



PARLIAMENTARY LIBRARY

Te Pātaka Rangahau a Te Whare Pāremata

BILLS DIGEST

Digest No. 1676

Regulatory Improvement Bill 2008

Date of Introduction:	09 September 2008
Portfolio:	Regulatory Reform
Select Committee:	As at 02 April, 1st Reading not held.
Published: 02 April 2009 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of the Bill is to make amendments to nine Acts " ... with the broad policy objectives of improving the regulatory framework and reducing the compliance burden of business"¹.

The Acts to be amended are:

- the Companies Act 1993;
- the Conservation Act 1987;
- the Designs Act 1953;
- the Fisheries Act 1996;
- the Gas Act 1992;
- the Hazardous Substances and New Organisms Act 1996;
- the Ministry of Agriculture and Fisheries (Restructuring) Act 1995;

¹ Regulatory Improvement Bill, 2008 No 298-1, Explanatory note, General policy statement, p. 1.

- the Reserves Act 1977;
- the Weights and Measures Act 1987.

Background

"The Bill is introduced under Standing Order 264(a). Standing Order 264(a) provides that a law reform or other omnibus Bill to amend more than one Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. It is intended that the Bill will be divided into separate Bills at the committee of the whole House stage".

"Overall these initiatives address regulatory duplication, gaps, administrative errors, and inconsistencies between different pieces of legislation that collectively create unnecessary compliance costs and uncertainty for business. In keeping with the scope of the Review they target poor implementation and administration of various regulatory frameworks.

"Individually these changes make small gains to improve the quality of specific regulatory environments. Once consolidated into the Regulatory Improvement Bill these many small gains can make a larger overall impact in removing barriers to economic growth. The choice of the Regulatory Improvement Bill also demonstrates the Government's commitment to promptly addressing regulatory barriers to economic growth and transformation. A single Regulatory Improvement Bill is administratively more efficient to progress uncontroversial but important amendments identified by the Review"².

These amendments were identified as part of the Quality Regulation Review³.

Main Provisions

The Companies Act 1993

Under the Financial Reporting Act 1993 certain companies with overseas ownership are no longer required to file audited financial statements with the Registrar of Companies. However, these companies must appoint an auditor under the Companies Act 1993. Most other companies may, by a unanimous resolution of shareholders, elect not to appoint an auditor.

The Bill puts such companies with overseas ownership in the same position as other companies (*Part 1, Clauses 3 and 4, amending Section 196 of the Companies Act 1993*).

The Conservation Act 1987

Concessions

The Bill provides that permits for concessions may be granted for a term not exceeding 10 years instead of 5. The Bill also provides that a person must not apply for a concession and the Minister must not consider any such application, if the Minister has exercised a power under Section 17ZG(2)(a) of the Conservation Act 1987 to initiate a process that relates to such a concession, and the application would be inconsistent with the process. (*Part 2, Clauses 6 and 8 amending Sections 17R and 17T of the Conservation Act 1987*).

² Regulatory Improvement Bill, 2008 No 298-1, Explanatory note, General policy statement, pp. 1 and 2.

³ http://www.med.govt.nz/templates/ContentTopicSummary___19894.aspx

Licences

The Bill provides that the Minister of Conservation is no longer required to give public notice of the intention to grant a licence with a term (including all renewals) not exceeding 10 years. Instead, the Minister may give public notice if he or she considers it appropriate to do so, having regard to the effects of the licence (*Part 2, Clause 7, amending Section 17T of the Conservation Act 1987*).

The Designs Act 1953

The Bill provides for the restoration of lapsed copyright in a registered design in circumstances where the lapse was a result of a neglect to pay the renewal fee or to make the necessary application (*Part 3, Clause 12 and Clause 13, inserting New Sections 41A-41F into the Designs Act 1953*).

The Fisheries Act 1996

The Bill provides for the chief executive of the Ministry of Fisheries to consider requests from commercial fishers for catch balancing relief provided that set criteria are met and has the effect of allowing inadvertently-incurred deemed value debts to be reviewed (*Part 4, Clause 17 (amending Section 76 of the Fisheries Act 1996) and Clause 18 (Inserting New Sections 76A and 76B into the Fisheries Act 1996)*).

The Gas Act 1992

The Bill clarifies that any regulations and rules that the Gas Industry Company Limited can recommend under Part 4A of the Gas Act 1992 will cover gas used as a feedstock (*Part 5, Clause 20, amending Section 3 of the Gas Act 1992*).

The Hazardous Substances and New Organisms Act 1996

The Bill:

- enables the delegation of technical decision making power by the Environmental Risk Management Authority (ERMA) to the chief executive and other staff of ERMA, or other persons;
- enables applications to import, develop, or field-test non-genetically modified organisms (non-GMOs) in containment to be treated consistently with each other and with applications to import or develop low-risk genetically modified organisms in containment (in terms of rapid assessment of low risk organisms and the discretionary notification of other applications);
- enables applications for conditional release of low-risk non-GMOs to be treated consistently with applications for full release of low-risk non-GMOs;
- allows ERMA the discretion to publicly notify hazardous substance release applications that do not otherwise qualify for rapid assessment under section 28A of the HSNO Act, and the ability to delegate non-notified applications to its chief executive;
- enables test certifiers to issue a conditional test certificate for hazardous substance locations, where on reasonable grounds they consider the non-compliance to be “minor and technical”;
- extends the purposes for which an approved person, now including the New Zealand Fire Service, may search the register of test certificates to include emergency response planning purposes for hazardous substances;
- conflates reassessment and group standard amendments, including a mechanism for minor or technical amendments to group standards;

- empowers Biosecurity New Zealand to recover costs of conditional release compliance and enforcement under the Biosecurity Act 1993;
- removes duplication of reporting requirements in ERMA's statement of intent and annual report and annual monitoring report;
- extends ERMA's power to revoke test certificates, and the grounds for revocation;
- more closely aligns times to lay information for new organism and Biosecurity Act offences, and hazardous substance and Health and Safety in Employment (HSE) Act offences, respectively;
- allows changes to material incorporated by reference to have legal effect on notification in the Gazette;
- recasts the scope of standards that can be incorporated by reference;
- aligns HSE Act and HSNO Act enforcement responsibilities for aerodromes and extends the alignment of HSE and HSNO powers of entry and inspection to all agencies with enforcement responsibilities under both Acts for places of work;
- allows incorporation of material by reference to standards, requirements, or recommended practices of national as well as international organisations (*Part 6, Clauses 22-53, amending Sections 2, 19, 38B, 38C, 40, 45, 53, 59, 62, 63, 82, 82A, 82B, 82C, 96C, 97, 97A, 97B, 117, 141A and repealing Sections 109(2), 147(3) and 148(b) of, and inserting new Sections 38BA, 42C, 63B, 109A and 109B into, the Hazardous Substances and New Organisms Act 1996*).

The Ministry of Agriculture and Fisheries (Restructuring) Act 1995

The Bill removes the penalty regimes applicable under the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 for non-payment of cost recovery levies (*Part 7, Clauses 55 and 56, repealing Sections 18 and 19 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995*).

The Reserves Act 1977

The Bill provides for 10-year (currently 5-year terms only) licences over vested reserves (*Part 8, Clause 61, amending Section 74(4) of the Reserves Act 1977*).

The Weights and Measures Act 1987

The Bill provides for the control of LPG in gaseous form to be only under the Gas Act 1992 only and not also under the Weights and Measures Act 1987 (*Part 9, Clause 64, amending Section 38 of the Weights and Measures Act 1987*).

Copyright: © NZ Parliamentary Library, 2009

Except for educational purposes permitted under the Copyright Act 1994, no part of this document may be reproduced or transmitted in any form or by any means, including information storage and retrieval systems, other than by Members of Parliament in the course of their official duties, without the consent of the Parliamentary Librarian, Parliament Buildings, Wellington, New Zealand.

This document may also be available through commercial online services and may be viewed and reproduced in accordance with the conditions applicable to those services.