

House of Representatives

Supplementary Order Paper

Tuesday 22 May 2012

Biosecurity Law Reform Bill

Proposed amendments

Hon David Carter, in Committee, to move the following amendments:

Clause 4

Insert on page 12 after line 8:

- (8A) The definition of **New Zealand territory** is amended by omitting “(as described in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977)”.

Insert on page 14 after line 4:

“**arrive in the EEZ** has the same meaning as it has in **Part 8A**”

Insert on page 14 after line 22:

“**EEZ** has the same meaning as it has in **Part 8A**”

Delete the definition of **government/industry agreement** (page 15, lines 12 and 13).

Insert on page 16 after line 7:

“**post-clearance requirements** means requirements that apply after risk goods are given a biosecurity clearance

Delete the definition of **producer** (page 16, lines 10 to 22).

Replace the definition of **sector** (page 16, lines 25 to 36) with:

“**sector** has the same meaning as it has in **Part 5A**”

Insert on page 16 after line 38:

“**territorial sea** has the meaning given to it in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

Clause 5

Replace *new section 2A(3)(b)* (page 17, lines 15 to 25) with:

“(b) includes a person for whom goods are imported; and

- “(c) includes a New Zealand-based agent who—
 - “(i) has an overseas-based person as a principal; and
 - “(ii) arranges the importation of goods for the principal; and
- “(d) includes a New Zealand-based representative who—
 - “(i) represents an overseas-based person; and
 - “(ii) arranges the importation of goods for the person; and
- “(e) includes the New Zealand-based consignee of imported goods.

Clause 11

In *new section 10(3)*, delete “to a person other than another Minister” (page 20, lines 7 and 8).

Clause 16

In *clause 16(3)*, delete “of this Act” (page 23, lines 4 and 5).

Clause 17

In *new section 16A*, insert after “steps” (page 23, line 22) “that are likely”.

Replace *new section 16B(b)* (page 24, lines 35 to 38) with:

- “(b) if required by an inspector, do the following:
 - “(i) provide the inspector with a declaration in an approved form setting out the steps taken to comply with the standard; and
 - “(ii) provide the inspector with the declaration in an approved manner.

Clause 20

Replace *new section 22(2) and (3)* (page 38, lines 11 to 17) with:

- “(2) An import health standard must include requirements that apply before 1 or more of the following actions may be taken:
 - “(a) the risk goods are imported;
 - “(b) the risk goods are moved from a biosecurity control area;
 - “(c) the risk goods are moved from a transitional facility;
 - “(d) the risk goods are given a biosecurity clearance.
- “(3) An import health standard may also include post-clearance requirements.

In *new section 22(6)(c)*, replace “of a declaration” (page 39, line 7) with “and manner”.

Replace *new section 22(7)(b)* (page 39, lines 13 to 15) with:

- “(b) the use to which the goods must be put:
- “(ba) the restrictions or conditions on the use of the goods:

In *new section 23(4)(e)(ii)*, replace “government” (page 41, line 6) with “Crown”.

Replace *new section 24A(1)* (page 42, lines 17 to 23) with:

“(1) After receiving the officer’s recommendation under **section 23(5)** and complying with **section 24(4)**, if it applies, the Director-General must decide whether or not to issue a standard.

“(1A) If the Director-General decides to issue a standard, he or she must—

“(a) decide on the date on which the standard is to come into force; and

“(b) issue the standard with the date in it.

Replace *new section 24B(2)* (page 43, lines 2 to 7) with:

“(2) However, if a chief technical officer considers that the standard needs to be amended or revoked urgently or that a proposed amendment is minor, the officer is not required to comply with **section 23(3)**.

In *new section 24D(1)*, replace “a standard” (page 44, line 4) with “an import health standard”.

Replace *new section 24D(1)(b)* (page 44, lines 7 to 10) with:

“(b) if required by an inspector, do the following:

“(i) provide the inspector with a declaration in an approved form setting out the steps taken to comply with the requirements; and

“(ii) provide the inspector with the declaration in an approved manner.

In *new section 24E(4)*, insert on page 44 after line 37:

“(ba) arriving in the EEZ:

In *new section 24E(6)(c)*, replace “of a declaration” (page 45, line 17) with “and manner”.

In *new section 24F(4)(d)(ii)*, replace “government” (page 46, line 39) with “Crown”.

Replace *new section 24G* (page 47, lines 10 to 16) with:

“24G Issue

“(1) After receiving the officer’s recommendation under **section 24F(5)**, the Director-General must decide whether or not to issue a standard.

“(2) If the Director-General decides to issue a standard, he or she must—

“(a) decide on the date on which the standard is to come into force; and

“(b) issue the standard with the date in it.

Replace *new section 24H(2)* (page 47, lines 27 to 32) with:

“(2) However, if a chief technical officer considers that the standard needs to be amended or revoked urgently or that a proposed

amendment is minor, the officer is not required to comply with **section 24F(3)**.

Replace *new section 24J(b)* (page 48, lines 33 to 36) with:

- “(b) if required by an inspector, do the following:
 - “(i) provide the inspector with a declaration in an approved form setting out the steps taken to comply with the standard; and
 - “(ii) provide the inspector with the declaration in an approved manner.

Replace *new section 24K(8)(b)* (page 50, lines 9 to 12) with:

- “(b) if required by an inspector, do the following:
 - “(i) provide the inspector with a declaration in an approved form setting out the steps taken to comply with the plan; and
 - “(ii) provide the inspector with the declaration in an approved manner.

Clause 22

In *new section 25(8)(b)*, replace “cleared” (page 51, line 12) with “given a biosecurity clearance”.

In *new section 25(9)*, replace “cleared” (page 51, line 16) with “given a biosecurity clearance”.

Clause 24

In *new section 27(1)(c)(ii)*, replace “pre-clearance requirements in the standard” (page 52, lines 16 and 17) with “requirements in the standard for receiving a clearance”.

In *new section 27(1)(d)(ii)*, replace “pre-clearance requirements in the standard” (page 52, lines 22 and 23) with “requirements in the standard for receiving a clearance”.

In *new section 27(3)(b)(ii)*, delete “pre-clearance” (page 53, line 12).

Replace *new section 27A(4)(a)* (page 53, lines 26 to 28) with:

- “(a) specify the use to which the goods must be put:
 - “(aaa) specify the restrictions or conditions on the use of the goods:

Clause 26

In *new section 30(1)*, replace “imported” (page 54, line 25) with “goods that are”.

Clause 28

In *new section 31(1)(e)*, replace “the outside of the hull” (page 56, line 31) with “its exterior surfaces”.

New clause 28A

Insert on page 56 after line 32:

28A Risk goods on board craft

- (1) Section 33(1) is amended by inserting “or attached to the outside of” after “on board”.
- (2) Section 33(2)(b) is amended by omitting “and destroy” and substituting “, destroy, or deal with”.
- (3) Section 33(3) is amended by inserting “or attached to the outside of” after “on board” in each place where it appears.

New clause 30AA

Insert on page 59 after line 5:

30AA Approval of arrival of craft at port not approved as place of first arrival

Section 37A(1) and (2) are repealed and the following subsections substituted:

- “(1) A person may request the Director-General’s approval for the arrival of a craft at a port that is not approved under section 37 as a place of first arrival for—
- “(a) any craft; or
 - “(b) craft of the kind or description of the craft to which the request relates; or
 - “(c) craft arriving for the purpose that the craft to which the request relates is arriving for.
- “(2) The Director-General may approve the arrival of the craft at the port if he or she is satisfied that imposing conditions on the arrival of the craft at the port can manage the risks associated with—
- “(a) the importation of risk goods; and
 - “(b) the entry of the craft into New Zealand territory.
- “(2A) The Director-General may give his or her approval subject to the necessary conditions.”

Clause 31

Insert on page 59 after line 35:

- (2A) Section 39(2) is amended by inserting “and manner” after “form”.

In *clause 31(3)*, replace “subsection” (page 60, line 1) with “subsections”.

Insert on page 60 after line 5:

- “(3B) The Director-General may amend conditions in an approval, remove conditions from an approval, or add conditions to an approval when he or she considers it necessary or desirable to do so.”

Clause 32

Insert on page 60 after line 12:

- (1A) Section 40(1) is amended by inserting “and manner” after “form”.

Insert on page 61 after line 20:

- “(3E) The Director-General may amend conditions in an approval, remove conditions from an approval, or add conditions to an approval when he or she considers it necessary or desirable to do so.”

Clause 36

In the heading of *clause 36*, replace “**notifiable**” (page 65, line 19) with “**unwanted**”.

Clause 37

In *new section 56*, insert on page 67 after line 11:

“*Timing requirements for determination under **section 100AA(3)***”

- “(3A) The national policy direction must contain directions on the time within which the Minister or council must make a determination under **section 100AA(3)**.”

In *new section 57(7)(a)*, replace “direction has been approved” (page 70, line 29) with “Governor-General has approved the direction and the date on which the Governor-General approved it”.

Replace the heading of *new section 61* (page 72, line 11) with “**First step: plan initiated by proposal**”.

In *new section 61(1)*, replace “The making of a plan is initiated by” (page 72, line 12) with “The first step in the making of a plan is”.

In *new section 61(2)(c)(vii)*, delete “proposed” (page 73, line 7).

In *new section 61(2)(c)(viii)*, delete “proposed” (page 73, line 10).

In *new section 61(2)(c)(xii)*, replace “proposed plan requires” (page 73, line 26) with “plan would require”.

In *new section 61(2)(f)*, delete “proposed” in the first place where it appears (page 74, line 1).

In *new section 61(2)(m)*, delete “proposed” (page 74, line 23).

In *new section 61(2)(n)*, delete “proposed” (page 74, line 26).

In *new section 61(2)*, insert on page 74 after line 26:

- “(na) whether or not the plan would apply to the EEZ and, if it would, whether it would apply to all of it or parts of it and, if it would apply to parts, which parts:

In *new section 61(2)(o)*, delete “proposed” in the first place where it appears (page 74, line 27).

In *new section 61(2)(p)*, delete “proposed” (page 74, lines 31 and 32).

In *new section 61(2)*, insert on page 74 after line 37:

- “(sa) any matter that the national policy direction requires be specified in a plan:

Replace *new sections 61A to 63* (page 75, line 4, to page 78, line 38) with:

“**62 Second step: satisfaction on requirements**

If the Minister is satisfied that **section 61** has been complied with, the Minister may take the second step in the making of a plan, which is to consider whether the Minister is satisfied—

- “(a) that the proposal is not inconsistent with the national policy direction; and
- “(b) that, during the development of the proposal, the process requirements for a plan in the national policy direction, if there were any, were complied with; and
- “(c) that the proposal has merit as a means of eradicating or effectively managing the subject of the proposal, which means—
 - “(i) the organism proposed to be specified as a pest under the plan or the organisms proposed to be specified as pests under the plan; or
 - “(ii) the class or description of organism proposed to be specified as a pest under the plan or the classes or descriptions of organisms proposed to be specified as pests under the plan; and
- “(d) that each subject is capable of causing at some time an adverse effect on 1 or more of the following in New Zealand:
 - “(i) economic wellbeing;
 - “(ii) the viability of threatened species of organisms;
 - “(iii) the survival and distribution of indigenous plants or animals;
 - “(iv) the sustainability of natural and developed ecosystems, ecological processes, and biological diversity;
 - “(v) soil resources;
 - “(vi) water quality;
 - “(vii) human health;
 - “(viii) social and cultural wellbeing;
 - “(ix) the enjoyment of the recreational value of the natural environment;
 - “(x) the relationship between Maori, their culture, and their traditions and their ancestral lands, waters, sites, waahi tapu, and taonga;
 - “(xi) animal welfare; and
- “(e) that, for each subject, the benefits of the plan would outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and

- “(f) that, for each subject, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—
 - “(i) would accrue, as a group, benefits outweighing the costs; or
 - “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(g) that, for each subject, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(h) that the implementation of the plan would not be contrary to New Zealand’s international obligations; and
- “(i) that each proposed rule—
 - “(i) would assist in achieving the plan’s objectives; and
 - “(ii) would not trespass unduly on the rights of individuals; and
- “(j) that the proposal is not frivolous or vexatious; and
- “(k) that the proposal is clear enough to be readily understood; and
- “(l) that, if the Minister rejected a similar proposal within the last 3 years, new and material information answers the Minister’s objection to the previous proposal.

“63 **Third step: satisfaction with consultation or requirement of more consultation**

- “(1) If the Minister is satisfied of the matters in **section 62**, the Minister may take the third step in the making of a plan, which is for the Minister to consider whether the Minister is satisfied—
 - “(a) that, if Ministers’ responsibilities may be affected by the plan, the Ministers have been consulted; and
 - “(b) that, if local authorities’ responsibilities may be affected by the plan, the authorities have been consulted; and
 - “(c) that, if consultation with tangata whenua or other persons is appropriate, sufficient consultation has occurred.
- “(2) In considering whether the Minister is satisfied as required by **subsection (1)(c)**, the Minister must have regard to the following:
 - “(a) the scale of the impacts on persons who are likely to be affected by the plan; and

- “(b) whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and
 - “(c) the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.
- “(3) If the Minister is satisfied as required by **subsection (1)**, the Minister must apply **section 64**.
- “(4) If the Minister is not satisfied as required by **subsection (1)**, the Minister may require consultation to be undertaken on the proposal.
- “(5) If the Minister requires consultation to be undertaken, the Minister must determine the way or ways in which the consultation must be undertaken, including, but not limited to, ways such as—
- “(a) consultation with persons likely to be affected by the plan or with their representatives:
 - “(b) the appointment by the Minister of 1 or more persons to carry out an independent inquiry into the proposal on terms of reference set by the Minister:
 - “(c) public notification of the proposal and the receipt of submissions.
- “(6) After the consultation required by the Minister has been undertaken, the Minister must apply **subsection (1)** again.

Replace the heading of *new section 64* (page 79, line 1) with “**Fourth step: approval of preparation of plan and decision on management agency**”.

Replace *new section 64(1)* (page 79, lines 2 to 4) with:

- “(1) If the Minister is satisfied as required by **section 63(1)** and is satisfied that the issues raised in all the consultation undertaken on the proposal have been considered, the Minister may take the fourth step in the making of a plan, which is to approve the preparation of a plan.
- “(1A) If the Minister approves the preparation of a plan, the Minister must apply **section 96** to decide which body is to be the management agency.

In *new section 64(2)*, insert on page 79 after line 26:

- “(ja) the parts of the EEZ to which the plan applies, if it applies to parts, or the fact that it applies to the whole EEZ, if it does:

In *new section 64(2)(m)*, delete “other” (page 79, line 32).

Insert on page 82 after line 21:

“**64A Fifth step: satisfaction on contents of plan and requirements**

If the Minister is satisfied that **section 64** has been complied with, the Minister may take the fifth step in the making of a

plan, which is for the Minister to consider whether the Minister is satisfied, in relation to the plan prepared under **section 64**,—

- “(a) that the plan is not inconsistent with the national policy direction; and
- “(b) that, for each subject of the plan, the benefits of the plan outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and
- “(c) that, for each subject of the plan, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—
 - “(i) will accrue, as a group, benefits outweighing the costs; or
 - “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(d) that, for each subject of the plan, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(e) that each rule—
 - “(i) will assist in achieving the plan’s objectives; and
 - “(ii) will not trespass unduly on the rights of individuals; and
- “(f) that the implementation of the plan is not contrary to New Zealand’s international obligations.

In *new section 65*, replace “When the Minister is satisfied with the contents of a plan prepared under **section 64**” (page 82, lines 23 and 24) with “If the Minister is satisfied of the matters in **section 64A**”.

Replace the heading of *new section 69* (page 85, line 22) with “**First step: plan initiated by proposal**”.

In *new section 69(1)*, replace “The making of a plan is initiated by” (page 85, line 23) with “The first step in the making of a plan is”.

In *new section 69(2)(c)(vii)*, delete “proposed” (page 86, line 19).

In *new section 69(2)(c)(viii)*, delete “proposed” (page 86, line 22).

In *new section 69(2)(c)(xii)*, replace “proposed plan requires” (page 86, line 38) with “plan would require”.

In *new section 69(2)(f)*, delete “proposed” in the first place where it appears (page 87, line 13).

In *new section 69(2)(n)*, delete “proposed” (page 87, line 37).

In *new section 69(2)(o)*, delete “proposed” (page 88, line 3).

In *new section 69(2)(p)*, delete “proposed” in the first place where it appears (page 88, line 4).

In *new section 69(2)(q)*, delete “proposed” (page 88, lines 8 and 9).

In *new section 69(2)*, insert on page 88 after line 14:

- “(ta) any matter that the national policy direction requires be specified in a plan:

Replace *new sections 69A to 71* (page 88, line 18 to page 92, line 19) with:

“**70 Second step: satisfaction on requirements**

If the council is satisfied that **section 69** has been complied with, the council may take the second step in the making of a plan, which is to consider whether the council is satisfied—

- “(a) that the proposal is not inconsistent with—
 - “(i) the national policy direction; or
 - “(ii) any other pest management plan on the same organism; or
 - “(iii) any pathway management plan; or
 - “(iv) a regional policy statement or regional plan prepared under the Resource Management Act 1991; or
 - “(v) any regulations; and
- “(b) that, during the development of the proposal, the process requirements for a plan in the national policy direction, if there were any, were complied with; and
- “(c) that the proposal has merit as a means of eradicating or effectively managing the subject of the proposal, which means—
 - “(i) the organism proposed to be specified as a pest under the plan or the organisms proposed to be specified as pests under the plan; or
 - “(ii) the class or description of organism proposed to be specified as a pest under the plan or the classes or descriptions of organisms proposed to be specified as pests under the plan; and
- “(d) that each subject is capable of causing at some time an adverse effect on 1 or more of the following in the region:
 - “(i) economic wellbeing;
 - “(ii) the viability of threatened species of organisms;
 - “(iii) the survival and distribution of indigenous plants or animals;
 - “(iv) the sustainability of natural and developed ecosystems, ecological processes, and biological diversity;
 - “(v) soil resources;
 - “(vi) water quality;
 - “(vii) human health;
 - “(viii) social and cultural wellbeing;
 - “(ix) the enjoyment of the recreational value of the natural environment;

- “(x) the relationship between Maori, their culture, and their traditions and their ancestral lands, waters, sites, waahi tapu, and taonga:
- “(xi) animal welfare; and
- “(e) that, for each subject, the benefits of the plan would outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and
- “(f) that, for each subject, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—
 - “(i) would accrue, as a group, benefits outweighing the costs; or
 - “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(g) that, for each subject, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(h) that each proposed rule—
 - “(i) would assist in achieving the plan’s objectives; and
 - “(ii) would not trespass unduly on the rights of individuals; and
- “(i) that the proposal is not frivolous or vexatious; and
- “(j) that the proposal is clear enough to be readily understood; and
- “(k) that, if the council rejected a similar proposal within the last 3 years, new and material information answers the council’s objection to the previous proposal.

“71 Third step: satisfaction with consultation or requirement of more consultation

- “(1) If the council is satisfied of the matters in **section 70**, the council may take the third step in the making of a plan, which is for the council to consider whether the council is satisfied—
 - “(a) that, if Ministers’ responsibilities may be affected by the plan, the Ministers have been consulted; and
 - “(b) that, if local authorities’ responsibilities may be affected by the plan, the authorities have been consulted; and
 - “(c) that the tangata whenua of the area who may be affected by the plan were consulted through iwi authorities and tribal runanga; and
 - “(d) that, if consultation with other persons is appropriate, sufficient consultation has occurred.

- “(2) In considering whether the council is satisfied as required by **subsection (1)(d)**, the council must have regard to the following:
- “(a) the scale of the impacts on persons who are likely to be affected by the plan; and
 - “(b) whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and
 - “(c) the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.
- “(3) If the council is satisfied as required by **subsection (1)**, the council must apply **section 72**.
- “(4) If the council is not satisfied as required by **subsection (1)**, the council may require consultation to be undertaken on the proposal.
- “(5) If the council requires consultation to be undertaken, the council must determine the way or ways in which the consultation must be undertaken, including, but not limited to, ways such as—
- “(a) consultation with persons likely to be affected by the plan or with their representatives;
 - “(b) the appointment by the council of 1 or more persons to carry out an independent inquiry into the proposal on terms of reference set by the council;
 - “(c) public notification of the proposal and the receipt of submissions.
- “(6) After the consultation required by the council has been undertaken, the council must apply **subsection (1)** again.

Replace the heading of *new section 72* (page 92, line 20) with “**Fourth step: approval of preparation of plan and decision on management agency**”.

Replace *new section 72(1)* (page 92, lines 21 to 23) with:

- “(1) If the council is satisfied as required by **section 71(1)** and is satisfied that the issues raised in all the consultation undertaken on the proposal have been considered, the council may take the fourth step in the making of a plan, which is to approve the preparation of a plan.
- “(1A) If the council approves the preparation of a plan, the council must apply **section 96** to decide which body is to be the management agency.

In *new section 72(2)(n)*, delete “other” (page 93, line 16).

Insert on page 96 after line 6:

“**72A Fifth step: satisfaction on contents of plan and requirements**

If the council is satisfied that **section 72** has been complied with, the council may take the fifth step in the making of a

plan, which is for the council to consider whether the council is satisfied, in relation to the plan prepared under **section 72**,—

- “(a) that the plan is not inconsistent with—
 - “(i) the national policy direction; or
 - “(ii) any other pest management plan on the same organism; or
 - “(iii) any pathway management plan; or
 - “(iv) a regional policy statement or regional plan prepared under the Resource Management Act 1991; or
 - “(v) any regulations; and
- “(b) that, for each subject of the plan, the benefits of the plan outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and
- “(c) that, for each subject of the plan, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—
 - “(i) will accrue, as a group, benefits outweighing the costs; or
 - “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(d) that, for each subject of the plan, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(e) that each rule—
 - “(i) will assist in achieving the plan’s objectives; and
 - “(ii) will not trespass unduly on the rights of individuals.

Replace the heading of *new section 73* (page 96, line 7) with “**Sixth step: decision on plan**”.

In *new section 73(1)*, replace “with the content of a plan prepared under **section 72**” (page 96, lines 8 and 9) with “of the matters in **section 72A**”.

In *new section 74(2)(c)*, delete “proposed” (page 97, line 15).

In *new section 74(2A)*, replace “the following persons may make an application to the Environment Court:” (page 97, lines 20 and 21) with “a person who made a submission on the proposal may make an application to the Environment Court.”

Delete *new section 74(2A)(a) and (b)* (page 97, lines 22 to 24).

In *new section 74(2B)(a)*, insert after “proposal” (page 97, line 30) “and whose views were provided or recorded in writing”.

In *new section 74(2B)*, insert on page 97 after line 30:

- “(aa) a person who participated in consultation on the proposal and whose views were provided or recorded in writing:

Replace *new section 75(4)(a)* (page 98, lines 22 to 27) with:

- “(a) if the matter dealt with in the application is severable from the rest of the plan, the council must make the plan without the matter in it and, after the Environment Court’s decision, do the applicable 1 of the following:
 - “(i) if the Environment Court dismisses the application under **section 74(6)(a)**, make the part of the plan that deals with the matter:
 - “(ii) if the Environment Court gives a direction under **section 74(6)(b)**, comply with the direction before making the part of the plan that deals with the matter:

Replace *new section 75(5)(b)* (page 99, line 3) with:

- “(b) the plan’s commencement date or dates, as follows:
 - “(i) the commencement date of a plan made in the circumstances described in **subsection (2) or (4)(b) or (c)** is the date on which the council fixes the council’s seal to the plan:
 - “(ii) the commencement dates of the parts of a plan made in the circumstances described in **subsection (4)(a)** are, for the part of the plan made first, the date on which the council fixes the council’s seal to that part and, for the part of the plan made after the Environment Court’s decision, the date on which the council fixes the council’s seal to that part.

Replace the heading of *new section 79* (page 101, line 20) with “**First step: plan initiated by proposal**”.

In *new section 79(1)*, replace “The making of a plan is initiated by” (page 101, line 21) with “The first step in the making of a plan is”.

In *new section 79(2)(c)(vii)*, delete “proposed” (page 102, line 11).

In *new section 79(2)(c)(viii)*, delete “proposed” (page 102, line 14).

In *new section 79(2)(c)(x)*, delete “proposed” (page 102, line 21).

In *new section 79(2)(c)(xiv)*, replace “proposed plan requires” (page 102, line 33) with “plan would require”.

In *new section 79(2)(e)*, delete “proposed” in the first place where it appears (page 103, line 7).

In *new section 79(2)(l)*, delete “proposed” (page 103, line 29).

In *new section 79(2)(m)*, delete “proposed” (page 103, line 32).

In *new section 79(2)*, insert on page 103 after line 32:

- “(ma) whether or not the plan would apply to the EEZ and, if it would, whether it would apply to all of it or parts of it and, if it would apply to parts, which parts:

In *new section 79(2)(n)*, delete “proposed” in the first place where it appears (page 103, line 33).

In *new section 79(2)*, insert on page 104 after line 2:

“(pa) any matter that the national policy direction requires be specified in a plan:

Replace *new sections 79A to 81* (page 104, line 6, to page 107, line 32) with:

“80 Second step: satisfaction on requirements

If the Minister is satisfied that **section 79** has been complied with, the Minister may take the second step in the making of a plan, which is to consider whether the Minister is satisfied—

“(a) that the proposal is not inconsistent with the national policy direction; and

“(b) that, during the development of the proposal, the process requirements for a plan in the national policy direction, if there were any, were complied with; and

“(c) that the proposal has merit as a means of managing the subject of the proposal, which means the pathway or pathways; and

“(d) that each subject could spread an organism that is capable of causing at some time an adverse effect on 1 or more of the following in New Zealand:

“(i) economic wellbeing:

“(ii) the viability of threatened species of organisms:

“(iii) the survival and distribution of indigenous plants or animals:

“(iv) the sustainability of natural and developed ecosystems, ecological processes, and biological diversity:

“(v) soil resources:

“(vi) water quality:

“(vii) human health:

“(viii) social and cultural wellbeing:

“(ix) the enjoyment of the recreational value of the natural environment:

“(x) the relationship between Maori, their culture, and their traditions and their ancestral lands, waters, sites, waahi tapu, and taonga:

“(xi) animal welfare; and

“(e) that, for each subject, the benefits of the plan would outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and

“(f) that, for each subject, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—

“(i) would accrue, as a group, benefits outweighing the costs; or

- “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(g) that, for each subject, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(h) that the implementation of the plan would not be contrary to New Zealand’s international obligations; and
- “(i) that each proposed rule—
 - “(i) would assist in achieving the plan’s objectives; and
 - “(ii) would not trespass unduly on the rights of individuals; and
- “(j) that the proposal is not frivolous or vexatious; and
- “(k) that the proposal is clear enough to be readily understood; and
- “(l) that, if the Minister rejected a similar proposal within the last 3 years, new and material information answers the Minister’s objection to the previous proposal.

“**81 Third step: satisfaction with consultation or requirement of more consultation**

- “(1) If the Minister is satisfied of the matters in **section 80**, the Minister may take the third step in the making of a plan, which is for the Minister to consider whether the Minister is satisfied—
 - “(a) that, if Ministers’ responsibilities may be affected by the plan, the Ministers have been consulted; and
 - “(b) that, if local authorities’ responsibilities may be affected by the plan, the authorities have been consulted; and
 - “(c) that, if consultation with tangata whenua or other persons is appropriate, sufficient consultation has occurred.
- “(2) In considering whether the Minister is satisfied as required by **subsection (1)(c)**, the Minister must have regard to the following:
 - “(a) the scale of the impacts on persons who are likely to be affected by the plan; and
 - “(b) whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and
 - “(c) the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.
- “(3) If the Minister is satisfied as required by **subsection (1)**, the Minister must apply **section 82**.

- “(4) If the Minister is not satisfied as required by **subsection (1)**, the Minister may require consultation to be undertaken on the proposal.
- “(5) If the Minister requires consultation to be undertaken, the Minister must determine the way or ways in which the consultation must be undertaken, including, but not limited to, ways such as—
- “(a) consultation with persons likely to be affected by the plan or with their representatives;
 - “(b) the appointment by the Minister of 1 or more persons to carry out an independent inquiry into the proposal on terms of reference set by the Minister;
 - “(c) public notification of the proposal and the receipt of submissions.
- “(6) After the consultation required by the Minister has been undertaken, the Minister must apply **subsection (1)** again.

Replace the heading of *new section 82* (page 107, line 33) with “**Fourth step: approval of preparation of plan and decision on management agency**”.

Replace *new section 82(1)* (page 107, lines 34 to 36) with:

- “(1) If the Minister is satisfied as required by **section 81(1)** and is satisfied that the issues raised in all the consultation undertaken on the proposal have been considered, the Minister may take the fourth step in the making of a plan, which is to approve the preparation of a plan.
- “(1A) If the Minister approves the preparation of a plan, the Minister must apply **section 96** to decide which body is to be the management agency.

In *new section 82(2)*, insert on page 108 after line 22:

- “(ja) the parts of the EEZ to which the plan applies, if it applies to parts, or the fact that it applies to the whole EEZ, if it does:

In *new section 82(2)(m)*, delete “other” (page 108, line 28).

Insert on page 110 after line 26:

“82A Fifth step: satisfaction on contents of plan and requirements

If the Minister is satisfied that **section 82** has been complied with, the Minister may take the fifth step in the making of a plan, which is for the Minister to consider whether the Minister is satisfied, in relation to the plan prepared under **section 82**,—

- “(a) that the plan is not inconsistent with the national policy direction; and
- “(b) that, for each subject of the plan, the benefits of the plan outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and

- “(c) that, for each subject of the plan, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—
 - “(i) will accrue, as a group, benefits outweighing the costs; or
 - “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(d) that, for each subject of the plan, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(e) that each rule—
 - “(i) will assist in achieving the plan’s objectives; and
 - “(ii) will not trespass unduly on the rights of individuals; and
- “(f) that the implementation of the plan is not contrary to New Zealand’s international obligations.

In *new section 83*, replace “When the Minister is satisfied with the content of a plan prepared under **section 82**” (page 110, lines 28 and 29) with “If the Minister is satisfied of the matters in **section 82A**”.

In *new section 85*, definition of **management agency**, insert after “implementing a” (page 114, line 2) “regional”.

Replace the heading of *new section 87* (page 114, line 25) with “**First step: plan initiated by proposal**”.

In *new section 87(1)*, replace “The making of a plan is initiated by” (page 114, line 26) with “The first step in the making of a plan is”.

In *new section 87(2)(c)(vi)*, delete “proposed” (page 115, line 13).

In *new section 87(2)(c)(vii)*, delete “proposed” (page 115, line 16).

In *new section 87(2)(c)(xi)*, replace “proposed plan requires” (page 115, line 32) with “plan would require”.

In *new section 87(2)(e)*, delete “proposed” in the first place where it appears (page 116, line 6).

In *new section 87(2)(l)*, delete “proposed” (page 116, line 28).

In *new section 87(2)(m)*, delete “proposed” (page 116, line 31).

In *new section 87(2)(n)*, delete “proposed” in the first place where it appears (page 116, line 32).

In *new section 87(2)(o)*, delete “proposed” (page 116, lines 36 and 37).

In *new section 87(2)*, insert on page 117 after line 4:

- “(ra) any matter that the national policy direction requires be specified in a plan:

Replace *new sections 87A to 89* (page 117, line 8, to page 120, line 37) with:

“88 Second step: satisfaction on requirements

If the council is satisfied that **section 87** has been complied with, the council may take the second step in the making of a plan, which is to consider whether the council is satisfied—

- “(a) that the proposal is not inconsistent with—
 - “(i) the national policy direction; or
 - “(ii) any other pathway management plan or pest management plan; or
 - “(iii) a regional policy statement or regional plan prepared under the Resource Management Act 1991; or
 - “(iv) any regulations; and
- “(b) that, during the development of the proposal, the process requirements for a plan in the national policy direction, if there were any, were complied with; and
- “(c) that the proposal has merit as a means of managing the subject of the proposal, which means the pathway or pathways; and
- “(d) that each subject could spread an organism that is capable of causing at some time an adverse effect on 1 or more of the following in the region:
 - “(i) economic wellbeing;
 - “(ii) the viability of threatened species of organisms;
 - “(iii) the survival and distribution of indigenous plants or animals;
 - “(iv) the sustainability of natural and developed ecosystems, ecological processes, and biological diversity;
 - “(v) soil resources;
 - “(vi) water quality;
 - “(vii) human health;
 - “(viii) social and cultural wellbeing;
 - “(ix) the enjoyment of the recreational value of the natural environment;
 - “(x) the relationship between Maori, their culture, and their traditions and their ancestral lands, waters, sites, waahi tapu, and taonga;
 - “(xi) animal welfare; and
- “(e) that, for each subject, the benefits of the plan would outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and
- “(f) that, for each subject, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—

- “(i) would accrue, as a group, benefits outweighing the costs; or
- “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(g) that, for each subject, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(h) that each proposed rule—
 - “(i) would assist in achieving the plan’s objectives; and
 - “(ii) would not trespass unduly on the rights of individuals; and
- “(i) that the proposal is not frivolous or vexatious; and
- “(j) that the proposal is clear enough to be readily understood; and
- “(k) that, if the council rejected a similar proposal within the last 3 years, new and material information answers the council’s objection to the previous proposal.

“89 **Third step: satisfaction with consultation or requirement of more consultation**

- “(1) If the council is satisfied of the matters in **section 88**, the council may take the third step in the making of a plan, which is for the council to consider whether the council is satisfied—
 - “(a) that, if Ministers’ responsibilities may be affected by the plan, the Ministers have been consulted; and
 - “(b) that, if local authorities’ responsibilities may be affected by the plan, the authorities have been consulted; and
 - “(c) that the tangata whenua of the area who may be affected by the plan were consulted through iwi authorities and tribal runanga; and
 - “(d) that, if consultation with other persons is appropriate, sufficient consultation has occurred.
- “(2) In considering whether the council is satisfied as required by **subsection (1)(d)**, the council must have regard to the following:
 - “(a) the scale of the impacts on persons who are likely to be affected by the plan; and
 - “(b) whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and
 - “(c) the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.

- “(3) If the council is satisfied as required by **subsection (1)**, the council must apply **section 90**.
- “(4) If the council is not satisfied as required by **subsection (1)**, the council may require consultation to be undertaken on the proposal.
- “(5) If the council requires consultation to be undertaken, the council must determine the way or ways in which the consultation must be undertaken, including, but not limited to, ways such as—
- “(a) consultation with persons likely to be affected by the plan or with their representatives;
 - “(b) the appointment by the council of 1 or more persons to carry out an independent inquiry into the proposal on terms of reference set by the council;
 - “(c) public notification of the proposal and the receipt of submissions.
- “(6) After the consultation required by the council has been undertaken, the council must apply **subsection (1)** again.

Replace the heading of *new section 90* (page 121, line 1) with “**Fourth step: approval of preparation of plan and decision on management agency**”.

Replace *new section 90(1)* (page 121, lines 2 to 4) with:

- “(1) If the council is satisfied as required by **section 89(1)** and is satisfied that the issues raised in all the consultation undertaken on the proposal have been considered, the council may take the fourth step in the making of a plan, which is to approve the preparation of a plan.
- “(1A) If the council approves the preparation of a plan, the council must apply **section 96** to decide which body is to be the management agency.

In *new section 90(2)(m)*, delete “other” (page 121, line 32).

Insert on page 123 after line 30:

“90A Fifth step: satisfaction on contents of plan and requirements

If the council is satisfied that **section 90** has been complied with, the council may take the fifth step in the making of a plan, which is for the council to consider whether the council is satisfied, in relation to the plan prepared under **section 90**,—

- “(a) that the plan is not inconsistent with—
- “(i) the national policy direction; or
 - “(ii) any other pathway management plan or pest management plan; or
 - “(iii) a regional policy statement or regional plan prepared under the Resource Management Act 1991; or
 - “(iv) any regulations; and

- “(b) that, for each subject of the plan, the benefits of the plan outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and
- “(c) that, for each subject of the plan, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan—
 - “(i) will accrue, as a group, benefits outweighing the costs; or
 - “(ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and
- “(d) that, for each subject of the plan, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and
- “(e) that each rule—
 - “(i) will assist in achieving the plan’s objectives; and
 - “(ii) will not trespass unduly on the rights of individuals.

Replace the heading of *new section 91* (page 123, line 31) with “**Sixth step: decision on plan**”.

In *new section 91(1)*, replace “with the content of a plan prepared under **section 90**” (page 123, lines 32 and 33) with “of the matters in **section 90A**”.

In *new section 92(2)(c)*, delete “proposed” (page 125, line 1).

In *new section 92(2A)*, replace “the following persons may make an application to the Environment Court:” (page 125, lines 6 and 7) with “a person who made a submission on the proposal may make an application to the Environment Court.”

Delete *new section 92(2A)(a) and (b)* (page 125, lines 8 to 10).

In *new section 92(2B)(a)*, insert after “proposal” (page 125, line 16) “and whose views were provided or recorded in writing”.

Insert in *new section 92(2B)* on page 125 after line 16:

- “(aa) a person who participated in consultation on the proposal and whose views were provided or recorded in writing:

Replace *new section 93(4)(a)* (page 126, lines 8 to 13) with:

- “(a) if the matter dealt with in the application is severable from the rest of the plan, the council must make the plan without the matter in it and, after the Environment Court’s decision, do the applicable 1 of the following:
 - “(i) if the Environment Court dismisses the application under **section 92(6)(a)**, make the part of the plan that deals with the matter:
 - “(ii) if the Environment Court gives a direction under **section 92(6)(b)**, comply with the direction before making the part of the plan that deals with the matter:

Replace *new section 93(5)(b)* (page 126, line 26) with:

- “(b) the plan’s commencement date or dates, as follows:
 - “(i) the commencement date of a plan made in the circumstances described in **subsection (2) or (4)(b) or (c)** is the date on which the council fixes the council’s seal to the plan:
 - “(ii) the commencement dates of the parts of a plan made in the circumstances described in **subsection (4)(a)** are, for the part of the plan made first, the date on which the council fixes the council’s seal to that part and, for the part of the plan made after the Environment Court’s decision, the date on which the council fixes the council’s seal to that part.

In the heading of *new section 100AA*, replace “made” (page 135, line 31) with “approved”.

In *new section 100AA(1)(a)*, replace “made” (page 135, line 34) with “approved by the Governor-General”.

In *new section 100AA(2)*, replace “made” (page 136, line 2) with “approved by the Governor-General”.

In *new section 100AA(3)*, delete “, if there are any” (page 136, line 5).

In *new section 100AA(5)(a)*, insert after “review” (page 136, line 16) “to address the inconsistency”.

In *new section 100A(2)*, replace “for a declaration of” (page 136, lines 26 and 27) with “on the basis that there is an”.

Replace *new section 100S* (page 154, lines 19 to 28) with:

“100S Purpose of Part 5A

The purpose of this Part is to provide a framework that enables the government and industry to work together in partnership to achieve the best possible outcomes from readiness or response activities by—

- “(a) making joint decisions on the activities; and
- “(b) jointly funding the costs of the activities in shares that take into account the public benefits and industry benefits that the activities deliver.

In *new section 100T(1)*, insert on page 155 after line 11:

“**sector** means a group made up of businesses—

- “(a) that are engaged in 1 or more of the following activities:
 - “(i) producing animals:
 - “(ii) producing animal products:
 - “(iii) harvesting animals:
 - “(iv) harvesting animal products:
 - “(v) producing plants:
 - “(vi) producing plant products:
 - “(vii) harvesting plants:

- “(viii) harvesting plant products:
- “(ix) processing animals, animal products, plants, or plant products that have been produced or harvested; or

- “(b) that, although engaged in a different activity from any of those described in **paragraph (a)**, would benefit directly from readiness or response activities.

In *new section 100T(3B)(b)*, insert after “organism” (page 155, lines 37 and 38) “on natural and physical resources, human health, and overseas market access for New Zealand products”.

In *new section 100T(4)(a)*, insert after “is” (page 156, line 6) “confirmed to be”.

In the heading of *new section 100U*, insert after “**agreement**” (page 156, line 14) “**for readiness or response**”.

In *new section 100U(1)*, insert after “agreement” (page 156, line 15) “for readiness or response”.

Replace *new section 100U(2)* (page 156, lines 17 to 23) with:

- “(2) The agreement is made by deed between the Director-General and 1 or more industry organisations.
- “(2A) The agreement consists of,—
 - “(a) for a party to the deed that makes an operational agreement with the Director-General, the deed and the operational agreement:
 - “(b) for a party to the deed that does not make an operational agreement with the Director-General, the deed.

Replace *new section 100U(3)(c)(iv)* (page 157, lines 6 and 7) with:

- “(iv) whether or not an industry party will limit its liability to meet costs by setting a fiscal cap:

In *new section 100U(3)*, insert on page 157 after line 15:

- “(da) how the parties will engage on issues relating to parts of the biosecurity system other than readiness or response activities:

Replace *new section 100U(4)* (page 157, lines 17 to 19) with:

- “(4) **Subsection (5)** applies to the exercise of a statutory power under—
 - “(a) this Act; or
 - “(b) any other Act that confers powers to carry out readiness or response activities as defined in this Act.
- “(5) The exercise of the power cannot be challenged on the ground that it was the result of a joint decision under the agreement.

Replace *new section 100V(5)(a) and (b)* (page 158, lines 28 to 32) with:

- “(a) whether the businesses that comprise the sector that the organisation claims to represent are able to be members of the organisation or another body that is a member of the organisation:

- “(b) the proportion of businesses that comprise the sector that are members of the organisation or another body that is a member of the organisation:

Replace *new section 100W* (page 159, line 20, to page 160, line 10) with:

“**100W Readiness or response levy orders**

- “(1) The Governor-General may impose a levy for the purposes of wholly or partly funding an industry organisation’s commitments under the agreement.
- “(2) A levy may be imposed only by Order in Council.
- “(3) A levy order may be made only on the recommendation of the responsible Minister.
- “(4) A levy may be imposed on a sector specified in a *Gazette* notice under **section 100V**.
- “(5) In addition, the levy may be imposed on persons outside a sector specified in a *Gazette* notice under **section 100V** if—
- “(a) the Minister is satisfied that—
- “(i) the persons are represented by an industry organisation that is a party to the agreement; and
- “(ii) the persons are likely to receive benefits from the readiness or response activities to be funded from the levy; and
- “(iii) the costs to the persons of paying the levy are not disproportionate to the benefits that they are likely to receive; or
- “(b) the Minister is satisfied that—
- “(i) the levy is the most effective and efficient means of collecting funds from the sector that the organisation represents; and
- “(ii) it is not practicable to exclude the persons from the application of the levy; and
- “(iii) the persons are likely to receive benefits from the readiness or response activities to be funded from the levy; and
- “(iv) the costs to the persons of paying the levy are not disproportionate to the benefits that they are likely to receive.
- “(6) The Minister must not recommend that a levy order be made unless satisfied that the proposed levy payers have been consulted and their views taken into account.
- “(7) For the purposes of **subsection (6)**, the Minister may be satisfied by consultation undertaken under **section 100V(6)**.
- “(8) A levy order may be made from time to time.
- “(9) A levy order—
- “(a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989; and

“(b) is a regulation for the purposes of the Acts and Regulations Publication Act 1989.

Clause 41

In *clause 41(2)*, replace “strategy” (page 176, line 32) with “this Act, the regulations, or any pest management strategy”.

In *clause 41(2)*, replace “plan or a pathway management plan” (page 176, line 33) with “biosecurity law”.

Clause 43

Delete *new section 117A(6)* (page 178, lines 26 to 28).

Clause 46

In *clause 46(1)*, replace “subsection” (page 179, line 25) with “subsections”.

Insert on page 180 after line 14:

(1A) Section 121(2) is amended by omitting “subsection (1)” and substituting “**subsection (1A)**”.

Clause 48

Insert on page 180 after line 28:

(2) Section 121B(4) is amended by omitting “section 121(1)” and substituting “**section 121(1A)**”.

Clause 53

In *new section 137(3)*, replace “represented by an industry organisation that is a party to the government/industry agreement” (page 182, lines 26 to 28) with “specified in a *Gazette* notice under **section 100V**”.

Clause 55

In *new section 142A(6)*, replace “aspect of the handling of the information under the other enactment” (page 184, lines 1 and 2) with “provisions in the other enactment relating to the handling of the information”.

In *new section 142C*, insert on page 185 after line 26:

“(2AA) The references to the Official Information Act 1982 (‘OIA’) in **subsection (2)(c) and (d)** mean that the OIA cannot be used to access information in the biosecurity database, whether or not the OIA can be used to access the same information from another source.

In *new section 142H(2)(a)*, replace “goods or persons” (page 189, line 29) with “craft, goods, or persons”.

In *new section 142H(2)(b)*, insert “or duties” after “functions” (page 189, line 32).

In the heading of *new section 142L*, replace “**142T**” (page 194, line 8) with “**142S**”.

In *new section 142L*, replace “**142T**” (page 194, line 9) with “**142S**”.

In *new section 142L*, in *paragraph (b)* of the definition of **biosecurity document**, insert after “Council” (page 194, line 12) “made under this Act” .

Clause 61

In *new section 154N(13)(d)*, insert after “exhumes” (page 221, line 11) “the carcass of”.

Clause 66

Replace *new section 162AB(1)* (page 227, lines 10 to 12) with:

- “(1) The provisions of this Act apply in the EEZ—
- “(a) to the extent to which they are relevant; and
 - “(b) to the extent to which their language permits; and
 - “(c) with the modifications made by this Part.

In *new section 162AC(1)*, replace “1983” (page 227, line 29) with “1996” .

In *new section 162AC(2)*, replace “1983” (page 227, line 34) with “1996”.

Insert on page 227 after line 36:

“162ACA Interpretation

The definition of **craft** in section 2 applies as if ‘is imported by’ read ‘arrives in the EEZ after’.

Delete *new section 162AH* (page 228, lines 25 to 28).

Delete *new section 162AK(1)* (page 229, lines 18 to 20).

Delete *new section 162AK(6) and (7)* (page 230, lines 1 to 5).

In *new section 162AL*, delete “in” (page 230, line 7).

In *new section 162AM*, replace “Section 44” (page 230, line 10) with “Section 44(1)”.

In *new section 162AM*, delete “in” (page 230, line 10).

In *new section 162AN*, delete “in” (page 230, line 13).

Replace *new sections 162AO and 162AP* (page 230, lines 15 to 23) with:

“162AO Second step: satisfaction on requirements

Section 62(d) applies as if ‘or the EEZ’ appeared after ‘New Zealand’.

“162AP Fourth step: approval of preparation of plan and decision on management agency

Section 64(5)(c) applies as if ‘or the EEZ’ appeared after ‘New Zealand’ in all places.

“162APA Second step: satisfaction on requirements

Section 80(d) applies as if ‘or the EEZ’ appeared after ‘New Zealand’.

“162APB Fourth step: approval of preparation of plan and decision on management agency

Section 82(5)(c) applies as if ‘or the EEZ’ appeared after ‘New Zealand’ in all places.

“162APC Definitions for Part 5A

Section 100T applies as if ‘New Zealand’ read ‘the EEZ’.

“162APD Declaration of controlled area

Section 131(2) applies as if ‘(which may be the whole or any specified part or parts of New Zealand)’ read ‘(which may be any specified part or parts of the EEZ)’.

In *new section 162AQ*, replace “after ‘New Zealand’ ” (page 230, lines 25 and 26) with “ after ‘New Zealand’ in all places”.

Delete *new sections 162AT and 162AU* (page 231, lines 4 to 37).

Insert on page 231 after line 37:

“162AV General provisions as to regulations

Section 166(1) applies as if ‘or the EEZ’ appeared after ‘New Zealand’.

Clause 67

In *new section 162A(1)(d)*, replace “government/industry agreement” (page 232, line 19) with “agreement under **Part 5A**”.

In *new section 162A(7)*, replace “by the Director-General” (page 233, lines 19 and 20) with “a chief executive”.

New clause 68A

Insert on page 233 after line 24:

68A Procedure for giving directions or making requirements

- (1) Section 164A(1)(a)(iv) is amended by omitting “facsimile to the person’s usual or last known place of residence or business” and substituting “fax or email to the person’s fax number or email address”.
- (2) Section 164A(1)(b)(vi) is amended by omitting “facsimile to the registered office of the body” and substituting “fax or email to the fax number or email address of the body’s registered office”.
- (3) Section 164A(1)(c)(vi) is amended by omitting “facsimile to the usual or last known place of business of the partnership” and substituting “fax or email to the partnership’s fax number or email address”.
- (4) Section 164A(1)(d)(iv) is amended by omitting “facsimile to the head office of the appropriate department” and substituting

“fax or email to the fax number or email address of the head office of the appropriate department”.

Clause 70

Replace *new section 165(4)(d)* (page 235, lines 24 to 26) with:

- “(d) the use to which the goods must be put:
- “(da) the restrictions or conditions on the use of the goods:

In *new section 165(12)*, delete “for the purpose of ascertaining the presence or absence of a pest or unwanted organism” (page 237, lines 27 and 28).

In *new section 165(23)*, replace “to the Ministry” (page 240, line 30) with “under this Act”.

New clause 72AA

Insert on page 241 after line 4:

72AA Transitional provision on import health standards

- (1) In this section,—
 - section 20** means **section 20** of this Act
 - section 22** means section 22 of the principal Act as it was immediately before being repealed by **section 20**
 - section 22A** means section 22A of the principal Act as it was immediately before being repealed by **section 20**
 - sections 23 to 24A** mean **sections 23 to 24A** of the principal Act as substituted by **section 20**.
- (2) **Subsection (3)** applies when the process of making an import health standard under section 22 and section 22A is underway on the day on which this section commences.
- (3) If the process is to continue, it must continue from the provision in **sections 23 to 24A** that most accurately describes the stage that the process reached under section 22 or section 22A.

Clause 73

In *clause 73(4)*, replace “a pest management plan” (page 241, line 27) with “the pest management plan that **subsection (1) or (2)** deems the strategy to be”.

Replace *clause 73(7) to (8)* (page 242, line 18, to page 243, line 12) with:

- (7) In **subsections (8) to (8L)**,—
 - (a) references to sections 62, 68, 78, 79B, and 88 mean those sections of the principal Act as they were immediately before being repealed by **section 37** of this Act; and
 - (b) references to **sections 100, 100AA(3), 100AA(5), and 100B** mean those provisions of the principal Act as substituted by **section 37** of this Act; and
 - (c) references to **Part 5** mean that Part of the principal Act as substituted by **section 37** of this Act.

Dates and processes for reviews of existing strategies

- (8) **Subsections (8A) to (8D)** apply when section 88 requires that a national pest management strategy or a regional pest management strategy that is in force on the day on which this section commences be reviewed in the period starting with the date on which this section commences (which is a fixed date) and ending with the date on which the Minister or council makes a determination under **section 100AA(3)** (which is not a fixed date).
- (8A) The Minister or council must choose whether to conduct the review or to wait to see whether the determination under **section 100AA(3)** requires a review under **section 100AA(5)**.
- (8B) If the Minister or council chooses to conduct the review, the review must be conducted under **section 100**, which applies with all necessary modifications.
- (8C) If the Minister or council chooses to wait to see whether the determination under **section 100AA(3)** requires a review under **section 100AA(5)**, and the determination does require a review, the review required by section 88 and the review required by **section 100AA(5)** must be conducted together under **section 100**.
- (8D) If the Minister or council chooses to wait to see whether the determination under **section 100AA(3)** requires a review under **section 100AA(5)**, and the determination does not require a review, the review required by section 88 must be conducted under **section 100**, which applies with all necessary modifications.
- (8E) **Subsections (8F) and (8G)** apply when section 88 requires that a national pest management strategy or a regional pest management strategy that is in force on the day on which this section commences be reviewed on or after the date on which the Minister or council makes a determination under **section 100AA(3)** (which is not a fixed date).
- (8F) If the determination requires a review under **section 100AA(5)**, the Minister or council may decide that the review required by section 88 and the review required by **section 100AA(5)** will be conducted together under **section 100** and, if that decision is made, must apply **section 100AA(5)(a)**.
- (8G) If the determination does not require a review under **section 100AA(5)**, the review required by section 88 must be conducted under **section 100**, which applies with all necessary modifications.

Process for existing proposals

- (8H) **Subsection (8I)** applies if, on the day on which this section commences, the Minister has not yet acted under section 68 on a proposal notified under section 62 or a council has not yet

acted under section 79B on a proposal notified under section 78.

- (8I) **Part 5** applies with the modification that, for all plans, the first, second, and third steps are deemed to have been taken.

Process for strategy due to expire

- (8J) **Subsections (8K) and (8L)** apply if a national pest management strategy or a regional pest management strategy that is in force on the day on which this section commences is due to expire in the period starting with the date on which this section commences (which is a fixed date) and ending with the date on which the Minister or council makes a determination under **section 100AA(3)** (which is not a fixed date).

- (8K) If the Minister or council wishes to extend the expiry date without a review under **section 100**, the Minister or council must—

- (a) apply **section 100B** to make the extension; and
- (b) set a new expiry date that is within 12 months of the existing expiry date.

- (8L) The Minister or council may exercise the power in **subsection (8K)** as many times as needed before the Minister or council makes a determination under **section 100AA(3)**.

In *clause 73(9)*, insert after “effect” (page 243, line 14) “for a particular regional pest management plan”.

Replace *clause 73(9)(b)* (page 243, lines 18 and 19) with:

- (b) the plan—
 - (i) has been the subject of a determination by the council under **section 100AA(3)**; and
 - (ii) if the determination was that the plan was inconsistent with the direction, has been amended under **section 100AA(4)** or following a review under **section 100AA(5)**; and

Delete *clause 73(12)* (page 244, lines 1 to 12).

Clause 74

In *clause 74(1)*, replace “**sections 24G and 162AH** of the principal Act, as respectively substituted and inserted by **sections 20 and 66**” (page 244, lines 19 to 21) with “**section 24G** of the principal Act as inserted by **section 20**”.

In *clause 74(2)*, replace “**sections 24G and 162AH** of the principal Act, as respectively substituted and inserted by **sections 20 and 66**” (page 244, lines 24 to 26) with “**section 24G** of the principal Act as inserted by **section 20**”.

In *clause 74(3)*, replace “**section 162AA(1)**” (page 244, line 28) with “**section 162AA(2)**”.

Clause 75

Replace (page 244, lines 30 to 33) with:

75 Saving of provision on compensation

Section 162A of the principal Act, as it was immediately before its repeal by **section 67** of this Act, applies in the case of a person whose eligibility for compensation under it arose before the commencement of this section.

Clause 76

Replace *new section 246A(3)(a)* (page 249, lines 28 to 31) with:

“(a) means a ship within the meaning of the convention, in **sections 197A, 246B to 246D, 271(2)(ca), 388(n), 396(3)(aa), 397(2)(ca), and 397(3)**:

Clause 79

Replace “The Legal Services Agency” (page 255, lines 9 and 10) with “Learning State Limited”.

Clause 80

Replace *clause 80(2)* (page 255, lines 13 to 15) with:

(2) The definition of **wild animal** in section 2(1) is amended by omitting “, tahr, wallaby, or possum (*Trichosurus vulpecula*)” from paragraph (a)(ii) and substituting “or tahr”.

Schedule

Insert on page 257 after line 11:

Criminal Procedure Act 2011 (2011 No 81)

Schedule 3, Part 1: omit the item relating to section 158(1) of the Biosecurity Act 1993.

Schedule 3, Part 1: omit the item relating to section 159(1)(a) of the Biosecurity Act 1993 and substitute:

“**Section 159(1B)**: replace ‘under the Summary Proceedings Act 1957’ with ‘by filing a charging document under section 14 of the Criminal Procedure Act 2011’.”

Schedule 3, Part 1: omit the item relating to section 159A(1)(a) of the Biosecurity Act 1993 and substitute:

“**Section 159A(1A)**: replace ‘under the Summary Proceedings Act 1957’ with ‘by filing a charging document under section 14 of the Criminal Procedure Act 2011’.”

Schedule 3, Part 1: insert the following items relating to the Biosecurity Act 1993:

“**Section 160(1)(c)**: omit ‘information for the offence was laid’ and substitute ‘charging document for the offence was filed’.

“**Section 160(3)(c)**: omit ‘information for the offence was laid’ and substitute ‘charging document for the offence was filed’.”

Schedule 3, Part 1: omit the new section 162 of the Biosecurity Act 1993 and substitute:

“162 Time for filing charging document for certain offences

“(1) This section applies to—

“(a) an offence against any of **sections 154L, 154M(9) to (22), and 154N(19) to (21)**:

“(b) an offence against any regulations made under this Act.

“(2) The limitation period for the offence ends on the date that is 2 years after the date on which the offence was committed.

“(3) Section 25 of the Criminal Procedure Act 2011 does not apply to the offence.”

Schedule 3, Part 4: omit the item relating to the Biosecurity (Forms) Regulations 1995 (SR 1995/129).

Item relating to section 46(1) of the Hazardous Substances and New Organisms Act 1996 (page 257, line 17): replace with:

Section 46(1): omit “strategy has been approved under section 68” and substitute “plan has been approved under **section 65**”.

Insert on page 257 after line 20:

**Agricultural Compounds and Veterinary Medicines
(Exemptions and Prohibited Substances) Regulations 2011 (SR
2011/327)**

Regulation 7(g): omit “strategy” and substitute “plan”.

Item relating to clause 11(2)(b) of the Biosecurity (Bovine Tuberculosis—Cattle Levy) Order 1998 (page 258, line 3): replace with:

Clause 3: omit “Strategy” and substitute “Plan”.

Clause 16: omit “Strategy” and substitute “Plan”.

Item relating to the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Order 1998: insert on page 258 after line 6:

Clause 2: omit “Strategy” in all the definitions in which it appears and substitute “Plan” in each case.

Clause 3: omit “Strategy” and substitute “Plan”.

Insert on page 258 after line 7:

**Biosecurity (Deer and Other Testing Costs) Regulations 1998
(SR 1998/458)**

Regulation 3(1)(a): omit “section 121(1)” and substitute “**section 121(1) to (1B)**”.

Item relating to Form D of the Biosecurity (Forms) Regulations 1995 (page 258, lines 9 and 10): replace with:

Regulation 3(d): omit.

Form D: omit.

Item relating to the Biosecurity (Infringement Offences) Regulations 2010: insert after “inspector” on page 258, line 23, “or an automated electronic system”.

Item relating to the Biosecurity (National American Foulbrood Pest Management Strategy) Order 1998: insert on page 261 after line 12:

Clause 40(1)(a): omit “strategy” and substitute “plan”.

Insert on page 262 after line 3:

Clause 7: omit “**strategy**” from the heading and substitute “**plan**”.

On page 264, line 11, replace “Clause” with “Regulation”.

On page 264, line 12, replace “Clause” with “Regulation”.

Explanatory note

This Supplementary Order Paper sets out proposed amendments to the Biosecurity Law Reform Bill.

Most of the amendments are minor and technical in nature. The amendments that are more substantial are in the following areas:

- the process for developing pest management plans and pathway management plans;
- the proposed government-industry agreement for readiness and response;
- transitional provisions for existing pest management strategies.

Process for developing pest management plans and pathway management plans

The Supplementary Order Paper makes changes to the process for developing plans under the *new Part 5* of the Biosecurity Act 1993 (which is inserted by *clause 37* of the Bill). These changes apply to the four different kinds of plans—national pest management plans, regional pest management plans, national pathway management plans, and regional pathway management plans.

Most of the key amendments are made for the following reasons:

- the criteria for determining the adequacy of consultation are focused on consultation that takes place during the development of the proposal for a plan. The streamlined approach to developing plans under the Bill is intended to allow consultation to take place either during the development of the proposal, or once the proposal has been prepared, or as a combination of both. It is therefore more appropriate that the criteria for determining the adequacy of consultation be focused on the overall consultation process. The Supplementary Order Paper achieves this by replacing *new sections 63, 71, 81, and 89*;
- the current provisions set out a number of matters that a Minister or council must be satisfied of in relation to the proposal for a plan. The Bill does not expressly require that the Minister or council also be satisfied of these matters (to the extent to which they are relevant) in relation to the final plan that emerges from consultation on the proposal. The Supplementary Order Paper remedies this by adding *new sections 64A, 72A, 82A, and 90A*.

While these issues were being addressed, the opportunity was taken to set out the process for developing plans in a clearer, step-by-step manner.

The other key amendments relate to the right of appeal to the Environment Court. The Biosecurity Act 1993 provides a right of appeal to the Environment Court in relation to council decisions on regional pest management strategies. This appeal right has been carried forward into the *new Part 5* of the Act, but the details of who has the right to appeal have had to be drafted differently, due to the greater flexibility in the process for developing plans.

The Supplementary Order Paper makes changes to *new sections 74 and 92*, to provide greater clarity about who is entitled to appeal to the Environment Court, as follows:

- in cases where the council has followed a public submission process, the right to appeal is confined to people who made a submission;
- in other cases, the right to appeal is confined to people who have participated in consultation and whose views have been provided or recorded in writing.

Government-industry agreement for readiness and response

Clause 37 of the Bill inserts a *new Part 5A* into the Biosecurity Act 1993. *Part 5A* provides the enabling legislation under which the government and primary industry organisations can develop an agreement for joint decision-making and cost-sharing in relation to biosecurity readiness and response activities.

The key amendments in this area are:

- a new purpose statement that expressly recognises the concept of working together in partnership (*new section 100S*);
- broadening the definition of “sector” so that an organisation can be a party to the agreement on the basis that it represents the processors in a primary industry, or other businesses that would benefit directly from readiness or response activities (*new section 100T*);
- expressly recognising that the parties to the agreement may include provisions in the agreement about how they will work together in relation to parts of the biosecurity system other than readiness and response activities (*new section 100U(3)(da)*);
- changes to *new section 100V* to allow a pan-industry body to become a signatory to the agreement, on the basis that other organisations that are members of the pan-industry body are the ones that have the direct accountability to businesses in the sector;
- changes to *new section 100W* so that a levy can apply beyond the commercial sector that is represented by an industry organisation, in certain defined circumstances.

Transitional provisions for existing pest management strategies

A number of changes are made to *clause 73* of the Bill, to limit the need to carry out two reviews of existing pest management strategies within a short time period.

This issue arises because of the need for existing strategies to be assessed for compliance with the national policy direction once that instrument has been issued. The details of this assessment process are set out in *new section 100AA*, and may result in a requirement to review a strategy, if an inconsistency with the national policy direction is identified that cannot be resolved by a minor amendment.

The changes to *clause 73* of the Bill ensure that a regular strategy review that is due under the current section 88 of the Biosecurity Act 1993 can be deferred and conducted together with a strategy review that is required as a result of the process of assessing compliance with the national policy direction.

The changes also allow a regular strategy review to be brought forward, and conducted together with a strategy review that is required as a result of the process of assessing compliance with the national policy direction.

A further change allows a strategy to be extended by successive 12 month periods, without requiring a full review of the strategy, if the strategy is due to expire before the assessment of compliance with the national policy direction is completed.

Finally, *clause 73* is also changed to enable a strategy that is part-way through the process of being developed under the Act to be continued and completed under the new and more flexible provisions in the Bill.
