

Subordinate Legislation (Confirmation and Validation) Bill

Government Bill

Explanatory note

General policy statement

Part 2 of this Bill confirms and validates various items of subordinate legislation. *Subpart 1* confirms and validates certain subordinate legislation made under Acts providing that it lapses after a time unless confirmed or validated by Act of Parliament. *Subpart 2* validates orders whose validity is in doubt.

Clause by clause analysis

Clause 1 states the Act's Title.

Part 1

Preliminary provisions

Clause 2 provides that the Act comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Act binds the Crown.

Part 2

Confirmations and validations

Subpart 1—Formal confirmations and validations to prevent lapse

Orders and regulations formally confirmed and validated

Clause 4 confirms regulations under the Animal Products Act 1999.

Clause 5 confirms an order under the Civil Aviation Act 1990.

Clause 6 confirms orders under the following Acts:

- Commodity Levies Act 1990;
- Fisheries Act 1996.

Clause 7 confirms orders under the Customs and Excise Act 1996.

Clause 8 validates and confirms an order under the following Acts:

- New Zealand Superannuation Act 2001;
- Social Security Act 1964;
- Social Welfare (Transitional Provisions) Act 1990.

Clause 9 confirms an order under the Road User Charges Act 1977.

Clause 10 validates and confirms orders under the Tariff Act 1988.

Clause 11 validates and confirms an order under the War Pensions Act 1954.

Effect of formal validations

Clause 12 provides that the validations effected by *clauses 8, 10, and 11* are for the purpose only of preventing the expiry of the subordinate legislation concerned, and not to cure any invalidity.

Subpart 2—Validation of Fisheries (Cost Recovery Levies) Orders

Clause 13 validates 8 Fisheries (Cost Recovery Levies) Orders made from 1995 to 2002. Recent proceedings filed in the High Court for judicial review have raised doubts as to whether the levy orders were validly made in all respects.

Clause 14 provides that *clause 13* does not apply to legal proceedings that expressly challenge the validity of any of the orders, if the proceedings were commenced before 2 September 2002. However, *clause 13* does apply to certain amendments to the proceedings if the amendments were made after the date of introduction of the Bill.

Part 3 **Repeal**

Clause 15 repeals the Subordinate Legislation (Confirmation and Validation) Act 2001, which is now spent.

Hon Dr Michael Cullen

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Contents

1	Title	9	Road User Charges Act 1977
	Part 1	10	Tariff Act 1988
	Preliminary provisions	11	War Pensions Act 1954
2	Commencement		<i>Effect of formal validations</i>
3	Act binds the Crown	12	Effect of formal validations
	Part 2		Subpart 2—Validation of Fisheries (Cost Recovery Levies) Orders
	Confirmations and validations	13	Certain orders validated
	Subpart 1—Formal confirmations and validations to prevent lapse	14	Section 13 not to apply to certain legal proceedings
	<i>Orders and regulations formally confirmed and validated</i>		Part 3
4	Animal Products Act 1999		Repeal
5	Civil Aviation Act 1990	15	Repeal
6	Commodity Levies Act 1990 and Fisheries Act 1996		
7	Customs and Excise Act 1996		
8	New Zealand Superannuation Act 2001, Social Security Act 1964, and Social Welfare (Transitional Provisions) Act 1990		

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Subordinate Legislation (Confirmation and Validation) Act **2002**.

Part 1 **Preliminary provisions**

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

- 3 Act binds the Crown**
This Act binds the Crown.

Part 2 Confirmations and validations

- Subpart 1—Formal confirmations and validations 5
to prevent lapse
- Orders and regulations formally confirmed and validated*
- 4 Animal Products Act 1999**
The Animal Products (Fees, Charges, and Levies) Regulations
2002 (SR 2002/138) are confirmed. 10
- 5 Civil Aviation Act 1990**
The Civil Aviation (Safety) Levies Order 2002 (SR 2002/84)
is confirmed.
- 6 Commodity Levies Act 1990 and Fisheries Act 1996**
The following orders are confirmed: 15
- (a) Commodity Levies (Vegetables) Order 2001 (SR
2001/332):
 - (b) Commodity Levies (Blackcurrants) Order 2001 (SR
2001/333):
 - (c) Commodity Levies (Fish) Order 2002 (SR 2002/50): 20
 - (d) Commodity Levies (Summerfruit) Order 2002 (SR
2002/244).
- 7 Customs and Excise Act 1996**
The following orders are confirmed:
- (a) Customs Import Prohibition (Trout) Order 2001 (SR 25
2001/329):
 - (b) Excise and Excise-Equivalent Duties (Tobacco Pro-
ducts Indexation) Amendment Order 2001 (SR
2001/330):
 - (c) Excise and Excise-Equivalent Duties (Alcoholic Bever- 30
ages Indexation) Amendment Order 2002 (SR
2002/117).

8	New Zealand Superannuation Act 2001, Social Security Act 1964, and Social Welfare (Transitional Provisions) Act 1990 The Social Security (Rates of Benefits and Allowances) Order 2002 (SR 2002/53) is validated and confirmed.	5
9	Road User Charges Act 1977 The Road User Charges (Rates) Order 2002 (SR 2002/48) is confirmed.	
10	Tariff Act 1988 The following orders are validated and confirmed: (a) Tariff (Harmonised System) Amendment Order 2001 (SR 2001/389); (b) Tariff (Harmonised System) Amendment Order 2002 (SR 2002/83).	10
11	War Pensions Act 1954 The War Pensions (Rates of Pensions and Allowances) Order 2002 (SR 2002/59) is validated and confirmed.	15
	<i>Effect of formal validations</i>	
12	Effect of formal validations The validations effected by sections 8, 10, and 11 are for the purpose only of preventing the expiry of the enactments validated; and do not— (a) express an intention to give legislative force to the provisions of those enactments; or (b) apply to any reason for invalidating any of those enactments; or (c) override any presumption that would otherwise apply to any of those enactments.	20 25
	Subpart 2—Validation of Fisheries (Cost Recovery Levies) Orders	30
13	Certain orders validated The following orders are deemed to be, and to have always been, validly made:	

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| (a) | Fisheries (Cost Recovery Levies) Order 1995 (SR 1995/280): | |
| (b) | Fisheries (Cost Recovery Levies) Order 1996 (SR 1996/267): | 5 |
| (c) | Fisheries (Cost Recovery Levies) Order 1997 (SR 1997/189): | |
| (d) | Fisheries (Cost Recovery Levies) Order 1998 (SR 1998/278): | |
| (e) | Fisheries (Cost Recovery Levies) Order 1999 (SR 1999/268): | 10 |
| (f) | Fisheries (Cost Recovery Levies) Order 2000 (SR 2000/178): | |
| (g) | Fisheries (Cost Recovery Levies) Order 2001 (SR 2001/281): | 15 |
| (h) | Fisheries (Cost Recovery Levies for Fisheries Services) Order 2002 (SR 2002/222). | |

14 Section 13 not to apply to certain legal proceedings

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|-----|---|----|
| (1) | Section 13 does not apply to legal proceedings that expressly challenge the validity of 1 or more of the orders specified in section 13 , if the proceedings were commenced before 2 September 2002. | 20 |
| (2) | However, section 13 does apply to legal proceedings referred to in subsection (1) to the extent that, on or after 2 September 2002, the proceedings are amended to challenge the validity of an order not expressly challenged in the proceedings before that date. | 25 |

Part 3 Repeal

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| 15 | Repeal
The Subordinate Legislation (Confirmation and Validation) Act 2001 (2001 No 99) is repealed. | 30 |
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