
 - (a) ensure that the account is so named as to identify that it is a trust account kept by the person responsible for collecting the levy for the purposes of the order; and
 - (b) take all practicable steps to ensure that—

- (i) the account is used only for holding amounts required to be deposited by subsection (3); and
 - (ii) the balance in the account on any day is not less than the amount outstanding to the management agency on that day by the person responsible for collecting the levy.
- (2) For the purpose of this section, the amount outstanding to the management agency by a person responsible for collecting the levy on any day is the remainder obtained by subtracting—
 - (a) the total of all amounts of levy paid by that person to the management agency before that day calculated on the basis specified in the order under section 90; from
 - (b) the total of all amounts required by subsection (3) to be deposited in the trust account by the person responsible for collecting the levy not later than a day before that day.
- (3) Where a person is responsible for collecting a levy that person must deposit an amount equal to the levy calculated on the basis provided for in the order under section 90 in the trust account on the day or days specified in that order or on a day or days calculated in accordance with that order.
- (4) There is deemed to be held on trust for the management agency as levy money—
 - (a) the amount outstanding to the management agency by the person responsible for collecting the levy held in the trust account specified in the order under section 90; or
 - (b) where the amount held in the account is less than the amount outstanding, all the money in the account.
- (5) Money deemed by subsection (4) to be held on trust—
 - (a) is not available for the payment of; and
 - (b) is not liable to be attached or taken in execution at the instance of—
any creditor of the person responsible for collecting the levy (other than the management agency).
- (6) A person who ceases to be a person responsible for collecting a levy must continue to maintain the trust account referred to in this section until all the levy money payable to the management agency in respect of the period during which that person was responsible for collecting the levy has been paid.

- (7) Nothing in subsection (6) limits or affects any obligation or liability under this Act of any person who has become responsible for collecting the levy.

Section 93A: inserted, on 26 November 1997, by section 60 of the Biosecurity Amendment Act 1997 (1997 No 89).

94 Effect of levy

Where a levy is imposed under this Part, the following provisions apply:

- (a) every person responsible for paying the levy to the management agency shall do so; and
- (b) the management agency May recover the levy from any person responsible for paying it as a debt due in a court of competent jurisdiction.
- (c) the levy May be spent by the management agency only for those purposes set out in the levy order made under section 90.

Section 94(c): added, on 26 November 1997, by section 61 of the Biosecurity Amendment Act 1997 (1997 No 89).

95 Financial provisions

- (1) As soon as practicable after the end of a financial year during which a levy has been paid to a management agency under a pest management strategy, the management agency shall prepare in respect of the year—
- (a) statements (relating only to money paid to the agency as levy, and assets acquired or built up with or out of, or by virtue of spending, money paid under the levy) of the management agency's financial position at the end of the year; and
 - (b) statements of the management agency's receipt and expenditure of money paid as levy under the strategy; and
 - (c) all other statements necessary to show fully—
 - (i) the agency's financial position as required by this section; and
 - (ii) the financial results of all of the management agency's activities involving the use of the money paid to the agency as levy, or the use of

assets acquired or built up with or out of, or by virtue of spending, money paid as levy.

- (2) A management agency shall ensure that the statements required to be prepared by subsection (1) are audited within 5 months of the end of the year.

95A Orders to provide for statements, accounts, and records to be kept

For the purpose of ascertaining whether or not an order under section 90 is being complied with, the order must provide for—

- (a) the keeping of statements, accounts, and records of specified classes or descriptions by the management agency, persons responsible for collecting the levy, and persons responsible for paying the levy concerned, or any of them; and
- (b) any such statements, accounts, or records to be retained for a specified period.

Section 95A: inserted, on 26 November 1997, by section 62 of the Biosecurity Amendment Act 1997 (1997 No 89).

95B Compliance audits

- (1) While an order under section 90 is in force, the Minister who recommended its making may, at the request of the management agency, appoint 1 or more auditors to conduct an audit of the affairs of all or any of the following:
- (a) some or all of the persons responsible for collecting the levy;
- (b) some or all of the persons responsible for paying the levy.
- (2) While an order under section 90 is in force, the Minister who recommended its making may, if an arbitrator has been appointed to resolve a dispute, appoint an auditor to conduct an audit of all or any of the persons involved in the dispute.
- (3) No person is qualified for appointment as an auditor unless the person is a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996) or a member, fellow, or associate of an association of accountants constituted in some part of the Commonwealth

outside New Zealand, and for the time being approved for the purpose of the audit of company financial statements by the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Companies Act 1993, by notice published in the *Gazette*.

- (4) No officer or employee of any of the following persons or organisations may be appointed an auditor:
 - (a) any management agency;
 - (b) any person responsible for collecting the levy under the order concerned;
 - (c) any person responsible for paying the levy under the order concerned.
- (5) Every person appointed as an auditor is entitled to remuneration (paid by the management agency concerned) as provided in the relevant levy order.
- (6) For the purposes of sections 95C and 95D, **auditor** means a person for the time being appointed under subsection (1) or subsection (2).

Section 95B: inserted, on 26 November 1997, by section 62 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 95B(3): amended, on 7 July 2010, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

95C Purpose of compliance audits

- (1) The purpose of an audit conducted by an auditor appointed under section 95B(1) is (so far as is practicable) to ascertain in respect of the affairs of the persons whose affairs are to be audited, and report to the Minister responsible for the pest management strategy, on as many of the following matters as are relevant to those affairs:
 - (a) the extent to which persons responsible for paying the levy concerned are doing and have done so;
 - (b) the extent to which appropriate amounts of the levy concerned are being and have been paid;
 - (c) the extent to which appropriate amounts of the levy concerned are being and have been collected;

- (d) the extent to which appropriate amounts of the levy concerned are being and have been paid over to the management agency by persons collecting it:
 - (e) the extent to which statements, accounts, and records are being and have been kept:
 - (f) the extent to which statements, accounts, and records that are being and have been kept are being and have been properly kept.
- (2) The purpose of an audit conducted by an auditor appointed under section 95B(2) is (so far as is practicable) to ascertain in respect of the affairs of the parties to the dispute, and report to the arbitrator concerned, the Minister responsible for the pest management strategy, and those parties, on the matters of fact that are in dispute.

Section 95C: inserted, on 26 November 1997, by section 62 of the Biosecurity Amendment Act 1997 (1997 No 89).

95D Power of auditors to require production of statements, accounts, and records

- (1) For the purposes of conducting an audit, any auditor specifically or generally authorised in writing in that behalf by a Minister May from time to time require any person (being a management agency, a person responsible for collecting levies, a person responsible for paying levies, or any employee or officer of a management agency or of any such person) to produce for inspection within a reasonable period specified by the auditor any statements, accounts, and records in the possession or under the control of that person (being statements, accounts, or records that are required to be kept under this Act or by an order), and May take copies of or extracts from any such document.
- (2) Every authorisation under subsection (1) must contain—
- (a) a reference to this section; and
 - (b) the full name of the auditor; and
 - (c) a statement of the powers conferred on the auditor by subsection (1).
- (3) Subject to section 95C(2), except in respect of a prosecution under this Act or an action for the recovery of any amount due under this Act, no auditor who exercises powers under this

section May disclose to any other person (other than a Minister or a person authorised in that behalf by a Minister) any information obtained by the auditor as a result of the exercise of the power.

- (4) Notwithstanding subsection (3), the Official Information Act 1982 applies in respect of any information held by a Minister that was obtained pursuant to this section.

Section 95D: inserted, on 26 November 1997, by section 62 of the Biosecurity Amendment Act 1997 (1997 No 89).

96 Resolution of disputes

Every order under section 90 that provides for the imposition of a levy shall provide for—

- (a) the appointment of arbitrators to resolve disputes as to—
 - (i) whether or not any person is required to pay the levy; or
 - (ii) the amount of levy any person is required to pay; and
- (b) the procedures to be followed by arbitrators; and
- (c) remuneration of arbitrators; and
- (d) the payment of arbitration costs; and
- (e) a right of appeal to a District Court Judge against decisions of arbitrators; and
- (f) any other matters relating to the resolution of such disputes.

Section 96: amended, on 26 November 1997, by section 63(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 96(a): amended, on 26 November 1997, by section 63(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 96(b): amended, on 26 November 1997, by section 63(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 96(c): amended, on 26 November 1997, by section 63(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 96(d): amended, on 26 November 1997, by section 63(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 96(e): amended, on 26 November 1997, by section 63(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

97 Regional strategy to be funded by rates

- (1) To the extent only that a regional pest management strategy provides for that strategy to be wholly or partially funded from the proceeds of a rate, the strategy May be funded—
- (a) from the proceeds of a general rate set and assessed under the Local Government (Rating) Act 2002; or
 - (b) from the proceeds of a targeted rate set and assessed under that Act; or
 - (c) partly from the proceeds of the general rate and targeted rate.
- (2) In determining—
- (a) the extent (if any) to which it should fund a regional pest management strategy from the proceeds of a general rate; or
 - (b) the extent (if any) to which it should fund a regional pest management strategy from the proceeds of a targeted rate; or
 - (c) how to set and assess a works and services rate from the proceeds of which a regional pest management strategy is to be funded,—
- a regional council shall have regard to—
- (d) the extent to which the strategy or the part of the strategy to be funded from the proceeds of the rate relates to the interests of the occupiers of properties on which the rate is to be levied:
 - (e) the extent to which direct or indirect benefits from the expenditure of the rate (or that portion of the rate that is to be used to fund the strategy) are likely to accrue to the occupiers of the properties on which the rate is to be levied:
 - (f) the collective benefits from the strategy to the occupiers of the properties on which the rate is to be levied relative to the collective costs to them of the payment of the rate or that portion of the rate that is to be used to fund the strategy:
 - (g) the extent to which the characteristics of the properties on which the rate is to be levied and the uses to which they are put contribute to the presence or prevalence of the pest or pests concerned.

Section 97: substituted, on 1 July 1996, by section 2 of the Biosecurity Amendment Act 1996 (1996 No 23).

Section 97(1): substituted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 97(2)(b): amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 97(2)(c): amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

97A Approval of regional pest management strategy

[Repealed]

Section 97A: repealed, on 26 November 1997, by section 50(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

98 Contents of rating provisions in strategy

[Repealed]

Section 98: repealed, on 1 July 1996, by section 3(a) of the Biosecurity Amendment Act 1996 (1996 No 23).

99 Making and levying of rates

[Repealed]

Section 99: repealed, on 1 July 1996, by section 3(a) of the Biosecurity Amendment Act 1996 (1996 No 23).

99A Funding powers of regional councils for national pest management strategies

The powers of a regional council under the Local Government (Rating) Act 2002 to set and assess rates for the purpose of exercising any of the powers conferred on it by this Act in relation to national pest management strategies, or for the purpose of exercising any of the powers conferred on it by section 13(1)(f) or section 100 of this Act, are not limited or affected by—

- (a) section 97; or
- (b) section 6 of the Biosecurity Amendment Act 1994.

Section 99A: substituted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

99B Limitation on expenditure

A management agency must not spend funds to meet the costs of implementing a pest management strategy in contravention of the limitations, if any, imposed on the expenditure of funds by the strategy.

Section 99B: inserted, on 26 November 1997, by section 64 of the Biosecurity Amendment Act 1997 (1997 No 89).

*Management of unwanted organisms present on
small scale*

100 Regional council May without pest management strategy undertake small-scale management of unwanted organisms

- (1) If satisfied that—
- (a) an unwanted organism that is present in the region could cause serious adverse and unintended effects unless early action to control it is taken; and
 - (b) the organism can be eradicated or controlled effectively by small-scale measures within 3 years of commencing measures to control the organism, because—
 - (i) distribution of the organism is limited; and
 - (ii) technical means to control the organism are available; and
 - (c) the taking of all the measures (including the payment of any amount to a person for the purpose of compensating that person for a loss) is likely to cost less than an amount for the time being prescribed for the purposes of this section by the Governor-General by Order in Council; and
 - (d) the taking of those measures is unlikely to result in significant monetary loss to any person, other than a person who has contributed to the presence or spread of the organism by failing to comply with this Act or any pest management strategy,—

a regional council May, by giving such public notice as the regional council thinks fit having regard to the distribution of the unwanted organism and the persons likely to be affected by the measures taken, declare a small-scale management programme.

- (2) Every public notice declaring a small-scale management programme must specify—
 - (a) the unwanted organism that is the subject of the small-scale management programme; and
 - (b) the objectives of the small-scale management programme; and
 - (c) the powers to be exercised in accordance with section 55 to implement the small-scale management programme.
- (3) Before any powers to enter a place and carry out work are exercised in accordance with a small-scale management programme, a notice specifying the matters in subsection (2) and the work to be carried out on the place must be given to the occupier of the place not less than 5 working days before the work is carried out.
- (4) Subsection (3) does not apply where the regional council is satisfied that there are reasonable grounds to believe that the unwanted organism may spread beyond the place before the expiry of 5 working days.
- (5) A small-scale management programme ceases to have effect—
 - (a) when the regional council declares by public notice that the programme is failing to control the organism; or
 - (b) when the regional council declares by public notice that the organism has been eradicated or brought under control; or
 - (c) after the expiry of 5 years from the declaration of the programme.

Section 100: substituted, on 26 November 1997, by section 65 of the Biosecurity Amendment Act 1997 (1997 No 89).

100A Exercise of powers in respect of unwanted organism

- (1) The powers under Part 6 in relation to an unwanted organism may be exercised by—
 - (a) the Director-General;
 - (b) a chief technical officer appointed by the Director-General, or the chief executive of any department;
 - (c) an inspector or authorised person appointed under section 103(1)(a):

- (d) an inspector or authorised person appointed under section 103(2)(a).
- (2) Where a small-scale management programme has been declared under section 100 by a regional council in respect of an organism, that declaration does not prevent the exercise of Part 6 powers by the persons specified in subsection (1) in relation to that organism.

Section 100A: inserted, on 26 November 1997, by section 65 of the Biosecurity Amendment Act 1997 (1997 No 89).

Part 6

Administrative provisions

Appointments and delegations

101 Chief technical officers

- (1) The Director-General shall appoint chief technical officers for the purposes of this Act, being in each case a person with appropriate experience, technical competence, and qualifications relevant to the area of responsibilities allocated by the Director-General to that person.
- (2) The chief executive of a department recognised by the responsible Minister as having responsibilities for natural and physical resources or human health that could be adversely affected by an organism May appoint chief technical officers for the purposes of this Act, being in each case a person with appropriate experience, technical competence, and qualifications relevant to the area of responsibilities allocated by the chief executive to that person.
- (2A) A person appointed as a chief technical officer must be employed under the State Sector Act 1988.
- (3) A chief technical officer appointed under subsection (2) May exercise all the powers and perform all the functions and duties conferred on a chief technical officer by this Act except those powers conferred under sections 103(1), 116, 126, and 127.
- (4) The chief executive (including the Director-General) May not delegate to any person the power to appoint chief technical officers.

Compare: 1967 No 50 s 2

Section 101(2): substituted, on 26 November 1997, by section 66 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 101(2A): inserted, on 8 July 2003, by section 11 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 101(3): added, on 26 November 1997, by section 66 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 101(4): added, on 15 December 2005, by section 3 of the Biosecurity Amendment Act 2005 (2005 No 91).

102 Deputy chief technical officers

- (1) The Director-General and the chief executive of any other department May appoint, in respect of any chief technical officer appointed by the Director-General or that chief executive, 1 or more deputy chief technical officers who must in each case be a person with appropriate experience, technical competence, and qualifications relevant to the area of responsibilities allocated by the chief executive to that person.
- (1A) A person appointed as a deputy chief technical officer must be employed under the State Sector Act 1988.
- (2) Subject to the direction of the chief technical officer concerned, a deputy chief technical officer shall have and May exercise all of the powers, duties, and functions of a chief technical officer under this Act, including the power to appoint inspectors, authorised persons, and accredited persons.
- (3) The chief executive (including the Director-General) May not delegate to any person the power to appoint deputy chief technical officers.

Section 102(1): substituted, on 26 November 1997, by section 67 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 102(1A): inserted, on 8 July 2003, by section 12 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 102(2): amended, on 27 March 2008, by section 4 of the Biosecurity Amendment Act 2008 (2008 No 6).

Section 102(3): added, on 15 December 2005, by section 4 of the Biosecurity Amendment Act 2005 (2005 No 91).

103 Inspectors, authorised persons, and accredited persons

- (1) A chief technical officer appointed as such by the Director-General May from time to time—

- (a) appoint inspectors and authorised persons for the purposes of administering and enforcing the provisions of this Act:
 - (b) appoint authorised persons for the purposes of a national pest management strategy.
- (2) A chief technical officer appointed as such by the chief executive of a department May from time to time—
 - (a) appoint inspectors and authorised persons for the purposes of administering and enforcing all or any of the provisions of this Act except the provisions of Part 3:
 - (b) appoint authorised persons for the purposes of a national pest management strategy.
- (3) The principal officer of a region May from time to time appoint authorised persons for the purpose of exercising functions, powers, and duties under this Act in relation to any regional pest management strategy in force in the region or any small-scale management programme declared by the council for that region, or to ascertain the presence or distribution of any pest, pest agent, or unwanted organism.
- (4) A person shall not be appointed as an inspector or an authorised person unless the person has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to that person.
- (5) Inspectors or authorised persons appointed under this section May, but need not, be persons who are employed under the State Sector Act 1988 or by a regional council.
- (6) Inspectors and authorised persons May be authorised on their appointment to exercise all of the powers conferred on inspectors and authorised persons under this Act, or the regulations, or only such of those powers as are specified in their instruments of appointment or subsequently by written notice.
- (7) A chief technical officer or the principal officer of a region May accredit persons (to be known as accredited persons) for the purposes of performing particular functions—
 - (a) that are consequential upon the exercise of powers under this Act by an inspector or authorised person; or

- (b) that May be conferred on or May be performed by accredited persons under regulations made under this Act;—

but May not accredit a person for a particular function unless satisfied that the person has appropriate experience, technical competence, and qualifications relevant to the function.

- (8) Every inspector, authorised person, and accredited person shall in the performance of functions, powers, and duties for the purposes of this Act use his or her best endeavours to comply with and give effect to any relevant performance or technical standards.

Compare: 1967 No 50 s 5; 1967 No 147 s 100; 1968 No 13 s 5; 1969 No 53 ss 36, 39A; 1970 No 151 s 17; 1978 No 15 s 41; 1982 No 42 s 9

Section 103(1): substituted, on 26 November 1997, by section 68(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 103(2): substituted, on 26 November 1997, by section 68(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 103(3): amended, on 26 November 1997, by section 68(2)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 103(4): amended, on 8 July 2003, by section 13(1)(a) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 103(5): amended, on 8 July 2003, by section 13(1)(b) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 103(6): amended, on 26 November 1997, by section 68(2)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 103(7): substituted, on 8 July 2003, by section 13(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

104 Authorised persons to comply with instructions

- (1) All inspectors and authorised persons appointed by a chief technical officer must comply with any lawful direction or instruction given by a relevant chief technical officer in relation to the exercise and performance of the powers, duties, and functions conferred or imposed on inspectors or authorised persons by this Act.
- (2) All authorised persons appointed by a principal officer must comply with any lawful direction or instruction given by that officer in relation to the exercise and performance of the powers, duties, and functions conferred or imposed on authorised persons by this Act.

- (3) For the purposes of this section, **relevant chief technical officer** means any 1 or more of the chief technical officers appointed by the chief executive who appointed the chief technical officer responsible for the appointment of the inspector or authorised person.

Section 104: substituted, on 26 November 1997, by section 69 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 104(1): amended, on 8 July 2003, by section 14(a) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 104(1): amended, on 8 July 2003, by section 14(b) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 104(3): amended, on 8 July 2003, by section 14(c) of the Biosecurity Amendment Act 2003 (2003 No 38).

105 Delegation to authorised persons

- (1) A principal officer or chief technical officer May delegate to any person any of his or her functions, powers, or duties under this Act, except for—
- (a) this power of delegation; and
 - (b) the power to appoint inspectors and authorised persons.
- (2) Any delegation under this section May be made on such terms and conditions as the person delegating the power thinks fit, and May be revoked at any time by notice in writing to the delegate.
- (3) Except as provided in the instrument of delegation, every person to whom a function, power, or duty has been delegated under this section May, without confirmation by the person delegating the function, power, or duty, exercise or perform the function, power, or duty in the same manner and with the same effect as the person so delegating could himself or herself have exercised or performed it.
- (4) Every person authorised to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of proof to the contrary.
- (5) A delegation under this section does not affect the performance or exercise of any function, power, or duty by the person on whom the function, power, or duty is conferred or imposed.

Section 105(1): substituted, on 15 December 2005, by section 5 of the Biosecurity Amendment Act 2005 (2005 No 91).

Administrative powers

106 Power to require assistance

- (1) When it is necessary to do so, an inspector or authorised person May employ any person or request any person to assist that inspector or authorised person in carrying out the provisions of this Act, the regulations, and any directions or instructions issued by (as the case requires) the Director-General, a principal officer, or a chief technical officer under this Act.
- (2) A person employed or requested to assist an inspector or authorised person has the same powers as that inspector or authorised person while that person is under the immediate direction and control of that inspector or authorised person.

Compare: 1967 No 50 s 7; 1970 No 151 s 20

Section 106(2): added, on 26 November 1997, by section 71 of the Biosecurity Amendment Act 1997 (1997 No 89).

107 Power of inspectors to detain people

- (1) This subsection applies to—
 - (a) a person required by section 34(2) to go directly to a biosecurity control area and remain there for such reasonable time as an inspector May require to ascertain the presence of any risk goods, who—
 - (i) has disembarked from a craft on which the person arrived in New Zealand, and is not proceeding directly to a biosecurity control area; or
 - (ii) has gone to a biosecurity control area, but failed or refused to remain there for sufficient time to enable an inspector to ascertain the presence of any risk goods; and
 - (b) any person who is in a biosecurity control area.
- (2) An inspector who suspects on reasonable grounds that a person to whom subsection (1) applies May be in possession of any uncleared risk goods May detain the person for any period (not exceeding 4 hours) that is reasonable in the circumstances, for search by a constable; and—
 - (a) where the person is moving, May use such force as is reasonably necessary to stop the person:

- (b) where the person is not near a biosecurity control area, May use such force as is reasonably necessary to bring the person to the biosecurity control area:
 - (c) may use such force as is reasonably necessary to detain the person.
- (3) An inspector who suspects on reasonable grounds that any person is in possession of unauthorised goods May detain the person for any period (not exceeding 4 hours) that is reasonable in the circumstances, for search by a constable, using such force as is reasonably necessary to do so.

Section 107(1)(a): amended, on 26 November 1997, by section 72 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 107(1)(a)(i): amended, on 26 November 1997, by section 72 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 107(1)(a)(ii): amended, on 26 November 1997, by section 72 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 107(1)(b): amended, on 26 November 1997, by section 72 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 107(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 107(2)(b): amended, on 26 November 1997, by section 72 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 107(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

108 Power to search people

- (1) Subject to subsections (2) and (3), a constable who—
- (a) suspects on reasonable grounds that a person to whom section 107(1) applies May be in possession of any un-cleared risk goods; or
 - (b) has been told by an inspector, and believes, that the inspector suspects on reasonable grounds that a person—
 - (i) is a person to whom section 107(1) applies; and
 - (ii) may be in possession of any un-cleared risk goods; or
 - (c) suspects on reasonable grounds that any person is in possession of any unauthorised goods; or
 - (d) has been told by an inspector, and believes, that the inspector suspects on reasonable grounds that any person is in possession of any unauthorised goods,—

may search the person, and take possession of any uncleared risk goods or unauthorised goods found.

- (2) No constable shall search a person under the authority of subsection (1) without first—
 - (a) telling the person that he or she proposes to do so under the authority of that subsection; and
 - (b) telling the person that he or she is a constable; and
 - (c) if not in uniform, producing to the person evidence that he or she is a constable.
- (3) Nothing in subsection (1) authorises any constable to conduct an internal search of any part of a person's body.
- (4) A constable who takes possession of any goods under subsection (1) shall give them into the custody of an inspector.
- (5) Within 3 days of searching a person under the authority of subsection (1), a constable shall give the Commissioner of Police a written report on the search, and the circumstances in which it came to be conducted.

Section 108(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 108(1): amended, on 8 July 2003, by section 15 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 108(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 108(2)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 108(2)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 108(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 108(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 108(5): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

109 Power of inspection

- (1) Subject to subsections (2) and (3),—
 - (a) an inspector May, at any reasonable time or times, enter and inspect any place for the purpose of confirming the presence, former presence, or absence of—
 - (i) any pest, pest agent, or unwanted organism; or

- (ii) any unauthorised goods; or
 - (iii) any risk goods;
 - (iv) *[Repealed]*
 - (b) an inspector or authorised person May, at any reasonable time or times, enter and inspect any place for the purpose of—
 - (i) confirming the presence, former presence, or absence, of any pest, pest agent, or unwanted organism; or
 - (ii) managing or eradicating any pest, pest agent, or unwanted organism:
 - (c) an inspector or authorised person May, at any reasonable time or times, enter and inspect any place for the purpose of determining whether or not any person is complying with this Act, the regulations, or any pest management strategy.
- (2) An inspector or authorised person shall not enter and inspect a dwellinghouse, a marae, or a building associated with a marae, under subsection (1), except with—
- (a) the consent of an occupier; or
 - (b) a warrant issued under section 110.
- (3) Where a warrant under section 110 has been issued to an inspector or authorised person subject to conditions, the inspector or authorised person—
- (a) shall not enter the dwellinghouse, marae, or building associated with a marae, specified in the warrant otherwise than in accordance with the conditions; and
 - (b) shall in all other respects comply with the conditions.
- (4) Subject to subsection (3), an inspector or authorised person exercising the powers of entry and inspection conferred by subsection (1)(a) and (b) May use such force in going on, into, or under, the place concerned (whether by breaking down a door or otherwise), or in breaking open anything in the place, as is reasonable in the circumstances.

Section 109(1)(a): amended, on 26 November 1997, by section 73(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(1)(a): amended, on 26 November 1997, by section 73(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(1)(a)(iii): substituted, on 26 November 1997, by section 73(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(1)(a)(iv): repealed, on 26 November 1997, by section 73(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(1)(b): amended, on 26 November 1997, by section 73(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(1)(b): amended, on 26 November 1997, by section 73(d) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(1)(c): added, on 8 July 2003, by section 16(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 109(2): amended, on 26 November 1997, by section 73(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(2)(b): amended, on 26 November 1997, by section 73(e) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(3): amended, on 26 November 1997, by section 73(f) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 109(4): amended, on 8 July 2003, by section 16(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 109(4): amended, on 26 November 1997, by section 73(g) of the Biosecurity Amendment Act 1997 (1997 No 89).

110 Warrant to inspect dwellinghouse, marae, etc

- (1) A District Court Judge, a Justice of the Peace, a Community Magistrate, or a Registrar (not being a constable) May, on the written application of an inspector or authorised person made on oath, issue a warrant in the prescribed form authorising the inspector or authorised person to enter and inspect the dwellinghouse, marae, or building associated with a marae specified in the application.
- (2) Such a warrant May be issued only if the Judge, Justice, Magistrate, or Registrar is satisfied that there is reasonable ground for believing that—
 - (a) there is, on or in the place (being a dwellinghouse, marae, or building associated with a marae) specified in the application, any pest, pest agent, unwanted organism, unauthorised goods, or risk goods; or
 - (b) an activity that is regulated by or under the Act is being carried out on or in the place (being a dwellinghouse, marae, or building associated with a marae) specified in the application.
- (3) Such a warrant—

- (a) authorises the inspector or authorised person to enter and inspect the place concerned on 1 occasion within 14 days of the issue of the warrant; and
- (b) may be unconditional or subject to conditions.

Section 110: substituted, on 8 July 2003, by section 17 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 110(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

111 Entry in respect of offences

- (1) Subject to subsection (2), a District Court Judge, a Justice of the Peace, a Community Magistrate, or a Registrar (not being a constable), who, on the written application (made on oath) of an inspector or authorised person, is satisfied that there is reasonable ground for believing that there is on or in any place specified in the application any thing—
 - (a) in respect of which an offence against this Act punishable by imprisonment has been or May have been committed; or
 - (b) that is or May be evidence of the commission of an offence against this Act punishable by imprisonment; or
 - (c) that is intended to be used for the commission of an offence against this Act punishable by imprisonment,—may issue, unconditionally or subject to conditions, a warrant (in the prescribed form) authorising the entry and search of the place, at any reasonable time on 1 occasion within 14 days of the issue of the warrant.
- (2) The inspector or authorised person applying for a warrant under subsection (1)—
 - (a) shall first make reasonable inquiries as to whether any other applications for such a warrant (or a similar warrant under a provision of any enactment repealed by this Act) have been made in respect of the place concerned, and (if so) the following matters:
 - (i) the offence or offences alleged in respect of each application:
 - (ii) the result of each application; and

- (b) shall disclose on the application for the warrant the results of the inquiries.
- (3) Every warrant under subsection (1) shall be directed to and exercisable only by—
 - (a) a constable specified in the warrant; or
 - (b) an inspector or authorised person specified in the warrant, if accompanied by a constable; or
 - (c) any constable; or
 - (d) any inspector or authorised person, if accompanied by a constable.
- (4) Where a warrant under subsection (1) has been issued subject to conditions, the person exercising it—
 - (a) shall not enter or search the place specified in it otherwise than in accordance with the conditions; and
 - (b) shall in all other respects comply with the conditions.
- (5) Subject to subsection (4), a person exercising a warrant under subsection (1) May use such force in entering the place specified in it (whether by breaking down a door or otherwise), or in breaking open anything in the place, as is reasonable in the circumstances.

Section 111(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 111(1): amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 111(1): amended, on 26 November 1997, by section 75(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 111(1): amended, on 26 November 1997, by section 75(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 111(2): amended, on 26 November 1997, by section 75(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 111(3)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 111(3)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 111(3)(b): amended, on 26 November 1997, by section 75(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 111(3)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 111(3)(d): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 111(3)(d): amended, on 26 November 1997, by section 75(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

112 Duties on exercising power of entry

- (1) An inspector, authorised person, or constable, exercising a power of entry conferred by sections 30A, 109, 111, or 126—
 - (a) must have with him or her—
 - (i) evidence of his or her identity and appointment as an inspector, authorised person, or constable; and
 - (ii) in the case of entry under section 109 to a place that is a dwellinghouse, a marae, or a building associated with a marae, the warrant under section 110 or in the case of entry under section 111, the warrant authorising the entry; and
 - (b) must produce them to any person appearing to be in charge of the place entered—
 - (i) on entering the place (if such a person is then present); and
 - (ii) at any reasonable time thereafter, if asked to do so by the person; and
 - (c) if there is no person appearing to be in charge of the place at any time between the time of entry and the time the inspector, authorised person, or constable leaves the place, must, as soon as is practicable upon leaving the place, give an occupier or person in charge of the place written notice stating that the place has been entered, and specifying the following matters:
 - (i) the time and date of entry;
 - (ii) the circumstances and purpose of entry;
 - (iii) the name, office or position, and employer of every person entering;
 - (iv) if entry was under warrant, the principal contents of the warrant;
 - (v) every thing that has been seized, or that nothing has been seized, and every action taken, or that no action has been taken.
- (2) An inspector, authorised person, or constable exercising a power of entry conferred by sections 30A, 109, 111, or 126 in

relation to a marae or a building associated with a marae must have regard to the kawa of the marae.

Section 112: substituted, on 26 November 1997, by section 76 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 112(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 112(1)(a)(i): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 112(1)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 112(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

113 Power to record information

A person lawfully exercising the powers conferred by section 109 or section 111 May make or take copies of any document or any information recorded or stored in a computer or other device, and for that purpose May take possession of and remove any document, tape, or disc from the place where it is kept for such period of time as is reasonable in the circumstances, or May require a person to reproduce, or assist the inspector or authorised person to reproduce, in usable form information recorded or stored in a computer or other device.

114 General powers

An inspector or authorised person who has lawfully entered a place under section 109 or section 111 May do on or in respect of that place all such acts and things as appear to the inspector or authorised person to be necessary or expedient for eradicating or managing a pest or unwanted organism on the place or preventing the spread of a pest or unwanted organism from or to the place.

Section 114: substituted, on 26 November 1997, by section 77 of the Biosecurity Amendment Act 1997 (1997 No 89).

114A Application of articles or substances from aircraft

- (1) A chief technical officer or principal officer May, by notice in writing, give approval for a specified person or any specified class of persons to apply any article or substance to any place from the airspace above that place for the purposes of—

- (a) eradicating or managing any pest or unwanted organism; or
 - (b) ascertaining the presence or absence of any pest or unwanted organism.
- (2) An approval given under subsection (1) May be given subject to any conditions that the chief technical officer or principal officer thinks fit.
- (3) Any person specified in an approval or person of the class specified in an approval given in accordance with subsection (1) May, after public notice has been given in accordance with this section, act in accordance with that approval.
- (4) Nothing in this section derogates from any provision of the Civil Aviation Act 1990 or any rule or regulation made under that Act.
- (5) Subject to subsection (6), public notice for the purposes of this section is given by publishing, at least 2 weeks before the intended date when the article or substance is to be applied, in a newspaper circulating in the area in which the place is situated, a notice specifying the following information:
 - (a) the date on which, or as soon as practicable after which, it is intended to apply the article or substance:
 - (b) the article or substance to be applied:
 - (c) a clear description by reference to its boundaries (including districts, roads, and other commonly known features) of the place to which the article or substance is to be applied:
 - (d) the name and address of the person or body responsible for the application of the article or substance.
- (6) If the chief technical officer is satisfied that compliance with the 2 weeks' notice requirement under subsection (5) would significantly prejudice the chances of eradicating or containing an organism of a kind described in subsection (7),—
 - (a) the chief technical officer must notify the responsible Minister of that fact, and, unless the urgency of the situation makes it impracticable, obtain the approval of the Minister to a forgoing of the 2 weeks' notice requirement; and
 - (b) the 2 weeks' notice requirement does not then apply, but the chief technical officer must give as much public

- notice of the matters specified in subsection (5)(a) to (d) as is consistent with avoiding prejudice to the chances of eradicating or containing the organism; and
- (c) the public notice May be given by whatever means the chief technical officer considers effective and appropriate to inform the persons who May be affected (including by radio or television announcement).
- (7) The kinds of organism in respect of which shorter notification May be given under subsection (6) are organisms that—
- (a) are not established or not known to be established in New Zealand, or are established in New Zealand but restricted to certain parts of New Zealand; and
- (b) have the potential to cause all or any of the following if they become established in New Zealand, or established throughout New Zealand:
- (i) significant economic loss;
- (ii) significant adverse effects on human health;
- (iii) significant environmental loss.

Section 114A: inserted, on 26 November 1997, by section 78 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 114A(5): amended, on 8 July 2003, by section 18(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 114A(6): added, on 8 July 2003, by section 18(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 114A(7): added, on 8 July 2003, by section 18(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

115 Use of dogs and devices

Any person lawfully exercising a power under any of sections 109, 111, 113, 114, or 120 May—

- (a) be accompanied by a dog; or
- (b) bring and use any thing,—

to assist in the exercise of the power.

Section 115(b): amended, on 26 November 1997, by section 79 of the Biosecurity Amendment Act 1997 (1997 No 89).

116 Power to seize and dispose of unauthorised goods

- (1) Any inspector lawfully exercising a power under any of sections 19(2), 30A, 31, 34(5), 109, 111, 113, 114, or 120 May seize—

- (a) any unauthorised goods:
 - (b) any goods where an inspector has reasonable grounds to suspect—
 - (i) those goods are in contact with, or have been in contact with, unauthorised goods; and
 - (ii) pests or unwanted organisms could have been transmitted from the unauthorised goods to those goods.
- (2) A chief technical officer May, either generally or in any particular case, give any reasonable directions as to the disposal of, the treatment of, or any other dealing with, any goods seized in accordance with subsection (1); and any person May dispose of, treat, or otherwise deal with any such goods accordingly.
- (3) A chief technical officer May offer the importer or owner of any goods imported into New Zealand and seized under subsection (1) the option of exporting or returning the goods to their place of origin provided that the importer or owner undertakes the payment of any costs associated with the export or return of the goods.
- (4) A chief technical officer May permit goods seized under this section to be held in the custody of the Director-General for so long as is necessary for the importer to obtain a biosecurity clearance and in such a case the estimated costs and expenses of the custody and maintenance of the goods must be paid in advance to the Director-General.
- (5) If an organism seized in accordance with subsection (1) is an endangered species, as defined in section 3 of the Trade in Endangered Species Act 1989, a chief technical officer must, after consulting the Director-General of Conservation concerning the disposal of the organism, dispose of it as he or she thinks fit.
- (6) In exercising the powers of a chief technical officer in accordance with subsections (2), (3), and (4), a chief technical officer must, so far as is practicable while achieving the purpose of Part 3, act in a manner that is consistent with avoiding or minimising loss to the importer or owner of goods seized in accordance with subsection (1).

Section 116: substituted, on 26 November 1997, by section 80 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 116(1): amended, on 20 September 2007, by section 5 of the Biosecurity Amendment Act 2007 (2007 No 41).

117 Expenses and compensation

- (1) All costs and expenses attendant upon the custody and disposal of goods seized under section 116 and forfeited to the Crown shall be borne by the owner or any other person in possession of the goods immediately before seizure; and shall be recoverable from that person as a debt due to the Crown.
- (2) If satisfied that the person in possession of any goods seized under section 116 was not aware that they were unauthorised goods, the Director-General May, at the Director-General's absolute discretion waive or reduce the amount otherwise recoverable in respect of those goods under subsection (1).

118 Power to seize evidence

- (1) Any person exercising the power of search conferred by section 111,—
 - (a) may search for, and if it is found seize, any thing that is, or is a thing of a kind or description, specified in the warrant concerned; and
 - (b) while at the place specified in the warrant, May seize any other thing that the person believes on reasonable grounds to be a thing in respect of which the person could have obtained a warrant under that section.
- (2) Section 199 of the Summary Proceedings Act 1957 shall, with any necessary modifications, apply to any thing seized under subsection (1).

119 Power to seize abandoned goods

- (1) An inspector or authorised person May seize and May treat or dispose of any restricted goods (where necessary disabling or killing them first), or any abandoned organism, or any abandoned conveyance, craft, or goods that are reasonably suspected by the inspector or authorised person of containing or harbouring any pest or unwanted organism.

- (2) An inspector or authorised person is entitled to regard as abandoned any organism or goods that appear to the inspector or authorised person, after making such inquiries as are reasonable in the circumstances, to have been abandoned or have no apparent or readily identifiable owner.

Compare: 1969 No 53 s 10

120 Power to intercept baggage, etc

Any inspector or authorised person who believes on reasonable grounds that—

- (a) any of sections 25, 130, 131, 132, or 134(1) has been contravened in respect of any risk goods; and
- (b) any bag, baggage, box, container, conveyance, craft, mail, parcel, receptacle, or thing contains, or is likely to contain, those risk goods (or any of them or any part of them),—

may open it (using such force as is reasonable in the circumstances) and inspect the contents for the presence of risk goods; and May stop any conveyance or craft for the purpose.

Compare: 1967 No 50 s 19

121 Power to examine organisms

- (1) An inspector or authorised person May, for the purposes of—

- (a) taxonomical identification of an organism; or
- (b) diagnosing a disease; or
- (c) ascertaining the presence or absence of any pest or unwanted organism; or
- (d) making an assessment of measures taken to manage or eradicate any pest or unwanted organism,—

examine, inspect, apply tests to, destroy, sample, autopsy, section, take specimens or samples of, or apply any other treatment or procedure to organisms or organic material, or any goods or material that the inspector or authorised person believes on reasonable grounds May harbour pests or unwanted organisms.

- (2) Every owner or person in control of any organism, and every occupier of a place in which any organism is present, shall, whenever required by an inspector or authorised person by

written notice to do so, submit the organism specified in the notice for the purposes of subsection (1).

- (3) Where an inspector or authorised person has under subsection (2) required the submission of any organism an inspector or authorised person May direct the owner or person in control of the organism, or the occupier of any place where it is present, to bring it—
- (a) in a specified manner:
 - (b) to a specified place:
 - (c) on a specified day:
 - (d) for a specified purpose.
- (4) If the owner or person in control of any animal or the occupier of any place in which an animal is present fails to comply with a direction under this section, an inspector or authorised person May—
- (a) undertake any of the actions specified in subsection (1); and
 - (b) in the case of any animal or animals,—
 - (i) to the extent that it is necessary to enable those actions to be taken (or taken efficiently), capture, pen, or muster it or them or any of them; or
 - (ii) if for any reason it is not practicable to capture, pen, or muster it or them or any of them, kill or destroy it or them or any of them if the inspector or authorised person believes on reasonable grounds that it is necessary to do so for the purpose of controlling pests or unwanted organisms.
- (5) Costs and expenses reasonably incurred by an inspector or authorised person in taking any action under subsection (4) May be recovered as a debt due from the person who failed to comply with the direction concerned.

Compare: 1967 No 50 ss 6, 34; 1978 No 15 s 46; 1982 No 42 s 67

Section 121(1): substituted, on 8 July 2003, by section 19(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 121(4)(b)(ii): amended, on 8 July 2003, by section 19(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 121(5): added, on 8 July 2003, by section 19(3) of the Biosecurity Amendment Act 2003 (2003 No 38).

121A Power to apply article or substance to place

- (1) An inspector or authorised person May, for the purpose of ascertaining the presence or absence of any pest or unwanted organism, or of assessing measures taken to manage or eradicate any pest or unwanted organism, bring onto and leave for a reasonable time at any place, any article or substance.
- (2) An article or substance brought onto or left at any place must have a volume no greater than 1 cubic metre unless the article or substance is specified in regulations made under this Act.
- (3) No person May, without reasonable excuse, move or interfere with any article or substance left at a place by an inspector or authorised person pursuant to this section.

Section 121A: inserted, on 26 November 1997, by section 81 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 121A(1): amended, on 8 July 2003, by section 20 of the Biosecurity Amendment Act 2003 (2003 No 38).

121B Prohibition or control of certain tests

- (1) The Governor-General May by Order in Council, prohibit any test, or control the use of any test by making that test subject to conditions imposed by a chief technical officer if the prohibition or control of that test is necessary for—
 - (a) the effective management or eradication of any pest or unwanted organism; or
 - (b) the provision of assurances and certificates in relation to exports of organisms and their products.
- (2) No person May—
 - (a) carry out any test prohibited by an Order in Council made under this section;
 - (b) carry out any test controlled by an Order in Council made under this section other than in accordance with the conditions imposed by a chief technical officer.
- (3) No person May act in a manner that the person knows or suspects is likely to alter a response to a controlled test.
- (4) For the purposes of this section **a test** means a test carried out for any of the purposes specified in section 121(1).
- (5) An order made under this section is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

Section 121B: inserted, on 26 November 1997, by section 82 of the Biosecurity Amendment Act 1997 (1997 No 89).

122 Power to give directions

- (1) An inspector or authorised person May, whenever that inspector or authorised person considers it to be necessary, direct the occupier of any place or the owner or person in charge of any organism or risk goods—
 - (a) to treat any goods, water, place, equipment, fitting, or other thing that May be contaminated with pests or unwanted organisms; or
 - (b) to destroy any pest or unwanted organism or any organism or organic material or thing that there are reasonable grounds to believe harbours a pest or unwanted organism; or
 - (c) to take steps to prevent the spread of any pest or unwanted organism.
- (2) An inspector or authorised person May, by notice in writing, direct any person who has failed to comply with a rule included in a pest management strategy to comply with that rule.

Section 122: substituted, on 26 November 1997, by section 83 of the Biosecurity Amendment Act 1997 (1997 No 89).

123 Power to vaccinate, etc

An inspector or authorised person May apply any procedure to organisms (such as medication or vaccination) therapeutically or prophylactically for the purposes of this Act.

Compare: 1967 No 50 s 6

124 Power to destroy organism on non-payment of fees

An inspector May destroy or otherwise dispose of an organism that is being lawfully held by the Crown if any treatment fees, quarantine isolation fees, or containment fees due in respect of that organism have not been paid within 20 working days of those fees being demanded from the owner or person who was in apparent control of that organism prior to it passing into the control of the Crown.

125 Transitional facility direction

An inspector May by notice in writing direct that any risk goods specified in the notice shall be placed in a transitional facility for such period as is specified in the notice or until the occurrence of an event specified in the notice.

Compare: 1967 No 50 s 6

Section 125 heading: amended, on 26 November 1997, by section 84 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 125: amended, on 26 November 1997, by section 84 of the Biosecurity Amendment Act 1997 (1997 No 89).

126 Inspection of and intervention in transitional facilities and containment facilities

- (1) An inspector authorised in writing by the Director-General May at any reasonable time enter a transitional facility or a containment facility for the purpose of confirming that the facility complies with the standards set in accordance with section 39 or that the operator is approved as the operator under section 40 for that facility, and the provisions of section 112 apply to any such entry.
- (2) An inspector May exercise a power described in subsection (3) if (and only if) the inspector has reasonable grounds to suspect that—
 - (a) a transitional facility or containment facility does not comply with the standards approved for a facility of that type; or
 - (b) the operator of a transitional facility or containment facility is not complying with the standards approved for operating that facility; or
 - (c) the terms (including any controls imposed under section 45(2) of the Hazardous Substances and New Organisms Act 1996) upon which an organism is confined to the facility are not being complied with.
- (3) An inspector May—
 - (a) give a direction in writing to the operator of the transitional facility or containment facility specifying the suspected failure to comply or unsatisfactory circumstances, stating what the operator is required to do to

- remedy the situation and specifying the time within which the direction must be complied with; or
- (b) if a chief technical officer considers that emergency or other special circumstances so require, intervene summarily in the management or operation of the transitional facility or containment facility to ensure—
 - (i) compliance with the standards for that facility; or
 - (ii) compliance with the terms (including any controls imposed under section 45(2) of the Hazardous Substances and New Organisms Act 1996) upon which the organism is confined to the facility.
- (4) A direction given under this section May be cancelled or varied by a subsequent notice in writing.
 - (5) If a direction given under this section is not complied with within the time specified in the notice, an inspector May take such action as the inspector considers necessary to give effect to the requirements of the notice.
 - (6) The costs and expenses reasonably incurred by an inspector in intervening summarily under subsection (3) or an inspector taking action under subsection (5) May be recovered from the operator of the transitional facility or containment facility as a debt due to the Crown.

Section 126: substituted, on 26 November 1997, by section 85 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 126(2)(c): amended, on 8 July 2003, by section 21(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 126(3)(b)(ii): amended, on 8 July 2003, by section 21(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

127 Destruction of imported organisms

- (1) A chief technical officer May by notice in writing given to the operator of a transitional facility direct that any imported organism that has been placed in that facility, and any organism or goods at any time associated with that organism, shall be destroyed or treated or subjected to a specified procedure if the chief technical officer believes on reasonable grounds—
 - (a) that the imported organism is affected by or harbours a pest or unwanted organism of a kind or to a degree that,

- even when the organism is in the transitional facility, constitutes an unacceptable risk to the health of organisms in New Zealand; or
- (b) the organism is, is affected by, or harbours, a pest under active control in New Zealand; or
 - (c) that the health of the organism has not been and cannot be satisfactorily established within a reasonable time.
- (2) If the operator of a transitional facility fails to comply with a direction under this section, an inspector May seize and destroy the organism concerned.
- (3) *[Repealed]*
- (4) The costs and expenses of seizure and destruction of an organism under subsection (2) shall be the responsibility of the owner of the organism and May be recovered as a debt due to the Crown.

Compare: 1967 No 50 s 13

Section 127(1): amended, on 26 November 1997, by section 86(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 127(1): amended, on 26 November 1997, by section 86(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 127(1)(a): amended, on 26 November 1997, by section 86(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 127(2): amended, on 26 November 1997, by section 86(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 127(3): repealed, on 1 October 1998, by section 106(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

128 Power to act on default

- (1) Where a notice given to a person under this Act lawfully directing or requiring that person to carry out specified works or measures, or take some other specified action, has not been complied with on the expiry of the time allowed by the notice for compliance, or, if no such time was specified in the notice, within a reasonable time, a chief technical officer, a principal officer or a management agency May cause such works or measures to be carried out or action to be taken as is reasonably necessary and appropriate for achieving the purposes of the notice.
- (2) Where specified works or measures are to be carried out on Maori land, any notice given to the owners shall be given in

accordance with section 181 of Te Ture Whenua Maori Act 1993.

- (3) The chief technical officer, a principal officer or management agency May recover the costs and expenses reasonably incurred under this section as a debt due from the person to whom the notice was given.

Compare: 1967 No 50 s 8; 1967 No 147 s 104; 1968 No 13 s 9; 1969 No 53 s 45; 1970 No 151 s 11; 1978 No 15 s 57; 1982 No 42 ss 68, 74

Section 128(1): amended, on 26 November 1997, by section 87(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 128(3): amended, on 26 November 1997, by section 87(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

129 Liens

All costs recoverable by a chief technical officer, principal officer, or management agency under section 128 shall be a charge (in this section referred to as the recovery charge) against the land concerned; and—

- (a) subject to paragraph (b), the recovery charge shall have priority over all existing or later mortgages, charges, and incumbrances over the land, however they May have been created (including mortgages, charges, and incumbrances in favour of the Crown):
- (b) if the land is or becomes subject to some other charge (being a charge created by an enactment other than this section), the charges shall rank equally unless the enactment provides that the other charge is to be deferred to the recovery charge.

Section 129: amended, on 26 November 1997, by section 88 of the Biosecurity Amendment Act 1997 (1997 No 89).

Place and area controls

130 Declaration of restricted place

- (1) If an inspector or authorised person believes or suspects on reasonable grounds that a pest or unwanted organism is or has been in a place, the inspector or authorised person May, by notice given in accordance with subsections (2) and (3), declare that place and any other place in the neighbourhood the

- inspector or authorised person considers necessary to be a restricted place.
- (2) A notice shall be in a form approved for the purpose by a chief technical officer, a principal officer, or a management agency.
- (3) A notice shall be given by serving a copy on the occupier of each place included in the area of the restricted place except that—
- (a) a copy need not be served on the occupier of any part of the place if the inspector or authorised person cannot with reasonable diligence discover an occupier of that place who can be found quickly; and
 - (b) notice May be given publicly if it is impractical to give notice in accordance with the preceding provisions of this subsection.
- (4) While a notice under subsection (1) is in force, no person shall, without the permission of an inspector or authorised person,—
- (a) remove—
 - (i) any organism, organic material, or risk goods; or
 - (ii) any other goods that May have been in contact with any organism, organic material, or risk goods,—from the place to which the notice relates; or
 - (b) introduce any goods of any kind to the place.
- (4A) Where the agent or employee of an occupier to whom a notice has been given under subsection (1) acts in breach of subsection (4), that action is deemed to be an action of the occupier unless the occupier had given a copy of the notice under subsection (1) to that agent or employee before the agent or employee breached subsection (4).
- (5) An inspector or authorised person May, at any time while the declaration of a restricted place is in force, direct that specified organisms, risk goods, or other goods in the restricted place must be—
- (a) isolated, confined, or stored in such manner as the inspector or authorised person directs:
 - (b) identified in a manner specified in the direction, or with an identification applied by the inspector or authorised person.

Compare: 1967 No 50 s 29

Section 130(1): substituted, on 26 November 1997, by section 89(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 130(2): amended, on 26 November 1997, by section 89(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 130(4A): inserted, on 26 November 1997, by section 89(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 130(5): substituted, on 8 July 2003, by section 22 of the Biosecurity Amendment Act 2003 (2003 No 38).

131 Declaration of controlled area

- (1) The purpose of this section is to enable the institution of movement and other controls in order to—
 - (a) enable the limitation of the spread of any pest or unwanted organism; or
 - (b) minimise the damage caused by any pest or unwanted organism; or
 - (c) protect any area from the incursion of pests or unwanted organisms; or
 - (d) facilitate the access of New Zealand products to overseas markets; or
 - (e) monitor risks associated with the movement of organisms from parts of New Zealand the pest status of which is unknown.
- (2) A chief technical officer or a management agency May, by public notice in a newspaper, or by radio or television announcement, or otherwise as the chief technical officer or management agency considers effective and appropriate, declare any specified area (which May be the whole or any specified part or parts of New Zealand) to be an area that is controlled for the purposes of this section.
- (3) At any time while the declaration of a controlled area is in force, the chief technical officer or management agency, as the case May require, May, by public notice in a newspaper, or by radio or television announcement, or otherwise as the chief technical officer or management agency considers effective and appropriate, give notice of either or both of the following matters:
 - (a) the movement into, within, or from the controlled area of such organisms, organic material, risk goods or other goods as are specified in the notice is restricted, regu-

- lated, or prohibited in the manner, to the extent and subject to the conditions specified in the notice:
- (b) the organisms, organic material, risk goods, or other goods within the controlled area that are specified in the notice, must be subject to such treatment and procedures as are specified in the notice.
- (4) A notice given under subsection (3) May be revoked or May from time to time be replaced or amended.
- Compare: 1967 No 50 ss 13A, 29; 1969 No 53 ss 13, 16, 30, 31; 1982 No 42 s 79
- Section 131(2): amended, on 8 July 2003, by section 23 of the Biosecurity Amendment Act 2003 (2003 No 38).
- Section 131(3)(b): substituted, on 26 November 1997, by section 90 of the Biosecurity Amendment Act 1997 (1997 No 89).

132 Road blocks, cordons, checkpoints, etc

- (1) In this section, **control** means a road block, a cordon, or a checkpoint.
- (2) A District Court Judge May, on the written application (made on oath) of a chief technical officer, issue a warrant authorising the establishment of controls in relation to a place or area, if the District Court Judge is satisfied that—
 - (a) attempts are being made to manage or eradicate a pest or unwanted organism; and
 - (b) there are reasonable grounds to suspect that the pest or unwanted organism is present within the place or area; and
 - (c) the pest or unwanted organism is not known to be present in the places or areas that are adjacent to the place or area; and
 - (d) it is necessary to establish controls in order to—
 - (i) prevent or limit the risk of the pest or unwanted organism spreading beyond the place or area if any spread of the organism would significantly affect the likely success of the management or eradication of the pest or unwanted organism; or
 - (ii) otherwise avoid significant prejudice to the management or eradication of the pest or unwanted organism.

- (3) The warrant shall be issued for a period of not more than 7 days; but May from time to time be renewed (in the form in which it was issued or in any amended form) for a period not exceeding 7 days.
- (4) The warrant May be issued in writing or orally; but—
 - (a) if it is issued in writing, it shall specify—
 - (i) the pest or organism concerned; and
 - (ii) the approximate location of every cordon whose establishment it authorises; and
 - (iii) the location (either by way of individual descriptions or by way of descriptions of places of any class or classes) of every other control whose establishment it authorises; and
 - (iv) the period for which it is granted; and
 - (v) the grounds on which it was issued; and
 - (b) if it is issued orally, the Judge shall cause to be made and kept a written record of the matters specified in subparagraphs (i) to (v) of paragraph (a).
- (5) Subsection (4) shall, with any necessary modifications, apply to the renewal of a warrant as if it is the issue of a warrant.
- (6) Any constable May establish or operate a control whose establishment is authorised by a warrant under this section.
- (7) A constable operating a control whose establishment is authorised by a warrant under this section May—
 - (a) stop any vehicle, conveyance, or craft, that is at or near the control; or
 - (b) detain any vehicle, conveyance, or craft, that is stopped at or near the control, either at the place where it is stopped or at any other convenient place nearby,—for the purpose of exercising the powers conferred by subsection (8).
- (8) A constable who has stopped or detained a vehicle, conveyance, or craft under subsection (7) May—
 - (a) enter and search that vehicle, conveyance, or craft; and
 - (b) open any box or receptacle in that vehicle, conveyance, or craft; and
 - (c) seize—

- (i) any organism that is the pest or unwanted organism in respect of which the warrant concerned was issued; or
 - (ii) any thing that May harbour or contain the pest or unwanted organism in respect of which the warrant concerned was issued; or
 - (iii) any thing that, if moved beyond the control, would be moved in breach of section 130(4); or
 - (iv) any thing that, if moved beyond the control, would be moved in breach of section 134(1)(b).
- (8A) A chief technical officer May, either generally or in any particular case, give any reasonable directions as to the disposal of, the treatment of, or any other dealing with, any organism or other thing seized in accordance with subsection (8); and any person May dispose of, treat, or otherwise deal with any such organism or thing accordingly.
- (8B) In exercising the powers of a chief technical officer in accordance with subsection (8A), a chief technical officer must, so far as is practicable without significantly prejudicing the successful management or eradication of the pest or unwanted organism concerned, act in a manner that is consistent with avoiding or minimising loss to the owner or person in charge of the organism or other thing that was seized.
- (9) No person shall,—
- (a) while in charge of any vehicle or craft, that is at or near a control, without reasonable excuse fail or refuse to stop it when a constable in uniform asks him or her to stop it, or tries to stop it; or
 - (b) while in charge of any vehicle or craft lawfully stopped or detained under this section, without reasonable excuse move it from the place where it is stopped or detained without the permission of a constable.

Section 132(2): substituted, on 26 November 1997, by section 91(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 132(6): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 132(7): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 132(7): amended, on 26 November 1997, by section 91(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 132(8): substituted, on 26 November 1997, by section 91(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 132(8): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 132(8A): inserted, on 26 November 1997, by section 91(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 132(8B): inserted, on 26 November 1997, by section 91(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 132(9)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 132(9)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

133 Duration of place and area declarations

A declaration of a restricted place or a controlled area shall remain in force until it is revoked by a notice of revocation given substantially in the same manner as the declaration of the area concerned was notified.

Compare: 1967 No 50 ss 13A, 29

134 Enforcement of area controls

- (1) No person shall—
 - (a) resist or obstruct the performance of, or fail to comply with, any direction of a constable who is acting in the performance of duties under section 132; or
 - (b) move, or direct or arrange the movement of, any organism, organic material, risk goods, or other goods in contravention of a notice under section 131(3), unless permitted by an inspector or authorised person.
- (1A) Every owner or person in control of an organism, organic material, risk goods, or other goods in respect of which treatment and procedures are specified by a notice under section 131(3) must carry out the treatment and procedures specified in the notice.
- (2) All organisms, organic material, risk goods, or other goods that are removed or moved in contravention of subsection (1) may be seized by an inspector or authorised person and destroyed, treated, or otherwise dealt with, if it is reasonable in the circumstances to do so.

- (3) A Minister May direct that organisms, organic material, risk goods, or other goods that were removed or moved in contravention of subsection (1) and have been seized shall be forfeited to a management agency and destroyed, sold, or otherwise disposed of as that agency May direct.

Compare: 1967 No 50 ss 13A, 29

Section 134(1)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 134(1)(b): substituted, on 8 July 2003, by section 24 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 134(1A): inserted, on 26 November 1997, by section 92(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 134(2): amended, on 26 November 1997, by section 92(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 134(3): amended, on 26 November 1997, by section 92(3)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 134(3): amended, on 26 November 1997, by section 92(3)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Recovery of costs

135 Options for cost recovery

- (1) The Director-General, every other chief executive, and every management agency, (hereafter in this section and in section 136 referred to as a recovering authority) shall take all reasonable steps to ensure that so much of the costs of administering this Act, including costs incurred as the management agency of a pest management strategy, as are not provided for by money appropriated by Parliament for the purpose are recovered in accordance with the principles of equity and efficiency in accordance with this section and the regulations.
- (2) In determining appropriate mechanisms for the recovery of costs of a particular function or service, a recovering authority shall ensure that there is recovered any amount by which—
- (a) the sum of—
 - (i) the costs of the function in the current year; and
 - (ii) any shortfall in the recovery of the costs in the preceding year; exceeds
 - (b) any over-recovery of costs in respect of the preceding year.

- (3) A recovering authority May recover costs of administering this Act and performing the functions, powers, and duties provided for in this Act by such methods as he or she or it believes on reasonable grounds to be the most suitable and equitable in the circumstances, including any 1 or more of the following methods:
- (a) fixed charges:
 - (b) charges fixed on an hourly or other unit basis:
 - (c) estimated charges paid before the provision of the service or performance of the function followed by reconciliation and an appropriate payment or refund after provision of the service or performance of the function:
 - (d) actual and reasonable charges:
 - (e) refundable or non-refundable deposits paid before provision of the service or performance of the function:
 - (f) charges imposed on users of services or third parties:
 - (g) in the case only of the Director-General or some other chief executive, liens on property in the possession of the Crown.

136 Failure to pay

- (1) Where all or part of a charge made under this Act or the regulations remains unpaid after 20 working days since the charge was demanded in writing, the debt shall be deemed to have been increased by an amount calculated in accordance with subsection (2).
- (2) The amount by which an unpaid charge is deemed to have increased is the sum of—
- (a) 10% of the debt, or that part of it that remained unpaid after the expiration of the period of 20 working days referred to in subsection (1); and
 - (b) for every complete period of 6 months after the expiration of that period during which the debt or any part of it (including any deemed increase under this section) has remained unpaid, 10% of that debt or that part.
- (3) If a recovering authority is satisfied that the failure or refusal of any person to pay all or any part of a debt was a result of a genuine dispute between the person and department as to the person's liability to pay the debt, the amount of the debt, or

both, the recovering authority May waive the payment of all or any part by which the debt has increased under this section.

- (4) In an action for recovery of the debt, the court May exercise the power of waiver contained in subsection (3) if the court is satisfied in the terms set out in that subsection.

137 Levies

- (1) The Governor-General May from time to time, on the recommendation of the responsible Minister, by Order in Council impose a levy payable to the Director-General for the purposes of wholly or partially funding a service provided or function performed by the department for the purposes of this Act.
- (2) Every levy order shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

Compare: 1967 No 50 s 107

Section 137(1): amended, on 8 July 2003, by section 25 of the Biosecurity Amendment Act 2003 (2003 No 38).

138 Orders to be confirmed

- (1) Where in any year an order under section 137 has been made on or after 1 January and before 1 July, and—
- (a) has not been revoked with effect on or before 1 July in the next year; and
- (b) has not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of the Regulations (Disallowance) Act 1989,—
- it shall be deemed to have been revoked with the close of 30 June in that next year unless it has been confirmed by an Act of Parliament passed on or before that day.
- (2) Where in any year an order under section 137 has been made after 30 June and on or before 31 December, and—
- (a) has not been revoked with effect on or before 1 January in the year after the next year; and
- (b) has not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—
- it shall be deemed to have been revoked with the close of 31 December in the year after the year in which it was made,

unless it has been confirmed by an Act of Parliament passed on or before that day.

139 Restrictions on levies

The Minister shall not recommend the making of an order under section 137 unless the Director-General has satisfied the Minister that—

- (a) the imposition of a levy recovering the costs of providing or performing a particular service or function is in accordance with the principles of equity and efficiency; and
- (b) either—
 - (i) the persons who will be responsible for paying the levy will benefit from the provision or performance of the particular service or function; or
 - (ii) the persons who will be responsible for paying the levy create risks that require the provision or performance of the particular service or function; and
- (c) all other relevant matters known to the Minister have been properly considered.

140 Contents of levy order

- (1) Every order under section 137 shall specify—
 - (a) the persons primarily responsible for paying the levy; and
 - (b) the basis on which the amount of levy is to be calculated or ascertained; and
 - (c) the persons (if any) to be exempt from paying the levy; and
 - (d) the persons responsible for collecting the levy from those primarily responsible for paying it; and
 - (e) how the levy is to be spent, in consultation with those persons primarily responsible for paying the levy; and
 - (f) when and how the levy is to be paid; and
 - (g) the maximum rate of levy; and
 - (h) how the actual rate of the levy is to be set; and
 - (i) how the rates of the levy and variation of rates are to be notified; and

- (j) whether or not the persons collecting the levy are entitled to recover the cost of levy collection and the estimated amount.
- (2) The order May prescribe any of the following matters:
- (a) the making of returns to the Director-General or some other person or body for the purpose of enabling or assisting the determination of amounts of levy payable:
 - (b) the circumstances in which, and conditions subject to which, persons May be allowed extensions of time for the payment of any levy:
 - (c) the payment of additional or increased levy when amounts of levy otherwise payable have been paid late, paid in part or not paid at all.
 - (d) the holding of funds from which payments of levy are to be made, on trust in separate accounts.

Section 140(2)(d): added, on 26 November 1997, by section 93 of the Biosecurity Amendment Act 1997 (1997 No 89).

140A Trust accounts for levy money payable to Director-General

- (1) Where an order under section 137 provides that funds from which payments of levy are made are to be held on trust in separate accounts, the persons responsible for collecting the levy must each keep a bank account (in this section referred to as a trust account) at a registered bank within the meaning of the Reserve Bank of New Zealand Act 1989; and—
- (a) ensure that the account is so named as to identify that it is a trust account kept by the person responsible for collecting the levy for the purposes of the order; and
 - (b) take all practicable steps to ensure that—
 - (i) the account is used only for holding amounts required to be deposited by subsection (3); and
 - (ii) the balance in the account on any day is not less than the amount outstanding to the Director-General on that day by the person responsible for collecting the levy.
- (2) For the purpose of this section, the amount outstanding to the Director-General by a person responsible for collecting the levy on any day is the remainder obtained by subtracting—

- (a) the total of all amounts of levy paid by that person to the Director-General before that day calculated on the basis specified in the order under section 137; from
 - (b) the total of all amounts required by subsection (3) to be deposited in the trust account by the person responsible for collecting the levy not later than a day before that day.
- (3) Where a person is responsible for collecting a levy, that person must deposit an amount equal to the levy calculated on the basis provided for in the order under section 137 in the trust account on the day or days specified in that order or on a day or days calculated in accordance with that order.
- (4) There is deemed to be held on trust for the Director-General as levy money—
 - (a) the amount outstanding to the Director-General by the person responsible for collecting the levy held in the trust account specified in the order under section 137; or
 - (b) where the amount held in the account is less than the amount outstanding, all the money in the account.
- (5) Money deemed by subsection (4) to be held on trust—
 - (a) is not available for the payment of; and
 - (b) is not liable to be attached or taken in execution at the instance of—
any creditor of the person responsible for collecting the levy (other than the Director-General).
- (6) A person who ceases to be a person responsible for collecting a levy must continue to maintain the trust account referred to in this section until all the levy money payable to the Director-General in respect of the period during which that person was responsible for collecting the levy has been paid.
- (7) Nothing in subsection (6) limits or affects any obligation or liability under this Act of any person who has become responsible for collecting the levy.

Section 140A: inserted, on 26 November 1997, by section 94 of the Biosecurity Amendment Act 1997 (1997 No 89).

141 Effect of levy order

Where an order is made under section 137, the following provisions apply:

- (a) every person responsible for paying the levy to the Director-General shall do so; and
- (b) the Director-General May recover the levy from any person responsible for paying it as a debt due in a court of competent jurisdiction.

141A Orders to provide for records to be kept for Director-General's levy

For the purpose of ascertaining whether or not an order under section 137 is being complied with, the order must provide for—

- (a) the keeping of statements, accounts, and records of specified classes or descriptions by the Director-General, persons responsible for collecting the levy, and persons responsible for paying the levy concerned, or any of them; and
- (b) any such statements, accounts, or records to be retained for a specified period.

Section 141A: inserted, on 26 November 1997, by section 95 of the Biosecurity Amendment Act 1997 (1997 No 89).

141B Compliance audits for Director-General's levy

- (1) While an order under section 137 is in force, the Minister May, at the request of the Director-General, appoint 1 or more auditors to conduct an audit of the affairs of all or any of the following:
 - (a) some or all of the persons responsible for collecting the levy;
 - (b) some or all of the persons responsible for paying the levy.
- (2) While an order under section 137 is in force, the Minister May, if an arbitrator has been appointed to resolve a dispute, appoint an auditor to conduct an audit of all or any of the persons involved in the dispute.
- (3) No person is qualified for appointment as an auditor unless the person is a chartered accountant (within the meaning of sec-

tion 19 of the New Zealand Institute of Chartered Accountants Act 1996) or a member, fellow, or associate of an association of accountants constituted in some part of the Commonwealth outside New Zealand, and for the time being approved for the purpose of the audit of company financial statements by the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Companies Act 1993, by notice published in the *Gazette*.

- (4) No officer or employee of any of the following persons or organisations may be appointed an auditor:
- (a) the Director-General;
 - (b) any person responsible for collecting the levy under the order concerned;
 - (c) any person responsible for paying the levy under the order concerned.
- (5) Every person appointed as an auditor is entitled to remuneration (paid by the Director-General) as provided in the relevant levy order.
- (6) For the purposes of sections 141C and 141D, **auditor** means a person for the time being appointed under subsection (1) or subsection (2).

Section 141B: inserted, on 26 November 1997, by section 95 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 141B(3): amended, on 7 July 2010, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

141C Purpose of compliance audits for Director-General's levy

- (1) The purpose of an audit conducted by an auditor appointed under section 141B(1) is (so far as is practicable) to ascertain in respect of the affairs of the persons whose affairs are to be audited, and report to the Minister responsible for the order on, as many of the following matters as are relevant to those affairs:
- (a) the extent to which persons responsible for paying the levy concerned are doing and have done so;
 - (b) the extent to which appropriate amounts of the levy concerned are being and have been paid:

- (c) the extent to which appropriate amounts of the levy concerned are being and have been collected:
 - (d) the extent to which appropriate amounts of the levy concerned are being and have been paid over to the Director-General by persons collecting it:
 - (e) the extent to which statements, accounts, and records are being and have been kept:
 - (f) the extent to which statements, accounts, and records that are being and have been kept are being and have been properly kept.
- (2) The purpose of an audit conducted by an auditor appointed under section 141B(2) is (so far as is practicable) to ascertain in respect of the affairs of the parties to the dispute, and report to the arbitrator concerned, the Minister responsible for the order, and those parties, on the matters of fact that are in dispute.

Section 141C: inserted, on 26 November 1997, by section 95 of the Biosecurity Amendment Act 1997 (1997 No 89).

141D Power of auditors to require production of statements and records

- (1) For the purposes of conducting an audit, any auditor specifically or generally authorised in writing in that behalf by a Minister May from time to time require any person (being the Director-General, a person responsible for collecting levies, a person responsible for paying levies, or any employee or officer of the Director-General, or any such person) to produce for inspection within a reasonable period specified by the auditor any statements, accounts, and records in the possession or under the control of that person (being statements, accounts, or records that are required to be kept under this Act or by an order), and May take copies of or extracts from any such document.
- (2) Every authorisation under subsection (1) must contain—
- (a) a reference to this section; and
 - (b) the full name of the auditor; and
 - (c) a statement of the powers conferred on the auditor by subsection (1).

- (3) Subject to section 141C(2), except in respect of a prosecution under this Act or an action for the recovery of any amount due under this Act, no auditor who exercises powers under this section may disclose to any other person (other than a Minister or a person authorised in that behalf by a Minister) any information obtained by the auditor as a result of the exercise of the power.
- (4) Notwithstanding subsection (3), the Official Information Act 1982 applies in respect of any information held by a Minister that was obtained pursuant to this section.

Section 141D: inserted, on 26 November 1997, by section 95 of the Biosecurity Amendment Act 1997 (1997 No 89).

142 Resolution of disputes

Every order under section 137 shall provide for—

- (a) the appointment of arbitrators to resolve disputes as to—
- (i) whether or not any person is required to pay the levy concerned;
 - (ii) the amount of levy any person is required to pay; and
- (b) the procedures to be followed by arbitrators; and
- (c) remuneration of arbitrators; and
- (d) the payment of arbitration costs; and
- (e) a right of appeal to a District Court Judge against decisions of arbitrators and the procedures governing the exercise of that right; and
- (f) any other matters relating to the resolution of such disputes.

Section 142(a): amended, on 26 November 1997, by section 96(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 142(b): amended, on 26 November 1997, by section 96(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 142(c): amended, on 26 November 1997, by section 96(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 142(d): amended, on 26 November 1997, by section 96(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 142(e): amended, on 26 November 1997, by section 96(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Part 7

Exigency actions

143 Purpose of Part 7

The purpose of this Part is to provide for the effective prevention, management, or eradication of unwanted organisms if emergencies or other exigencies occur.

144 Declaration of biosecurity emergency

- (1) On the recommendation of a Minister, the Governor-General may, by Proclamation, declare a biosecurity emergency if satisfied on reasonable grounds after having regard to all available information that—
- (a) it is likely that—
 - (i) there has been an outbreak or occurrence in New Zealand of an organism (being an organism not previously known to be established in New Zealand) that has the potential to cause significant economic loss, significant environmental loss, or both, if it becomes established in New Zealand; or
 - (ii) there is established in part of New Zealand an organism (being an organism not previously known to be established in New Zealand) that has the potential to cause significant economic loss, significant environmental loss, or both, if it becomes established in other parts of New Zealand; or
 - (iii) an organism previously thought to be of restricted distribution or abundance (or both) in New Zealand is becoming or has become so distributed and abundant in New Zealand or any part of New Zealand that it has the potential to cause significant economic loss, significant environmental loss, or both; or
 - (iv) a pest is, or threatens to be, beyond control by the application of the national pest management strategy for that pest; and
 - (b) it is in the public interest that action be taken immediately to manage, or eradicate the organism and sufficient

powers are not otherwise available to enable the organism to be effectively managed, or eradicated.

- (2) The Minister shall, to the extent that is practical in the circumstances, consult such persons as the Minister believes on reasonable grounds are representative of interests involved in the emergency before recommending that the Governor-General declare a biosecurity emergency.
- (3) A declaration of a biosecurity emergency shall state the area or areas to which it applies and specify the nature of the emergency.
- (4) A declaration of a biosecurity emergency comes into force when it is declared or at any later time stipulated in the Proclamation declaring it.
- (5) The Minister shall publish notice of the declaration not later than 24 hours after it is made by such means as the Minister considers practical and appropriate and shall cause the Proclamation to be published in the *Gazette* without delay.
- (6) On the recommendation of the Minister, the Governor-General may by further Proclamation amend or revoke a Proclamation under this section and the Minister shall publish notice of an amendment or revocation in the manner provided by subsection (5).

Compare: 1967 No 50 s 30; 1970 No 151 s 12

Section 144(1): amended, on 26 November 1997, by section 97(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 144(1)(b): amended, on 26 November 1997, by section 97(2)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 144(1)(b): amended, on 26 November 1997, by section 97(2)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

145 Emergency powers

- (1) The Minister may, in the area or areas in which a declaration of biosecurity emergency is in force, take such measures, and do all such acts and things and give all such directions, and require all such acts to be done or not to be done, as the Minister believes on reasonable grounds to be necessary or desirable for the purpose of managing, or eradicating the organism in respect of which the emergency has been declared.

- (2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister, or any person authorised by the Minister for the purpose, May require the owner of any goods or premises or craft (being a craft registered in New Zealand, or chartered by a company formed and registered under the Companies Act 1955 or under any of the enactments referred to in the definition in section 2(1) of that Act of the term existing company) that is anywhere in New Zealand and that the Minister or person authorised by the Minister believes on reasonable grounds to be necessary or would be of assistance in eradicating, or limiting the spread of the organism to transfer the goods to or permit the premises or craft to be used for a specified period by the Minister or any other person.

Compare: 1967 No 50 ss 30, 31; 1970 No 151 s 13(1)

Section 145(1): amended, on 26 November 1997, by section 98 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 145(2): amended, on 26 November 1997, by section 98 of the Biosecurity Amendment Act 1997 (1997 No 89).

146 Duration of emergency

- (1) Unless it is sooner revoked or extended by the House of Representatives, a declaration of biosecurity emergency ceases to have effect on the expiration of 4 months after it comes into force.
- (2) The House of Representatives May from time to time by resolution extend any declaration of biosecurity emergency for such period as the resolution May state.
- (3) A resolution under subsection (2) shall be published in the manner provided in section 144(5).

Compare: 1967 No 50 s 30

147 House of Representatives to be informed

- (1) The Minister shall inform the House of Representatives immediately of the making of a Proclamation declaring, amending, revoking, or extending a biosecurity emergency if the House is then sitting, or, if it is not then sitting, the Minister shall so inform the House as early as is practicable on its next sitting day.
- (2) The Minister shall explain the reasons for the Proclamation.

148 Revocation by House of Representatives of biosecurity emergency

- (1) The House of Representatives May by resolution revoke a declaration of biosecurity emergency at any time.
- (2) A resolution revoking a declaration of biosecurity emergency has effect from the time of the resolution or any later time specified in the resolution.

149 Compensation

[Repealed]

Section 149: repealed, on 1 October 1998, by section 106(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

150 Biosecurity emergency regulations

- (1) On the recommendation of the Minister, the Governor-General May, at any time while a declaration of biosecurity emergency is in force, by Order in Council make regulations for the management, or eradication of the organism in respect of which the emergency has been declared or otherwise for dealing effectively with the emergency.
- (2) The Minister shall, to the extent that is practical in the circumstances, consult such persons as the Minister believes on reasonable grounds are representative of interests affected by the proposed regulations before recommending that the Governor-General make regulations under this section; and shall not recommend that the Governor-General make them unless satisfied, on reasonable grounds, that they are necessary or desirable for the management, or eradication of the organism concerned.
- (3) Without prejudice to the generality of subsection (1), biosecurity emergency regulations May do all or any of the following things:
 - (a) create offences in respect of the breach of a biosecurity emergency regulation or non-compliance with a direction given or requirement made under the authority of such a regulation:
 - (b) prescribe as the penalty for an offence created by a biosecurity emergency regulation—

- (i) where the offence is committed by an individual, a fine not exceeding \$15,000; and
 - (ii) where the offence is committed by a body corporate, a fine not exceeding \$75,000:
 - (c) *[Repealed]*
 - (d) *[Repealed]*
 - (e) *[Repealed]*
 - (f) prescribe procedures for arbitration or resolution of disputes.
- (4) A biosecurity emergency regulation comes into force at the time at which the regulation is made, or the time specified in the regulation, whichever is the later.
- (5) The responsible Minister shall lay all biosecurity emergency regulations before the House of Representatives not later than the second sitting day after they are made.

Section 150(1): amended, on 26 November 1997, by section 99 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 150(2): amended, on 26 November 1997, by section 99 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 150(3)(c): repealed, on 1 October 1998, by section 106(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 150(3)(d): repealed, on 1 October 1998, by section 106(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 150(3)(e): repealed, on 1 October 1998, by section 106(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

151 Emergency regulations to be confirmed

- (1) Where in any year regulations under section 150 have been made on or after 1 January and before 1 July, and—
- (a) have not been revoked with effect on or before 1 July in the next year; and
 - (b) have not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of the Regulations (Disallowance) Act 1989,—
- they shall be deemed to have been revoked with the close of 30 June in that next year unless they have been confirmed by an Act of Parliament passed on or before that day.
- (2) Where in any year regulations under section 150 have been made after 30 June and on or before 31 December, and—

- (a) have not been revoked with effect on or before 1 January in the year after the next year; and
 - (b) have not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—
- they shall be deemed to have been revoked with the close of 31 December in the year after the year in which they were made, unless they have been confirmed by an Act of Parliament passed on or before that day.

152 Provisional control action

- (1) If a Minister suspects on reasonable grounds that a pest or unwanted organism May be present in New Zealand but is unable to confirm the suspicion until further information is available to enable identification of the organism and consideration of the appropriate means of eradicating or managing the organism, and the Minister believes on reasonable grounds that sufficient powers are not otherwise available under this Act to prevent the spread or development of the organism, the Minister May by written notice to a chief technical officer declare a provisional control programme.
- (2) A notice given under subsection (1) must—
 - (a) specify the steps that the Minister believes are necessary or desirable to provisionally control the spread or development of the suspected organism; and
 - (b) authorise the chief technical officer to direct any inspector or authorised person to carry out the steps specified in the notice in such a manner as the chief technical officer thinks fit, and the inspector or authorised person May act accordingly.
- (3) A provisional control programme declared in accordance with this section May remain in force for such period not exceeding 60 days as the Minister believes on reasonable grounds to be necessary and the Minister May extend the programme for 1 further period not exceeding 60 days.

Section 152: substituted, on 26 November 1997, by section 100 of the Biosecurity Amendment Act 1997 (1997 No 89).

153 Compensation following investigation of pests*[Repealed]*

Section 153: repealed, on 1 October 1998, by section 106(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Part 8**Enforcement, offences, and penalties****154 Offences**

Every person commits an offence against this Act who—

- (a) threatens, assaults, or intentionally obstructs or hinders,—
 - (i) an inspector, authorised person, or accredited person; or
 - (ii) an assistant of an inspector, authorised person, or accredited person,—in the exercise or performance of a function, power or duty under this Act, the regulations, a pest management strategy, or a declaration of emergency under section 144:
- (b) in connection with the purposes of this Act,—
 - (i) makes or gives to an inspector or authorised person, or an assistant of an inspector or authorised person, a statement or information that the person knows to be false or misleading in a material particular; or
 - (ii) in circumstances where the person is required to provide information, wilfully withholds relevant information from an inspector or authorised person, or an assistant of an inspector or authorised person; or
 - (iii) in circumstances where the person is required to make a return or declaration or give a certificate, knowingly makes or gives a return, declaration, or certificate that is false or misleading in a material particular:
- (c) personates or falsely represents himself or herself to be an inspector, authorised person, accredited person, assistant, or other person authorised to exercise a func-

tion, power, or duty conferred or imposed by or under this Act:

- (d) without reasonable excuse, fails to comply with a reasonable direction given to that person in accordance with and for the purposes of this Act by an inspector or authorised person, or the assistant of an inspector or authorised person:
- (e) without reasonable excuse, fails to comply with a reasonable requirement made of that person in accordance with and for the purposes of this Act by an inspector or authorised person, or the assistant of an inspector or authorised person:
- (f) has unauthorised goods in his or her possession or control, knowing that they are unauthorised goods:
- (g) buys, sells, exchanges, or otherwise acquires or disposes of, unauthorised goods—
 - (i) knowing that they are unauthorised goods; or
 - (ii) knowing that they may be unauthorised goods, and reckless as to whether they are or not:
- (h) knowing that goods are risk goods that have been seized by, or are otherwise under the control of, an inspector or authorised person,—
 - (i) makes an alteration to the condition of the goods; or
 - (ii) unpacks or repacks the goods,—
otherwise than with and in accordance with the permission of an inspector or authorised person:
- (i) knowing that goods are risk goods that—
 - (i) have been seized by, or are otherwise under the control of, an inspector or authorised person; and
 - (ii) are stored in a place where an inspector or authorised person has directed that they should be stored,—
removes the goods from the place otherwise than with and in accordance with the permission of an inspector or authorised person:
- (j) without the permission of an inspector or authorised person, takes or carries away or otherwise converts to

- his or her own use any goods, knowing that they are risk goods that have been seized under this Act:
- (k) without the permission of an inspector or authorised person, exhumes the carcass of any organism or any other risk goods, knowing it or them to have been buried as required by a direction given under this Act:
 - (l) knowing that a notice under section 130(1) is in force in relation to a place, without the permission of an inspector or authorised person,—
 - (i) removes any organism, organic material, or risk goods from the place; or
 - (ii) removes from the place any goods that have while in the place been in contact with any organism, organic material, or risk goods; or
 - (iii) introduces any goods into the place; or
 - (iv) removes, alters, or defaces any identification that an inspector or authorised person has directed be used to identify any organism, risk goods, or other goods in the place:
 - (m) fails or refuses to comply with any of sections 29, 46, 52, 53, and 134:
 - (ma) fails to comply with section 44 (duty to inform Ministry of organism not normally seen or otherwise detected in New Zealand), if the person knows or could reasonably be expected to know that the organism is not normally seen or otherwise detected in New Zealand:
 - (n) fails or refuses to comply with any of sections 17, 18, 25, 30, 31, 41(5), 51(1), 51(2) and 121B(2):
 - (o) fails or refuses to comply with any of sections 19, 34, 35, 36, 37C, 40(6), 43, 48, 51(3), 121(2), 121A(3), and 132(9):
 - (p) having (while in a biosecurity control area) been asked by an inspector to answer any question that is necessary for the inspector to ascertain the presence, nature, origin, or itinerary, of any risk goods,—
 - (i) fails or refuses to answer it within a reasonable time of its being asked; or
 - (ii) fails or refuses to answer it completely within a reasonable time of its being asked; or

- (iii) wilfully gives a false or misleading answer:
- (q) without reasonable excuse, fails to comply with a strategy rule included in a national pest management strategy where that rule specifies that a breach of the rule creates an offence under this paragraph:
- (r) without reasonable excuse, fails to comply with a strategy rule included in a regional pest management strategy where that rule specifies that a breach of the rule creates an offence under this paragraph:
- (s) erroneously declares, in circumstances where that person is required to make a declaration in relation to goods specified in that declaration, that he or she is not in possession of any or all of those goods:
- (t) knowingly fails to comply with any provision of this Act relating to the holding of levy money in trust accounts:
- (u) fails to keep or properly maintain statements, accounts, or records of any leviable activity carried on by that person sufficient to satisfy the requirements of any order made under section 90 or section 137:
- (v) refuses or fails, without reasonable excuse, to comply with any requirement made under section 95D(1) or section 141D(1).

Section 154(l)(iii): amended, on 8 July 2003, by section 26(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 154(l)(iv): added, on 8 July 2003, by section 26(1) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 154(ma): inserted, on 8 July 2003, by section 26(2) of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 154(n): amended, on 26 November 1997, by section 101(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 154(o): substituted, on 26 November 1997, by section 101(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 154(q): added, on 26 November 1997, by section 101(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 154(r): added, on 26 November 1997, by section 101(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 154(s): added, on 26 November 1997, by section 101(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 154(t): added, on 26 November 1997, by section 101(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 154(u): added, on 26 November 1997, by section 101(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 154(v): added, on 26 November 1997, by section 101(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

155 Proof of permission, etc

Where it is proved in any proceeding under this Act or the regulations that a person has done or omitted to do any act and such person would commit an offence or be liable for a debt or damages unless the act was done or omitted with the permission of a Minister, the Director-General, a chief technical officer, a management agency, or an inspector or authorised person, the onus shall be on the person who did or omitted to do the act to prove that he or she had that permission.

Compare: 1967 No 50 s 105

Section 155: amended, on 26 November 1997, by section 102 of the Biosecurity Amendment Act 1997 (1997 No 89).

156 Liability of principals and agents

- (1) If an offence is committed against any of the provisions of this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act, in the same manner and to the same extent as if he or she had personally committed the offence, if it is proved that the act that constituted the offence took place with his or her authority, permission, or consent, or that he or she knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.
- (2) Where any body corporate is convicted of an offence against this Act, every person, being a director or a person concerned in the management of the body corporate, shall be guilty of the same offence if it is proved that the act that constituted the offence took place with that person's authority, permission, or consent, or that the person knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

157 Penalties

- (1) Every person who commits an offence against any of paragraphs (f), (g), (h), (i), (j), (k), (l), or (m) of section 154 is liable on conviction on indictment,—
 - (a) in the case of an individual person, to imprisonment for a term not exceeding 5 years, a fine not exceeding \$100,000, or both:
 - (b) in the case of a corporation, to a fine not exceeding \$200,000.
- (2) Every person who attempts to commit an offence against section 154(f) is liable on conviction,—
 - (a) in the case of an individual person, to imprisonment for a term not exceeding 5 years, a fine not exceeding \$100,000, or both:
 - (b) in the case of a corporation, to a fine not exceeding \$200,000.
- (3) Every person who commits an offence against any of paragraphs (a), (b), (c), (n), or (t) of section 154 is liable on summary conviction,—
 - (a) in the case of an individual person, to imprisonment for a term not exceeding 12 months, a fine not exceeding \$50,000, or both:
 - (b) in the case of a corporation, to a fine not exceeding \$100,000.
- (4) Every person who commits an offence against paragraph (d) or paragraph (e) of section 154 is liable on summary conviction,—
 - (a) in the case of an individual person, to imprisonment for a term not exceeding 3 months, a fine not exceeding \$50,000, or both:
 - (b) in the case of a corporation, to a fine not exceeding \$100,000.
- (5) Subject to section 159, every person who commits an offence against any of paragraphs (ma), (o), (p), (q), (r), (u), or (v) of section 154 is liable on summary conviction,—
 - (a) in the case of an individual person, to a fine not exceeding \$5,000:
 - (b) in the case of a corporation, to a fine not exceeding \$15,000.

- (6) Every person who commits an offence against any regulations made under this Act is liable on summary conviction,—
- (a) in the case of an individual person, to a fine not exceeding \$5,000;
 - (b) in the case of a corporation, to a fine not exceeding \$15,000.
- (7) Subject to section 159A, every person who commits an offence against paragraph (s) of section 154 is liable on summary conviction to a fine not exceeding \$1,000.

Section 157: substituted, on 26 November 1997, by section 103 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 157(5): amended, on 8 July 2003, by section 27 of the Biosecurity Amendment Act 2003 (2003 No 38).

Section 157(7): amended, on 22 April 2010, by section 5 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 157(7): amended, on 7 May 1999, by section 3 of the Biosecurity Amendment Act 1999 (1999 No 29).

158 Fines to be paid to management agency instituting prosecution

- (1) Subject to subsection (2), where a person is convicted of an offence under this Act and the court imposes a fine, the court shall, if the information for that offence was laid on behalf of a management agency, order that the fine be paid to the management agency.
- (2) There shall be deducted from every amount payable to a management agency under subsection (1), a sum equal to 10% of it, which shall be credited to a Crown Bank Account.
- (3) Notwithstanding anything in subsection (2), where any money awarded by a court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a management agency under subsection (1), no deduction shall be made under subsection (2) in respect of that money.
- (4) Subject to subsection (2), an order of the court made under subsection (1) shall be sufficient authority for the Registrar receiving the fine to pay it to the management agency entitled to it.

Compare: 1991 No 69 s 342

Section 158(2): amended, on 25 January 2005 pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

159 Proceedings for infringement offences

- (1) Where an inspector has reason to believe that a person (in this section referred to as the defendant) has committed an infringement offence (other than a border infringement offence),—
 - (a) the defendant May be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or
 - (b) the inspector May issue an infringement notice in respect of the alleged offence.
- (2) Any inspector (not necessarily the inspector who issued the notice)—
 - (a) may deliver it (or a copy of it) to the defendant personally; or
 - (b) may send it (or a copy of it) to the defendant by post addressed to the defendant’s last known place of residence or business; and in that case, for the purposes of the Summary Proceedings Act 1957, it (or the copy) shall be deemed to have been served on the defendant when it was posted.
- (3) Every infringement notice shall be in a form prescribed by regulations made under this Act; and shall specify—
 - (a) sufficient details to inform the defendant fairly of the time, place, and nature of the offence alleged; and
 - (b) the amount of the infringement fee for the offence; and
 - (c) where the fee May be paid; and
 - (d) the time within which the fee May be paid; and
 - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
 - (f) that the defendant has the right to request a hearing; and
 - (g) a statement of what will happen if the defendant neither pays the fee nor requests a hearing; and
 - (h) any other matters prescribed in that behalf.

Section 159 heading: substituted, on 22 April 2010, by section 6(1) of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 159(1): amended, on 22 April 2010, by section 6(2) of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 159(3)(b): substituted, on 22 April 2010, by section 6(3) of the Biosecurity Amendment Act 2009 (2009 No 66).

159A Accelerated infringement notice procedure for border infringement offences

- (1) If an inspector has reason to believe that a person (in this section referred to as the defendant) has committed a border infringement offence,—
 - (a) the defendant May be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or
 - (b) the inspector May issue an infringement notice in respect of the alleged offence.
- (2) Any employee of the Ministry (not necessarily the inspector who issued the notice)—
 - (a) may deliver an infringement notice (or a copy of it) to the defendant personally; or
 - (b) may send it (or a copy of it) to the defendant by post addressed to the defendant's last known place of residence or business.
- (3) For the purposes of subsection (6), an infringement notice sent to a person by post is deemed to have been served on the defendant when it was posted.
- (4) An infringement notice under this section must be in the prescribed form, and must specify—
 - (a) sufficient details to inform the defendant fairly of the time, place, and nature of the offence alleged; and
 - (b) the amount of the infringement fee for the offence; and
 - (c) where the fee May be paid; and
 - (d) the time within which the fee May be paid; and
 - (e) how and where payment May be made under subsection (5); and
 - (f) a summary of how the provisions of section 21(10) of the Summary Proceedings Act 1957 apply to the offence alleged; and
 - (g) that the defendant has a right to request a hearing; and
 - (h) a statement of the consequences if the defendant neither pays the fee nor requests a hearing; and
 - (i) such other particulars as are prescribed by regulations made under this Act.
- (5) If the infringement notice is served by delivering it to a person at a port approved under section 37 or section 37A, that

person May choose to pay immediately the infringement fee in the manner specified in the notice.

- (6) The Ministry May provide particulars of an infringement notice in accordance with section 21(4) and (4A) of the Summary Proceedings Act 1957, after a period of 14 days from the date of service of the infringement notice, or a copy of the infringement notice, if—
 - (a) the infringement fee for the offence has not by then been paid to the Ministry at the address specified in the notice (or immediately under subsection (5)); and
 - (b) the Ministry has not by then received at that address a notice requesting a hearing in respect of that offence.
- (7) If an infringement notice has been issued and served under this section, the Summary Proceedings Act 1957 applies as if that notice were a reminder notice served under section 21(2) of that Act, and the provisions of that Act apply, with all necessary modifications, to the alleged offence as if—
 - (a) the reference in section 21(1)(b) to providing particulars of a reminder notice under that section were a reference to providing particulars of the infringement notice under subsection (6) of this section; and
 - (b) subsection (6) were in the place of section 21(3); and
 - (c) the reference in section 21(3A) to the particulars of a reminder notice not having been provided under section 21(3) were a reference to the particulars of the infringement notice not having been provided under subsection (6) of this section; and
 - (d) every reference in section 21(4), (4A), and (4B) to particulars of a reminder notice were a reference to the particulars of an infringement notice and every reference to the contents of a reminder notice were a reference to the contents of an infringement notice; and
 - (e) the reference in section 21(4)(a) to parts of the reminder notice were a reference to parts of the infringement notice; and
 - (f) the reference in section 21(4C) to particulars of a reminder notice were a reference to particulars of an infringement notice; and

- (g) the reference in section 21(4C) to the reminder notice were a reference to the infringement notice; and
 - (h) the reference in section 21(5) to the verification of particulars of a reminder notice provided under section 21(3) were a reference to the verification of particulars of an infringement notice provided under subsection (6) of this section; and
 - (i) the reference in section 21(6)(b) and in section 21(10)(a) to a period of 28 days after the service of a reminder notice were a reference to the period of 14 days after the service of the infringement notice; and
 - (j) each reference in section 21A and section 78B to a reminder notice were a reference to an infringement notice and each reference in section 21A and section 78B to the reminder notice were a reference to the infringement notice; and
 - (k) the references to reminder notices in the definition of defendant in section 2(1), and in section 212, and in any other relevant provisions of that Act or regulations made under that Act, were references to the infringement notice.
- (8) *[Repealed]*
- (9) Despite section 203(1) of the Summary Proceedings Act 1957, an infringement notice under this section May be issued and served on a Sunday.

Section 159A: inserted, on 7 May 1999, by section 4 of the Biosecurity Amendment Act 1999 (1999 No 29).

Section 159A heading: substituted, on 22 April 2010, by section 7(1) of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 159A(1): amended, on 22 April 2010, by section 7(2) of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 159A(4)(b): substituted, on 22 April 2010, by section 7(3) of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 159A(6): substituted, on 1 March 2007, by section 31 of the Summary Proceedings Amendment Act 2006 (2006 No 13).

Section 159A(7): substituted, on 1 March 2007, by section 31 of the Summary Proceedings Amendment Act 2006 (2006 No 13).

Section 159A(8): repealed, on 1 March 2007, by section 31 of the Summary Proceedings Amendment Act 2006 (2006 No 13).

160 Payment of infringement fees

All infringement fees received under section 159 or section 159A must be paid into a Crown Bank Account.

Section 160: substituted, on 7 May 1999, by section 4 of the Biosecurity Amendment Act 1999 (1999 No 29).

Section 160: amended, on 25 January 2005 pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

160A Procedure for certain declaration offences

[Repealed]

Section 160A: repealed, on 7 May 1999, by section 4 of the Biosecurity Amendment Act 1999 (1999 No 29).

161 Evidence in proceedings

- (1) In any proceedings for an offence against this Act or against any regulations made under this Act, a certificate that complies with subsection (4) and to which subsection (2) applies—
 - (a) is admissible in evidence; and
 - (b) is, in the absence of proof to the contrary, sufficient evidence of the matters stated in it.
- (2) This section applies to any certificate of 1 or more of the following kinds:
 - (a) a certificate purporting to be signed by the principal officer of a regional council stating that a document attached to the certificate is—
 - (i) a regional pest management strategy made by the council; or
 - (ii) an amendment to such a strategy:
 - (b) a certificate purporting to be signed by the Director-General stating that a person specified in the certificate is—
 - (i) a chief technical officer appointed under section 101(1); or
 - (ii) a deputy chief technical officer appointed under section 102:
 - (c) a certificate purporting to be signed by the chief executive of a department stating that a person specified in the certificate is—
 - (i) a chief technical officer appointed under section 101(2); or

- (ii) a deputy chief technical officer appointed under section 102:
- (d) a certificate purporting to be signed by a chief technical officer appointed under section 101(1) stating that the person specified in the certificate is—
 - (i) an inspector or authorised person appointed by that chief technical officer under section 103(1)(a); or
 - (ii) an authorised person appointed by that chief technical officer under section 103(1)(b) in relation to the national pest management strategy described in, or attached to, the certificate:
- (e) a certificate purporting to be signed by a chief technical officer appointed under section 101(2) stating that the person specified in the certificate is—
 - (i) an inspector or authorised person appointed by that chief technical officer under section 103(2)(a); or
 - (ii) an authorised person appointed by that chief technical officer under section 103(2)(b) in relation to the national pest management strategy described in, or attached to, the certificate:
- (f) a certificate purporting to be signed by the principal officer of a regional council stating that a person specified in the certificate is an authorised person appointed by that principal officer under section 103(3) in relation to a regional pest management strategy or small-scale management programme specified or described in, or attached to, the certificate:
- (g) a certificate purporting to be signed by any person authorised by this Act, the State Sector Act 1988, or the Local Government Act 2002 to delegate to any person (or people of any kind or description) the exercise or performance of any power or function under this Act stating that—
 - (i) the person has delegated the exercise or performance of the power or function under this Act specified in the certificate to the person specified in the certificate; or

- (ii) the person has delegated the exercise or performance of the power or function under this Act specified in the certificate to people of a kind or description specified in the certificate, and that a person specified in the certificate is a person of that kind or description:
 - (h) a certificate purporting to be signed by the Director-General stating that a place specified in the certificate is—
 - (i) a biosecurity control area; or
 - (ii) a transitional facility approved for use or uses specified in the certificate; or
 - (iii) a containment facility:
 - (i) a certificate purporting to be signed by a chief technical officer or the chief executive of a management agency stating that—
 - (i) an area specified in the certificate is an area controlled for the purposes of section 131; and
 - (ii) the movement into, within, or from the controlled area of the organisms, organic material, risk goods, or other goods specified in the certificate is restricted, regulated, or prohibited, in the manner, to the extent, and subject to the conditions specified in the certificate; and
 - (iii) the organisms, organic material, risk goods, or other goods specified in the certificate are subject to the treatment and procedures specified in the certificate.
- (3) The production of a document purporting to be a certificate to which subsection (2) applies is prima facie evidence that it is such a certificate, without proof of the signature of the person purporting to have signed it.
- (4) A certificate to which subsection (2) applies is not admissible in evidence unless—
- (a) at least 14 days before the hearing at which the certificate is to be tendered, a copy is served, by or on behalf of the prosecutor, on the defendant or the defendant's agent or counsel, and that person is at the same time informed in writing that the prosecutor does not propose

- to call the person who signed the certificate as a witness at the hearing; and
- (b) the court has not, on the application of the defendant made not less than 7 days before the hearing, ordered, not less than 4 days before the hearing (or such lesser period as the court in the special circumstances of the case thinks fit), that the certificate should not be admissible as evidence in the proceedings.
- (5) The court must not make an order under subsection (4)(b) unless it is satisfied that there is a reasonable doubt as to the accuracy or validity of a certificate.

Section 161: substituted, on 26 November 1997, by section 105 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 161(2)(g): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

162 Time for laying informations

Notwithstanding section 14 of the Summary Proceedings Act 1957, an information in respect of an offence against this Act or any regulations made under it May be laid at any time within 2 years of the time when the matter of the information arose.

Part 9 Miscellaneous provisions

162A Compensation

- (1) Where—
- (a) powers under this Act are exercised for the purpose of the management or eradication of any organism; and
- (b) the exercise of those powers causes verifiable loss as a result of—
- (i) the damage to or destruction of a person's property; or
- (ii) restrictions, imposed in accordance with Part 6 or Part 7, on the movement or disposal of a person's goods,—
- that person is entitled to compensation for that loss.
- (2) The compensation payable under this section must be of such an amount that the person to whom it is paid will be in no better

or worse position than any person whose property or goods are not directly affected by the exercise of the powers.

- (3) Compensation payable by a Minister or by a chief executive is payable from money appropriated by Parliament for the purpose.
- (4) Compensation must not be paid under this section to any person—
 - (a) in respect of a loss in relation to unauthorised goods or uncleared goods; or
 - (b) in respect of a loss suffered before the time when the exercise of the powers commenced; or
 - (c) who has failed to comply with this Act or regulations made under this Act and whose failure has been serious or significant or has contributed to the presence of the organism or to the spread of the organism being managed or eradicated.
- (5) Any dispute concerning the eligibility for, or amount of, compensation must be submitted to arbitration and the provisions of the Arbitration Act 1996 apply.
- (6) Nothing in this section applies to any loss suffered by any person as a result of the exercise of powers under this Act to implement a pest management strategy.

Section 162A: inserted, on 1 October 1998, by section 106(1) of the Biosecurity Amendment Act 1997 (1997 No 89).

163 Protection of inspectors and others

An inspector, authorised person, accredited person, or other person who does any act or omits to do any act in pursuance of any of the functions, powers, or duties conferred on that person by or under this Act or a pest management strategy shall not be under any civil or criminal liability in respect of that act or omission, unless the person has acted, or omitted to act, in bad faith or without reasonable cause.

Compare: 1967 No 50 s 10; 1970 No 151 s 23; 1978 No 15 s 45; 1982 No 42 s 82

164 Liability for goods

The Crown shall not be under any civil liability in respect of any loss or damage to any goods suffered—

- (a) while those goods are in the custody of the Crown by reason of the exercise, in good faith and with reasonable care, of authority under this Act; or
- (b) as a result of or in the course of any treatment, handling, or quarantine of those goods undertaken or required in good faith and with reasonable care by an inspector or any other person acting in the exercise of authority under this Act.

Compare: 1967 No 50 s 10

164A Procedure for giving directions or making requirements

- (1) A direction May be given or a requirement made under this Act by a written notice delivered—
 - (a) to a natural person,—
 - (i) by delivering the notice to the person; or
 - (ii) by delivering the notice to the person's usual or last known place of residence or business; or
 - (iii) by sending the notice by pre-paid post to the person at the usual or last known place of residence or business of the person; or
 - (iv) by sending the notice by facsimile to the person's usual or last known place of residence or business:
 - (b) to a body (whether incorporated or not),—
 - (i) by delivering the notice to an officer of the body; or
 - (ii) by delivering the notice to the usual or last known place of residence or business of an officer of the body; or
 - (iii) by sending the notice by pre-paid post to an officer of the body at the usual or last known place of residence or business of that person; or
 - (iv) by delivery of the notice to the registered office of the body; or
 - (v) by sending the notice by pre-paid post addressed to the body at the registered office of the body; or
 - (vi) by sending the notice by facsimile to the registered office of the body:
 - (c) to a partnership,—

- (i) by delivering the notice to any one of the partners; or
 - (ii) by delivering the notice to the usual or last known place of residence or business of any one of the partners; or
 - (iii) by sending the notice by pre-paid post to any one of the partners at the usual or last known place of residence or business of that person; or
 - (iv) by delivery of the notice to the usual or last known place of business of the partnership; or
 - (v) by sending the notice by pre-paid post addressed to the usual or last known place of business of the partnership; or
 - (vi) by sending the notice by facsimile to the usual or last known place of business of the partnership:
- (d) to a Minister of the Crown,—
- (i) by personal delivery to the chief executive of the appropriate department; or
 - (ii) by delivery to the head office of the appropriate department; or
 - (iii) by sending the notice by pre-paid post addressed to the head office of the appropriate department; or
 - (iv) by sending the notice by facsimile to the head office of the appropriate department.
- (2) Where reasonable attempts have been made to find the occupier of a place and no occupier can be found, a written notice under this section May be delivered to the occupier of that place by affixing the notice in some conspicuous location in or on the place.
- (3) Where a written notice is delivered in accordance with this section by post, the direction or requirement contained in the notice is deemed to be given or made at the time at which the notice would have been delivered in the ordinary course of the post in the absence of evidence to the contrary.

Section 164A: inserted, on 26 November 1997, by section 107 of the Biosecurity Amendment Act 1997 (1997 No 89).

164B Application of section 164A

Section 164A—

- (a) may, if the provisions of that section are consistent with a procedure specified in this Act for giving a direction or making a requirement, apply in addition to that procedure:
- (b) may apply where this Act does not specify any procedure for giving any direction or making any requirement:
- (c) does not require any direction to be given or requirement to be made in accordance with that section.

Section 164B: inserted, on 26 November 1997, by section 107 of the Biosecurity Amendment Act 1997 (1997 No 89).

164C Registration of unwanted organisms

- (1) Where a chief technical officer has formed the belief that makes an organism an unwanted organism, that chief technical officer must notify the Director-General that the organism is an unwanted organism.
- (2) The Director-General must keep a register of all organisms notified to the Director-General in accordance with subsection (1).
- (3) The register must be available for public information and inspection at the office of the Director-General during normal office hours.
- (4) Where a chief technical officer fails to notify the Director-General in accordance with this section, that failure does not invalidate the chief technical officer's belief that makes the organism an unwanted organism.

Section 164C: inserted, on 26 November 1997, by section 108 of the Biosecurity Amendment Act 1997 (1997 No 89).

165 Regulations

- (1) The Governor-General May from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) prescribing the manner and content of applications for permits, registrations, and approvals under this Act:
 - (b) prescribing procedures for the assessment, consideration, approval, and refusal of applications for permits,

- registrations, and approvals under this Act, and for the issue of such, permits, registrations, and approvals:
- (c) providing for and regulating the transfer, amendment, suspension, revocation, cancellation, or withdrawal of permits, registrations, and approvals issued under this Act:
 - (d) providing for and prescribing conditions that shall or May be attached to permits, registrations, approvals, and exemptions issued under this Act:
 - (e) requiring persons to whom or which section 43(2) applies (or any of them) to make returns of information to the Director-General:
 - (f) prescribing standards for places that are required to be designated, registered, or approved under this Act or the regulations:
 - (g) providing for the registration of places that are particularly liable to harbour pests or unwanted organisms or are difficult to monitor, or that May serve as an active source of pests or unwanted organisms:
 - (ga) prescribing technical standards for the construction, equipping, maintenance, and operation of places referred to in paragraph (g) whether required to be registered or not:
 - (h) prescribing standards relating to the operators of any of the places referred to in paragraphs (f) and (g):
 - (i) prescribing technical standards to be met by persons involved in the handling of diseased or pestiferous organic material:
 - (j) prohibiting or controlling the disposal of garbage and other waste organic material, and providing for controls to prevent access to it by animals:
 - (k) requiring the identification of, and prohibiting, regulating, or controlling the use of organic material including the prohibition or regulation of organic material as food for organisms:
 - (l) prescribing standards of technical competence, experience, and qualifications relating to the appointment of inspectors and authorised persons:

- (m) prescribing procedures and standards, including requirements as to technical competence, experience, and qualifications, relating to the accreditation and appointment of accredited persons:
- (n) prescribing procedures to be followed and standards to be met by inspectors, authorised persons, and other persons engaged in the exercise of powers and the performance of duties under this Act:
- (o) prescribing procedures to be followed in the preparation and public notification of proposals for pest management strategies and in consultations with interested and other persons concerning those proposals:
- (p) prescribing procedures to be followed and standards to be met by management agencies and persons acting on behalf of management agencies in the implementation of pest management strategies:
- (q) prescribing methods of implementing and enforcing standards prescribed under this Act:
- (r) regulating and controlling the holding, disposal, and treatment of risk goods:
- (ra) prescribing articles or substances which May be left on any place for the purpose of ascertaining the presence or absence of any pest or unwanted organism:
- (s) prescribing matters in respect of which costs are recoverable under this Act and the regulations and any pest management strategy, the amounts of those costs or the method by which they are to be assessed, the persons liable for payment of the costs, and the circumstances in which the recovery of costs May be remitted or waived (in whole or in part):
- (t) requiring the holders of permits, registrations, and approvals under this Act and persons engaged in prescribed activities to keep records and to provide copies of those records and other information (wherever held) to the Director-General or any other chief executive:
- (u) *[Repealed]*
- (v) prescribing offences in respect of the contravention of any regulation made under this Act or any lawful direction or requirement made under any such regulation:

- (va) prescribing any offences against or under this Act as infringement offences:
 - (vb) specifying that an infringement offence is a border infringement offence if it is committed—
 - (i) in a biosecurity control area at a port approved as a place of first arrival under section 37; or
 - (ii) at a port approved for the arrival of a craft under section 37A:
 - (vc) prescribing the infringement fee payable for each infringement offence, which May not exceed \$1,000:
 - (vd) prescribing the form of, and any additional particulars required in, an infringement notice for a border infringement offence or an infringement offence:
 - (w) prescribing transitional and savings provisions relating to the coming into force of this Act, which May be in addition to or in place of any of the provisions of Part 10; and, without limiting the generality of the preceding power, any such regulations May provide that, subject to such conditions as are specified in the regulations, specified provisions of this Act shall not apply, or specified provisions of Acts repealed or amended by this Act, or of regulations, Orders in Council, notices, licences, permits, approvals, authorisations, or consents made or given shall continue to apply during a specified transitional period:
 - (x) providing for such matters as May be contemplated by or necessary for giving full effect to this Act and for its administration.
- (2) Before making any recommendation for the purposes of subsection (1), the responsible Minister must consult to the extent that is reasonably practicable, having regard to the circumstances of the particular case, such persons as the responsible Minister has reason to believe are representative of interests likely to be substantially affected by the regulations.

Compare: 1967 No 50 ss 12, 25, 26, 26A, 107; 1969 No 53 s 46; 1970 No 151 ss 10, 31; 1982 No 42 s 80

Section 165(1): amended, on 26 November 1997, by section 109(1)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 165(1)(b): amended, on 26 November 1997, by section 109(1)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 165(1)(f): amended, on 1 January 2005, by section 4(1) of the Biosecurity Amendment Act 2004 (2004 No 106).

Section 165(1)(g): amended, on 1 January 2005, by section 4(2)(a) of the Biosecurity Amendment Act 2004 (2004 No 106).

Section 165(1)(g): amended, on 1 January 2005, by section 4(2)(b) of the Biosecurity Amendment Act 2004 (2004 No 106).

Section 165(1)(ga): inserted, on 1 January 2005, by section 4(3) of the Biosecurity Amendment Act 2004 (2004 No 106).

Section 165(1)(h): amended, on 1 January 2005, by section 4(4) of the Biosecurity Amendment Act 2004 (2004 No 106).

Section 165(1)(k): substituted, on 26 November 1997, by section 109(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 165(1)(ra): inserted, on 26 November 1997, by section 109(3) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 165(1)(s): amended, on 26 November 1997, by section 109(5)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 165(1)(t): amended, on 1 January 2005, by section 4(5) of the Biosecurity Amendment Act 2004 (2004 No 106).

Section 165(1)(u): repealed, on 26 November 1997, by section 109(5)(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 165(1)(va): inserted, on 22 April 2010, by section 8 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 165(1)(vb): inserted, on 22 April 2010, by section 8 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 165(1)(vc): inserted, on 22 April 2010, by section 8 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 165(1)(vd): inserted, on 22 April 2010, by section 8 of the Biosecurity Amendment Act 2009 (2009 No 66).

Section 165(2): added, on 26 November 1997, by section 109(4) of the Biosecurity Amendment Act 1997 (1997 No 89).

165A Regulations relating to definition of biosecurity-related border management function in section 41A

The Governor-General May, by Order in Council, make regulations specifying any Act to be an Act for the purposes of the definition of **biosecurity-related border management function** in section 41A.

Section 165A: inserted, on 6 April 2012, by section 5 of the Biosecurity Amendment Act 2012 (2012 No 26).

166 General provisions as to regulations

- (1) Any regulation made under this Act May apply generally or May apply or be applied from time to time by the Minister

by notice in the *Gazette* within any specified district or region of any local authority or within any specified part of New Zealand or May apply to any specified category or categories of persons.

- (2) All regulations made under section 165(1)(w) that are still in force on the day that is 5 years after the commencement of section 165 shall expire at the close of that day.
- (3) Any regulations made under this Act May confer power to issue directions, orders, requirements, permits, or notices for the purposes of this Act on all or any of the following:
 - (a) all Ministers, Ministers of a specified kind or description, or any specified Minister or Ministers:
 - (b) all chief executives, chief executives of a specified kind or description, or any specified chief executive or chief executives:
 - (c) all principal officers, principal officers of a specified kind or description, or any specified principal officer or principal officers:
 - (d) all chief technical officers, chief technical officers of a specified kind or description, or any specified chief technical officer or chief technical officers:
 - (e) all inspectors, or inspectors of a specified kind or description:
 - (f) all authorised persons, or authorised persons of a specified kind or description.
- (4) Regulations made under this Act May authorise the Director-General to exempt—
 - (a) any conveyance; or
 - (b) conveyances of any kind or description; or
 - (c) any other place; or
 - (d) other places of any kind or description; or
 - (e) any person; or
 - (f) persons of any kind or description,—from any requirement of those regulations, or any other regulations made under this Act, if satisfied that, in the circumstances, the imposition of the requirement on that conveyance, those conveyances, that place, those places, that person, or those persons, is not necessary.

Compare: 1967 No 50 s 107

167 Repeals and revocations

- (1) The enactments specified in Schedule 3 are hereby repealed.
- (2) All Orders in Council and notices made under the Stock Act 1908 not specified in Schedule 7 are hereby revoked.
- (3) The Orders in Council specified in Schedule 6 are hereby revoked.
- (4) The Dog Control and Hydatids Regulations 1985 are hereby revoked, with effect on 1 July 1996.

168 Enactments amended

- (1) The enactments specified in Schedule 4 are hereby amended in the manner indicated in that schedule.
- (2) The regulations specified in Schedule 5 are hereby amended in the manner indicated in that schedule.

Part 10**Savings and transitional provisions****169 Savings of Animals Act 1967 for limited administrative purposes**

[Repealed]

Section 169: repealed, on 29 July 1998, by section 133 of the Biosecurity Amendment Act 1997 (1997 No 89).

170 Savings of Plants Act 1970 for limited administrative purposes

Notwithstanding section 167(1) of this Act, the Plants Act 1970 shall continue in full effect to the extent necessary for the proper administration of sections 15, and 16 of that Act in relation to the export of plants.

Section 170: amended, on 29 July 1998, by section 134 of the Biosecurity Amendment Act 1997 (1997 No 89).

171 Savings of Apiaries Act 1969 for limited administrative purposes

[Repealed]

Section 171: repealed, on 1 November 1999, by section 60(1)(a) of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94).

172 Transition of emergency proclamations

- (1) If a declaration of an animal disease emergency made by the Governor-General by Proclamation is in force on the commencement of this Act, the Proclamation and sections 30 and 31 of the Animals Act 1967 shall, notwithstanding the repeal of those sections by section 167(1), continue in effect for so long as the Proclamation remains in force.
- (2) If a declaration of a plant disease emergency made by the Governor-General by Proclamation is in force on the commencement of this Act, the Proclamation and sections 12 and 13 of the Plants Act 1970 shall, notwithstanding the repeal of those sections by section 167(1) of this Act, continue in effect for so long as the Proclamation remains in force.

173 Transitional continuance of regulations

Every regulation specified in Schedule 7 made under an enactment repealed by section 167(1) that is in force at the close of 30 June 1993 shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the Governor-General in Council under this Act and shall continue in force until it is revoked by regulation made under this Act or until the expiry of 2 years after that day whichever is the earlier, and shall then expire.

174 Transitional provision concerning inspectors, etc

- (1) Every person duly appointed and holding office as an inspector under the Ministry of Agriculture and Fisheries Act 1953, the Animals Act 1967, the Apiaries Act 1969, the Poultry Act 1968, or the Plants Act 1970, at the close of 30 September 1993 shall be deemed to have been appointed an inspector under and for the purposes of this Act.
- (2) Every person duly appointed and holding office as a noxious plants officer under the Noxious Plants Act 1978 at the close of 30 September 1993 shall be deemed to have been appointed an authorised person under section 103(3) by the principal officer by whom that inspector was then employed.
- (3) Every person duly appointed and holding office as an inspector under the Agricultural Pests Destruction Act 1967 at the close of 30 September 1993 shall be deemed to have been appointed

an authorised person under section 103(3) by the principal officer by whom that inspector was then employed.

Section 174(1): amended, on 1 October 1993, by section 2(1)(a) of the Biosecurity Amendment Act 1993 (1993 No 129).

Section 174(1): amended, on 1 October 1993, by section 2(1)(b) of the Biosecurity Amendment Act 1993 (1993 No 129).

Section 174(2): amended, on 1 October 1993, by section 2(2) of the Biosecurity Amendment Act 1993 (1993 No 129).

Section 174(3): added, on 28 September 1993, by section 2(3) of the Biosecurity Amendment Act 1993 (1993 No 129).

175 Transition of quarantine appointments

On 1 July 1993, the following shall be deemed to have been registered as a quarantine facility and to be subject in all respects to the provisions of section 39:

- (a) any land set apart and defined as a quarantine ground under section 11 of the Animals Act 1967; and
- (b) any land declared to be a special quarantine ground under section 11A of the Animals Act 1967; and
- (c) any land defined or approved as a quarantine ground under section 24 of the Apiaries Act 1969; and
- (d) any land declared to be a quarantine station under section 4 of the Plants Act 1970.

176 Transition of import permits and exemptions

[Repealed]

Section 176: repealed, on 26 November 1997, by section 115(2) of the Biosecurity Amendment Act 1997 (1997 No 89).

177 Transition of notices under section 13A of Animals Act 1967

Notwithstanding the repeal of section 13A of the Animals Act 1967, every notice under that section that is in force at the close of 30 September 1993 shall continue in force for the time specified in that notice and shall have effect and may be enforced in all respects as if that section had not been repealed.

Section 177: amended, on 1 October 1993, by section 4 of the Biosecurity Amendment Act 1993 (1993 No 129).

178 Transitional control of brucellosis and tuberculosis in cattle and tuberculosis in deer

- (1) Every direction, notice, or requirement given or made by the Director-General under section 53, 53A, 53AA, 53C, 53E, or 53H of the Animals Act 1967 that is in force at the close of 30 June 1993 shall continue in force after 30 June 1993 and shall have effect and may be enforced in all respects as if those sections had not been repealed.
- (2) Where the Director-General has directed the slaughter of any animals under section 53AA or 53E of the Animals Act 1967 by a direction that is in force at the close of 30 June 1993, sections 53AB and 53F of the Animals Act 1967 shall, notwithstanding their repeal by section 167(1), continue in force after 30 June 1993 in relation to every animal which the Director-General has directed should be slaughtered.

179 Transitional control of agricultural pests

[Expired]

Section 179: expired, on 1 October 1998, by regulation 5(1) of the Biosecurity (Transition and Savings) Regulations 1996 (SR 1996/123).

180 Compensation for certain slaughtered animals

[Expired]

Section 180: expired, on 1 October 1998, by regulation 5(1) of the Biosecurity (Transition and Savings) Regulations 1996 (SR 1996/123).

181 Transitional control of plant pests

[Expired]

Section 181: expired, on 1 October 1998, by regulation 5(1) of the Biosecurity (Transition and Savings) Regulations 1996 (SR 1996/123).

182 Transitional control of bee diseases

[Expired]

Section 182: repealed, on 1 November 1999 (after expiring on 1 October 1998), by section 60(1)(a) of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94).

183 Transitional control of hydatids*[Expired]*

Section 183: expired, on 1 July 1996, by regulation 5(2) of the Biosecurity (Transition and Savings) Regulations 1996 (SR 1996/123).

184 Designated ports of entry

- (1) Subject to subsection (2), between the commencement of Part 3 and 1 July 1995 the Director-General shall under subsection (1) of section 37 be deemed to have designated as places of first arrival of craft arrived in New Zealand the ports specified in Schedule 8; but the Director-General shall not be required under subsection (2) of that section to publish or make available a notice specifying the matters referred to in paragraph (a) of that subsection.
- (2) Subject to section 37(7), the Director-General May at any time suspend or revoke any port's deemed designation under subsection (1); and it shall then cease to be deemed to have been designated as a place of first arrival of craft arriving in New Zealand.

184A Designated as approved, or approved, ports

- (1) For the ports specified in Part A of Schedule 9, the following provisions apply:
 - (a) for the period between 1 July 1995 and 25 November 1997, each port is treated as having been designated as approved under section 37; and
 - (b) for the period between 26 November 1997 and the date after 26 November 1997 on which the Director-General approves the port under section 37, each port is treated as having been approved under section 37; and
 - (c) for the period between 1 July 1995 and the date after 1 July 1995 on which the Director-General approves a port under section 37, every requirement of section 37 concerning the port is treated as having been satisfied.
- (2) The effect of subsection (1) is that a biosecurity control area existed at each port specified in Part A of Schedule 9 for the time to which both the following apply:

- (a) the time occurred in the period between 1 July 1995 and the date after 1 July 1995 on which the Director-General approves the port under section 37; and
 - (b) throughout the time, the port had a place that—
 - (i) was part of the port; and
 - (ii) was, by written agreement with the port's operator, under the control of the Director-General for the purposes of this Act.
- (3) For the ports specified in Part B of Schedule 9, the following provisions apply for the period between 25 May 1998 and the date after 25 May 1998 on which the Director-General approves each port under section 37:
 - (a) each port is treated as having been approved under section 37; and
 - (b) every requirement of section 37 concerning the port is treated as having been satisfied.
- (4) The effect of subsection (3) is that a biosecurity control area existed at each port specified in Part B of Schedule 9 for the time to which both the following apply:
 - (a) the time occurred in the period between 25 May 1998 and the date after 25 May 1998 on which the Director-General approves the port under section 37; and
 - (b) throughout the time, the port had a place that—
 - (i) was part of the port; and
 - (ii) was, by written agreement with the port's operator, under the control of the Director-General for the purposes of this Act.
- (5) The ports specified in Schedule 9 are treated as having been designated as approved, or approved, under section 37—
 - (a) for all kinds of aircraft, for each airport; and
 - (b) for all kinds of vessels, for each other port.
- (6) The following provisions apply to a designation or an approval to which this section applies:
 - (a) after consulting under section 37D, the Director-General May suspend or revoke the designation or approval under section 37B; and
 - (b) the designation or approval ceases to have effect in the manner and at the time stated in the suspension or revocation.

- (7) Subsections (1) to (6)—
- (a) do not apply in civil proceedings commenced before 13 December 2005; and
 - (b) apply in civil proceedings commenced on or after 13 December 2005; and
 - (c) do not apply to conduct that—
 - (i) resulted or could result in the entry of a conviction or the entry of a conviction and the imposition of a sentence; and
 - (ii) occurred at a port before or in the period described for the port in subsection (8); and
 - (d) apply to conduct that occurs at a port after the period described for the port in subsection (8).
- (8) The periods are,—
- (a) for each port specified in Part A of Schedule 9, the period that starts on 1 July 1995 and ends on the earlier of the following dates:
 - (i) the date after 1 July 1995 on which the Director-General approves the port under section 37; and
 - (ii) the date on which the Biosecurity (Status of Specified Ports) Amendment Act 2005 receives the Royal assent; and
 - (b) for each port specified in Part B of Schedule 9, the period that starts on 25 May 1998 and ends on the earlier of the following dates:
 - (i) the date after 25 May 1998 on which the Director-General approves the port under section 37; and
 - (ii) the date on which the Biosecurity (Status of Specified Ports) Amendment Act 2005 receives the Royal assent.

Section 184A: inserted, on 13 December 2005, by section 4 of the Biosecurity (Status of Specified Ports) Amendment Act 2005 (2005 No 124).

185 Expiration of sections 179 to 183

- (1) Sections 179 to 182 shall expire with the close of 30 September 1998.
- (2) Section 183 shall expire with the close of 30 June 1996.

Section 185: substituted, on 27 June 1996, pursuant to regulation 5(3) of the Biosecurity (Transition and Savings) Regulations 1996 (SR 1996/123).

185A Organisms illegally present in New Zealand at commencement of Hazardous Substances and New Organisms Act 1996

- (1) Where, at the date of commencement of the Hazardous Substances and New Organisms Act 1996, any organism is present in New Zealand in contravention of the Animals Act 1967 or the Plants Act 1970, that organism is deemed to be uncleared goods for the purposes of this Act.
- (2) Where, at the date of commencement of the Hazardous Substances and New Organisms Act 1996, a genetically modified organism is present in New Zealand and section 257 of the Hazardous Substances and New Organisms Act 1996 does not apply to that organism, that organism is deemed to be uncleared goods for the purposes of this Act.
- (3) Where section 259 of the Hazardous Substances and New Organisms Act 1996 applies to a culture of micro-organisms and no application has been made in respect of that culture of micro-organisms within 1 year of the date of commencement of that Act, that culture of micro-organisms is, at the expiry of that year, deemed to be uncleared goods for the purposes of this Act.
- (4) Nothing in this section applies to the organism known as rabbit haemorrhagic disease virus, or rabbit calicivirus.

Section 185A: added, on 29 July 1998, by section 129 of the Biosecurity Amendment Act 1997 (1997 No 89).

Section 185A(4): added, on 29 July 1998, by section 4 of the Biosecurity (Rabbit Calicivirus) Amendment Act 1998 (1998 No 12).

Schedule 1
**Matters for consideration in the
preparation of proposals for pest
management strategies**

ss 60(2), 76(2)

[Repealed]

Schedule 1: repealed, on 26 November 1997, by section 35(2)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Schedule 2

ss 66, 80(1)

Board of inquiry procedure

1 Summary of submissions and notification

A board of inquiry shall in respect of a regional pest management strategy by publishing a notice in 1 or more daily newspapers circulating within the council's region, or, in respect of a national pest management strategy, by publishing a notice in 1 or more of the daily newspapers circulating in the main metropolitan areas, publicly notify—

- (a) a summary of submissions received by it on a proposed pest management strategy; and
- (b) where those submissions can be inspected; and
- (c) the address for service of the board of inquiry.

Schedule 2 clause 1: amended, on 26 November 1997, by section 126(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

2 Hearing by board of inquiry

A board of inquiry shall—

- (a) hold a hearing into submissions on a proposed pest management strategy; and
- (b) publicly notify the dates, times, and places, where hearings will be held for a regional pest management strategy by publishing a notice in 1 or more of the daily newspapers circulating within the council's region, or, in respect of a national pest management strategy, by publishing a notice in 1 or more of the daily newspapers circulating in the main metropolitan areas; and
- (c) notify every person who made a submission and who requested to be heard, of the dates, times, and places of the hearings; and
- (d) give at least 10 working days' notice of every hearing to every person who made a submission and who requested to be heard.

Schedule 2 clause 2(b): substituted, on 26 November 1997, by section 126(b) of the Biosecurity Amendment Act 1997 (1997 No 89).

3 Public hearings without unnecessary formality

- (1) A board of inquiry shall hold the hearing in public unless permitted to do otherwise under clause 6 (which relates to the

protection of sensitive information) and shall establish a procedure that is appropriate and fair in the circumstances.

- (2) In determining an appropriate procedure for the purposes of subclause (1), the board of inquiry shall—
- (a) avoid unnecessary formality; and
 - (b) recognise tikanga Maori where appropriate, and receive evidence written or spoken in Maori; and the Maori Language Act 1987 shall apply accordingly; and
 - (c) not permit any person other than the chairperson or other member of the board of inquiry to question any person making a submission or a witness; and
 - (d) not permit cross-examination.

4 Persons who May be heard

- (1) At any hearing by a board of inquiry, every person who has made a submission and expressed a wish to be heard at the hearing May speak (either personally or through a representative) and call evidence.
- (2) Notwithstanding subclause (1), a board of inquiry May, if it considers that there is likely to be excessive repetition, limit the circumstances in which persons having the same interest in a proposed strategy May speak or call evidence.

5 Provisions relating to hearings

- (1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing conducted by a board of inquiry appointed under this Act:
- (a) section 4, which gives power to maintain order:
 - (b) section 4B, which relates to evidence:
 - (c) section 4D, which gives power to summon witnesses:
 - (d) section 5, which relates to the service of a summons:
 - (e) section 6, which relates to the protection of witnesses:
 - (f) section 7, which relates to allowances for witnesses.
- (2) Every summons to a witness to appear at a hearing shall be in the prescribed form and be signed by the chairperson of the hearing.
- (3) All allowances for a witness shall be paid for by the person on whose behalf the witness is called.

6 Protection of sensitive information

- (1) A board of inquiry May, of its own motion or on the application of a person making a submission to a proceeding, make an order described in subclause (2) where it is satisfied that the order is necessary—
- (a) to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu; or
 - (b) to avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information,—
- and, in the circumstances of the particular proceeding, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available.
- (2) A board of inquiry May make an order for the purpose of subclause (1)—
- (a) that the whole or part of any hearing at which the information is likely to be referred to shall be held with the public excluded (which order shall, for the purposes of subsections (3) to (5) of section 48 of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution passed under that section);
 - (b) prohibiting or restricting the publication or communication of any information supplied to it, or obtained by it, in the course of any proceeding, whether or not the information May be material to any inquiry.
- (3) An order made under subclause (2)(b) in relation to—
- (a) any matter described in subclause (1)(a) May be expressed to have effect from the commencement of any proceeding to which it relates and for an indefinite period or until such date as the board of inquiry considers appropriate in the circumstances;
 - (b) any matter described in subclause (1)(b) May be expressed to have effect from the commencement of any proceeding to which it relates but shall cease to have any effect at the conclusion of that proceeding—
- and upon the date that such order ceases to have effect, the provisions of the Local Government Official Information and

Meetings Act 1987 shall apply accordingly in respect of any information that was the subject of any such order.

- (4) In this clause, **information** includes any document or evidence.
-

Schedule 3
Enactments repealed

s 167(1)

Agricultural Pests Destruction Act 1967 (1967 No 147) (RS Vol 19, p 65)

Agricultural Pests Destruction Amendment Act 1968 (1968 No 65) (RS Vol 19, p 148)

Agricultural Pests Destruction Amendment Act 1971 (1971 No 74) (RS Vol 19, p 149)

Agricultural Pests Destruction Amendment Act 1974 (1974 No 62) (RS Vol 19, p 150)

Agricultural Pests Destruction Amendment Act 1975 (1975 No 59) (RS Vol 19, p 151)

Agricultural Pests Destruction Amendment Act 1979 (1979 No 62) (RS Vol 19, p 151)

Agricultural Pests Destruction Amendment Act 1980 (1980 No 80) (RS Vol 19, p 153)

Agricultural Pests Destruction Amendment Act 1982 (1982 No 141) (RS Vol 19, p 156)

Agricultural Pests Destruction Amendment Act 1986 (1986 No 135) (RS Vol 19, p 156)

Agricultural Pests Destruction Amendment Act 1988 (1988 No 174)

Animals Act 1967 (1967 No 50) (RS Vol 21, p 73)
Amendment(s) incorporated in the Act(s).

Animals Amendment Act 1969 (1969 No 50) (RS Vol 21, p 151)

Animals Amendment Act 1974 (1974 No 17) (RS Vol 21, p 152)

Animals Amendment Act 1976 (1976 No 52) (RS Vol 21, p 154)

Animals Amendment Act 1977 (1977 No 142) (RS Vol 21, p 155)

Animals Amendment Act 1980 (1980 No 98) (RS Vol 21, p 156)

Animals Amendment Act 1981 (1981 No 14) (RS Vol 21, p 156)

Animals Amendment Act 1982 (1982 No 150) (RS Vol 21, p 158)

Animals Amendment Act 1983 (1983 No 34) (RS Vol 21, p 160)

Animals Amendment Act 1990 (1990 No 55)

Animals Amendment Act 1991 (1991 No 95)

Apiaries Act 1969 (1969 No 53) (RS Vol 21, p 163)

Amendment(s) incorporated in the Act(s).

Apiaries Amendment Act 1971 (1971 No 82) (RS Vol 21, p 190)

Apiaries Amendment Act 1973 (1973 No 49) (RS Vol 21, p 190)

Apiaries Amendment Act 1978 (1978 No 87) (RS Vol 21, p 191)

Apiaries Amendment Act 1980 (1980 No 61) (RS Vol 21, p 192)

Dog Control and Hydatids Act 1982 (1982 No 42)

Amendment(s) incorporated in the Act(s).

Ministry of Agriculture and Fisheries Act 1953 (1953 No 7)

Amendment(s) incorporated in the Act(s).

Noxious Plants Act 1978 (1978 No 15)

Noxious Plants Amendment Act 1981 (1981 No 82)

Noxious Plants Amendment Act 1982 (1982 No 88)

Noxious Plants Amendment Act 1988 (1988 No 204)

Plants Act 1970 (1970 No 151) (RS Vol 21, p 735)

Amendment(s) incorporated in the Act(s).

Poultry Act 1968 (1968 No 13) (RS Vol 18, p 605)

Poultry Amendment Act 1975 (1975 No 55) (RS Vol 18, p 619)

Rating Powers Act 1988 (1988 No 97)

Amendment(s) incorporated in the Act(s).

Wild Animal Control Act 1977 (1977 No 111)

Amendment(s) incorporated in the Act(s).

Schedule 4
Enactments amended

s 168(1)

Animal Remedies Act 1967 (1967 No 51) (RS Vol 21, p 11)*Amendment(s) incorporated in the Act(s).***Animals Act 1967 (1967 No 50) (RS Vol 21, p 73)***Amendment(s) incorporated in the Act(s).***Dog Control and Hydatids Act 1982 (1982 No 42)***Amendment(s) incorporated in the Act(s).***Environment Act 1986 (1986 No 127)***Amendment(s) incorporated in the Act(s).***Local Government Act 1974 (1974 No 66) (RS Vol 25, p 1)***Amendment(s) incorporated in the Act(s).***Meat Act 1981 (1981 No 56)***Amendment(s) incorporated in the Act(s).***Ombudsmen Act 1975 (1975 No 9) (RS Vol 21, p 657)***Amendment(s) incorporated in the Act(s).***Public Finance Act 1989 (1989 No 44)***Amendment(s) incorporated in the Act(s).***Rating Powers Act 1988 (1988 No 97)***Amendment(s) incorporated in the Act(s).***Summary Proceedings Act 1957 (1957 No 87) (RS Vol 9, p 583)***Amendment(s) incorporated in the Act(s).***Trade in Endangered Species Act 1989 (1989 No 18)***Amendment(s) incorporated in the Act(s).*

Wild Animal Control Act 1977 (1977 No 111)

Amendment(s) incorporated in the Act(s).

Wildlife Act 1953 (1953 No 31) (RS Vol 7, p 819)

Amendment(s) incorporated in the Act(s).

Schedule 5
Regulations amended

s 168(2)

Meat Regulations 1969 (SR 1969/192)

Amendment(s) incorporated in the regulation(s).

Schedule 6

s 167(3)

Orders in Council and notices revoked

**Agricultural Pest Destruction Boards Accounting Regulations
1981 (SR 1981/74)**

**Agricultural Pest Destruction Boards (Chairmen's Allowances)
Notice 1981 (SR 1981/79)**

**Agricultural Pests Destruction Amendment Act Commencement
Order 1981 (SR 1981/73)**

**Agricultural Pests (Exemption of Domestic Rabbits) Order
1985 (SR 1985/97)**

**Agricultural Pests (Exemption of Domestic Rabbits) Order
1985, Amendment No 1 (SR 1991/289)**

Animals Diseases Order 1976 (SR 1976/213)

Animals Diseases Order 1978 (SR 1978/168)

Animals Diseases Order 1981 (SR 1981/256)

Animals Diseases Order 1992 (SR 1992/246)

Animals (Equine Viral Arteritis) Order 1989 (SR 1989/240)

Animals (Fish) Diseases Order 1980 (SR 1980/165)

**Apiaries Amendment Act Commencement Order 1983
(SR 1983/63)**

**Dannevirke Borough Noxious Weeds Bylaw 1976 (*Gazette* 1977,
Vol 1, p 86)**

**Introduction and Quarantine of Plants Regulations 1973
(SR 1973/109)**

**Introduction and Quarantine of Plants Regulations 1973,
Amendment No 4 (SR 1987/349)**

**Pest Destruction Board Postal Voting Regulations 1971
(SR 1971/166)**

**Pests of Local Importance Order 1968 (*Gazette* 1968, Vol 2,
p 1120)**

**Pests of Local Importance Order 1974 (*Gazette* 1974, Vol 3,
p 2070)**

**Pests of Local Importance Order 1976, No 1 (*Gazette* 1976,
Vol 1, p 288)**

**Pests of Local Importance Order 1976, No 2 (*Gazette* 1976,
Vol 1, p 288)**

**Pests of Local Importance Order 1986 (*Gazette* 1986, Vol 5,
p 4843)**

Pheasant Farming Regulations 1976 (SR 1976/148)

Revocation of Deer Farming Regulations (SR 1979/108)

**Revocation of Sale of Honey (Export Control) Regulations
(SR 1982/131)**

Revocation of the Grape Vine Disease Regulations (SR 1985/169)

**Revocation of the Nursery Registration Regulations
(SR 1981/101)**

**Revocation of the Potato Cyst Nematode Regulations
(SR 1989/153)**

**Revocation of the Sausage Casing Importation Regulations
(SR 1985/306)**

Schedule 7
**Regulations and orders continuing in
force**

s 173

[Spent]

Schedule 7: spent, on 29 July 1998, pursuant to section 136(c) of the Biosecurity Amendment Act 1997 (1997 No 89).

Schedule 8

s 184

**Approved places of first arrival in New
Zealand**

Airports

Auckland International Airport
Whenuapai Airport (Royal New Zealand Air Force Base)
Ohakea Airport (Royal New Zealand Air Force Base)
Wellington International Airport
Christchurch International Airport

Other ports

Whangarei
Opuia
Auckland
Onehunga
Taharoa
Gisborne
Napier
New Plymouth
Wellington
Picton
Nelson
Lyttelton
Westport
Timaru
Dunedin
Port Chalmers
Bluff

Schedule 9
Designated as approved, or approved,
ports

s 184A

Schedule 9: added, on 13 December 2005, by section 5 of the Biosecurity (Status of Specified Ports) Amendment Act 2005 (2005 No 124).

Part A

Airports

Auckland International Airport
Christchurch International Airport
Ohakea Airport (Royal New Zealand Air Force Base)
Wellington International Airport
Whenuapai Airport (Royal New Zealand Air Force Base)

Other ports

Auckland
Bluff
Dunedin
Gisborne
Lyttelton
Napier
Nelson
New Plymouth
Onehunga
Opuia
Picton
Port Chalmers
Taharoa
Timaru
Wellington
Westport
Whangarei

Part B

Airports

Dunedin Airport
Hamilton Airport
Invercargill Airport
Palmerston North Airport
Queenstown Airport

Other ports

Tauranga

Biosecurity Amendment Act (No 2) 2008

Public Act 2008 No 21
Date of assent 8 April 2008
Commencement see section 2

1 Title

This Act is the Biosecurity Amendment Act (No 2) 2008.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

8 Validation of import health standards

- (1) Every import health standard issued before the commencement of this Act (including, but not limited to, the *Import Health Standard for the Importation into New Zealand of Specified Bee Products from Australia*, dated 2 August 2006) is, and has always been, as valid and effectual as if this Act had come into force on 29 July 1998.
- (2) However, a validation of an import health standard under subsection (1) only applies if, and to the extent that, the import health standard is invalid because it applies to goods the importation of which involves, or might involve, an incidentally imported new organism.

9 Suspension of power to give biosecurity clearance

Despite section 8, no biosecurity clearance may be given under section 26 of the principal Act for any goods to which the *Import Health Standard for the Importation into New Zealand of Specified Bee Products from Australia*, dated 2 August 2006 applies, until the Director-General has—

- (a) received a report from an independent review panel set up in consultation with the National Beekeepers Association of New Zealand to consider the scientific evidence in dispute in relation to that import health standard; and

- (b) determined whether any amendment to that import health standard is necessary to achieve the purpose of Part 3 of the principal Act; and
- (c) publicly notified that determination.

10 Validation of biosecurity clearances, etc

- (1) Any biosecurity clearances or the exercise of other powers under Part 3 of the principal Act before the commencement of this Act (including, but not limited to, biosecurity clearances given in accordance with the *Import Health Standard for the Importation into New Zealand of Specified Bee Products from Australia*, dated 2 August 2006) are, and always have been, as valid and effectual as if this Act had come into force on 29 July 1998.
 - (2) However, a validation under subsection (1) only applies to a biosecurity clearance or exercise of other power if, and to the extent that, the clearance or exercise of other powers is invalid because it applies to goods—
 - (a) the importation of which involves, or might involve, an incidentally imported new organism; and
 - (b) whose movement and use includes any new organisms incidentally imported while they remain in or on those goods.
-

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 *General***

This is a reprint of the Biosecurity Act 1993. The reprint incorporates all the amendments to the Act as at 6 April 2012, as specified in the list of amendments at the end of these notes. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, *see* <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Biosecurity Amendment Act 2012 (2012 No 26)

Environmental Protection Authority Act 2011 (2011 No 14): section 53(1)

New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74): section 10

Biosecurity Amendment Act 2009 (2009 No 66)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Biosecurity Amendment Act (No 2) 2008 (2008 No 21)

Biosecurity Amendment Act 2008 (2008 No 6)

Biosecurity Amendment Act 2007 (2007 No 41)

Summary Proceedings Amendment Act 2006 (2006 No 13): section 31

Biosecurity (Status of Specified Ports) Amendment Act 2005 (2005 No 124)

Biosecurity Amendment Act 2005 (2005 No 91)

Biosecurity Amendment Act 2004 (2004 No 106)
Biosecurity Amendment Act (No 2) 2003 (2003 No 57)
Biosecurity Amendment Act 2003 (2003 No 38)
Local Government Act 2002 (2002 No 84): section 262
Local Government (Rating) Act 2002 (2002 No 6): section 137(1)
Animal Welfare Act 1999 (1999 No 142): section 194
Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94): section 60(1)(a)
Biosecurity Amendment Act 1999 (1999 No 29)
District Courts Amendment Act 1998 (1998 No 76): section 7
Biosecurity (Rabbit Calicivirus) Amendment Act 1998 (1998 No 12)
Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100): section 5(1)(d)
Biosecurity Amendment Act 1997 (1997 No 89)
Biosecurity Amendment Act (No 2) 1996 (1996 No 78)
Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74): section 5(4)
Customs and Excise Act 1996 (1996 No 27): section 289(1)
Biosecurity Amendment Act 1996 (1996 No 23)
Biosecurity (Transition and Savings) Regulations 1996 (SR 1996/123): regulation 5
Chatham Islands Council Act 1995 (1995 No 41): section 36
Biosecurity Amendment Act 1994 (1994 No 24)
Biosecurity Amendment Act 1993 (1993 No 129)
Public Finance Act 1989 (1989 No 44): section 65R(3)
