



6 October 2021

The Chair  
Environment Committee  
Parliament Buildings  
WELLINGTON

Email: [en@parliament.govt.nz](mailto:en@parliament.govt.nz)

Dear The Hon Eugenie Sage, MP

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the *Hazardous Substances and New Organisms (Hazardous Substances Assessment) Amendment Bill*.

We trust that even though late, the Committee will find our comments helpful. We do not wish to appear before the Committee.

Yours sincerely

Katherine Rich  
**Chief Executive**



***Hazardous Substances and New  
Organisms (Hazardous Substances  
Assessment) Amendment Bill***

**Submission by the New Zealand Food & Grocery  
Council**

**6 October 2021**

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## NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (**NZFGC**) welcomes the opportunity to comment on the *Hazardous Substances and New Organisms (Hazardous Substances Assessment) Amendment Bill (the Amendment Bill)*.
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports.

### OVERARCHING COMMENTS

3. NZFGC is largely supportive of the amendments in the Amendment Bill in order to improve efficiency and thereby better safeguard people and the environment. Our main concerns are to ensure that the caveats on the provisions do not unnecessarily prevent their use. This is particularly the case in relation to sections 28A(6)(a) and 28A(6)(b).
4. Section 28A(6)(a) prohibits rapid assessments for applications where these will have “significant cultural, economic, environmental, ethical, health, or international effects”. This would seem so broad and ‘significant’ being undefined, that every application could fall within this scope rendering the provision ineffective in delivering any rapid assessments. Section 28A(6)(b) prohibits rapid assessments for applications where these will have “significant effects in an area in which the Authority lacks sufficient knowledge or expertise.” We believe it is not unusual for expertise to be sought in such cases and again this could unnecessarily prevent rapid assessments being undertaken in many areas.
5. NZFGC is particularly supportive of section 76E which provides for the Authority to recognise overseas bodies as international regulators for the purposes of preventing duplicative assessments.
6. In other areas, publishing a notification of decisions without the actual decision detail presents a barrier to transparency and Authority workplans could be broader and more regularly updated than a minimum of once a year.

### DETAILED COMMENTS

#### Part 1 Main amendments

##### 20B Publication of decisions

7. NZGC supports public notification of decisions. Since this will be a notification, we wonder why the decision itself should not be published at the same time. Since the decision is made in writing and already in electronic form, publication, suitably redacted if necessary, would seem reasonable.

##### 20C Reassessments work plan

8. NZFGC supports the development and publication of the EPA’s work plan. We assume this has been done without the need for legislative underpinning for some time and wonder at the need for such detail in primary legislation. We consider this should also cover:
  - assessments in addition to reassessments
  - updating no less than four times a year.
9. A good comparison is the work plan of Food Standards Australia New Zealand (**FSANZ**) at [Work Plan \(foodstandards.gov.au\)](http://www.foodstandards.gov.au) which is updated around once every 6 weeks or

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around eight times a year. This allows for estimated dates to be regularly updated and new work included.

Section 28A amended (Rapid assessment for importation or manufacture of hazardous substances)

10. NZFGC strongly supports the EPA leveraging the work of other reputable overseas regulators. However, we are concerned that new section 28A(6)(a) prohibits rapid assessments for applications where these will have “significant cultural, economic, environmental, ethical, health, or international effects”. This would seem so broad and ‘significant’ being undefined, that every application could fall within this scope rendering the provision ineffective in delivering any rapid assessments. Some definition of ‘significant’ is needed to circumscribe this prohibition to ensure a substantial number proceed as rapid thereby delivering intended benefit.

11. Similarly, we are concerned that new section 28A(6)(b) prohibits rapid assessments for applications where these will have “significant effects in an area in which the Authority lacks sufficient knowledge or expertise.” Except for environmental effects and possibly health effects we do not expect the Authority to be expert in culture, economic or international impacts without contracting in such expertise because these areas are not its core business. A more feasible approach would be to acknowledge areas that the Authority might seek external expertise to assist it in assessment.

Section 53 amended (Applications required to be publicly notified)

12. NZFGC supports the provision.

53AA Notification and consultation for applications under Part 5

13. Section 53AA(3) provides for reassessment without public notification but then in section 53AA(4) requires consultation which could be public at least to some extent. This seems to simply delay the information about reassessment being made available and since this may be to a targeted few, possibly inequitable.

14. Section 53AA(5) limits consultation of non-publicly notified reassessments to those “likely to be directly affected”. This may result in consultation to a targeted few that could be inequitable.

New section 59A inserted (Joint processing and decision making on related applications)

15. NZFGC supports these provisions.

New section 63D inserted (Modified reassessment to align classifications)

16. NZFGC supports these provisions that address reassessments of specific aspects of an approval, non-minor or non-technical or changes a hazard classification or control to provide for international alignment or other consistency.

New section 64A inserted (Temporary restriction of use during reassessment)

17. NZFGC supports temporary restrictions of use during reassessment based on a risk assessment of the substance that substantiates ‘probable or likely danger to human health or safety or the environment from the use of the substance.

New section 76E inserted (Authority may recognise overseas bodies as international regulators)

18. NZFGC supports the Authority recognising overseas bodies as international regulators although 76E(3)(c) relating to whether information from the body is readily accessible. It seems highly likely that information sought by the Authority may not be ‘readily accessible’ especially since there could be considerable commercial-in-confidence

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information involved. The deletion of 'readily' and replacement of 'accessible' with 'available' would seem to make this criteria more achievable.

## **Part 2 Consequential and other amendments**

### Section 2 amended (Interpretation)

19. NZFGC supports the definitions of EPA notice, international regulator and related chemicals or substances.

### Section 3A replaced (Transitional and savings provisions relating to amendments to Act)

20. NZFGC supports the transitional and savings provisions in Schedule 7.

21. NZFGC supports all the remaining consequential amendments (sections 11, 19, 63, 63A, 63C, 65, and 68), repeals (sections 29, 32, 38, 45 and 48), replacement (section 62), amendment (sections 109, 114, and 137) and the amendment and replacement of relevant parts of Schedule 7.