

Aide memoire: Transitional provisions for the Gene Technology Bill and the HSNO Act

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Actions sought from ministers	
<i>Name and position</i>	<i>Action sought</i>
To Hon Penny SIMMONDS Minister for the Environment	For noting only

Appendices and attachments
Nil

Key contacts at Ministry for the Environment			
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Transitional provisions for the Gene Technology Bill and the HSNO Act

Purpose

1. Minister Collins KC has provided you with a briefing from the Ministry of Business, Innovation and Employment (MBIE) titled “Regulation of Gene Technology – Further decisions on reviews and appeals, levies, changes to the RMA, and transitional provisions” which contains three Annexes (briefing number 425-0880). This briefing contains some decisions to be made on the Hazardous Substances and New Organisms Act 1996 (HSNO Act) regarding transitional provisions for the upcoming Gene Technology Bill. This aide memoire provides you with the Ministry’s view on the briefing.

Background

2. Minister Collins KC, as Minister for Minister for Science, Innovation and Technology, has been delegated authority to proceed with a Bill to change how genetically modified organisms (GMOs) are regulated in New Zealand. This Bill will be introduced into the House in December 2024. Most policy decisions were made by Cabinet in August, but some decisions remain. The briefing from MBIE contains additional decisions that need to be made by Minister Collins to inform drafting instructions so the Parliamentary Counsel Office can draft the Bill.

Review of Briefing

3. The MBIE briefing covers policy settings for reviews and appeals, levies, changes to the Resource Management Act 1991 (the RMA), and transitional provisions to the HSNO Act. The briefing recommends Minister Collins consults the Minister for the Environment on the proposed transitional provisions for HSNO Act approvals and applications regime, as authorised by Cabinet [CAB-24-MIN-0296 rec 37 refers].
4. Some transitional provisions will be transferred from the HSNO Act to the Gene Technology Regime which has already been agreed to by Cabinet [CAB-24-MIN-0296 rec 35 refers]. The policy decisions in the current MBIE briefing give greater detail as to how this will work. The specific policy proposals are:
 - Transfer existing HSNO Act approvals for GMOs to the Gene Technology Regime. This will require the Gene Technology regulator to review and reissue these HSNO Act approvals as required. If an existing HSNO Act approval maps under the new regime to a non-notifiable activity, notifiable activity, or activity approved for general use, then the existing approval should be revoked.
 - Reissue any existing HSNO Act approvals for GMOs that are also approvals for a new organism (not a GMO) under the HSNO Act.
 - For any application that is underway during the transition, the applicant would be allowed to choose to continue their application under the HSNO Act (and for it to be

transferred afterwards if necessary), transfer it to the Gene Technology Regime, or withdraw it. If the applicant does not respond to a request from the EPA within three months, the application would be deemed withdrawn.

- Allow the provisions around the Minister's call-in power under the HSNO Act to continue. This is to clarify that you (as Minister for the Environment) will still be able to call in a HSNO Act application over the transition period and any called-in application will remain that way.
 - Include a regulation-making power in the Gene Technology Bill to enable regulations to be made to address any unanticipated transitional matters.
5. Overall, Ministry officials are supportive of these transitional provisions and from our perspective have not identified any issues for you to raise.
 6. Ministry officials also reviewed the remainder of the briefing and are supportive of the remaining proposals. Ministry officials have informed Minister Bishop of the proposals regarding the RMA and note our support of them.

Next steps

7. Ministry officials are working with MBIE officials on additional design aspects of the gene technology regime, including joint applications between the HSNO Act and Gene Technology Bill. Ministry officials are aware that MBIE officials are planning another briefing to Minister Collins KC covering these issues and will brief you if required.

8. Ministry officials are also working with MBIE, Ministry for Primary Industries and Environmental Protection Authority officials on non-consequential amendments to the HSNO Act that will further streamline the system once the Gene Technology Bill is in force. Officials will brief you on this at a later time.

Signatures



Glenn Wigley

General Manager – Waste & HSNO Policy

Climate Change Mitigation and Resource Efficiency

19 September 2024

Hon Penny SIMMONDS

Minister for the Environment

Date