

## FOUNDATION FOR RESEARCH, SCIENCE, AND TECHNOLOGY AMENDMENT BILL

---

### EXPLANATORY NOTE

THIS Bill amends the Foundation for Research, Science, and Technology Act 1990.

*Clause 1* relates to the Short Title and commencement. The Bill is to come into force on 1 April 1993.

*Clause 2* repeals section 2 of the principal Act (which relates to interpretation), and substitutes a new section 2. The changes to the existing section 2 are as follows:

- (a) A new definition of “ministerial scheme” is inserted. The new definition is relevant for the purposes of new *sections 8A to 8C* (as inserted by *clause 6*):
- (b) The definitions of “public good science outputs” and “science outputs” have been replaced with new definitions of “outputs” and “public good science and technology”. Apart from including an express reference to technology, the changes are aimed at improving clarity, and are not intended to make any substantive alteration to the operation of the principal Act in so far as it relates to public good science:
- (c) The definition of the term “research” is amended to include a reference to technology:
- (d) The definition of “science” is expanded to include a reference to the physical sciences and the biological sciences. These changes align the definition with that in the Crown Research Institutes Act 1992.

*Clause 3* repeals section 5 of the principal Act (which relates to the functions of the Foundation for Research, Science, and Technology), and substitutes a new section 5. The changes are as follows:

- (a) New *subsection (1) (b)* confers on the Foundation a new function of funding ministerial schemes. These schemes are provided for in new *sections 8A to 8C* (as inserted by *clause 6*):
- (b) New *subsection (2)* requires that the Foundation’s advice to the Minister of Research, Science, and Technology on matters relating to national priorities for research, science, and technology must be formulated after consultation with representatives of industry, researchers, Maori, and the community. The existing provision (which does not refer to Maori) requires such consultation in respect of all advice provided by

the Foundation. This has been found to be impracticable, especially in relation to advice on science policy generally where advice is often required at short notice:

- (c) New *subsection (3)* relates to consultation in relation to the formulation of the Foundation's advice on matters other than national priorities for research, science, and technology. The new subsection requires that such advice is to be formulated on the basis of a programme of regular consultation with representatives of industry, researchers, Maori, and the community, but such consultation is not required before each and every occasion on which such advice is formulated:
- (d) New *subsection (4)* is in the same terms as subsection (3) of the existing section 5.

*Clause 4* repeals section 7 of the principal Act (which requires the Foundation to adhere to priorities set by the Minister in allocating money for public good science), and substitutes a new section 7. The effect of the amendment is to alter the timing of the delivery to the Foundation of the Minister's statement of priorities. At present, the Minister must deliver such a statement to the Foundation before the start of every financial year. Under the new *section 7*, the Minister is required to deliver such a statement at intervals of not more than 3 years.

*Clause 5* amends section 8 of the principal Act. The amendment is consequential on the changes in *clause 2* in relation to the term "public good science outputs".

*Clause 6* inserts new *sections 8A to 8C*.

New *section 8A* confers on the Minister the power to direct the Foundation to allocate funds for the purposes of certain schemes. A scheme must be intended—

- (a) To develop, or assist in the development of, skills relating to research, science, and technology, or any of those matters; or
- (b) To facilitate research; or
- (c) To promote or facilitate the application of—
  - (i) The results of research; or
  - (ii) Technological developments.

The Minister must also be satisfied that the Foundation has, or will have, sufficient money available to it to fund the scheme. The Minister's direction to the Foundation to fund a scheme must specify the nature of the scheme, its objectives, an estimate of the cost to the Foundation of funding the scheme, its expected duration, and the agency that is to monitor the scheme. The Minister may not direct the Foundation to allocate funds to or for the benefit of a particular person. A copy of the Minister's direction to the Foundation must be published in the *Gazette* and tabled in the House of Representatives.

New *section 8B* imposes certain requirements in relation to the funding, by the Foundation, of ministerial schemes. The requirements are as follows:

- (a) The Foundation must fund a scheme only out of money appropriated by Parliament for the purposes of the scheme, or out of income derived from such money:
- (b) The Foundation's funding of a scheme is to be by way of allocation of funds, and not by way of investment:
- (c) The Foundation is barred from any form of equity participation in a ministerial scheme:
- (d) The Minister must appoint an appropriate agency to monitor each ministerial scheme, and to report to the Minister:

(e) Where practicable, the Foundation is to incorporate accountability mechanisms in the terms on which funds are made available pursuant to a ministerial scheme.

New *section 8c* empowers the Minister to require the Foundation to make available such information as is necessary to enable the monitoring of ministerial schemes. Safeguards for personal privacy are incorporated in the provision.

*Clause 7* amends the First Schedule to the principal Act by repealing clause 22 (which relates to certain matters that are required to be included in the Foundation's annual report), and substituting a new clause 22. Apart from incorporating changes in the terminology relating to public good science, the new *clause 22* imposes a requirement on the Foundation to include in its annual report certain information relating to the funding of ministerial schemes.

---

*Hon. Simon Upton*

**FOUNDATION FOR RESEARCH, SCIENCE,  
AND TECHNOLOGY AMENDMENT**

---

ANALYSIS

Title	6. New sections inserted
1. Short Title and commencement	8A. Foundation to fund schemes at direction of Minister
2. Interpretation	8B. Further provisions relating to ministerial schemes
3. Functions	8C. Provision of information
4. Foundation to adhere to Government priorities	7. First Schedule amended
5. Contracts in relation to use of funds	

---

A BILL INTITULED

**An Act to amend the Foundation for Research, Science, and Technology Act 1990**

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 Foundation for Research, Science, and Technology Amendment Act 1992, and shall be read together with and deemed part of the Foundation for Research, Science, and Technology Act 1990\* (hereinafter referred to as the principal Act).

10     (2) This Act shall come into force on the 1st day of April 1993.

**2. Interpretation**—The principal Act is hereby amended by repealing section 2, and substituting the following section:

15     “2. In this Act, unless the context otherwise requires,—  
“ ‘Foundation’ means the Foundation for Research, Science, and Technology established by section 4 of this Act:

“ ‘Minister’ means the Minister of Research, Science, and Technology:

\*1990, No. 72

- “ ‘Ministerial scheme’ means a scheme that is for the time being the subject of a direction to the Foundation pursuant to **section 8A** of this Act:
- “ ‘Ministry’ means the Ministry of Research, Science, and Technology: 5
- “ ‘Outputs’ means goods or services:
- “ ‘Public good science and technology’ means science or technology—
- “ (a) That is likely to increase knowledge or understanding of the physical, biological, or social environment; or 10
- “ (b) That is likely to develop, maintain, or increase skills or scientific or technological expertise that is of particular importance to New Zealand; or
- “ (c) That may be of benefit to New Zealand, but is unlikely to be funded, or adequately funded, from non-governmental sources: 15
- “ ‘Research’—
- “ (a) Means—
- “ (i) Scientific research: 20
- “ (ii) Technological research; and
- “ (b) Includes scientific development and technological development, and related services:
- “ ‘Science’ includes the physical sciences, the biological sciences, and the social sciences; and ‘scientific’ has a corresponding meaning.” 25

**3. Functions**—The principal Act is hereby amended by repealing section 5, and substituting the following section:

- “5. (1) The functions of the Foundation are—
- “ (a) To allocate funds for the production of outputs relating to public good science and technology: 30
- “ (b) To allocate funds pursuant to ministerial schemes:
- “ (c) To provide independent policy advice to the Minister on matters relating to research, science, and technology, including advice on national priorities for those matters. 35
- “ (2) The Foundation’s advice on matters relating to national priorities for research, science, and technology shall be formulated after consultation between the Foundation and representatives of industry, researchers, Maori, and the community. 40

“(3) In order to ensure that the views of industry, researchers, Maori, and the community are able to be considered in the formulation of the Foundation’s advice on other matters, the Foundation shall institute a programme of regular consultation with representatives of industry, researchers, Maori, and the community, but nothing in this subsection shall be taken to require such consultation before each and every occasion on which such advice is formulated.

“(4) The Foundation shall ensure that the advice that it provides to the Minister on national priorities for research, science, and technology is publicised by such means as appear to the Foundation to be necessary to ensure that the advice is readily available to researchers and the public as soon as practicable after the advice is provided to the Minister.”

15     **4. Foundation to adhere to Government priorities—**

(1) The principal Act is hereby amended by repealing section 7, and substituting the following section:

“7. (1) The Minister shall from time to time, at intervals of not more than 3 years, advise the Foundation, by notice in writing, of the priorities that the Foundation shall adhere to in carrying out its functions under section 5 (1) (a) of this Act.

“(2) The Foundation shall carry out its functions under section 5 (1) (a) of this Act in accordance with the priorities from time to time advised to it by the Minister pursuant to subsection (1) of this section.

“(3) Nothing in subsection (1) of this section authorises the Minister to give a direction under that subsection in respect of the production, by a particular person, of outputs relating to public good science and technology.

“(4) As soon as practicable after giving the Foundation a notice under subsection (1) of this section, the Minister shall—

“(a) Publish a copy of it in the *Gazette*; and

“(b) Lay a copy of it before the House of Representatives.”

(2) Section 7 of the principal Act (as substituted by subsection (1) of this section) shall apply as if the notice given to the Foundation under the former section 7 of the principal Act (as repealed by subsection (1) of this section) and in force immediately before the commencement of this section had been given to the Foundation under section 7 of the principal

Act (as so substituted).

**5. Contracts in relation to use of funds**—Section 8 of the principal Act is hereby amended by omitting the words “public good science outputs” in both places where they appear, and substituting in each case the words “outputs relating to public good science and technology”.

5

**6. New sections inserted**—The principal Act is hereby amended by inserting, after section 8, the following sections:

**“8A. Foundation to fund schemes at direction of Minister**—(1) Subject to subsections (3) and (4) of this section, the Minister may, from time to time, by notice in writing to the Foundation, direct the Foundation to allocate funds in accordance with such scheme as is specified in the notice, and the Foundation shall comply with the direction.

10

“(2) Any direction given by the Minister pursuant to subsection (1) of this section may be in like manner amended or revoked at any time.

15

“(3) The Minister may direct the Foundation to allocate funds in accordance with a ministerial scheme only if—

“(a) The scheme is intended—

“(i) To develop, or assist in the development of, skills relating to research, science, and technology, or any of them; or

20

“(ii) To facilitate research; or

“(iii) To promote or facilitate the application of—

“(A) The results of research; or

25

“(B) Technological developments; and

“(b) The Minister is satisfied that the Foundation has, or will have, sufficient money available to it to fund the scheme.

“(4) Nothing in this section authorises the Minister to direct the Foundation to allocate funds to or for the benefit of a particular person.

30

“(5) Every notice given to the Foundation pursuant to subsection (1) of this section shall specify, in relation to the scheme to which the notice relates,—

35

“(a) The nature of the scheme; and

“(b) The objectives of the scheme; and

“(c) An estimate of the amount of funds that will be required to be allocated by the Foundation for the purposes of the scheme; and

40

“(d) An estimate of the period for which the scheme will operate; and

“(e) The agency that is to monitor the scheme.

“(6) As soon as practicable after giving the Foundation a notice under this section, the Minister shall—

“(a) Publish a copy of it in the *Gazette*; and

5 “(b) Lay a copy of it before the House of Representatives.

“8B. **Further provisions relating to ministerial schemes**—(1) The Foundation shall fund a ministerial scheme only out of—

10 “(a) Money appropriated by Parliament for the purposes of the scheme:

“(b) Any accumulation of income derived from money appropriated by Parliament for the purposes of the scheme.

15 “(2) The funding, by the Foundation, of a ministerial scheme shall take the form of the allocation of funds by the Foundation, and, subject to clause 18 of the First Schedule to this Act, shall in no respect involve the investment of funds by the Foundation with a view to providing the Foundation with a financial return.

20 “(3) In particular, the Foundation shall not, in funding any ministerial scheme, require or permit the allocation, to or for the benefit of the Foundation, of any equity securities or debt securities (as those terms are defined in the Securities Act 1978).

25 “(4) Where, pursuant to section 8A(1) of this Act, the Minister directs the Foundation to allocate funds in accordance with a ministerial scheme, the Minister shall appoint an appropriate agency to monitor the scheme, and to report from time to time to the Minister.

30 “(5) In funding a ministerial scheme, the Foundation shall, to the extent that, in the opinion of the Foundation, it is practicable to do so,—

“(a) Ensure, by the terms of contracts pursuant to which funds are made available to persons pursuant to the scheme, that those persons are obliged—

35 “(i) To attain specified standards of performance in relation to the use of those funds; and

“(ii) To account for the use of the funds; and

40 “(b) Adopt measures to ensure that those terms are complied with.

“8c. **Provision of information**—(1) Subject to subsections (2) and (3) of this section, the Foundation shall supply to the



Minister or to such other person or class or classes of persons as the Minister specifies such information as the Minister requests.

“(2) The Minister may request information to be supplied only if the supply of the information is necessary for the purposes of monitoring a ministerial scheme. 5

“(3) A request under **subsection (1)** of this section may be refused if the withholding of the information is necessary to protect the privacy of any person (whether or not a natural person or a deceased natural person) and good reason for withholding that information would exist under the Official Information Act 1982 if— 10

“(a) The request had been made under section 12 of that Act; and

“(b) Section 9 (2) (a) of that Act applied to all persons, whether natural persons or not; and 15

“(c) The need to protect the privacy of any person is not outweighed by the need to have the information in order to effectively monitor a ministerial scheme.

“(4) Notwithstanding any other enactment or rule of law, the Foundation may direct an officer or employee of the Foundation to comply with a request under **subsection (1)** of this section, and the officer or employee shall comply with the request on being directed to do so. 20

“(5) No member of the Foundation and no officer or employee of the Foundation who acts in accordance with a request or direction under this section is liable to any person under any other enactment or rule of law by reason of acting in accordance with that request or direction.” 25

**7. First Schedule amended**—The First Schedule to the principal Act is hereby amended by repealing clause 22, and substituting the following clause: 30

“**22. Further matters to be included in annual report**—(1) The Foundation shall include in every annual report of the Foundation—

“(a) The details of any advice that, during the year to which the annual report relates, has been provided by the Foundation to the Minister in respect of national priorities for research, science, and technology; and 35

“(b) The contents of any report that, during the year to which the annual report relates, has been made by the Foundation to the Minister in respect of the allocation, by the Foundation, of funds for the production of outputs relating to public good science and technology; and 40

“(c) In relation to each project that received funding from the Foundation during the year to which the annual report relates (being a project that was funded from money appropriated to 45

the Foundation for the purposes of funding the production of outputs relating to public good science and technology),—

“(i) A summary of the nature and purposes of the project; and

5 “(ii) A statement of the total amount paid by the Foundation during that year to fund the project; and

“(d) In relation to any ministerial scheme pursuant to which funds were allocated by the Foundation during the year to which the annual report relates,—

10 “(i) A summary of the nature and objectives of the scheme; and

“(ii) A statement of the total amount paid by the Foundation during that year to fund the scheme; and

“(iii) A statement reporting on the extent to which the objectives of the scheme were met during that year.

15 “(2) Nothing in any of paragraphs (b) to (d) of subclause (1) of this clause requires the inclusion, in any annual report of the Foundation, of any information for which good reason for withholding would exist under the Official Information Act 1982.”