

# Food Safety Law Reform Bill

Government Bill

## Explanatory note

### General policy statement

This Bill is an omnibus Bill introduced in accordance with Standing Order 263(a) whose amendments deal with an inter-related topic that can be regarded as implementing a single broad policy. The Bill makes improvements and enhancements to 3 Acts governing the food safety system, improving their alignment, operation, and design so as to better protect human health, and maintain and strengthen New Zealand's reputation as a supplier of safe and suitable food both domestically and internationally.

The Bill addresses the recommendations of the independent Government Inquiry into the Whey Protein Concentrate Contamination Incident (the **Inquiry**) that need statute change to implement. The Inquiry was established in September 2013 following the Fonterra botulism scare that made global headlines and had significant consequences for New Zealand's reputation as a supplier of safe food. The Inquiry reported initially in December 2013 and again in November 2014.

The Inquiry found that the incident was not a result of the failure of New Zealand's food regulatory system. However, it recommended some improvements to ensure the system remains among the best in the world. Most of the Inquiry's recommendations have been able to be implemented through operational means. The Bill addresses the recommendations that need statutory change to implement.

The Inquiry focused solely on the dairy sector. However, the Bill amends all 3 of the main food safety Acts—the Animal Products Act 1999, the Food Act 2014, and the Wine Act 2003—to ensure the recommended improvements apply across the whole system.

The fundamental model of the current system is not being changed. Food enterprises are responsible for developing and operating under risk-based plans and programmes that identify the business's food safety risks and set out how those risks will be managed, with oversight by the relevant regulator (either the Ministry for Primary Indus-

tries or a territorial authority). Verification of compliance with these plans and programmes is undertaken by an officially recognised third party.

To ensure sufficient information on risks is readily available throughout the system, the Bill enables regulations to set requirements on the form and manner (including time frames) in which risk-based plans and programmes must be supplied to the regulator for registration. It also requires operators to supply copies of their plans and programmes to their verifiers, and verifying agencies, and to retain copies.

The Bill provides for regulations to set the traceability and recall requirements that are essential to food safety and maintenance of New Zealand's reputation.

To strengthen the verification function, the Bill clarifies that the primary accountability of recognised persons and agencies when carrying out their functions is to the regulator, and enables information that is relevant to the competence of accredited agencies to be passed to the regulator. The Bill also provides for verification regulations to, where necessary, apply to businesses other than operators using risk management plans and programmes.

To standardise the compliance methods available across the system, the Bill adds the main enforcement tools in the Food Act 2014 to the older Animal Products Act 1999 and the Wine Act 2003. The Bill also improves the statutory powers available for responses to food safety incidents by enhancing the Director-General's ability to, when there is a serious risk to public health, require relevant information from persons who hold it. It also aligns provisions for Director-General statements to both inform and protect the public.

The Bill improves the design of the delegated legislation under the 3 Acts by removing duplication and providing for best practice use of regulations and notices. It also specifically identifies those legislative instruments that are disallowable, in line with the Legislation Act 2012.

The Bill helps to modernise and future-proof the food regulatory system by making explicit the ability to use automated electronic systems for service delivery and transactions. It also includes technical amendments to clarify the intent of certain ambiguous provisions and correct drafting errors, and other minor enhancements.

### **Departmental disclosure statement**

The Ministry for Primary Industries is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=135>

### Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement on 10 July 2015 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- <http://www.mpi.govt.nz/law-and-policy/legal-overviews/regulatory-impact-statements/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. It provides for the delayed commencement of *clauses 61, 64, 169, and 175* to enable regulations to be made for the purposes of the amended provisions. The rest of the Bill will commence on the day after the date on which it receives the Royal assent.

## Part 1

### Amendments to Food Act 2014

*Part 1* amends the Food Act 2014 (the **Act**) for the following broad purposes:

- to implement recommendations made by the Inquiry:
- to impose a pattern on notices issued by the chief executive under section 405 (many of the notice-making provisions in sections 405 and 406 have been migrated to the associated regulation-making provisions):
- to clarify the relationship between notices and regulations (by clarifying when a notice is to supplement regulations and when it stands as an independent legislative instrument):
- to make other changes for overall improvement and consistency.

*Clause 3* states that *Part 1* amends the Food Act 2014.

*Clause 4* relates to section 18(2) of the Act, which describes the role of the chief executive in the food safety regime. *New paragraph (ja)* is added to provide that a role of the chief executive is to undertake contingency planning for incidents that may affect the safety and suitability of food.

*Clause 5* relates to section 41, which currently requires a food control plan to be in writing in a form acceptable to the appropriate authority for the plan. Section 41 is replaced to require the food control plan to comply with the requirements of the Act, and to clarify that the plan must be submitted for registration in a form acceptable to the appropriate registration authority.

*Clause 6* amends section 42 (which states the matters that must be included in a food control plan) as a consequence of *subpart 1 of new Part 3A. Subpart 1 of new Part 3A*

requires persons to whom it applies to have in place procedures to trace and recall food. If the operator is a person to whom *subpart 1 of new Part 3A* applies, the food control plan must set out any matters required by regulations made under *new section 133C* and any notice under *new section 405*.

*Clause 7* amends section 43 (which enables regulations to be made in relation to food control plans) to enable regulations to—

- require a food control plan to be differentiated from other information kept by the operator:
- prescribe the time within which copies of amendments to a food control plan must be provided to the operator’s verifier or verification agency.

Section 43 is also amended to enable the chief executive to make notices under *new section 405* that—

- set requirements relating to the training and competency of persons who operate under food control plans (*see* current section 406(1)(h)):
- set requirements for the validation and evaluation of food control plans (*see* current section 406(1)(g)):
- supplement regulations made under section 43.

*Clause 8* amends section 46, which relates to operator-initiated amendments to food control plans that are not based on an official template or model. A *new subsection (5A)* is inserted. *New subsection (5A)* requires the operator to give, within the prescribed time, a copy of any amendment to the food control plan to the operator’s verifier or verification agency.

*Clause 9* replaces section 53(2), which relates to the information required for registration of a food control plan that is based on an official template or model. *New section 53(2)(a)* requires the operator to provide a copy of the provisions of the food control plan (instead of the information required under section 42(a) to (e)).

*Clause 10* inserts into section 56 an additional criterion that the registration authority must consider before registering a food control plan. *New section 56(e)* requires the registration authority to be satisfied that the plan is clear enough to be readily understood by the operator, the relevant registration authority, and the operator’s verifier or verification agency.

*Clause 11* replaces section 58(3)(a) as a result of the changes made to section 53(2).

*Clause 12* inserts *new section 61A*, which applies to a food control plan that is not based on an official template or model. A registration authority may require the operator of the food control plan to amend the plan if the authority considers it does not comply with *new section 56(e)* (*see* above). Note that failure to comply with a requirement to amend the plan may result in suspension or cancellation of the plan (*see clauses 13 and 14*, which amend sections 62 and 67).

*Clause 13* amends section 62, which relates to mandatory suspensions of registered food control plans. The grounds for suspension are amended to include, in the case of

a registered food control plan that is not based on an official template or model, failure to comply with a requirement under *new section 61A*.

*Clause 14* amends section 67, which relates to cancellation of registration of registered food control plans. The grounds for cancellation include, in the case of a registered food control plan that is not based on an official template or model, failure to comply with a requirement under *new section 61A*.

*Clause 15* amends the description of a national programme in section 74 to incorporate traceability and recall requirements.

*Clause 16* amends section 75 to reflect that the power to make notices relating to national programmes is set out in section 76.

*Clause 17* amends section 76, which relates to regulations about national programmes. *New section 76(3)* enables the chief executive to do the following things by notice under *new section 405*:

- set requirements relating to the training and competency of persons who operate under national programmes;
- specify information or other material (including any declarations) that must be provided in an application for registration);
- supplement regulations made under section 76.

*Clause 18* makes a minor amendment to section 78.

*Clause 19* makes a minor amendment to section 83.

*Clause 20* amends section 103, which relates to regulations about monitoring programmes. The amendment enables the chief executive to make notices under *new section 405* to supplement regulations made under section 103.

*Clause 21* amends section 104, which relates to notices that may be made to supplement regulations about monitoring programmes. Section 104(2) is repealed because the power to make supplementary notices is now located in section 103.

*Clause 22* amends section 110(1)(c), which requires, among other things, an importer to maintain procedures and processes to demonstrate compliance with the record-keeping requirements of the Act in relation to the source or traceability of imported food. The word source is removed as it is intended to be covered by the requirements of the Act relating to the traceability of imported food.

*Clause 23* inserts *new Part 3A* into the Act.

*Subpart 1 of new Part 3A* relates to the tracing and recall of food and enables regulations to specify a person who trades in food as a person to whom that subpart applies. A person to whom that subpart applies must, in accordance with regulations made under *new section 133C* and any notice under *new section 405*,—

- have in place procedures for tracing food and recalling food; and
- conduct simulations or tests of those procedures; and
- implement those procedures to trace and recall food.

*Subpart 2 of new Part 3A* relates to verification and enables regulations to specify a person who trades in food as a person to whom that subpart applies. A person to whom that subpart applies must ensure that its operations are verified in accordance with regulations made under *new section 133F* and any notice under *new section 405*. The regulation-making power in *new section 133F*, includes, among other things, a power to set requirements relating to verification, including provisions that deal with the frequency, intensity, and cost of verification.

*Clause 24* amends section 155, which sets out the duties of recognised agencies. Recognised agencies that are verification agencies must have, for each person for which the agency carries out verification functions and activities, a copy of the food control plan and any amendments to the plan (as provided by the operator).

*Clause 25* amends section 156 to require a recognised person who is a verifier and who is not working for a verification agency to keep, for each operator for which the person carries out verification functions and activities, a copy of the food control plan and any amendments to the plan (as provided by the operator).

*Clause 26* inserts *new section 157A* to provide that recognised agencies and recognised persons are accountable to the chief executive in carrying out their specified functions and activities in relation to food businesses.

*Clause 27* amends section 174 to clearly authorise the chief executive to specify, by notice under *new section 405*, the intervals at which a territorial authority must provide to the chief executive reports on the performance of its duties and exercise of its functions and powers under the Act.

*Clause 28* amends section 204 to authorise the chief executive to specify, by notice under *new section 405*, the value to be attributed to a component of a formula for determining a fee or charge (*see* section 405(1)(d)).

*Clause 29* corrects the heading to section 292.

*Clause 30* inserts *new section 292A*. This section applies if the chief executive—

- identifies that the consumption of a food may pose a serious risk of illness or injury to consumers; and
- considers that urgent action may be needed to protect consumers from that risk.

The chief executive may require a person (other than an operator of a food business) to provide certain information relating to the food (as set out in *new section 292A(3)*) if the chief executive—

- reasonably considers that the information is necessary and relevant to determine the safety status of food, the extent of the serious risk of illness or injury to consumers, and the action needed to protect consumers from that risk; and
- reasonably believes the person has the information.

A person is not excused from compliance with a requirement to provide information under this section by reason only that compliance with that requirement would constitute breach of any contract or agreement. No evidence of any information that has directly or indirectly been obtained as a result of the person's compliance may be used

against the person in any criminal proceeding, unless the proceeding relates to the falsity of the information.

*Clause 31* amends section 321 to enable a matter commenced or taken under the Act by a food safety officer to be continued (instead of completed) by another food safety officer.

*Clause 32* repeals section 381(10) because it is not consistent with section 381(1).

*Clause 33* amends section 383, which relates to regulations about standards in relation to food. The amendments incorporate the relevant notice-making powers from *new section 405* and enable notices to be made to supplement regulations made under section 383.

*Clause 34* amends section 384, which relates to regulations about risk-based measures and related matters. Section 384 is amended to enable notices to be made to supplement regulations made under that section.

*Clause 35* amends section 385, which relates to regulations about grading schemes. Section 385 is amended to enable notices to be made to supplement regulations made under that section.

*Clause 36* amends section 387, which relates to regulations about imported food. Section 387 is amended to enable regulations to—

- prescribe requirements relating to the safety and suitability of food and to good operating practice;
- prescribe controls, restrictions, requirements, and prohibitions in relation to a food sector, including how a food sector must manage or deal with risks that arise from trading in food.

Section 387 is also amended to incorporate the notice-making powers relating to imported food that were set out in section 405 and to enable notices to be made to supplement regulations made under section 387.

*Clause 37* repeals section 388, which relates to regulations about verification requirements that relate to the operations of registered importers. Section 388 is no longer necessary in light of *new Part 3A*.

*Clause 38* amends section 389, which relates to regulations about recognised agencies, persons, and classes of persons. A new power is inserted to enable regulations to prescribe requirements that agencies, persons, and classes of persons under subpart 1 of Part 4 must comply with in order to maintain recognition. *New section 389(3)* enables notices to be made to supplement regulations made under section 389.

*Clause 39* amends section 390, which relates to regulations about information that a person or class of persons must collect about food or a food-related accessory and regulations about public registers. The amendments enable the chief executive to make notices—

- for the same matters for which regulations may be made under section 390; and
- to supplement regulations made under that section.

*Clause 40* amends section 395, which relates to regulations about other matters. The amendment enables the chief executive to make notices supplementing regulations made under this section.

Currently, sections 405 and 406 of the Act contain lists of matters for which the chief executive can issue a notice. Most of those matters have been incorporated in the relevant provisions of the Act.

*Clause 41* replaces section 405 (and section 406) with a single notice-making provision. There are 2 types of notices that can be issued under *new section 405*, namely, notices that are permitted by the Act, and notices that are permitted by a provision of the Act to supplement regulations made under the Act. The matters for which supplementary notices can be made are, in most cases, set out in the associated regulation-making provision.

Before the chief executive makes a notice supplementing regulations made under the Act, the chief executive must be satisfied of the matters set out in *new section 405(2)*.

*Clause 42* repeals section 406.

*Clause 43* makes consequential changes to section 409, which relates to the application of the Legislation Act 2012.

*Clause 44* relates to references to standard works. The examples of standard works of reference in section 445(4) are replaced with a reference to the *Codex Alimentarius*.

*Clause 45* amends Part 4 of Schedule 2. Part 4 describes food sectors that are subject to national programme level 2. *Clause 45(1)* corrects an incorrect reference to processors of nuts or seeds as being subject to food control plans. Processors of nuts or seeds are subject to national programme level 2. *Clause 45(2)* corrects an incorrect reference to processors of herbs or spices as being subject to food control plans. Processors of herbs or spices are subject to national programme level 3.

*Clause 46* amends Schedule 6, which relates to material that is incorporated by reference.

*Clause 46(1)* amends clause 5 of Schedule 6 to provide that clauses 5(1) and (2) do not apply to standard works of reference defined in section 445. (Clause 5(1) of the schedule requires the chief executive to certify and retain copies of material incorporated by reference (including amendments to the material) and clause 5(2) relates to the status of the certified copy in proceedings.)

*Clause 46(2) and (3)* amend clause 9(2) and (3) of Schedule 6, which relates to the application of the Legislation Act 2012 to material incorporated by reference. By way of background, specified document is defined in clause 1 of Schedule 6 and section 444 to mean any of the following documents:

- regulations:
- adopted joint food standards:
- notices issuing domestic food standards:
- any other notices (other than notices under section 397).



The effect of the amendments to Schedule 6 is that—

- subpart 1 of Part 3 of the Legislation Act 2012 applies to any specified document that incorporates material by reference; and
- nothing in section 41 of the Legislation Act 2012 requires any specified document that incorporates material by reference to be presented to the House of Representatives.

## Part 2

### Amendments to Animal Products Act 1999

*Part 2* of the Bill amends the Animal Products Act 1999 (the **AP Act**). In summary, the amendments cover 4 main areas, as follows:

- Under various provisions of the AP Act, the Director-General is empowered to make notices about a wide range of matters. Some of the empowering provisions overlap, making it unclear which provision notices are to be made under. Some of the notice-making powers also overlap with the Act's regulation-making powers, making it unclear whether matters should be dealt with through regulations or notices and creating uncertainty as to the nature of the relationship between the regulations and notices. To overcome these problems, the Bill restructures the way in which the AP Act provides for delegated legislation to be made.

*New section 167* creates a single notice-making power under which the Director-General may make 2 kinds of notices, as follows:

- *new section 167(1)* provides for notices that operate directly for the purposes of a provision of the Act (**direct notices**); and
- *new section 167(2)* provides for notices that supplement regulations (**supplementary notices**).

All provisions of the AP Act that contemplate notices being made are amended to make it clear whether they trigger *new section 167(1)* and allow the Director-General to make direct notices, or *new section 167(2)* and allow for supplementary notices. The AP Act is also amended to remove the overlap between the scope of the regulation-making and notice-making powers and to ensure that the empowering provisions more accurately reflect the substantive provisions to which they relate. Amendments are also made throughout the AP Act to standardise the terminology used in relation to notices and regulations.

- Subpart 1 of *new Part 6A* and related amendments to various provisions create obligations relating to the tracing and recall of animal material and animal products in order to ensure that mechanisms are in place to enable the tracing and recall of material or products that may not be fit for purpose. Operators of risk management programmes (**RMPs**), exporters, and other persons whose activities are regulated under the AP Act must, if required by the regulations, have tracing and recall procedures in place, conduct simulations or other tests

- of those procedures, and implement those procedures to trace and recall animal material or animal products when required by the regulations.
- Subpart 2 of *new Part 6A* and related amendments to various provisions strengthen and expand on the Act's verification requirements by—
    - continuing the current requirement that RMPs include provisions for verification, but with the details to be set out in regulations rather than notices (*new sections 17(2)(da) and 77F*):
    - providing for verification in relation to exports that require an official assurance (*new section 77F(1)(c)*):
    - allowing verification requirements to be included in regulated control schemes (*new section 39(3)(b)*):
    - requiring all persons whose activities are regulated under the AP Act to have their compliance with the Act verified as and when required by the regulations.
  - A number of new sections are inserted into the AP Act to standardise compliance methods and enforcement tools with those under the Food Act 2014. The matters covered by the new provisions include improvement notices, infringement offences, orders for offenders to pay an amount because of commercial gain, and the time for commencing prosecutions.

The Bill also makes various minor changes to the AP Act that are of a minor technical nature or address housekeeping matters (such as standardising terminology, correcting drafting errors, and deleting spent provisions).

#### *Notes for specific clauses*

*Clause 47* states that *Part 2* amends the Animal Products Act 1999.

*Clause 48* amends section 3 in consequence of the restructure of the delegated legislation provisions.

*Clause 49* amends section 4, which defines terms for the purposes of the Act.

*Clause 50* amends section 5 in consequence of the restructure of the delegated legislation provisions.

*Clause 51* inserts *new section 6C*, which gives effect to the transitional, savings, and related provisions in *new Schedule 1*.

*Clause 52* amends section 7 to update the cross-reference to include *new section 34A*, which replaces section 34(7).

*Clause 53* reformats section 8 but makes no change to its content.

*Clause 54* corrects an error in section 9(3) in that the Minister's role under this section is to recommend the making of Orders in Council, not to make the orders. It also deletes the reference to "appropriate" consultation, which is unnecessary as section 163 sets out the requirements for consultation.

*Clauses 55 and 56* amend sections 12 and 13 to clarify their application to part-businesses (as to which, *see* section 17A) and to make a grammatical change to the section headings.

*Clause 57* amends section 14 so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 14.

*Clause 58* amends section 15 to delete the reference to “appropriate” consultation.

*Clause 59* amends section 16 in consequence of the restructure of the delegated legislation provisions and the new verification requirements.

*Clause 60* amends section 17, which sets out the matters relating to the content of RMPs. *New paragraphs (ba), (d), and (da)*, inserted in section 17(2), relate to the new tracing and recall and verification requirements, and the expanded record-keeping requirements, under *new Part 6A*. Section 17(2)(c) is amended for consistency of language. Section 17(2)(e) is amended in consequence of the restructure of the delegated legislation provisions. *New section 17(2A)* allows regulations to require RMPs to be differentiated from other information kept by operators. This is to overcome difficulties that currently arise when operators have their RMPs combined with other documentation, which can make it difficult to identify the RMP and determine whether it complies with the Act.

*Clause 61* repeals section 17(4) as it is superseded by *new section 17(2)(da)*. This amendment is in a separate clause as its commencement is delayed to allow regulations to be prepared (*see clause 2*).

*Clause 62* amends section 19 in consequence of the restructure of the delegated legislation provisions, the new verification requirements, and the amendments being made to sections 25 and 26.

*Clauses 63 and 64* amend section 20, which sets out the requirements for applications for registration of RMPs. Section 20(3)(a) is amended to correct an error as section 12(3A) allows for templates or models but does not require them to be approved. *New section 20(4)* allows regulations to prescribe requirements relating to how material accompanying the application is to be provided. This could include, for example, requirements that the material be provided in a specified electronic format. Section 20(2)(c) and (d) is amended in consequence of the restructure of the delegated legislation provisions and the new verification requirements.

Section 20(2)(a) currently allows an applicant to lodge an outline of the RMP. *New section 20(2)(a)(ii)* will require lodgement of the whole RMP unless the regulations allow part only of the RMP to be lodged. This amendment is in a separate clause as its commencement is delayed to allow regulations to be prepared (*see clause 2*).

*Clause 65* amends section 22, which relates to the registration of RMPs. *New section 22(1)(a)(iii)* requires that an RMP be clear enough to be readily understood before the Director-General is required to register it. Section 22(3) and (4) is amended to remove the requirement for the Director-General to provide authorised copies of an RMP as this serves no useful purpose. In section 22(3A), the reference to “at any time” is un-

necessary as all statutory powers may be exercised from time to time as required (*see* section 16(1) of the Interpretation Act 1999).

*Clause 66* amends section 24 so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 24.

*Clause 67* amends section 25, which relates to registration of significant amendments to RMPs, for consistency with section 20 (registration of RMPs). The notice-making power currently in section 25(9) is replaced by a regulation-making power in *new section 166(1)(ac)*.

*Clause 68* amends section 26, which relates to notification of minor amendments to RMPs, for consistency with section 20 (registration of RMPs). Section 26(4) is repealed as the references in *new section 26(2)(b), (c), and (d)* to supplementary notices trigger *new section 167(2)* and allow the Director-General to make notices to supplement the regulations.

*Clause 69* inserts 2 new sections. *New section 26A* requires operators to give updated copies of their RMPs to their verifying agencies. *New section 26B* allows the Director-General to require an operator to amend a registered RMP that is not clear enough to be readily understood. If the operator fails to do so, the Director-General may suspend operations under the RMP or deregister it.

*Clauses 70 and 71* amend sections 27 and 28 to allow for suspension or deregistration under *new section 26B* and in consequence of the new verification requirements.

*Clause 72* replaces section 28A to clarify the application of the section to part-businesses and to modernise the language.

*Clauses 73 and 74* amend sections 29 and 30 in consequence of the new verification requirements and to delete unnecessary words in section 29(1).

*Clause 75* amends section 31 to update the cross-references to include *new section 34A*, which replaces section 34(7).

*Clause 76* amends section 33 in consequence of the restructure of the delegated legislation provisions.

*Clause 77* amends section 34, which relates to the alternate or intermittent use of risk management programmes and food control plans. Section 34(2) is updated to reflect amendments made to section 20. Section 34(3)(b) and (c) is redrafted for clarity and to ensure that regulations and supplementary notices can be made in relation to the application of both subparagraphs (i) and (ii) of each paragraph. *New section 34(4A)* replaces section 34(4)(b) and (7)(a). *New section 166(1)(af)* provides the requisite regulation-making power.

*Clause 78* inserts *new section 34A*, which replaces section 34(7)(b) and allows regulations to grant, or allow for the granting of, exemptions from requirements of the AP Act or the Food Act 2014. *New section 34A* includes the appropriateness requirement from section 34(7)(b) as a precondition of the Minister recommending the making of regulations. To accommodate this precondition, *new section 34A* creates a regulation-

making power separate from that in section 166, which is not subject to preconditions.

*Clauses 79 and 80* amend section 35 and the cross-heading above section 35 in consequence of the new verification requirements.

*Clauses 81, 82, and 83* amend section 38, replace sections 39 and 40, and amend section 41, all of which relate to regulated control schemes. The new provisions are redrafted for clarity and consistency with the restructured delegated legislation provisions. The content of the provisions is reorganised (*new section 39* relates to the content of regulated control schemes, and *new section 40* relates to the making of regulations), but the substance of the provisions is not significantly changed. The substance of current section 39(1)(a) and (c) and (2) is not included in the new provisions as it is covered by *new section 166A*.

*Clause 84* amends the Part 4 heading in consequence of the restructure of the delegated legislation provisions.

*Clause 85* replaces section 42. *New section 42(1)* is redrafted to better match with wording of section 44. *New section 42(2)* identifies the 2 ways in which animal product standards may be set—that is, by regulations and supplementary notices or, for emergency standards, by ministerial order.

*Clause 86* amends section 43 in consequence of the restructure of the delegated legislation provisions.

*Clause 87* amends section 44 as part of the restructure of the delegated legislation provisions. Because subsections (7) and (8) impose preconditions on the making of regulations under this section, *new section 44(1)* creates a regulation-making power separate from that in section 166. Subsections (3), (4), and (6) are repealed as they are superseded by *new section 166A*.

*Clause 88* repeals section 45, which is no longer necessary as the reference in *new section 42(2)(a)* to supplementary notices triggers *new section 167(2)* and allows the Director-General to make notices to supplement regulations made under section 44.

*Clause 89* amends section 46 in consequence of the changes to section 44 and repeal of section 45.

*Clause 90* amends section 48 in consequence of the restructure of the delegated legislation provisions.

*Clause 91* amends section 49 to delete the unnecessary reference to “appropriate”.

*Clause 92* amends section 50, which relates to the Director-General’s power to grant exemptions in relation to exports. The scope of the power is not being changed. The heading is amended to better reflect the content of the section. Section 50(1)(d) is amended in consequence of the restructure of the delegated legislation provisions. Section 50(2) is repealed as it is superseded by *new section 167(5)(c)*.

*Clause 93* amends section 51 in consequence of the restructure of the delegated legislation provisions.

*Clause 94* amends section 53 so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 53.

*Clauses 95 and 96* amend sections 54 and 58 in consequence of the restructure of the delegated legislation provisions.

*Clause 97* amends section 60 so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 60.

*Clause 98* amends section 60A in consequence of the restructure of the delegated legislation provisions.

*Clause 99* amends section 60B so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 60B. *New section 60B(3)* is included to ensure that the appropriateness requirement applying to the making of notices under subsection (1) also applies to exemptions granted by regulation under *new section 60B(2)*.

*Clause 100* amends section 61 in consequence of the restructure of the delegated legislation provisions.

*Clauses 101 and 102* amend sections 62 and 63 as part of the amendments relating to delegated legislation. *New section 63(3) and (4)* replaces sections 62(4) and 167(1)(k) and (l).

*Clauses 103 to 108* amend sections 65B, 65C, 65F, 67, 68, and 69 so that they trigger *new section 167(1)* and allow the Director-General to make direct notices for the purposes of those sections. Section 69(1) is amended so that it triggers *new section 167(2)* and allows for notices to supplement regulations made for the purposes of section 69.

*Clause 109* amends section 71 to clarify that while a dual operator butcher is required to operate under an RMP in relation to all animal products at the premises or place (and cannot elect to operate under the Food Act regime in relation to those products), if the butcher or someone else also carries on a food business that does not involve animal products at the same premises, he or she may operate under the Food Act regime in relation to the food that is not animal product.

*Clause 110* amends section 72 to delete the reference to “at any time”, which is unnecessary as the section applies to conduct that occurs at any time without that needing to be stated.

*Clause 111* amends section 74 so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 74.

*Clause 112* inserts *new Part 6A*, which imposes obligations relating to tracing and recall, verification, and record keeping on operators of RMPs and other persons whose activities are regulated under the AP Act (*see* the definition of regulated person in *new section 77A*).

Subpart 1 of *new Part 6A* relates to the tracing and recall of animal material and animal products. *New section 77B* requires regulated persons, if required by regulations, to have tracing and recall procedures in place, to conduct simulations or other tests of

those procedures, and to implement those procedures to trace and recall animal material or animal products when required by the regulations. *New section 77C* provides the requisite regulation-making power. Failure to comply with these requirements is an offence under section 135.

The regulations under *new section 77C* may also require matters relating to tracing and recall to be included in RMPs (*see also new section 17(2)(ba)*). Regulated control schemes may also include provisions relating to tracing and recall (*see new section 39(3)(a)*).

Subpart 2 of *new Part 6A* relates to verification, which, in broad terms, involves recognised verifiers checking that operators, exporters, and other persons are meeting their obligations under the Act. *New section 77D* requires all regulated persons to comply with the verification requirements prescribed under *new section 77F* that are applicable to them. *New section 77E* requires everyone who is subject to a verification requirement to give the verifier the access and assistance the verifier reasonably needs to undertake the verification. Failure to comply with these obligations is an offence under section 135.

Regulations under *new section 77F* may also require matters relating to verification to be included in RMPs (*see also new section 17(2)(da)*). They may also set reporting requirements for verifiers and requirements relating to the exercise, carrying out, and managing of verification functions and activities. Sections 112G and 112H require verifiers and verifying agencies to comply with these requirements.

Subpart 3 of *new Part 6A* relates to record keeping and reporting and replaces current sections 159 and 160. The provisions are redrafted for clarity and expand the range of persons who may be subject to record-keeping and reporting requirements to include all regulated persons, recognised persons (including verifiers), and recognised agencies (including verifying agencies).

*Clause 113* replaces the cross-heading above section 78 to better reflect the sections to which it relates.

*Clause 114* amends section 79 as part of the amendments relating to delegated legislation. Currently regulations under section 166(1)(ea)(iv) and notices under section 167(1)(maa)(iv) may prescribe prerequisites for the appointment of official assessors. This position is not being changed. *New section 79(2A)* recognises the possibility of prerequisites being prescribed by regulations and triggers *new section 167(1) and (2)* to allow the Director-General to make direct notices for the purposes of section 79 and to make notices to supplement regulations.

*Clause 115* amends section 80 in consequence of the restructure of the delegated legislation provisions.

*Clause 116* amends section 81A so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 81A.

*Clauses 117, 118, and 119* amend sections 81B, 82, and 83 in consequence of the restructure of the delegated legislation provisions, and to make minor housekeeping amendments to section 83.

*Clause 120* amends section 84 so that the protection from liability for defamation provided by section 84 extends to notices given to inform the public.

*Clause 121* inserts *new sections 86A and 86B*, which allow an animal product officer to issue an improvement notice to anyone the officer reasonably believes has failed, or is failing, to comply with the Act. Failing to comply with an improvement notice will be an offence under section 135(1)(c). These provisions are part of the changes being made to standardise compliance methods and enforcement tools under the AP Act and Food Act 2014 and correspond to sections 302 and 303 of the Food Act 2014.

*Clause 122* amends section 90 in consequence of the restructure of the delegated legislation provisions.

*Clause 123* inserts *new sections 91B and 91C* as part of the changes being made to standardise compliance methods and enforcement tools under the AP Act and the Food Act 2014. *New section 91B*, which allows an action started by one animal product officer to be continued by another officer, corresponds to section 321 of the Food Act 2014. *New section 91C*, which allows an animal product officer to rely on the opinion or belief of a more senior officer or the Director-General, corresponds to section 320 of the Food Act 2014.

*Clause 124* amends section 93 as part of the amendments relating to delegated legislation. Section 93(3) currently refers only to notices under section 167, although section 166(1)(eb) also allows regulations to prescribe performance standards for official assessors. The amended section 93(3) allows for both regulations and supplementary notices and direct notices under *new section 167(1)*.

*Clause 125* amends section 99 in consequence of the new verification requirements.

*Clause 126* amends section 100 in consequence of the restructure of the delegated legislation provisions.

*Clause 127* amends section 112G to require verifying agencies to keep the most up-to-date copy of the RMP (and any subsequent amendments) of each operator for which it is the verifying agency.

*Clause 128* inserts *new section 112IA*, which corresponds to *new section 157A* being inserted into the Food Act 2014 by *clause 26*.

*Clause 129* amends section 112T so that it triggers *new section 167(2)* and allows for notices to supplement regulations made for the purposes of section 112T.

*Clause 130* amends section 112Y so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 112Y and in consequence of the new verification requirements. Section 112Y(2) is repealed as it is superseded by *new section 167(5)(a)*.

*Clause 131* amends section 113 to delete the unnecessary reference to “appropriate”.

*Clause 132* amends section 115 in consequence of the restructure of the delegated legislation provisions.

*Clause 133* repeals section 115A, which is spent.



*Clause 134* amends section 117, which relates to the prescribing of fees and charges. Currently, the power to make regulations prescribing fees and charges is split between sections 117 and 166(1)(i). *New section 117(1)* consolidates those powers into a single empowering provision, which is separate from section 166 because of the pre-conditions imposed by section 117(5). Section 117(4A) is amended so that it triggers *new section 167(1)* and allows the Director-General to make direct notices for the purposes of section 117(4A).

*Clause 135* makes equivalent amendments to section 118, which relates to the prescribing of levies.

*Clause 136* amends section 121 in consequence of the restructure of the delegated legislation provisions.

*Clause 137* inserts *new sections 125A to 125E* as part of the changes being made to standardise compliance methods and enforcement tools under the AP Act and the Food Act 2014. The new sections create an infringement offence regime that corresponds to the regime in place under sections 218 to 221 of the Food Act 2014.

*Clause 138* amends section 130 in consequence of the restructure of the delegated legislation provisions.

*Clause 139* amends section 133 in consequence of the new verification requirements.

*Clause 140* inserts *new section 133A* as part of the changes being made to standardise compliance methods and enforcement tools under the AP Act and the Food Act 2014. The new section, which makes it an offence to knowingly damage or impair an automated electronic system being used under *new section 165B*, corresponds to section 239 of the Food Act 2014.

*Clause 141* amends section 135 in consequence of the restructure of the delegated legislation provisions.

*Clause 142* amends section 140 in consequence of the new verification requirements and the restructure of the delegated legislation provisions, and to correct a cross-reference error in section 140(1)(d).

*Clause 143* inserts *new sections 144A and 145* as part of the changes being made to standardise compliance methods and enforcement tools under the AP Act and the Food Act 2014. Under *new section 144A*, a court convicting a person of any of the specified offences may, if satisfied that the offence was committed in the course of producing a commercial gain, order the offender to pay an amount calculated by reference to the amount of the gain (either in addition to or instead of any other penalty available for the offence). This corresponds to section 269 of the Food Act 2014.

*New section 145*, which allows a prosecution of an offence to be commenced up to 4 years after the offence was committed, corresponds to section 250 of the Food Act 2014.

*Clause 144* amends section 147 to delete the unnecessary reference to “at any time”.

*Clause 145* amends section 152 to clarify that, in this section, prescribed means set out in the court rules.

*Clause 146* replaces sections 158 to 160. *New section 158* is not substantially different from the current provision but is rewritten for clarity and consistency with *new section 167*. Sections 159 and 160 are replaced by subpart 3 of *new Part 6A*.

*Clause 147* amends section 161 in consequence of the new verification requirements.

*Clause 148* amends section 162(1)(f) to correct an error in that section 58 provides only for deregistration of an exporter and does not contemplate suspension of export operations. *New section 162(1)(o)* is inserted so that other decisions, including decisions made under regulations, can be made reviewable.

The other amendments to section 162 are to make it clear that it is for the Director-General to decide whether to conduct the review personally or to designate another person to do so.

*Clauses 149 and 150* amend sections 163 and 164 in consequence of the restructure of the delegated legislation provisions.

*Clause 151* inserts *new sections 165B and 165C* as part of the changes being made to standardise compliance methods and enforcement tools under the AP Act and the Food Act 2014. The new sections, which allow the Director-General to use automated electronic systems to assist in the administration of the AP Act, correspond to sections 374 and 375 of the Food Act 2014.

*Clause 152* amends section 166, which is the primary regulation-making power for the AP Act. In section 166(1),—

- paragraph (a) is replaced by *new paragraphs (aa) to (af)*, which set out the regulation-making powers with more specificity and in terms that more accurately reflect the substantive provisions to which they relate:
- paragraphs (b) and (c) are removed as the regulation-making powers are now in *new section 40* and amended section 44:
- paragraph (d) is redrafted to reflect the amendments to sections 48 and 50:
- *new paragraph (ea)(iia)* is inserted to correspond to *new section 389(1)(ab)* of the Food Act 2014:
- *new paragraph (ga)* provides the regulation-making power for the purposes of *new section 77A*:
- paragraph (h) is redrafted to reflect the wording of *new section 158*:
- paragraphs (i) and (j) are removed as the regulation making-powers in those paragraphs are now in sections 117 and 118 and *new section 77H*:
- *new paragraph (oa)* is inserted to provide the regulation-making power for *new section 162(1)(o)*:
- *new paragraph (ob)* is inserted to provide the regulation-making power for *new section 167(2)* by allowing regulations to permit supplementary notices to be made to supplement regulations.

Section 166(2) is repealed as it is replaced by *new section 166A*.

*Clause 153* inserts *new sections 166A, 167, and 167A*, which, together with the amendments to section 166, are the primary pieces in the restructure of delegated legislation provisions of the Act. *New section 166A* sets out general provisions relating to the scope of all regulations made under the Act and is comparable with provisions relating to the scope of regulations under the Food Act 2014.

The effect of *new section 167* is explained above in the summary of the restructure of delegated legislation provisions.

Under *new section 167A*, most notices made under *new section 167(1)* are disallowable instruments but not legislative instruments for the purposes of the Legislation Act 2012. The exceptions are—

- notices made for the purposes of *new section 38(2)(b)* or section 60 (which relate to export requirements); and
- notices made for the purposes of section 14, 24, 50, 81A, or 112Y in relation to a particular named person.

All supplementary notices made under *new section 167(2)* are disallowable instruments but not legislative instruments.

*Clauses 154 and 155* amend section 168 and insert *new sections 168A and 168B*, which relate to the incorporation of material by reference into delegated legislation. *New section 168(6)* imports the definition of standard work of reference from the Food Act 2014. *New sections 168A and 168B* reflect clauses 5, 8, and 9 of Schedule 6 of the Food Act 2014.

*Clause 156* inserts *new Schedule 1*, which contains transitional, savings, and related provisions.

*Clause 1* of *new Schedule 1* will enable the Director-General to obtain from operators of registered RMPs information that they were not required to provide at the time their RMP was registered but which will be required to register RMPs once the amendments made by the Bill come into force. This includes obtaining all or part of the RMP itself when only an outline was provided under the current section 20(2)(a)(ii).

*Clauses 2 to 5* of *new Schedule 1* provide for the saving of notices that are in force under the current section 167 at the time the Bill comes into force.

### **Part 3**

#### **Amendments to Wine Act 2003**

*Part 3* of the Bill amends the Wine Act 2003 (the **Wine Act**). The amendments are similar to those made to the AP Act.

The Wine Act equivalent of the risk management programmes under the AP Act are wine standards management plans (**WSMPs**). In relation to the restructure of the delegated legislation provisions, the new notice-making power is in *new section 120*, with *new section 120(1)* providing for direct notices and *new section 120(2)* providing for supplementary notices.

*Clause 157* states that *Part 3* amends the Wine Act 2003.

*Clause 158* amends section 4, which defines terms for the purposes of the Wine Act.

*Clause 159* inserts *new section 4A*, which gives effect to the transitional, savings, and related provisions in *new Schedule 1*.

*Clause 160* makes amendments to section 5 that should have been made by the Food Act 2014 when sections 15A, 15B, and 15C were inserted by that Act but were inadvertently overlooked.

*Clause 161* repeals section 6(4), which is unnecessary as consultation under section 115 is required in relation to all orders made under the Wine Act.

*Clause 162* amends section 7 in consequence of the restructure of the delegated legislation provisions.

*Clause 163* amends section 8 to clarify its application to part-businesses (as to which *see* section 15) and to make a grammatical change to the section heading.

*Clause 164* makes a grammatical change to the heading of section 9.

*Clause 165* amends section 11 so that it triggers *new section 120(1)* and allows the Director-General to make direct notices for the purposes of section 11.

*Clause 166* makes amendments to section 12(1) that should have been made by the Food Act 2014 but were inadvertently overlooked. It also deletes section 12(3)(b), which is unnecessary as section 115 sets out the requirements for consultation. Section 12(4) is replaced by *new subsections (4) and (5)* to clarify the application of the Act when section 12 applies.

*Clause 167* amends section 13 in consequence of the new verification requirements.

*Clause 168* amends section 14, which sets out the matters relating to the content of WSMPs. In section 14(2), *new paragraphs (ba), (d), and (da)* relate to the new tracing and recall and verification requirements, and the expanded record-keeping requirements, under *new sections 54A to 54H*. Paragraph (e) is amended in consequence of the restructure of the delegated legislation provisions. *New section 14(2B)* allows for regulations to require WSMPs to be differentiated from other information kept by operators. This is equivalent to *new section 17(2A)* of the AP Act.

*Clause 169* repeals section 14(4) as it is superseded by *new section 14(2)(da)*. This amendment is in a separate clause as its commencement is delayed to allow regulations to be prepared (*see clause 2*).

*Clause 170* amends section 15A(4) to clarify how the Act applies in relation to extension products, partial process products, or wine products.

*Clause 171* amends section 15B for consistency with section 18, to reflect the regulation-making power in *new section 119(1)(b)(ii)* (which replaces current section 119(1)(ba)), and in consequence of the restructure of the delegated legislation provisions and the new verification requirements.

*Clause 172* amends section 15C to allow regulations to provide when and to what extent section 15C(2) or (3) does not apply. This is for consistency with section 34 of the AP Act.

*Clause 173* inserts *new section 15D*, which replaces section 119(1)(bb) and allows regulations to grant, or allow for the granting of, exemptions from requirements of the Wine Act or Food Act 2014. As with *new section 34A* of the AP Act, the appropriateness requirement is included as a precondition of the Minister recommending the making of regulations, and for that reason the regulation-making power is separated from the general regulation-making power in section 119.

*Clause 174* amends section 17 in consequence of the new verification requirements, the restructure of the delegated legislation provisions, and the amendments being made to sections 22 and 23.

*Clauses 175 and 176* amend section 18, which sets out the requirements for applications for registration of WSMPs. *New section 18(1B)* allows regulations to prescribe requirements relating to how material accompanying the application is to be provided. This could include, for example, requirements that the material be provided in a specified electronic format. Section 18(1)(c) and (d) is amended in consequence of the restructure of the delegated legislation provisions and the new verification requirements.

Section 18(1)(a) currently allows an applicant to lodge an outline of the WSMP. *New section 18(1)(a)(ii)* will require lodgement of the whole WSMP unless the regulations allow part only of the WSMP to be lodged. This amendment is in a separate clause as its commencement is delayed to allow regulations to be prepared (*see clause 2*).

*Clause 177* amends section 19, which relates to the registration of WSMPs, to provide that a WSMP must be clear enough to be readily understood before the Director-General is required to register it.

*Clause 178* amends section 21 so that it triggers *new section 120(1)* and allows the Director-General to make direct notices for the purposes of section 21.

*Clause 179* amends section 22, which relates to registration of significant amendments to WSMPs, for consistency with section 19 (registration of WSMPs). The notice-making power currently in section 22(8) is replaced by a regulation-making power in *new section 119(1)(ca)*.

*Clause 180* amends section 23, which relates to notification of minor amendments to WSMPs, for consistency with section 19 (registration of WSMPs). Section 23(4) is repealed as the references in *new section 23(2)(b), (c), and (d)* to supplementary notices trigger *new section 120(2)* and allow the Director-General to make notices to supplement the regulations.

*Clause 181* inserts 2 new sections. *New section 23A* requires operators to give updated copies of their WSMPs to their verifying agencies. *New section 23B* allows the Director-General to require an operator to amend a registered WSMP that is not clear enough to be readily understood. If the operator fails to do so, the Director-General may suspend operations under the WSMP or deregister it.

*Clauses 182 and 183* amend sections 24 and 25 to allow for suspension or deregistration under *new section 23B* and in consequence of the new verification requirements.

*Clause 184* replaces section 26 to clarify the application of the section to part-businesses and to modernise the language.

*Clauses 185 and 186* amend sections 27 and 28 in consequence of the new verification requirements and to delete unnecessary words in section 27(1).

*Clause 187* amends the heading to subpart 2 of Part 2 in consequence of the restructure of the delegated legislation provisions.

*Clause 188* replaces section 30 in consequence of the restructure of the delegated legislation provisions and to trigger *new section 120(2)* and allow the Director-General to make notices to supplement regulations made under section 33.

*Clauses 189* amends section 31 in consequence of the restructure of the delegated legislation provisions.

*Clauses 190* repeals section 32, which is rendered unnecessary by the amendments to sections 12 and 15A.

*Clause 191* amends section 33 as part of the restructure of the delegated legislation provisions. Because section 34 imposes preconditions on the making of regulations under section 33, the amended section 33(1) creates a regulation-making power separate from that in section 119. Subsections (3) to (5) and (7) are repealed as they are superseded by *new section 119A*.

*Clause 192* amends section 34 in consequence of the restructure of the delegated legislation provisions and to repeal section 34(2), which is unnecessary as section 115 requires consultation prior to the making of all regulations under the Wine Act.

*Clause 193* repeals section 35, which is superseded by *new sections 30(2) and 120(2)*.

*Clause 194* amends section 37 in consequence of the restructure of the delegated legislation provisions.

*Clause 195* amends section 38 in consequence of the restructure of the delegated legislation provisions. Section 38(3) is repealed as it is superseded by *new section 119A(2)*. Section 38(5) is repealed as it is unnecessary as section 115 requires consultation prior to the making of all notices under section 120.

*Clause 196* amends section 39, which relates to the Director-General's power to grant exemptions in relation to exports. The scope of the Director-General's power is not being changed. The heading is amended to better reflect the content of the section. Section 39(1)(e) is amended in consequence of the restructure of the delegated legislation provisions. Subsections (2) and (3) are repealed as they are superseded by *new sections 119(1)(f), 119A(1)(c), and 120(5)(c)*.

*Clause 197* amends section 40 in consequence of the restructure of the delegated legislation provisions.

*Clause 198* amends section 41 so that it triggers *new section 120(1)* and allows the Director-General to make direct notices for the purposes of section 41.

*Clause 199* amends section 42 in consequence of the restructure of the delegated legislation provisions.

*Clauses 200 and 201* amend sections 43 and 44 as part of the amendments relating to delegated legislation. *New section 44(3)* replaces sections 43(4) and 120(1)(l) and (m).

*Clause 202* amends section 47 so that it triggers *new section 120(1)* and allows the Director-General to make direct notices for the purposes of section 47.

*Clauses 203 and 204* amend sections 48 and 52 in consequence of the restructure of the delegated legislation provisions and to delete the unnecessary reference to “at any time” in section 52.

*Clause 205* amends section 53 to delete the unnecessary reference to “at any time”.

*Clause 206* inserts *new subpart 4 of Part 2*, which imposes obligations relating to tracing and recall, verification, and record keeping on operators of WSMPs, exporters, and other persons whose activities are regulated under the Wine Act. The new provisions have the same effect as *new Part 6A* of the AP Act.

*Clauses 207 and 208* amend sections 56 and 59 in consequence of the restructure of the delegated legislation provisions.

*Clauses 209 and 210* insert *new sections 61A, 61B, 68A, and 68B* as part of the changes being made to standardise compliance methods and enforcement tools under the Wine Act, the AP Act, and the Food Act 2014. *New sections 61A and 61B*, which relate to improvement notices, correspond to sections 302 and 303 of the Food Act 2014. *New sections 68A and 68B*, which relate to the functions of wine officers, correspond to sections 320 and 321 of the Food Act 2014.

*Clause 211* amends section 69 in consequence of the new verification requirements.

*Clause 212* amends section 70 in consequence of the restructure of the delegated legislation provisions.

*Clause 213* amends section 82G to require verifying agencies to keep the most up-to-date copy of the WSMP (and any subsequent amendments) of each operator for which it is the verifying agency.

*Clause 214* inserts *new section 82IA*, which relates to the accountability of recognised agencies and persons and corresponds to *new section 112IA* of the AP Act.

*Clause 215* amends section 82T so that it triggers *new section 120(2)* and allows for notices to supplement regulations that are made for the purposes of section 82T.

*Clause 216* amends section 82Y so that it triggers *new section 120(1)* and allows the Director-General to make direct notices for the purposes of section 82Y and in consequence of the new verification requirements. Section 82Y(2) is repealed as it is superseded by *new section 120(5)(a)*.

*Clauses 217, 218, and 219* amend sections 84, 86, and 87 to delete the unnecessary reference to “appropriate”. Section 86 is also amended in consequence of the restructure of the delegated legislation provisions.

*Clause 220* amends section 88, which relates to the prescribing of fees and charges. Currently, the power to make regulation prescribing fees and charges is split between sections 88 and 119(1)(j). *New section 88(1)* consolidates those powers into a single empowering provision, which is separate from section 119 because of the preconditions imposed by section 88(6). Section 88(5) is amended so that it triggers *new section 120(1)* and allows the Director-General to make direct notices for the purposes of section 88(5).

*Clause 221* makes equivalent amendments to section 89, which relates to the prescribing of levies.

*Clause 222* amends section 92 in consequence of the restructure of the delegated legislation provisions.

*Clause 223* inserts *new sections 96A to 96E* as part of the changes being made to standardise compliance methods and enforcement tools under the Wine Act, the AP Act, and the Food Act 2014. The new sections create an infringement offence regime that corresponds to the regime in place under sections 218 to 221 of the Food Act 2014.

*Clause 224* amends section 100 in consequence of the restructure of the delegated legislation provisions.

*Clause 225* amends section 101 in consequence of the new verification requirements.

*Clause 226* inserts *new sections 101A and 101B* as part of the changes being made to standardise compliance methods and enforcement tools under the Wine Act, the AP Act, and the Food Act 2014. *New section 101A*, which relates to offences involving automated electronic systems, corresponds to section 239 of the Food Act 2014. *New section 101B*, which relates to breaches of compliance orders, corresponds to section 132 of the AP Act and section 242 of the Food Act.

*Clause 227* amends section 103 in consequence of the restructure of the delegated legislation provisions.

*Clause 228* amends section 105 in consequence of the new verification requirements and the restructure of the delegated legislation provisions.

*Clause 229* inserts *new sections 109A to 110L* as part of the changes being made to standardise compliance methods and enforcement tools under the Wine Act, the AP Act, and the Food Act 2014. *New section 109A*, which relates to orders to pay an amount because of commercial gain, corresponds to section 269 of the Food Act 2014. *New section 110*, which relates to the time for commencing prosecutions, corresponds to section 250 of the Food Act 2014.

*New sections 110A to 110L* establish a compliance order regime that allows a District Court to make any of the orders described in *new section 110A(1)*. A failure to comply with a compliance order is an offence under *new section 101B*. This corresponds to the regime under sections 330 to 342 of the Food Act 2014 and sections 146 to 157 of the AP Act.



*Clause 230* repeals sections 112 and 113, which are replaced by *new sections 54G and 54H*.

*Clause 231* amends section 114(1)(f) to correct an error in that subpart 3 of Part 2 provides only for deregistration of an exporter, and does not contemplate suspension of export operations. Section 114(1)(i) is amended in consequence of the restructure of the delegated legislation provisions.

The other amendments to section 114 are to make it clear that it is for the Director-General to decide whether to conduct the review personally or to designate another person to do so.

*Clauses 232 and 233* amend sections 115 and 116 in consequence of the restructure of the delegated legislation provisions.

*Clause 234* inserts *new sections 118A and 118B* as part of the changes being made to standardise compliance methods and enforcement tools under the Wine Act, the AP Act, and the Food Act 2014. The new sections, which provide for the use of automated electronic systems, correspond to sections 374 and 375 of the Food Act 2014.

*Clause 235* amends section 119, which is the primary regulation-making power for the Wine Act. In section 119(1),—

- paragraph (a) is repealed as it is incorrect; section 6 provides for exemptions by Order in Council, not regulations:
- paragraph (b) is replaced by *new paragraphs (a), (c), (ca), and (cb)*, which set out the regulation-making powers with more specificity and in terms that more accurately reflect the substantive provisions to which they relate:
- paragraphs (ba) and (bc) are replaced by *new paragraph (b)*:
- paragraphs (bb), (c), and (d) are repealed as the regulation-making powers are now in *new section 15D* and sections 33 and 38:
- *new paragraph (d)* inserted to provide the regulation-making power for *new section 23A*:
- paragraph (f) is redrafted to reflect the amendments to sections 37 and 39:
- *new paragraph (ga)* is inserted to provide the regulation-making power for the purposes of *new section 54A*:
- *new paragraph (ha)(iia)* is inserted to correspond to *new section 389(ab)* of the Food Act 2014:
- paragraph (i) is repealed as the regulation-making power is covered by the power in section 33 to make wine standards:
- paragraphs (j) and (l) are repealed as the regulation-making powers are now in sections 88 and 89 and *new section 54H*:
- *new paragraph (o)* is an express power for the purposes of section 114(1)(i):
- *new paragraph (oa)* inserts a new regulation-making power to support *new section 120(2)* by allowing regulations to permit supplementary notices to be made to supplement regulations.

Section 119(2) is repealed as it is replaced by *new section 119A*.

*Clause 236* inserts *new sections 119A, 120, and 120A*, which, together with the amendments to section 119, are the primary pieces in the restructure of delegated legislation provisions of the Act. The new sections have the same effect as *new sections 166A, 167, and 167A* of the AP Act.

*Clauses 237 and 238* amend section 121 and insert *new sections 121A and 121B*, which relate to the incorporation of material by reference into delegated legislation. Section 121 is amended for consistency with the AP Act in relation to the incorporation of standard works of reference. *New sections 121A and 121B* reflect clauses 5, 8, and 9 of Schedule 6 of the Food Act 2014.

*Clause 239* inserts *new Schedule 1*, which contains transitional, savings, and related provisions. *New Schedule 1* provides for the saving of notices that are in force under the current section 120 at the time the Bill comes into force.

## **Part 4**

### **Consequential amendments to other legislation**

*Part 4* of the Bill makes minor consequential amendments to the Summary Proceedings Act 1957, the Health Act 1956, and the Biosecurity (National American Fowl-brood Pest Management Plan) Order 1998.

*Hon Jo Goodhew*

## **Food Safety Law Reform Bill**

Government Bill

### **Contents**

	Page
1 Title	13
2 Commencement	13
<b>Part 1</b>	
<b>Amendments to Food Act 2014</b>	
3 Principal Act	13
4 Section 18 amended (Role of chief executive)	13
5 Section 41 replaced (Food control plan: form)	13
41 Food control plan: form	13
6 Section 42 amended (Food control plan: contents)	14
7 Section 43 amended (Regulations about food control plans)	14
8 Section 46 amended (Operator may amend food control plan not based on official template or model)	14
9 Section 53 amended (Application for registration: form and content)	14
10 Section 56 amended (Criteria for registration of food control plan)	15
11 Section 58 amended (Applicants for registration must notify registration authority of significant change in circumstances)	15
12 New section 61A inserted (Clarity of food control plans not based on official template or model)	15
61A Clarity of food control plans not based on official template or model	15
13 Section 62 amended (Mandatory suspension)	15
14 Section 67 amended (Cancellation of registration)	16
15 Section 74 amended (National programme: general description)	16
16 Section 75 amended (How national programme may be imposed)	16
17 Section 76 amended (Regulations about national programmes)	16

**Food Safety Law Reform Bill**

18	Section 78 amended (Requirements of national programme to prevail in cases of inconsistency with other regulations or specifications made under this Act)	16
19	Section 83 amended (Application for registration: form and content)	17
20	Section 103 amended (Regulations about monitoring programmes)	17
21	Section 104 amended (Chief executive may specify certain matters by notice)	17
22	Section 110 amended (Duties of importer)	17
23	New Part 3A inserted	17
<b>Part 3A</b>		
<b>Tracing, recall, and verification</b>		
Subpart 1—Tracing and recall		
133A	Application of this subpart	17
133B	Tracing and recall	17
133C	Regulations and notices relating to tracing and recall of food	18
Subpart 2—Verification		
133D	Application	18
133E	Verification	18
133F	Regulations and notices relating to verification	18
24	Section 155 amended (Duties of recognised agencies)	19
25	Section 156 amended (Duties of recognised persons)	19
26	New section 157A inserted (Recognised agency and recognised person accountable to chief executive)	19
157A	Recognised agency and recognised person accountable to chief executive	19
27	Section 174 amended (Duties of territorial authority)	19
28	Section 204 amended (Regulations may impose fees and charges)	20
29	Section 292 amended (Require production of information for purpose of determining safety and suitability of food)	20
30	New section 292A inserted (Chief executive may require information to determine safety of food)	20
292A	Chief executive may require information to determine safety of food	20
31	Section 321 amended (Matters may be completed by different food safety officer)	21
32	Section 381 amended (Regulations: what they can apply to and what they can do)	21
33	Section 383 amended (Regulations about standards in relation to food)	21
34	Section 384 amended (Regulations about risk-based measures and related matters)	22

## Food Safety Law Reform Bill

---

35	Section 385 amended (Regulations about grading schemes)	22
36	Section 387 amended (Regulations about imported food)	22
37	Section 388 repealed (Regulations about verification functions in relation to importers)	23
38	Section 389 amended (Regulations about recognised agencies, persons, and classes of persons)	23
39	Section 390 amended (Regulations about information)	23
40	Section 395 amended (Regulations about other matters)	23
41	Section 405 replaced (Notices relating to general matters)	23
	405 Notices	24
42	Section 406 repealed (Notices relating to specifications or requirements for specific matters)	24
43	Section 409 amended (Application of Legislation Act 2012 to certain notices)	24
44	Section 445 amended (References to standard works)	24
45	Schedule 2 amended	25
46	Schedule 6 amended	25

### Part 2

#### Amendments to Animal Products Act 1999

47	Principal Act	25
48	Section 3 amended (General scheme of Act)	25
49	Section 4 amended (Interpretation)	25
50	Section 5 amended (Product processed fit for intended purpose)	27
51	New section 6C inserted (Transitional, savings, and related provisions relating to amending Acts)	27
	6C Transitional, savings, and related provisions relating to amending Acts	27
52	Section 7 amended (Products and material to which Act generally applies)	27
53	Section 8 replaced (Products and material excluded from ambit of Act)	27
	8 Products and material excluded from ambit of Act	27
54	Section 9 amended (Exemptions from ambit of Act by Order in Council)	27
55	Section 12 amended (What is a risk management programme?)	28
56	Section 13 amended (Who must have a risk management programme?)	28
57	Section 14 amended (Director-General may grant limited exemption from requirement to have risk management programme)	28
58	Section 15 amended (Certain persons may be required to have risk management programme by Order in Council)	28
59	Section 16 amended (Duties of operators of risk management programmes)	28

**Food Safety Law Reform Bill**

---

60	Section 17 amended (Contents of and requirements for risk management programmes)	28
61	Section 17 further amended (Contents of and requirements for risk management programmes)	29
62	Section 19 amended (Matters to be shown in register of risk management programmes)	29
63	Section 20 amended (Applications for registration of programmes)	29
64	Section 20 further amended (Applications for registration of programmes)	29
65	Section 22 amended (Registration of risk management programme)	30
66	Section 24 amended (Registration may not be transferred)	30
67	Section 25 amended (Significant amendments to risk management programme)	30
68	Section 26 amended (Updates of minor amendments to risk management programmes)	30
69	New sections 26A and 26B inserted	31
	26A Operator must give verifying agency updated programme	31
	26B Director-General may require amendment to improve clarity of registered risk management programme	31
70	Section 27 amended (Suspension of operations under registered programme)	31
71	Section 28 amended (Deregistration of risk management programme)	32
72	Section 28A replaced (Removal of animal product business from coverage of wider risk management programme)	32
	28A Removal of animal product business from coverage of wider risk management programme	32
73	Section 29 amended (Surrender of registration)	32
74	Section 30 amended (Risk management programme in conflict with regulations or specifications)	32
75	Section 31 amended (Object of sections 32 to 34)	33
76	Section 33 amended (Implications of failure to elect in case of animal product which is food whose export requires an official assurance)	33
77	Section 34 amended (Alternate or intermittent use of risk management programmes and food safety programmes)	33
78	New section 34A inserted (Regulations may grant or provide for exemptions from this Act or Food Act 2014)	34
	34A Regulations may grant or provide for exemptions from this Act or Food Act 2014	34
79	Cross-heading above section 35 amended	34
80	Section 35 amended (References to recognised risk management programme verifying agency)	34
81	Section 38 amended (Nature of regulated control schemes)	35

**Food Safety Law Reform Bill**

---

82	Sections 39 and 40 replaced	35
	39    Scope of regulated control scheme	35
	40    Regulations about regulated control schemes	36
83	Section 41 amended (Emergency control schemes)	36
84	Part 4 heading amended	36
85	Section 42 replaced (Object of this Part)	36
	42    Animal product standards	37
86	Section 43 amended (Application of standards and specifications)	37
87	Section 44 amended (Regulations may prescribe animal product standards)	37
88	Section 45 repealed (Director-General may issue specifications supplementary to animal product standards)	37
89	Section 46 amended (Emergency animal product standards and specifications)	37
90	Section 48 amended (Exporters of animal products for human or animal consumption, and certain other animal material and products, must be registered)	38
91	Section 49 amended (Registration of exporters of non-edible, etc, material or products may be required by Order in Council)	38
92	Section 50 amended (Director-General may exempt certain consignments)	38
93	Section 51 amended (Duties of exporters)	38
94	Section 53 amended (Matters to be shown in register of exporters)	38
95	Section 54 amended (Applications for registration)	39
96	Section 58 amended (Deregistration of exporters)	39
97	Section 60 amended (Export requirements)	39
98	Section 60A amended (Director-General to notify or make available export requirements)	39
99	Section 60B amended (Exemption from requirements of food standards where appropriate)	39
100	Section 61 amended (Director-General may issue official assurances)	39
101	Section 62 amended (Form and content of official assurance)	40
102	Section 63 amended (Obtaining of official assurance)	40
103	Section 65B amended (What is a game estate?)	40
104	Section 65C amended (Use and disposal of animal material and product from game estate animals)	40
105	Section 65F amended (Matters to be shown in list of game estates)	40
106	Section 67 amended (Homekill allowed)	40
107	Section 68 amended (Processing of recreational catch)	40
108	Section 69 amended (Homekill and recreational catch service providers)	40
109	Section 71 amended (Requirements for dual operator butchers)	40

**Food Safety Law Reform Bill**

110	Section 72 amended (Product processed by homekill or recreational catch service provider ceases to be regulated animal product)	41
111	Section 74 amended (Matters to be shown in list of homekill and recreational catch service providers)	41
112	New Part 6A inserted	41

**Part 6A  
General obligations**

77A	Interpretation	41
	Subpart 1—Tracing and recall	
77B	Tracing and recall requirements	42
77C	Regulations relating to tracing and recall	42
	Subpart 2—Verification	
77D	Verification	42
77E	Obligation of persons subject to verification requirements	42
77F	Regulations relating to verification	43
	Subpart 3—Record keeping and reporting	
77G	Record-keeping and reporting requirements	43
77H	Regulations and notices relating to record keeping and reporting	44
113	Cross-heading above section 78 replaced	44

*Animal product officers and official assessors*

114	Section 79 amended (Appointment of official assessors)	44
115	Section 80 amended (Director-General may issue notices)	45
116	Section 81A amended (Director-General may require declarations as to supply or movement of animals, animal material, or animal products)	45
117	Section 81B amended (Director-General may impose movement and related controls)	45
118	Section 82 amended (Power to direct disposal, etc, of animal material or product in certain circumstances)	45
119	Section 83 amended (Director-General may give statements as to New Zealand animal product standard)	45
120	Section 84 amended (Privileged statements by Director-General)	45
121	New sections 86A and 86B inserted	45
	86A Power to issue improvement notice	45
	86B Review of improvement notice	46
122	Section 90 amended (Power to condemn and require disposal of animal products that are diseased, contaminated, etc)	46
123	New sections 91B and 91C inserted	46
	91B Matters may be continued by different animal product officer	46



**Food Safety Law Reform Bill**

	91C	Opinion or belief of animal product officer	47
124		Section 93 amended (Powers of official assessors)	47
125		Section 99 amended (Outline of this Part)	47
126		Section 100 amended (Interpretation)	47
127		Section 112G amended (Duties of recognised agencies)	47
128		New section 112IA inserted (Recognised agency and recognised person accountable to Director-General)	47
	112IA	Recognised agency and recognised person accountable to Director-General	48
129		Section 112T amended (Contents of public register)	48
130		Section 112Y amended (Director-General may require notification of termination of contracts)	48
131		Section 113 amended (Principles of cost recovery)	48
132		Section 115 amended (Cost recovery to relate generally to a financial year)	48
133		Section 115A repealed (Application of section 115(1) to assurances in respect of export licences issued under Dairy Industry Restructuring Act 2001)	48
134		Section 117 amended (Fees and charges to be prescribed by regulations)	48
135		Section 118 amended (Regulations may impose levies)	49
136		Section 121 amended (Exemptions, waivers, and refunds)	49
137		New sections 125A to 125E and cross-headings inserted	49
		<i>Infringement offences</i>	
	125A	Proceedings for infringement notices	49
	125B	Issue and cancellation of infringement notices	50
	125C	Form of infringement notice	51
	125D	Payment of infringement fees	51
	125E	Regulations about infringement offences	51
		<i>Offences</i>	
138		Section 130 amended (Offence to export unless registered)	51
139		Section 133 amended (Obstruction of officers, etc)	52
140		New section 133A inserted (Offences involving automated electronic system)	52
	133A	Offences involving automated electronic system	52
141		Section 135 amended (Failure to comply with Act, etc)	52
142		Section 140 amended (Evidence in proceedings)	52
143		Section 145 replaced (Time limit for filing charging document for offence against section 129 or 135)	52
	144A	Order to pay amount because of commercial gain	52
	145	Charging documents	53
144		Section 147 amended (Application for compliance order)	53

## Food Safety Law Reform Bill

145	Section 152 amended (Change or cancellation of compliance order)	53
146	Sections 158, 159, and 160 and cross-headings replaced	53
<i>Identification, differentiation, and security systems and devices</i>		
158	Identification, differentiation, and security systems and devices	53
<i>Use of information</i>		
147	Section 161 amended (Disclosure of information for purpose of ensuring product safety, etc)	55
148	Section 162 amended (Right of review of certain decisions made under delegated authority)	55
149	Section 163 amended (Consultation requirements for making of certain Orders in Council, specifications, etc)	55
150	Section 164 amended (Notification of certain matters)	56
151	New sections 165B and 165C and cross-heading inserted	56
<i>Automated electronic systems</i>		
165B	Arrangement for system	56
165C	Effect of use of system	57
152	Section 166 amended (Regulations)	57
153	Section 167 replaced (Notices)	59
166A	Scope of regulations	59
167	Notices	60
167A	Application of Legislation Act 2012 to notices	61
154	Section 168 amended (Incorporation of material by reference into regulations, notices, and orders)	61
155	New sections 168A and 168B inserted	62
168A	Availability and proof of material incorporated by reference	62
168B	Application of Legislation Act 2012 to incorporating instruments and incorporated material	62
156	New Schedule 1 inserted	63

### Part 3

#### Amendments to Wine Act 2003

157	Principal Act	63
158	Section 4 amended (Interpretation)	63
159	New section 4A inserted (Transitional, savings, and related provisions relating to amending Acts)	64
4A	Transitional, savings, and related provisions relating to amending Acts	64
160	Section 5 amended (Scope of Act)	64
161	Section 6 amended (Exemptions from application of Act)	64

**Food Safety Law Reform Bill**

---

162	Section 7 amended (Outline of this Part)	65
163	Section 8 amended (What is a wine standards management plan?)	65
164	Section 9 amended (Who must have a wine standards management plan?)	65
165	Section 11 amended (Limited exemption from requirement to have wine standards management plan)	65
166	Section 12 amended (Certain persons may be required to have wine standards management plan)	65
167	Section 13 amended (Duties of operators of wine standards management plans)	66
168	Section 14 amended (Contents of and requirements for wine standards management plans)	66
169	Section 14 further amended (Contents of and requirements for wine standards management plans)	66
170	Section 15A amended (Persons involved with both food and wine)	66
171	Section 15B amended (Application for intermittent use of food control plan as wine standards management plan)	67
172	Section 15C amended (Intermittent use of food control plan as wine standards management plan)	67
173	New section 15D inserted (Regulations may grant or provide for exemptions from this Act or Food Act 2014)	67
	15D Regulations may grant or provide for exemptions from this Act or Food Act 2014	67
174	Section 17 amended (Register of wine standards management plans)	68
175	Section 18 amended (Applications for registration of wine standards management plans)	68
176	Section 18 further amended (Applications for registration of wine standards management plans)	68
177	Section 19 amended (Registration of wine standards management plans)	68
178	Section 21 amended (Registration may not be transferred)	68
179	Section 22 amended (Significant amendment of wine standards management plan)	69
180	Section 23 amended (Updates of minor amendments to wine standards management plans)	69
181	New sections 23A and 23B inserted	70
	23A Operator to give verifying agency updated plan	70
	23B Director-General may require amendment to improve clarity of registered wine standards management plan	70
182	Section 24 amended (Suspension of operations under registered wine standards management plan)	70
183	Section 25 amended (Deregistration of wine standards management plan)	70

**Food Safety Law Reform Bill**

184	Section 26 replaced (Removal of wine business from coverage of wider wine standards management plan)	70
	26 Removal of wine business from coverage of wider wine standards management plan	71
185	Section 27 amended (Surrender of registration)	71
186	Section 28 amended (References to recognised verifying agency)	71
187	Subpart 2 heading in Part 2 amended	71
188	Section 30 replaced (Outline of subpart 2)	71
	30 Wine standards	71
189	Section 31 amended (Application of standards and specifications)	71
190	Section 32 repealed (Application to extension products, partial process products, and wine products)	71
191	Section 33 amended (Regulations may prescribe standards)	72
192	Section 34 amended (Prerequisites for prescribing standards)	72
193	Section 35 repealed (Director-General may issue specifications supplementary to wine standards)	72
194	Section 37 amended (Prerequisites for export)	72
195	Section 38 amended (Export eligibility requirements)	72
196	Section 39 amended (Exemption of certain consignments)	72
197	Section 40 amended (Duties of exporters)	73
198	Section 41 amended (Director-General to notify or make available access requirements for overseas markets)	73
199	Section 42 amended (Director-General may issue official assurances)	73
200	Section 43 amended (Form and content of official assurance)	73
201	Section 44 amended (Obtaining of official assurance)	73
202	Section 47 amended (Register of exporters)	73
203	Section 48 amended (Applications for registration as exporter)	73
204	Section 52 amended (Deregistration of exporters)	74
205	Section 53 amended (Surrender of registration)	74
206	New subpart 4 of Part 2 inserted	74
	Subpart 4—General obligations	
	54A Interpretation	74
	<i>Tracing and recall</i>	
	54B Tracing and recall requirements	74
	54C Regulations relating to tracing and recall	74
	<i>Verification</i>	
	54D Verification	75
	54E Obligation of persons subject to verification requirements	75
	54F Regulations relating to verification	75
	<i>Record keeping and reporting</i>	
	54G Record keeping and reporting requirements	76

**Food Safety Law Reform Bill**

	54H	Regulations and notices relating to record keeping and reporting	76
207		Section 56 amended (Director-General may issue notices)	77
208		Section 59 amended (Power to direct disposal, etc, of wine in certain circumstances)	77
209		New sections 61A and 61B inserted	77
	61A	Power to issue improvement notice	77
	61B	Review of improvement notice	77
210		New sections 68A and 68B inserted	78
	68A	Matters may be continued by different wine officer	78
	68B	Opinion or belief of wine officer	78
211		Section 69 amended (Outline of sections 70 to 82Z)	78
212		Section 70 amended (Interpretation)	78
213		Section 82G amended (Duties of recognised agencies)	79
214		New section 82IA inserted (Recognised agency and recognised person accountable to Director-General)	79
	82IA	Recognised agency and recognised person accountable to Director-General	79
215		Section 82T amended (Contents of public register)	79
216		Section 82Y amended (Director-General may require notification of termination of contracts)	79
217		Section 84 amended (Principles of cost recovery)	79
218		Section 86 amended (Cost recovery to relate generally to financial year)	79
219		Section 87 amended (Three-yearly review of cost recovery)	80
220		Section 88 amended (Fees and charges to be prescribed by regulations)	80
221		Section 89 amended (Regulations may impose levies)	80
222		Section 92 amended (Exemptions, waivers, and refunds)	80
223		New sections 96A to 96E and cross-heading inserted	80
		<i>Infringement offences</i>	
	96A	Proceedings for infringement notices	81
	96B	Issue and cancellation of infringement notices	81
	96C	Form of infringement notice	82
	96D	Payment of infringement fees	82
	96E	Regulations about infringement offences	82
224		Section 100 amended (Offence to export unless registered or in compliance with export eligibility requirements)	83
225		Section 101 amended (Obstruction of officers, etc)	83
226		New sections 101A and 101B inserted	83
	101A	Offences involving automated electronic system	83
	101B	Breach of compliance order	83
227		Section 103 amended (Failure to comply with Act, etc)	84
228		Section 105 amended (Evidence in proceedings)	84

**Food Safety Law Reform Bill**

229	Section 110 replaced (Time for filing charge for offence against section 102 or 103)	84
	109A Order to pay amount because of commercial gain	84
	110 Charging documents	84
	<i>Compliance orders</i>	
	110A Compliance orders	85
	110B Application for compliance order	85
	110C Notification of application	86
	110D Right to be heard	86
	110E Decision on application	86
	110F Interim compliance orders	86
	110G Change or cancellation of compliance order	87
	110H Compliance with compliance order	87
	110I Appeals to High Court	88
	110J Appeals to Court of Appeal or Supreme Court	88
	110K Effect of appeal	88
	110L Rules of court	88
230	Sections 112 and 113 and cross-heading replaced	89
	<i>Use of border information</i>	
231	Section 114 amended (Right of review of certain decisions made under delegated authority)	89
232	Section 115 amended (Consultation requirements for making of certain orders, specifications, etc)	89
233	Section 116 amended (Notification of certain matters)	90
234	New sections 118A and 118B and cross-heading inserted	90
	<i>Automated electronic systems</i>	
	118A Arrangement for system	90
	118B Effect of use of system	91
235	Section 119 amended (Regulations)	91
236	Section 120 replaced (Notices)	93
	119A Scope of regulations	93
	120 Notices	94
	120A Application of Legislation Act 2012 to notices	95
237	Section 121 amended (Incorporation of material by reference into regulations, notices, and orders)	95
238	New sections 121A and 121B inserted	96
	121A Availability and proof of material incorporated by reference	96
	121B Application of Legislation Act 2012 to incorporating instrument and incorporated material	96
239	New Schedule 1 inserted	97

<b>Part 4</b>		
<b>Consequential amendments to other enactments</b>		
240	Amendments to Summary Proceedings Act 1957	97
241	Amendment to Health Act 1956	97
242	Amendment to Biosecurity (National American Foulbrood Pest Management Plan) Order 1998	97
	<b>Schedule 1</b>	98
	<b>New Schedule 1 inserted in Animal Products Act 1999</b>	
	<b>Schedule 2</b>	101
	<b>New Schedule 1 inserted in Wine Act 2003</b>	

**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Food Safety Law Reform Act **2016**.
- 2 Commencement**
- (1) **Sections 61, 64, 169, and 176** come into force on a date appointed by the Governor-General by Order in Council. 5
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

- Part 1**
- Amendments to Food Act 2014** 10
- 3 Principal Act**  
This **Part** amends the Food Act 2014 (the **principal Act**).
- 4 Section 18 amended (Role of chief executive)**  
After section 18(2)(j), insert:
- (ja) undertaking contingency planning for incidents that may affect the safety and suitability of food; and 15
- 5 Section 41 replaced (Food control plan: form)**  
Replace section 41 with:
- 41 Food control plan: form** 20  
A food control plan must be in writing and—
- (a) be submitted for registration in a form acceptable to the appropriate authority; and
- (b) comply with the requirements of this Act.

**6 Section 42 amended (Food control plan: contents)**

After section 42(h), insert:

- (ha) if **subpart 1 of Part 3A** applies, any matters relating to the tracing of food and recall of food that are required by any regulations made under **section 133C** and any notice under **section 405**; and

5

**7 Section 43 amended (Regulations about food control plans)**

- (1) In the heading to section 43, after “**Regulations**”, insert “**and notices**”.

- (2) Replace sections 43(1)(c) and (d) with:

(c) requiring a food control plan to be differentiated from other information kept by the operator and prescribing how this must be done:

10

(d) prescribing requirements for the registration of food control plans, including the manner and form in which the operator must provide the food control plan for registration:

- (3) After section 43(1)(f), insert:

(fa) prescribing the time within which copies of amendments to a food control plan must be provided under **section 46(5A)**:

15

- (4) After section 43(2), insert:

- (3) The chief executive may, by notice under **section 405**,—

(a) set requirements as to how persons who operate under food control plans are to demonstrate competency (in relation to the safety and suitability of food, food production, and food processing and handling), the appropriate training for those persons, and the staff training to be provided:

20

(b) set requirements for the validation and evaluation of food control plans:

(c) supplement regulations made under this section.

**8 Section 46 amended (Operator may amend food control plan not based on official template or model)**

25

After section 46(5), insert:

- (5A) The operator must, within the time prescribed in regulations, give a copy of any amendment to the plan to the operator’s verifier or verification agency.

**9 Section 53 amended (Application for registration: form and content)**

30

- (1) Replace section 53(2) with:

- (2) For a food control plan that is based on an official template or model, the information referred to in subsection (1)(b) is—

(a) a copy of the provisions of the food control plan; and

(b) the reference number of the official template or model; and

35

(c) confirmation of the operator’s verifier or verification agency.



- (2) In section 53(3)(b), replace “by the chief executive on a case-by-case basis or by notice under section 405” with “under **subsection (4)**”.
- (3) After section 53(3), insert:
- (4) The chief executive may waive the requirement to provide an independent evaluation of the validity of a food control plan— 5
- (a) on a case-by-case basis; or
- (b) by notice under **section 405**.
- 10 Section 56 amended (Criteria for registration of food control plan)**
- (1) In section 56(d)(ii), replace “Act.” with “Act; and”.
- (2) After section 56(d), insert: 10
- (e) the plan is clear enough to be readily understood by the operator, the relevant registration authority, and the operator’s verifier or verification agency.
- 11 Section 58 amended (Applicants for registration must notify registration authority of significant change in circumstances)** 15
- Replace section 58(3)(a) with:
- (a) if the application is for registration of a food control plan under **section 53(3)**, any change in the information that the applicant—
- (i) has provided in the food control plan to meet the requirements of section 42(a) to (e): 20
- (ii) has provided under section 55:
- 12 New section 61A inserted (Clarity of food control plans not based on official template or model)**
- After section 61, insert:
- 61A Clarity of food control plans not based on official template or model** 25
- If a registration authority considers that a food control plan that is not based on an official template or model does not comply with **section 56(e)**,—
- (a) the authority may require the operator of the plan to amend the plan to comply with **section 56(e)**; and
- (b) the operator must amend the plan accordingly within 6 months after the date it received the authority’s requirement to amend the plan. 30
- 13 Section 62 amended (Mandatory suspension)**
- (1) In section 62(1)(d), after “it”, insert “; or”.
- (2) After section 62(1)(d), insert:

- (e) in the case of a registered food control plan that is not based on an official template or model, the operator has failed to comply with a requirement under **section 61A**.
- 14 Section 67 amended (Cancellation of registration)**
- (1) In section 67(1)(g), replace “fee.” with “; or”.
- (2) After section 67(1)(g), insert:
- (h) in the case of a registered food control plan that is not based on an official template or model, the operator has failed to comply with a requirement under **section 61A**.
- 15 Section 74 amended (National programme: general description)**
- In section 74(1)(a), replace “and registration requirements” with “registration requirements, and traceability and recall requirements”.
- 16 Section 75 amended (How national programme may be imposed)**
- (1) Replace section 75(1) with:
- (1) A national programme may be imposed by regulations made under section 76.
- (2) In section 75(2), replace “or specifications referred to in subsection (1)” with “made under section 76 or notice referred to in **section 76(3)**”.
- 17 Section 76 amended (Regulations about national programmes)**
- (1) In the heading to section 76, after “**Regulations**”, insert “**and notices**”.
- (2) After section 76(2), insert:
- (3) The chief executive may, by notice under **section 405**,—
- (a) set requirements as to how persons who operate under national programmes are to demonstrate competence (in relation to the safety and suitability of food, food production, and food processing and handling), the appropriate training for those persons, and the staff training to be provided; and
- (b) specify information or other material (including any declarations) that must be provided in an application for registration; and
- (c) supplement regulations made under this section.
- 18 Section 78 amended (Requirements of national programme to prevail in cases of inconsistency with other regulations or specifications made under this Act)**
- (1) In the heading to section 78, replace “**specifications**” with “**notices**”.
- (2) In section 78, replace “specifications” with “notices”.

**19 Section 83 amended (Application for registration: form and content)**

Replace section 83(i) with:

- (i) include any further information or other material (including declarations, if appropriate) that may be required by any regulations made under this Act or any notice under **section 405**; and

5

**20 Section 103 amended (Regulations about monitoring programmes)**

- (1) In the heading to section 103, after “**Regulations**”, insert “**and notices**”.
- (2) After section 103(3), insert:
- (4) The chief executive may, by notice under **section 405**, supplement regulations made under this section.

10

**21 Section 104 amended (Chief executive may specify certain matters by notice)**

- (1) Repeal section 104(2).
- (2) In section 104(3), delete “or (2)”.

**22 Section 110 amended (Duties of importer)**

In section 110(1)(c), delete “source or”.

15

**23 New Part 3A inserted**

After section 133, insert:

**Part 3A**  
**Tracing, recall, and verification**

20

Subpart 1—Tracing and recall

**133A Application of this subpart**

This subpart applies to a person who—

- (a) trades in food; and
- (b) is specified by regulations made under **section 133C(1)(a)** as a person to whom this subpart applies.

25

**133B Tracing and recall**

A person to whom this subpart applies must, in accordance with any regulations made under **section 133C** and any notice under **section 405**,—

- (a) have in place procedures for—
  - (i) tracing food; and
  - (ii) recalling food; and
- (b) conduct simulations or other tests of those procedures; and

30

(c)	implement those procedures to trace and recall food.	
<b>133C</b>	<b>Regulations and notices relating to tracing and recall of food</b>	
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:	
(a)	specifying a person who trades in food as a person to whom this subpart applies:	5
(b)	setting requirements that apply to that person in relation to—	
(i)	the content of procedures referred to in <b>section 133B(a)</b> ; and	
(ii)	the conducting of simulations and other tests of those procedures; and	10
(iii)	the implementation of those procedures to trace food and recall food:	
(c)	specifying matters in relation to tracing and recall that must be included (if applicable) in a food control plan or a national programme.	
(2)	Before recommending the making of regulations under this section, the Minister must be satisfied that there has been appropriate consultation on the regulations in accordance with section 379.	15
(3)	The chief executive may, by notice under <b>section 405</b> , supplement regulations made under this section.	
	Subpart 2—Verification	20
<b>133D</b>	<b>Application</b>	
	This subpart applies to a person who—	
(a)	trades in food; and	
(b)	is specified by regulations made under <b>section 133F(1)(a)</b> as a person to whom this subpart applies.	25
<b>133E</b>	<b>Verification</b>	
	A person to whom this subpart applies must ensure that its operations are verified in accordance with any regulations made under <b>section 133F</b> and any notice under <b>section 405</b> .	
<b>133F</b>	<b>Regulations and notices relating to verification</b>	30
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:	
(a)	specifying a person who trades in food as a person to whom this subpart applies:	
(b)	specifying the operations or the part of the person's operations that must be verified:	35

- (c) prescribing requirements relating to the exercise, carrying out, and managing of verification functions and activities:
  - (d) specifying matters in relation to verification that must be included in a food control plan.
- (2) Before recommending the making of regulations under this section, the Minister must be satisfied that there has been appropriate consultation on the regulations in accordance with section 379. 5
- (3) The chief executive may, by notice under **section 405**,—
- (a) prescribe requirements relating to the verification of those operations, including requirements relating to the frequency, intensity, and cost of verification; and 10
  - (b) supplement regulations made under this section.

#### 24 Section 155 amended (Duties of recognised agencies)

After section 155(1), insert:

- (1A) A recognised agency that is a verification agency must ensure that it has, for each operator for which it carries out verification functions and activities, a copy of the operator’s food control plan (including any amendments to the plan that have been provided to it by the operator). 15

#### 25 Section 156 amended (Duties of recognised persons)

In section 156, insert as subsection (2): 20

- (2) If a recognised person is a verifier who is not working for a verification agency, the person must ensure that it has, for each operator for which the person carries out verification functions and activities, a copy of the operator’s food control plan (including any amendments to the plan that have been provided to it by the operator). 25

#### 26 New section 157A inserted (Recognised agency and recognised person accountable to chief executive)

After section 157, insert:

##### 157A Recognised agency and recognised person accountable to chief executive

- (1) A recognised agency is, in carrying out its specified functions and activities in relation to a food business, accountable to the chief executive. 30
- (2) A recognised person is, in carrying out his or her specified functions and activities in relation to a food business, accountable to the chief executive.

#### 27 Section 174 amended (Duties of territorial authority)

- (1) In section 174(f), replace “under **section 405** (which reports must include any details specified in the notice under that section)” with “referred to in **subsection (2)**”. 35

- (2) In section 174, insert as subsection (2):
- (2) The chief executive may, by notice under **section 405**, specify the intervals at which the reports required by subsection (1)(f) must be provided and any details to be included in the reports.
- 28 Section 204 amended (Regulations may impose fees and charges)** 5  
Replace section 204(5) with:
- (5) If regulations prescribe a formula for determining a fee or charge, the value to be attributed to a component of that formula may—
- (a) be specified in the formula; or
- (b) be specified by the chief executive by notice under **section 405**. 10
- 29 Section 292 amended (Require production of information for purpose of determining safety and suitability of food)**  
Replace the heading to section 292 with “**Chief executive may require information from operator to determine safety and suitability of food**”.
- 30 New section 292A inserted (Chief executive may require information to determine safety of food)** 15  
After section 292, insert:
- 292A Chief executive may require information to determine safety of food**
- (1) This section applies if the chief executive—
- (a) identifies that the consumption of a food may pose a serious risk of illness or injury to consumers; and 20
- (b) considers that urgent action may be needed to protect consumers from that risk.
- (2) The chief executive may require a person who is not an operator of a food business to provide the information described in **subsection (3)** if— 25
- (a) the chief executive reasonably considers the information is necessary and relevant to determine—
- (i) the safety status of food; or
- (ii) the extent of the risk referred to in **subsection (1)(a)**; or 30
- (iii) the action needed to protect consumers from that risk; and 30
- (b) the chief executive reasonably believes that the person has the information.
- (3) The information is information about—
- (a) food or anything that may become food or anything that has become food: 35

- (b) a food-related accessory used in producing or processing and handling food for sale;
- (c) any place used for the production, processing and handling, or sale of food;
- (d) anything that is or is likely to be a hazard. 5
- (4) A requirement to provide information under this section must be in writing.
- (5) The chief executive—
- (a) may require the information to be provided to the chief executive or a food safety officer; and
- (b) may require the information to be provided within a time specified by the chief executive; and 10
- (c) may copy the information or require a food safety officer to copy the information.
- (6) A copy that is made under **subsection (5)** and certified by the chief executive or the food safety officer as a true and correct copy is presumed to be a true and correct copy until the contrary is proved. 15
- (7) No person is excused from compliance with a requirement to provide information under this section by reason only that compliance with that requirement would constitute breach of any contract or agreement.
- (8) No evidence of any information that has directly or indirectly been obtained as a result of a person's compliance with a requirement to provide information under this section may be used against the person in any criminal proceeding, except in a criminal proceeding that concerns the falsity of the information. 20
- Compare: 2009 No 35 s 9(2)
- 31 Section 321 amended (Matters may be completed by different food safety officer)** 25
- (1) In the heading to section 321, replace “**completed**” with “**continued**”.
- (2) In section 321(1), replace “completed” with “continued”.
- 32 Section 381 amended (Regulations: what they can apply to and what they can do)** 30
- Repeal section 381(10).
- 33 Section 383 amended (Regulations about standards in relation to food)**
- (1) In the heading to section 383, after “**Regulations**”, insert “**and notices**”.
- (2) In section 383(4)(b), replace “section 406(1)(u)” with “**subsection (8)**”.
- (3) In section 383(4)(c), replace “section 406(1)(u)” with “**subsection (8)**”. 35
- (4) After section 383(7), insert:
- (8) The chief executive may, by notice under **section 405**,—

<ul style="list-style-type: none"> <li>(a) specify the maximum amount of contaminants or residues that may be present in food:</li> <li>(b) set requirements in relation to the matters specified in <b>paragraph (a)</b>:</li> <li>(c) provide for the matters referred to in subsection (4)(b) and (c):</li> <li>(d) supplement regulations made under this section.</li> </ul>	5
<b>34 Section 384 mended (Regulations about risk-based measures and related matters)</b>	
(1) In the heading to section 384, after “ <b>Regulations</b> ”, insert “ <b>and notices</b> ”.	
(2) After section 384(2), insert:	
(3) The chief executive may, by notice under <b>section 405</b> , supplement regulations made under this section.	10
<b>35 Section 385 amended (Regulations about grading schemes)</b>	
(1) In the heading to section 385, after “ <b>Regulations</b> ”, insert “ <b>and notices</b> ”.	
(2) After section 385(4), insert:	
(5) The chief executive may, by notice under <b>section 405</b> , supplement regulations made under this section.	15
<b>36 Section 387 amended (Regulations about imported food)</b>	
(1) In the heading to section 387, after “ <b>Regulations</b> ”, insert “ <b>and notices</b> ”.	
(2) Replace section 387(1)(e) with:	
(e) requirements relating to the safety and suitability of food and to good operating practice:	20
(ea) controls, restrictions, requirements, and prohibitions in relation to a food sector, including how a food sector must manage or deal with risks that arise from trading in food:	
(3) After section 387(3), insert:	25
(4) The chief executive may, by notice under <b>section 405</b> ,—	
(a) set requirements relating to the form or manner of applications for registration as an importer; and	
(b) specify—	
(i) which imported food category a particular food fits into for the purposes of regulations made under this section; and	30
(ii) conditions and criteria that attach to a particular food fitting within or continuing to fit within a particular category; and	
(iii) conditions and criteria that determine the basis for movement between particular categories; and	35



- (iv) requirements for providing samples and information about and monitoring imported food that will assist in determining the risk of an imported food or determining an imported food’s categorisation; and
- (c) supplement regulations made under this section. 5
- 37 Section 388 repealed (Regulations about verification functions in relation to importers)**
- Repeal section 388.
- 38 Section 389 amended (Regulations about recognised agencies, persons, and classes of persons)** 10
- (1) In the heading to section 389, after “**Regulations**”, insert “**and notices**”.
- (2) After section 389(1)(a), insert:
- (ab) prescribing requirements that agencies, persons, and classes of persons under subpart 1 of Part 4 must comply with in order to maintain recognition: 15
- (3) After section 389(2), insert:
- (3) The chief executive may, by notice under **section 405**, supplement regulations made under this section.
- 39 Section 390 amended (Regulations about information)**
- (1) In the heading to section 390, after “**Regulations**”, insert “**and notices**”. 20
- (2) After section 390(3), insert:
- (4) The chief executive may, by notice under **section 405**,—
- (a) set requirements for all or any of the matters described in subsection (1)(a) to (c):
- (b) set requirements for all or any of the matters described in subsection (2)(a) to (c): 25
- (c) supplement regulations made under this section.
- 40 Section 395 amended (Regulations about other matters)**
- (1) In the heading to section 395, after “**Regulations**”, insert “**and notices**”.
- (2) After section 395(2), insert: 30
- (3) The chief executive may, by notice under **section 405**, supplement regulations made under this section.
- 41 Section 405 replaced (Notices relating to general matters)**
- Replace section 405 with:

**405 Notices**

- (1) The chief executive may issue notices that—
- (a) set requirements or specify matters that are permitted by this Act; or
  - (b) are permitted by a provision of this Act to supplement regulations made under this Act. 5
- (2) The chief executive must not issue a notice under **subsection (1)(b)** unless satisfied that the notice—
- (a) sets out matters of detail to elaborate on matters provided for in the regulations; or
  - (b) sets out procedures, methodologies, forms, or other matters of an administrative nature relating to matters provided for in the regulations; or 10
  - (c) sets out how requirements imposed by the regulations may or must be met; or
  - (d) otherwise supplements matters of general principle set out in the regulations. 15
- (3) If a notice issued under this section is inconsistent with the regulations, the regulations prevail to the extent of the inconsistency.

**42 Section 406 repealed (Notices relating to specifications or requirements for specific matters)**

Repeal section 406. 20

**43 Section 409 amended (Application of Legislation Act 2012 to certain notices)**

- (1) In section 409(1), delete “104, 405, 406(1)(a) to (u), or (w) to (y),”.
- (2) In section 409(1), after “or 438”, insert “or **section 405** by virtue of section 33, 39, 40, 44, 45, 46, 75, 103, 104, **133C, 133F**, 170, 174, 291, 347, 383, 387, 389, or 390,”. 25
- (3) In section 409(2), replace paragraphs (a) to (c) with:
- (a) under **section 405** by virtue of **section 53(4)(b)** in respect of a specified business; or
  - (b) under **section 405** by virtue of **section 387(4)(b)**; or 30
  - (c) under **section 405** by virtue of section 33(4), 45(5), 46(6), or 291; or

**44 Section 445 amended (References to standard works)**

In section 445(4), replace “Examples are the *Food Chemicals Codex* and the *Pharmaceutical Codex*.” with “An example is the *Codex Alimentarius*.”

- 45 Schedule 2 amended**
- (1) In Schedule 2, Part 4, under the heading “**Manufacturers of crisps, popcorn, pretzels, or similar snack products**” and subheading “*What this food sector does not include*”, in the second bullet point, replace “food control plans” with “national programme level 2”. 5
- (2) In Schedule 2, Part 4, under the heading “**Manufacturers of dried or dehydrated fruit or vegetables**” and subheading “*What this food sector does not include*”, in the first bullet point, replace “food control plans” with “national programme level 3”.
- 46 Schedule 6 amended** 10
- (1) In Schedule 6, clause 5(3), after “standard”, insert “or a standard work of reference (as defined in section 445(4))”.
- (2) In Schedule 6, clause 9(2), replace “regulations that incorporate” with “a specified document that incorporates”.
- (3) In Schedule 6, clause 9(3), replace “regulations” with “a specified document”. 15

## Part 2

### Amendments to Animal Products Act 1999

- 47 Principal Act**
- This **Part** amends the Animal Products Act 1999 (the **principal Act**).
- 48 Section 3 amended (General scheme of Act)** 20
- (1) In section 3(1)(c), delete “, and for the setting of any technical specifications required to meet those standards”.
- (2) In section 3(3)(a), delete “and specifications”.
- 49 Section 4 amended (Interpretation)**
- (1) In section 4(1), repeal the definitions of **accredited person, accredited risk management programme verifier, animal product standard, recognised risk management programme verifier, recognised risk management programme verifying agency, and verification**. 25
- (2) In section 4(1), insert in their appropriate alphabetical order:
- animal product standard** means a standard prescribed by regulations made under section 44 or issued by order under section 46 30
- automated electronic system** means a system that is the subject of an arrangement under **section 165B**
- export requirements** means requirements specified by the Director-General by notice under **section 167(1)** for the purposes of section 60 35

**infringement fee**, in relation to an infringement offence, means the amount set out in regulations made under **section 125E** to be payable for the offence

**infringement offence** means an offence identified in regulations made under **section 125E** as an infringement offence

**regulated person** has the meaning given in **section 77A**

**regulations** means regulations made under this Act

**supplementary notice** means a notice issued under **section 167(2)**

**verification** includes the application of methods, procedures, tests, and other checks to confirm,—

(a) in relation to a risk management programme or regulated control scheme,—

(i) whether operations that are subject to the programme or scheme are being carried out in compliance with it; and

(ii) the applicability of the programme or scheme to the operations of the relevant animal product business; and

(iii) the effectiveness of the programme or scheme:

(b) in relation to animal material or animal products for whose export an official assurance is required, whether the animal material or animal products have been produced or processed in a way that meets the requirements for the official assurance:

(c) whether a regulated person has complied with a requirement imposed by or under this Act

**verifier** means a recognised person whose specified functions and activities include carrying out verification functions and activities

**verifying agency** means a recognised agency whose specified functions and activities include managing and carrying out verification functions and activities

(3) In section 4(1), definition of **dairy processor**, replace paragraph (b) with:

(b) does not include—

(i) persons (such as airline or shipping staff or stevedores) handling dairy material at the port of export:

(ii) wholesalers or other persons (other than retailers) handling dairy material at the place of sale for consumption or use:

(iii) retailers doing any or all of the following at the place of sale for consumption or use:

(A) handling dairy material:

(B) dividing or combining dairy material into smaller or larger quantities:

- (C) repackaging dairy material
- (4) In section 4(1), definition of **permissible functions and activities**, delete “verification functions and activities and other”.
- (5) In section 4(1), definition of **permissible functions and activities**, paragraph (a), delete “in relation to risk management programmes”. 5
- (6) In section 4(1), definition of **permissible functions and activities**, repeal paragraph (b).
- (7) In section 4(1), definition of **primary processor**, paragraph (d), replace “appropriate consultation” with “consultation”.
- (8) In section 4(2)(a), delete “specifications,” in each place. 10
- (9) In section 4(2)(b), replace “section 166” with “any other section”.
- 50 Section 5 amended (Product processed fit for intended purpose)**  
In section 5, replace “and associated specifications set under Part 4” with “and any supplementary notices”.
- 51 New section 6C inserted (Transitional, savings, and related provisions relating to amending Acts)** 15  
Before the cross-heading above section 7, insert:
- 6C Transitional, savings, and related provisions relating to amending Acts**
- (1) The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms. 20
- (2) The Animal Products (Ancillary and Transitional Provisions) Act 1999 contains transitional, savings, and related provisions relating to the enactment of this Act.
- 52 Section 7 amended (Products and material to which Act generally applies)**  
In section 7(3), replace “34” with “**34A**”. 25
- 53 Section 8 replaced (Products and material excluded from ambit of Act)**  
Replace section 8 with:
- 8 Products and material excluded from ambit of Act**  
This Act does not apply to any animal material or animal product if and to the extent that animal material or product of that kind is exempted from all or any of the provisions of this Act by Order in Council made under section 9. 30
- 54 Section 9 amended (Exemptions from ambit of Act by Order in Council)**
- (1) In section 9(3), replace “an order” with “a recommendation”.
- (2) In section 9(4), delete “appropriate”.

- 55 Section 12 amended (What is a risk management programme?)**
- (1) In the heading to section 12, delete “?”.
  - (2) In section 12(4A), after “businesses”, insert “or part-businesses”.
- 56 Section 13 amended (Who must have a risk management programme?)**
- (1) In the heading to section 13, delete “?”. 5
  - (2) In section 13(1), after “business”, insert “or part-business”.
- 57 Section 14 amended (Director-General may grant limited exemption from requirement to have risk management programme)**
- In section 14(1), replace “section 167” with “**section 167(1)**”.
- 58 Section 15 amended (Certain persons may be required to have risk management programme by Order in Council)** 10
- In section 15(3)(b), delete “appropriate”.
- 59 Section 16 amended (Duties of operators of risk management programmes)**
- (1) In section 16(1)(b), replace “and specifications” with “, notices, and orders”. 15
  - (2) In section 16(2), delete “recognised risk management programme”.
- 60 Section 17 amended (Contents of and requirements for risk management programmes)**
- (1) Replace section 17(2)(c) and (d) with:
    - (ba) make provision in relation to tracing and recalling animal material and animal products as required by regulations made under **section 77C** or any supplementary notice: 20
    - (c) provide for appropriate corrective actions (including recall) to be undertaken where animal material or animal products may be not fit for intended purpose or not in accordance with its labelling or identification: 25
    - (d) provide for appropriate and auditable documentation, record keeping, and reporting, including as required by—
      - (i) regulations made under **section 77H(1)** or any supplementary notice; or
      - (ii) any notice referred to in **section 77H(2)**: 30
    - (da) make provision in relation to verification as required by regulations made under **section 77F** or any supplementary notice:
  - (2) Replace section 17(2)(e)(i) with:
    - (i) any relevant animal product standards, other regulations, and supplementary notices; and 35

- (3) In section 17(2)(e)(ii), replace “relevant specifications set” with “other notices issued”.
- (4) After section 17(2), insert:
- (2A) A risk management programme must comply with any regulations or supplementary notice requiring it to be differentiated from other information kept by the operator and prescribing how this must be done. 5
- 61 Section 17 further amended (Contents of and requirements for risk management programmes)**  
Repeal section 17(4).
- 62 Section 19 amended (Matters to be shown in register of risk management programmes)** 10
- (1) Replace section 19(g) with:
- (g) the name of the verifying agency responsible for verification of the programme:
- (2) In section 19(j), after “recent”, insert “significant”. 15
- (3) In section 19(k), replace “update of” with “notifications of minor amendments to”.
- (4) Replace section 19(n) with:
- (n) any other particulars required by the regulations or any supplementary notice. 20
- 63 Section 20 amended (Applications for registration of programmes)**
- (1) Replace section 20(2)(c) with:
- (c) the name of the verifying agency that has indicated it is prepared to undertake verification of the programme; and
- (2) In section 20(2)(d), replace “regulations made under this Act” with “the regulations or any supplementary notice”. 25
- (3) In section 20(3)(a), replace “approved under” with “of a kind referred to in”.
- (4) After section 20(3), insert:
- (4) The information and other material accompanying the application must be provided in a way that complies with any requirements prescribed by the regulations or any supplementary notice. 30
- 64 Section 20 further amended (Applications for registration of programmes)**  
Replace section 20(2)(a)(ii) with:
- (ii) if the regulations permit part only of the programme to be lodged, a copy of that part of the programme; and 35

- 65 Section 22 amended (Registration of risk management programme)**
- (1) After section 22(1)(a)(ii), insert:
- (iii) is clear enough to be readily understood by the operator, the Director-General, and the operator’s verifier; and
- (2) In section 22(3)(c), delete “; and”. 5
- (3) Repeal section 22(3)(d).
- (4) In section 22(3A), delete “, at any time,”.
- (5) In section 22(4), replace “supply the operator’s recognised risk management programme verifying agency with an authorised copy” with “give the operator’s verifying agency a copy”. 10
- 66 Section 24 amended (Registration may not be transferred)**
- In section 24(3), replace “section 167” with “**section 167(1)**”.
- 67 Section 25 amended (Significant amendments to risk management programme)**
- (1) In the heading to section 25, replace “**Significant**” with “**Registration of significant**”. 15
- (2) In section 25(1)(b), delete “(1)”.
- (3) In section 25(3), delete “, in a manner approved by the Director-General and on payment of the prescribed fee (if any),”.
- (4) After section 25(3), insert: 20
- (3A) An application under this section must be made in writing in a form or manner approved by the Director-General and be accompanied by—
- (a) any information and other material required by the regulations or any supplementary notice; and
- (b) the prescribed fee (if any). 25
- (3B) The information and other material accompanying the application must be provided in a way that complies with any requirements prescribed by the regulations or any supplementary notice.
- (5) In section 25(5)(c), replace “supply to both the applicant and the appropriate recognised risk management programme verifying agency a certified” with “give the applicant’s verifying agency a”. 30
- (6) Repeal section 25(9).
- 68 Section 26 amended (Updates of minor amendments to risk management programmes)**
- (1) In the heading to section 26, replace “**Updates**” with “**Notification**”. 35
- (2) In section 26(2)(a), after “in a”, insert “form or”.
- (3) Replace section 26(2)(b) to (d) with:



<ul style="list-style-type: none"> <li>(b) be made at the intervals set out in the regulations or any supplementary notice; and</li> <li>(c) be accompanied by— <ul style="list-style-type: none"> <li>(i) any information and other material required by the regulations or any supplementary notice; and</li> <li>(ii) the prescribed fee (if any); and</li> </ul> </li> <li>(d) comply with any requirements in the regulations or any supplementary notice.</li> </ul>	5
<p>(4) Repeal section 26(4).</p>	
<p><b>69 New sections 26A and 26B inserted</b></p> <p>After section 26, insert:</p>	10
<p><b>26A Operator must give verifying agency updated programme</b></p> <p>The operator of a registered risk management programme must give its verifying agency an updated copy of the programme at the intervals required by the regulations or any supplementary notice.</p>	15
<p><b>26B Director-General may require amendment to improve clarity of registered risk management programme</b></p> <p>(1) If the Director-General considers that a registered risk management programme is not clear enough to be readily understood by the persons referred to in <b>section 22(1)(a)(iii)</b>, the Director-General may require the operator to amend the programme.</p> <p>(2) The operator must amend the programme to meet the Director-General’s requirements under <b>subsection (1)</b> within 6 months after the date the requirement is received.</p> <p>(3) If the operator fails to do so, the Director-General may—</p> <ul style="list-style-type: none"> <li>(a) suspend operations under the programme in accordance with section 27; or</li> <li>(b) remove the programme from the register in accordance with section 28.</li> </ul>	20 25
<p><b>70 Section 27 amended (Suspension of operations under registered programme)</b></p> <p>(1) Replace section 27(1) with:</p> <p>(1) The Director-General may suspend any or all operations under a registered risk management programme for a period of up to 3 months if the Director-General has reasonable grounds to believe that—</p> <ul style="list-style-type: none"> <li>(a) the programme may not be or is no longer effective; or</li> <li>(b) the animal product produced under the programme does not meet or no longer meets the requirements imposed by or under this Act; or</li> </ul>	30 35

- (c) suspension is permitted under **section 26B**.
- (2) In section 27(5), replace “appropriate recognised risk management programme” with “operator’s”.
- 71 Section 28 amended (Deregistration of risk management programme)**
- (1) In section 28(1), delete “at any time”. 5
- (2) After section 28(1)(b), insert:
- (ba) removal of the programme from the register is permitted under **section 26B**; or
- (3) In section 28(3)(b), replace “appropriate recognised risk management programme” with “operator’s”. 10
- 72 Section 28A replaced (Removal of animal product business from coverage of wider risk management programme)**
- Replace section 28A with:
- 28A Removal of animal product business from coverage of wider risk management programme** 15
- (1) The Director-General may remove any animal product business or part-business from the coverage of a registered risk management programme that applies to more than 1 comparable business if the Director-General is satisfied that deregistration of the programme would be appropriate under section 28 if the animal product business or part-business being removed were the only one operating under the programme. 20
- (2) Section 28(2) to (7) applies in relation to the removal of the business or part-business from the coverage of the risk management programme as if references in those subsections to deregistration of the programme were references to removal from the coverage of the programme. 25
- 73 Section 29 amended (Surrender of registration)**
- (1) In section 29(1), delete “at any time”.
- (2) In section 29(2)(c), replace “appropriate recognised risk management programme” with “operator’s”.
- 74 Section 30 amended (Risk management programme in conflict with regulations or specifications)** 30
- (1) In the heading to section 30, replace “**or specifications**” with “, **notices, or orders**”.
- (2) In section 30, replace “any regulations or specifications” with “the regulations or any notices or orders”. 35
- (3) In section 30, replace “or specifications prevail” with “, notices, or orders prevail”.

- 75 Section 31 amended (Object of sections 32 to 34)**
- (1) In the heading to section 31, replace “**34**”, with “**34A**”.
- (2) In section 31, replace “to 34”, with “to **34A**”.
- 76 Section 33 amended (Implications of failure to elect in case of animal product which is food whose export requires an official assurance)** 5
- (1) In section 33(1), replace “overseas market access requirements as notified or made available by the Director-General under section 60” with “any export requirements”.
- (2) In section 33(2), replace “such additional requirements as may be notified or made available under section 60” with “any export requirements”. 10
- 77 Section 34 amended (Alternate or intermittent use of risk management programmes and food safety programmes)**
- (1) In the heading to section 34, replace “**safety programmes**” with “**control plans**”.
- (2) Replace section 34(2) with: 15
- (2) Sections 20(2) to **(4)** and 21 to 23 apply to the application as if it were an application under section 20(1).
- (3) Replace section 34(3)(b) and (c) with:
- (b) during or in respect of matters occurring during any period when the operator operates under the plan as a risk management programme, unless the regulations or any supplementary notice provides otherwise,— 20
- (i) the operator is to be treated as a person who is required to have a risk management programme in respect of those operations; and
- (ii) the Food Act regime does not apply to those operations; and
- (c) during or in respect of matters occurring during any period when the operator does not so operate, unless the regulations or any supplementary notice provides otherwise,— 25
- (i) the operator is to be treated as subject to the Food Act regime; and
- (ii) this Part does not apply in relation to that period or matters occurring during it; and 30
- (4) Repeal section 34(4)(b).
- (5) After section 34(4), insert:
- (4A) In imposing a condition under subsection (4)(a), the Director-General must have regard to—
- (a) the desirability of continuity in verification services, functions, or requirements; and 35
- (b) any export requirements; and

- (c) any requirements set out in the regulations or any supplementary notice for determining whether all or any classes of registered food control plans are to be subject to the verification regime of this Act or the Food Act 2014.
- (6) In section 34(6)(c), delete “recognised risk management programme”. 5
- (7) Repeal section 34(7).
- 78 New section 34A inserted (Regulations may grant or provide for exemptions from this Act or Food Act 2014)**
- After section 34, insert:
- 34A Regulations may grant or provide for exemptions from this Act or Food Act 2014** 10
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations exempting, or providing for the exemption of, persons from specified requirements imposed by or under this Act or the Food Act 2014. 15
- (2) The Minister may not recommend the making under **subsection (1)** of regulations that grant an exemption unless satisfied that—
- (a) granting the exemption is necessary or desirable in the interests of avoiding unnecessary or undesirable duplication of equivalent duties or matters under this Act and the Food Act 2014; and 20
- (b) the extent of the exemption is not broader than is reasonably necessary for that purpose.
- (3) The Minister may not recommend the making under **subsection (1)** of regulations that provide for exemptions to be granted unless satisfied that the regulations permit an exemption to be granted only if— 25
- (a) granting the exemption is necessary or desirable in the interests of avoiding unnecessary or undesirable duplication of equivalent duties or matters under this Act and the Food Act 2014; and
- (b) the extent of the exemption is not broader than is reasonably necessary for that purpose. 30
- 79 Cross-heading above section 35 amended**
- In the cross-heading above section 35, delete “*recognised risk management programme*”.
- 80 Section 35 amended (References to recognised risk management programme verifying agency)** 35
- (1) In the heading to section 35, delete “**recognised risk management programme**”.
- (2) In section 35, delete “recognised risk management programme” in each place.

**81 Section 38 amended (Nature of regulated control schemes)**

- (1) In section 38(1)(c), replace “access requirements of overseas markets as notified or made available under section 60” with “any export requirements”.
- (2) Replace section 38(2) with:
- (2) A regulated control scheme may be imposed— 5
- (a) by regulations made under **section 40**, which may be supplemented by supplementary notices; or
- (b) by the Director-General by notice under **section 167(1)** if— 10
- (i) export requirements have been specified under section 60; and
- (ii) the Director-General is satisfied that the risk management measures imposed by the scheme are necessary or desirable to meet those export requirements.

**82 Sections 39 and 40 replaced**

Replace sections 39 and 40 with:

**39 Scope of regulated control scheme** 15

- (1) A regulated control scheme must set out—
- (a) its prime purpose; and
- (b) the risk management measures that are imposed by the scheme.
- (2) The risk management measures may include (without limitation) requirements relating to the monitoring and testing (including surveying, monitoring, data collection, disease surveillance, sampling, testing, and analysis) of any or all of the following: 20
- (a) animal material:
- (b) animal products:
- (c) anything in the environment that may affect the fitness for intended purpose of animal material or animal products. 25
- (3) A regulated control scheme may also include (without limitation) requirements that could be prescribed by regulations made—
- (a) under **section 77C** in relation to tracing and recalling animal material and animal products: 30
- (b) under **section 77F** in relation to verification of the scheme:
- (c) under **section 77H** in relation to record-keeping and reporting.
- (4) **Section 166A(1)(a)(i), (d), and (e)** applies in relation to a notice referred to in **section 38(2)(b)** as if it were regulations.

- 40 Regulations about regulated control schemes**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations imposing regulated control schemes.
- (2) The Minister may not recommend the making of regulations under **subsection (1)** unless the Minister is satisfied that— 5
- (a) at least 1 of the criteria set out in section 38(1) applies; and
- (b) consultation has been carried out in accordance with section 163.
- (3) In determining whether to recommend the making of regulations under **subsection (1)**, the Minister must have regard to the following: 10
- (a) the need to protect the health of consumers and users of animal products: 10
- (b) the most effective way of handling the relevant risk factors:
- (c) the desirability of facilitating market access:
- (d) the desirability of maintaining consistency between New Zealand animal product standards and any relevant standards, requirements, or recommended practices that apply or are accepted internationally: 15
- (e) the relative costs of having the scheme or not having it, who bears the cost, and any positive and negative impacts on consumers and users:
- (f) whether the scheme option proposed or selected is the most cost-effective way of achieving its prime purpose:
- (g) any other matters the Minister considers relevant. 20
- 83 Section 41 amended (Emergency control schemes)**
- (1) Replace section 41(1)(b)(i) with:
- (i) make or amend regulations under **section 40** or issue or amend a supplementary notice or a notice referred to in **section 38(2)(b)**; or 25
- (2) In section 41(2), replace “of the matters specified in sections 39 and 40” with “matter that could be included in regulations made under **section 40** or a supplementary notice”.
- (3) In section 41(8), delete “at any time”.
- 84 Part 4 heading amended** 30
- In the Part 4 heading, delete “and specifications”.
- 85 Section 42 replaced (Object of this Part)**
- Replace section 42 with:

<b>42</b>	<b>Animal product standards</b>	
(1)	This Part provides for the setting of standards that must be met before any animal product produced or processed for reward or trade or for export from New Zealand may be considered fit for intended purpose.	
(2)	The standards may be set—	5
(a)	by regulations made under section 44, which may be supplemented by supplementary notices; or	
(b)	by order made under section 46.	
<b>86</b>	<b>Section 43 amended (Application of standards and specifications)</b>	
(1)	In the heading to section 43, delete “ <b>and specifications</b> ”.	10
(2)	In section 43, delete “and specifications”.	
<b>87</b>	<b>Section 44 amended (Regulations may prescribe animal product standards)</b>	
(1)	Replace section 44(1) with:	
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing standards that must be complied with to ensure that animal products produced or processed for reward or trade or for export from New Zealand are fit for their intended purpose.	15
(2)	Repeal section 44(3), (4), and (6).	
(3)	In section 44(7), replace “prescribing any standards” with “determining whether to make a recommendation”.	20
(4)	In section 44(8), replace “prescribing” with “making”.	
(5)	In section 44(8), delete “appropriate”.	
<b>88</b>	<b>Section 45 repealed (Director-General may issue specifications supplementary to animal product standards)</b>	25
	Repeal section 45.	
<b>89</b>	<b>Section 46 amended (Emergency animal product standards and specifications)</b>	
(1)	In the heading to section 46, delete “ <b>and specifications</b> ”.	
(2)	In section 46(1), delete “and specifications”.	30
(3)	Replace section 46(1)(b)(i) with:	
(i)	make or amend regulations under section 44 or issue or amend a supplementary notice; or	
(4)	In section 46(2), replace “of the matters specified in sections 44 and 45” with “matter that could be included in regulations made under section 44 or a supplementary notice”.	35

- (5) In section 46(7), replace “or specification prescribed or issued under section 44 or section 45” with “or supplementary notice”.
- (6) In section 46(8), delete “at any time”.
- 90 Section 48 amended (Exporters of animal products for human or animal consumption, and certain other animal material and products, must be registered)** 5
- (1) Replace section 48(1)(b)(ii) with:
- (ii) by the regulations or any supplementary notice; or
  - (iii) by notice as referred to in section 50.
- (2) Replace section 48(2)(b)(i) with: 10
- (i) export requirements apply; and
- 91 Section 49 amended (Registration of exporters of non-edible, etc, material or products may be required by Order in Council)**
- In section 49(3)(b), delete “appropriate”.
- 92 Section 50 amended (Director-General may exempt certain consignments)** 15
- (1) In the heading to section 50, after “**consignments**”, insert “, **animal material or animal products, or persons**”.
- (2) In section 50(1), replace “section 167” with “**section 167(1)**”.
- (3) Replace section 50(1)(d) with:
- (d) of a kind that the regulations permit, or an Order in Council made under section 9 permits, to be exempted under this section. 20
- (4) Repeal section 50(2).
- 93 Section 51 amended (Duties of exporters)**
- (1) In section 51(b)(i), replace “and specifications” with “and any supplementary notices”. 25
- (2) Replace section 51(b)(ii) with:
- (ii) any relevant export requirements; and
- (3) Replace section 51(c)(iii) with:
- (iii) do not or no longer meet relevant export requirements; or
- 94 Section 53 amended (Matters to be shown in register of exporters)** 30
- Replace section 53(c) with:
- (c) any other particulars required by the Director-General by notice under **section 167(1)**.



- 95 Section 54 amended (Applications for registration)**  
In section 54(1), replace “regulations under this Act” with “the regulations”.
- 96 Section 58 amended (Deregistration of exporters)**  
In section 58(1)(c), replace “under” with “for the purposes of”.
- 97 Section 60 amended (Export requirements)** 5
- (1) In section 60(1), replace “issued under this section” with “under **section 167(1)**”.
- (2) In section 60(2), replace “In specifying requirements under subsection (1) the Director-General may, where he or she considers it necessary or desirable,” with “The Director-General may, in the notice,” 10
- (3) In section 60(3), replace “Requirements specified under subsection (1) may include” with “The Director-General may, in the notice, specify”.
- 98 Section 60A amended (Director-General to notify or make available export requirements)**
- (1) In section 60A(1)(a), replace “export requirements specified under section 60” with “notices specifying export requirements” 15
- (2) In section 60A(1)(b), replace “those requirements” with “those notices”.
- 99 Section 60B amended (Exemption from requirements of food standards where appropriate)**
- (1) In the heading to section 60B, after “standards”, insert “or animal product standards” 20
- (2) In section 60B(1), replace “section 167” with “**section 167(1)**”.
- (3) In section 60B(1)(a), replace “standards specified by notice under section 167 of this Act” with “animal product standards or supplementary notice”.
- (4) Replace section 60B(2) with: 25
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations granting exemptions of the kind referred to in subsection (1)(a) or (b).
- (3) The Minister may not recommend the making of regulations under **subsection (2)** unless satisfied that it is appropriate to do so having regard to the requirements of the relevant overseas market. 30
- 100 Section 61 amended (Director-General may issue official assurances)**
- (1) In section 61(2)(b), replace “set under this Act” with “and any supplementary notices”.
- (2) In section 61(2)(c), replace “requirements specified by notice under section 60A” with “export requirements” 35

- 101 Section 62 amended (Form and content of official assurance)**  
Repeal section 62(4).
- 102 Section 63 amended (Obtaining of official assurance)**  
After section 63(2), insert:
- (3) The Director-General may, by notice under **section 167(1)**, do either or both of the following: 5
- (a) set out requirements and procedures for the issue and control of official assurances:
- (b) set out other matters in relation to the obtaining of official assurances.
- (4) Matters set out in notices under **subsection (3)** are in addition to matters (if any) prescribed by regulations made under section 166(1)(g). 10
- 103 Section 65B amended (What is a game estate?)**
- (1) In the heading to section 65B, delete “?”.
- (2) In section 65B, replace “notice under section 167” with “the Director-General by notice under **section 167(1)**”. 15
- 104 Section 65C amended (Use and disposal of animal material and product from game estate animals)**  
In section 65C(4)(c), replace “section 167” with “**section 167(1)**”.
- 105 Section 65F amended (Matters to be shown in list of game estates)**  
Replace section 65F(e) with: 20
- (e) any other particulars required by the Director-General by notice under **section 167(1)**.
- 106 Section 67 amended (Homekill allowed)**  
In section 67(2)(b)(ii), replace “section 167” with “**section 167(1)**”.
- 107 Section 68 amended (Processing of recreational catch)** 25  
In section 68(2)(b)(ii), replace “section 167” with “**section 167(1)**”.
- 108 Section 69 amended (Homekill and recreational catch service providers)**
- (1) In section 69(1)(c), replace “regulations made under this Act” with “the regulations or any supplementary notice”.
- (2) In section 69(3)(b), replace “section 167” with “**section 167(1)**”. 30
- 109 Section 71 amended (Requirements for dual operator butchers)**
- (1) Replace section 71(1)(c) with:
- (c) the dual operator butcher must operate under a risk management programme in respect of all regulated animal products at the premises or

place (and accordingly is deemed to have made an election under section 32 in respect of those animal products):

- (2) After section 71(2), insert:
- (3) For the avoidance of doubt, **subsection (1)(c)** does not prevent a person from operating under the Food Act regime in respect of food that is not animal product. 5

**110 Section 72 amended (Product processed by homekill or recreational catch service provider ceases to be regulated animal product)**

In section 72(1), delete “at any time”.

**111 Section 74 amended (Matters to be shown in list of homekill and recreational catch service providers)** 10

Replace section 74(e) with:

- (e) any other particulars required by the Director-General by notice under **section 167(1)**.

**112 New Part 6A inserted** 15

After section 77, insert:

**Part 6A**  
**General obligations**

**77A Interpretation**

In this Part, **regulated person** means any of the following: 20

- (a) the operator of an animal product business:
- (b) the operator of a registered risk management programme:
- (c) an exporter:
- (d) a person subject to a regulated control scheme:
- (e) a game estate operator: 25
- (f) a homekill or recreational catch service provider:
- (g) a person who is in charge of animal material, animal products, or animals for the purposes of an animal product business or a game estate:
- (h) any other person—
- (i) who has, or is in a class of persons who have, any obligation under this Act; and 30
- (ii) who is, or is in a class of persons that is, specified by the regulations.

### Subpart 1—Tracing and recall

#### 77B Tracing and recall requirements

A regulated person must, as and when required by regulations made under **section 77C** or any supplementary notice,—

- (a) have in place any procedures for tracing and recalling animal material or animal products; and 5
- (b) conduct simulations or other tests of those procedures; and
- (c) implement those procedures to trace or recall animal material or animal products.

#### 77C Regulations relating to tracing and recall

- (1) The Governor-General may, by Order in Council, make regulations prescribing requirements that apply to regulated persons in relation to tracing and recalling animal material or animal products. 10
- (2) The regulations may (without limitation) do any or all of the following:
  - (a) identify the regulated persons who are required to have procedures for tracing and recalling animal material or animal products: 15
  - (b) set requirements relating to—
    - (i) the content of those procedures:
    - (ii) the conducting of simulations and other tests of those procedures:
    - (iii) the implementation of those procedures to trace or recall animal material or animal products: 20
  - (c) specify matters in relation to tracing and recall that must be included in risk management programmes (*see* section 17).

### Subpart 2—Verification

#### 77D Verification

A regulated person must comply with any requirements relating to verification that are prescribed by regulations made under **section 77F** or any supplementary notice. 25

#### 77E Obligation of persons subject to verification requirements

A person who is subject to verification requirements under this Act must— 30

- (a) give the verifier—
  - (i) the access to places, things, and information that the verifier reasonably needs to undertake the verification; and
  - (ii) any reasonable assistance requested by the verifier to undertake the verification; and 35

- (b) comply with any other requirements relating to the verification set out in any of the following:
  - (i) regulations made under **section 77F** or any supplementary notice:
  - (ii) if the person is the operator of a risk management programme, that programme: 5
  - (iii) if the person is subject to a regulated control scheme, that scheme.

#### **77F Regulations relating to verification**

- (1) The Governor-General may, by Order in Council, make regulations prescribing requirements in relation to verification of any or all of the following: 10
  - (a) risk management programmes:
  - (b) regulated control schemes:
  - (c) animal material or animal products for whose export an official assurance is required:
  - (d) compliance by regulated persons with requirements imposed by or under this Act. 15
- (2) The regulations may (without limitation) do any or all of the following:
  - (a) in relation to verification of risk management programmes or regulated control schemes, specify the operations, or the parts of the operations, that must be verified: 20
  - (b) set requirements relating to the frequency, intensity, and cost of verification:
  - (c) specify matters in relation to verification that must be included in risk management programmes (*see* section 17):
  - (d) set reporting requirements for verifiers (*see* section 112H): 25
  - (e) set out requirements relating to the exercise, carrying out, and managing of verification functions and activities (*see* sections 112G and 112H).

### Subpart 3—Record keeping and reporting

#### **77G Record-keeping and reporting requirements**

- (1) A regulated person, recognised person, or recognised agency must— 30
  - (a) collect the required information; and
  - (b) keep that information in the required manner and for the required period; and
  - (c) give that information to—
    - (i) the Director-General, an animal product officer, or an official assessor at all reasonable times on request; and 35

- (ii) any other person as required.
- (2) In this section,—  
**give**, in relation to information, includes—
- (a) to give access to the information; and
  - (b) to permit the inspection of the information; and
  - (c) to permit the making of copies of the information
- required** means required by any of the following:
- (a) this Act;
  - (b) the regulations or any supplementary notice;
  - (c) a notice referred to in **section 77H(2)**.
- 77H Regulations and notices relating to record keeping and reporting**
- (1) The Governor-General may, by Order in Council, make regulations prescribing requirements in relation to record keeping and reporting by regulated persons, recognised persons, and recognised agencies.
- (2) The Director-General may, by notice under **section 167(1)**, prescribe requirements in relation to record keeping and reporting by regulated persons, recognised persons, and recognised agencies (in addition to requirements (if any) prescribed by the regulations).
- (3) The regulations or notice may (without limitation) do any or all of the following:
- (a) set requirements relating to—
    - (i) what information must be collected;
    - (ii) how, and for how long, the information must be kept;
    - (iii) what information must be given under **section 77G(1)(c)** and when, how, and to whom it must be given;
  - (b) specify matters in relation to record keeping and reporting that must be included in risk management programmes (*see* section 17).
- 113 Cross-heading above section 78 replaced**
- Replace the cross-heading above section 78 with:
- Animal product officers and official assessors*
- 114 Section 79 amended (Appointment of official assessors)**
- (1) After section 79(2), insert:
- (2A) A person must not be appointed as an official assessor unless the person has the competencies, qualifications, and experience, and meets any other prerequisites for appointment, set out in the regulations or any supplementary notice or by the Director-General by notice under **section 167(1)**.

- (2) In section 79(5), delete “at any time”.
- 115 Section 80 amended (Director-General may issue notices)**  
In section 80, replace “from time to time issue notices as specified in” with “issue notices under”.
- 116 Section 81A amended (Director-General may require declarations as to supply or movement of animals, animal material, or animal products)** 5  
In section 81A(1), replace “section 167” with “**section 167(1)**”.
- 117 Section 81B amended (Director-General may impose movement and related controls)**
- (1) In section 81B(7), delete “at any time”. 10
- (2) In section 81B(8)(a), replace “of a kind listed in section 167” with “made under **section 167(1)**”.
- 118 Section 82 amended (Power to direct disposal, etc, of animal material or product in certain circumstances)**  
In section 82(1)(e), replace “relevant regulations” with “scheme”. 15
- 119 Section 83 amended (Director-General may give statements as to New Zealand animal product standard)**
- (1) In section 83(1), replace “standard.” with “standard and any supplementary notices.”.
- (2) In section 83(2), before “standard”, insert “animal product”. 20
- (3) In section 83(4), delete “at any time”.
- 120 Section 84 amended (Privileged statements by Director-General)**  
In section 84(1), after “protecting”, insert “or informing”.
- 121 New sections 86A and 86B inserted** 25  
Before section 87, insert:
- 86A Power to issue improvement notice**
- (1) An animal product officer may issue an improvement notice to any person if the officer reasonably believes that the person is failing, or has failed, to comply with 1 or more requirements imposed by or under this Act.
- (2) An improvement notice must state— 30
- (a) the requirement that the officer reasonably believes the person is failing, or has failed, to comply with; and
- (b) the reasons for the officer’s reasonable belief; and
- (c) the nature and extent of the failure to comply with the requirement; and

<ul style="list-style-type: none"> <li>(d) the date by which the person must comply with the requirement; and</li> <li>(e) the person’s right, under <b>section 86B</b>, to seek a review of the decision to issue the improvement notice.</li> </ul>	5
<ul style="list-style-type: none"> <li>(3) An animal product officer may, by written notice, withdraw an improvement notice, but may reissue it if <b>subsection (1)</b> applies.</li> <li>(4) An improvement notice must be served in accordance with section 165.</li> <li>(5) A person to whom an improvement notice is issued must comply with the notice, subject to any extension of the date by which the person must comply with the applicable requirement that the animal product officer may grant on the person’s request.</li> </ul>	10
<b>86B Review of improvement notice</b>	
<ul style="list-style-type: none"> <li>(1) A person to whom an improvement notice is issued under <b>section 86A</b> may apply to the Director-General to have the decision to issue it reviewed.</li> <li>(2) Section 162(2) to (8) applies in relation to the application and review as if the decision to issue the notice were a decision to which that section applies.</li> <li>(3) The Director-General may initiate a review of a decision to issue an improvement notice on the Director-General’s own initiative and without an application for review being made.</li> <li>(4) For the purposes of <b>subsection (3)</b>, section 162(<b>3A</b>), (4), (6), (7), and (8) applies in relation to the review as if— <ul style="list-style-type: none"> <li>(a) the decision to issue the notice were a decision to which that section applies and the person to whom it was issued had applied for a review; and</li> <li>(b) the maximum time allowed under section 162(4) were 120 days from the date on which the improvement notice was issued.</li> </ul> </li> </ul>	15 20
<b>122 Section 90 amended (Power to condemn and require disposal of animal products that are diseased, contaminated, etc)</b>	
In section 90(1)(a) and (c), replace “standards and specifications for the time being in force” with “animal product standards and any supplementary notices”.	
<b>123 New sections 91B and 91C inserted</b>	
After section 91A, insert:	
<b>91B Matters may be continued by different animal product officer</b>	
<ul style="list-style-type: none"> <li>(1) An action initiated or taken under this Act by an animal product officer may be continued by another animal product officer.</li> <li>(2) Without limiting <b>subsection (1)</b>, if an officer has given any notice, authorisation, or consent under this Act (whether or not subject to conditions), any animal product officer may—</li> </ul>	35



<ul style="list-style-type: none"> <li>(a) take further action in relation to that notice, authorisation, or consent; or</li> <li>(b) revoke or withdraw it; or</li> <li>(c) vary it; or</li> <li>(d) revoke or vary any condition on or subject to which it was given.</li> </ul>	5
<p><b>91C Opinion or belief of animal product officer</b></p> <p>If this Act requires an animal product officer to hold a particular opinion or belief about something before exercising a power, it is sufficient if a more senior animal product officer or the Director-General holds that opinion or belief and directs the animal product officer to exercise the power.</p>	5
<p><b>124 Section 93 amended (Powers of official assessors)</b></p> <p>In section 93(3)(a), replace “issued by the Director-General by notice under section 167” with “prescribed by the regulations or any supplementary notice or by the Director-General by notice under <b>section 167(1)</b>”.</p>	10
<p><b>125 Section 99 amended (Outline of this Part)</b></p> <p>In section 99(a) and (b), delete “recognised risk management programme”.</p>	15
<p><b>126 Section 100 amended (Interpretation)</b></p> <p>In section 100, definition of <b>requirements of this Act</b>, replace paragraphs (b) and (c) with:</p> <ul style="list-style-type: none"> <li>(b) the regulations or any supplementary notice; or</li> <li>(c) a notice issued under <b>section 167(1)</b>.</li> </ul>	20
<p><b>127 Section 112G amended (Duties of recognised agencies)</b></p> <p>(1) After section 112G(1)(f), insert:</p> <ul style="list-style-type: none"> <li>(fa) if it is a verifying agency, has for each operator for which it carries out verification functions and activities a copy of the following: <ul style="list-style-type: none"> <li>(i) the operator’s risk management programme or, if it has been given an updated copy of the programme under <b>section 26A</b>, the latest updated copy; and</li> <li>(ii) any subsequent amendments given to the verifier under section 25(5); and</li> </ul> </li> </ul> <p>(2) In section 112G(1)(g), after “all”, insert “other”.</p>	25 30
<p><b>128 New section 112IA inserted (Recognised agency and recognised person accountable to Director-General)</b></p> <p>After section 112I, insert:</p>	30

<b>112IA</b>	<b>Recognised agency and recognised person accountable to Director-General</b>	
(1)	A recognised agency is, in carrying out its specified functions and activities, accountable to the Director-General.	
(2)	A recognised person is, in carrying out his or her specified functions and activities, accountable to the Director-General.	5
<b>129</b>	<b>Section 112T amended (Contents of public register)</b>	
	Replace section 112T(1)(e) with:	
(e)	any other particulars required by the regulations or any supplementary notice.	10
<b>130</b>	<b>Section 112Y amended (Director-General may require notification of termination of contracts)</b>	
(1)	In section 112Y(1), replace “section 167, require any recognised risk management programme verifier or recognised risk management programme” with “ <b>section 167(1)</b> , require any verifier or”.	15
(2)	Repeal section 112Y(2).	
(3)	In section 112Y(3), delete “recognised risk management programme” in each place.	
<b>131</b>	<b>Section 113 amended (Principles of cost recovery)</b>	
	In section 113(3), delete “appropriate”.	20
<b>132</b>	<b>Section 115 amended (Cost recovery to relate generally to a financial year)</b>	
	In section 115(1), delete “under this Part”.	
<b>133</b>	<b>Section 115A repealed (Application of section 115(1) to assurances in respect of export licences issued under Dairy Industry Restructuring Act 2001)</b>	25
	Repeal section 115A.	
<b>134</b>	<b>Section 117 amended (Fees and charges to be prescribed by regulations)</b>	
(1)	Replace section 117(1) with:	
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing fees and charges for the purposes of this Act, including fees or charges—	30
(a)	for applications, renewals, or related matters under this Act (for example, for applications for registration under Part 2 or 5 or for applications for recognition under Part 8); and	

(b)	payable on an ongoing basis by a person given a particular status under this Act (for example, for ongoing registration under Part 2 or 5, for ongoing listing under Part 6, or for ongoing recognition under Part 8).	
(2)	In section 117(2), after “fees”, insert “and charges”.	
(3)	In section 117(4A), replace “under section 167” with “by notice under <b>section 167(1)</b> ”.	5
<b>135 Section 118 amended (Regulations may impose levies)</b>		
(1)	Replace section 118(1) with:	
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing levies for the purposes of this Act, including levies payable on an ongoing basis by a person given a particular status under this Act (for example, for ongoing registration under Part 2 or 5, for ongoing listing under Part 6, or for ongoing recognition under Part 8).	10
(2)	Replace section 118(4) with:	
(4)	Where regulations prescribe a formula for determining a levy, the formula may specify the value of 1 or more of its components as being an amount or amounts notified for those components by the Director-General by notice under <b>section 167(1)</b> .	15
(5)	The Minister may not recommend the making of regulations under this section unless satisfied that,—	20
(a)	to the extent appropriate in the circumstances, the requirements of sections 113 and 115 have been met; and	
(b)	there has been consultation in accordance with section 163.	
<b>136 Section 121 amended (Exemptions, waivers, and refunds)</b>		
	In section 121(1), replace “Regulations made under this Act” with “The regulations”.	25
<b>137 New sections 125A to 125E and cross-headings inserted</b>		
	Before section 126, insert:	
	<i>Infringement offences</i>	
<b>125A Proceedings for infringement notices</b>		
(1)	This section applies when a person is alleged to have committed an infringement offence.	30
(2)	The person may—	
(a)	be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or	35

- (b) be served with an infringement notice as provided in **section 125B** and, in that case, section 21 of the Summary Proceedings Act 1957 applies with all necessary modifications.
- (3) Proceedings commenced in the way described in **subsection (2)(a)** do not require leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957. 5
- 125B Issue and cancellation of infringement notices**
- (1) An infringement notice may be served on a person if an animal products officer—
- (a) observes the person committing an infringement offence; or 10
- (b) reasonably believes that the person is committing an infringement offence; or
- (c) reasonably believes that the person has committed an infringement offence.
- (2) An infringement notice may be cancelled by an animal products officer if— 15
- (a) the interests of justice require cancellation; and
- (b) neither the particulars of a reminder notice nor a notice of hearing relating to the infringement notice has been filed in a District Court.
- (3) An infringement notice is cancelled by the service of a cancellation notice.
- (4) An infringement notice or a cancellation notice may be served by an animal products officer personally delivering it to the person alleged to have committed the infringement offence. 20
- (5) Alternatively, an infringement notice or a cancellation notice may be served by post addressed to,—
- (a) if the person is a natural person,— 25
- (i) the address of the person's last-known place of residence; or
- (ii) the address on the person's driving licence; or
- (iii) the person's address on the latest electoral roll; or
- (iv) the person's last-known registered address, if the person has or has had a registered address for any purpose; or 30
- (v) the person's address in the latest telephone directory; or
- (vi) the address of the person's last-known place of business; or
- (b) if the person is not a natural person,—
- (i) the person's last-known registered address, if the person has or has had a registered address for any purpose; or 35
- (ii) the person's address in the latest telephone directory; or
- (iii) the address of the person's last-known place of business.

- (6) For the purposes of the Summary Proceedings Act 1957, an infringement notice or a cancellation notice served under **subsection (5)** is treated as having been served on the person when it was posted.

#### **125C Form of infringement notice**

- (1) An infringement notice must be in the form set out in the regulations. 5
- (2) The form must contain the following details:
- (a) sufficient details to inform the person served with the notice of the time, place, and nature of the alleged offence; and
  - (b) the amount of the infringement fee for the offence; and
  - (c) the time within which the infringement fee must be paid; and 10
  - (d) the address of the place at which the infringement fee must be paid; and
  - (e) a statement of the person’s right to ask for a hearing; and
  - (f) a statement of the person’s right to ask for cancellation of the notice; and
  - (g) a statement of what will happen if the person does not pay the infringement fee or ask for a hearing or ask for cancellation of the notice; and 15
  - (h) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957.

#### **125D Payment of infringement fees**

All infringement fees paid for infringement offences must be paid to the Ministry. 20

#### **125E Regulations about infringement offences**

The Governor-General may, by Order in Council, make regulations to do all or any of the following:

- (a) identify the offences in or under this Act that are infringement offences:
- (b) identify as an infringement offence an offence against section 135 for failing to comply with a specified provision, direction, condition, notice, or requirement; 25
- (c) set out notices and forms required for the purposes of **sections 125A to 125D**;
- (d) set out the amounts, up to \$1,000, of infringement fees that are payable for infringement offences, including different fees for a first offence, a second offence, and subsequent offences. 30

### *Offences*

#### **138 Section 130 amended (Offence to export unless registered)**

In section 130(1), replace “regulations made under this Act” with “the regulations or any supplementary notice”. 35

**139 Section 133 amended (Obstruction of officers, etc)**

- (1) In section 133(1)(a), delete “recognised risk management programme”.
- (2) In section 133(2), replace “official assessor, recognised risk management programme verifier or recognised risk management programme verifying agency,” with “an official assessor, or an agency”.

5

**140 New section 133A inserted (Offences involving automated electronic system)**

After section 133, insert:

**133A Offences involving automated electronic system**

- (1) A person commits an offence who intentionally obstructs or hinders an automated electronic system that is doing an action under **section 165B**.
- (2) A person commits an offence who knowingly damages or impairs an automated electronic system.
- (3) A person who commits an offence against this section is liable on conviction,—
  - (a) for a body corporate, to a fine not exceeding \$250,000;
  - (b) for an individual, to imprisonment for a term not exceeding 3 months and a fine not exceeding \$50,000.

10

15

**141 Section 135 amended (Failure to comply with Act, etc)**

Replace section 135(1)(b) with:

- (b) any provision of the regulations the failure to comply with which is identified in the regulations as an offence; or

20

**142 Section 140 amended (Evidence in proceedings)**

- (1) In section 140(1)(a)(i), delete “recognised risk management programme” in each place.
- (2) In section 140(1)(d), replace “section 167” with “section 168”.
- (3) In section 140(3), replace “or specifications” with “, notices, or orders”.

25

**143 Section 145 replaced (Time limit for filing charging document for offence against section 129 or 135)**

Replace section 145 with:

30

**144A Order to pay amount because of commercial gain**

- (1) This section applies to a person convicted of an offence against any of sections 126, 127 (other than paragraph (1)(c)), 128, 129, 130, 131, 132, **133A**, 134, and 135.

- (2) The court may make an order under **subsection (4) or (5)** if it is satisfied that the offence was committed in the course of producing a commercial gain.
- (3) The court may make the order in addition to, or instead of, a penalty that the court may impose under the relevant offence provision.
- (4) The court may make an order under this subsection whether or not the person is a body corporate. The order is that the person pay an amount up to 3 times the value of the commercial gain resulting from committing the offence. 5
- (5) The court may make an order under this subsection if the person is a body corporate and the value of the gain cannot be readily ascertained. The order is that the person pay an amount up to 10% of the combined turnover of the body corporate and every interconnected body corporate it has over the period of the offending. 10
- (6) The court must assess the value of a gain that is readily ascertainable.
- (7) An amount that the court orders to be paid under this section is recoverable in the same manner as a fine. 15
- (8) In this section, **interconnected** and **turnover** have the same meanings as in the Commerce Act 1986.

#### 145 Charging documents

Despite anything to the contrary in the Criminal Procedure Act 2011, a charging document in respect of any offence against this Act may be filed in any case within 4 years after the time when the offence was committed or within any longer time allowed by that other Act. 20

#### 144 Section 147 amended (Application for compliance order)

In section 147(1), delete “at any time”.

#### 145 Section 152 amended (Change or cancellation of compliance order) 25

- (1) In section 152(1), replace “at any time apply to a District Court in the prescribed manner” with “apply to a District Court in the manner set out in rules made under section 157”.
- (2) In section 152(2), replace “prescribed manner” with “manner set out in the rules”. 30

#### 146 Sections 158, 159, and 160 and cross-headings replaced

Replace sections 158, 159, and 160 and the cross-headings above sections 158 and 159 with:

*Identification, differentiation, and security systems and devices*

#### 158 Identification, differentiation, and security systems and devices 35

- (1) The Director-General may, by notice under **section 167(1)**, approve systems and devices for any of the following purposes:

- (a) facilitating the management and auditing of risks in relation to animal material and animal products:
- (b) marking the presence or absence in animal material or animal products of particular qualities or standards relating to the purposes of this Act:
- (c) indicating the intended purpose of any animal material or animal product: 5
- (d) supporting requirements in relation to official assurances.
- (2) In determining whether to approve a system or device, the Director-General must have regard to the need to—
- (a) provide unique, clear, and lasting identification, differentiation, or security having regard to the purpose for which identification, differentiation, or security is needed; and 10
- (b) not create confusion with any other generally used systems or devices; and
- (c) minimise the risk of misuse of approved systems and devices. 15
- (3) The Director-General may also, by notice under **section 167(1)**, do all or any of the following:
- (a) set out persons or classes of persons who may operate or use approved systems or devices:
- (b) if a system or device is approved only if it is manufactured by an approved manufacturer, approve persons as manufacturers of the system or device: 20
- (c) set out requirements relating to the use and security of approved systems or devices:
- (d) set out requirements relating to the security of the processes used to manufacture approved systems or devices: 25
- (e) set out requirements relating to the approval of systems or devices.
- (4) A person using an approved system or device for the purposes of this Act must comply with any requirements prescribed by the regulations or any supplementary notice in relation to its use. 30
- (5) In this section,—
- approved system or device** means a system or device that is approved under **subsection (1)**
- system or device** means a system or device that provides for the identification, differentiation, or security of animal material, animal products, premises or other places, or other matters or things. 35

*Use of information*



- 147 Section 161 amended (Disclosure of information for purpose of ensuring product safety, etc)**
- In section 161(5)(c), delete “recognised risk management programme” in each place.
- 148 Section 162 amended (Right of review of certain decisions made under delegated authority)** 5
- (1) In section 162(1)(f), delete “or to suspend export operations”.
- (2) After section 162(1)(n), insert:
- (o) any decision specified by the regulations as a decision that is subject to review under this section. 10
- (3) In section 162(2), delete “or by a person designated by the Director-General who was not involved in making the original decision”.
- (4) After section 162(3), insert:
- (3A) The Director-General may conduct the review personally or designate another person who was not involved in the original decision to conduct the review. 15
- (5) In section 162(4), replace “, or a person designated by the Director-General who was not involved in the original decision,” with “or designated person”.
- (6) In section 162(8), after “Director-General”, insert “or a designated person”.
- 149 Section 163 amended (Consultation requirements for making of certain Orders in Council, specifications, etc)** 20
- (1) In the heading to section 163, replace “**specifications, etc**” with “**regulations, and notices**”.
- (2) In section 163(1), replace “section 38” with “**section 40**”.
- (3) Repeal section 163(2).
- (4) In section 163(3)(a), replace “order or regulations or the setting of the relevant specifications or requirements referred to in subsections (1) and (2)” with “Order in Council, regulations, or notice”. 25
- (5) In section 163(3)(b), after “Council”, insert “or proposed regulations”.
- (6) In section 163(4)(a), replace “order or set the specifications or requirements” with “Order in Council, regulations, or notice”. 30
- (7) Replace section 163(5) and (6) with:
- (5) This section does not apply in relation to any Order in Council, regulations, or notice if the Minister or Director-General considers it necessary or desirable in the public interest that the Order in Council, regulations, or notice be made or issued as a matter of urgency. 35
- (6) A failure to comply with this section does not affect the validity of any Order in Council, regulations, or notice.

**150 Section 164 amended (Notification of certain matters)**

(1) In the heading to section 164, replace “**certain matters**” with “**notices under section 167**”.

(2) Replace section 164(1) with:

(1) This section applies to notices issued by the Director-General under **section 167** (other than notices in relation to the matters set out in section 60). 5

(3) In section 164(2)(b)(i), replace “specifications, requirements, exemption, or other matter concerned” with “notice”.

(4) Replace section 164(3) with:

(3) For any other notice, the Director-General must— 10

(a) publish the notice, or notification that it has been issued, in the *Gazette*; and

(b) where the Director-General considers it practicable, cause the notice to be brought to the attention of persons likely to be affected by it by notice or publication in any newspaper or trade journal, or by any other practicable means (including electronic means). 15

(5) In section 164(4), replace “specifications, requirements, exemption, or other matter concerned are notified only, and not published,” with “notice is not published in full”.

**151 New sections 165B and 165C and cross-heading inserted** 20

After section 165A, insert:

*Automated electronic systems*

**165B Arrangement for system**

(1) The Director-General may arrange for the use of an automated electronic system to do the actions described in **subsection (2)** that this Act or another enactment allows or requires the persons described in **subsection (3)** to do for the purposes of this Act. 25

(2) The actions are—

(a) exercising a power:

(b) carrying out a function: 30

(c) carrying out a duty:

(d) making a decision, including making a decision by—

(i) analysing information that a person described in **subsection (3)** holds or has access to about a person, goods, or craft; and

(ii) applying criteria predetermined by the Director-General to the analysis: 35

- (e) doing an action for the purpose of exercising a power, carrying out a function or duty, or making a decision:
- (f) communicating the exercising of a power, carrying out of a function or duty, or making of a decision.
- (3) The persons are— 5
- (a) the Director-General:
- (b) animal products officers:
- (c) official assessors:
- (d) persons designated under section 65 to issue official assurances.
- (4) The Director-General may make an arrangement only if satisfied that— 10
- (a) the system has the capacity to do the action with reasonable reliability; and
- (b) a process is available under which a person affected by an action done by the system can have the action reviewed by a person described in **subsection (3)** without undue delay. 15
- (5) A system used in accordance with an arrangement may include components outside New Zealand.
- (6) The Director-General must consult the Privacy Commissioner about including in an arrangement actions that involve the collection or use of personal information. 20
- 165C Effect of use of system**
- (1) This section applies to an action done by an automated electronic system.
- (2) An action allowed or required by this Act done by the system—
- (a) is treated as an action done properly by the appropriate person referred to in **section 165B(3)**; and 25
- (b) is not invalid by virtue only of the fact that it is done by the system.
- (3) If an action allowed or required by another enactment done by the system is done in accordance with any applicable provisions in the enactment on the use of an automated electronic system, the action—
- (a) is treated as an action done properly by the appropriate person referred to in **section 165B(3)**; and 30
- (b) is not invalid by virtue only of the fact that it is done by the system.
- (4) If the system operates in such a way as to render the action done or partly done by the system clearly wrong, the action may be done by the appropriate person referred to in **section 165B(3)**. 35

**152 Section 166 amended (Regulations)**

- (1) In section 166(1), delete “from time to time”.

- (2) Replace section 166(1)(a) to (d) with:
- (aa) prescribing, in relation to risk management programmes (*see* section 17),—
    - (i) requirements relating to the content of programmes:
    - (ii) other requirements relating to programmes: 5
    - (iii) how programmes are to be differentiated from other information kept by operators:
  - (ab) prescribing, in relation to the registration of risk management programmes (*see* sections 19 and 20),—
    - (i) the particulars to be shown in the register: 10
    - (ii) when part only of a risk management programme may be lodged and the parts that must be lodged:
    - (iii) information and other material that must accompany applications for registration:
    - (iv) how accompanying information and material is to be provided to the Director-General: 15
  - (ac) prescribing, in relation to significant amendments to registered risk management programmes (*see* section 25),—
    - (i) the kinds of amendments that require registration under section 25 and those that do not: 20
    - (ii) how long before a known change, event, or other matter an application for registration of an amendment to the programme must be made:
    - (iii) information and other material that must accompany applications for registration: 25
    - (iv) how accompanying information and material is to be provided to the Director-General:
    - (v) other requirements relating to registration of significant amendments:
  - (ad) prescribing, in relation to minor amendments to registered risk management programmes (*see* section 26),—
    - (i) the intervals at which notification must be given to the Director-General: 30
    - (ii) information and other material that must accompany a notification: 35
    - (iii) other requirements relating to notification of minor amendments:
  - (ae) prescribing the intervals at which an updated registered risk management programme must be given to the verifying agency (*see* **section 26A**):

- (af) prescribing, in relation to the relationship between the Food Act regime and risk management plans (*see* sections 32 to 34),—
- (i) when and to what extent **section 34(3)(b) or (c)** does not apply:
  - (ii) requirements for determining whether all or any classes of registered food control plans are to be subject to the verification regime of this Act or the Food Act 2014: 5
  - (iii) any other requirements relating to elections to operate under a risk management programme under section 34:
  - (iv) matters relating to the registration of food control plans as risk management programmes: 10
- (d) prescribing, in relation to exports,—
- (i) exemptions for any class of consignment, animal material or product, or person for the purposes of section 48:
  - (ii) the kinds of consignments and animal material and products in relation to which the Director-General may grant exemptions under section 50(1): 15
- (3) After section 166(1)(ea)(ii), insert:
- (ia) in order for an agency, a person, or a class of persons to maintain recognition: 20
- (4) Replace section 166(1)(h) to (j) with: 20
- (ga) specifying persons, or classes of persons, for the purposes of the definition of regulated person in **section 77A**:
  - (h) prescribing requirements relating to the use of approved systems or devices (*see* **section 158(4)**): 25
- (5) After section 166(1)(o), insert: 25
- (oa) specifying decisions as decisions that are subject to review under section 162:
  - (ob) permitting supplementary notices to be made to supplement specified provisions of the regulations (*see* section **167(2)(b)**): 30
- (6) Repeal section 166(2). 30

### 153 Section 167 replaced (Notices)

Replace section 167 with:

#### 166A Scope of regulations

- (1) Regulations made under this Act may do any or all of the following: 35
- (a) authorise the Minister or Director-General to—
    - (i) impose requirements, conditions, restrictions, or prohibitions:
    - (ii) issue approvals, directions, instructions, or orders:

- (b) authorise an animal product officer or official assessor to—
- (i) impose requirements, conditions, restrictions, or prohibitions:
  - (ii) issue directions or instructions:
- (c) exempt, or authorise the Minister or Director-General to exempt, any animal material, animal product, person, place, business, process, operation, activity, or other matter or thing from any provision of the regulations: 5
- (d) authorise the Minister, the Director-General, or an animal product officer to decide a matter:
- (e) confer any other discretion on the Minister, the Director-General, or an animal product officer. 10
- (2) The regulations may—
- (a) apply generally, or in relation to any specified, or specified class of, animal materials, animal products, persons, places, businesses, processes, operations, activities, or other matters or things: 15
  - (b) make the same provision for all cases or different provisions for different cases or classes of case.
- (3) If a provision of this Act permits regulations to prescribe requirements, the regulations may prescribe requirements, specifications, criteria, procedures, conditions, or other matters of a similar kind. 20
- 167 Notices**
- (1) The Director-General may issue notices under this subsection to do anything that a provision of this Act permits to be done by notice under this subsection.
- (2) The Director-General may issue notices under this subsection to prescribe matters,— 25
- (a) if a provision of this Act refers to regulations and supplementary notices (for example by requiring something to be done in accordance with regulations and any supplementary notice), to supplement those regulations; or
  - (b) if the regulations permit supplementary notices to be made to supplement provisions of the regulations, to supplement those provisions of the regulations. 30
- (3) The Director-General must not issue a notice under **subsection (2)** unless satisfied that the notice—
- (a) sets out matters of detail to elaborate on matters provided for in the regulations; or 35
  - (b) sets out procedures, methodologies, forms, or other matters of an administrative nature relating to matters provided for in the regulations; or

- (c) sets out how requirements imposed by the regulations may or must be met; or
- (d) otherwise supplements matters of general principle set out in the regulations.
- (4) If a provision of this Act requires the Minister to be satisfied of any matter before recommending the making of regulations, the Director-General may not issue a notice under **subsection (2)** to supplement those regulations unless the Director-General is satisfied of that matter. 5
- (5) A notice may—
- (a) apply generally, or in relation to any specified, or specified class of, animal materials, animal products, persons, businesses, activities, or other matters or things: 10
- (b) make the same provision for all cases or different provisions for different cases or classes of case:
- (c) impose any conditions, restrictions, or prohibitions. 15
- (6) A notice issued under this section (other than one in relation to the matters set out in section 60) must be notified in accordance with section 164.
- (7) If a notice issued under this section is inconsistent with the regulations, the regulations prevail to the extent of the inconsistency.
- 167A Application of Legislation Act 2012 to notices** 20
- (1) The following notices issued under **section 167(1)** are neither disallowable instruments nor legislative instruments for the purposes of the Legislation Act 2012 and do not have to be presented to the House of Representatives under section 41 of that Act:
- (a) a notice issued for the purposes of section **38(2)(b)** or 60: 25
- (b) a notice that—
- (i) is issued for the purposes of section 14, 24, 50, 81A, or 112Y; and
- (ii) applies only to a particular named person.
- (2) Any other notice issued under **section 167(1)**, and any notice issued under **section 167(2)**, is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 30
- 154 Section 168 amended (Incorporation of material by reference into regulations, notices, and orders)**
- Replace section 168(6) with: 35
- (6) A **standard work of reference** is a work of reference that the Director-General considers is accepted internationally or by an industry as a standard one to refer to on its subject matter. An example is the *Codex Alimentarius*.

**155 New sections 168A and 168B inserted**

After section 168, insert:

**168A Availability and proof of material incorporated by reference**

- (1) If material (other than a standard work of reference) is incorporated by reference in an instrument under section 168, a copy of the material and any amendment to the material must be— 5
- (a) certified as a correct copy of the material by the Director-General; and
  - (b) retained by the Director-General.
- (2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the instrument of that material. 10
- (3) The Director-General must—
- (a) make copies of all material incorporated in an instrument by reference available for inspection, free of charge, at the head office of the Ministry and at other places that the Director-General determines are appropriate; and 15
  - (b) make copies of the material available, free of charge, on an Internet site maintained by or on behalf of the Ministry; and
  - (c) either make copies of the material available for purchase, at reasonable cost, or advise where copies of the material may be obtained. 20
- (4) The Director-General may comply with **subsection (3)(b)** by providing a hypertext link from an Internet site maintained by or on behalf of the Ministry to a copy of the material that is available, free of charge, on an Internet site maintained by or on behalf of someone else.
- (5) The Director-General is not required to comply with **subsection (3)(b) or (c)** if doing so would infringe copyright in the material or be inconsistent with any other enactment or rule of law. 25

**168B Application of Legislation Act 2012 to incorporating instruments and incorporated material**

- (1) Part 2 of the Legislation Act 2012 does not apply to material incorporated by reference in an instrument under section 168 or to an amendment to that material. 30
- (2) Subpart 1 of Part 3 of the Legislation Act 2012 applies to an instrument that incorporates material by reference.
- (3) However, nothing in section 41 of the Legislation Act 2012 requires material that is incorporated by reference in an instrument to be presented to the House of Representatives. 35



**156 New Schedule 1 inserted**

Insert the **Schedule 1** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

**Part 3****Amendments to Wine Act 2003**

5

**157 Principal Act**

This **Part** amends the Wine Act 2003 (the **principal Act**).

**158 Section 4 amended (Interpretation)**

(1) In section 4(1), repeal the definitions of **recognised management plan verifier**, **recognised verifying agency**, **verification**, and **wine standard**. 10

(2) In section 4(1), insert in their appropriate alphabetical order:

**automated electronic system** means a system that is the subject of an arrangement under **section 118A**

**infringement fee**, in relation to an infringement offence, means the amount set out in regulations made under **section 96E** to be payable for the offence 15

**infringement offence** means an offence identified in regulations made under **section 96E** as an infringement offence

**regulated person** has the meaning given in **section 54A**

**regulations** means regulations made under this Act

**supplementary notice** means a notice issued under **section 120(2)** 20

**verification** includes the application of methods, procedures, tests, and other checks to confirm—

(a) in relation to a wine standards management plan,—

(i) whether operations that are subject to the plan are being carried out in compliance with it; and 25

(ii) the applicability of the plan to the operations of the relevant wine business; and

(iii) the effectiveness of the plan:

(b) in relation to wine for whose export an official assurance is required, whether the wine has been produced or made in a way that meets the requirements for the official assurance: 30

(c) whether a regulated person has complied with a requirement imposed by or under this Act

**verifier** means a recognised person whose specified functions and activities include carrying out verification functions and activities 35

	<b>verifying agency</b> means a recognised agency whose specified functions and activities include managing and carrying out verification functions and activities	
	<b>wine standard</b> means a standard prescribed by regulations made under section 33	5
(3)	In section 4(1), definition of <b>extension product</b> , paragraph (d), delete “or partially fermented commodities”.	
(4)	In section 4(1), definition of <b>industry organisation</b> , replace paragraph (a) with:	
	(a) New Zealand Winegrowers Incorporated:	10
(5)	In section 4(1), definition of <b>industry organisation</b> , repeal paragraph (c).	
(6)	In section 4(1), definition of <b>permissible functions and activities</b> , delete “verification functions and activities and other”.	
(7)	In section 4(1), definition of <b>permissible functions and activities</b> , paragraph (a), delete “in relation to wine standards management plans”.	15
(8)	In section 4(1), definition of <b>permissible functions and activities</b> , repeal paragraph (b).	
(9)	In section 4(1), definition of <b>wine</b> , replace paragraph (b) with:	
	(b) to the extent specified in sections 12 and 15A, includes wine products, extension products, and partial process products; but	20
(10)	In section 4(2), replace “and associated specifications set under subpart 2 of Part 2” with “and supplementary notices”.	
<b>159</b>	<b>New section 4A inserted (Transitional, savings, and related provisions relating to amending Acts)</b>	
	After section 4, insert:	25
<b>4A</b>	<b>Transitional, savings, and related provisions relating to amending Acts</b>	
(1)	The transitional, savings, and related provisions set out in <b>Schedule 1</b> have effect according to their terms.	
(2)	Sections 129 to 132 contain transitional, savings, and related provisions relating to the enactment of this Act.	30
<b>160</b>	<b>Section 5 amended (Scope of Act)</b>	
(1)	In section 5(2), after “products”, insert “, extension products, partial process products,”.	
(2)	In section 5(2), replace “10 and 12” with “12, 15A, and 32”.	
<b>161</b>	<b>Section 6 amended (Exemptions from application of Act)</b>	35
	Repeal section 6(4).	

- 162 Section 7 amended (Outline of this Part)**  
In section 7(b), delete “and specifications”.
- 163 Section 8 amended (What is a wine standards management plan?)**
- (1) In the heading to section 8, delete “?”.
  - (2) In section 8(4), after “businesses”, insert “or part-businesses”. 5
- 164 Section 9 amended (Who must have a wine standards management plan?)**  
In the heading to section 9, delete “?”.
- 165 Section 11 amended (Limited exemption from requirement to have wine standards management plan)**
- In section 11(1), replace “section 120” with “**section 120(1)**”. 10
- 166 Section 12 amended (Certain persons may be required to have wine standards management plan)**
- (1) In section 12(1)(d), after “products”, insert “, extension products, or partial process products”.
  - (2) In section 12(2)(a), replace “or wine or wine product produced” with “, wine, wine product, extension product, or partial process product”. 15
  - (3) In section 12(2)(b), replace “or wine or wine product in question” with “, wine, wine product, extension product, or partial process product”.
  - (4) In section 12(2)(c), replace “or wine or wine product” with “, wine, wine product, extension product, or partial process product”. 20
  - (5) In section 12(2)(d), replace “or wine or wine product in question” with “, wine, wine product, extension product, or partial process product”.
  - (6) Replace section 12(3) and (4) with:
  - (3) The Minister may not recommend the making of an order under this section unless the Minister is satisfied that the order is necessary or desirable— 25
    - (a) in the interests of producing wine, wine products, extension products, or partial process products that are fit for intended purpose; or
    - (b) for the purpose of facilitating access to overseas markets.
  - (4) If an order under this section requires a wine standards management plan in respect of operations relating to wine, this Act (including the regulations and any notices under section 120) applies in relation to the wine unless the order provides otherwise. 30
  - (5) If an order under this section requires a wine standards management plan in respect of operations relating to commodities, wine products, extension products, or partial process products, this Act (including the regulations and any notices under section 120) applies to the commodities, wine products, extension prod- 35

	ucts, or partial process products as if they were wine unless the order provides otherwise.	
<b>167</b>	<b>Section 13 amended (Duties of operators of wine standards management plans)</b>	
	In section 13(f), delete “recognised”.	5
<b>168</b>	<b>Section 14 amended (Contents of and requirements for wine standards management plans)</b>	
(1)	After section 14(2)(b), insert:	
	(ba) make provision in relation to tracing and recalling wine as required by regulations made under <b>section 54C</b> or any supplementary notice:	10
(2)	Replace section 14(2)(d) with:	
	(d) provide for appropriate and auditable documentation, record keeping, and reporting, including as required by—	
	(i) regulations made under <b>section 54H(1)</b> or any supplementary notice; or	15
	(ii) any notice referred to in <b>section 54H(2)</b> :	
	(da) make provision in relation to verification as required by regulations made under <b>section 54F</b> or any supplementary notice:	
(3)	Replace section 14(2)(e)(i) with:	
	(i) any relevant wine standards, other regulations, supplementary notices, and New Zealand food standards; and	20
(4)	In section 14(2)(e)(ii), replace “specifications set by the Director-General under this Act” with “notices issued by the Director-General under <b>section 120</b> ”.	
(5)	After section 14(2A), insert:	25
(2B)	A wine standards management plan must comply with any regulations or supplementary notice requiring it to be differentiated from other information kept by the operator and prescribing how this must be done.	
<b>169</b>	<b>Section 14 further amended (Contents of and requirements for wine standards management plans)</b>	30
	Repeal section 14(4).	
<b>170</b>	<b>Section 15A amended (Persons involved with both food and wine)</b>	
	In section 15A(4), replace “, and its provisions on verification, apply to their products as if they were wine” with “(including the regulations and any notices under section 120) applies to their extension products, partial process products, or wine products as if they were wine”.	35

- 171 Section 15B amended (Application for intermittent use of food control plan as wine standards management plan)**
- (1) Replace section 15B(2) with:
- (2) Sections 18 to 20 apply to the application as if it were an application under section 18. 5
- (2) Replace section 15B(4)(b) with:
- (b) export eligibility requirements and any supplementary notices; and
- (c) any requirements set out in the regulations or any supplementary notices for determining whether all or any classes of registered food control plans are to be subject to the verification regime of this Act or the Food Act 2014. 10
- (3) In section 15B(6)(b), replace “verification” with “verifying”.
- 172 Section 15C amended (Intermittent use of food control plan as wine standards management plan)**
- In section 15C(2) and (3), after “food plan,”, insert “unless the regulations or any supplementary notice provide otherwise,”. 15
- 173 New section 15D inserted (Regulations may grant or provide for exemptions from this Act or Food Act 2014)**
- After section 15C, insert:
- 15D Regulations may grant or provide for exemptions from this Act or Food Act 2014** 20
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations exempting, or providing for the exemption of, persons from specified requirements imposed by or under this Act or the Food Act 2014. 25
- (2) The Minister may not recommend the making under **subsection (1)** of regulations that grant an exemption unless satisfied that—
- (a) granting the exemption is necessary or desirable in the interests of avoiding unnecessary or undesirable duplication of equivalent duties or matters under this Act and the Food Act 2014; and 30
- (b) the extent of the exemption is not broader than is reasonably necessary for that purpose.
- (3) The Minister may not recommend the making under **subsection (1)** of regulations that provide for exemptions to be granted unless satisfied that the regulations permit an exemption to be granted only if— 35
- (a) granting the exemption is necessary or desirable in the interests of avoiding unnecessary or undesirable duplication of equivalent duties or matters under this Act and the Food Act 2014; and

- (b) the extent of the exemption is not broader than is reasonably necessary for that purpose.
- 174 Section 17 amended (Register of wine standards management plans)**
- (1) In section 17(3)(g), replace “recognised verifying agency responsible for the verification function under” with “verifying agency responsible for verification of”. 5
- (2) Replace section 17(3)(j) and (k) with:
- (j) the date on which the most recent significant amendment to the wine standards management plan has been registered under section 22:
- (k) the date of any notifications of minor amendments to the wine standards management plan under section 23: 10
- (l) any other particulars required by the regulations or any supplementary notice.
- 175 Section 18 amended (Applications for registration of wine standards management plans)** 15
- (1) In section 18(1)(c), delete “recognised”.
- (2) In section 18(1)(c), delete “functions in respect”.
- (3) In section 18(1)(d), replace “regulations made under this Act” with “the regulations or any supplementary notice”.
- (4) After section 18(1A), insert: 20
- (1B) The information or material accompanying the application must be provided in a way that complies with any requirements prescribed by the regulations or any supplementary notice.
- 176 Section 18 further amended (Applications for registration of wine standards management plans)** 25
- Replace section 18(1)(a)(ii) with:
- (ii) if the regulations permit part only of the plan to be lodged, a copy of that part of the plan; and
- 177 Section 19 amended (Registration of wine standards management plans)**
- After section 19(1)(a)(ii), insert: 30
- (iii) is clear enough to be readily understood by the operator, the Director-General, and the operator’s verifier; and
- 178 Section 21 amended (Registration may not be transferred)**
- In section 21(3), replace “section 120” with “**section 120(1)**”.

**179 Section 22 amended (Significant amendment of wine standards management plan)**

- (1) In the heading to section 22, replace “**Significant**” with “**Registration of significant**”.
- (2) In section 22(3), delete “, in a manner approved by the Director-General and on payment of the prescribed fee (if any),”.
- (3) After section 22(3), insert:
- (3A) An application under this section must be made in writing in a form or manner approved by the Director-General and be accompanied by—
- (a) any information and other material required by the regulations or any supplementary notice; and
- (b) the prescribed fee (if any).
- (3B) The information or material accompanying the application must be provided in a way that complies with any requirements prescribed by the regulations or any supplementary notice.
- (3C) Sections 18(2) and (3), 19, and 20 apply to an application under this section, with any necessary modifications, as if it were an application for registration under section 18.
- (4) In section 22(4)(c), replace “supply to both the applicant and the appropriate recognised verifying agency a certified” with “give the applicant’s verifying agency a”.
- (5) Repeal section 22(8).

**180 Section 23 amended (Updates of minor amendments to wine standards management plans)**

- (1) In the heading to section 23, replace “**Updates**” with “**Notification**”.
- (2) In section 23(2)(a), after “in a”, insert “form or”.
- (3) Replace section 23(2)(b) to (d) with:
- (b) be made at the intervals set out in the regulations or any supplementary notice; and
- (c) be accompanied by—
- (i) any information and other material required by the regulations or any supplementary notice; and
- (ii) the prescribed fee (if any); and
- (d) comply with any requirements in the regulations or any supplementary notice.
- (4) Repeal section 23(4).

**181 New sections 23A and 23B inserted**

After section 23, insert:

**23A Operator to give verifying agency updated plan**

The operator of a registered wine standards management plan must give its verifying agency an updated copy of the plan at the intervals required by the regulations or any supplementary notice. 5

**23B Director-General may require amendment to improve clarity of registered wine standards management plan**

- (1) If the Director-General considers that a registered wine standards management plan is not clear enough to be readily understood by the persons referred to in **section 19(1)(a)(iii)**, the Director-General may require the operator to amend the plan. 10
- (2) The operator must amend the plan to meet the Director-General's requirements under **subsection (1)** within 6 months after the date the requirement is received. 15
- (3) If the operator fails to do so, the Director-General may—
  - (a) suspend operations under the plan in accordance with section 24; or
  - (b) remove the plan from the register in accordance with section 25.

**182 Section 24 amended (Suspension of operations under registered wine standards management plan) 20**

- (1) In section 24(1), delete “at any time”.
- (2) In section 24(1)(b), replace “of this Act.” with “imposed by or under this Act; or”.
- (3) After section 24(1)(b), insert:
  - (c) suspension is permitted under **section 23B**. 25
- (4) In section 24(5), replace “appropriate recognised” with “operator’s”.

**183 Section 25 amended (Deregistration of wine standards management plan)**

- (1) In section 25(1), delete “at any time”.
- (2) After section 25(1)(b), insert:
  - (ba) removal of the plan from the register is permitted under **section 23B**; 30  
or
- (3) In section 25(3)(b), replace “appropriate recognised” with “operator’s”.

**184 Section 26 replaced (Removal of wine business from coverage of wider wine standards management plan)**

Replace section 26 with: 35



<b>26</b>	<b>Removal of wine business from coverage of wider wine standards management plan</b>	
(1)	The Director-General may remove any wine business or part-business from the coverage of a registered wine standards management plan that applies to more than 1 comparable business if the Director-General is satisfied that deregistration of the plan would be appropriate under section 25(1) if the business or part-business being removed were the only one operating under the plan.	5
(2)	Section 25(2) to (7) applies in relation to the removal of the business or part-business from the coverage of the wine standards management plan as if references in those subsections to deregistration of the plan were references to removal from the coverage of the plan.	10
<b>185</b>	<b>Section 27 amended (Surrender of registration)</b>	
(1)	In section 27(1), delete “at any time”.	
(2)	In section 27(2)(c), replace “appropriate recognised” with “operator’s”.	
<b>186</b>	<b>Section 28 amended (References to recognised verifying agency)</b>	15
(1)	In the heading to section 28, delete “recognised”.	
(2)	In section 28, replace “recognised verifying” with “verifying”.	
(3)	In section 28, delete “recognised management plan”.	
<b>187</b>	<b>Subpart 2 heading in Part 2 amended</b>	
	In Part 2, in the subpart 2 heading, delete “and specifications”.	20
<b>188</b>	<b>Section 30 replaced (Outline of subpart 2)</b>	
	Replace section 30 with:	
<b>30</b>	<b>Wine standards</b>	
(1)	This subpart provides for the setting of standards that must be met by any wine intended for trade or export.	25
(2)	The standards may be set by regulations made under section 33, which may be supplemented by supplementary notices.	
<b>189</b>	<b>Section 31 amended (Application of standards and specifications)</b>	
(1)	In the heading to section 31, delete “and specifications”.	
(2)	In section 31, delete “and specifications”.	30
<b>190</b>	<b>Section 32 repealed (Application to extension products, partial process products, and wine products)</b>	
	Repeal section 32.	

- 191 Section 33 amended (Regulations may prescribe standards)**
- (1) In section 33(1), replace “Regulations may be made under section 119, on the recommendation of the Minister,” with “The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations”.
- (2) After section 33(2)(a), insert: 5
- (ab) the information or other matters that must be specified, or that may or may not be specified, in any label on any bottle or other container of wine or any class or description of wine, and the requirements that must be met for that information or other matter to be specified or not specified: 10
- (3) Repeal section 33(3) to (5) and (7).
- 192 Section 34 amended (Prerequisites for prescribing standards)**
- (1) In section 34(1), replace “recommending the prescribing of standards” with “determining whether to recommend the making of a wine standard”.
- (2) Repeal section 34(2). 15
- 193 Section 35 repealed (Director-General may issue specifications supplementary to wine standards)**
- Repeal section 35.
- 194 Section 37 amended (Prerequisites for export)**
- (1) In section 37(1)(b)(i), after “those requirements”, insert “and any supplementary notices”. 20
- (2) In section 37(2), replace “under section 39 or under regulations made under this Act” with “by the regulations or any supplementary notice or by a notice referred to in section 39”.
- 195 Section 38 amended (Export eligibility requirements)** 25
- (1) Repeal section 38(3).
- (2) In section 38(4)(b), replace “prescribe” with “set out”.
- (3) Replace section 38(4)(c) with:
- (c) set out procedures and requirements in relation to the export eligibility requirements. 30
- (4) Repeal section 38(5).
- (5) In section 38(6), after “requirements”, insert “and any supplementary notices”.
- 196 Section 39 amended (Exemption of certain consignments)**
- (1) In the heading to section 39, after “consignments”, insert “, wine, or persons”. 35
- (2) In section 39(1), replace “section 120” with “**section 120(1)**”.

- (3) Replace section 39(1)(e) with:  
 (e) of a kind that the regulations permit to be exempted under this section.
- (4) Repeal section 39(2) and (3).
- 197 Section 40 amended (Duties of exporters)**
- (1) In section 40(b)(i), replace “standards and specifications” with “wine standards and any supplementary notices” 5
- (2) In section 40(e), after “those requirements”, insert “and any supplementary notices”.
- 198 Section 41 amended (Director-General to notify or make available access requirements for overseas markets)** 10
- (1) In section 41(2), replace “section 120, issue specifications that set out” with “**section 120(1)**, specify”.
- (2) In section 41(2), replace “the specifications” with “the notice”.
- 199 Section 42 amended (Director-General may issue official assurances)**
- In section 42(2)(b), replace “standards and specifications set under subpart 2 of Part 2” with “relevant wine standards and any supplementary notices” 15
- 200 Section 43 amended (Form and content of official assurance)**
- Repeal section 43(4).
- 201 Section 44 amended (Obtaining of official assurance)**
- After section 44(2), insert: 20
- (3) The Director-General may, by notice under **section 120(1)**, do either or both of the following:
- (a) set out requirements and procedures for the issue and control of official assurances:
- (b) set out other matters in relation to the obtaining of official assurances. 25
- (4) Matters set out in notices under **subsection (3)** are in addition to matters (if any) prescribed by regulations made under section 119(1)(g).
- 202 Section 47 amended (Register of exporters)**
- Replace section 47(3)(d) with:
- (d) any other particulars required by the Director-General by notice under **section 120(1)**. 30
- 203 Section 48 amended (Applications for registration as exporter)**
- In section 48(1), replace “regulations under this Act” with “the regulations”.

**204 Section 52 amended (Deregistration of exporters)**

- (1) In section 52(1), delete “at any time”.
- (2) In section 52(1)(c), replace “under” with “for the purposes of”.

**205 Section 53 amended (Surrender of registration)**

In section 53(1), delete “at any time”. 5

**206 New subpart 4 of Part 2 inserted**

After section 54, insert:

### Subpart 4—General obligations

**54A Interpretation**

In this Part, **regulated person** means any of the following: 10

- (a) the operator of a wine business:
- (b) the operator of a registered wine standards management plan:
- (c) an exporter:
- (d) a person who is in charge of wine for the purposes of a wine business:
- (e) any other person— 15
  - (i) who has, or is in a class of persons who have, any obligation under this Act; and
  - (ii) who is, or is in a class of persons that is, specified by the regulations.

### *Tracing and recall* 20

**54B Tracing and recall requirements**

A regulated person must, as and when required by the regulations or any supplementary notice,—

- (a) have in place any procedures for tracing and recalling wine; and
- (b) conduct simulations or other tests of those procedures; and 25
- (c) implement those procedures to trace or recall wine.

**54C Regulations relating to tracing and recall**

- (1) The Governor-General may, by Order in Council, make regulations prescribing requirements that apply to regulated persons in relation to tracing and recalling wine. 30
- (2) The regulations may (without limitation) do any or all of the following:
  - (a) identify the regulated persons who are required to have procedures for tracing and recalling wine:

- (b) set requirements relating to—
  - (i) the content of those procedures:
  - (ii) the conducting of simulations and other tests of those procedures:
  - (iii) the implementation of those procedures to trace or recall wine:
- (c) specify matters in relation to tracing and recall that must be included in wine standards management plans (*see* section 14). 5

### *Verification*

#### **54D Verification**

A regulated person must comply with any requirements relating to verification that are prescribed by regulations made under **section 54F** or any supplementary notice. 10

#### **54E Obligation of persons subject to verification requirements**

A person who is subject to verification requirements under this Act must—

- (a) give the verifier—
  - (i) the access to places, things, and information that the verifier reasonably needs to undertake the verification; and 15
  - (ii) any reasonable assistance requested by the verifier to undertake the verification; and
- (b) comply with any other requirements relating to the verification set out in any of the following: 20
  - (i) regulations made under **section 54F** or any supplementary notice:
  - (ii) if the person is the operator of a wine standards management plan, that plan.

#### **54F Regulations relating to verification**

- (1) The Governor-General may, by Order in Council, make regulations prescribing requirements in relation to verification of any or all of the following: 25
  - (a) wine standards management plans:
  - (b) wine for whose export an official assurance is required:
  - (c) compliance by regulated persons with requirements imposed by or under this Act. 30
- (2) The regulations may (without limitation) do any or all of the following:
  - (a) in relation to verification of wine standards management plans, specify the operations, or the parts of the operations, that must be verified:
  - (b) set requirements relating to the frequency, intensity, and cost of verification: 35

- (c) specify matters in relation to verification that must be included in wine standards management plans (*see* section 14):
- (d) set reporting requirements for verifiers (*see* section 82H):
- (e) set out requirements relating to the exercise, carrying out, and managing of verification functions and activities (*see* sections 82G and 82H).

5

*Record keeping and reporting*

**54G Record keeping and reporting requirements**

- (1) A regulated person, recognised person, or recognised agency must—
  - (a) collect the required information; and
  - (b) keep that information in the required manner and for the required period; and
  - (c) give that information to—
    - (i) the Director-General or a wine officer at all reasonable times on request; and
    - (ii) any other person as required.
- (2) In this section,—
 

**give**, in relation to information, includes—

  - (a) to give access to the information; and
  - (b) to permit the inspection of the information; and
  - (c) to permit the making of copies of the information

**required** means required by any of the following:

  - (a) this Act;
  - (b) the regulations or any supplementary notice;
  - (c) a notice referred to in **section 54H(2)**.

10

15

20

**54H Regulations and notices relating to record keeping and reporting**

25

- (1) The Governor-General may, by Order in Council, make regulations prescribing requirements in relation to record keeping and reporting by regulated persons, recognised persons, and recognised agencies.
- (2) The Director-General may, by notice under **section 120(1)**, prescribe requirements in relation to record keeping and reporting by regulated persons, recognised persons, and recognised agencies (in addition to requirements (if any) prescribed by the regulations).
- (3) The regulations or a notice may (without limitation) do any or all of the following:
  - (a) set requirements relating to—
    - (i) what information must be collected:

30

35

- (ii) how, and for how long, the information must be kept:
- (iii) what information must be given under **section 54G(1)(c)** and when, how, and to whom it must be given:
- (b) specify matters in relation to record keeping and reporting that must be included in wine standards management plans (*see* section 14).

5

**207 Section 56 amended (Director-General may issue notices)**

In section 56, replace “from time to time issue notices as specified in” with “issue notices under”.

**208 Section 59 amended (Power to direct disposal, etc, of wine in certain circumstances)**

10

In section 59(1)(g), after “requirements”, insert “or any supplementary notice”.

**209 New sections 61A and 61B inserted**

Before section 62, insert:

**61A Power to issue improvement notice**

- (1) A wine officer may issue an improvement notice to any person if the officer reasonably believes that the person is failing, or has failed, to comply with 1 or more requirements imposed by or under this Act. 15
- (2) An improvement notice must state—
  - (a) the requirement that the officer reasonably believes the person is failing, or has failed, to comply with; and 20
  - (b) the reasons for the officer’s reasonable belief; and
  - (c) the nature and extent of the failure to comply with the requirement; and
  - (d) the date by which the person must comply with the requirement; and
  - (e) the person’s right, under **section 61B**, to seek a review of the decision to issue the improvement notice. 25
- (3) A wine officer may, by written notice, withdraw an improvement notice, but may reissue it if **subsection (1)** applies.
- (4) An improvement notice must be served in accordance with section 117.
- (5) A person to whom an improvement notice is issued must comply with the notice, subject to any extension of the date by which the person must comply with the applicable requirement that the wine officer may grant on the person’s request. 30

**61B Review of improvement notice**

- (1) A person to whom an improvement notice is issued under **section 61A** may apply to the Director-General to have the decision to issue it reviewed. 35

- (2) Section 114(2) to (8) applies in relation to the application and review as if the decision to issue the notice were a decision to which that section applies.
- (3) The Director-General may initiate a review of a decision to issue an improvement notice on the Director-General's own initiative and without an application for review being made. 5
- (4) For the purposes of **subsection (3)**, section 114(**3A**), (4), (6), (7), and (8) applies in relation to the review as if—
- (a) the decision to issue the notice were a decision to which that section applies and the person to whom it was issued had applied for a review; and
- (b) the maximum time allowed under section 114(4) were 80 days from the date on which the improvement notice was issued. 10

## 210 New sections 68A and 68B inserted

After section 68, insert:

### 68A Matters may be continued by different wine officer

- (1) An action initiated or taken under this Act by a wine officer may be continued by another wine officer. 15
- (2) Without limiting **subsection (1)**, if an officer has given any notice, authorisation, or consent under this Act (whether or not subject to conditions), any wine officer may—
- (a) take further action in relation to that notice, authorisation, or consent; or 20
- (b) revoke or withdraw it; or
- (c) vary it; or
- (d) revoke or vary any condition on or subject to which it was given.

### 68B Opinion or belief of wine officer

If this Act requires a wine officer to hold a particular opinion or belief about something before exercising a power, it is sufficient if a more senior wine officer or the Director-General holds that opinion or belief and directs the wine officer to exercise the power. 25

## 211 Section 69 amended (Outline of sections 70 to 82Z)

- (1) In section 69(a), delete “recognised”. 30
- (2) In section 69(b), delete “recognised management plan”.

## 212 Section 70 amended (Interpretation)

In section 70, definition of **requirements of this Act**, replace paragraphs (b) and (c) with:

- (b) the regulations or any supplementary notice; or 35
- (c) a notice issued under **section 120(1)**



- 213 Section 82G amended (Duties of recognised agencies)**
- (1) After section 82G(1)(f), insert:
- (fa) if it is a verifying agency, has for each operator for which it carries out verification functions and activities a copy of the following:
- (i) the operator’s wine standards management plan or, if it has been given an updated copy of the plan under **section 23A**, the latest updated copy; and
- (ii) any subsequent amendments given to the verifier under section 22(4); and
- (2) In section 82G(1)(g), after “all”, insert “other”.
- 214 New section 82IA inserted (Recognised agency and recognised person accountable to Director-General)**
- After section 82I, insert:
- 82IA Recognised agency and recognised person accountable to Director-General**
- (1) A recognised agency is, in carrying out its specified functions and activities, accountable to the Director-General.
- (2) A recognised person is, in carrying out his or her specified functions and activities, accountable to the Director-General.
- 215 Section 82T amended (Contents of public register)**
- Replace section 82T(1)(e) with:
- (e) any other particulars required by the regulations or any supplementary notice.
- 216 Section 82Y amended (Director-General may require notification of termination of contracts)**
- (1) In section 82Y(1), replace “section 120, require any recognised management plan verifier or recognised” with “**section 120(1)**, require any verifier or”.
- (2) Repeal section 82Y(2).
- (3) In section 82Y(3), replace “recognised management plan verifier or recognised” with “verifier or”.
- 217 Section 84 amended (Principles of cost recovery)**
- In section 84(3), delete “appropriate”.
- 218 Section 86 amended (Cost recovery to relate generally to financial year)**
- (1) In section 86(1), delete “under this subpart”.
- (2) In section 86(2)(b)(i), delete “appropriate”.

**219 Section 87 amended (Three-yearly review of cost recovery)**

In section 87(2), delete “appropriate”.

**220 Section 88 amended (Fees and charges to be prescribed by regulations)**

(1) Replace section 88(1) with:

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing fees and charges for the purposes of this Act, including fees and charges— 5
- (a) for applications, renewals, or related matters under this Act (for example, for applications for registration under subpart 1 or 3 of Part 2 or for applications for recognition under sections 70 to 82Z); and 10
- (b) payable on an ongoing basis by a person given a particular status under this Act (for example, for ongoing registration under subpart 3 of Part 2 or for ongoing recognition under sections 70 to 82Z).

(2) In section 88(5), replace “under section 120” with “by notice under **section 120(1)**”. 15

**221 Section 89 amended (Regulations may impose levies)**

(1) Replace section 89(1) with:

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing levies for the purposes of this Act, including levies payable on an ongoing basis by a person given a particular status under this Act (for example, for ongoing registration under subpart 3 of Part 2 or for ongoing recognition under sections 70 to 82Z). 20

(2) In section 89(3)(f)(ii), replace “collect;—” with “collect—”.

(3) After section 89(4), insert:

- (4A) Where regulations prescribe a formula for determining a levy, the formula may specify the value of 1 or more of its components as being an amount or amounts notified for those components by the Director-General by notice under **section 120(1)**. 25

**222 Section 92 amended (Exemptions, waivers, and refunds)**

In section 92(1), replace “Regulations made under this Act” with “The regulations”. 30

**223 New sections 96A to 96E and cross-heading inserted**

After the Part 4 heading, insert:

*Infringement offences***96A Proceedings for infringement notices**

- (1) This section applies when a person is alleged to have committed an infringement offence.
- (2) The person may— 5
- (a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or
- (b) be served with an infringement notice as provided in **section 96B** and, in that case, section 21 of the Summary Proceedings Act 1957 applies with all necessary modifications. 10
- (3) Proceedings commenced in the way described in **subsection (2)(a)** do not require leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

**96B Issue and cancellation of infringement notices**

- (1) An infringement notice may be served on a person if a wine officer— 15
- (a) observes the person committing an infringement offence; or
- (b) reasonably believes that the person is committing an infringement offence; or
- (c) reasonably believes that the person has committed an infringement offence. 20
- (2) An infringement notice may be cancelled by a wine officer if—
- (a) the interests of justice require cancellation; and
- (b) neither the particulars of a reminder notice nor a notice of hearing relating to the infringement notice has been filed in a District Court.
- (3) An infringement notice is cancelled by the service of a cancellation notice. 25
- (4) An infringement notice or a cancellation notice may be served by a wine officer personally delivering it to the person alleged to have committed the infringement offence.
- (5) Alternatively, an infringement notice or a cancellation notice may be served by post addressed to,— 30
- (a) if the person is a natural person,—
- (i) the address of the person's last-known place of residence; or
- (ii) the address on the person's driving licence; or
- (iii) the person's address on the latest electoral roll; or
- (iv) the person's last-known registered address, if the person has or has had a registered address for any purpose; or 35
- (v) the person's address in the latest telephone directory; or

(vi) the address of the person's last-known place of business; or	
(b) if the person is not a natural person,—	
(i) the person's last-known registered address, if the person has or has had a registered address for any purpose; or	
(ii) the person's address in the latest telephone directory; or	5
(iii) the address of the person's last-known place of business.	
(6) For the purposes of the Summary Proceedings Act 1957, an infringement notice or a cancellation notice served under <b>subsection (5)</b> is treated as having been served on the person when it was posted.	
<b>96C Form of infringement notice</b>	10
(1) An infringement notice must be in the form set out in the regulations.	
(2) The form must contain the following details:	
(a) sufficient details to inform the person served with the notice of the time, place, and nature of the alleged offence; and	
(b) the amount of the infringement fee for the offence; and	15
(c) the time within which the infringement fee must be paid; and	
(d) the address of the place at which the infringement fee must be paid; and	
(e) a statement of the person's right to ask for a hearing; and	
(f) a statement of the person's right to ask for cancellation of the notice; and	
(g) a statement of what will happen if the person does not pay the infringement fee or ask for a hearing or ask for cancellation of the notice; and	20
(h) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957.	
<b>96D Payment of infringement fees</b>	
All infringement fees paid for infringement offences must be paid to the Ministry.	25
<b>96E Regulations about infringement offences</b>	
The Governor-General may, by Order in Council, make regulations to do all or any of the following:	
(a) identify the offences in or under this Act that are infringement offences:	30
(b) identify as an infringement offence an offence against section 103 for failing to comply with a specified provision, direction, condition, notice, or requirement:	
(c) set out notices and forms required for the purposes of <b>sections 96A to 96D</b> :	35

- (d) set out the amounts, up to \$1,000, of infringement fees that are payable for infringement offences, including different fees for a first offence, a second offence, and subsequent offences.

**224 Section 100 amended (Offence to export unless registered or in compliance with export eligibility requirements)** 5

- (1) In section 100(1), replace “regulations made under this Act” with “the regulations or any supplementary notice”.
- (2) In section 100(2), after “requirements”, insert “or any supplementary notice”.

**225 Section 101 amended (Obstruction of officers, etc)**

In section 101(2), replace “recognised verifying agency, or” with “an agency or” 10

**226 New sections 101A and 101B inserted**

After section 101, insert:

**101A Offences involving automated electronic system**

- (1) A person commits an offence who intentionally obstructs or hinders an automated electronic system that is doing an action under **section 118A**. 15
- (2) A person commits an offence who knowingly damages or impairs an automated electronic system.
- (3) A person who commits an offence against this section is liable on conviction,— 20
- (a) for a body corporate, to a fine not exceeding \$250,000;
- (b) for an individual, to imprisonment for a term not exceeding 3 months and a fine not exceeding \$50,000.

**101B Breach of compliance order**

- (1) A person commits an offence who, without reasonable excuse, breaches or fails to comply with the terms of a compliance order or an interim compliance order issued under **section 110A or 110F**. 25
- (2) A person who commits an offence against this section is liable on conviction to— 30
- (a) a fine not exceeding—
- (i) \$300,000, in the case of a body corporate; or
- (ii) \$50,000, in the case of an individual; and
- (b) an additional fine not exceeding \$2,000 for every day on which the breach or failure continues.

**227 Section 103 amended (Failure to comply with Act, etc)**

Replace section 103(1)(b) with:

- (b) any provision of the regulations the failure to comply with which is identified in the regulations as an offence; or

**228 Section 105 amended (Evidence in proceedings)**

5

- (1) In section 105(1)(a)(i), replace “recognised verifying agency” with “verifier, a verifying agency”.
- (2) In section 105(3), replace “or specifications” with “, notices, or orders”.

**229 Section 110 replaced (Time for filing charge for offence against section 102 or 103)**

10

Replace section 110 with:

**109A Order to pay amount because of commercial gain**

- (1) This section applies to a person convicted of an offence against any of sections 97 to 100 and **101A** to 103.

- (2) The court may make an order under **subsection (4) or (5)** if it is satisfied that the offence was committed in the course of producing a commercial gain. 15

- (3) The court may make the order in addition to, or instead of, a penalty that the court may impose under the relevant offence provision.

- (4) The court may make an order under this subsection whether or not the person is a body corporate. The order is that the person pay an amount up to 3 times the value of the commercial gain resulting from committing the offence. 20

- (5) The court may make an order under this subsection if the person is a body corporate and the value of the gain cannot be readily ascertained. The order is that the person pay an amount up to 10% of the combined turnover of the body corporate and every interconnected body corporate it has over the period of the offending. 25

- (6) The court must assess the value of a gain that is readily ascertainable.

- (7) An amount that the court orders to be paid under this section is recoverable in the same manner as a fine.

- (8) In this section, **interconnected** and **turnover** have the same meanings as in the Commerce Act 1986. 30

**110 Charging documents**

Despite anything to the contrary in the Criminal Procedure Act 2011, a charging document in respect of any offence against this Act may be filed in any case within 4 years after the time when the offence was committed or within any longer time allowed by that other Act. 35

*Compliance orders***110A Compliance orders**

- (1) A compliance order is an order made by a District Court that may do 1 or more of the following things:
- (a) require a person to cease, or prohibit a person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the court, contravenes or is likely to contravene this Act or any requirement imposed by or under this Act, and thus—
    - (i) is likely to endanger the health of the public through the sale of wine that has not been made in accordance with the requirements of Part 2 or that is otherwise not fit for its intended purpose; or
    - (ii) is likely to prejudice the reputation of New Zealand wine in overseas markets, or the integrity of official assurances given under this Act:
  - (b) require a person to remedy or mitigate any adverse effect arising from any action or matter that may be the subject of an order under **paragraph (a)**:
  - (c) require a person to do something that, in the opinion of the court, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect arising from any action or matter that may be the subject of an order under **paragraph (a)**:
  - (d) require a person to pay money to or reimburse the Crown for any actual and reasonable costs and expenses that the Crown has incurred or is likely to incur in avoiding, remedying, or mitigating any adverse effect arising from the failure of the person to comply with a compliance order earlier made against the person under **paragraph (a), (b), or (c)**.
- (2) For the purposes of **subsection (1)(d)**, **actual and reasonable costs** includes the costs of investigation, supervision, and monitoring of the relevant situation and the costs of any actions required to avoid, remedy, or mitigate the relevant adverse effect.
- (3) A compliance order may be made on such terms and conditions as the court thinks fit, including the provision of security or the entry into a bond for performance.
- (4) If the court so orders, a compliance order applies to the personal representatives, successors, and assigns of the person to whom the order is addressed to the same extent that it applies to the person.

**110B Application for compliance order**

- (1) The Director-General may apply to a District Court for a compliance order of a kind specified in **section 110A**.

- (2) Every application to a District Court under this section must be made by originating application.
- (3) The rules relating to the practice and procedure of District Courts for the time being in force under the District Courts Act 1947 apply with respect to every application to the court under this section except as modified— 5
- (a) by **sections 110C to 110K**; and
- (b) by any rules made under **section 110L**.
- 110C Notification of application**
- (1) Except as provided in **section 110F** (which relates to interim compliance orders), the Director-General must serve notice of the application on every person directly affected by the application. 10
- (2) The notice must be served within 5 working days after the date on which the application is filed in a District Court, or within such further time as a District Court may allow.
- 110D Right to be heard** 15
- Except as provided in **section 110F**, before deciding an application for a compliance order, the court must—
- (a) hear the applicant; and
- (b) hear any person against whom the order is sought who wishes to be heard. 20
- 110E Decision on application**
- After considering an application for a compliance order, the court may—
- (a) make an appropriate order under **section 110A**; or
- (b) refuse the application.
- 110F Interim compliance orders** 25
- (1) If a District Court Judge considers it necessary to do so, the Judge may make an interim compliance order without requiring service of notice in accordance with **section 110C** and without holding a hearing.
- (2) Before making an interim compliance order, the Judge must consider— 30
- (a) whether failure to make the order is likely—
- (i) to endanger human health through the sale of the wine concerned; or
- (ii) to prejudice the integrity or reputation of New Zealand exports of wine, or the integrity of official assurances under this Act; and
- (b) whether the court should hear the applicant or any person against whom the order is sought; and 35



- (c) such other matters as the Judge thinks fit.
- (3) The Judge must direct the applicant or another person to serve a copy of the interim compliance order on the person against whom the order is made.
- (4) The interim compliance order—
- (a) takes effect from when it is served, or on and from such later date as the order directs; and 5
- (b) remains in force until the application under **section 110B** for a compliance order in respect of the same matter is determined, or until cancelled under **subsection (5)** or under **section 110G**.
- (5) A person against whom an interim compliance order has been made without the person having been heard may apply to a District Court Judge to change or cancel the order, and, after hearing from that person and the applicant for the order, the Judge may confirm, change, or cancel the interim compliance order. 10
- 110G Change or cancellation of compliance order**
- (1) Without limiting **section 110F(5)**, any person directly affected by a compliance order may apply to a District Court in the manner set out in rules made under **section 110L** to change or cancel the order. 15
- (2) The applicant must, within 5 working days after making the application, serve notice of the application in the manner set out in the rules on the Director-General and on any other person (outside the Ministry) who was directly affected by the original order. 20
- (3) Before deciding an application to change or cancel a compliance order, the court must hear the applicant, the Director-General, and any person directly affected by the original compliance order who wishes to be heard.
- (4) After considering the application, the court may— 25
- (a) change or cancel the compliance order; or
- (b) refuse the application.
- 110H Compliance with compliance order**
- (1) Where a compliance order is served on the person against whom it is directed, the person must— 30
- (a) comply with the order; and
- (b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.
- (2) If the person fails to comply with the order, the Director-General may comply with the order on behalf of the person, and, for that purpose, may— 35
- (a) exercise, or direct the exercise of, any of the powers of a wine officer under this Act; and

- (b) recover the costs and expenses of complying with the order as a debt due from the person.

#### **110I Appeals to High Court**

- (1) This subsection applies to a decision of a District Court, on an application under **section 110B**, to— 5
  - (a) make or refuse to make a compliance order; or
  - (b) dismiss the proceedings; or
  - (c) otherwise finally determine the proceedings.
- (2) A party to proceedings in which there is made a decision to which **subsection (1)** applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision. 10
- (3) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under **subsection (2)** as if it were an appeal under section 72 of that Act.

#### **110J Appeals to Court of Appeal or Supreme Court**

- (1) With the leave of the court appealed to, a party to an appeal under **section 110I** may appeal to the Court of Appeal or the Supreme Court against any determination of the High Court in the appeal. 15
- (2) On an appeal under this section, the Court of Appeal or the Supreme Court has the same power to adjudicate on the proceedings as the High Court had. 20
- (3) **Subsection (1)** is subject to section 14 of the Supreme Court Act 2003 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court). 25

#### **110K Effect of appeal**

Except where the court making the order appealed from otherwise directs,—

- (a) the operation of a compliance order is not suspended by an appeal under **section 110I** or **110J**; and
- (b) every compliance order may be enforced in the same manner in all respects as if no such appeal were pending. 30

#### **110L Rules of court**

In addition to all other powers conferred by the District Courts Act 1947, the Governor-General may from time to time, by Order in Council, make rules—

- (a) regulating the practice and procedure of District Courts in proceedings under this Act that relate to compliance orders: 35

- (b) providing for such matters as are contemplated by or necessary or desirable for giving full effect to the provisions of this Act that relate to compliance orders.

**230 Sections 112 and 113 and cross-heading replaced**

Replace sections 112 and 113 and the cross-heading above section 112 with: 5

*Use of border information*

**231 Section 114 amended (Right of review of certain decisions made under delegated authority)**

- (1) In section 114(1)(d), replace “part business” with “part-business”.
- (2) In section 114(1)(f), delete “or to suspend export operations”. 10
- (3) Replace section 114(1)(i) with:
- (i) any decision specified by the regulations as a decision that is subject to review under this section.
- (4) In section 114(2), delete “or by a person designated by the Director-General who was not involved in making the original decision”. 15
- (5) After section 114(3), insert:
- (3A) The Director-General may conduct the review personally or designate another person who was not involved in the original decision to conduct the review.
- (6) In section 114(4), replace “, or a person designated by the Director-General who was not involved in the original decision,” with “or designated person”. 20
- (7) In section 114(8), after “Director-General”, insert “or a designated person”.

**232 Section 115 amended (Consultation requirements for making of certain orders, specifications, etc)**

- (1) In the heading to section 115, replace “**certain orders, specifications, etc**” with “**Orders in Council, regulations, and notices**”. 25
- (2) In section 115(2), replace “setting any specifications or requirements made pursuant to” with “issuing a notice under”.
- (3) In section 115(3)(a), replace “relevant order or regulations or the setting of the relevant specifications or requirements referred to in subsections (1) and (2)” with “Order in Council, regulations, or notice”. 30
- (4) In section 115(4)(a), replace “order or regulations or set the specifications or requirements” with “Order in Council, regulations, or notice”.
- (5) Replace section 115(5) and (6) with:
- (5) This section does not apply in relation to any Order in Council, regulations, or notice if the Minister or Director-General considers it necessary or desirable in the public interest that the Order in Council, regulations, or notice be made or issued as a matter of urgency. 35

- (6) A failure to comply with this section does not affect the validity of any Order in Council, regulations, or notice.

**233 Section 116 amended (Notification of certain matters)**

- (1) In the heading to section 116, replace “**certain matters**” with “**notices under section 120**”. 5
- (2) In section 116(1), replace “that are of a kind listed in section 120” with “under **section 120** (other than notices issued for the purposes of section 41(2))”.
- (3) In section 116(2)(b)(i), replace “specifications, requirements, exemption, or other matter concerned” with “notice”.
- (4) Replace section 116(3) with: 10
- (3) For any other notice, the Director-General must—
- (a) publish the notice, or notification that it has been issued, in the *Gazette*; and
  - (b) where the Director-General considers it practicable, cause the notice to be brought to the attention of persons likely to be affected by it by notice or publication in any newspaper or trade journal, or by any other practicable means (including electronic means). 15
- (5) In section 116(4), replace “specifications, requirements, exemption, or other matter concerned are notified only, and not published,” with “notice is not published in full”. 20

**234 New sections 118A and 118B and cross-heading inserted**

After section 118, insert:

*Automated electronic systems*

**118A Arrangement for system**

- (1) The Director-General may arrange for the use of an automated electronic system to do the actions described in **subsection (2)** that this Act or another enactment allows or requires the persons described in **subsection (3)** to do for the purposes of this Act. 25
- (2) The actions are—
- (a) exercising a power: 30
  - (b) carrying out a function:
  - (c) carrying out a duty:
  - (d) making a decision, including making a decision by—
    - (i) analysing information that a person described in **subsection (3)** holds or has access to about a person, goods, or craft; and 35
    - (ii) applying criteria predetermined by the Director-General to the analysis:

- (e) doing an action for the purpose of exercising a power, carrying out a function or duty, or making a decision:
- (f) communicating the exercising of a power, carrying out of a function or duty, or making of a decision.
- (3) The persons are— 5
- (a) the Director-General:
- (b) wine officers:
- (c) persons designated under section 46 to issue official assurances.
- (4) The Director-General may make an arrangement only if satisfied that— 10
- (a) the system has the capacity to do the action with reasonable reliability; and
- (b) a process is available under which a person affected by an action done by the system can have the action reviewed by a person described in **subsection (3)** without undue delay.
- (5) A system used in accordance with an arrangement may include components outside New Zealand. 15
- (6) The Director-General must consult the Privacy Commissioner about including in an arrangement actions that involve the collection or use of personal information.
- 118B Effect of use of system** 20
- (1) This section applies to an action done by an automated electronic system.
- (2) An action allowed or required by this Act done by the system—
- (a) is treated as an action done properly by the appropriate person referred to in **section 118A(3)**; and
- (b) is not invalid by virtue only of the fact that it is done by the system. 25
- (3) If an action allowed or required by another enactment done by the system is done in accordance with any applicable provisions in the enactment on the use of an automated electronic system, the action—
- (a) is treated as an action done properly by the appropriate person referred to in **section 118A(3)**; and 30
- (b) is not invalid by virtue only of the fact that it is done by the system.
- (4) If the system operates in such a way as to render the action done or partly done by the system clearly wrong, the action may be done by the appropriate person referred to in **section 118A(3)**.
- 235 Section 119 amended (Regulations)** 35
- (1) In section 119(1), delete “from time to time”.
- (2) Replace section 119(1)(a) to (d) with:

- (a) prescribing, in relation to wine standards management plans (*see* section 14),—
- (i) requirements relating to the content of plans:
  - (ii) other requirements relating to plans:
  - (iii) how plans are to be differentiated from other information kept by operators: 5
- (b) prescribing, in relation to the relationship between the Food Act regime and wine standards management plans (*see* sections 15B and 15C),—
- (i) when and to what extent section 15C(2) or (3) does not apply:
  - (ii) requirements for determining whether all or any classes of registered food control plans are to be subject to the verification regime of this Act or the Food Act 2014: 10
  - (iii) any other requirements relating to elections to operate under a wine standards management plan under section 15B:
  - (iv) matters relating to the registration of food control plans as wine standards management plans: 15
- (c) prescribing, in relation to the registration of wine standards management plans (*see* sections 17 and 18),—
- (i) the particulars to be shown in the register:
  - (ii) when part only of a wine standards management plan may be lodged and the parts that must be lodged: 20
  - (iii) information and other material that must accompany applications for registration:
  - (iv) how accompanying information and material is to be provided to the Director-General: 25
- (ca) prescribing, in relation to significant amendments to registered wine standards management plans (*see* section 22),—
- (i) the kinds of amendments that require registration under section 22 and those that do not:
  - (ii) how long before a known change, event, or other matter an application for registration of an amendment to the plan must be made: 30
  - (iii) information and other material that must accompany applications for registration:
  - (iv) how accompanying information and material is to be provided to the Director-General: 35
  - (v) other requirements relating to registration of significant amendments:
- (cb) prescribing, in relation to minor amendments to registered wine standards management plans (*see* section 23),—

<ul style="list-style-type: none"> <li>(i) the intervals at which notification must be given to the Director-General:</li> <li>(ii) information and other material that must accompany a notification:</li> <li>(iii) other requirements relating to notification of minor amendments:</li> </ul>	5
<ul style="list-style-type: none"> <li>(d) prescribing the intervals at which an updated copy of a registered wine standards management plan must be given to the verifying agency (<i>see section 23A</i>):</li> </ul>	
(3) Replace section 119(1)(f) with:	
<ul style="list-style-type: none"> <li>(f) prescribing, in relation to exports,— <ul style="list-style-type: none"> <li>(i) exemptions for any consignment for the purposes of section 37(2):</li> <li>(ii) the kinds of consignments and wine in relation to which the Director-General may grant exemptions under section 39(1):</li> </ul> </li> </ul>	10
(4) After section 119(1)(g), insert:	
<ul style="list-style-type: none"> <li>(ga) specifying persons, or classes of persons, for the purposes of the definition of regulated person in <b>section 54A</b>:</li> </ul>	15
(5) After section 119(1)(ha)(ii), insert:	
<ul style="list-style-type: none"> <li>(iia) in order for an agency, a person, or a class of persons to maintain recognition:</li> </ul>	
(6) Repeal section 119(1)(i), (j), and (l).	20
(7) Replace section 119(1)(o) with:	
<ul style="list-style-type: none"> <li>(o) specifying decisions as decisions that are subject to review under section 114:</li> <li>(oa) permitting supplementary notices to be made to supplement specified provisions of the regulations (<i>see section 120(2)(b)</i>):</li> </ul>	25
(8) Repeal section 119(2).	
<b>236 Section 120 replaced (Notices)</b>	
Replace section 120 with:	
<b>119A Scope of regulations</b>	
(1) Regulations made under this Act may do any or all of the following:	30
<ul style="list-style-type: none"> <li>(a) authorise the Minister or Director-General to— <ul style="list-style-type: none"> <li>(i) impose requirements, conditions, restrictions, or prohibitions:</li> <li>(ii) issue approvals, directions, instructions, or orders:</li> </ul> </li> <li>(b) authorise a wine officer to— <ul style="list-style-type: none"> <li>(i) impose requirements, conditions, restrictions, or prohibitions:</li> <li>(ii) issue directions or instructions:</li> </ul> </li> </ul>	35

<ul style="list-style-type: none"> <li>(c) exempt, or authorise the Minister or Director-General to exempt, any wine, person, place, business, process, operation, activity, or other matter or thing from any provision of the regulations:</li> <li>(d) authorise the Minister, the Director-General, or a wine officer to decide a matter:</li> <li>(e) confer any other discretion on the Minister, the Director-General, or a wine officer.</li> </ul>	5
<ul style="list-style-type: none"> <li>(2) The regulations may— <ul style="list-style-type: none"> <li>(a) apply generally, or in relation to any specified, or specified class of, wine, persons, places, businesses, processes, operations, activities, or other matters or things:</li> <li>(b) make the same provision for all cases or different provisions for different cases, or classes of case.</li> </ul> </li> </ul>	10
<ul style="list-style-type: none"> <li>(3) If a provision of this Act permits regulations to prescribe requirements, the regulations may prescribe requirements, specifications, criteria, procedures, or other matters of a similar kind.</li> </ul>	15
<b>120 Notices</b>	
<ul style="list-style-type: none"> <li>(1) The Director-General may issue notices under this subsection to do anything that a provision of this Act permits to be done by notice under this subsection.</li> </ul>	
<ul style="list-style-type: none"> <li>(2) The Director-General may issue notices under this subsection to prescribe matters,— <ul style="list-style-type: none"> <li>(a) if a provision of this Act refers to regulations and supplementary notices (for example by requiring something to be done in accordance with regulations and any supplementary notice), to supplement those regulations; or</li> <li>(b) if the regulations permit supplementary notices to be made to supplement provisions of the regulations, to supplement those provisions of the regulations.</li> </ul> </li> </ul>	20
<ul style="list-style-type: none"> <li>(3) The Director-General must not issue a notice under <b>subsection (2)</b> unless satisfied that the notice— <ul style="list-style-type: none"> <li>(a) sets out matters of detail to elaborate on matters provided for in the regulations; or</li> <li>(b) sets out procedures, methodologies, forms, or other matters of an administrative nature relating to matters provided for in the regulations; or</li> <li>(c) sets out how requirements imposed by the regulations may or must be met; or</li> <li>(d) otherwise supplements matters of general principle set out in the regulations.</li> </ul> </li> </ul>	30
	35



- (4) If a provision of this Act requires the Minister to be satisfied of any matter before recommending the making of regulations, the Director-General may not issue a notice under **subsection (2)** to supplement those regulations unless the Director-General is satisfied of that matter.
- (5) A notice may— 5
- (a) apply generally, or in relation to any specified, or specified class of, wine, persons, businesses, activities, or other matters or things:
- (b) make the same provision for all cases or different provisions for different cases, or classes of case:
- (c) impose any conditions, restrictions, or prohibitions. 10
- (6) If a notice issued under this section is inconsistent with the regulations, the regulations prevail to the extent of the inconsistency.
- (7) A notice issued under this section must be notified in accordance with section 116.
- 120A Application of Legislation Act 2012 to notices** 15
- (1) The following notices issued under **section 120(1)** are neither disallowable instruments nor legislative instruments for the purposes of the Legislation Act 2012 and do not have to be presented to the House of Representatives under section 41 of that Act:
- (a) a notice issued for the purposes of section 41: 20
- (b) a notice that—
- (i) is issued for the purposes of section 11, 21, 39, or 82Y; and
- (ii) applies only to a named person.
- (2) Any other notice issued under **section 120(1)**, and any notice issued under **section 120(2)**, is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 25
- 237 Section 121 amended (Incorporation of material by reference into regulations, notices, and orders)**
- (1) In section 121(1)(b) and (c), replace “or requirements” with “, requirements, or recommended practices”. 30
- (2) After section 121(3), insert:
- (3A) Every reference in an instrument to the current edition of any standard work of reference is, unless the instrument otherwise specifies, to be construed at any particular time as the latest edition of that work available at that time, together with any amendments, additions, and deletions made to or from it up to that time. 35

- (3) In section 121(4), after “this section”, insert “(other than a standard work of reference)”.
- (4) Replace section 121(5) with:
- (5) A **standard work of reference** is a work of reference that the Director-General considers is accepted internationally or by an industry as a standard one to refer to on its subject matter.

5

### 238 New sections 121A and 121B inserted

After section 121, insert:

#### 121A Availability and proof of material incorporated by reference

- (1) If material (other than a standard work of reference) is incorporated by reference in an instrument under section 121, a copy of the material and any amendment to, or update of, the material must be—
- (a) certified as a correct copy of the material by the Director-General; and
- (b) retained by the Director-General.
- (2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the instrument of that material.
- (3) The Director-General must—
- (a) make copies of all material incorporated in an instrument by reference available for inspection, free of charge, at the head office of the Ministry and at other places that the Director-General determines are appropriate; and
- (b) make copies of the material available, free of charge, on an Internet site maintained by or on behalf of the Ministry; and
- (c) either make copies of the material available for purchase, at a reasonable cost, or advise where copies of the material may be obtained.
- (4) The Director-General may comply with **subsection (3)(b)** by providing a hypertext link from an Internet site maintained by or on behalf of the Ministry to a copy of the material that is available, free of charge, on an Internet site maintained by or on behalf of someone else.
- (5) The Director-General is not required to comply with **subsection (3)(b) or (c)** if doing so would infringe copyright in the material or be inconsistent with any other enactment or rule of law.

10

15

20

25

30

#### 121B Application of Legislation Act 2012 to incorporating instrument and incorporated material

- (1) Part 2 of the Legislation Act 2012 does not apply to material incorporated by reference in an instrument under section 121 or to an amendment to, or update of, that material.

35

- (2) Subpart 1 of Part 3 of the Legislation Act 2012 applies to an instrument that incorporates material by reference.
- (3) However, nothing in section 41 of the Legislation Act 2012 requires material that is incorporated by reference in an instrument to be presented to the House of Representatives.

5

### 239 New Schedule 1 inserted

Insert the **Schedule 1** set out in **Schedule 2** of this Act as the first schedule to appear after the last section of the principal Act.

## Part 4

### Consequential amendments to other enactments

10

#### 240 Amendments to Summary Proceedings Act 1957

- (1) This section amends the Summary Proceedings Act 1957.
- (2) In section 2(1), definition of **infringement notice**, in the first paragraph (ja) (relating to the Employment Relations Act 2000), replace “(ja)” with “(jaa)”.
- (3) In section 2(1), definition of **infringement notice**, after paragraph (jb), insert:
- (jc) section 219 of the Food Act 2014; or
- (jd) section 125B of the Animal Products Act 1999; or
- (je) section 96B of the Wine Act 2003; or

15

#### 241 Amendment to Health Act 1956

- (1) This section amends the Health Act 1956.
- (2) In section 69ZZZE(b), replace “specifications” with “notices”.

20

#### 242 Amendment to Biosecurity (National American Foulbrood Pest Management Plan) Order 1998

- (1) This section amends the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998.
- (2) In clause 14(2), replace “a standard or specification” with “an animal product standard”.

25

**Schedule 1**  
**New Schedule 1 inserted in Animal Products Act 1999**

s 156

**Schedule 1**  
**Transitional, savings, and related provisions relating to amending Acts**

5

s 6C

**Part 1**  
**Provisions relating to Food Safety Law Reform Act 2016**

**1 Operator of existing RMP to provide information now required with application to register programme** 10

(1) The Director-General may, by notice under **section 167(1)**, require operators of existing RMPs to provide all or part of the additional information to the Director-General in the manner and within the period specified in the notice.

(2) The operator must provide the information as required by the notice. 15

(3) If the operator fails to do so, the Director-General may—  
(a) suspend operations under the existing RMP in accordance with section 27; or

(b) remove the existing RMP from the register in accordance with section 28. 20

(4) For the purposes of **subclause (3), sections 27(1)(c) and 28(1)(ba)** are to be read as including a reference to suspension or removal under this clause.

(5) This clause is repealed on the date that is 2 years after the commencement date.

(6) In this clause,—  
**additional information** means information or material that the operator of the existing RMP— 25

(a) has not provided to the Director-General; and

(b) would have been required by section 20 to provide with an application for registration of the existing RMP had the application been made on the day on which the relevant notice under **subclause (1)** was issued 30

**commencement date** means the date on which **section 64** of the Food Safety Law Reform Act **2016** comes into force

**existing RMP** means a risk management programme that was registered before the commencement date.

*Saving of notices issued by Director-General***2 Interpretation**

In this clause and **clauses 3 to 5**,—

**4-year date** means the date that is 4 years after the commencement date

**commencement date** means the date on which **section 153** of the Food Safety Law Reform Act **2016** comes into force 5

**existing notice** means a notice that was issued by the Director-General under this Act and was in force immediately before the commencement date

**new section 167** means **section 167** as inserted by **section 153** of the Food Safety Law Reform Act **2016**. 10

**3 Saving of notices where empowering provisions continued or replaced**

(1) This section applies to an existing notice (a **continuing notice**) that—

(a) that was made only under 1 or more of the following:

(i) section 167(1)(a) (for section 14):

(ii) section 167(1)(f) (for sections 38 and 40): 15

(iii) section 167(1)(i) (for section 50):

(iv) section 167(1)(j) (for section 53):

(v) section 60 or 167(1)(ja) (for sections 60 and 60A):

(vi) section 167(1)(jb) (for section 60B):

(vii) section 167(1)(k) or (l) (for sections 62, 63, and 64): 20

(viii) section 167(1)(ld) (for section 81A):

(ix) section 167(1)(ma) (for section 117(4A)):

(x) section 167(1)(n) (for section 158):

(xi) section 167(1)(o) (for section 159); or

(b) is declared by Order in Council under **clause 5** to be a continuing notice. 25

(2) A continuing notice continues in force as if it were a notice issued under new **section 167(1) or (2)** (as the case requires) for the purposes of,—

(a) if the provision for the purposes of which it was made remains in force (with or without modifications), that provision; or 30

(b) otherwise, the provision of the Act that, with or without modification, replaces or corresponds to the provision for the purposes of which it was made.

(3) A continuing notice may be amended or revoked as if it were a notice issued under new **section 167(1) or (2)** (as the case requires). 35

<b>4</b>	<b>Transitional arrangement for other notices</b>	
(1)	This clause applies in relation to an existing notice that is not a continuing notice.	
(2)	Until the 4-year date, a notice to which this clause applies—	
(a)	continues in force as if it were a notice issued under new <b>section 167(1) or (2)</b> (as the case requires); and	5
(b)	may be amended or revoked by the Director-General by notice under section 167 as in force immediately before the commencement date as if <b>Part 2</b> of the Food Safety Law Reform Act <b>2016</b> had not commenced; and	10
(c)	may be revoked by the Director-General by notice under new <b>section 167</b> or by the regulations.	
(3)	On the 4-year date, any notice to which this clause applies that remains in force is revoked.	
<b>5</b>	<b>Order in Council declaring notices to be continuing notices</b>	15
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, declare an existing notice, or a class of existing notices, to be a continuing notice or notices for the purposes of <b>clause 3</b> .	
(2)	The Minister may not recommend the making of an order under this clause unless satisfied that, for each notice to which the order applies, there is an enactment in this Act as amended by the Food Safety Law Reform Act <b>2016</b> —	20
(a)	that, with or without modification, replaces or corresponds to the enactment under which the notice was made; and	
(b)	under which the notice could be made.	
(3)	An Order in Council cannot be made under this clause on or after the 4-year date.	25

**Schedule 2**  
**New Schedule 1 inserted in Wine Act 2003**

s 239

**Schedule 1**  
**Transitional, savings, and related provisions relating to amending Acts**

s 4A

**Part 1**  
**Provisions relating to Food Safety Law Reform Act 2016**

- 1 Interpretation** 10
- In this Part,—
- 4-year date** means the date that is 4 years after the commencement date
- commencement date** means the date on which **section 236** of the Food Safety Law Reform Act **2016** comes into force
- existing notice** means a notice that was issued by the Director-General under this Act and was in force immediately before the commencement date 15
- new section 120** means **section 120** as inserted by **section 236** of the Food Safety Law Reform Act **2016**.
- 2 Saving of notices where empowering provisions continued or replaced**
- (1) This section applies to an existing notice (a **continuing notice**)— 20
- (a) that was made only under 1 or more of the following:
- (i) section 120(1)(b) (for section 11):
- (ii) section 120(1)(j) (for sections 38 and 40(b)(i)):
- (iii) section 120(1)(h) (for section 39):
- (iv) section 120(1)(k) (for section 41): 25
- (v) section 120(1)(l) and (m) (for sections 43, 44, and 45):
- (vi) section 120(1)(i) (for section 47):
- (vii) section 120(1)(o) (for section 88(5)):
- (viii) section 120(1)(p) (for section 112); or
- (b) that is declared by Order in Council under **clause 4** to be a continuing notice. 30
- (2) A continuing notice continues in force as if it were a notice issued under new **section 120(1) or (2)** (as the case requires) for the purposes of,—

- (a) if the provision for the purposes of which it was made remains in force (with or without modifications), that provision; or
- (b) otherwise, the provision of the Act that, with or without modification, replaces or corresponds to the provision for the purposes of which it was made. 5
- (3) A continuing notice may be amended or revoked as if it were a notice issued under new **section 120(1) or (2)** (as the case requires).
- 3 Transitional arrangement for other notices**
- (1) This clause applies in relation to an existing notice that is not a continuing notice. 10
- (2) Until the 4-year date, a notice to which this clause applies—
- (a) continues in force as if it were a notice issued under new **section 120(1) or (2)** (as the case requires); and
- (b) may be amended or revoked by the Director-General by notice under section 120 as in force immediately before the commencement date as if **Part 3** of the Food Safety Law Reform Act **2016** had not commenced; 15  
and
- (c) may be revoked by the Director-General by notice under new **section 120** or by the regulations.
- (3) On the 4-year date, any notice to which this clause applies that remains in force is revoked. 20
- 4 Order in Council declaring notices to be continuing notices**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, declare an existing notice, or a class of existing notices, to be a continuing notice or notices for the purposes of **clause 2**. 25
- (2) The Minister may not recommend the making of an order under this clause unless satisfied that, for each notice to which the order applies, there is an enactment in this Act as amended by the Food Safety Law Reform Act **2016**—
- (a) that, with or without modification, replaces or corresponds to the enactment under which the notice was made; and 30
- (b) under which the notice could be made.
- (3) An Order in Council cannot be made under this clause on or after the 4-year date.