

Biosecurity Amendment Act 2003

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Biosecurity Amendment Act 2003.
- (2) In this Act, the Biosecurity Act 1993 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to principal Act

3 Interpretation

Section 2(4) of the principal Act is repealed.

4 Relationship with other enactments

- (1) Section 7(2)(a) of the principal Act is amended by omitting the expression “(1) and (5)”, and substituting the expression “(1), (5) and (6)”.
- (2) Section 7(5) of the principal Act is amended by inserting, after the words “do not apply to”, the words “prevent or inhibit”.

- (3) Section 7 of the principal Act is amended by adding the following subsection:
- “(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.”

5 Processing unaccompanied goods

Section 30A of the principal Act is amended by inserting in each of subsections (1), (2), and (3), in each case after the words “transitional facility”, the words “or biosecurity control area”.

6 New section 44 inserted

The principal Act is amended by inserting, after section 43, the following section:

“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.”

7 Contents of national pest management strategy

- (1) Section 69A of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
- “(b) the objectives of the strategy, and a general description of the principal measures to be taken to implement the strategy:”

- (2) This section applies only to national pest management strategies made on or after the date on which this Act comes into force.

8 Contents of regional pest management strategy

- (1) Section 80A of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) the objectives of the strategy, and a general description of the principal measures to be taken to implement the strategy:”

- (2) This section applies only to regional pest management strategies made on or after the date on which this Act comes into force.

9 Restrictions on levies

- (1) Section 92(1) of the principal Act is amended by repealing paragraphs (d), (e), (f), and (g), and substituting the following paragraph:

“(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.”

- (2) Section 92(2) of the principal Act is repealed.

10 Contents of levy provisions in strategy

Section 93(2) of the principal Act is amended by adding the following paragraph:

“(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.”

11 Chief technical officers

Section 101 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) A person appointed as a chief technical officer must be employed under the State Sector Act 1988.”

12 Deputy chief technical officers

Section 102 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) A person appointed as a deputy chief technical officer must be employed under the State Sector Act 1988.”

13 Inspectors, authorised persons, and accredited persons

(1) Section 103 of the principal Act is amended—

(a) by inserting in subsection (4), immediately before the words “an authorised person”, the words “an inspector or”;

(b) by inserting at the beginning of subsection (5) the words “Inspectors or”.

(2) Section 103 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

“(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.”

(3) The appointment of any person as an inspector before the commencement of this Act is not invalid by reason only of the person not being, or not at the time of the appointment having been, a person employed under the State Sector Act 1988 or by a regional council.

14 Inspectors and authorised persons to comply with instructions

Section 104 of the principal Act is amended—

- (a) by inserting in subsection (1), after the word “All”, the words “inspectors and”
- (b) by inserting in subsection (1), after the words “conferred or imposed on”, the words “inspectors or”
- (c) by inserting in subsection (3), after the words “appointment of the”, the words “inspector or”.

15 Power to search people

Section 108(1) of the principal Act is amended by inserting, before the words “unauthorised goods found” where they occur after paragraph (d), the words “uncleared risk goods or”.

16 Power of inspection

- (1) Section 109(1) of the principal Act is amended by adding the following paragraph:
 - “(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) Section 109(4) of the principal Act is amended by omitting the expression “subsection (1)”, and substituting the expression “subsection (1)(a) and (b)”.

17 New section 110 substituted

The principal Act is amended by repealing section 110, and substituting the following section:

“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 member of the police) 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.”

18 Application of articles or substances from aircraft

- (1) Section 114A(5) of the principal Act is amended by omitting the words “For the purposes of this section, public notice is given”, and substituting the words “Subject to subsection (6), public notice for the purposes of this section is given”.
- (2) Section 114A of the principal Act is amended by adding the following subsections:
 - “(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.”

19 Power to examine organisms

- (1) Section 121 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(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) Section 121(4)(b)(ii) of the principal Act is amended by inserting, after the word “inspector”, the words “or authorised person”.
- (3) Section 121 of the principal Act is amended by adding the following subsection:
- “(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.”

20 Power to apply article or substance to place

Section 121A(1) of the principal Act is amended by inserting, after the words “unwanted organism,”, the words “or of assessing measures taken to manage or eradicate any pest or unwanted organism,”.

21 Inspection of and intervention in transitional facilities and containment facilities

- (1) Section 126(2)(c) of the principal Act is amended by inserting, after the word “terms”, the words “(including any controls imposed under section 45(2) of the Hazardous Substances and New Organisms Act 1996)”.
- (2) Section 126(3)(b)(ii) of the principal Act is amended by inserting, after the word “terms”, the words “(including any controls imposed under section 45(2) of the Hazardous Substances and New Organisms Act 1996)”.

22 Declaration of restricted place

Section 130 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

- “(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.”

23 Declaration of controlled area

Section 131(2) of the principal Act is amended by inserting, after the words “specified area”, the words “(which may be the whole or any specified part or parts of New Zealand)”.

24 Enforcement of area controls

Section 134(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(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.”

25 Levies

Section 137(1) of the principal Act is amended by inserting, before the word “Minister”, the word “responsible”.

26 Offences

(1) Section 154(1) of the principal Act is amended by adding the word “; or” to subparagraph (iii), and also by adding the following subparagraph:

“(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:”.

(2) Section 154 of the principal Act is amended by inserting, after paragraph (m), the following paragraph:

“(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:”.

27 Penalties

Section 157(5) of the principal Act is amended by omitting the expression “paragraphs (o)”, and substituting the expression “paragraphs (ma), (o)”.

Part 2

Amendments to Forests Act 1949

28 Repeal of redundant provisions

(1) Sections 69, 70, 70A, 71, and 71C of the Forests Act 1949 (1949 No 19) (1949 No 19) are repealed.

(2) Section 71B(2) of the Forests Act 1949 is amended by repealing paragraph (b)(i) and paragraph (c).

Legislative history

7 August 2001	Introduction (Bill 147-1)
16 August 2001	First reading and referral to Primary Production Committee (Bill 147-2)
13 November 2001	Reported from Primary Production Committee
1 July 2003	Second reading, committee of the whole House, third reading
