

House of Representatives

Supplementary Order Paper

Tuesday, 21 March 2017

Resource Legislation Amendment Bill

Proposed amendments

Eugenie Sage, in Committee, to move the following amendments:

Clause 26

Delete *clause 26(IAC)* (page 31, line 27 to page 32, line 3).

Clause 105

In *clause 105* delete *new sections 360D and 360DA* (page 84, line 10 to page 86 line 30).

Explanatory note

This Supplementary Order Paper deletes *clause 26(IAC)* which allows the Minister for the Environment to use a national environmental standard to make any hazardous substance or new organism approved under the Hazardous Substances and New Organisms Act 1996 (HASNO) a permitted activity under the Resource Management Act 1991 (RMA). This Supplementary Order Paper preserves the current law and the ability of district and regional councils to control land uses through plan provisions and to set performance standards or require a resource consent for the planting of genetically modified (GM) crops, trees or other new organisms. *Clause 26(IAC)* was not in the bill as introduced, so the public and submitters had no opportunity to comment on it. It was a new provision introduced by majority in the select committee after submissions closed and hearings were completed.

This Supplementary Order Paper also deletes proposed *new sections 360D and 360DA* in *clause 105*. Many submitters questioned the need for the ministerial regulation making powers in *new section 360D*. The scope of these powers is reduced in the bill as reported back from select committee, however, the bill still allows the Minister for the Environment to use regulations to direct councils to prohibit or remove rules

from their district or regional plans that the Minister considers “duplicate, overlap with, or deal with the same subject matter” dealt with in other legislation. The current and former Ministers for the Environment have made it clear that this power is intended to be used to prevent councils from providing for their districts or regions to be free of genetically modified organisms (GMO) by using plan provisions to control or prohibit the planting of GM crops or trees. The Government view is that HASNO codifies all the relevant law around GMOs and there should be no place for RMA plans to establish GM Free zones by controlling land uses.

Under HASNO, if a new GMO is approved for field release, there is no process or power in that Act for a district or region to establish a GM Free zone to prevent its planting or establishment. Nor does HASNO address the costs of dealing with contamination of organic and traditional crops if an EPA approved GMO causes harm not covered by the HASNO liability regime. This Supplementary Order Paper would maintain the current legal situation where councils and their communities can use a robust process through their RMA plans to establish a GM Free food producer zone for a specified period (usually the 10 year life of the plan). This provides food growers and processors with the certainty that there will be no GM releases in a particular district or region for that time. It protects the ability of communities such as Whangarei, Auckland, and Hastings to make a stand on GE Free. It protects the significant market advantage that growers and producers in those regions have built by marketing their products as healthy GM Free Food. By removing the proposed new Ministerial regulation making powers around “overlap” provisions the Supplementary Order Paper also prevents the Minister from squashing local democracy by overruling district or regional plan provisions which local authorities have developed in consultation with their communities. This Supplementary Order Paper would also enable the relationship between the RMA and HASNO, and the existence of any overlap between the Acts, to be considered and determined by the courts.