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An Act to restate and reform the law relating to the exclusion, eradication, and effective management of pests and unwanted organisms

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Biosecurity Act 1993.

(2) This Act shall come into force on the 1st day of October 1993.
PART I
PRELIMINARY

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

"Approved" means approved by the Director-General:
"Approved identification" means any method of identifying animals or animal products approved under section 50 of this Act or prescribed under this Act:
"Arrive in New Zealand",—
(a) In relation to an aircraft, means to land (whether or not on land) in New Zealand territory after a flight originating outside New Zealand territory:
(b) In relation to any other craft, means to anchor, berth, or come ashore in New Zealand territory after a voyage originating outside New Zealand territory:
(c) In relation to a person, means to reach land within New Zealand territory after a flight or voyage originating outside New Zealand territory:
"Authorised person" means a person for the time being appointed an authorised person under section 103 of this Act:
"Biosecurity clearance" means a clearance under section 26 of this Act for the entry of goods into New Zealand:
"Biosecurity control area" means a place that is—
(a) Part of a designated port of entry; and
(b) By written agreement with the port's operator, under the control of the Director-General for the purposes of this Act:
"Chief executive" means the head of a Department; and includes a chief executive appointed under the State Sector Act 1988:
"Chief technical officer" means a person appointed a chief technical officer under section 101 of this Act:
"Confine" means to hold in a quarantine facility:
"Consultation" includes actions taken before the enactment of this Act in anticipation of its enactment; and "consult" has a corresponding meaning:
"Containment condition that is still operative", at any time, means a condition of a kind authorised by section 13 (2) (ab) (i) of the Animals Act 1967—
(a) In the case of a condition requiring an organism to be held indefinitely, where the condition has not before that time been revoked; and

(b) In the case of a condition requiring an organism to be held for a specified period, where the period has not before that time expired; and

(c) In the case of a condition requiring an organism to be held until the happening of a specified event, where the event has not before that time happened:

"Containment facility" means a place so designated under section 39 of this Act:

"Controlled area" means an area for the time being declared under subsection (2) of section 131 of this Act to be an area that is controlled for the purposes of that section:

"Conveyance" includes any craft, truck, cargo container, horse-box, wagon, cart, dray, cage, kennel, or vehicle that is or has been used for the conveyance of, or has come into contact with, any organism or organic material:

"Costs and benefits" includes costs and benefits of any kind, whether monetary or non-monetary:

"Craft" includes any aircraft, ship, boat, or other machine or vessel used or able to be used for the transportation of people or goods, or both, by air or sea:

"Department" has the same meaning as in the State Sector Act 1988:

"Designated port of entry" means a port that is for the time being designated under section 37 (1) of this Act an approved place of first arrival for craft arriving in New Zealand:

"Director-General" means the chief executive of the Ministry:

"Environment" includes—

(a) Ecosystems and their constituent parts, including people and their communities; and

(b) All natural and physical resources; and

(c) Amenity values; and

(d) The aesthetic, cultural, economic, and social conditions that affect or are affected by any matter referred to in paragraphs (a) to (c) of this definition:

"Exclusive economic zone" means the zone of that name described in section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977:
“Goods” means all kinds of moveable personal property: “Import”, subject to section 4 of this Act, means bring within New Zealand territory from outside that territory; and “imported” has a corresponding meaning: “Import health permit” means a permit under section 20 (1) of this Act; and, in relation to any risk goods, means an import health permit issued in respect of those goods, or in respect of risk goods of a kind or description to which those goods belong: “Import health standard” means a statement approved under section 22 (1) of this Act by a chief technical officer of the conditions that must, if an import is to be made, be met in the country of origin or export, during transit, during importation and quarantine, and after introduction: “Inspector” means a person who is appointed an inspector under section 103 of this Act: “Local authority” means a regional council or territorial authority: “Management agency” means the Department, authority, or body corporate specified in a pest management strategy as the agency given the task of implementing the strategy: “Marae” includes the area of land on which all buildings such as the wharenui (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings are situated: “Minister” means a Minister of the Crown; and,— (a) In relation to a national pest management strategy, means the Minister who recommended the making of the order under section 68 of this Act approving it; and (b) In relation to a proposed national pest management strategy, means the Minister who, as the case requires, is proposing it or has been asked or required to notify it: “Ministry” means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act: “Natural resources” means— (a) Organisms of all kinds; and (b) The air, water, and soil in or on which any organism lives or may live; and (c) Landscape and land form; and
(d) Geological features; and
(e) Systems of interacting living organisms and their environment:

“New Zealand territory” means the territory enclosed by the outer limits of the territorial sea (as described in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977):

“Occupier”,—

(a) In relation to any place physically occupied by any person, means that person; and
(b) In relation to any other place, means the owner of the place; and
(c) In relation to any place, includes any agent, employee, or other person, acting or apparently acting in the general management or control of the place:

“Organic material”, subject to subsection (2) of this section, means any material that is or contains—

(a) Material derived from an organism; or
(b) An excretion or secretion of an organism,—

(whether or not it also contains material derived from a human being or contains the secretions of a human being):

“Organism”—

(a) Does not include a human being or a genetic structure derived from a human being:
(b) Includes a micro-organism:
(c) Subject to paragraph (a) of this definition, includes a genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of an entity):
(d) Includes an entity (other than a human being) declared by the Governor-General by Order in Council to be an organism for the purposes of this Act:
(e) Includes a reproductive cell or developmental stage of an organism:

“Other department” means a department of State other than the Ministry:

“Other Minister” means a Minister other than the responsible Minister:
“Person” includes the Crown, a corporation sole, and a body of persons (whether corporate or unincorporate):

“Pest” means an organism specified as a pest in a pest management strategy:

“Pest agent”, in relation to any pest, means any organism capable of—
(a) Helping the pest replicate, spread, or survive; or
(b) Interfering with the management of the pest:

“Pest management strategy” and “strategy” mean a strategy, approved under Part V of this Act, for the management or eradication of a particular pest or pests:

“Place” includes any building, conveyance, craft, land, or structure, and the bed and waters of the sea and any canal, lake, pond, river, or stream:

“Port” includes an airport, anchorage, harbour, and wharf:

“Prescribed” means prescribed by regulations made under this Act:

“Principal officer” means the principal administrative officer of a regional council; and—
(a) In relation to a regional council, means the principal officer of that council; and
(b) In relation to a region, means the principal officer of the region’s regional council;— and includes an acting principal officer:

“Quarantine area” means a place so designated under section 41 of this Act:

“Quarantine facility” means a place so designated under section 39 of this Act:

“Reasonable charge” means a charge calculated by the Director-General having regard to the direct and indirect costs of performing the activity concerned:

“Region”, in relation to a unitary authority, means the region in respect of which it has the functions, duties, and powers of a regional council:

“Regional council” includes the Chatham Islands County Council and a unitary authority:

“Regulations” means regulations made under this Act:

“Responsible Minister” means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:
“Restricted organism” means an organism (not being uncleared goods) for which a permit under section 13 of the Animals Act 1967 has been issued subject to a containment condition that is still operative; and includes—

(a) Any organism that is the progeny, of any generation, of any restricted organism (whether or not the restricted organism from which the progeny is descended is still living); and

(b) A reproductive cell or developmental stage of a restricted organism:

“Restricted place” means any premises that an inspector or an authorised person has declared to be a restricted place under section 130 of this Act:

“Risk goods” means any organism, organic material, or other thing or substance, that (by reason of its nature or origin) it is reasonable to suspect to constitute, contain, or otherwise pose a risk that its presence in New Zealand will result in—

(a) Exposure of organisms in New Zealand to damage, disease, loss, or harm; or

(b) Interference with the diagnosis, management, or treatment, in New Zealand, of pests or unwanted organisms:

“Territorial authority” has the same meaning as in section 2 (1) of the Local Government Act 1974:

“Transitional facility” means a place—

(a) That is a biosecurity control area; or

(b) That is a quarantine facility or quarantine area; or

(c) That is under the control of New Zealand Post Limited, and (by agreement between an inspector and that company) used, for the purposes of this Act, for opening and examining the contents of mail that has arrived in New Zealand from outside New Zealand; or

(d) In relation to any uncleared goods, that is a place to which an inspector has authorised those goods to proceed—

(i) For processing; or

(ii) For holding pending processing; or

(iii) For holding pending clearance; or

(e) Where approved means of destroying or treating risk goods are situated:
“Treatment” means the application to any thing of any approved method, or approved combination of methods, intended to reduce to an approved extent the risk of introduction or spread of any pest or unwanted organism suspected to be present in the thing:

“Unauthorised goods” means any goods that are—
(a) Uncleared goods in a place that is not a transitional facility (other than goods that, with the authority of an inspector, are—
(i) Proceeding from one transitional facility to another; or
(ii) Being exported from New Zealand); or
(b) Uncleared goods that are in a transitional facility to which those goods proceeded, without the authority of an inspector, from some other transitional facility, and have not later received the authority of an inspector to remain there; or
(c) A restricted organism in a place that is not a containment facility (other than an organism that—
(i) With the authority of an inspector, is proceeding, from the transitional facility where a biosecurity clearance was given for it, to its containment facility or another transitional facility; or
(ii) With the authority of an inspector, is proceeding, from that facility or a transitional facility to which it has proceeded with the authority of an inspector, to a place that is a transitional facility, that containment facility, or a new containment facility; or
(iii) Is in a transitional facility to which it has proceeded with the authority of an inspector; or
(iv) With the authority of an inspector, is being exported from New Zealand); or
(d) A restricted organism that is in a containment facility to which it proceeded without the authority of an inspector, and has not later received the authority of an inspector to remain there:

“Uncleared goods” means imported goods for which no biosecurity clearance has been given:

“Unitary authority” means a territorial authority that, by virtue of section 37N (1) of the Local Government Act
1974, has the functions, duties, and powers of a regional council in respect of a region under its control:

“Unwanted organism” means any organism that a chief technical officer believes is capable or potentially capable of causing unwanted harm to any natural resources:

“Working day” means any day except—

(a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and

(b) A day in the period commencing on the 20th day of December in any year and ending with the 15th day of January in the following year.

(2) No goods are an organic material by virtue only of being or containing cardboard, coal, paper, petroleum oil, or a substance derived from coal or petroleum oil.

(3) For the purposes of this Act any organism may be specified, whether in a pest management strategy or for any other purpose, by reference to—

(a) Its scientific name; or

(b) The name of a disease it causes; or

(c) Both.

(4) Parts IV to VI of this Act shall apply to pest agents as if they are pests.

3. Application of Act to syndromes of uncertain origin—

(1) This subsection applies to a syndrome if—

(a) The scientific community generally accepts that—

(i) It is probably caused by an organism; but

(ii) There is no satisfactory proof that it is in fact caused by an organism; or

(b) The scientific community generally accepts that—

(i) It is caused by an organism; but

(ii) There is no satisfactory evidence available as to the identity or nature of the organism causing it.

(2) This Act shall have effect as if every syndrome to which subsection (1) of this section applies is in fact caused by an organism, which may be specified (in a pest management strategy or for any other purpose) by reference to the name generally accepted by the scientific community for that syndrome.

(3) In this section, “syndrome” means a group of characteristic symptoms, behaviours, or symptoms and
behaviours, generally recognised by the scientific community as proceeding or being likely to proceed from a single cause.

4. Application of Act to fish and mammals taken in exclusive economic zone—This Act shall have effect in relation to fish (within the meaning of section 2 of the Fisheries Act 1983) and marine mammals (within the meaning of section 2 of the Marine Mammals Protection Act 1978),—
   (a) Taken in the exclusive economic zone; and
   (b) Carried on board a foreign licensed vessel, a vessel registered under the Fisheries Act 1983, or a vessel operated by the Crown,— as if they are not imported goods.

5. Act binds the Crown—Except as is provided in section 87 of this Act, this Act binds the Crown.

6. Land deemed to include parts of boundary roads—
   (1) Where any land adjoins a road,—
      (a) That land shall, for the purposes of this Act, be deemed to include every portion of that road bounded by—
         (i) A portion of the boundary of that land abutting that road; and
         (ii) Lines extended from the end of that portion of boundary to the middle line of the road; and
         (iii) The middle line of the road connecting those extended lines; and
      (b) Any person required or authorised by or under this Act (or by or under any pest management strategy) to do anything on or in relation to the land shall be deemed to be required or (subject to subsection (2) of this section) authorised to do that thing on that portion of the road.

   (2) Nothing in subsection (1) (b) of this section authorises any person to damage any road.

7. Relationship with other enactments—(1) Except to the extent that those enactments are expressly amended by section 166 (1) of this Act, this Act shall not be construed so as to affect or derogate in any way from the provisions of the Soil Conservation and Rivers Control Act 1941, the Forests Act 1949, the Wildlife Act 1953, the Health Act 1956, the Animals Protection Act 1960, the Customs Act 1966, the Wild Animal Control Act 1977, the Reserves Act 1977, the National Parks Act 1980, the Fisheries Act 1983, the Conservation Act 1987,

(2) The provisions of this Act in so far as they relate to risk goods shall not be construed to take precedence over—
   (a) The powers provided under the Customs Act 1966 in relation to goods (as defined in section 2 of that Act); or
   (b) The powers provided under the Misuse of Drugs Act 1975 in relation to any controlled drug (as defined in section 2 (1) of that Act).

PART II
FUNCTIONS, POWERS, AND DUTIES

Ministers

8. Responsibilities of responsible Minister—(1) In addition to being responsible for the administration of this Act, the responsible Minister has responsibility for—
   (a) Providing for the co-ordinated implementation of this Act;
   (b) Recording and co-ordinating reports of suspected new organisms:
   (c) Managing appropriate responses to such reports.

(2) Section 9 of this Act does not limit or affect the generality of subsection (1) of this section.

9. Powers and duty of responsible Minister—(1) The responsible Minister has power to—
   (a) Perform, in relation to national pest management strategies,—
      (i) That the responsible Minister has proposed under section 56 of this Act; or
      (ii) That some other person has under section 58 (1) of this Act asked or required the responsible Minister to notify,—
      the functions specified in section 10 of this Act:
   (b) Exempt risk goods under section 24 of this Act from the requirement to have an import health permit:
   (c) Recommend the making of Orders in Council under section 90 of this Act:
   (d) Direct the forfeiture of organisms and organic material under section 134 (3) of this Act:
   (e) Recommend to the Governor-General under section 137 (1) of this Act the making of Orders in Council imposing levies:
(f) Take action under sections 144, 145, 147, and 148 (1) of this Act in relation to biosecurity emergencies:

(g) Recommend to the Governor-General under section 150 (1) of this Act the making of biosecurity emergency regulations:

(h) Take provisional control action under section 152 (1) of this Act:

(i) Extend under subsection (2) of section 152 of this Act the period for which provisional control action under subsection (1) of that section may be taken:

(j) Recommend to the Governor-General under section 165 of this Act the making of regulations:

(k) Issue codes of practice under this Act.

(2) The responsible Minister has the duty of laying biosecurity emergency regulations before the House of Representatives under section 150 (5) of this Act.

(3) The responsible Minister shall not delegate to any person the exercise of any of the powers specified in paragraphs (c), (e), (g), (i), (j), and (k) of subsection (1) of this section.

10. Functions of Ministers in relation to proposed national pest management strategies—(1) Any Minister who proposes a national pest management strategy under section 56 of this Act, or has been asked or required under section 58 (1) of this Act to notify a proposal for a national pest management strategy, has the function of—

(a) Publicly notifying the proposed strategy under section 62 (1) of this Act:

(b) Deciding under section 63 of this Act whether to appoint boards of inquiry to inquire into and report on proposed national pest management strategies:

(c) Where this Act requires the appointment of a board of inquiry to inquire into and report on the proposed strategy,—

(i) Appointing the board under section 63 (1) of this Act:

(ii) Causing under section 67 (3) of this Act copies of the report, and all recommendations (if any), on the proposed strategy made to the Minister by the board under section 67 (2) of this Act to be sent to every person who made a submission to the board, and every other person or body the Minister thinks appropriate, and to be published:
(iii) Causing public notice to be given under section 67 (3) of this Act of where and how persons can obtain copies of the report and recommendations:

(iv) Considering under section 69 (1) (a) (i) of this Act the report made by the board under section 67 (2) of this Act on the proposed strategy:

(d) Considering whether or not to recommend to the Governor-General under section 68 of this Act the making of an order approving the strategy concerned, and if so, doing so:

(e) If an order under section 68 of this Act has been made approving the proposed strategy,—

(i) Laying a copy before the House of Representatives under section 70 of this Act; and

(ii) Appointing a management agency in respect of the strategy under section 84 (4) of this Act; and

(iii) Reviewing the strategy under subsection (2) or subsection (3) of section 88 of this Act; and

(iv) Under section 88 (6) of this Act, extending, extending in an amended form, or revoking the strategy.

(2) No Minister shall delegate to any person the performance of any of the functions specified in paragraphs (c) (i), (d), and (e) of subsection (1) of this section.

11. Other powers of Ministers under Part V—(1) Any Minister has power to—

(a) Disallow under section 85 (4) of this Act proposals contained in operational plans; and

(b) Undertake small-scale management of unwanted organisms under section 100 of this Act.

(2) A Minister shall not delegate to any person the exercise of the power specified in subsection (1) (b) of this section.

12. Responsible Minister may require information—

(1) The responsible Minister may ask any regional council or management agency to give the responsible Minister, in a form the responsible Minister specifies, any information relating to the exercise or performance of any of its functions, powers, or duties under this Act or under any pest management strategy—

(a) In the possession of the council or agency; or

(b) Capable of being obtained by the council or agency without unreasonable difficulty or expense,—

that the responsible Minister reasonably requires.
(2) A regional council or management agency shall give the responsible Minister any information the responsible Minister has asked for under subsection (1) of this section as soon as is reasonably practicable after being asked to do so.

Local Authorities

13. **Powers of regional councils**—Every regional council has, in relation to its region, power to—

(a) Cause to be carried out, for the purposes of Part V of this Act,—

(i) Monitoring to determine whether or not there are present; and

(ii) Surveillance of,—

pests, pest agents, and unwanted organisms:

(b) Provide, in accordance with relevant pest management strategies, for the assessment, and management or eradication, of pests:

(c) Propose, notify, approve, and implement pest management strategies:

(d) If a regional pest management strategy proposed or notified by the council has been approved under section 80 (3) of this Act,—

(i) Appoint a management agency in respect of the strategy under section 84 (4) of this Act:

(ii) Review the strategy under subsection (2) or subsection (3) of section 88 of this Act:

(iii) Under section 88 (7) of this Act, extend, extend in an amended form, or revoke the strategy:

(e) Be, and carry out the functions of, the management agency under any pest management strategy:

(f) Undertake small-scale management of unwanted organisms under section 100 of this Act:

(g) Gather information, keep records, undertake research, or do any other similar thing, if doing so is necessary or desirable to enable it to act effectively under this Act:

(h) Take any action contemplated by or necessary for giving effect to any provision of this Act.

14. **Powers of territorial authorities**—Every territorial authority has power to—

(a) Take any action any natural person could take under Part V of this Act:

(b) Act as a management agency under a pest management strategy:
(c) Take any action provided for or required by any pest management strategy:

(d) With the agreement of the management agency of a pest management strategy, act in the implementation of the strategy:

(e) Gather information, keep records, undertake research, or do any other similar thing, if doing so is necessary or desirable to enable it to act effectively under this Act:

(f) Perform or exercise any function, power, or duty whose performance or exercise is for the time being transferred to it under section 15 of this Act:

(g) Perform or exercise any other function, power, or duty conferred on it by this Act.

15. Transfer of powers, etc., by local authorities—

(1) Subject to subsections (2) and (3) of this section, a local authority that has an operation under this Act (in this section referred to as the transferor) may transfer the performance of the operation to another local authority (in this section referred to as the transferee), if—

(a) It has used the special consultative procedure specified in section 716A of the Local Government Act 1974; and

(b) In the case of an operation under or relating to a national pest management strategy, before using that procedure it has served notice on the Minister of its intention to do so; and

(c) In the case of an operation under or relating to a regional pest management strategy,—

(i) It is a regional council, and no other regional council is involved in the plan; or

(ii) Before using that procedure it has served notice on every regional council involved in the plan (other than itself, if it is a regional council) of its intention to do so; and

(d) It agrees with the transferee that the transfer is desirable on the grounds of—

(i) Efficiency; and

(ii) Technical or special capability or expertise on the part of the transferee,—

transfer the operation to the transferee by (and subject to any terms and conditions contained in) a written agreement with the transferee.
(2) The transferor shall not transfer—
(a) The performance of the function of proposing or approving any regional pest management strategy under Part V of this Act; or
(b) The exercise of the power of transfer conferred by subsection (1) of this section.
(3) The agreement shall contain provisions dealing with the revocation and relinquishment of the transfer; and
(a) The transferor may change or revoke the transfer; and
(b) The transferee may relinquish the transfer, accordingly.
(4) While the operation remains transferred to the transferee,—
(a) The transferee's functions, powers, and duties shall be deemed to be extended to the extent necessary to enable it to undertake the operation; but
(b) The transferor shall continue to be responsible for the operation.
(5) In this section—
“Operation” means a function, power, or duty:
“Perform” includes exercise.

PART III
IMPORTATION OF RISK GOODS

16. Purpose of Part III—The purpose of this Part of this Act is to provide for the effective management of risks associated with the importation or introduction of risk goods.

Arrival of Craft

17. Notice of intended arrival of craft in New Zealand—(1) The person in charge of any craft proceeding to New Zealand territory from outside New Zealand territory shall, unless there are reasonable grounds for not doing so,—
(a) Give the Director-General notice of when and where, approximately, the craft will enter New Zealand territory, and—
(i) The designated port of entry where it is intended that the craft will first arrive in New Zealand; or
(ii) If it is impossible or impracticable to proceed to any designated port of entry, the destination where it is intended that the craft will first arrive in New Zealand; and
(b) Proceed directly to, and arrive in New Zealand at, that port or destination.
(2) Where—
(a) Any person in charge of any craft has given the Director-General notice under subsection (1) of this section or this subsection; and
(b) The craft has not arrived in New Zealand since the notice was given; and
(c) The person learns that it is impossible or impracticable to proceed to the designated port of entry or destination notified,—
the person shall, unless there are reasonable grounds for not doing so,—
(d) Give the Director-General notice of where, approximately, the craft is, and—
(i) Notice of a designated port of entry where it is now intended that the craft will first arrive in New Zealand, if it is possible and practicable to proceed to such a port; or
(ii) Notice of the destination where it is now intended that the craft will first arrive in New Zealand, if it is impossible or impracticable to proceed to any designated port of entry; and
(e) Proceed directly to, and arrive in New Zealand at, that port or destination.

18. Arrival of craft in New Zealand—(1) The person in charge of any craft that arrives at a place in New Zealand—
(a) Shall, if—
(i) The person has not notified the Director-General under section 17 of this Act; or
(ii) The place is not the port or destination notified (or, as the case may be, last notified) under section 17 of this Act,—
give the Director-General notice of where and (approximately) when the craft arrived; and
(b) Shall prevent risk goods from leaving the craft without the permission of an inspector.
(2) The person in charge of any such craft shall, if so required by an inspector, pay a bond for such amount not exceeding $10,000 as the inspector may require to secure due compliance with subsection (1) (b) of this section.

Cf. 1967, No. 50, s. 18

19. Persons in charge of certain craft to obey directions of inspector or authorised person—(1) This section applies to a craft, and place in New Zealand, if—
(a) The craft arrives in New Zealand there; or
(b) The craft is carrying risk goods that it was carrying when it arrived in New Zealand at some other place.

(2) Where this section applies to a craft and place, the person in charge of the craft shall—
(a) Obey every reasonable direction given by an inspector as to—
   (i) The movement of the craft in the place; or
   (ii) The unloading or discharge of risk goods or the disembarkation of crew or passengers from the craft; or
   (iii) Measures (including any bond required under section 18 (2) of this Act) to ensure that any risk goods not intended to be unloaded or discharged from the craft are maintained in a secure place under the control of that person; and
(b) Within the required time or times, deliver to an inspector a report, in such manner and form, and containing such particulars verified by declaration, and with such supporting documents, as may be required; and
(c) Answer all questions relating to the craft or its cargo, crew, passengers, stores, or voyage, asked by an inspector;

and every person disembarking from the craft shall, on request by an inspector, make his or her baggage available for inspection by the inspector.

Import Health Permits

20. Import health permits—(1) Subject to section 21 of this Act, the Director-General shall issue to any person who applies to the Director-General for it a health permit for the purposes of the importation of any risk goods from any country.

(2) An import health permit—
(a) May be issued unconditionally, or subject to any conditions the Director-General thinks fit;
(b) May relate to—
   (i) A single importation; or
   (ii) A number of importations specified in it; or
   (iii) Any number of importations, until a condition or day specified in it is fulfilled or reached; or
   (iv) Unlimited importation:
(c) Without the prior written consent of the Director-General,—
   (i) Is not transferable; and
(ii) Cannot pass by operation of law.

(3) The issue or possession of an import health permit does not limit or affect section 27 or section 28 of this Act, or any requirement or restriction imposed by the Animals Act 1967, the Apiaries Act 1969, or the Plants Act 1970, or by any enactment passed in substitution for any of those Acts or for any provision of any of those Acts.

Cf. 1967, No. 50, s. 13

21. Criteria for issue of import health permits—(1) The Director-General shall not issue an import health permit in respect of any risk goods (or risk goods of any kind or description) proposed to be imported from any country unless there is in force an import health standard issued under section 22 of this Act in respect of risk goods of the kind or description to which those goods belong (or risk goods of that kind or description) and the country from which they are to be imported.

(2) In determining whether to issue an import health permit in respect of any risk goods (or risk goods of any kind or description) proposed to be imported from any country, the Director-General shall have regard to the following matters:

(a) The likelihood that risk goods of the kind or description to which those goods belong (or risk goods of that kind or description) may bring unwanted organisms into New Zealand:

(b) The nature and possible effect (on people, the New Zealand environment, and the New Zealand economy) of any unwanted organisms that risk goods of the kind or description to which those goods belong (or risk goods of that kind or description) may bring into New Zealand:

(c) New Zealand's international obligations:

(d) Any other matters the Director-General thinks relevant.

Cf. 1967, No. 50, s. 13

22. Import health standards—(1) The Director-General may, on the recommendation of a chief technical officer, issue an import health standard relating to risk goods of a specified kind or description imported from a specified country, specified countries, or countries of a specified kind or description; and may amend or revoke any import health standard.

(2) The Director-General shall maintain a register of the import health standards for the time being issued under
subsection (1) of this section, and of the amendments to all such standards.

(3) The register shall be available for public information and inspection at the office of the Director-General—
(a) During normal office hours; and
(b) Upon payment of a reasonable charge (if any).

23. Revocation and variation of import health permits—(1) The Director-General may revoke or vary an import health permit at any time on any of the following grounds:
(a) A change in the circumstances of the proposed importation so far as they relate to any of the matters referred to in section 21 (2) of this Act:
(b) The provision of false or misleading information in the application for the permit:
(c) The receipt by the Director-General of further information that requires that the application should be reconsidered in the public interest.

(2) Before revoking or varying a permit under this section, the Director-General shall inform the holder of the permit of the action the Director-General has under consideration and give the holder a reasonable opportunity to make representations.

(3) Where any decision is made under this section by any person acting under the delegated authority of the Director-General, the holder of the permit shall be entitled to have the decision reviewed by the Director-General, or by a person designated by the Director-General who was not involved in the making of the decision.

(4) Notwithstanding subsection (2) of this section, if the Director-General has reasonable grounds to believe that the circumstances necessitate action to be taken urgently with regard to the revocation or variation of the permit, the Director-General may revoke or vary the permit without taking the preliminary action otherwise required by subsection (2) of this section.

(5) If the Director-General revokes or varies a permit under this section, the Director-General shall give notice of the revocation or variation to the holder of the permit.

Cf. 1967, No. 50, s. 13

24. Exemptions from requirement for import health permit—(1) After taking into consideration the matters referred to in section 21 (2) of this Act, the Minister may by
notice in the Gazette exempt from the requirement to have an import health permit risk goods of a specified kind or description imported from a specified country, or for a specified purpose or destination in New Zealand.

(2) The Minister may grant an exemption under this section subject to such conditions as the Minister thinks fit which may take effect before or after importation.

(3) The Minister may at any time, by notice in the Gazette, revoke or vary an exemption under this section; but in the case of a variation, the notice shall specify whether the Minister considers the variation significant.

(4) The Minister shall review every exemption granted under this section not later than 5 years after the most recent of the following events:

(a) The granting of the exemption;
(b) The publication of a notice in the Gazette—
   (i) Varying the exemption; and
   (ii) Specifying that the Director-General considered the variation significant;
(c) The completion of a review of the exemption under this subsection.

(5) The Director-General shall maintain a register of exemptions granted under this section which shall be available at the office of the Director-General for public information and inspection during normal office hours on payment of a reasonable charge.

Clearance of Risk Goods

25. Risk goods to be cleared for entry into New Zealand—(1) No person shall cause or permit any uncleared goods imported on any craft to leave that craft, except to proceed to a transitional facility.

(2) No person shall cause or permit any uncleared goods that are in a transitional facility to leave that facility, except—

(a) To proceed, with the authority of an inspector, to another transitional facility; or

(b) With the authority of an inspector, to be exported from New Zealand.

26. Clearances—Subject to sections 27 and 28 of this Act, any inspector may give a clearance for the entry into New Zealand of any goods.
27. Inspector to be satisfied of certain matters—An inspector shall not give a biosecurity clearance for any goods unless satisfied that the goods are not risk goods; or satisfied—

(a) That—

(i) There is in force an import health permit in respect of the goods (or goods of a kind or description to which the goods belong), and the goods comply with the requirements of that permit and the associated import health standard; or

(ii) The goods comply with the requirements of an exemption under section 24 of this Act; or

(iii) The goods comply with regulations made under this Act providing for the importation without an import health permit of goods of a kind or description to which those goods belong; and

(b) That there are no discrepancies in the documentation accompanying the goods (or between that documentation and those goods) that suggest that it may be unwise to rely on that documentation; and

(c) In the case of an organism, that the goods display no symptoms that may be a consequence of harbouring unwanted organisms; and

(d) That the goods display no signs of harbouring organisms that may be unwanted organisms; and

(e) There has been no recent change in circumstances, or in the state of knowledge, that makes it unwise to issue a clearance.

28. Restrictions on giving clearances—(1) An inspector shall not give a biosecurity clearance for goods that are or contain—

(a) An animal of a kind specified in section 14 of the Animals Act 1967 immediately before the commencement of this Act; or

(b) A reproductive cell or developmental stage of such an animal; or

(c) A plant of a kind specified in the Second Schedule to the Introduction and Quarantine of Plants Regulations 1973 immediately before the commencement of this Act; or

(d) A reproductive cell or developmental stage of such a plant.

(2) An inspector shall not give a biosecurity clearance for goods that are or contain an animal not established in New Zealand, or a reproductive cell or developmental stage of such
an animal, unless there is in force in respect of those goods a permit under section 13 of the Animals Act 1967.

(3) An inspector shall not give a biosecurity clearance for goods that are or contain a plant not established in New Zealand, or a reproductive cell or developmental stage of such a plant, unless the Director-General has approved the clearance of such goods (or goods of a kind or description that includes such goods).

(4) Subsections (1A) and (1B) of section 13 of the Animals Act 1967 shall apply to the approval by the Director-General of the clearance of goods for the purposes of subsection (3) of this section as if—

(a) Every reference in those subsections to an import permit is a reference to such an approval; and

(b) Every reference in those subsections to the Minister is a reference to the Director-General; and

(c) Every reference in those subsections to animal health is a reference to animal and plant health; and

(d) Subject to paragraph (c) of this subsection, every reference in those subsections to an animal or animals is a reference to the plant or plants concerned.

29. Restricted organisms to be contained—No person shall cause or permit any restricted organism that is in a transitional facility or a containment facility to leave that facility, except—

(a) To proceed, with the authority of an inspector, to a transitional facility or a containment facility; or

(b) With the authority of an inspector, to be exported from New Zealand.

Inspections, Declarations, etc.

30. Uncleared imports—(1) An inspector may require people arriving in New Zealand—

(a) To make declarations in a specified manner as to whether they have any specified goods in their possession as part of their personal effects or baggage; and

(b) To surrender to an inspector control of any uncleared imported risk goods to enable them to be disposed of in accordance with this Act.

(2) Every person arriving in New Zealand shall permit any inspector to inspect and examine any specified goods in his or her possession as part of his or her personal effects or baggage,
and afford to the inspector all reasonable facilities and assistance in carrying out the inspection and examination.

Cf. 1967, No. 50, s. 22

31. Boarding of craft—(1) Subject to subsection (2) of this section, an inspector may, for the purpose of ascertaining the presence of risk goods, require the person in charge of any craft within New Zealand territory to—
   (a) Bring the craft to for boarding on being so directed by an inspector; and
   (b) By all reasonable means, facilitate the boarding of the craft by an inspector.
(2) A craft carrying an inspector who gives a direction under this section must be clearly identifiable as being a craft in the service of the Crown.

32. Powers relating to craft—(1) Subject to subsection (2) of this section, any person who has the power under any provision in this Act to enter any craft and who has reasonable grounds to suspect that a craft in New Zealand territory contains any unwanted organism may direct the master or other person in charge of the craft to—
   (a) Move it to and stop it at any place within New Zealand territory; or
   (b) Move it and keep it outside New Zealand territory; or
   (c) Take any specified action on or in respect of the craft.
(2) Before exercising a power conferred by subsection (1) of this section, the person who proposes to exercise the power shall consult the chief executives of—
   (a) The Customs Department; and
   (b) The Ministry of Forestry.

33. Risk goods on board craft—(1) Where there are any risk goods on board a craft that has entered New Zealand territory from outside New Zealand territory, an inspector may direct the master or other person in charge of the craft to take (as the master or person thinks fit) 1 of the following steps:
   (a) Deal with the goods in a manner specified by the inspector while the craft is in New Zealand territory; or
   (b) Move the craft outside New Zealand territory (immediately, or within a period specified by the inspector); or
   (c) Destroy the goods in a place and manner approved by the inspector for the purpose.
(2) Subject to subsection (3) of this section, where the master or person in charge of a craft fails or refuses to comply with a direction under subsection (1) of this section, any inspector may—

(a) Direct the master or other person in charge of the craft to move the craft outside New Zealand territory (immediately, or within a period specified by the inspector); or

(b) Seize and destroy the risk goods concerned.

(3) Where—

(a) An inspector gives a direction under subsection (1) of this section in respect of goods of a particular kind or description on board a craft of a particular kind or description; and

(b) There are for the time being in force under this Act regulations prescribing the manner in which risk goods of that kind or description should be dealt with while on board a craft of that kind or description,—

compliance with those regulations shall be deemed to be a sufficient compliance with the direction.

(4) Nothing in this section limits or affects the generality of section 32 of this Act.

34. Disembarkation—(1) For the purpose of ascertaining the presence of or controlling any risk goods, a person on board a craft that has arrived in New Zealand shall obey every reasonable direction given to the person concerning disembarkation—

(a) By an inspector; or

(b) On the direction of an inspector, by the person in charge of the craft or a crew member of the craft.

(2) Unless otherwise directed by an inspector, every person arriving in New Zealand shall—

(a) Go directly to a biosecurity control area; and

(b) Remain there for such reasonable time as an inspector may require to ascertain the presence of any risk goods.

(3) This subsection applies to a person and a biosecurity control area if the person is required by subsection (2) of this section to go directly to the biosecurity control area and remain there for such reasonable time as an inspector may require to ascertain the presence of any risk goods.

(4) An inspector, and any person the inspector calls to the inspector's assistance, may use such force as is reasonably necessary to—
(a) Compel to go to the biosecurity control area concerned a person to whom subsection (3) of this section applies who has been directed by the inspector to go directly there; but—
   (i) Has failed or refused to do so within a reasonable time of being so directed; or
   (ii) Has attempted to go instead to some other place; or
(b) Detain in the biosecurity control area concerned a person to whom subsection (3) of this section applies who—
   (i) Has been required by the inspector to remain there for a reasonable time to ascertain the presence of any risk goods; but
   (ii) Has attempted to leave the biosecurity control area in contravention of the requirement; or
(c) Stop, return to, and detain in the biosecurity control area concerned a person to whom subsection (3) of this section applies who has gone to the biosecurity control area, and—
   (i) Has been required by the inspector to remain there for a reasonable time to ascertain the presence of any risk goods; but
   (ii) Has left the biosecurity control area in contravention of the requirement; or
(d) Stop, return to, and detain in the biosecurity control area concerned a person to whom subsection (3) of this section applies who has gone to the biosecurity control area, but left before the inspector has—
   (i) Required the person to remain there; or
   (ii) Had a reasonable time to ascertain the presence of any risk goods.

(5) Every person who has disembarked from a craft that has arrived in New Zealand, whether or not the person boarded the craft in New Zealand, shall make his or her accompanying baggage available for inspection by an inspector.

Cf. 1967, No. 50, s. 22

35. Duties of people in biosecurity control areas—Every person who is at any time in a biosecurity control area shall, for the purposes of this Part of this Act,—

(a) Obey any reasonable direction of an inspector in relation to risk goods; and

(b) Answer all questions asked by an inspector that are necessary for the inspector to ascertain the presence, nature, origin, or itinerary of any risk goods; and
(c) Make available for examination by an inspector any goods in his or her possession or under his or her immediate control so that the inspector may ascertain the presence of risk goods.

Cf. 1967, No. 50, s. 22

86. Movement of risk goods—Any person who moves or wants to move risk goods within a controlled area shall comply with all reasonable directions given to that person by an inspector concerning the movement of those goods.

87. Designation of ports—(1) Subject to subsection (7) of this section, if satisfied that—

(a) There are available, and capable of operating to approved standards at no expense to the Crown, all arrangements, facilities (other than office and parking facilities), and systems that the Director-General for the time being reasonably requires, in relation to that port, for the purposes of this Part of this Act; and

(b) Approved means of holding, destroying, and otherwise treating, risk goods arriving at the port are—

(i) Available to users of the port; and

(ii) Capable of being operated to approved standards at no expense to the Crown,—

the Director-General may by written notice designate the port an approved place of first arrival for craft arriving in New Zealand.

(2) The Director-General shall—

(a) Within 28 days of designating a port an approved place of first arrival for craft arriving in New Zealand, publish in the Gazette a notice specifying the name of the port, the day on which it was so designated, and a place where the notice so designating it may be inspected; and

(b) At all reasonable times make the written notice available for inspection at the place specified.

(3) The Director-General may be satisfied of the matters referred to in subsection (1) (b) of this section—

(a) Whether or not all or any of the means concerned are under the control of the operator of the port concerned; and

(b) Whether—

(i) Means for holding risk goods; and

(ii) Means for destroying risk goods; and
(iii) Means for otherwise treating risk goods,—
are contained in a single facility or 2 or more separate facilities; and

c) In relation, in each case, to a single facility, or 2 or more competing facilities.

(4) Nothing in this section authorises the operator of a port to require any user of a port—
(a) To use or patronise facilities under the operator’s control; or

(b) To contribute, directly or indirectly, towards the expense of operating facilities under the operator’s control that the user has not used or patronised.

(5) Subject to subsection (7) of this section, if no longer satisfied, in relation to a designated port of entry, of the matters specified in paragraphs (a) and (b) of subsection (1) of this section, the Director-General—
(a) May, by written notice to its operator, suspend the port’s designation under that subsection; or

(b) May, by written notice in the Gazette, revoke the port’s designation under that subsection.

(6) No operator of a port—
(a) That is not a designated port of entry; or

(b) Whose designation under subsection (1) of this section is for the time being suspended,—
shall wilfully or recklessly represent that the port is a designated port of entry.

(7) The Director-General shall not take any action under subsection (1) or subsection (5) of this section without consulting the chief executives of—
(a) The Customs Department; and
(b) The Ministry of Forestry; and
(c) The Ministry of Health; and
(d) The New Zealand Police; and
(e) The Ministry of Transport; and
(f) Every other department of State whose operations may, in the Director-General’s opinion, be affected by the action.

88. Importers’ records—Every person who by way of commerce imports or causes to be imported any risk goods shall keep at that person’s place of business, or at some other approved place in New Zealand, such records in respect of those goods, in such manner, and for such period of time, as may be prescribed.
Registration of quarantine facilities and containment facilities—(1) An application for registration of any place as a quarantine facility (that is to say a facility for organisms or organic material that may be harbouring pests or unwanted organisms), a containment facility (that is to say a facility for organisms that should not, whether for the time being or ever, become established in New Zealand), or both, shall be made to the Director-General in an approved form, and shall be accompanied by an adequate plan and description of the place.

(2) The Director-General shall give notice of every application to such persons as the Director-General considers may have an interest in the application and shall give such persons a reasonable opportunity to make representations concerning the application; but notice under this subsection need not be given if the Director-General is of the opinion that immediate registration of a particular quarantine facility or containment facility is necessary to meet an unexpected exigency.

(3) The Director-General shall consider every application for registration and any representations received concerning it and, if satisfied that it complies with the requirements of this Act, and that the premises are adequate and suitable for the proposed purpose and meet the standards approved for the proposed use of the facility, the Director-General may register the facility.

(4) A registration shall specify the species and categories of organisms which may be confined in the facility.

(5) If satisfied that its facilities are adequate and suitable for the proposed purpose and meet the standards approved for their proposed use, the Director-General may, by notice to the operator of a registered quarantine facility or registered containment facility, extend the registration of the facility to any further species or category of organism that may be confined there.

(6) The Director-General may by notice to the operator of the facility cancel the registration of a quarantine facility or containment facility, if the Director-General ceases to be satisfied that the facilities provided are suitable for the purpose or are being maintained to an approved standard.

Cf. 1967, No. 50, s. 11A; 1967, No. 53, s. 24

Registration of quarantine operators and containment operators—(1) The Director-General may register as a quarantine operator, a containment operator, or both, any person who satisfies the Director-General that the
person is able to comply with the standards approved (as the case requires) for the operation of a quarantine facility, a containment facility, or both.

(2) An application for registration under this section shall be in an approved form and shall be accompanied by such further information as the Director-General may require.

(3) The Director-General shall consider every application for registration under this section and, if satisfied as required by subsection (1) of this section, the Director-General may register the applicant.

(4) If no longer satisfied that the registered operator of a registered quarantine facility or registered containment facility is maintaining approved standards, the Director-General may, by written notice to the operator, cancel the operator's registration.

(5) No person shall operate or purport to operate a quarantine facility or containment facility unless that person is registered as a quarantine operator or, as the case requires, a containment operator under this section.

41. Designation of quarantine area—(1) The Director-General may by notice in the Gazette designate any place to be a quarantine area, and may at any time revoke or vary such a designation.

(2) An inspector may, by the display of a clearly visible notice within a biosecurity control area, designate any place within that biosecurity control area to be a quarantine area.

(3) A designation under subsection (2) of this section shall ordinarily expire after 48 hours, or when sooner revoked; but it may be extended once by an inspector for a further period of not more than 48 hours.

(4) Every quarantine area shall be under the direct control of an inspector.

(5) No person shall, knowing that an area is a quarantine area, enter, leave, or use the area for any purpose, without the permission of the inspector who has control of the area.

PART IV

SURVEILLANCE AND PREVENTION

42. Purpose of Part IV—The purpose of this Part of this Act is to provide for the continuous monitoring of New Zealand's status in regard to pests and unwanted organisms—

(a) To facilitate the provision of assurances and certificates in relation to exports of organisms and their products; and
(b) As a basis for the proper administration of this Act, including the institution of precautionary actions, emergency and exigency arrangements, and pest management strategies; and

c) To monitor the effect of pest management strategies; and

d) Otherwise to enable any of New Zealand's international reporting obligations and trading requirements to be met.

43. Duty to provide information—(1) For the purposes of this Part of this Act, an inspector or authorised person may require any person referred to in subsection (2) of this section—

(a) To provide any information concerning pests, pest agents, or unwanted organisms held by the person that the inspector or authorised person believes on reasonable grounds is necessary to ascertain the presence or distribution in New Zealand of pests, pest agents, or unwanted organisms (or pests or unwanted organisms of a particular kind or description); and

(b) To provide such assistance as the inspector or authorised person reasonably requests to enable or facilitate the acquisition, collection, and recording of any such information ascertained.

(2) The persons referred to for the purposes of subsection (1) of this section are—

(a) Every person who owns, manages, or otherwise controls the means by which and the sources from which information required under subsection (1) of this section may be generated; and

(b) Every person who owns, manages, or otherwise controls any organism or organic material that may be monitored for the purposes of this Part of this Act.

Cf. 1969, No. 53, s. 6

44. General duty to inform—(1) Every person is under a duty to inform an inspector of the presence of what appear to be organisms not normally seen in New Zealand or to seek professional advice in respect of those organisms.

(2) The duty referred to in subsection (1) of this section is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

45. Notifiable organisms—(1) A pest management strategy may declare a pest or pest agent to which it relates to be a notifiable organism.
(2) The Governor-General may, by Order in Council, declare any organism to be a notifiable organism.

(3) The Governor-General may, by Order in Council, made on the recommendation of the responsible Minister, declare any pest to which a regional pest management strategy relates to be an organism notifiable within the region, or within any specified part of the region, of the regional council or regional councils concerned.

(4) The responsible Minister shall not recommend the making of an order under subsection (3) of this section, unless—

(a) The regional council or regional councils concerned have asked the Minister to do so; and

(b) The Minister is satisfied that it is in the public interest to do so.

46. Duty to report notifiable organisms—(1) Every person who—

(a) At any time suspects the presence of an organism in any place in New Zealand; and

(b) Suspects that it is for the time being declared to be a notifiable organism under subsection (1) or subsection (2) of section 45 of this Act; and

(c) Believes that it is not at the time established in that place; and

(d) Has no reasonable grounds for believing that the chief technical officer is aware of its presence or possible presence in that place at that time,—

shall without unreasonable delay report to the chief technical officer its presence or possible presence in that place at that time.

(2) Every person who—

(a) At any time suspects the presence of an organism in a place in the region, or in any part of the region, of a regional council; and

(b) Suspects that it is for the time being declared to be an organism notifiable within the region or part under subsection (3) of section 45 of this Act; and

(c) Believes that it is not at that time established in that place; and

(d) Has no reasonable grounds for believing that the chief technical officer is aware of its presence or possible presence in that place at that time,—
shall without unreasonable delay report to the chief technical officer its presence or possible presence in that place at that time.

47. Imported risk goods—The owner or any other person in control of any imported risk goods that are neither in a transitional area nor on board the craft in which they were imported shall—

(a) Upon a request concerning the presence of any risk goods, or any risk goods of the kind and description to which the risk goods of which the person is in control belong, by an inspector, declare the presence of the goods; and

(b) In the case of uncleared goods, surrender control of those goods to an inspector to enable those goods to be disposed of in accordance with this Act.

48. Power to require information—(1) A chief technical officer may by notice in writing require—

(a) The person in charge of premises used for investigating organisms or organic material; or

(b) Any person employed in a professional or technical capacity in any area of biological science,—

(i) To supply the chief technical officer with information on the incidence, prevalence, or distribution of specified organisms; or

(ii) To permit the chief technical officer, or a person authorised in writing by that officer, to have access to, inspect, and test or sample, specimens of any organism or tissues or parts of an organism or organic material held by that person or on those premises.

(2) Except in relation to circumstances concerning which a regulation makes contrary provision, the reasonable expenses of a person who supplies information to a chief technical officer in response to a requirement under this section will be reimbursed out of money appropriated by Parliament for the purpose if those expenses would not have been incurred but for the requirement.

49. Use of information—Any information acquired by a chief technical officer under this Part of this Act may be published for the purpose of communicating the animal or plant health status of New Zealand, or the occurrence (in New Zealand or overseas) of pests or unwanted organisms.
50. Identification systems—(1) The Director-General may from time to time approve systems to enable the identification of organisms and their products, associated premises, and the persons permitted to operate such systems.

(2) The Director-General may approve identification systems under this section for any of the following purposes:

(a) Facilitating pest management:

(b) Marking the presence or absence in organisms of particular qualities relating to the purposes of this Act:

(c) Meeting the certification requirements of overseas authorities in respect of New Zealand exports.

(3) When considering the approval of an identification system under this section, the Director-General shall ensure that the identifications to be used—

(a) Provide unique, clear, and lasting identification having regard to the purpose for which the identifications are needed; and

(b) Do not create confusion with any other generally used system of identification.

(4) Regulations made under this Act may require persons of any kind or description to use an approved identification system.

51. Duties relating to identification of organisms—

(1) No person shall remove, alter, or deface any approved identification that has been used in relation to an organism except with the written permission of an inspector or with reasonable excuse.

(2) No person shall knowingly use in relation to any organism—

(a) An identification forming part of an approved identification system that the person is not entitled to use in relation to that organism; or

(b) Any mark that is likely to be mistaken for or confused with an identification forming part of an approved identification system.

(3) No person required by regulations made under this Act to use an approved identification system shall fail to do so.

52. Communication of pest or notifiable organism—

No person shall knowingly communicate, cause to be communicated, release, or cause to be released, or otherwise spread any pest or notifiable organism except—
(a) In the course of and in accordance with a pest management strategy; or
(b) As provided in an emergency regulation made under section 150 of this Act; or
(c) For a scientific purpose carried out with the authority of the Minister.

Cf. 1967, No. 50, s. 38; 1967, No. 147, s. 111

58. Duties of owners of organisms—(1) Subject to subsection (2) of this section, the owner or person in charge of an organism that the owner knows or suspects comprises, contains, or harbours a pest or notifiable organism shall not—
(a) Cause or permit the pest or notifiable organism to be in a place where organisms are offered for sale or are exhibited; or
(b) Sell or offer the pest or notifiable organism for sale; or
(c) Propagate, breed, multiply, or act in such a manner as is likely to encourage or cause the propagation, breeding, or multiplication of, the pest or notifiable organism.

(2) A chief technical officer may give written permission to any owner or person in charge of an organism permitting that person to carry out an act otherwise prohibited by subsection (1) of this section; and a principal officer may do so in relation to an act to be carried out within the principal officer’s region.

Cf. 1967, No. 50, s. 49; 1970, No. 151, s. 28; 1978, No. 15, s. 49

PART V
PEST MANAGEMENT

54. Purpose of Part V—The purpose of this Part of this Act is to provide for the effective management or eradication of pests.

55. Pest management strategies—(1) The management or eradication of pests shall be in accordance with national pest management strategies and regional pest management strategies proposed, approved, and implemented as provided for in this Part of this Act.

(2) Every pest management strategy shall state which of the powers contained in Part VI of this Act are incorporated in and may be exercised in the implementation of the strategy.

(3) A power incorporated in a pest management strategy under subsection (2) of this section may be exercised by such
persons as are identified in the pest management strategy in relation to each power.

(4) Every pest management strategy shall include information concerning the matters specified in subsection (1) of section 60 of this Act other than those specified in paragraphs (f) and (j) of that subsection.

(5) Unless the context otherwise requires, words used in a pest management strategy shall have the same meaning as they have in this Act.

National Pest Management Strategies

56. Minister may propose national pest management strategy—Subject to section 57 of this Act, any Minister may propose a national pest management strategy whose purpose is consistent with the Minister's responsibilities.

57. Prerequisites for proposal—(1) A Minister shall propose a national pest management strategy only if the Minister is of the opinion that—

(a) The benefits of having a pest management strategy or strategies in relation to the organism concerned outweigh the costs, after taking account of the likely consequences of inaction or alternative courses of action; and

(b) The net benefits of national intervention exceed the net benefits of regional intervention; and

(c) The organism in respect of which the strategy is under consideration is capable of causing at some time a serious adverse and unintended effect in relation to New Zealand on one or more of the following:

   (i) Economic wellbeing; or

   (ii) The viability of rare or endangered species of organisms, the survival and distribution of indigenous plants or animals, or the sustainability of natural and developed ecosystems, ecological processes, and biological diversity; or

   (iii) Soil resources or water quality; or

   (iv) Human health or enjoyment of the recreational value of the natural environment; or

   (v) The relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga; and

(d) The implementation of the proposed strategy would not be contrary to New Zealand's international obligations.
(2) In addition to the requirements in subsection (1) of this section, a Minister shall propose a national pest management strategy only if the Minister is of the opinion that the organism in respect of which the strategy is under consideration—
(a) Is not known to be established in New Zealand, but if the organism were so established, it would have the potential to cause significant economic loss or environmental degradation, or both, and it could be eradicated or effectively managed; or
(b) Is of restricted distribution or abundance, or restricted distribution and abundance, in New Zealand, but the organism has the potential to cause significant economic loss or environmental degradation, or both, and it could be eradicated or effectively managed; or
(c) Is of widespread distribution in all or part of New Zealand and—
(i) Effective action in respect of the organism would be impracticable without a national strategy; and
(ii) The potential economic, social, or environmental damage or loss of not taking action on a national basis would be significant.

58. Other persons may ask or require Minister to propose national pest management strategy—
(1) Any person may, by written notice to a Minister whose responsibilities include matters that might be adversely affected by any organism, ask or require the Minister to notify under section 62 of this Act a proposal for a national pest management strategy relating to that organism.
(2) A Minister who is asked to notify a proposal may refuse to do so or (subject to sections 60 and 61 of this Act) do so, as the Minister thinks fit.
(3) Subject to sections 59 to 61 of this Act and to subsection (4) of this section, a Minister who is required to notify a proposal shall do so.
(4) A proposal that a person has required a Minister to notify shall be dealt with under this Act to the extent only that the person bears the costs involved.
(5) Sections 62 to 69 of this Act shall have effect subject to subsection (4) of this section.

59. Minister may refuse to notify suggested strategy in certain circumstances—The Minister may refuse to notify a proposal under section 62 of this Act, if satisfied on reasonable grounds that—
(a) It does not comply with this Part of this Act; or
(b) It has not been described clearly enough to be readily understood; or
(c) It is inconsistent with—
   (i) An existing pest management strategy; or
   (ii) A proposed pest management strategy already notified under section 62 of this Act; or
(d) Both—
   (i) At a time within the 3 years before the proposal was submitted to the Minister, a board of inquiry completed an inquiry under this Part of this Act into a proposal whose substance was broadly the same as its substance; and
   (ii) There is not available any significant evidence relating to it that was not available at that time; or
(e) It has little or no merit in relation to the management or eradication of the organism to which it relates; or
(f) It is frivolous or vexatious.

60. Preparation and contents of proposal for national pest management strategy—(1) A proposal for a national pest management strategy shall specify the following matters:

(a) The proposer of the strategy:
(b) The organism to which the strategy is to apply and any other organisms intended to be controlled:
(c) Whether the organism is to be a notifiable organism for the purposes of this Act:
(d) The management agency that is to be responsible for implementing the strategy:
(e) The objectives of the strategy, and the tactics and technical methods proposed to be applied in implementing it:
(f) The extent (if any) to which occupiers of places are required to take action in respect of the organisms intended to be controlled:
(g) The actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer's opinion) have on the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga:
(h) The actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer's opinion) have on—
   (i) The environment; and
(ii) The marketing overseas of New Zealand products; and
(iii) New Zealand’s international obligations, assurances, and reputation; and
(iv) The long term management of the pest to which the strategy relates, and any other pest or unwanted organism the management of which may be affected by the strategy’s implementation:

(i) How the costs of implementing the strategy are to be funded, and the funding information required to be included by section 61 (1) of this Act:

(j) The basis, if any, on which compensation is to be paid by the management agency in respect of losses incurred as a direct result of the implementation of the strategy, and information concerning the disposal of the proceeds of any receipts arising in the course of implementing the strategy:

(k) The powers under this Act to be conferred for the purposes of implementing the strategy including identification of those persons on whom the powers are to be conferred:

(l) The manner in which a Minister intends to monitor the effect of the strategy and the performance of the management agency:

(m) Where the proposed strategy would affect another pest management strategy, the proposed means of coordination.

(2) Every Minister or other person preparing a proposal for a national pest management strategy to comply with the requirements of subsection (1) of this section and section 61 (1) of this Act as to matters required to be specified shall have regard to the matters referred to in the First Schedule to this Act when preparing the proposal.

61. Funding information required in proposal—(1) A proposal for a national pest management strategy shall specify, in relation to the organism concerned, the following matters:

(a) The extent to which the kinds and descriptions of persons likely to be beneficiaries of the strategy are identifiable:

(b) The extent (if any) to which any persons by their activities or inaction contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the pest management strategy:
(c) The process of negotiation concerning, and the rationale for, the proposed allocation of the costs of funding the strategy among the parties involved:

(d) Whether any unusual administrative problems or costs are expected in recovering the costs allocated to any of the persons who are to be required to pay.

(2) A Minister shall not include in a proposed national pest management strategy funding proposals that require persons to meet directly any of the costs of implementing the strategy unless the Minister is satisfied that—

(a) The benefits which will accrue to those persons will outweigh any costs; or

(b) The continued presence of pests on or in places occupied by those persons (whether at large or on or in pest agents) would have significant effects on other persons.

62. Notification of proposed national pest management strategy—(1) The Minister shall publicly notify a proposed national pest management strategy by—

(a) Publishing a notice in the Gazette; and

(b) Giving such other notification as the Minister considers appropriate having regard to the nature and distribution of the organism concerned and the persons (including regional councils) likely to have an interest in the proposal; and

(c) If the Minister of Agriculture is not the proposer of the strategy, sending a copy to the Minister of Agriculture for co-ordination purposes.

(2) Every notice under this section shall include—

(a) A brief summary of the purpose and extent of the proposed national pest management strategy concerned:

(b) A list of the places where a complete description of the proposed strategy may be obtained or inspected.

63. Board of inquiry—(1) Unless satisfied on reasonable grounds that there is no significant opposition to the strategy from persons likely to be affected by its implementation, the Minister shall appoint a board of inquiry to inquire into and report on every proposed national pest management strategy.

(2) A board of inquiry shall—

(a) Comprise not fewer than 3 and not more than 5 members; and
(b) Have a presiding member appointed either by the Minister or, if the Minister declines to do so, by the members.

(3) Every board of inquiry shall be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member of the board of inquiry, out of money appropriated by Parliament for the purpose,—

(a) Remuneration by way of fees, salary, or allowances in accordance with the Act; and

(b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of the board of inquiry,—

and the provisions of that Act apply accordingly.

64. Public notification of inquiry—(1) As soon as practicable after its appointment, a board of inquiry shall ensure that public notice of the inquiry is given in such manner as the Minister considers appropriate having regard to the nature and distribution of the organism concerned and the persons likely to have an interest in the proposal.

(2) Every notice for the purposes of this section shall—

(a) Describe the proposed strategy; and

(b) State that submissions on it may be made in writing by any person; and

(c) Specify a closing date for submissions (which shall be not earlier than 20 working days after public notification of the inquiry).

65. Submissions to the board of inquiry—(1) Any person may make a submission to the board of inquiry about a proposed national pest management strategy notified in accordance with section 64 of this Act.

(2) Every submission shall—

(a) Be in writing; and

(b) Be given to the board of inquiry; and

(c) State whether the person making the submission wishes to be heard in respect of the submission; and

(d) State any other matter prescribed for the purpose.

66. Summary of submissions, notification and conduct of hearing—The Second Schedule to this Act shall apply in respect of an inquiry by a board of inquiry into a proposed national pest management strategy; and the proposing Minister
and every person who made a submission under section 65 of this Act shall have the right to be heard at any such inquiry.

67. Matters to be considered and board of inquiry's report—(1) In considering a proposed national pest management strategy, a board of inquiry shall have regard to—
(a) All submissions; and
(b) All relevant provisions of this Part of this Act; and
(c) Any other matters it thinks fit.
(2) On completion of its inquiry, the board of inquiry shall prepare a written report on the proposed national pest management strategy and the matters raised by the inquiry, and shall make such recommendations to the Minister as it determines are appropriate in the circumstances.
(3) After receiving a report from a board of inquiry, the Minister shall ensure that—
(a) A copy of the report is sent to every person who made a submission to the board of inquiry and to every other person the Minister considers appropriate having regard to the nature and distribution of the organism concerned; and
(b) The report is published; and
(c) Public notice is given of where and how copies of the report can be obtained.

68. Approval of national pest management strategies—Subject to sections 69 and 92 of this Act, the Governor-General may, by Order in Council made on the recommendation of a Minister, approve a national pest management strategy.

69. Duties of Ministers in relation to proposed national pest management strategies—(1) The Minister shall not recommend the making of an order under section 68 of this Act approving a national pest management strategy—
(a) Where the Minister has appointed a board of inquiry to inquire into and report on the proposed strategy, without considering—
(i) The report, and any recommendations, of the board; and
(ii) A report on that report, any such recommendations, and the strategy itself, made to the Minister by the appropriate chief executive:
(b) In any other case, without considering a report on the strategy made to the Minister by the appropriate chief executive.
(2) The Minister shall not recommend the making of an order under section 68 of this Act approving a national pest management strategy unless satisfied, on reasonable grounds,—

(a) of the matters specified in section 57 (1) of this Act; and

(b) that there is likely to be adequate funding for the implementation of the strategy for its proposed duration or 5 years (whichever is the shorter); and

(c) the strategy specifies the matters referred to in section 60 (1) of this Act.

70. Orders to be laid before House of Representatives—As soon as is practicable after an order has been made under section 68 of this Act, the Minister who recommended its making shall lay a copy before the House of Representatives.

Regional Pest Management Strategies

71. Regional council may propose regional pest management strategy—Subject to section 72 of this Act, any regional council may, in accordance with this Part of this Act, propose, approve, and implement a regional pest management strategy.

72. Prerequisites for proposal—(1) A regional council shall propose a regional pest management strategy only if it is of the opinion that—

(a) the benefits of having a regional pest management strategy in relation to the organism concerned outweigh the costs, after taking account of the likely consequences of inaction or alternative courses of action; and

(b) the net benefits of regional intervention exceed the net benefits of an individual’s intervention; and

(c) the organism in respect of which the strategy is under consideration is capable of causing at some time a serious adverse and unintended effect in relation to the region on one or more of the following:

(i) economic wellbeing; or

(ii) the viability of rare or endangered species of organisms, the survival and distribution of indigenous plants or animals, or the sustainability of natural and developed ecosystems, ecological processes, and biological diversity; or

(iii) soil resources or water quality; or
(iv) Human health or enjoyment of the recreational value of the natural environment; or
(v) The relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga.

(2) Any person may, at that person's expense, prepare a proposal for a regional pest management strategy and submit the proposal to the regional council whose region is, or may be, adversely affected by the organism to which the proposed strategy relates.

(3) The costs of processing a proposal for a regional pest management strategy in accordance with sections 71 to 80 of this Act are the responsibility of the proposer of the strategy.

78. Consultation—(1) During the preparation of a proposed regional pest management strategy, a regional council shall consult—
   (a) Those Ministers whose responsibilities may be affected by the strategy; and
   (b) Local authorities that may be so affected; and
   (c) The tangata whenua of the area who may be so affected, through iwi authorities and tribal runanga.

(2) A regional council may consult any other person during the preparation of a proposed regional pest management strategy.

74. Other persons may ask or require regional council to propose regional pest management strategy—(1) Any person may, by written notice to a regional council, ask or require the council to notify a proposal for a regional pest management strategy under section 78 of this Act.

(2) A council that is asked to notify a proposal may refuse to do so or (subject to section 76 of this Act) do so, as the council thinks fit.

(3) Subject to sections 75 and 76 of this Act and to subsection (4) of this section, a council that is required to notify a proposal shall do so.

(4) A proposal that a person has required a council to notify shall be dealt with under this Act to the extent only that the person bears the costs involved.

(5) Sections 79 and 80 of this Act shall have effect subject to subsection (4) of this section.

75. Council may refuse to notify suggested strategy in certain circumstances—A regional council may refuse to
notify a suggested strategy under section 78 of this Act, if satisfied on reasonable grounds that—
(a) It does not comply with this Part of this Act; or
(b) It has not been described clearly enough to be readily understood; or
(c) It is inconsistent with—
   (i) An existing pest management strategy; or
   (ii) A proposed pest management strategy already notified under section 78 of this Act; or
(d) Both—
   (i) At a time within the 3 years before the suggested strategy was submitted to the Minister, the council (or 3 or more regional councils including the council) completed an inquiry under this Part of this Act into a proposed regional pest management strategy whose substance was broadly the same as its substance; and
   (ii) There is not available any significant evidence relating to it that was not available at that time; or
(e) It has little or no merit in relation to the management or eradication of the organism to which it relates; or
(f) It is frivolous or vexatious.

76. Preparation and contents of proposed regional pest management strategy—(1) A proposal for a regional pest management strategy shall specify the following matters:
(a) The proposer of the strategy:
(b) The organism to which the strategy is to apply and any other organisms intended to be controlled:
(c) Whether the organism is to be a notifiable organism for the purposes of this Act:
(d) The management agency that is to be responsible for implementing the strategy:
(e) The objectives of the strategy, and the tactics and technical methods proposed to be applied in implementing it:
(f) The extent (if any) to which occupiers of land are required to take action in respect of the organisms intended to be controlled:
(g) The actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer's opinion) have on the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga:
(h) The actual or potential effects, beneficial or detrimental, that the implementation of the strategy might (in the proposer’s opinion) have on—

(i) The environment; and

(ii) The marketing overseas of New Zealand products; and

(iii) New Zealand’s international obligations, assurances, and reputation; and

(iv) The long term management of the pest to which the strategy relates, and any other pest or unwanted organism the management of which may be affected by the strategy’s implementation:

(i) How the costs of implementing the strategy are to be funded, and the funding information required to be included by section 77 of this Act:

(j) The basis, if any, on which compensation is to be paid by the management agency in respect of losses incurred as a direct result of the implementation of the strategy, and information concerning the disposal of the proceeds of any receipts arising in the course of implementing the strategy:

(k) The powers under this Act to be conferred for the purposes of implementing the strategy including identification of those persons on whom the powers are to be conferred:

(l) The manner in which the regional council concerned intends to monitor the effect of the strategy and the performance of the management agency:

(m) Where the proposed strategy would affect another pest management strategy, the proposed means of coordination.

(2) Every regional council or other person preparing a proposal for a regional pest management strategy shall, to the extent that the organism concerned and the circumstances make it appropriate to do so, have regard to the matters referred to in the First Schedule to this Act when preparing the proposal.

(3) A proposal for a regional pest management strategy may provide that the regional council shall itself be the management agency for the strategy, or may specify a Department, body, or other authority as the management agency.

(4) A proposal for a regional pest management strategy shall not be inconsistent with—
(a) Any national or regional pest management strategy (whether relating to the same region or any other region or regions) concerning the same organism; or
(b) Any regulation; or
(c) Any regional policy statement or regional plan prepared under the Resource Management Act 1991.

77. Funding information required in proposal—A proposal for a regional pest management strategy shall specify, in relation to the organism concerned, the following matters:

(a) The extent to which the beneficiaries of the strategy are identifiable:

(b) The extent (if any) to which any persons by their activities or inaction contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the strategy:

(c) The rationale for the proposed allocation of costs, including—
   (i) Where it is proposed that the strategy should be funded by rates in accordance with sections 97 to 99 of this Act, how the proposed rate will comply with paragraphs (e) and (f) of section 98 of this Act; or
   (ii) Where it is proposed that the strategy should be funded by a levy in accordance with sections 90 to 96 of this Act, how the proposed levy will comply with paragraphs (c), (d), and (e) of section 97 of this Act:

(d) Where it is proposed that the strategy be funded by a differential rate as provided in section 98 (c) of this Act,—
   (i) The proposed types of groups of property for the differential rate; and
   (ii) That any person upon inquiry, either in person at the public office of the regional council concerned or in writing addressed to the principal administrative officer, is entitled to be advised of the type or group of property to which a particular property is proposed to be allocated; and
   (iii) That any ratepayer may, at any time after the adoption of the strategy, object to the regional authority in accordance with section 116 of the Rating Powers Act 1988 against the allocation of a property to a particular type or group of property:

(e) Whether any unusual administrative problems or costs are expected in recovering the costs to any of the persons who are required to pay:
Whether the continued presence of pests on or in places occupied by the persons required to pay (whether at large or on or in pest agents) would have significant effects on other persons.

78. Notification of proposed regional pest management strategy—(1) A regional council shall publicly notify a proposed regional pest management strategy in such manner as the regional council considers appropriate having regard to the nature and distribution of the organism concerned and the persons likely to have an interest in the proposal.

(2) Public notice under subsection (1) of this section shall specify—
(a) Where the proposed strategy may be inspected; and
(b) That any person may make a submission on the proposed strategy; and
(c) The process for public participation in the consideration of the proposed strategy; and
(d) The closing date for submissions (which shall be not less than 20 working days after public notice of the proposal is given); and
(e) The address for service of the regional council.

(3) A regional council shall provide one copy of a proposed pest management strategy without charge to—
(a) The Minister of Agriculture and every other Minister whose responsibilities may be affected by the strategy; and
(b) All territorial authorities in the region and adjacent local authorities that may be so affected; and
(c) The tangata whenua of the area that may be so affected, through iwi authorities and tribal runanga.

(4) A regional council shall make a proposed regional pest management strategy prepared by it available in every place in its region that it considers appropriate, having regard to the nature and distribution of the organism concerned and the persons likely to have an interest in the proposal.

79. Hearings commissioners—(1) A regional council may appoint a hearings commissioner to inquire into and report on a proposal for a regional pest management strategy it has notified.

(2) The council shall pay the hearings commissioner—
(a) Remuneration by way of fees, salary, or allowances; and
(b) Travelling allowances and travelling expenses in respect of time spent travelling for the purposes of the inquiry, as the council agrees with the commissioner.

80. Regional pest management strategy to be processed like national pest management strategy—(1) Sections 64 to 67 of, and the Second Schedule to, this Act shall apply to a proposal for a regional pest management strategy as if—

(a) Every reference to a national pest management strategy is a reference to the regional pest management strategy;

(b) Every reference to a board of inquiry is (as the case requires)—

(i) A reference to the regional council that notified the proposal under section 78 of this Act (or any person or body to whom or which the council has lawfully delegated the function of exercising its powers under those provisions); or

(ii) The hearings commissioner appointed to inquire into and report on the proposal;

(c) Every reference to a Minister is a reference to that regional council;

(d) The reference in section 65 (1) to section 64 of this Act is a reference to section 78 of this Act.

(2) Notwithstanding subsection (1) of this section, where a regional council has neither—

(a) Lawfully delegated to any person or body the function of exercising its powers under sections 64 to 67 of, and the Second Schedule to, this Act in relation to a proposal for a regional pest management strategy; nor

(b) Appointed a hearings commissioner to inquire into and report on the proposal,—

subsections (2) and (3) of section 67 of this Act shall not apply to the proposal.

(3) Subject to subsections (4) to (7) of this section, a regional council may, by special resolution, approve a regional pest management strategy.

(4) A regional council shall not approve a proposal for a regional pest management strategy without considering a report on the strategy made to it by its principal officer.

(5) Where a regional council has appointed a hearings commissioner to inquire into and report on a proposal for a
regional pest management strategy, it shall not approve the strategy without considering—
(a) The report, and any recommendations, of the commissioner; and
(b) A report on that report, and those recommendations (if any), made to it by its principal officer.
(6) Where a regional council has lawfully delegated to any person or body the function of exercising its powers under sections 64 to 67 of, and the Second Schedule to, this Act in relation to a proposal for a regional pest management strategy, it shall not approve the strategy without considering—
(a) The report, and any recommendations, of that person or body; and
(b) A report on that report, and those recommendations (if any), made to it by its principal officer.
(7) A regional council shall not approve a regional pest management strategy unless satisfied that the benefits for the region of implementing the strategy outweigh the costs to the region.

81. Implementation of regional pest management strategy—Except as otherwise provided in this Act, Part XVIa of the Local Government Act 1974 shall apply to the implementation of a regional pest management strategy by a regional council.

82. Regional councils may delegate powers—(1) Section 715 of the Local Government Act 1974 shall have effect as if all the powers of a regional council under this Act except those specified in subsection (2) of this section are powers under that Act.
(2) A regional council is not capable of delegating (whether under section 114Q or under section 715 of the Local Government Act 1974)—
(a) The power to appoint a hearings commissioner to inquire into and report on a proposal for a regional pest management strategy it has notified; or
(b) The power to approve, extend in an amended form, review, or revoke a regional pest management strategy; and
(c) The power to decide to act under section 100 of this Act.

83. Councils may act jointly—(1) Any 2 or more regional councils may separately propose and approve a joint regional pest management strategy; and in that case,—
(a) The strategy shall indicate—
   (i) Whether it is to be implemented by all the councils, some of them only, or only 1 of them; and
   (ii) If it is to be implemented by 2 or more councils, the extent (if any) to which those councils are to be empowered to implement it outside their own regions; and
(b) The proposed strategy shall not have effect unless approved by all the councils; and
(c) Subject to subsection (2) of this section, if the strategy is approved, it shall have effect, and this Act shall have effect in relation to it,—
   (i) In the case of a strategy to be implemented by 1 council only, as if the regions of the councils are a single region, whose council that 1 council is; and
   (ii) In the case of a strategy to be administered by 2 or more councils, as if each of those councils, and the principal officer of each of those councils, is, to the extent specified in the strategy, capable of exercising in the region of another of the councils that jointly proposed it the powers that would be exercisable under or in respect of the strategy if it were a strategy to be implemented by that council only; and
(d) Except as provided in paragraphs (a) to (c) of this subsection,—
   (i) This Act shall have effect; and
   (ii) If approved, the strategy shall be implemented,—
   accordingly.

(2) Nothing in subsection (1) (c) of this section limits or affects the powers of a regional council in relation to the amendment or revocation of a regional pest management strategy.

National and Regional Pest Management Strategies

84. Management agencies—(1) Every pest management strategy shall specify the management agency that is to have responsibility for implementation of the strategy.

(2) A management agency may be a Department, a regional council, a territorial authority, or a body corporate.

(3) In determining who shall be the management agency for a pest management strategy, the Minister or regional council, as the case may be, shall take into consideration—
   (a) The need for accountability to those persons who will provide the funds to implement the strategy; and
(b) The acceptability of the agency to those persons who will provide the funds to implement the strategy and those who will be subject to management provisions under the strategy; and

(c) The capacity of the agency, including the competence and expertise of its employees and contractors available to it, to manage the strategy.

(4) If a management agency for a pest management strategy resigns by notice in writing to the Minister or regional council, or goes into liquidation, or ceases to exist, the Minister or regional council, as the case may be, may, without following the required procedure for amending the strategy, appoint some other qualified body to be the management agency for that strategy and shall publicly notify any such appointment.

85. Operational plans—(1) The management agency for every pest management strategy shall—

(a) Within 3 months after the strategy is approved, prepare an operational plan for its implementation; and

(b) Review the operational plan annually, and, if the agency thinks fit, amend it; and

(c) Prepare a report on the operational plan and its implementation not later than 5 months after the end of each financial year; and

(d) Make copies of the operational plan and report on its implementation available to the public at cost.

(2) The report required by subsection (1) (c) of this section to be prepared in respect of an operational plan may form part of a regional council's annual report; but in that case—

(a) The council may make it available to the public by supplying only an extract from the annual report; and

(b) Whatever form it may be made available in, the council shall charge the public no more than the cost of supplying such an extract.

(3) The management agency for a pest management strategy shall supply copies of every operational plan prepared under subsection (1) (a) of this section, every operational plan amended under subsection (1) (b) of this section, and every report prepared under subsection (1) (c) of this section, to—

(a) The responsible Minister; and

(b) Every other Minister whose responsibilities are affected by the pest management strategy concerned; and

(c) In the case of a regional pest management strategy, every regional council that approved it.
(4) The responsible Minister, and any other Minister whose responsibilities are affected by a pest management strategy, may—

(a) At any time before being notified under subsection (2) of this section of the preparation or amendment of an operational plan; or

(b) Not later than 21 days after being so notified,—
give the management agency written notice that the Minister intends to disallow the plan, or any proposal in the plan, on the grounds that the Minister believes that it is inconsistent with the strategy.

(5) Unless the Minister later gives the management agency concerned written notice that the Minister is now prepared to allow a plan or proposal in respect of which the Minister gave the agency a notice under subsection (4) of this section, the plan or proposal shall be of no effect.

86. Compensation—(1) A pest management strategy shall not provide for or permit the payment of compensation to a person—

(a) In respect of income derived from feral or wild organisms and adversely affected by the implementation of the strategy; or

(b) Who fails to comply with the strategy; or

(c) In respect of loss suffered before the time when an inspector or authorised person establishes the presence of the pest on the premises of the person.

(2) A pest management strategy may provide for or permit the payment of compensation to a person who at the time an organism is declared to be a pest is deriving income from domesticated organisms of the species whose feral or wild population is a pest and whose organisms are necessarily destroyed in the course of implementing the strategy.

(3) Subject to subsection (4) of this section, where—

(a) Any person owns domesticated organisms—

(i) That are infected by a pest to which a pest management strategy relates; or

(ii) That are pest agents in relation to such a pest; or

(iii) Whose feral or wild population is such a pest; and

(b) Any of those organisms are necessarily destroyed in the course of implementing the strategy; and

(c) There are net proceeds available from the disposal of the organisms destroyed,—
subsection (4) of this section applies to those net proceeds.

(4) Net proceeds to which this subsection applies—

(a) If the pest management strategy concerned does not provide for the payment of compensation to the owner of organisms destroyed, shall be paid to the owner:

(b) If the compensation payable to the owner under the strategy is less than those proceeds, shall be paid to the owner instead of compensation:

(c) Except as provided in paragraphs (a) and (b) of this subsection, shall be retained by the management agency concerned.

(5) Any dispute concerning the eligibility for or amount of compensation shall be submitted to arbitration.

87. Crown obligations—(1) A national pest management strategy shall impose obligations and costs on the Crown according to its tenor.

(2) The Governor-General may, by Order in Council, approve the application of a regional pest management strategy or any part of it to the Crown; and—

(a) Except to the extent that such an order so provides, the strategy shall not have the effect of imposing costs or obligations on the Crown; and

(b) Where a strategy has been amended, it shall not have the effect of imposing costs or obligations on the Crown in addition to those previously provided for except to the extent that a further such order so provides.

88. Duration and review of pest management strategies—(1) A pest management strategy shall cease to have effect—

(a) When the Minister or regional council declares by public notice that the purpose of the strategy has been achieved; or

(b) After the expiry of 5 years from the commencement of the strategy or any shorter duration period specified in the strategy; or

(c) When, following a review carried out in accordance with this section, the strategy is replaced by a renewed or amended strategy or is revoked,— whichever occurs first.

(2) The Minister who recommended the strategy or the regional council that approved the strategy, as the case may require, shall proceed to review a pest management strategy in
accordance with this section after it has been in effect for 5 years.

(3) The Minister or regional council concerned may proceed to review a pest management strategy in accordance with this section at any time if the Minister or regional council has grounds to believe that—

(a) The strategy is failing to achieve its purposes; or
(b) Relevant circumstances have changed to a significant extent since the strategy commenced.

(4) The Minister or regional council shall as part of the review process propose and publicly notify that the strategy is—

(a) Extended for a further specified period; or
(b) Extended for a further specified period in an amended form after amendment in the proposed manner; or
(c) Revoked as from a specified date.

(5) The procedure for a review under this section shall, subject to necessary modifications, be similar to that provided for in this Part of this Act for a proposed national pest management strategy or regional pest management strategy, as the case may require.

(6) On the recommendation of the Minister following a review, the Governor-General may, by Order in Council published in the Gazette, extend, extend in an amended form, or revoke, a national pest management strategy; and in that event the Minister shall lay a copy of the order and, where appropriate, the strategy as extended, before the House of Representatives.

(7) After completion of a review, a regional council may approve the extension or extension in an amended form of a regional pest management strategy or may revoke the strategy.

(8) In this section, a reference to the "Minister" or "regional council" is a reference to the Minister or the regional council who proposed the pest management strategy in question, as the case may require.

89. Strategy may relate to several pests—A pest management strategy may relate to 2 or more pests, and may provide for differing action to be taken in respect of different pests.

Funding of Strategies

90. Strategy may impose levy—(1) Subject to section 92 of this Act, the Governor-General may, by Order in Council made on the recommendation of the responsible Minister, impose a levy payable to a management agency for the purposes of
wholly or partially funding the implementation of a pest management strategy.

(2) Every order under subsection (1) of this section shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

91. Orders to be confirmed—(1) Where in any year an order under section 90 (1) of this Act has been made on or after the 1st day of January and before the 1st day of July, and—
   (a) Has not been revoked with effect on or before the 1st day of July in the next year; and
   (b) Has not ceased, and will not cease, to have effect on or before the 1st day of July in the next year by virtue of the Regulations (Disallowance) Act 1989,—
   it shall be deemed to have been revoked with the close of the 30th day of June in that next year unless it has been confirmed by an Act of Parliament passed on or before that day.

(2) Where in any year an order under section 90 (1) of this Act has been made after the 30th day of June and on or before the 31st day of December, and—
   (a) Has not been revoked with effect on or before the 1st day of January in the year after the next year; and
   (b) Has not ceased, and will not cease, to have effect on or before the 1st day of January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—
   it shall be deemed to have been revoked with the close of the 31st day of December in the year in which it was made, unless it has been confirmed by an Act of Parliament passed on or before that day.

92. Restrictions on levies—(1) The responsible Minister shall not recommend the making of an order under section 90 (1) of this Act in respect of the management agency under any pest management strategy unless the Minister is satisfied, on the basis of information and evidence that the Minister regards as satisfactory, that—
   (a) Persons likely to be affected by the payment or collection of the levy have been consulted; and
   (b) Persons opposing the levy's imposition have had a reasonable opportunity to put their views to the Minister; and
   (c) All views put to the Minister about the proposed imposition of the levy have been given due regard; and
(d) The imposition of a levy is the most appropriate means of funding the pest management strategy; and

(e) Either—
   (i) It would be impossible or impracticable to finance out of voluntary levies the doing of the things on which the levy is to be spent; or
   (ii) If voluntary levies were used, persons who chose not to pay would derive unearned benefits; and

(f) The uses to which the levy will be put will be closely related to the interests of the persons who will be responsible for paying it; and

(g) Overall, the benefits to the group of persons who will be responsible for paying the levy will outweigh the costs to them of the imposition, collection, and payment of the levy; and

(h) If the levy is imposed on quantities of a commodity imported into New Zealand, its imposition will not constitute a non-tariff barrier and will not be contrary to New Zealand's international legal obligations; and

(i) The management agency will have in place adequate systems of accounting to persons who will be responsible for paying the levy; and

(j) All other relevant matters known to the Minister have been properly considered.

(2) The Minister shall not recommend the making of an order under section 90 of this Act in respect of the management agency under any pest management strategy unless satisfied that funding (or partially funding) the implementation of the strategy by means of the levy concerned will better target—
   (a) Persons who are likely to benefit from the implementation of the strategy; and
   (b) Persons whose actions or inaction contribute to the problem that the implementation of the strategy is intended to combat,—
   than—
   (c) Requiring those persons to pay directly for or in respect of the actions that the levy is intended to fund (or partially fund); or
   (d) In the case of a regional pest management strategy, rating.

98. Contents of levy provisions in strategy—(1) Every pest management strategy providing for the imposition of a levy payable to a management agency for the purposes of the strategy shall specify—
(a) The persons responsible for paying the levy; and
(b) The basis on which the amount of levy is to be calculated or ascertained; and
(c) The persons (if any) to be exempt from paying the levy; and
(d) The persons responsible for collecting the levy from those responsible for paying it; and
(e) How the management agency is to spend the levy and consult with those persons responsible for paying the levy; and
(f) When and how the levy is to be paid; and
(g) The maximum rate of levy; and
(h) How the management agency is to set the actual rate of levy; and
(i) How the rates of the levy and variations of rates are to be notified; and
(j) Whether or not the persons collecting the levy are entitled to recover the cost of levy collection and the estimated amount.

(2) A pest management strategy providing for the imposition of a levy may prescribe any of the following matters:
(a) The making of returns to the management agency or some other person or body for the purpose of enabling or assisting the determination of amounts of levy payable:
(b) The circumstances in which, and conditions subject to which, persons may be allowed extensions of time for the payment of any levy:
(c) The payment of additional or increased levy when amounts of levy otherwise payable have been paid late, paid in part, or not paid at all.

94. **Effect of levy**—Where a levy is imposed under this Part of this Act, the following provisions apply:
(a) Every person responsible for paying the levy to the management agency shall do so; and
(b) The management agency may recover the levy from any person responsible for paying it as a debt due in a Court of competent jurisdiction.

95. **Financial provisions**—(1) As soon as practicable after the end of a financial year during which a levy has been paid to a management agency under a pest management strategy, the management agency shall prepare in respect of the year—
(a) Statements (relating only to money paid to the agency as levy, and assets acquired or built up with or out of, or by virtue of spending, money paid under the levy) of the management agency’s financial position at the end of the year; and

(b) Statements of the management agency’s receipt and expenditure of money paid as levy under the strategy; and

(c) All other statements necessary to show fully—
   (i) The agency’s financial position as required by this section; and
   (ii) The financial results of all of the management agency’s activities involving the use of the money paid to the agency as levy, or the use of assets acquired or built up with or out of, or by virtue of spending, money paid as levy.

(2) A management agency shall ensure that the statements required to be prepared by subsection (1) of this section are audited within 5 months of the end of the year.

96. Resolution of disputes—Every pest management strategy that provides for the imposition of a levy shall provide for—

(a) The appointment of mediators to resolve disputes as to—
   (i) Whether or not any person is required to pay the levy; or
   (ii) The amount of levy any person is required to pay; and
(b) The procedures to be followed by mediators; and
(c) Remuneration of mediators; and
(d) The payment of mediation costs; and
(e) A right of appeal to a District Court Judge against decisions of mediators; and
(f) Any other matters relating to the resolution of such disputes.

97. Regional strategy may be funded by rates—
(1) Subject to subsection (2) of this section, a regional pest management strategy may provide for the making and levying of a rate for the purposes of wholly or partially funding the implementation of the strategy.

(2) No regional council shall approve a pest management strategy that includes provision for the making and levying of a rate unless the council is satisfied that—
(a) The proposed pest management strategy includes reasonable notice of an intention to provide in the strategy for wholly or partially funding the implementation of the pest management strategy by means of a rate; and

(b) The occupiers of properties on which the rate is to be levied have been consulted adequately and the council has considered all views expressed in the course of the consultations; and

(c) The council has considered all other views concerning the proposed rate expressed to it; and

(d) The uses to which the proceeds of the rate will be put will be related to the interests of the occupiers of properties on which the rate is to be levied; and

(e) Overall, the collective benefits from the proposed expenditure of the proceeds of the rate to the occupiers of properties on which the rate is to be levied will outweigh the collective costs to them of payment of the rates; and

(f) All other relevant matters known to the council have been properly considered; and

(g) The levying of the rate on the properties on which it is to be levied will, in broad terms, be fair and reasonable, having regard to—

(i) The extent to which (in the council's opinion) direct or indirect benefits are likely to accrue to the occupiers of the properties from the intended expenditure of the rate; and

(ii) The extent to which (in the council's opinion) the characteristics of those properties and the uses to which they are put contribute to the presence or prevalence of the pest or pests concerned.

98. Contents of rating provisions in strategy—Every regional pest management strategy providing for the making and levying of rates for the purposes of the strategy shall specify—

(a) Whether the rate is to be levied on every separately rateable property in the region or in any specified part or parts of the region; and

(b) The rating system, in terms of section 34A (3) of the Rating Powers Act 1988, on which the rate is to be levied; and

(c) Whether the rate is to be made and levied on a differential basis in terms of section 34A (3) (b) of the Rating...
Powers Act 1988 and, if so, the matters specified in section 77 (d) of this Act; and

(d) The rating years in which the rate is to be made and levied; and

(e) One or more rates (either in the dollar on rateable values, or per hectare) being the best estimate of the regional council concerned of the maximum rate or rates likely to be necessary to fund the strategy's implementation; and

(f) The circumstances (if any) in which remission or postponement of the rate under Part XII, Part XIIA, Part XIIB, or section 189 of the Rating Powers Act 1988 will be available; and

(g) Any discount in terms of section 131 of the Rating Powers Act 1988 or additional charges in terms of section 132 of that Act to be applied.

99. Making and levying of rates—Where an approved regional pest management strategy provides for the making and levying of a rate in any rating year, the regional council shall make and levy a rate in accordance with that strategy under section 34A of the Rating Powers Act 1988.

Management of Unwanted Organisms Present on Small Scale

100. Minister or regional council may without pest management strategy undertake small-scale management of unwanted organisms—(1) Notwithstanding section 55 of this Act, but subject to subsection (2) of this section, if satisfied that—

(a) An unwanted organism that is present in New Zealand (or, as the case requires, in a region) could become a serious pest unless early action to control it is taken; and

(b) The organism can effectively be controlled (within New Zealand or, as the case requires, that region) by small-scale measures within 3 years after beginning to take those measures, because—

(i) Its distribution is limited; and

(ii) Technical means to control it are available; and

(c) The taking of those measures is likely to cost less than an amount for the time being prescribed for the purposes of this section for Ministers or regional councils (as the case requires) by the Governor-General by Order in Council; and
(d) The impact of those measures on the public will not be significant,—

a Minister or regional council may, without the approval of a pest management strategy for the purpose, take any steps (being steps of a kind that could be taken under a pest management strategy) the Minister or council thinks desirable to bring the organism under control.

(2) A Minister or regional council shall not begin to take measures under subsection (1) of this section without first giving public notice, in a manner appropriate to the distribution of persons likely to be affected by those measures, of the Minister’s or council’s intention to do so.

PART VI

ADMINISTRATIVE PROVISIONS

Appointments and Delegations

101. Chief technical officers—(1) The Director-General shall appoint chief technical officers for the purposes of this Act, being in each case a person with appropriate experience, technical competence, and qualifications relevant to the area of responsibilities allocated by the Director-General to that person.

(2) The chief executive of a Department (other than the Ministry of Agriculture and Fisheries) recognised by the Minister as having responsibilities adversely affected by an organism specified, or under consideration for specification, as a pest in a pest management strategy may appoint chief technical officers for the purposes of this Act, being in each case a person with appropriate experience, technical competence, and qualifications to be the officer responsible for the strategy.

Cf. 1967, No. 50, s. 2

102. Deputy chief technical officers—(1) The Director-General may appoint in respect of any chief technical officer appointed by the Director-General one or more deputy chief technical officers who shall in each case be a person with appropriate experience, technical competence, and qualifications relevant to the area of responsibilities allocated by the chief executive to that person.

(2) Subject to the direction of the chief technical officer concerned, a deputy chief technical officer shall have and may exercise all of the powers, duties, and functions of a chief technical officer under this Act.
108. Inspectors, authorised persons, and accredited persons—(1) A chief technical officer appointed as such by the Director-General may appoint inspectors and authorised persons from time to time for the purposes of administering and enforcing the provisions of this Act.

(2) A chief technical officer appointed as such by the chief executive of a Department other than the Ministry of Agriculture and Fisheries may from time to time appoint authorised persons for the purpose of exercising functions, powers, and duties under this Act in relation to any national pest management strategy affecting the responsibilities of that chief technical officer.

(3) The principal officer of a region may from time to time appoint authorised persons for the purpose of exercising functions, powers, and duties under this Act in relation to any regional pest management strategy in force in the region.

(4) A person shall not be appointed as an authorised person unless the person has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to that person.

(5) Authorised persons appointed under this section may, but need not, be persons who are employed under the State Sector Act 1988 or by a regional council.

(6) Inspectors and authorised persons may be authorised on their appointment to exercise all of the powers conferred on inspectors and authorised persons under this Act, the regulations, or a pest management strategy, or only such of those powers as are specified in their instruments of appointment or subsequently by written notice.

(7) A chief technical officer or the principal officer of a region may accredit persons (to be known as accredited persons) for the purposes of performing functions consequential upon the exercise of powers under this Act by an inspector or authorised person, but shall not accredit any person unless satisfied that the person has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to that person.

(8) Every inspector, authorised person, and accredited person shall in the performance of functions, powers, and duties for the purposes of this Act use his or her best endeavours to
comply with and give effect to any relevant performance or technical standards.

Cf. 1967, No. 50, s. 5; 1967, No. 147, s. 100; 1968, No. 13, s. 5; 1969, No. 53, ss. 36, 39A; 1970, No. 151, s. 17; 1978, No. 15, s. 41; 1982, No. 42, s. 9

104. Authorised persons to comply with instructions—All authorised persons shall comply with any lawful direction or instruction given by a chief technical officer or principal officer in relation to the exercise and performance of the powers, duties, and functions conferred or imposed on authorised persons by this Act.

105. Delegation to authorised persons—(1) A Minister, chief executive (including the Director-General), principal officer, or chief technical officer may delegate to any person any of his or her functions, powers, or duties under this Act, except for—

(a) This power of delegation; and
(b) The power of the Minister to propose, or recommend the approval of, a national pest management strategy; and
(c) The power to appoint chief technical officers, deputy chief technical officers, inspectors, and authorised persons; and
(d) Powers to take provisional control action under section 152 of this Act; and
(e) Powers to register quarantine facilities, quarantine operators, containment facilities, or containment operators.

(2) Any delegation under this section may be made on such terms and conditions as the person delegating the power thinks fit, and may be revoked at any time by notice in writing to the delegate.

(3) Except as provided in the instrument of delegation, every person to whom a function, power, or duty has been delegated under this section may, without confirmation by the person delegating the function, power, or duty, exercise or perform the function, power, or duty in the same manner and with the same effect as the person so delegating could himself or herself have exercised or performed it.

(4) Every person authorised to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of proof to the contrary.
A delegation under this section does not affect the performance or exercise of any function, power, or duty by the person on whom the function, power, or duty is conferred or imposed.

**Administrative Powers**

106. **Power to require assistance**—When it is necessary to do so, an inspector or authorised person may employ any person or request any person to assist that inspector or authorised person in carrying out the provisions of this Act, the regulations, and any directions or instructions issued by (as the case requires) the Director-General, a principal officer, or a chief technical officer under this Act.

Cf. 1967, No. 50, s. 7; 1970, No. 151, s. 20

107. **Power of inspectors to detain people**—(1) This subsection applies to—

(a) A person required by section 34 (2) of this Act to go directly to a controlled area and remain there for such reasonable time as an inspector may require to ascertain the presence of any risk goods, who—

(i) Has disembarked from a craft on which the person arrived in New Zealand, and is not proceeding directly to a controlled area; or

(ii) Has gone to a controlled area, but failed or refused to remain there for sufficient time to enable an inspector to ascertain the presence of any risk goods; and

(b) Any person who is in a controlled area.

(2) An inspector who suspects on reasonable grounds that a person to whom subsection (1) of this section applies may be in possession of any uncleared risk goods may detain the person for any period (not exceeding 4 hours) that is reasonable in the circumstances, for search by a member of the Police; and—

(a) Where the person is moving, may use such force as is reasonably necessary to stop the person:

(b) Where the person is not near a controlled area, may use such force as is reasonably necessary to bring the person to the controlled area:

(c) May use such force as is reasonably necessary to detain the person.

(3) An inspector who suspects on reasonable grounds that any person is in possession of unauthorised goods may detain the person for any period (not exceeding 4 hours) that is
reasonable in the circumstances, for search by a member of the Police, using such force as is reasonably necessary to do so.

108. Power to search people—(1) Subject to subsections (2) and (3) of this section, a member of the Police who—
   (a) suspects on reasonable grounds that a person to whom section 107 (1) of this Act applies may be in possession of any uncleared risk goods; or
   (b) has been told by an inspector, and believes, that the inspector suspects on reasonable grounds that a person—
       (i) is a person to whom section 107 (1) of this Act applies; and
       (ii) may be in possession of any uncleared risk goods; or
   (c) suspects on reasonable grounds that any person is in possession of any unauthorised goods; or
   (d) has been told by an inspector, and believes, that the inspector suspects on reasonable grounds that any person is in possession of any unauthorised goods, may search the person, and take possession of any unauthorised goods found.

(2) No member of the Police shall search a person under the authority of subsection (1) of this section without first—
   (a) telling the person that he or she proposes to do so under the authority of that subsection; and
   (b) telling the person that he or she is a member of the Police; and
   (c) if not in uniform, producing to the person evidence that he or she is a member of the Police.

(3) Nothing in subsection (1) of this section authorises any member of the Police to conduct an internal search of any part of a person’s body.

(4) A member of the Police who takes possession of any goods under subsection (1) of this section shall give them into the custody of an inspector.

(5) Within 3 days of searching a person under the authority of subsection (1) of this section, a member of the Police shall give the Commissioner of Police a written report on the search, and the circumstances in which it came to be conducted.

109. Power of inspection—(1) Subject to subsections (2) and (3) of this section,—
   (a) an inspector authorised in writing by the Director-General to exercise the powers of inspection conferred by this
paragraph may, at any reasonable time or times, enter any place for the purpose of confirming the presence, former presence, or absence of—

(i) Any pest, pest agent, or unwanted organism; or

(ii) Any unauthorised goods; or

(iii) Packing material, plants, soil, or other thing, that may have been in contact with such a pest or organism; or

(iv) Organic material that may constitute a risk of introducing pests or unwanted organisms, or may hinder the management or eradication of a pest:

(b) An inspector or authorised person authorised in writing (by the Director-General, other chief executive, or principal officer, by whom the inspector or authorised person was appointed) to exercise the powers of inspection conferred by this paragraph may, at any reasonable time or times, enter any place for the purpose of—

(i) Confirming the presence, former presence, or absence, of any pest, pest agent, or unwanted organism; or

(ii) Managing or eradicating any pest, pest agent, or unwanted organism.

(2) An inspector or authorised person shall not enter a dwellinghouse, a marae, or a building associated with a marae, under subsection (1) of this section, except with—

(a) The consent of an occupier; or

(b) A warrant issued under section 110 (1) of this Act.

(3) Where a warrant under section 110 (1) of this Act has been issued to an inspector or authorised person subject to conditions, the inspector or authorised person—

(a) Shall not enter the dwellinghouse, marae, or building associated with a marae, specified in the warrant otherwise than in accordance with the conditions; and

(b) Shall in all other respects comply with the conditions.

(4) Subject to subsection (3) of this section, an inspector or authorised person exercising the powers of inspection conferred by subsection (1) of this section may use such force in going on, into, or under, the place concerned (whether by breaking down a door or otherwise), or in breaking open anything in the place, as is reasonable in the circumstances.

110. Warrant to inspect dwellinghouse, marae, etc.—A District Court Judge, a duly authorised Justice, or a Registrar (not being a member of the Police), who, on the written
application of an inspector or authorised person made on oath, is satisfied that there is reasonable ground for believing that there is on or in any place specified in the application (being a place that is, or is within, a dwellinghouse, a marae, or a building associated with a marae) any of the things specified in subparagraphs (i) to (v) of section 109 (1) (a) of this Act may issue to the inspector or authorised person, unconditionally or subject to conditions, a warrant (in the prescribed form) authorising the inspector or authorised person to enter the place on one occasion within 14 days of the issue of the warrant.

111. Entry in respect of offences—(1) Subject to subsection (2) of this section, a District Court Judge, a duly authorised Justice, or a Registrar (not being a member of the Police), who, on the written application (made on oath) of an inspector, is satisfied that there is reasonable ground for believing that there is on or in any place specified in the application any thing—

(a) In respect of which an offence against this Act punishable by imprisonment has been or may have been committed; or

(b) That is or may be evidence of the commission of an offence against this Act punishable by imprisonment; or

(c) That is intended to be used for the commission of an offence against this Act punishable by imprisonment,—

may issue, unconditionally or subject to conditions, a warrant (in the prescribed form) authorising the entry and search of the place, at any reasonable time on one occasion within 14 days of the issue of the warrant.

(2) The inspector applying for a warrant under subsection (1) of this section—

(a) Shall first make reasonable inquiries as to whether any other applications for such a warrant (or a similar warrant under a provision of any enactment repealed by this Act) have been made in respect of the place concerned, and (if so) the following matters:

(i) The offence or offences alleged in respect of each application:

(ii) The result of each application; and

(b) Shall disclose on the application for the warrant the results of the inquiries.
Every warrant under subsection (1) of this section shall be directed to and exercisable only by—
(a) A member of the Police specified in the warrant; or
(b) An inspector specified in the warrant, if accompanied by a member of the Police; or
(c) Any member of the Police; or
(d) Any inspector, if accompanied by a member of the Police.

Where a warrant under subsection (1) of this section has been issued subject to conditions, the person exercising it—
(a) Shall not enter or search the place specified in it otherwise than in accordance with the conditions; and
(b) Shall in all other respects comply with the conditions.

Subject to subsection (4) of this section, a person exercising a warrant under subsection (1) of this section may use such force in entering the place specified in it (whether by breaking down a door or otherwise), or in breaking open anything in the place, as is reasonable in the circumstances.

112. Duties on exercising power of entry—(1) An inspector, authorised person, or member of the Police, exercising a power of entry conferred by section 109 or section 111 of this Act—
(a) Shall have with him or her—
(i) Evidence of his or her identity, and appointment as an inspector, authorised person, or member of the Police; and
(ii) Except in the case of entry under section 109 of this Act to a place that is not a dwellinghouse, a marae, or a building associated with a marae, the warrant under section 110 or section 111 of this Act authorising the entry; and
(b) Shall produce them to any person appearing to be in charge of the place entered—
(i) On entering the place (if such a person is then present); and
(ii) At any reasonable time thereafter, if asked to do so by the person; and
(c) If there is no person appearing to be in charge of the place at any time between the time of entry and the time the inspection or search concerned has been completed, shall, as soon as is practicable after completing the inspection or search, give an occupier or person in charge of the place written notice stating that the place has been entered, and specifying the following matters:
(i) The time and date of entry:
(ii) The circumstances and purpose of entry:
(iii) The name, office or position, and employer of every person entering:
(iv) If entry was under warrant, the principal contents of the warrant:
(v) Every thing that has been seized, or that nothing has been seized.

(2) An inspector, authorised person, or member of the Police, exercising a power of entry conferred by section 109 or section 111 of this Act in relation to a marae or a building associated with a marae shall have regard to the kawa of the marae.

118. Power to record information—A person lawfully exercising the powers conferred by section 109 or section 111 of this Act may make or take copies of any document or any information recorded or stored in a computer or other device, and for that purpose may take possession of and remove any document, tape, or disc from the place where it is kept for such period of time as is reasonable in the circumstances, or may require a person to reproduce, or assist the inspector or authorised person to reproduce, in usable form information recorded or stored in a computer or other device.

114. General powers—An inspector or authorised person who has lawfully entered premises under section 109 or section 111 of this Act may do on or in respect of any such premises all such acts and things as appear to the inspector or authorised person to be necessary or expedient for eradicating or managing a pest or unwanted organism on the premises or preventing the spread of a pest or unwanted organism from or to those premises.

Cf. 1967, No. 50, s. 6

115. Use of dogs and devices—Any person lawfully exercising a power under any of sections 109, 111, 113, 114, or 120 of this Act may—
(a) Be accompanied by a dog; or
(b) Bring and use any machine or device,— to assist in the exercise of the power.

116. Power to seize and dispose of risk goods, unlawfully imported or introduced organisms, etc.—
(1) Any inspector lawfully exercising a power under any of
sections 19 (2), 31, 34 (5), 109, 111, 113, 114, or 120 of this Act may seize any unauthorised goods.

(2) A chief technical officer may, either generally or in any particular case, give any reasonable directions as to the disposal of, the treatment of, or any other dealing with, any unauthorised goods (or unauthorised goods of any kind or description) seized under subsection (1) of this section; and any inspector may dispose of, treat, or otherwise deal with any such goods accordingly.

(3) A chief technical officer may offer the importer or owner of any organism imported into New Zealand and seized under this section the option of exporting or returning the organism to its place of origin provided that the importer or owner undertakes the payment of any costs associated with the export or return of the organism.

(4) A chief technical officer may permit an organism seized under this section to be held in the custody of the Director-General for so long as is necessary for the importer to apply for an import health permit; and in such a case the estimated costs and expenses of the custody and maintenance of the organism shall be paid in advance to the Director-General.

(5) If an organism that is an endangered species as defined in section 3 of the Trade in Endangered Species Act 1989 is seized under subsection (1) of this section, a chief technical officer shall, after consulting the Director-General of Conservation concerning the disposal of the organism, dispose of it as he or she thinks fit.

117. Expenses and compensation—(1) All costs and expenses attendant upon the custody and disposal of goods seized under section 116 of this Act and forfeited to the Crown shall be borne by the owner or any other person in possession of the goods immediately before seizure; and shall be recoverable from that person as a debt due to the Crown.

(2) If satisfied that the person in possession of any goods seized under section 116 of this Act was not aware that they were unauthorised goods, the Director-General may, at the Director-General’s absolute discretion waive or reduce the amount otherwise recoverable in respect of those goods under subsection (1) of this section.

118. Power to seize evidence—(1) Any person exercising the power of search conferred by section 111 of this Act,—
(a) May search for, and if it is found seize, any thing that is, or is a thing of a kind or description, specified in the warrant concerned; and
(b) While at the place specified in the warrant, may seize any other thing that the person believes on reasonable grounds to be a thing in respect of which the person could have obtained a warrant under that section.

(2) Section 199 of the Summary Proceedings Act 1957 shall, with any necessary modifications, apply to any thing seized under subsection (1) of this section.

119. Power to seize abandoned goods—(1) An inspector or authorised person may seize and may treat or dispose of any restricted goods (where necessary disabling or killing them first), or any abandoned organism, or any abandoned conveyance, craft, or goods that are reasonably suspected by the inspector or authorised person of containing or harbouring any pest or unwanted organism.
(2) An inspector or authorised person is entitled to regard as abandoned any organism or goods that appear to the inspector or authorised person, after making such inquiries as are reasonable in the circumstances, to have been abandoned or have no apparent or readily identifiable owner.

Cf. 1969, No. 53, s. 10

120. Power to intercept baggage, etc.—Any inspector or authorised person who believes on reasonable grounds that—
(a) Any of sections 25, 130, 131, 132, or 134 (1) of this Act has been contravened in respect of any risk goods; and
(b) Any bag, baggage, box, container, conveyance, craft, mail, parcel, receptacle, or thing contains, or is likely to contain, those risk goods (or any of them or any part of them)— may open it (using such force as is reasonable in the circumstances) and inspect the contents for the presence of risk goods; and may stop any conveyance or craft for the purpose.

Cf. 1967, No. 50, s. 19

121. Power to examine organisms—(1) An inspector or authorised person may, for the purpose of taxonomical identification of an organism or for the diagnosis of disease or pests or unwanted organisms, or to ascertain the presence or absence of any pest or unwanted organism, examine, inspect, apply tests to, destroy, sample, autopsy, section, or take
specimens or samples of, or apply any other treatment or procedure to organisms, or organic material, or any goods or material that the inspector or authorised person believes on reasonable grounds may harbour pests or unwanted organisms.

(2) Every owner or person in control of any organism, and every occupier of a place in which any organism is present, shall, whenever required by an inspector or authorised person by written notice to do so, submit the organism specified in the notice for the purposes of subsection (1) of this section.

(3) Where an inspector or authorised person has under subsection (2) of this section required the submission of any organism an inspector or authorised person may direct the owner or person in control of the organism, or the occupier of any place where it is present, to bring it—

(a) In a specified manner:
(b) To a specified place:
(c) On a specified day:
(d) For a specified purpose.

(4) If the owner or person in control of any animal or the occupier of any place in which an animal is present fails to comply with a direction under this section, an inspector or authorised person may—

(a) Undertake any of the actions specified in subsection (1) of this section; and

(b) In the case of any animal or animals,—

(i) To the extent that it is necessary to enable those actions to be taken (or taken efficiently), capture, pen, or muster it or them or any of them; or

(ii) If for any reason it is not practicable to capture, pen, or muster it or them or any of them, kill or destroy it or them or any of them if the inspector believes on reasonable grounds that it is necessary to do so for the purpose of controlling pests or unwanted organisms.

Cf. 1967, No. 50, ss. 6, 34; 1978, No. 15, s. 46; 1982, No. 42, s. 67

122. Other powers in respect of risk goods—An inspector or authorised person may direct the occupier of any place—

(a) To treat any risk goods, or water, place, equipment, fittings, or other things that may be contaminated by risk goods; or
(b) To destroy when necessary any organism, or organic material, that there are reasonable grounds to believe harbours a pest or unwanted organism; or

(c) To take such steps as may be necessary to prevent the spread of any pest or unwanted organism.

Cf. 1967, No. 50, s. 6; 1969, No. 53, s. 14; 1970, No. 151, s. 11; 1982, No. 42, s. 74

128. Power to vaccinate, etc.—An inspector or authorised person may apply any procedure to organisms (such as medication or vaccination) therapeutically or prophylactically for the purposes of this Act.

Cf. 1967, No. 50, s. 6

124. Power to destroy organism on non-payment of fees—An inspector may destroy or otherwise dispose of an organism that is being lawfully held by the Crown if any treatment fees, quarantine isolation fees, or containment fees due in respect of that organism have not been paid within 20 working days of those fees being demanded from the owner or person who was in apparent control of that organism prior to it passing into the control of the Crown.

125. Quarantine direction—An inspector may by notice in writing direct that any risk goods specified in the notice shall be placed in a quarantine facility for such period as is specified in the notice or until the occurrence of an event specified in the notice.

Cf. 1967, No. 50, s. 6

126. Intervention in quarantine facilities—(1) A chief technical officer may exercise a power described in subsection (2) of this section if (and only if) the officer has reasonable grounds to suspect that—

(a) A quarantine facility or containment facility does not comply with the terms or conditions subject to which it is registered; or

(b) The operator of a quarantine facility or containment facility is not complying with the terms and conditions of his or her registration as an operator; or

(c) The terms of quarantine or containment of any organism confined in the facility are not being complied with; or
(d) The health or welfare of any organism in a quarantine facility or containment facility is not being satisfactorily attended to.

(2) A chief technical officer may—
(a) Give a direction in writing to the operator of the quarantine facility or containment facility specifying the suspected unsatisfactory action or circumstances, stating what the operator is required to do to remedy the situation, and specifying the time within which the direction must be complied with; or
(b) If the chief technical officer considers that emergency or other special circumstances so require, intervene summarily in the management or operation of the quarantine facility or containment facility to ensure—
   (i) Compliance with the terms and conditions subject to which the facility is registered; or
   (ii) That the terms of quarantine or containment of any organism confined in the facility are complied with; or
   (iii) That the health or welfare of any organism in a quarantine facility or containment facility is satisfactorily attended to.

(3) A direction given under subsection (2) of this section may be cancelled or varied by subsequent notice in writing.

(4) If a direction given under subsection (2) of this section is not complied with within the time specified in the notice, a chief technical officer may take such action as the officer considers necessary to give effect to the requirements of the notice.

(5) The costs and expenses reasonably incurred by a chief technical officer in intervening summarily under subsection (2) of this section or taking action under subsection (4) of this section may be recovered from the operator of the quarantine facility or containment facility as a debt due to the Crown.

127. Destruction of imported organisms—(1) A chief technical officer may by notice in writing given to the operator of a quarantine facility direct that any imported organism that has been placed in quarantine, and any organism or goods at any time associated with that organism, shall be destroyed or treated or subjected to a specified procedure if the chief technical officer believes on reasonable grounds—
(a) That the imported organism is affected by or harbours a pest or unwanted organism of a kind or to a degree that, even when the organism is in the quarantine
facility, constitutes an unacceptable risk to the health of organisms in New Zealand; or
(b) The organism is, is affected by, or harbours, a pest under active control in New Zealand; or
(c) That the health of the organism has not been and cannot be satisfactorily established within a reasonable time.

(2) If the operator of a quarantine facility fails to comply with a direction under this section, an inspector may seize and destroy the organism concerned.

(3) No compensation shall be payable in respect of the destruction of an organism under this section.

(4) The costs and expenses of seizure and destruction of an organism under subsection (2) of this section shall be the responsibility of the owner of the organism and may be recovered as a debt due to the Crown.

Cf. 1967, No. 50, s. 13

128. **Power to act on default**—(1) Where a notice given to a person under this Act lawfully directing or requiring that person to carry out specified works or measures, or take some other specified action, has not been complied with on the expiry of the time allowed by the notice for compliance, or, if no such time was specified in the notice, within a reasonable time, a chief technical officer or a management agency may cause such works or measures to be carried out or action to be taken as is reasonably necessary and appropriate for achieving the purposes of the notice.

(2) Where specified works or measures are to be carried out on Maori land, any notice given to the owners shall be given in accordance with section 181 of Te Ture Whenua Maori Act 1993.

(3) The chief technical officer or management agency may recover the costs and expenses reasonably incurred under this section as a debt due from the person to whom the notice was given.

Cf. 1967, No. 50, s. 8; 1967, No. 147, s. 104; 1968, No. 13, s. 9; 1969, No. 53, s. 45; 1970, No. 151, s. 11; 1978, No. 15, s. 57; 1982, No. 42, ss. 68, 74

129. **Liens**—All costs recoverable by a management agency under section 128 of this Act shall be a charge (in this section referred to as the recovery charge) against the land concerned; and—

(a) Subject to paragraph (b) of this section, the recovery charge shall have priority over all existing or later
mortgages, charges, and incumbrances over the land, however they may have been created (including mortgages, charges, and incumbrances in favour of the Crown):

(b) If the land is or becomes subject to some other charge (being a charge created by an enactment other than this section), the charges shall rank equally unless the enactment provides that the other charge is to be deferred to the recovery charge.

**Place and Area Controls**

130. **Declaration of restricted place**—(1) If an inspector or authorised person believes or suspects on reasonable grounds that an organism that is or has been in a place is a pest or unwanted organism, the inspector or authorised person may, by notice given in accordance with subsections (2) and (3) of this section, declare that place and any other place in the neighbourhood the inspector or authorised person considers necessary to be a restricted place.

(2) A notice shall be in a form approved for the purpose by a chief technical officer or a management agency.

(3) A notice shall be given by serving a copy on the occupier of each place included in the area of the restricted place except that—

(a) A copy need not be served on the occupier of any part of the place if the inspector or authorised person cannot with reasonable diligence discover an occupier of that place who can be found quickly; and

(b) Notice may be given publicly if it is impractical to give notice in accordance with the preceding provisions of this subsection.

(4) While a notice under subsection (1) of this section is in force, no person shall, without the permission of an inspector or authorised person,—

(a) Remove—

(i) Any organism, organic material, or risk goods; or

(ii) Any other goods that may have been in contact with any organism, organic material, or risk goods,— from the place to which the notice relates; or

(b) Introduce any goods of any kind to the place.

(5) An inspector or authorised person may, at any time while the declaration of a restricted place is in force, direct that specified organisms, risk goods, or other goods in the restricted
place, shall be isolated, confined, or stored in such manner as the inspector or authorised person may specify.

Cf. 1967, No. 50, s. 29

181. Declaration of controlled area—(1) The purpose of this section is to enable the institution of movement and other controls in order to—

(a) Enable the limitation of the spread of any pest or unwanted organism; or
(b) Minimise the damage caused by any pest or unwanted organism; or
(c) Protect any area from the incursion of pests or unwanted organisms; or
(d) Facilitate the access of New Zealand products to overseas markets; or
(e) Monitor risks associated with the movement of organisms from parts of New Zealand the pest status of which is unknown.

(2) A chief technical officer or a management agency may, by public notice in a newspaper, or by radio or television announcement, or otherwise as the chief technical officer or management agency considers effective and appropriate, declare any specified area to be an area that is controlled for the purposes of this section.

(3) At any time while the declaration of a controlled area is in force, the chief technical officer or management agency, as the case may require, may, by public notice in a newspaper, or by radio or television announcement, or otherwise as the chief technical officer or management agency considers effective and appropriate, give notice of either or both of the following matters:

(a) The movement into, within, or from the controlled area of such organisms, organic material, risk goods or other goods as are specified in the notice is restricted, regulated, or prohibited in the manner, to the extent and subject to the conditions specified in the notice:
(b) The organisms within the controlled area shall be subject to such treatment and procedures as are specified in the notice.

(4) A notice given under subsection (3) of this section may be revoked or may from time to time be replaced or amended.

Cf. 1967, No. 50, ss. 13A, 29; 1969, No. 53, ss. 13, 16, 30, 31; 1982, No. 42, s. 79
132. **Road blocks, cordons, check-points, etc.**—(1) In this section, "control" means a road block, a cordon, or a check-point.

(2) A District Court Judge who, on the written application (made on oath) of a chief technical officer, is satisfied that—
   (a) A notice is in force under section 131 of this Act; and
   (b) It is necessary to establish controls in order to—
      (i) Control, prevent, or limit the movement of the pest or unwanted organism to which the notice relates within, or from within, the controlled area to which the notice relates; or
      (ii) Minimise the damage caused by the pest or organism,—

may issue a warrant authorising the establishment of controls in relation to the area.

(3) The warrant shall be issued for a period of not more than 7 days; but may from time to time be renewed (in the form in which it was issued or in any amended form) for a period not exceeding 7 days.

(4) The warrant may be issued in writing or orally; but—
   (a) If it is issued in writing, it shall specify—
      (i) The pest or organism concerned; and
      (ii) The approximate location of every cordon whose establishment it authorises; and
      (iii) The location (either by way of individual descriptions or by way of descriptions of places of any class or classes) of every other control whose establishment it authorises; and
      (iv) The period for which it is granted; and
      (v) The grounds on which it was issued; and
   (b) If it is issued orally, the Judge shall cause to be made and kept a written record of the matters specified in subparagraphs (i) to (v) of paragraph (a) of this subsection.

(5) Subsection (4) of this section shall, with any necessary modifications, apply to the renewal of a warrant as if it is the issue of a warrant.

(6) Any member of the Police may establish or operate a control whose establishment is authorised by a warrant under this section.

(7) A member of the Police operating a control whose establishment is authorised by a warrant under this section may—
   (a) Stop any vehicle, conveyance, or craft, that is at or near the control; or
(b) Detain any vehicle, conveyance, or craft, that is stopped at or near the control, either at the place where it is stopped or at any other convenient place nearby,—for the purpose of exercising the power of inspection conferred by subsection (8) of this section.

(8) A member of the Police who has stopped or detained a vehicle, conveyance, or craft, under subsection (7) of this section, may exercise the powers of inspection and search conferred by sections 109 and 111 of this Act in the same manner, and to the same extent, and subject to the same conditions and restrictions, as if—

(a) Every reference in those sections to a place is a reference to the vehicle, conveyance, or craft; and

(b) Every reference in that section to a pest, or to any thing in respect of which an offence against this Act punishable by imprisonment has been or may have been committed, is a reference to the pest or organism to which the warrant under this section authorising the establishment of the control concerned relates;—

and sections 112, 116, and 117 of this Act shall have effect accordingly.

(9) No person shall,—

(a) While in charge of any vehicle or craft, that is at or near a control, without reasonable excuse fail or refuse to stop it when a member of the Police in uniform asks him or her to stop it, or tries to stop it; or

(b) While in charge of any vehicle or craft lawfully stopped or detained under this section, without reasonable excuse move it from the place where it is stopped or detained without the permission of a member of the Police.

188. Duration of place and area declarations—A declaration of a restricted place or a controlled area shall remain in force until it is revoked by a notice of revocation given substantially in the same manner as the declaration of the area concerned was notified.

Cf. 1967, No. 50, ss. 13A, 29

184. Enforcement of area controls—(1) No person shall—

(a) Resist or obstruct the performance of, or fail to comply with, any direction of a member of the Police who is acting in the performance of duties under section 132 of this Act; or
(b) Move any organism, organic material, risk goods, or other goods (being an organism, organic material, risk goods, or other goods, of a kind specified in a notice under section 131(3) of this Act declaring a controlled area) out of, into, or from one place to another place within, the controlled area,—

(i) Without the permission of an inspector or authorised person; or

(ii) Otherwise than in accordance with any conditions specified in the notice.

(2) All organisms, organic material, and other risk goods that are removed or moved in contravention of subsection (1) of this section may be seized by an inspector or authorised person and destroyed, treated, or otherwise dealt with, if it is reasonable in the circumstances to do so.

(3) The Minister may direct that organisms, organic material, or other risk goods that were removed or moved in contravention of subsection (1) of this section and have been seized shall be forfeited to a management agency and destroyed, sold, or otherwise disposed of as that agency may direct.

Cf. 1967, No. 50, ss. 13A, 29

Recovery of Costs

135. Options for cost recovery—(1) The Director-General, every other chief executive, and every management agency, (hereafter in this section and in section 136 of this Act referred to as a recovering authority) shall take all reasonable steps to ensure that so much of the costs of administering this Act, including costs incurred as the management agency of a pest management strategy, as are not provided for by money appropriated by Parliament for the purpose are recovered in accordance with the principles of equity and efficiency in accordance with this section and the regulations.

(2) In determining appropriate mechanisms for the recovery of costs of a particular function or service, a recovering authority shall ensure that there is recovered any amount by which—

(a) The sum of—

(i) The costs of the function in the current year; and

(ii) Any shortfall in the recovery of the costs in the preceding year; exceeds

(b) Any over-recovery of costs in respect of the preceding year.
A recovering authority may recover costs of administering this Act and performing the functions, powers, and duties provided for in this Act by such methods as he or she or it believes on reasonable grounds to be the most suitable and equitable in the circumstances, including any one or more of the following methods:

(a) Fixed charges:
(b) Charges fixed on an hourly or other unit basis:
(c) Estimated charges paid before the provision of the service or performance of the function followed by reconciliation and an appropriate payment or refund after provision of the service or performance of the function:
(d) Actual and reasonable charges:
(e) Refundable or non-refundable deposits paid before provision of the service or performance of the function:
(f) Charges imposed on users of services or third parties:
(g) In the case only of the Director-General or some other chief executive, liens on property in the possession of the Crown.

186. Failure to pay—(1) Where all or part of a charge made under this Act or the regulations remains unpaid after 20 working days since the charge was demanded in writing, the debt shall be deemed to have been increased by an amount calculated in accordance with subsection (2) of this section.

(2) The amount by which an unpaid charge is deemed to have increased is the sum of—

(a) Ten percent of the debt, or that part of it that remained unpaid after the expiration of the period of 20 working days referred to in subsection (1) of this section; and

(b) For every complete period of 6 months after the expiration of that period during which the debt or any part of it (including any deemed increase under this section) has remained unpaid, 10 percent of that debt or that part.

(3) If a recovering authority is satisfied that the failure or refusal of any person to pay all or any part of a debt was a result of a genuine dispute between the person and Department as to the person’s liability to pay the debt, the amount of the debt, or both, the recovering authority may waive the payment of all or any part by which the debt has increased under this section.
(4) In an action for recovery of the debt, the Court may exercise the power of waiver contained in subsection (3) of this section if the Court is satisfied in the terms set out in that subsection.

137. Levies—(1) The Governor-General may from time to time, on the recommendation of the Minister, by Order in Council impose a levy payable to the Director-General for the purposes of wholly or partially funding a service provided or function performed by the Department for the purposes of this Act.

(2) Every levy order shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

Cf. 1967, No. 50, s. 107

138. Orders to be confirmed—(1) Where in any year an order under section 137 of this Act has been made on or after the 1st day of January and before the 1st day of July, and—

(a) Has not been revoked with effect on or before the 1st day of July in the next year; and

(b) Has not ceased, and will not cease, to have effect on or before the 1st day of July in the next year by virtue of the Regulations (Disallowance) Act 1989,—

it shall be deemed to have been revoked with the close of the 30th day of June in that next year unless it has been confirmed by an Act of Parliament passed on or before that day.

(2) Where in any year an order under section 137 of this Act has been made after the 30th day of June and on or before the 31st day of December, and—

(a) Has not been revoked with effect on or before the 1st day of January in the year after the next year; and

(b) Has not ceased, and will not cease, to have effect on or before the 1st day of January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—

it shall be deemed to have been revoked with the close of the 31st day of December in the year after the year in which it was made, unless it has been confirmed by an Act of Parliament passed on or before that day.

139. Restrictions on levies—The Minister shall not recommend the making of an order under section 137 of this Act unless the Director-General has satisfied the Minister that—
(a) The imposition of a levy recovering the costs of providing or performing a particular service or function is in accordance with the principles of equity and efficiency; and

(b) Either—

(i) The persons who will be responsible for paying the levy will benefit from the provision or performance of the particular service or function; or

(ii) The persons who will be responsible for paying the levy create risks that require the provision or performance of the particular service or function; and

(c) All other relevant matters known to the Minister have been properly considered.

140. Contents of levy order—(1) Every order under section 137 of this Act shall specify—

(a) The persons primarily responsible for paying the levy; and

(b) The basis on which the amount of levy is to be calculated or ascertained; and

(c) The persons (if any) to be exempt from paying the levy; and

(d) The persons responsible for collecting the levy from those primarily responsible for paying it; and

(e) How the levy is to be spent, in consultation with those persons primarily responsible for paying the levy; and

(f) When and how the levy is to be paid; and

(g) The maximum rate of levy; and

(h) How the actual rate of the levy is to be set; and

(i) How the rates of the levy and variation of rates are to be notified; and

(j) Whether or not the persons collecting the levy are entitled to recover the cost of levy collection and the estimated amount.

(2) The order may prescribe any of the following matters:

(a) The making of returns to the Director-General or some other person or body for the purpose of enabling or assisting the determination of amounts of levy payable:

(b) The circumstances in which, and conditions subject to which, persons may be allowed extensions of time for the payment of any levy:

(c) The payment of additional or increased levy when amounts of levy otherwise payable have been paid late, paid in part or not paid at all.
141. Effect of levy order—Where an order is made under section 137 of this Act, the following provisions apply:
(a) Every person responsible for paying the levy to the Director-General shall do so; and
(b) The Director-General may recover the levy from any person responsible for paying it as a debt due in a Court of competent jurisdiction.

142. Resolution of disputes—Every order under section 137 of this Act shall provide for—
(a) The appointment of mediators to resolve disputes as to—
(i) Whether or not any person is required to pay the levy concerned:
(ii) The amount of levy any person is required to pay; and
(b) The procedures to be followed by mediators; and
(c) Remuneration of mediators; and
(d) The payment of mediation costs; and
(e) A right of appeal to a District Court Judge against decisions of mediators and the procedures governing the exercise of that right; and
(f) Any other matters relating to the resolution of such disputes.

PART VII
EXIGENCY ACTIONS

143. Purpose of Part VII—The purpose of this Part of this Act is to provide for the effective prevention, management, or eradication of unwanted organisms if emergencies or other exigencies occur.

144. Declaration of biosecurity emergency—(1) On the recommendation of the Minister, the Governor-General may, by Proclamation, declare a biosecurity emergency if satisfied on reasonable grounds after having regard to all available information that—
(a) It is likely that—
   (i) There has been an outbreak or occurrence in New Zealand of an organism (being an organism not previously known to be established in New Zealand) that has the potential to cause significant economic loss, significant environmental loss, or both, if it becomes established in New Zealand; or
   (ii) There is established in part of New Zealand an organism (being an organism not previously known to
be established in New Zealand) that has the potential to cause significant economic loss, significant environmental loss, or both, if it becomes established in other parts of New Zealand; or

(iii) An organism previously thought to be of restricted distribution or abundance (or both) in New Zealand is becoming or has become so distributed and abundant in New Zealand or any part of New Zealand that it has the potential to cause significant economic loss, significant environmental loss, or both; or

(iv) A pest is, or threatens to be, beyond control by the application of the national pest management strategy for that pest; and

(b) It is in the public interest that action be taken immediately to prevent, manage, or eradicate the organism and sufficient powers are not otherwise available to enable the organism to be effectively prevented, managed, or eradicated.

(2) The Minister shall, to the extent that is practical in the circumstances, consult such persons as the Minister believes on reasonable grounds are representative of interests involved in the emergency before recommending that the Governor-General declare a biosecurity emergency.

(3) A declaration of a biosecurity emergency shall state the area or areas to which it applies and specify the nature of the emergency.

(4) A declaration of a biosecurity emergency comes into force when it is declared or at any later time stipulated in the Proclamation declaring it.

(5) The Minister shall publish notice of the declaration not later than 24 hours after it is made by such means as the Minister considers practical and appropriate and shall cause the Proclamation to be published in the Gazette without delay.

(6) On the recommendation of the Minister, the Governor-General may by further Proclamation amend or revoke a Proclamation under this section and the Minister shall publish notice of an amendment or revocation in the manner provided by subsection (5) of this section.

Cf. 1967, No. 50, s. 30; 1970, No. 151, s. 12

145. Emergency powers—(1) The Minister may, in the area or areas in which a declaration of biosecurity emergency is in force, take such measures, and do all such acts and things and give all such directions, and require all such acts to be done
or not to be done, as the Minister believes on reasonable grounds to be necessary or desirable for the purpose of preventing, managing, or eradicating the organism in respect of which the emergency has been declared.

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, the Minister, or any person authorised by the Minister for the purpose, may require the owner of any goods or premises or craft (being a craft registered in New Zealand, or chartered by a company formed and registered under the Companies Act 1955 or under any of the enactments referred to in the definition in section 2 (1) of that Act of the term "existing company") that is anywhere in New Zealand and that the Minister or person authorised by the Minister believes on reasonable grounds to be necessary or would be of assistance in preventing, eradicating, or limiting the spread of the organism to transfer the goods to or permit the premises or craft to be used for a specified period by the Minister or any other person.

Cf. 1967, No. 50, ss. 30, 31; 1970, No. 151, s. 13 (1)

146. Duration of emergency—(1) Unless it is sooner revoked or extended by the House of Representatives, a declaration of biosecurity emergency ceases to have effect on the expiration of 4 months after it comes into force.

(2) The House of Representatives may from time to time by resolution extend any declaration of biosecurity emergency for such period as the resolution may state.

(3) A resolution under subsection (2) of this section shall be published in the manner provided in section 144 (5) of this Act.

Cf. 1967, No. 50, s. 30

147. House of Representatives to be informed—(1) The Minister shall inform the House of Representatives immediately of the making of a Proclamation declaring, amending, revoking, or extending a biosecurity emergency if the House is then sitting, or, if it is not then sitting, the Minister shall so inform the House as early as is practicable on its next sitting day.

(2) The Minister shall explain the reasons for the Proclamation.

148. Revocation by House of Representatives of biosecurity emergency—(1) The House of Representatives may by resolution revoke a declaration of biosecurity emergency at any time.
(2) A resolution revoking a declaration of biosecurity emergency has effect from the time of the resolution or any later time specified in the resolution.

149. Compensation—(1) A person who has an interest in goods that are requisitioned under powers conferred as the result of a declaration of biosecurity emergency, or are lost, damaged, or destroyed as a result of anything done or purported to be done under such a declaration, is entitled to compensation, out of money appropriated by Parliament for the purpose, for the verified use, loss, damage, or destruction of the goods of such an amount that the person to whom it is paid will be in no better or worse position than any person who is not directly affected by the action taken, authorised, or directed under the powers.

(2) The provision for compensation under subsection (1) of this section is subject to any regulations made under section 150 of this Act.

Cf. 1967, No. 50, s. 30; 1970, No. 151, s. 13 (2)

150. Biosecurity emergency regulations—(1) On the recommendation of the Minister, the Governor-General may, at any time while a declaration of biosecurity emergency is in force, by Order in Council make regulations for the prevention, management, or eradication of the organism in respect of which the emergency has been declared or otherwise for dealing effectively with the emergency.

(2) The Minister shall, to the extent that is practical in the circumstances, consult such persons as the Minister believes on reasonable grounds are representative of interests affected by the proposed regulations before recommending that the Governor-General make regulations under this section; and shall not recommend that the Governor-General make them unless satisfied, on reasonable grounds, that they are necessary or desirable for the prevention, management, or eradication of the organism concerned.

(3) Without prejudice to the generality of subsection (1) of this section, biosecurity emergency regulations may do all or any of the following things:

(a) Create offences in respect of the breach of a biosecurity emergency regulation or non-compliance with a direction given or requirement made under the authority of such a regulation:

(b) Prescribe as the penalty for an offence created by a biosecurity emergency regulation—
(i) Where the offence is committed by an individual, a fine not exceeding $15,000; and
(ii) Where the offence is committed by a body corporate, a fine not exceeding $75,000:
(c) Prescribe the terms and conditions for the payment of compensation under section 149 of this Act:
(d) Prescribe the procedure to be followed by applicants for compensation under section 149 of this Act and the manner in which such applications are to be considered:
(e) Prescribe the criteria to be used in determining the amount of compensation and in assessing any use, loss, damage or destruction of property:
(f) Prescribe procedures for arbitration or resolution of disputes.

(4) A biosecurity emergency regulation comes into force at the time at which the regulation is made, or the time specified in the regulation, whichever is the later.

(5) The responsible Minister shall lay all biosecurity emergency regulations before the House of Representatives not later than the second sitting day after they are made.

151. Emergency regulations to be confirmed—
(1) Where in any year regulations under section 150 of this Act have been made on or after the 1st day of January and before the 1st day of July, and—
(a) Have not been revoked with effect on or before the 1st day of July in the next year; and
(b) Have not ceased, and will not cease, to have effect on or before the 1st day of July in the next year by virtue of the Regulations (Disallowance) Act 1989,—
they shall be deemed to have been revoked with the close of the 30th day of June in that next year unless they have been confirmed by an Act of Parliament passed on or before that day.

(2) Where in any year regulations under section 150 of this Act have been made after the 30th day of June and on or before the 31st day of December, and—
(a) Have not been revoked with effect on or before the 1st day of January in the year after the next year; and
(b) Have not ceased, and will not cease, to have effect on or before the 1st day of January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—
they shall be deemed to have been revoked with the close of the 31st day of December in the year after the year in which they were made, unless they have been confirmed by an Act of Parliament passed on or before that day.

152. Provisional control action—(1) If a Minister suspects on reasonable grounds that a pest or unwanted organism may be present in New Zealand but is unable to confirm the suspicion until further information is available to enable identification of the organism and consideration of the appropriate means of eradicating or managing the organism, the Minister may take whatever steps are necessary or desirable by way of provisional controls pending confirmation of the Minister's suspicion to prevent the spread and development of the suspected organism.

(2) The powers conferred on a Minister under this section may be exercised for such period not exceeding 60 days as the Minister believes on reasonable grounds to be necessary and the Minister may extend such a period for one further period not exceeding 60 days.

153. Compensation following investigation of pests—
(1) A person whose goods are destroyed or damaged in the course of action taken in relation to the investigation under section 152 of this Act of an event suspected by a chief technical officer of being related to a pest or unwanted organism is entitled to compensation for verifiable losses suffered by that person which arise from action taken, authorised, or directed by the Minister.

(2) The compensation payable under this section shall be paid from money appropriated by Parliament for the purpose and shall be of such an amount that the person to whom it is paid will be in no better or worse position than any person who is not directly affected by the action taken, authorised, or directed by the Minister.

(3) Compensation shall not be paid under this section to any person—
(a) Who fails to comply with the provisions of this Act or the regulations; or
(b) In respect of loss suffered before the time when an inspector or authorised person commences an investigation on the premises of the person.

Cf. 1967, No. 50, s. 42
PART VIII
ENFORCEMENT, OFFENCES, AND PENALTIES

154. Offences—Every person commits an offence against this Act who—
(a) Threatens, assaults, or intentionally obstructs or hinders,—
   (i) An inspector, authorised person, or accredited person; or
   (ii) An assistant of an inspector, authorised person, or accredited person,—
   in the exercise or performance of a function, power or duty under this Act, the regulations, a pest management strategy, or a declaration of emergency under section 144 of this Act:
(b) In connection with the purposes of this Act,—
   (i) Makes or gives to an inspector or authorised person, or an assistant of an inspector or authorised person, a statement or information that the person knows to be false or misleading in a material particular; or
   (ii) In circumstances where the person is required to provide information, wilfully withholds relevant information from an inspector or authorised person, or an assistant of an inspector or authorised person; or
   (iii) In circumstances where the person is required to make a return or declaration or give a certificate, knowingly makes or gives a return, declaration, or certificate that is false or misleading in a material particular:
(c) Personates or falsely represents himself or herself to be an inspector, authorised person, accredited person, assistant, or other person authorised to exercise a function, power, or duty conferred or imposed by or under this Act:
(d) Without reasonable excuse, fails to comply with a reasonable direction given to that person in accordance with and for the purposes of this Act by an inspector or authorised person, or the assistant of an inspector or authorised person:
(e) Without reasonable excuse, fails to comply with a reasonable requirement made of that person in accordance with and for the purposes of this Act by
an inspector or authorised person, or the assistant of an inspector or authorised person:

(f) Has unauthorised goods in his or her possession or control, knowing that they are unauthorised goods:

(g) Buys, sells, exchanges, or otherwise acquires or disposes of, unauthorised goods—
   (i) Knowing that they are unauthorised goods; or
   (ii) Knowing that they may be unauthorised goods, and reckless as to whether they are or not:

(h) Knowing that goods are risk goods that have been seized by, or are otherwise under the control of, an inspector or authorised person,—
   (i) Makes an alteration to the condition of the goods; or
   (ii) Unpacks or repacks the goods,—
   otherwise than with and in accordance with the permission of an inspector or authorised person:

(i) Knowing that goods are risk goods that—
   (i) Have been seized by, or are otherwise under the control of, an inspector or authorised person; and
   (ii) Are stored in a place where an inspector or authorised person has directed that they should be stored,—
   removes the goods from the place otherwise than with and in accordance with the permission of an inspector or authorised person:

(j) Without the permission of an inspector or authorised person, takes or carries away or otherwise converts to his or her own use any goods, knowing that they are risk goods that have been seized under this Act:

(k) Without the permission of an inspector or authorised person, exhumes the carcass of any organism or any other risk goods, knowing it or them to have been buried as required by a direction given under this Act:

(l) Knowing that a notice under section 130 (1) of this Act is in force in relation to a place, without the permission of an inspector or authorised person,—
   (i) Removes any organism, organic material, or risk goods from the place; or
   (ii) Removes from the place any goods that have while in the place been in contact with any organism, organic material, or risk goods; or
   (iii) Introduces any goods into the place:

(m) Fails or refuses to comply with any of sections 29, 46, 52, 53, and 134 of this Act:
(n) Fails or refuses to comply with any of sections 17, 18, 25, 30, 31, 41 (5), 51 (1), and 51 (2) of this Act:

(o) Fails or refuses to comply with any of sections 19, 34, 35, 36, 37 (6), 40 (5), 43, 47, 48, 51 (3), 121 (2), and 132 (9) of this Act:

(p) Having (while in a biosecurity control area) been asked by an inspector to answer any question that is necessary for the inspector to ascertain the presence, nature, origin, or itinerary, of any risk goods,—

(i) Fails or refuses to answer it within a reasonable time of its being asked; or

(ii) Fails or refuses to answer it completely within a reasonable time of its being asked; or

(iii) Wilfully gives a false or misleading answer.

155. Proof of permission, etc.—Where it is proved in any proceeding under this Act or the regulations that a person has done or omitted to do any act and such person would commit an offence or be liable for a debt or damages unless the act was done or omitted with the permission of a Minister, the Director-General, a chief technical officer, a management agency, or an inspector or authorised officer, the onus shall be on the person who did or omitted to do the act to prove that he or she had that permission.

Cf. 1967, No. 50, s. 105

156. Liability of principals and agents—(1) If an offence is committed against any of the provisions of this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act, in the same manner and to the same extent as if he or she had personally committed the offence, if it is proved that the act that constituted the offence took place with his or her authority, permission, or consent, or that he or she knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

(2) Where any body corporate is convicted of an offence against this Act, every person, being a director or a person concerned in the management of the body corporate, shall be guilty of the same offence if it is proved that the act that constituted the offence took place with that person’s authority, permission, or consent, or that the person knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.
157. Penalties—(1) Every person who commits an offence against any of paragraphs (f), (g), (h), (i), (j), (k), (l), and (m) of section 154 of this Act is liable on conviction—
   (a) In the case of an individual person, to imprisonment for a term not exceeding 5 years, a fine not exceeding $100,000, or both:
   (b) In the case of a corporation, to a fine not exceeding $200,000.

(2) Every person who commits an offence against any of paragraphs (a), (b), (c), (d), (e), and (n) of section 154 of this Act is liable on conviction—
   (a) In the case of an individual person, to imprisonment for a term not exceeding 12 months, a fine not exceeding $15,000, or both:
   (b) In the case of a corporation, to a fine not exceeding $75,000.

(3) Subject to section 159 of this Act, every person who commits an offence against either of paragraphs (o) and (p) of section 154 of this Act is liable on conviction—
   (a) In the case of an individual person, to a fine not exceeding $1,000:
   (b) In the case of a corporation, to a fine not exceeding $5,000.

(4) Every person who commits an offence against any regulations made under this Act shall be liable on summary conviction to a fine not exceeding $1,000.

158. Fines to be paid to management agency instituting prosecution—(1) Subject to subsection (2) of this section, where a person is convicted of an offence under this Act and the Court imposes a fine, the Court shall, if the information for that offence was laid on behalf of a management agency, order that the fine be paid to the management agency.

(2) There shall be deducted from every amount payable to a management agency under subsection (1) of this section, a sum equal to 10 percent of it, which shall be credited to the Crown Bank Account.

(3) Notwithstanding anything in subsection (2) of this section, where any money awarded by a Court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a management agency under subsection (1) of this section, no deduction shall be made under subsection (2) of this section in respect of that money.
Subject to subsection (2) of this section, an order of the Court made under subsection (1) of this section shall be sufficient authority for the Registrar receiving the fine to pay it to the management agency entitled to it.

Cf. 1991, No. 69, s. 342

159. Certain clearance offences may be proceeded with by way of infringement notice—(1) Where an inspector has reason to believe that a person (in this section referred to as the defendant) has committed an offence against section 154 (p) of this Act,—

(a) The defendant may be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or

(b) The inspector may issue an infringement notice in respect of the alleged offence.

(2) Any inspector (not necessarily the inspector who issued the notice)—

(a) May deliver it (or a copy of it) to the defendant personally; or

(b) May send it (or a copy of it) to the defendant by post addressed to the defendant's last known place of residence or business; and in that case, for the purposes of the Summary Proceedings Act 1957, it (or the copy) shall be deemed to have been served on the defendant when it was posted.

(3) Every infringement notice shall be in a form prescribed by regulations made under this Act; and shall specify—

(a) Sufficient details to inform the defendant fairly of the time, place, and nature of the offence alleged; and

(b) That the infringement fee is $100; and

(c) Where the fee may be paid; and

(d) The time within which the fee may be paid; and

(e) A summary of the provisions of section 21 (10) of the Summary Proceedings Act 1957; and

(f) That the defendant has the right to request a hearing; and

(g) A statement of what will happen if the defendant neither pays the fee nor requests a hearing; and

(h) Any other matters prescribed in that behalf.

160. Payment of infringement fees—All infringement fees shall be payable to the Director-General; and the Director-General shall pay all infringement fees received into the Crown Bank Account.
161. Evidence in proceedings—(1) Subject to subsection (5) of this section, in any proceedings for an offence against this Act or against any regulations made under this Act, a certificate to which subsection (2) of this section applies—
(a) Shall be admissible in evidence; and
(b) Shall, in the absence of proof to the contrary, be sufficient evidence of the matters stated in it.
(2) Subsection (1) of this section applies to any certificate of one or more of the following kinds:
(a) A certificate purporting to be signed by the Director-General, stating that a document attached to the certificate is—
(i) A national pest management strategy approved by an order under section 70 of this Act made on the recommendation of the responsible Minister; or
(ii) An amendment to such a strategy:
(b) A certificate purporting to be signed by a chief executive other than the Director-General, stating that a document attached to the certificate is—
(i) A national pest management strategy approved by an order under section 70 of this Act made on the recommendation of a Minister other than the responsible Minister; or
(ii) An amendment to such a strategy:
(c) A certificate purporting to be signed by the principal officer of a regional council, stating that a document attached to the certificate is—
(i) A regional pest management strategy approved by the council under section 80 (3) of this Act; or
(ii) An amendment to such a strategy:
(d) A certificate purporting to be signed by the Director-General, stating that a person specified in the certificate is—
(i) A chief technical officer appointed under section 101 (1) of this Act; or
(ii) A deputy chief technical officer appointed under section 102 (1) of this Act:
(e) A certificate purporting to be signed by a chief executive other than the Director-General, stating that a person specified in the certificate is a chief technical officer appointed under section 101 (2) of this Act in relation to a national pest management strategy specified or described in, or attached to, the certificate:
(f) A certificate purporting to be signed by a chief technical officer appointed under section 101 (1) of this Act,
stating that a person specified in the certificate is an inspector, authorised person, or accredited person appointed or accredited by that chief technical officer under subsection (1) or subsection (7) of section 103 of this Act:

(g) A certificate purporting to be signed by a chief technical officer appointed under section 101(2) of this Act, stating that a person specified in the certificate is an inspector, authorised person, or accredited person appointed or accredited by that chief technical officer under subsection (2) or subsection (7) of section 103 of this Act in relation to a national pest management strategy specified or described in, or attached to, the certificate:

(h) A certificate purporting to be signed by the principal officer of a regional council, stating that a person specified in the certificate is an authorised person or accredited person appointed or accredited by that principal officer under subsection (3) or subsection (7) of section 103 of this Act in relation to a regional pest management strategy specified or described in, or attached to, the certificate:

(i) A certificate purporting to be signed by any person authorised by this Act, the State Sector Act 1988, or the Local Government Act 1974 to delegate to any person (or people of any kind or description) the exercise or performance of any power or function under this Act stating that—

(i) The person has delegated the exercise or performance of a power or function under this Act specified in the certificate to a person specified in the certificate; or

(ii) The person has delegated the exercise or performance of a power or function under this Act specified in the certificate to people of a kind or description specified in the certificate, and that a person specified in the certificate is a person of that kind or description.

(3) The production of a document purporting to be a certificate to which subsection (2) of this section applies shall be prima facie evidence that it is such a certificate, without proof of the signature of the person purporting to have signed it.

(4) A certificate to which subsection (2) of this section applies shall not be admissible in evidence unless—
(a) At least 14 days before the hearing at which the certificate is to be tendered, a copy is served, by or on behalf of the prosecutor, on the defendant or the defendant's agent or counsel, and that person is at the same time informed in writing that the prosecutor does not propose to call the person who signed the certificate as a witness at the hearing; and

(b) The Court has not, on the application of the defendant made not less than 7 days before the hearing, ordered, not less than 4 days before the hearing (or such lesser period as the Court in the special circumstances of the case thinks fit), that the certificate should not be admissible as evidence in the proceedings.

(5) The Court shall not make an order under subsection (4)(b) of this section unless it is satisfied that there is a reasonable doubt as to the accuracy or validity of a certificate.

162. Time for laying informations—Notwithstanding section 14 of the Summary Proceedings Act 1957, an information in respect of an offence against this Act or any regulations made under it may be laid at any time within 2 years of the time when the matter of the information arose.

PART IX
MISCELLANEOUS PROVISIONS

163. Protection of inspectors and others—An inspector, authorised person, accredited person, or other person who does any act or omits to do any act in pursuance of any of the functions, powers, or duties conferred on that person by or under this Act or a pest management strategy shall not be under any civil or criminal liability in respect of that act or omission, unless the person has acted, or omitted to act, in bad faith or without reasonable cause.

Cf. 1967, No. 50, s. 10; 1970, No. 151, s. 23; 1978, No. 15, s. 45; 1982, No. 42, s. 82

164. Liability for goods—The Crown shall not be under any civil liability in respect of any loss or damage to any goods suffered—

(a) While those goods are in the custody of the Crown by reason of the exercise, in good faith and with reasonable care, of authority under this Act; or

(b) As a result of or in the course of any treatment, handling, or quarantine of those goods undertaken or required
in good faith and with reasonable care by an inspector or any other person acting in the exercise of authority under this Act.

Cf. 1967, No. 50, s. 10

165. Regulations—The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister after consulting such persons as the Minister has reason to believe are representative of interests affected by the regulations, make regulations for all or any of the following purposes:

(a) Prescribing the manner and content of applications for permits, registrations, and approvals under this Act:

(b) Prescribing procedures for the assessment, consideration, approval, and refusal of applications for permits, registrations, and approvals under this Act, and for the issue of such licences, permits, registrations, and approvals:

(c) Providing for and regulating the transfer, amendment, suspension, revocation, cancellation, or withdrawal of permits, registrations, and approvals issued under this Act:

(d) Providing for and prescribing conditions that shall or may be attached to permits, registrations, approvals, and exemptions issued under this Act:

(e) Requiring persons to whom or which section 43 (2) of this Act applies (or any of them) to make returns of information to the Director-General:

(f) Prescribing standards for premises that are required to be designated, registered, or approved under this Act or the regulations:

(g) Providing for the registration of premises that are particularly liable to harbour pests or unwanted organisms or are difficult to monitor, or that may serve as an active source of pests or unwanted organisms, and prescribing technical standards for the construction, equipping, maintenance, and operation of such premises:

(h) Prescribing standards relating to the operators of any of the premises referred to in paragraphs (f) and (g) of this section:

(i) Prescribing technical standards to be met by persons involved in the handling of diseased or pestiferous organic material:
(j) Prohibiting or controlling the disposal of garbage and other waste organic material, and providing for controls to prevent access to it by animals:

(k) Providing for the treatment of organic material before it is used as food for, or otherwise used in connection with the management of, organisms:

(l) Prescribing standards of technical competence, experience, and qualifications relating to the appointment of inspectors and authorised persons:

(m) Prescribing procedures and standards, including requirements as to technical competence, experience, and qualifications, relating to the accreditation and appointment of accredited persons:

(n) Prescribing procedures to be followed and standards to be met by inspectors, authorised persons, and other persons engaged in the exercise of powers and the performance of duties under this Act:

(o) Prescribing procedures to be followed in the preparation and public notification of proposals for pest management strategies and in consultations with interested and other persons concerning those proposals:

(p) Prescribing procedures to be followed and standards to be met by management agencies and persons acting on behalf of management agencies in the implementation of pest management strategies:

(q) Prescribing methods of implementing and enforcing standards prescribed under this Act:

(r) Regulating and controlling the holding, disposal, and treatment of risk goods:

(s) Prescribing matters in respect of which costs are recoverable under this Act and the regulations, the amounts of those costs or the method by which they are to be assessed, the persons liable for payment of the costs, and the circumstances in which the recovery of costs may be remitted or waived (in whole or in part):

(t) Requiring the holders of permits, registrations, and approvals under this Act and persons engaged in prescribed activities to keep records and to provide copies of those records and other information (wherever held) to the Director-General:

(u) Requiring compliance with any code of practice (as amended from time to time) that has been issued under this Act:
(v) Prescribing offences in respect of the contravention of any regulation made under this Act or any lawful direction or requirement made under any such regulation:

(w) Prescribing transitional and savings provisions relating to the coming into force of this Act, which may be in addition to or in place of any of the provisions of Part X of this Act; and, without limiting the generality of the preceding power, any such regulations may provide that, subject to such conditions as are specified in the regulations, specified provisions of this Act shall not apply, or specified provisions of Acts repealed or amended by this Act, or of regulations, Orders in Council, notices, licences, permits, approvals, authorisations, or consents made or given shall continue to apply during a specified transitional period:

(x) Providing for such matters as may be contemplated by or necessary for giving full effect to this Act and for its administration.

Cf. 1967, No. 50, ss. 12, 25, 26, 26A, 107; 1969, No. 53, s. 46; 1970, No. 151, ss. 10, 31; 1982, No. 42, s. 80

166. General provisions as to regulations—(1) Any regulation made under this Act may apply generally or may apply or be applied from time to time by the Minister by notice in the Gazette within any specified district or region of any local authority or within any specified part of New Zealand or may apply to any specified category or categories of persons.

(2) All regulations made under section 165 (w) of this Act that are still in force on the day that is 5 years after the commencement of section 165 of this Act shall expire at the close of that day.

(3) Any regulations made under this Act may confer power to issue directions, orders, requirements, permits, or notices for the purposes of this Act on all or any of the following:

(a) All Ministers, Ministers of a specified kind or description, or any specified Minister or Ministers:

(b) All chief executives, chief executives of a specified kind or description, or any specified chief executive or chief executives:

(c) All principal officers, principal officers of a specified kind or description, or any specified principal officer or principal officers:
(d) All chief technical officers, chief technical officers of a specified kind or description, or any specified chief technical officer or chief technical officers:

(e) All inspectors, or inspectors of a specified kind or description:

(f) All authorised persons, or authorised persons of a specified kind or description.

(4) Regulations made under this Act may authorise the Director-General to exempt—

(a) Any conveyance; or

(b) Conveyances of any kind or description; or

(c) Any other place; or

(d) Other places of any kind or description; or

(e) Any person; or

(f) Persons of any kind or description,—

from any requirement of those regulations, or any other regulations made under this Act, if satisfied that, in the circumstances, the imposition of the requirement on that conveyance, those conveyances, that place, those places, that person, or those persons, is not necessary.

Cf. 1967, No. 50, s. 107

167. Repeals and revocations—(1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) All Orders in Council and notices made under the Stock Act 1908 not specified in the Seventh Schedule to this Act are hereby revoked.

(3) The Orders in Council specified in the Sixth Schedule to this Act are hereby revoked.

(4) The Dog Control and Hydatids Regulations 1985 are hereby revoked, with effect on the 1st day of July 1996.

168. Enactments amended—(1) The enactments specified in the Fourth Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) The regulations specified in the Fifth Schedule to this Act are hereby amended in the manner indicated in that Schedule.

PART X

SAVINGS AND TRANSITIONAL PROVISIONS

169. Savings of Animals Act 1967 for limited administrative purposes—Notwithstanding section 167 (1) of this Act, the Animals Act 1967 shall continue in full effect to the extent necessary for the proper administration of sections
13, 14, 15, 16, and 21 of that Act in relation to organisms not established in New Zealand.

170. Savings of Plants Act 1970 for limited administrative purposes—Notwithstanding section 167 (1) of this Act, the Plants Act 1970 shall continue in full effect to the extent necessary for the proper administration of sections 5, 7, 10 (a), 15, and 16 of that Act in relation to organisms not established in New Zealand and the export of plants.

171. Savings of Apiaries Act 1969 for limited administrative purposes—Notwithstanding section 167 (1) of this Act, the Apiaries Act 1969 shall continue in full effect to the extent necessary for the proper administration of sections 25 to 31, 33, 46 (aa) and 46 (ab) of that Act.

172. Transition of emergency proclamations—(1) If a declaration of an animal disease emergency made by the Governor-General by Proclamation is in force on the commencement of this Act, the Proclamation and sections 30 and 31 of the Animals Act 1967 shall, notwithstanding the repeal of those sections by section 167 (1) of this Act, continue in effect for so long as the Proclamation remains in force.

(2) If a declaration of a plant disease emergency made by the Governor-General by Proclamation is in force on the commencement of this Act, the Proclamation and sections 12 and 13 of the Plants Act 1970 shall, notwithstanding the repeal of those sections by section 167 (1) of this Act, continue in effect for so long as the Proclamation remains in force.

173. Transitional continuance of regulations—Every regulation specified in the Seventh Schedule to this Act made under an enactment repealed by section 167 (1) of this Act that is in force at the close of the 30th day of June 1993 shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the Governor-General in Council under this Act and shall continue in force until it is revoked by regulation made under this Act or until the expiry of 2 years after that day whichever is the earlier, and shall then expire.

174. Transitional provision concerning inspectors, etc.—(1) Every person duly appointed and holding office as an inspector under the Ministry of Agriculture and Fisheries Act 1953, the Animals Act 1967, the Apiaries Act 1969, the Agricultural Pests Destruction Act 1967, the Poultry Act 1968,
or the Plants Act 1970, at the close of the 30th day of June 1993 shall be deemed to have been appointed an inspector under and for the purposes of this Act.

(2) Every person duly appointed and holding office as a noxious plants officer under the Noxious Plants Act 1978 at the close of the 30th day of June 1993 shall be deemed to have been appointed an inspector under and for the purposes of this Act.

175. Transition of quarantine appointments—On the 1st day of July 1993, the following shall be deemed to have been registered as a quarantine facility and to be subject in all respects to the provisions of section 39 of this Act:
(a) Any land set apart and defined as a quarantine ground under section 11 of the Animals Act 1967; and
(b) Any land declared to be a special quarantine ground under section 11A of the Animals Act 1967; and
(c) Any land defined or approved as a quarantine ground under section 24 of the Apiaries Act 1969; and
(d) Any land declared to be a quarantine station under section 4 of the Plants Act 1970.

176. Transition of import permits and exemptions—Every import permit issued or exemption given under section 13 of the Animals Act 1967 and having effect at the close of the 30th day of June 1993 shall be deemed to be an import health permit or an exemption notice issued or granted under this Act and to be subject in all respects to this Act accordingly.

177. Transition of notices under section 13A of Animals Act 1967—Notwithstanding the repeal of section 13A of the Animals Act 1967, every notice under that section that is in force at the close of the 30th day of June 1993 shall continue in force for the time specified in that notice and shall have effect and may be enforced in all respects as if that section had not been repealed.

178. Transitional control of brucellosis and tuberculosis in cattle and tuberculosis in deer—(1) Every direction, notice, or requirement given or made by the Director-General under section 53, 53A, 53AA, 53C, 53E, or 53H of the Animals Act 1967 that is in force at the close of the 30th day of June 1993 shall continue in force after the 30th day of June 1993 and shall have effect and may be enforced in all respects as if those sections had not been repealed.
(2) Where the Director-General has directed the slaughter of any animals under section 53AA or 53E of the Animals Act 1967 by a direction that is in force at the close of the 30th day of June 1993, sections 53AB and 53F of the Animals Act 1967 shall, notwithstanding their repeal by section 167 (1) of this Act, continue in force after the 30th day of June 1993 in relation to every animal which the Director-General has directed should be slaughtered.

179. Transitional control of agricultural pests—
(1) Notwithstanding the repeal by section 167 (1) of this Act of sections 3a, 30, 55 to 60, 63, 71 to 77, and 101 to 114, of the Agricultural Pests Destruction Act 1967, and sections 42 to 46 of the Rating Powers Act 1988, those sections shall continue in full effect after the 30th day of June 1993 in relation to any animal that was a pest of local importance under that Act at the close of that day, and in relation to rabbits that were a pest of national importance immediately at the close of that day, as though they were a pest of local importance under that Act, and shall have effect and may be enforced in all respects as if those sections had not been repealed.

(2) When a pest management strategy comes into effect under this Act, the sections continued in force by subsection (1) of this section shall cease to apply in relation to any pest to which the strategy applies in that part of New Zealand to which that strategy applies.

180. Compensation for certain slaughtered animals—
(1) Notwithstanding the repeal by section 167 (1) of this Act of the Animals Act 1967, but subject to subsection (2) of this section, that Act shall continue in full effect to the extent necessary for the proper administration of section 42 of that Act in relation to diseases specified in the First Schedule to that Act immediately before its repeal.

(2) When a national pest management strategy comes into effect in relation to any disease specified in the First Schedule to that Act immediately before its repeal, subsection (1) of this section shall cease to have effect in relation to that disease.

181. Transitional control of plant pests—
(1) Notwithstanding the repeal of the Noxious Plants Act 1978 by section 167 (1) of this Act but subject to subsection (2) of this section, that Act shall continue in full effect to the extent necessary for the proper administration of sections 17, 18, 19, 29, 30, 35 to 41, 43 to 53, 55 to 57, 72, 74 to 77, 100, and 103
to 117 of that Act in relation to any plant that is a noxious plant under that Act at the close of the 30th day of June 1993; and shall have effect and may be enforced in all respects as if those sections had not been repealed.

(2) When a pest management strategy comes into effect under this Act in relation to a noxious plant, the sections continued in force by subsection (1) of this section shall cease to apply in relation to any plant to which the strategy applies in the part of New Zealand to which that strategy applies.

182. Transitional control of bee diseases—
(1) Notwithstanding the repeal of the Apiaries Act 1969 by section 167 (1) of this Act but subject to subsection (2) of this section, that Act shall continue in full effect to the extent necessary for the proper administration of sections 4, 5, 6, 10 to 16, and 18 to 20 of that Act; and shall have effect and may be enforced in all respects as if those sections had not been repealed.

(2) When a pest management strategy comes into effect under this Act in relation to any bee disease, the sections continued in force by subsection (1) of this section shall cease to apply in relation to any disease to which the strategy applies in that part of New Zealand to which that strategy applies.

183. Transitional control of hydatids—
(1) Notwithstanding the repeal of Parts II and VI of the Dog Control and Hydatids Act 1982 by section 167 (2) of this Act, but subject to subsection (2) of this section, that Act shall continue in full effect to the extent necessary for the proper administration of sections 67, 68, 74 to 78, and 80 of that Act; and shall have effect and may be enforced in all respects as if those Parts had not been repealed.

(2) When a pest management strategy comes into effect under this Act in relation to true hydatids (Echinococcus) or sheep measles (Taenia ovis), the sections continued in force by subsection (1) of this section shall cease to apply in relation to that pest in that part of New Zealand to which the strategy applies.

184. Designated ports of entry—
(1) Subject to subsection (2) of this section, between the commencement of Part III of this Act and the 1st day of July 1995 the Director-General shall under subsection (1) of section 37 of this Act be deemed to have designated as places of first arrival of craft arrived in New Zealand the ports specified in the Eighth Schedule to this Act;
but the Director-General shall not be required under subsection (2) of that section to publish or make available a notice specifying the matters referred to in paragraph (a) of that subsection.

(2) Subject to section 37 (7) of this Act, the Director-General may at any time suspend or revoke any port's deemed designation under subsection (1) of this section; and it shall then cease to be deemed to have been designated as a place of first arrival of craft arriving in New Zealand.

185. Expiration of sections 179 to 183—Sections 179 to 183 of this Act shall expire with the close of the 30th day of June 1996.
SCHEDULES

Sections 60 (2) and 76 (2)

FIRST SCHEDULE

MATTERS FOR CONSIDERATION IN THE PREPARATION OF PROPOSALS FOR PEST MANAGEMENT STRATEGIES

1. REASONS FOR THE STRATEGY

1.1 Identification of the pest or pests to be managed.
1.2 A list of the species that will be involved in the strategy.
1.3 Location and distribution of the pest or pests.
1.4 Description of the problem to be solved.
1.5 Parties affected by the problem, and in particular—
   (a) The necessity to act in relation to the problem; and
   (b) The parties that need to be involved.

2. OBJECTIVES OF THE STRATEGY

2.1 A clear statement of the desired end results of the strategy together with a proposed date or period for achievement of those results.
2.2 A description of any stages that are necessary to achieve the desired end results.

3. OUTLINE OF STRATEGY

A general outline of the conceptual basis of the proposed management strategy together with a balanced review of available information demonstrating that the preferred strategy has succeeded elsewhere or can reasonably be expected to meet the objectives of the strategy.

3.1 Information background:
   (a) Synopsis of technical information obtained for the proposal.
   (b) Identification and analysis of alternative strategic options, including information describing what the situation is or would be if the current situation continues.

3.2 Preferred means of achieving objectives:
   (a) General description of the preferred means.
   (b) Discussion in support of the preferred option.
   (c) Synopsis of the techniques intended to be used to manage the pest and any associated vectors.

4. ENVIRONMENTAL EFFECTS

4.1 A summary of possible side-effects of the proposed strategy, both beneficial and detrimental, on the environment generally, and in particular concerning—
   (a) Ecological problems.
   (b) Physical environment.
   (c) Pollution (public and environmental health).
   (d) Residue problems (e.g., to food industries).
   (e) Public health (of both operators and the public).
   (f) The mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to prevent or reduce actual or potential adverse effects.
   (g) Where the scale or significance of the activity's effect is such that environmental monitoring is required, a description of how the effects will be monitored and by whom.
5. ANIMAL WELFARE

A summary of the possible effects on animal welfare of the implementation of the proposed strategy.

6. ECONOMIC EVALUATION OF STRATEGY

6.1 A sufficient analysis of the benefits and costs of the strategy, including social benefits and costs, to establish that the strategy is worthwhile in financial or economic terms. The analysis should compare the costs of doing nothing with the estimated net benefits of implementing the strategies.

6.2 Where clearly defined technical objectives have been imposed, the economic analysis may be based on a demonstration that the most cost-effective strategy option has been chosen.

7. FUNDING

A statement of the source, size and reliability of funding for the proposed strategy. The sources of funding must be stated and confirmed by supporting documents where industry organisations or central or local government agencies are involved.

7.1 Where statutory levies are proposed as a source of funds, it must be demonstrated that the provisions of the Act can be met.

7.2 The level of funding must be such as to reasonably ensure that the implementation of the strategy will be adequately resourced during its proposed term.

8. MANAGEMENT

8.1 The name of the agency it is proposed should manage the strategy. Where a new agency is intended, proposals for the composition and size of any executive group or agency that is to be given legal authority to manage the strategy.

8.2 A clear statement of the functions and responsibilities of the managing agency and its relationship to the Minister (in the case of a national strategy) or the regional council (in the case of a regional strategy) on the one hand and to funding agencies, industry bodies and other organisations on the other.

9. COMPENSATION

If any goods will necessarily be destroyed or damaged in implementing the strategy, whether compensation will be provided; and if so, the basis of the compensation and the source of the necessary funds.

10. STRATEGY RULES

A brief outline of the rules for the parties involved in implementing the strategy including—

(a) Definitions of terms used;

(b) Obligations and responsibilities of all parties involved;

(c) Obligation in the case of a national pest management strategy, for the Minister to publish notice as the Minister thinks appropriate within 24 hours if a strategy for a new or unusual pest comes into force:
FIRST SCHEDULE—continued

MATTERS FOR CONSIDERATION IN THE PREPARATION OF PROPOSALS FOR PEST MANAGEMENT STRATEGIES—continued

(d) Technical procedures:
(e) Regulatory procedures (enforcement and prosecution):
(f) Information management:
(g) Compensation (if any).

11. MEASURE OF PERFORMANCE
The means by which the Minister (in the case of a national strategy) or the regional council (in the case of a regional strategy) can measure the performance of the managing agency in achieving the objectives of the strategy.

12. STATUTORY POWERS REQUIRED
A list of the powers contained in the Act which are necessary to implement the strategy and operational plans.

12.1 Necessary powers for inspectors and authorised persons.
12.2 Necessary powers for a chief technical officer.
12.3 Compensation regulations required (if any).
12.4 Approval of operators.

13. REGULATORY MANAGEMENT
A statement of the manner in which the legal obligations of those affected by the strategy are to be decided, controlled and enforced.

13.1 Responsibility for making decisions—
(a) Issue of legal directions:
(b) Application of coercive measures:
(c) Recovery of costs of measures taken:
(d) Prosecution action:
(e) Other court action.
13.2 Responsibility for implementing decisions.
13.3 Financial responsibility and funding source for regulatory management.
SECOND SCHEDULE

1. Summary of submissions and notification—A board of inquiry shall publicly notify—
   (a) A summary of submissions received by it on a proposed pest management strategy; and
   (b) Where those submissions can be inspected; and
   (c) The address for service of the board of inquiry.

2. Hearing by board of inquiry—A board of inquiry shall—
   (a) Hold a hearing into submissions on a proposed pest management strategy; and
   (b) Publicly notify the dates, times, and places where it will hold the hearings; and
   (c) Notify every person who made a submission and who requested to be heard, of the dates, times, and places of the hearings; and
   (d) Give at least 10 working days' notice of every hearing to every person who made a submission and who requested to be heard.

3. Public hearings without unnecessary formality—(1) A board of inquiry shall hold the hearing in public unless permitted to do otherwise under clause 6 of this Schedule (which relates to the protection of sensitive information) and shall establish a procedure that is appropriate and fair in the circumstances.
   (2) In determining an appropriate procedure for the purposes of subclause (1) of this clause, the board of inquiry shall—
      (a) Avoid unnecessary formality; and
      (b) Recognise tikanga Maori where appropriate, and receive evidence written or spoken in Maori; and the Maori Language Act 1987 shall apply accordingly; and
      (c) Not permit any person other than the chairperson or other member of the board of inquiry to question any person making a submission or a witness; and
      (d) Not permit cross-examination.

4. Persons who may be heard—(1) At any hearing by a board of inquiry, every person who has made a submission and expressed a wish to be heard at the hearing may speak (either personally or through a representative) and call evidence.
   (2) Notwithstanding subclause (1) of this clause, a board of inquiry may, if it considers that there is likely to be excessive repetition, limit the circumstances in which persons having the same interest in a proposed strategy may speak or call evidence.

5. Provisions relating to hearings—(1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing conducted by a board of inquiry appointed under this Act:
   (a) Section 4, which gives power to maintain order:
   (b) Section 4B, which relates to evidence:
   (c) Section 4D, which gives power to summon witnesses:
   (d) Section 5, which relates to the service of a summons:
   (e) Section 6, which relates to the protection of witnesses:
   (f) Section 7, which relates to allowances for witnesses.
(2) Every summons to a witness to appear at a hearing shall be in the prescribed form and be signed by the chairperson of the hearing.

(3) All allowances for a witness shall be paid for by the person on whose behalf the witness is called.

6. Protection of sensitive information—(1) A board of inquiry may, of its own motion or on the application of a person making a submission to a proceeding, make an order described in subclause (2) of this clause where it is satisfied that the order is necessary—

(a) To avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu; or

(b) To avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information,—

and, in the circumstances of the particular proceeding, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available.

(2) A board of inquiry may make an order for the purpose of subclause (1) of this clause—

(a) That the whole or part of any hearing at which the information is likely to be referred to shall be held with the public excluded (which order shall, for the purposes of subsections (3) to (5) of section 48 of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution passed under that section):

(b) Prohibiting or restricting the publication or communication of any information supplied to it, or obtained by it, in the course of any proceeding, whether or not the information may be material to any inquiry.

(3) An order made under subclause (2) (b) of this clause in relation to—

(a) Any matter described in subclause (1) (a) of this clause may be expressed to have effect from the commencement of any proceeding to which it relates and for an indefinite period or until such date as the board of inquiry considers appropriate in the circumstances:

(b) Any matter described in subclause (1) (b) of this clause may be expressed to have effect from the commencement of any proceeding to which it relates but shall cease to have any effect at the conclusion of that proceeding—

and upon the date that such order ceases to have effect, the provisions of the Local Government Official Information and Meetings Act 1987 shall apply accordingly in respect of any information that was the subject of any such order.

(4) In this clause, “information” includes any document or evidence.
THIRD SCHEDULE

ENACTMENTS REPEALED

1953, No. 7—The Ministry of Agriculture and Fisheries Act 1953: Section 6 (2) (a). (R.S. Vol. 18, p. 509.)
1967, No. 50—The Animals Act 1967. (R.S. Vol. 21, p. 73): Save for sections 13 (as amended by section 2 of the Animals Amendment Act 1990) other than subsection (1a) (a), sections 14 and 15 (as amended by section 2 of the Animals Amendment Act 1990), 16, and 21 in so far as each of those sections relates to organisms not established in New Zealand.
1969, No. 53—The Apiaries Act 1969. (R.S. Vol. 21, p. 168): Save for sections 25 to 31, and 33 (as amended by section 11 (2) of the Apiaries Amendment Act 1980), and section 46 (aa) and (ab).
1970, No. 151—The Plants Act 1970. (R.S. Vol. 21, p. 735): Save for sections 5, 7, 10 (a), 15 and 16 in so far as each of those sections relates to new organisms or the export of plant products.
1971, No. 82—The Apiaries Amendment Act 1971. (R.S. Vol. 21, p. 190.)
1982, No. 42—The Dog Control and Hydatids Act 1982: Parts II and VI.
THIRD SCHEDULE—continued

ENACTMENTS REPEALED—continued
FOURTH SCHEDULE

ENACTMENTS AMENDED

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| 1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819) | By repealing the definition in section 2 of the term "domestic bird", and substituting the following definition: "Domestic bird' means any domestic fowl, duck, goose, or turkey, or any pheasant kept, held, raised, or bred on premises for which the predominant purpose is the sale of pheasant meat or live pheasants for human consumption; but does not include any such bird that is living in a wild state, or any other bird not referred to in this definition notwithstanding that it may be living in a domestic state; and for the avoidance of doubt—

"(a) Any pheasant that is fed on any land or premises but is not confined within an enclosure shall be deemed to be living in a wild state:

"(b) Any pheasant that is held pursuant to a permit under section 23, section 53, or section 56 of this Act for the purposes of liberating at large as game shall be deemed not to be a domestic bird:

"(c) Any pheasant which is made available for hunting shall be deemed to be living in a wild state:"

By adding to the definition in section 2 (1) of the term “infringement notice” (as inserted in section 2 (3) of the Summary Proceedings Amendment Act 1987, and amended by section 21 of the Weights and Measures Amendment Act 1991) the words “or section 159 of the Biosecurity Act 1993”.

By inserting in section 13 (2) (ab) (i) (as inserted by section 2 (3) of the Animals Amendment Act 1990), before the words “for a specified period”, the word “indefinitely,”.

By inserting in section 14 (1), after paragraph (j), the following paragraph:
FOURTH SCHEDULE—continued

ENACTMENTS AMENDED—continued

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| 1967, No. 50—The Animals Act 1967 (R.S. Vol. 21, p. 75)—continued | “(ja) Any African or Africanised honey bee (Apis mellifera scutellata); or”.
| 1967, No. 51—The Animal Remedies Act 1967 (R.S. Vol. 21, p. 11) | By inserting in section 21, after subsection (3), the following subsection: “(3A) When considering an application for a licence in respect of an animal remedy that may have the effect of spreading or masking the incidence of any disease, the Board shall consult and have regard to the views of the chief technical officer of the Ministry of Agriculture and Fisheries who is designated chief veterinary officer.”
| | By inserting, after section 63A (as inserted by section 12 of the Animal Remedies Amendment Act 1969), the following sections: “63B. Marking of wool prohibited—(1) No person shall use or cause to be used for the purpose of making any mark on the wool of any sheep any substance or preparation other than an approved woolmarking preparation approved for the particular purpose.
| | “(2) No person shall sell or offer for sale any substance or preparation intended by the seller or offeror to be used, or purporting to be suitable for use, in making any mark on the wool of sheep, other than an approved woolmarking preparation which is in a package which bears on it a statement indicating that the substance or preparation is an approved woolmarking preparation for the purposes of this Act and the purposes for which it is approved.
| | “(3) Every person who acts or attempts to act in contravention of, or fails to comply in any respect with, the provisions of this section commits an offence and is liable on summary
Enactment | Amendment
--- | ---
1967, No. 51—The Animal Remedies Act 1967 (R.S. Vol. 21, p. 11)—continued | conviction to a fine not exceeding $1,000.

"(4) In this section,—

‘Approved’ means approved in writing by the Director-General:

‘Approved woolmarking preparation’ means a substance or preparation for the time being approved by notice in the *Gazette* by the Director-General, after consultation with the New Zealand Wool Board, as suitable for use, for all purposes or only for the purposes specified in the notice, in making marks on the wool of sheep.

"63c. Sale and use of bloom dipping preparations prohibited—(1) No person shall sell or offer for sale any substance or preparation to be used, or purporting to be suitable for use, in the artificial colouring, blooming, or conditioning that results in colouring, of the wool of sheep.

“(2) No person shall use any such substance or preparation on any sheep or on the wool of any sheep.

“(3) No person shall use any preparation approved under this Act as an effective preparation for the control of lice or keds at a strength more than 5 percent greater than that specified by the manufacturer in the approved label.

“(4) If an Inspector or other officer authorised by the Director-General believes or suspects that an offence may have been or is being committed against this section in respect of any sheep, he or she may remove a sample of wool from that sheep.

“(5) No person shall sell or offer for sale, or bring or cause to be brought on to any land or other place at which
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<td>1967, No. 51—The Animal Remedies Act 1967 (R.S. Vol. 21, p. 11)—continued</td>
<td>sheep are offered for sale or exhibition, any sheep the wool of which has been treated with any substance or preparation to which subsection (1) of this section applies. “(6) Every person who acts in contravention of this section commits an offence, and is liable on summary conviction to a fine not exceeding $1,000.”</td>
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<td>1974, No. 66—The Local Government Act 1974 (R.S. Vol. 25, p. 1)</td>
<td>By repealing paragraphs (b) and (c) of section 37s (1) (as substituted by section 6 of the Local Government Amendment Act 1992) and substituting the following paragraph: “(b) The functions, duties, and powers of a regional council under the Biosecurity Act 1993.”</td>
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<td>1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)</td>
<td>By omitting from Part II of the First Schedule the item relating to the National Hydatids Council.</td>
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<td>1982, No. 42—The Dog Control and Hydatids Act 1982</td>
<td>By omitting from section 20 (1) (c) the words “Part V of the Animals Act 1967”, and substituting the words “the Animal Identification Act 1993”.</td>
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<td>1981, No. 56—The Meat Act 1981</td>
<td>By omitting from section 20 (1) the words “has the prescribed brand as provided for under Part V of the Animals Act 1967, and”.</td>
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<td>By repealing paragraph (b) of the definition in section 2 of the term “hydatids”.</td>
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<td>By omitting the word “thar,” from paragraph (a) of the definition in section 2 (1) of the term “game”.</td>
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<td>By omitting from paragraph (b) of that definition the words “pig or goat”, and substituting the words “goat, horse, pig, possum, rabbit, or thar”</td>
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<td>1981, No. 56—The Meat Act 1981—continued</td>
<td>By omitting from paragraph (a) of the definition in section 2 (1) of the term “stock” the words “sheep, and horses”, and substituting the words “and sheep”. By omitting from paragraph (b) of that definition the words “Pigs and goats”, and substituting the words “Goats, horses, pigs, and that”. By repealing the definition in section 2 (1) of the term “rabbit”.</td>
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| 1988, No. 97—The Rating Powers Act 1988 | By inserting, after section 34, the following sections: “34A. Pest management rate— (1) Where a regional pest management strategy approved under section 80 (3) of the Biosecurity Act 1993 is in effect and provides for the making and levying of a rate in any rating year, the regional council shall make and levy a rate in accordance with that strategy. “(2) Subject to section 97 of the Biosecurity Act 1993, a rate under subsection (1) of this section may be made and levied on all separately rateable property in the region or in any specified part or parts of the region. “(3) Subject to section 97 of the Biosecurity Act 1993, a rate under subsection (1) of this section may be made— “(a) As a uniform rate— “(i) In the dollar on the land value or capital value system; or “(ii) On the area system; or “(b) On a differential basis. “(4) Section 34B of this Act shall apply to every rate made and levied under this section. “(5) Nothing in section 34 or section 35 of this Act authorises a regional council to make any rate for the purpose of funding the implementation of a
**FOURTH SCHEDULE—continued**

**ENACTMENTS AMENDED—continued**

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<th>Enactment</th>
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**34b. Provisions applying to pest management rates—**(1) Except as otherwise provided in this section and section 34A of this Act, this Act shall apply to every rate made and levied under that section as if it is a separate rate.

"(2) Nothing in section 60 of this Act applies to a rate made under section 34A of this Act.

"(3) Where a regional pest management strategy whose implementation is to be funded by a rate made and levied under section 34A of this Act provides for the making and levying of that rate on a differential basis,—

"(a) Sections 84 to 87, and section 89, of this Act shall not apply to that rate or its making and levying; and

"(b) Sections 81, 82, 88, and 116 of this Act shall apply to that rate and its making and levying on a differential basis as if the strategy is a special order under section 80 of this Act.

"(4) Nothing in Part VI, section 127, or section 129 of this Act authorises the levying of any rate made under section 34A of this Act otherwise than in accordance with the regional pest management strategy whose implementation it is intended to fund.

"(5) Part XII, Part XIIA, Part XIIb, and section 189 of this Act shall apply in respect of a rate made and levied under section 34A of this Act to the extent only that the regional pest management strategy whose implementation it is intended to fund so provides.

**34c. Pest management rates may be identified in consolidated form—** Notwithstanding anything to the
FOURTH SCHEDULE—continued

ENACTMENTS AMENDED—continued

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<tr>
<td>1988, No. 97—The Rating Powers Act 1988—continued</td>
<td>contrary in section 122 of this Act, any rates assessment delivered to an occupier liable for 2 or more rates under section 34A of this Act—</td>
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<td>“(a) May identify the total amount payable on that assessment for those rates; and</td>
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<td>“(b) In that case, is not required to describe those rates separately.”</td>
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<tr>
<td>1989, No. 18—The Trade in Endangered Species Act 1989</td>
<td>By repealing section 35 (1), and substituting the following subsection:</td>
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<td></td>
<td>“(1) Every inspector appointed under the Ministry of Agriculture and Fisheries Act 1953 or the Biosecurity Act 1993 and every officer of Customs shall be an Endangered Species Officer for the purposes of this Act.”</td>
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<tr>
<td>1989, No. 44—The Public Finance Act 1989</td>
<td>By omitting from the Fourth Schedule and the Seventh Schedule (as added by section 41 of the Public Finance Amendment Act 1992) the items “Agricultural Pests Destruction Council” and “Noxious Plants Council”.</td>
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<tr>
<td>Regulations</td>
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</table>
| The Meat Regulations 1969 (S.R. 1969/192) | By inserting in regulation 179, after the definition of the term “approved slaughtering premises”, the following definition: “‘Exempted flesh’, means any part of any animal or poultry that—

(a) is in approved slaughtering premises awaiting, undergoing, or after, processing pursuant to and in accordance with an exemption under regulation 179A of these regulations; or

(b) is in any other place after processing pursuant to and in accordance with an exemption under regulation 179A of these regulations;”.

By revoking the definition in regulation 179 of the term “prohibited flesh”, and substituting the following definition:

‘Prohibited flesh’—

(a) Subject to paragraph (b) of this definition, means any part of any animal or poultry that has not been slaughtered in approved slaughtering premises (or, in the case of game, has not been derived from a game packing house licensed under the Meat Act 1981); but

(b) in relation to any approved pet food factory, does not include any exempted flesh;”.

By inserting, after regulation 179, the following regulation:

179A. Director-General may exempt certain flesh—(1) If satisfied that—

(a) The health of animals eating the resulting pet food, the health of people handling those animals, and the health of people processing that pet food will not be adversely affected; and
FIFTH SCHEDULE—continued
REGULATIONS AMENDED—continued

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<td>The Meat Regulations 1969 (S.R. 1969/192)—continued</td>
<td>&quot;(b) Risks to other product and pet food in the factory will be adequately managed,—the Director-General may approve the processing in any approved pet food factory of parts (or parts of any specified kind or description) of any animal or poultry (or animals or poultry of any specified kind or description) that has not been slaughtered in approved slaughtering premises (or, in the case of game, has not been derived from a game packing house licensed under the Meat Act 1981). &quot;(2) An exemption under subclause (1) of this regulation may be given unconditionally, or subject to any conditions the Director-General thinks fit.&quot;</td>
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<td>The Pheasant Farming Regulations 1976</td>
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**EIGHTH SCHEDULE**

**APPROVED PLACES OF FIRST ARRIVAL IN NEW ZEALAND**

**Airports**

- Auckland International Airport
- Whenuapai Airport (Royal New Zealand Air Force Base)
- Ohakea Airport (Royal New Zealand Air Force Base)
- Wellington International Airport
- Christchurch International Airport

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This Act is administered in the Ministry of Agriculture and Fisheries.