



Cabinet Business Committee

CBC Min (03) 3/18

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Minute of Decision

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Additional Item: Government Response to the Royal Commission on Genetic Modification: Legislative Changes for New Organisms: Paper 7: Improving the Operation of the HSNO Act for New Organisms Including Zoo and Circus Animals

On 3 February 2003 the Cabinet Business Committee, having been authorised by Cabinet with Power to Act [CAB Min (03) 3/2-8]:

Transition for existing zoo and circus animals

- 1 **agreed** that the Environmental Risk Management Authority (ERMA) be given the discretion to apply, on a case-by-case basis containment controls and any other controls necessary to give effect to the purpose of the Hazardous Substances and New Organisms (HSNO) Act 1996 for existing zoo and circus animals;
- 2 **agreed** that ERMA be given the power to vary the deemed condition imposed by section 255 of the HSNO Act to allow for the transfer and temporary absence of animals from containment facilities, as long as containment is maintained;
- 3 **agreed** that ERMA be provided with an enabling provision to approve relevant containment facilities standards under the HSNO Act;
- 4 **noted** that no amendment is needed to extend the effect of the Zoological Garden Regulations 1977;

Operational improvements

- 5 **noted** that "species" may not be the most appropriate taxonomic level for the risk assessment of a new organism application;
- 6 **agreed** to amend the definition of new organism in the HSNO Act so it is not limited to 'species' to allow ERMA to consider organisms at the most appropriate taxonomic level for risk assessment;
- 7 **agreed** to amend the HSNO Act so that that the assessment of the fermentation of micro-organisms is treated in the same way as any other application for development approval;
- 8 **agreed** that the HSNO Act be amended to extend the time to publicly notify the decision of an application to no later than 30 working days following the conclusion of any

- hearing, and that this amendment be so framed as to make clear that a shorter time should be used where possible;
- 9 **agreed** that the HSNO Act be amended to remove the minimum four-day period on a compliance order;
- 10 **agreed** to delete the requirement in the HSNO Act that states the last day on which an appeal can be lodged in the compliance order;
- 11 **noted** that the HSNO Act enables any information relevant to offences to be laid within 120 working days of the time the offence “first became known, or should have become known” and applies to both hazardous substances and new organisms. This time period has apparently prevented some offences for new organisms from being pursued;
- 12 **agreed** not to amend the HSNO Act to lengthen the 120 day period because it would require that the time period start “at the time when the matter of the information arose” and not at the time the offence “first became known”. If there is likely to be a delay in discovering the offence, as there is for both hazardous substances and new organisms, it is better to use the “time of knowledge” as the starting point and not to lengthen the 120-day period;
- 13 **agreed** that the HSNO Act be amended to provide for a power to declare by Order in Council that an organism is ‘no longer new’;
- 14 **agreed** that criteria to be used for assessing whether an organism should be declared ‘no longer new’ as referred to in paragraph 13 should include, but not be limited to, where an organism has formed a self-sustaining population in New Zealand, and is not the subject of an eradication attempt, an enforcement action or action under the civil penalty regime. Discretion **not** to use the power should be retained for certain circumstances (for example, where use of the power would inappropriately reward illegal activity);
- 15 **agreed** to remove the following from the Second Schedule:
- Asclepias tuberosa* (pleurisy root);
- Castanospermum australe* (Moreton Bay chestnut; black bean);
- Echinacea angustifolia*;
- Eleocharis dulcis* (Chinese water nut);
- Monarda punctata* (horsemint);
- Rhamnus purshiana* (cascara sagrada)
- 16 **agreed** to correct the following scientific names:
- Bufomarinus* with *Bufo marinus*;
- Rhammus purshiana* with *Rhamnus purshiana* (unless removed);
- Touretteia volubilis* with *Tourettia volubilis*;

- 17 **agreed** to amend the HSNO Act to allow ERMA to take an integrated view of all relevant matters when weighing up beneficial effects against adverse effects in deciding on applications to approve a new organism **in containment**;

Consultation

- 18 **noted** that the Minister for the Environment indicates that the Labour caucus will receive a special briefing, and that other parties represented in Parliament will be consulted.

Hilary Troup
Secretary

Reference: CAB (03) 23; CAB Min (03) 3/2-8

Present:

Rt Hon Helen Clark (Chair)
Hon Dr Michael Cullen
Hon Jim Anderton
Hon Steve Maharey
Hon Phil Goff
Hon Jim Sutton
Hon Trevor Mallard
Hon Pete Hodgson
Hon Margaret Wilson
Hon Parekura Horomia
Hon Lianne Dalziel
Hon Mark Burton
Hon Paul Swain
Hon Marian Hobbs
Hon John Tamihere

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet

Copies to:

Cabinet Business Committee
Chief Executive, DPMC
Mary Anne Thompson, DPMC
Secretary to the Treasury
Chief Executive, Ministry of Economic Development
Secretary of Foreign Affairs and Trade
Secretary for Justice
Director-General of Health
Director-General, Ministry of Agriculture and Forestry (Agriculture)
Chief Executive, Ministry of Research, Science and Technology
Chief Executive, Te Puni Kokiri
Minister for the Environment
Secretary for the Environment
Minister of Conservation
Director-General of Conservation
Chief Parliamentary Counsel
Legislation Coordinator