

# HSNO LAW REFORM A "COMPREHENSIVE AND CONSISTENT APPROACH..."

**T**he aim of the Hazardous Substances and New Organisms law reform is to provide a comprehensive and consistent approach to the management of all hazardous substances and new organisms. Hazardous substances are presently regulated under the Explosives Act 1957, the Dangerous Goods Act 1974, the Toxic Substances Act 1979, and the Pesticides Act 1979. Some substances regulated under the Animal Remedies Act 1967 are also hazardous.

The importation of new organisms (that is, organisms of a kind not already present in New Zealand) is covered by provisions in the Plants Act 1970 and the Animals Act 1967. The development of genetically modified organisms is not covered by present legislation at all.

The HSNO Bill has now been introduced into Parliament. Submissions to the Select Committee close on February 3, 1995.

## **PART I - PRELIMINARY:**

This Part contains preliminary provisions.

## **PART II - PURPOSE:**

This Part contains the purpose of the Bill and provisions relating to the Treaty of Waitangi.

## **PART III - ENVIRONMENTAL RISK MANAGEMENT AUTHORITY:**

This part establishes a new statutory body, the Environmental Risk Management Authority, to assess and develop controls for the importation, manufacture, development, and release within NZ of hazardous substances and new organisms.

The new body was foreshadowed in Part XIII of the RMA which set up the Hazards Control Commission. It was never formally established and Part XIII of that Act is to be repealed.

## **PART IV - ASSESSMENT OF HAZARDOUS SUBSTANCES AND NEW ORGANISMS:**

This Part provides that the

Environmental Risk Management Authority is to assess all new hazardous substances and new organisms for their suitability for importation, manufacture, development, or release from containment, and approve the importation, manufacture, development, or release from containment if the beneficial effects outweigh the harmful effects, or decline the application in any other case. Approvals may be granted with controls placed on the substance or organism.

New organisms can only be controlled while in containment. Containment is a location or facility where the organism or substance is confined to prevent escape. Hazardous substances will have controls imposed in accordance with their hazardous properties and degree of hazard. Under certain circumstances, hazardous substances and new organisms may be able to be reassessed by the Authority.

There are specific provisions for importation into containment. Those provisions allow limited amounts of a non-approved hazardous substance or a new organism to be imported, manufactured, or developed in containment. The approvals for importation, manufacture, or development in containment are only available for certain purposes. Before any organism or substance approved for importation into containment can be released generally in New Zealand, the Authority must assess that organism or substance for release.

## **PART V - CONTROLS:**

Controls will principally take the form of performance standards prescribed in regulations. Some economic instruments, including transferable permits and environmental user charges, may also be used to control the harmful effects from hazardous substances. Both direct controls and transferable permits will

be included in regulations and put in place by Orders in Council. Environmental user charges will require separate legislative provision.

## **PART VI - INSPECTION, ENFORCEMENT, AND ANCILLARY POWERS:**

The various sector agencies, Ministry of Agriculture and Fisheries, Customs, Occupational Safety and Health Service, Transport, Commerce, Health, and local authorities will enforce the controls. Where the controls are incorporated into their own legislation, their powers under their own Acts will be used. However there are circumstances where the officers of some agencies will be enforcing regulations made under this legislation. Powers of inspection and enforcement are therefore required. Territorial authorities will always use the powers under this legislation to enforce the regulations in public places and dwelling houses.

## **PART VII - APPEALS:**

There are limited rights of appeal in certain circumstances from decisions of the Authority. There is no general appeal from assessment, but only a limited appeal on points of law.

## **PART VIII - EMERGENCIES:**

This Part provides for emergencies involving danger from substances or organisms controlled under this legislation. Provision has been made for restrictions on entering property to be overridden by enforcement officers, fire services, and police for the purposes of dealing with the emergency.

## **PART IX - MISCELLANEOUS PROVISIONS:**

This Part contains regulation-making powers and other miscellaneous provisions.

## **PART X TO XV -**

Transitional Provisions: These Parts contain transitional provisions.

*Ministry for the Environment*