

BIOSECURITY (RABBIT CALICIVIRUS) AMENDMENT BILL

AS REPORTED FROM THE PRIMARY PRODUCTION
COMMITTEE

COMMENTARY

Recommendation

The Primary Production Committee has examined the Biosecurity (Rabbit Calicivirus) Amendment Bill and recommends by majority that it be passed with the amendments shown in the bill.

Conduct of the examination

The Biosecurity (Rabbit Calicivirus) Amendment Bill was referred to the Primary Production Committee on 16 October 1997. The closing date for submissions was 24 November 1997. The committee received and considered 35 submissions from academics, rabbit farmers, scientists and other interested groups and individuals. Eleven submissions were heard orally. During the hearing of evidence, a telephone conference was held with witnesses based in the United States of America and Australia. Four hours and 15 minutes were spent on the hearing of evidence and consideration took two hours and 54 minutes. Advice was received from the Ministry of Agriculture.

This commentary sets out the details of the committee's consideration of the bill and the major issues addressed by the committee.

Background

The Biosecurity (Rabbit Calicivirus) Amendment Bill amends the legal framework that applies to the organism known internationally as rabbit haemorrhagic disease virus (RHDV) and in New Zealand and Australia as rabbit calicivirus disease virus (RCDV) or simply, rabbit calicivirus. The disease caused by the virus is known internationally as rabbit haemorrhagic disease (RHD) and in New Zealand and Australia as rabbit calicivirus disease (RCD). While the international term is the technically correct option, for the purposes of this bill, the term "rabbit calicivirus" is used because it is the term recognised by the public.

Rabbit calicivirus is present in New Zealand, although how it arrived is unknown. Many people believe that it was introduced illegally. It has spread two ways, through farmers using virus material from dead rabbits on bait, and to some extent, naturally. In September 1997 the Biosecurity (Rabbit Calicivirus) Regulations were promulgated. These regulations deemed rabbit calicivirus to be established in New Zealand from 24 September 1997. The immediate effect of this was to remove the virus from the application of section 21 of the Animals Act 1967. The Regulations Review Committee tabled a report in the House of Representatives on 23 February 1998 which recommended that the regulations be revoked and that the matter be dealt with by primary legislation. The bill does revoke the regulations and replace them.

The bill provides that rabbit calicivirus has the status of being established in New Zealand from 24 September 1997. This status removes rabbit calicivirus from the effects of section 21 of the Animals Act 1967. Section 21 provides that it is an offence to knowingly possess any organism that has been introduced into New Zealand in contravention of the procedure provided for in that section. The bill also removes the possibility of section 21 offences applying to those persons who harvest the virus from dead rabbits and use it to eradicate rabbits on their own properties. In addition, it enables the importation of a pure strain of the virus without the need for an environmental import assessment.

Main issues

The bill gave submitters the opportunity to raise many of the issues relating to rabbit calicivirus, not all of which strictly related to the four clauses in the bill.

Legislative Issues

The key issues raised by submitters on the Biosecurity (Rabbit Calicivirus) Regulations 1997 were that the spread of rabbit calicivirus will not be legal under section 21 of the Animals Act 1967 or that the regulations are not valid. We received advice from the Crown Law Office, that both the regulations and the bill make the spread of rabbit calicivirus legal under the Animals Act 1967 by removing it from the application of section 21 of that Act. The legal status of the regulations is addressed by clause 3 of the bill which validates the regulations and then revokes them on the date this Act comes into force.

Submitters also raised a number of issues relating to the Biosecurity Act 1993. These issues included whether rabbit calicivirus is an unauthorised good under the Biosecurity Act 1993 and how the unwanted organism status of rabbit calicivirus would affect its use. Submitters also raised concerns about statutes that can affect the use of rabbit calicivirus, including the Pesticides Act 1979 and the Resource Management Act 1991. We consider that the bill is not intended to encompass all legislation that may affect rabbit calicivirus. Any changes to legislation, other than the Animals Act 1967, would serve to undermine existing statutes.

Many submitters considered that rabbit calicivirus should remain illegal and/or that the bill should make possession and use of rabbit calicivirus an offence. We consider that there is a need to maximise the benefit and minimise the risk of rabbit calicivirus. It is important to be able to seek information about the farmers' use and spread of the virus and to monitor its effects. Making it illegal would restrict this information flow, and given that there are two sources of possible spread, human assisted or natural spread, it would also be difficult to enforce.

Risk to non-target species

Many submitters said rabbit calicivirus poses a risk to non-target species, including humans and native species. We consider there has been close examination of the

risks to non-target species. On the basis of available evidence, we consider the possibility of infection to non-target species is low. It is not possible to say that there are no risks, and the bill allows for information to be collected on any risks.

Condoning illegal action

Many submitters were concerned that the bill will condone an illegal action. We share their concern for the standing of our biosecurity laws. We do not take the step of removing rabbit calicivirus from the effect of the Animals Act 1967 lightly, and we do not condone illegal action in any way. The Ministry of Agriculture is continuing to investigate who, if anyone, is responsible for introducing the virus and its initial spread with the intention of prosecuting them.

Compensation

Some submitters said rabbit calicivirus has had a negative impact on the domestic rabbit industry and pet owners, and that compensation issues need to be addressed in the bill. We recognise that the domestic rabbit industry has been negatively affected by the presence of rabbit calicivirus in New Zealand, but we do not consider there is any legal obligation to compensate it for losses. The Government did not willingly or knowingly permit the introduction of the virus. Any compensation would be a matter for political consideration.

Local or central government management of rabbit calicivirus spread

A number of submitters said local or central government management of the spread of rabbit calicivirus is needed. We note there are mechanisms, such as pest management strategies, which would allow for regional and district council involvement in the use of rabbit calicivirus. The Pesticides Board has recently granted a permit for experimental use for rabbit calicivirus. Under the Pesticides Act 1979, this means that government agencies such as regional councils can now purchase and spread the approved strain of the virus.

General Policy Statement

The policy arguments raised in the General Policy Statement of the bill were also raised by a number of submitters. One of these was whether rabbit calicivirus can be contained or eradicated. We do not believe it is technically feasible to do this, because of the number and distance between the outbreaks and the impossibility of maintaining effective boundaries. There is little likelihood of success in destroying or containing all sources of rabbit calicivirus.

We have given careful consideration to all the issues raised by submitters and have decided not to recommend any substantive changes.

Technical changes

We consider that the correct technical terms should be used in the bill to avoid confusion. We recommend that where the term “viral haemorrhagic disease of rabbits” is used, it be replaced by the term “rabbit haemorrhagic disease virus”. This change does not change the intent of the bill in any way.

KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Simon Upton

BIOSECURITY (RABBIT CALICIVIRUS) AMENDMENT

ANALYSIS

Title

1. Short Title and commencement
2. Section 21 of Animals Act 1967 not to apply to rabbit calicivirus

3. Validation and revocation of Biosecurity (Rabbit Calicivirus) Regulations 1997
4. Organisms illegally present in New Zealand at commencement of Hazardous Substances and New Organisms Act 1996

A BILL INTITULED

An Act affecting the application of certain Acts to rabbit calicivirus

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the Biosecurity (Rabbit Calicivirus) Amendment Act 1997, and is part of the Biosecurity Act 1993* (“the principal Act”).

10 (2) **Section 4** comes into force on the date of commencement of the Fourth Schedule of the Hazardous Substances and New Organisms Act 1996.

(3) Except as provided in **subsection (2)**, this Act comes into force on the day on which it receives the Royal assent.

15 **2. Section 21 of Animals Act 1967 not to apply to rabbit calicivirus**—(1) The organism known as (*viral haemorrhagic disease of rabbits*) rabbit haemorrhagic disease virus, or rabbit calicivirus, is deemed on and after 24 September 1997 to have been established in New Zealand for the purposes of section 21 of the Animals Act 1967 (as continued in force by the Third
20 Schedule of the principal Act).

*1993, No. 95

Amendments: 1993, No. 129; 1994, No. 124; 1996, Nos. 23, 78

(2) The organism known as (viral haemorrhagic disease of rabbits) rabbit haemorrhagic disease virus, or rabbit calicivirus, is deemed on and after 24 September 1997, to have been an organism established in New Zealand for the purposes of section 169 of the principal Act. 5

3. Validation and revocation of Biosecurity (Rabbit Calicivirus) Regulations 1997—(1) The Biosecurity (Rabbit Calicivirus) Regulations 1997 are deemed, on and after 24 September 1997, to have been valid.

(2) The Biosecurity (Rabbit Calicivirus) Regulations 1997 (S.R. 1997/203) are revoked. 10

4. Organisms illegally present in New Zealand at commencement of Hazardous Substances and New Organisms Act 1996—The Fourth Schedule of the Hazardous Substances and New Organisms Act 1996 is amended by adding, to section 25A of the principal Act, the following subsection: 15

“(2) Nothing in this section applies to the organism known as (viral haemorrhagic disease of rabbits) rabbit haemorrhagic disease virus, or rabbit calicivirus.” 20