

**Regulatory Impact Statement**

# **Biosecurity Act Amendment Bill**

Paper 1: Overview impact  
statement

## Purpose of Document

Decision sought: *The release of a discussion document*

Advising agencies: *Ministry for Primary Industries*

Proposing Ministers: *Minister for Biosecurity*

Date finalised: *4 September 2024*

## Problem Definition

The biosecurity system is increasingly under pressure. The cost of primary sector production losses from pests has increased from an estimated \$1.5 billion cost in 2009, to an estimated \$4.3 billion cost in 2020.<sup>1</sup> The increasing volume and diversification of goods imported today has changed the biosecurity risks we face. Climate change increases risks of new pests establishing and established pests spreading.

The *Mycoplasma bovis* outbreak is the largest-scale biosecurity event New Zealand has faced. It highlighted significant pressures facing the biosecurity system and Government's exposure to fiscal shocks from medium and high scale biosecurity responses.

MPI has identified critical pain points in the Biosecurity Act 1993 (the Act) which impede the effectiveness of the biosecurity system, and which constrain progress and trade:

- Biosecurity risk management is becoming more expensive. The funding arrangements for readiness and response activities may not be equitable. Compensation can be a significant cost to the Crown and may not be incentivising individuals to take steps to reduce their biosecurity risk.
- Biosecurity risk management is becoming cumbersome and unwieldy. Significant time and resource are required to develop import standards, increasing the likelihood that our requirements will not keep up with risks, and limiting imports which affects consumer choice, business innovation, and international trade. The long-term management of pests is unnecessarily time consuming and difficult to access for central government, regional councils and management agencies.

Biosecurity law must remain fit-for-purpose. The biosecurity system needs a modern biosecurity law that protects what is important to New Zealand.

## Executive Summary

New Zealand's biosecurity system underpins trade, primary production, and biodiversity. The Act provides the legal framework for the biosecurity system. The Act helps keep harmful organisms out of New Zealand, manage those that get into the country, manage established pests and diseases, and helps assure trading partners of the quality of our exports. The Act is also a key tool that interfaces with other sectors. For example, preventing pests such as exotic mosquitoes from becoming established has significant implications for the economy, environment, and health of New Zealanders.

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<sup>1</sup> Economic cost of pests to New Zealand. 2020 Update. MPI Technical Paper No:2021/29. [www.mpi.govt.nz/dmsdocument/48496/direct](http://www.mpi.govt.nz/dmsdocument/48496/direct)

We have reviewed the Act to assess whether changes could deliver better biosecurity outcomes for New Zealand. Overall, the Act is working well. However, critical pain points remain. Although we continue to make operational improvements, these are insufficient to address the root causes of some problems. We recommend targeted improvements to modernise the Act rather than repealing and replacing it.

The Bill will help to strengthen, streamline, and future-proof the biosecurity system. It will help to deliver better value for money and enable more comprehensive management of risk from the same resources. This ensures biosecurity law continues to help protect our environment and support our economy. As well as preventing pests and diseases from entering New Zealand, biosecurity plays a major part in limiting the impacts of certain pests and diseases already established in New Zealand, through a range of management activities. This directly impacts productivity, sector growth and market access. The biosecurity system is crucial to protecting our environment, taonga species, and biodiversity.

We are proposing the Biosecurity Act Amendment Bill as the solution to these critical pain points. Our focus is making targeted improvements to ensure that we fulfil our stewardship of the biosecurity system and biosecurity law. As we carry out that work, we also seek to take advantage of opportunities to ensure our system reflects our way of life and the context of today.

Specifically, we want to take a number of proposals to public consultation. We do not always have a preferred option and there are multiple options within some of the proposals. The following is an overview of the high-level proposals proposed for the Bill (a fuller list of all the proposals is included in **Appendix 1** of this document):

Proposal	Change sought	Outcome sought
<p><b><u>Funding</u></b> Improve the administrative efficiency of levy and cost-recovery provisions.</p>	<ul style="list-style-type: none"> <li>• Enabling consolidation of sector levies.</li> <li>• Reviewing cost-shares in the Government Industry Agreement.</li> <li>• Enabling more efficient cost recovery from 'non-signatory beneficiaries' (i.e. sectors that benefit from the Government Industry Agreement but who are not part of it).</li> </ul>	<p>Reducing regulatory and administrative burden on the sector.</p> <p>More equitable sharing of costs.</p> <p>Maximising economic growth and productivity.</p> <p>Ensuring regulations are fit for purpose.</p>
<p><b><u>Compensation</u></b> Make compensation entitlements more adaptable and proportionate.</p>	<ul style="list-style-type: none"> <li>• Refining the types of non-compliance that would make a person ineligible for compensation.</li> <li>• Enabling more detailed compensation entitlements and requirements via regulation.</li> </ul>	<p>Ensuring regulations are fit for purpose.</p> <p>Prudent management of public finance.</p> <p>More certainty about entitlements.</p>

	<ul style="list-style-type: none"> <li>• Removing restrictions on the ability for a government industry agreement to vary compensation and enable upfront payment of future losses that have not yet been incurred.</li> <li>• Stating which types of losses are and are not compensable, including removing some or all consequential losses from compensation, such as losses related to intellectual property.</li> </ul>	More flexibility where this makes sense.
<p><b><u>Import system</u></b> Introduce greater flexibility into the Import Health Standard system. Import Health Standards are required to import any items (risk goods) that could bring in harmful pests and diseases.</p>	<ul style="list-style-type: none"> <li>• Broadening the range of amendments that can be made to an Import Health Standard without public consultation.</li> <li>• Enabling a rapid amendment process.</li> <li>• Establishing an alternative process for one-off imports.</li> <li>• Enabling the use of permits to allow trade to continue while a suspended Import Health Standard is being reviewed.</li> <li>• Enabling consultation on the risk analysis and risk management proposals for a good (rather than the full draft Import Health Standard).</li> </ul>	<p>A more efficient import system, while continuing to manage risks. Maximising trade opportunities, economic growth and productivity.</p>
<p><b><u>Improving the Government Industry Agreement</u></b> Ensuring the partnership is flexible and resilient to improve coordination and action in the biosecurity system.</p>	<ul style="list-style-type: none"> <li>• Clarify partner responsibilities in legislation (either the primary Act or empowering regulations).</li> <li>• Consider modifying and growing the partnership to, for example, extend arrangements beyond readiness and response.</li> </ul>	<p>Increase efficiency of operation of the Government Industry Agreement. Enhance role clarity.</p>
<p><b><u>Improving Biosecurity Practices</u></b> Incentivise New Zealanders to play a part in proactively preventing and managing biosecurity risk.</p>	<ul style="list-style-type: none"> <li>• Introduce a general biosecurity duty to the Act.</li> <li>• Expand the range of specific risk management rules that can be made in secondary legislation.</li> <li>• Add provisions to the Act to enable greater use of the model where businesses are required to develop and operate under risk management plans.</li> </ul>	<p>Implementing the concept that all New Zealanders have a part to play in preventing and managing biosecurity risk. Strengthening personal responsibility and law and order.</p>

<p><b><u>Pest Management</u></b> Make pest management tools quicker and easier to access. Enhance local government powers where appropriate.</p>	<ul style="list-style-type: none"> <li>• Removing unnecessary procedural steps when making pest and pathway management plans.</li> <li>• Enabling Regional Councils to issue permits for pests in plans they manage.</li> <li>• Making small scale management plans easier to access.</li> </ul>	<p>Removing procedural inefficiencies. Empowering regional development and decision-making.</p>
<p><b><u>Enforcement and compliance</u></b> Expand regulatory enforcement and compliance powers available under the Act.</p>	<ul style="list-style-type: none"> <li>• Creating a tiered approach to infringement offences in the passenger pathway.</li> <li>• Creating a pecuniary penalty and a new offence for non-compliance with a Place of First Arrival's standard or conditions of approval.</li> <li>• Creating an infringement offence for minor breaches of controlled areas.</li> </ul>	<p>Strengthening personal responsibility and law and order, and empowering regional development and decision-making.</p>

**Limitations and Constraints on Analysis**

*Scope of proposals and analysis*

The RIS does not fully set out the analysis of the entire suite of amendments proposed for the Bill. Some amendments are so minor or technical, or are so neutral in their impact, that neither impact analysis requirements nor public consultation would be valuable. For example, we are seeking to change the name of the term “unwanted organism” in the Act to “controlled organisms”.

We have not expressly set out non-regulatory improvements as their own option. Non-regulatory options are already possible under the status quo and do not require regulatory intervention. Therefore, a key assumption throughout the impact statements is that the status quo includes non-regulatory initiatives and changes (where those are possible and make sense).

In addition, many of the proposed amendments are enabling in nature, particularly as a key objective for the Bill is to provide all users of the Act with a fit-for-purpose toolbox that is complete, effective, efficient, and future-proof. As such, while we expect the modernised toolbox would produce more effective, efficient and robust biosecurity outcomes, many of the benefits of the proposals would not be realised until operational decisions are made.

*Evidence*

There is a lack of strong quantitative evidence to support our work.

Where quantitative evidence exists, this has been provided (for instance, the amount of compensation MPI had paid in previous biosecurity responses). However, for most topics, the evidence is our own experience as the regulators (and the experience of other regulators of the Act such as regional councils) of the biosecurity system and users of the tools in the Act.

For some of the pain points discussed, the problem identification was undertaken through discussions with internal operational staff and targeted engagement with stakeholders such as regional councils and primary sector industry groups. This may have limited the scope of the problem definition and the pain points that we have identified.

### *Consultation and engagement*

Early on in the project, MPI engaged with reference groups for Māori, industry and regional councils to develop policy proposals. In addition, we held some workshops with regional councils and the Department of Conservation in late 2023 to refine our long-term management proposals.

It has been some time since substantive engagement with stakeholders and partners. Given this, consultation will be particularly important to ensure that the problem definition has identified the key pain points with the Act, and that the proposals are practical and will achieve our objectives.

### *Cost benefit impact analysis*

Our impact analyses are desk-based and preliminary. They are based on documentation available to MPI and additional documentation and tools available to project team based on prior experience and knowledge. We have had minimal engagement in the preparation of the impact analysis.

The focus of the preliminary impact analysis is on the costs. We have not ascribed a value to the possible benefits. However, wherever possible, commentary has been provided on expected benefits to inform the approach to a full cost-benefit analysis when final policy proposals are established following consultation.

Some of the proposals to alter the Act enable the future development of secondary legislation. This type of work is considered as part of the ordinary business of Government, and so estimates do not include costs to deliver them.

It is difficult to isolate the potential impacts of individual proposals because of the high level of complementarity between them. The benefits of the proposed amendments accrue primarily from considering the proposed amendments as a package. The synergies between proposals also mean that many of the benefits will be best achieved by enabling multiple amendments. For example, the “Long-term management” proposed amendments work together strongly and should be considered both on their own merits and also together for their collective impact.

Given the limited information available in preparing the impact analysis, proposals were subject to three types of analysis based on appropriateness of the information available, and the type of proposed amendment:

- 1) *Qualitative Impact Analysis*: Some proposals aim to improve clarity within the Act. An example is the topic about a purpose provision in the Act. These types of proposals are not expected to have cost or impacts with fiscal measures. Their consideration and implementation are a part of the regular work of Government. Options were analysed against the overarching objectives described later in this paper, and against the multi-criteria analyses.

- 2) *Quantitative Impact Analysis*: Some proposals had sufficient information for cost benefit analyses. In a few cases, the economic principles defining cost benefit analyses were used to illustrate the predicted outcome of the amendments against the goals of change.
- 3) *Retrospective Case Studies*: Some proposals did not have the information for forecasting costs, so instead retrospective analyses using recent case studies were used to illustrate the potential costs and benefits of proposals.

Responsible Manager(s) (completed by relevant manager)

*Fiona Duncan*  
 Director Regulatory Systems Policy  
 Policy & Trade  
 Ministry for Primary Industries



4 September 2024

Quality Assurance (completed by QA panel)

Reviewing Agency: Ministry for Primary Industries

Panel Assessment & Comment: The Ministry for Primary Industries Regulatory Impact Analysis (RIA) panel has reviewed the Biosecurity Act Amendment Bill regulatory impact statements (RIS) and discussion documents. The RIA panel considers that all seven discussion documents will support effective consultation and note that the approach taken to develop short discussion documents supported by more detailed RISs should make the information accessible and easy to understand.

The RIA panel considers that the:

- Overview impact statement **fully meets** the RIA assessment criteria, and clearly describes the problem and the criteria that will be used to assess the various proposals;
- System-wide issues RIS **partially meets** the RIA assessment criteria, as the problem definitions would benefit from explanation of the scale of the problem, and more information is needed in other areas to support the problem definitions;
- Funding and Compensation RIS **partially meets** the RIA assessment criteria, as more information, and feedback on the proposed options or any alternative options will inform the final assessment and provide a clear and convincing case for change;
- Border and Imports RIS **partially meets** the RIA assessment criteria, as more information is required to inform the cost/benefit analysis and the impact of the proposals;

- Readiness and Response RIS **partially meets** the RIA assessment criteria, as more information is required to inform the cost/benefit analysis;
- Long-term management RIS **fully meets** the RIA assessment criteria and feedback from consultation should help clarify the problem definitions and provide further information to inform the final assessments; and
- Surveillance and interfaces with Department of Conservation-administered legislation **fully meets** the RIA assessment criteria and feedback from consultation should build on the available information to inform the final assessments.

# 1. Approach to the impact statements

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1. The Biosecurity Act Amendment Bill (the Bill) impact statement has been split into a series of impact statements as follows:
  - Paper 1: Overview impact statement;
  - Paper 2: System-wide issues;
  - Paper 3: Funding and compensation;
  - Paper 4: Border and imports;
  - Paper 5: Readiness and response;
  - Paper 6: Long-term management; and
  - Paper 7: Surveillance and interfaces with Department of Conservation-administered legislation.
2. This impact statement is Paper 1: Overview impact statement. The overview impact statement sets up the background for the Bill, the overarching regulatory stewardship “problem definition”, and the objective and criteria for the Bill as a whole. The remaining impact statements detail specific issues and proposals, which relate to the overarching opportunity and objectives.
3. The remaining impact statements (Papers 2 to 7) set out the detailed proposals for the Bill and are grouped together into six topics. The topic-based impact statements should always be read together with the overview impact statement.
4. A full list of all the proposals is included in **Appendix 1** of this document.

## 2. Introduction to the biosecurity system and the Biosecurity Act 1993

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5. New Zealand’s biosecurity system underpins trade, primary production, and biodiversity. The Biosecurity Act 1993 (the Act) provides the legal framework for the biosecurity system. The Act helps keep harmful organisms out of New Zealand, manages those that get into the country, manages established pests and diseases, and helps assure trading partners of the quality of our exports. The Act also that interfaces with other systems. For example, preventing pests such as exotic mosquitoes from becoming established has significant positive implications for the economy, environment, and health of New Zealanders.
6. The biosecurity system is complex with multiple components, rules and participants that rely on each other to protect New Zealand’s way of life and values.

### 2.1. Background on the biosecurity system

#### The biosecurity system protects New Zealand’s way of life

7. Biosecurity is about excluding, eradicating, or managing pests and diseases that pose a risk to New Zealand’s economy, environment, human health, and way of life. These pests and diseases include threats to plant and animal health, human health, and invasive species that threaten our unique and indigenous species and ecosystems.

8. The biosecurity system also contributes to supporting national security outcomes – a major biosecurity incident could have implications for national security, including significant economic harm.
9. In New Zealand, biosecurity does not include managing or responding to diseases carried and transmitted by humans, such as measles. These are led by the Ministry of Health. The Ministry of Health focuses on pests of public health significance which are generally considered to be invertebrate animals (such as mosquitoes). Effective biosecurity and public health quarantine frameworks (including exclusion, surveillance, and response activities) will complement each other because there is a clear overlap in their core objectives.
10. Some pests carry zoonotic diseases (i.e. diseases that can be transmitted from animals to human beings). For example, exotic mosquitoes can carry Ross River virus. In this case, the Biosecurity Act and Health Act 1956 each play a separate role. The Biosecurity Act covers how we manage or respond to the pests and diseases that may carry zoonotic diseases. The Health Act manages possible effects on human health by empowering officials to deal with infectious and notifiable diseases, including destroying infected animals.

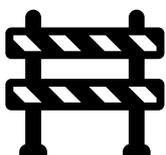
### The biosecurity system is more than just the border

11. The biosecurity system manages risk through multiple layers of protection. We manage as much risk offshore as we can, through supporting international standards, import permitting and offshore treatments. The biosecurity system seeks to be protective without pushing us towards zero risk (which is undesirable and not achievable).
12. We then screen all arriving goods, craft and passengers at the border and take steps within New Zealand to eradicate pests or reduce their harm through suppression or management. These layers are all connected, and each layer cannot operate successfully without the others.



#### Offshore

High standards and strict rules keep most biosecurity risks offshore. We specify what commodities, goods, and craft can come into the country, and how they must be treated before they arrive.



#### At the border

All incoming goods, passengers, mail, and craft are screened at the border. Our biosecurity officers manage biosecurity risks on the four main pathways to New Zealand — passenger, mail, cargo, and craft. For example, we:

- educate passengers and importers on biosecurity rules;
- inspect items to make sure they comply with import requirements; and
- test new breeding material for pests and diseases in quarantine facilities.



### Within New Zealand

If pests and diseases get through offshore and border protections, there are other layers of protection in the country (post-border), including:

- partnership with iwi/Māori, regional councils, industry and communities to coordinate biosecurity activities;
- surveillance to detect pests quickly;
- strong readiness and an ability to anticipate and plan for threats like foot and mouth disease;
- an animal tracing system for cattle and deer;<sup>2</sup>
- responses to pest and disease incursions; and
- pest management programmes to control pests that are here.

### Trade and travel benefit New Zealand, but also present biosecurity risks

13. Biosecurity allows animals, plants, and food to be safely moved within New Zealand, and to and from other countries. Food and fibre export revenue is forecast to reach \$54.6 billion in the year to 30 June 2024.<sup>3</sup> In 2022, the food and fibre sector employed 359,000 people.<sup>4</sup>
14. New Zealand benefits from trade and travel. The food and fibre sector accounted for 10.5 per cent of New Zealand's gross domestic product in the year to 31 March 2022 and enabled the economy to grow, creating jobs and prosperity.<sup>5</sup> The country's freedom from major pests and diseases enables primary producers to grow high-quality produce and trade freely. New Zealand's primary producers feed New Zealanders and people across the world. Tourism is an important service export for the economy.
15. New Zealand's native biodiversity and taonga species are socially and culturally important to New Zealanders. Biosecurity protects the health and value of the country's animals and plants, including economically and culturally important species. The country's natural heritage and landscapes are also an intrinsic part of the nation's identity. They are key reasons that international visitors choose to visit, and biosecurity protects this.
16. Trade and travel contribute to a better standard of living and wellbeing in New Zealand. Imports can reduce the price and increase the variety and availability of goods like fresh produce, groceries, cars, appliances, farm machinery, and animal feed. However, trade and travel also create biosecurity risks. Every time something or someone enters New Zealand, a pest or disease could also enter. The biosecurity system aims to reduce biosecurity risk without unnecessarily hampering trade.
17. Biosecurity comes at a cost. For example, offshore exporters and New Zealand importers may need to pay for testing, or for treating products to kill pests before products are shipped. They may need to pay for product inspection before export and on arrival. These costs are often passed on to purchasers in New Zealand.

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<sup>2</sup> This is provided for by its own legislative regime: the National Animal Identification and Tracing Act 2012.

<sup>3</sup> Situation and Outlook for Primary Industries (SOPI) June 2024.

<sup>4</sup> Situation and Outlook for Primary Industries (SOPI) June 2024.

<sup>5</sup> Situation and Outlook for Primary Industries (SOPI) June 2024.

## Biosecurity involves balancing benefits and trade-offs

18. New Zealand seeks a low level of biosecurity risk to protect what we value. However, if New Zealand tried to remove all risk, trade and travel would stop. Some trading partners might retaliate by not accepting New Zealand's exports. Even then, there would still be risk. For example, pests could arrive in the ocean or on the wind.
19. The country is constantly considering how to balance the benefits of trade and travel against biosecurity risks. This raises key questions for biosecurity decision-makers, such as how much risk we can accept while staying relatively accessible and allowing trade and travel. Such questions are at the heart of how New Zealand manages biosecurity.
20. In balancing these benefits and costs, we also need to be sure that:
  - the system is fair;
  - we create incentives so that people do the right thing;
  - the system is effective at a national and community level;
  - the system remains science-based; and
  - any costs are proportionate and well justified.

## Biosecurity involves more than the government

21. Biosecurity is a shared responsibility and operates at all levels — international, national, regional, and local. It is a system where everyone helps to identify, reduce and manage risk. This includes international travellers, landowners, importers and those who work with our natural resources.
22. Many industries have a direct interest in biosecurity, including primary producers, importers, and exporters and the industry bodies that represent them such as DairyNZ, Beef + Lamb New Zealand, Pork NZ, Horticulture New Zealand, and Kiwifruit Vine Health. MPI works closely with industry to manage the risks that industries might face and share decisions in how to respond to outbreaks.
23. Māori hold key interests and statutory and constitutional Treaty roles in the management of natural resources. For example, Māori participate in surveillance, incursion response, and the proactive management of pests and diseases. Māori biosecurity practices such as iwi environmental plans, rāhui,<sup>6</sup> and surveillance have become an important part of biosecurity management. We are building partnerships with hapū/iwi to increase Māori participation and decision-making in biosecurity readiness and response activities.
24. Science and research organisations are also involved. MPI co-invests to support and enhance research and innovation and to foster the sharing of scientific knowledge to better understand and manage biosecurity risks.

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<sup>6</sup> A rāhui is a temporary ritual prohibition, closed season, ban, reserve.

25. A range of government agencies, boards and local government bodies lead and manage various areas of government relevant to biosecurity outcomes including trade, the border, and surveillance, readiness, response and pest management. MPI works across these bodies to ensure that responsibilities and activities are aligned across the wider state sector to produce good outcomes for biosecurity.
26. International partners and bodies set international standards and obligations including the World Trade Organization, the World Organisation for Animal Health, the International Plant Protection Convention, and Codex Alimentarius Commission. MPI shares and gains expertise to ensure New Zealand's biosecurity requirements align with, and influence, international standards for trade set by these organisations.

## 2.2. Background on the Biosecurity Act 1993

### The Biosecurity Act 1993

27. The Act provides the legal basis for a wide range of activity across the biosecurity system. There are provisions in the Act which are relevant to:
  - leadership in the biosecurity system;
  - pre-border activities to manage risk offshore;
  - activities at the border to manage risk from incoming craft, passengers and goods;
  - funding arrangements and cost recovery for some areas of biosecurity;
  - surveillance for pests and diseases;
  - timely responses to incursions;
  - long-term management of pests and diseases that have established in New Zealand; and
  - interfacing with other key pieces of legislation administered by other agencies (e.g. Health Act 1956, Hazardous Substances and New Organisms Act 1996)
28. The Act does not have a purpose statement. The Long Title of the Act is “An Act to restate and reform the law relating to the exclusion, eradication and effective management of pests and unwanted organisms”. The Act replaced several Acts that dealt with separate aspects of biosecurity. The Long Title also gives an indication of the scope of the Act. The Act focuses on:
  - pests, which are organisms that are the subject of a pest management plan; and
  - unwanted organisms, which are organisms that are capable or potentially capable of causing unwanted harm to any natural and physical resources or to human health.
29. Passed in 1993, the Act is now just over 30 years old. It provides the legislative foundation for the biosecurity activities of the Ministry for Primary Industries (MPI), other government departments, and regional councils. The focus of the Act is on providing the key powers, duties and restrictions that are needed to run an effective biosecurity system, with generally little guidance on how those tools should be used. In other words, the Act is empowering. It provides the toolbox and leaves much scope for policy and practice to determine how those tools should be used.

## Other legislation plays an important role

30. Other statutes play an important role in the biosecurity system. This is not a comprehensive list, but highlights some of the other key statutory regimes involved in or related to the biosecurity system:
- Resource Management Act 1991 (administered by the Ministry for the Environment);
  - National Animal Identification and Tracing Act 2012 (administered by MPI);
  - Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (administered by the Ministry for the Environment);
  - Conservation Act 1987 (administered by the Department of Conservation);
  - Wildlife Act 1953 (administered by the Department of Conservation); and
  - Hazardous Substance and New Organisms Act 1996 (administered by the Ministry for the Environment).
  - Health Act 1956 (administered by the Ministry of Health).
  - Civil Defence Emergency Management Act 2002 (administered by the Ministry of Civil Defence and Emergency Management).

## Previous regulatory reform in the biosecurity system

31. The Act has been amended quite frequently over the years, but many amendments have been minor (for example, amendments made as part of a Statutes Amendment Bill) or consequential to other reforms (for example, new organisms amendments made in 2003).
32. The most significant amendments to the Act were made in:
- 1997 – this was a large amendment act, mostly resolving problems or gaps identified during initial experiences of implementing the Act;
  - 2008 – this amendment act was small but significant, as it clarified the interface with the Hazardous Substances and New Organisms Act 1996 and (through a change made at select committee) introduced the independent review process for import health standards; and
  - 2012 – the Biosecurity Law Reform Act 2012 introduced:
    - a full replacement of Part 5 of the Act (pest management), to implement the legislative components of the National Pest Management Plan of Action;
    - a new Part 5A to provide the legislative basis for the Government Industry Agreement on Biosecurity Readiness and Response; and
    - improved provisions for marine biosecurity, such as the introduction of the craft risk management standard.

## Non-regulatory efforts to improve the biosecurity system

33. This is a snapshot, rather than an exhaustive list, of key recent initiatives to improve the biosecurity system.
34. As part of the Natural Resources cluster budget in 2022, MPI received funding for cost pressures to address critical gaps in New Zealand's biosecurity system and support increasing demand for services.

35. Biosecurity New Zealand, a business unit of MPI, continually delivers research and guidance to help improve biosecurity practices. An example is the Marine Biosecurity Toolbox, a 5-year (2019-24) research programme aimed at protecting New Zealand's marine environments from the impacts of non-indigenous species.<sup>7</sup>
36. The government has implemented national biosecurity strategies for a more resilient biosecurity system and to set strategic priorities. Biosecurity New Zealand launched the Ko Tātou programme as part of implementing the “Biosecurity team of 4.7 million” strategic direction from Biosecurity 2025. The Biosecurity Business Pledge runs under the Ko Tātou banner and is a partnership that aims to help all New Zealand businesses take a proactive approach to their biosecurity practices. The Pledge has been developed by businesses and aims to make biosecurity a core part of operational activity. Under the Pledge, businesses commit to proactively manage biosecurity risks and are provided with information and resources to support that.
37. There is also the work done under the Government Industry Agreement. The Government Industry Agreement is a partnership between industry groups and the Government to improve biosecurity in New Zealand. The purpose of the Government Industry Agreement is to promote industry and government to work together in decision making and share the costs of readiness and response activities. This is discussed in further detail in impact statement Paper 5: Readiness and Response.

### 3. Problem and opportunity

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38. **The biosecurity system is increasingly under pressure.** The cost of primary sector production losses from pests has increased from an estimated \$1.5 billion cost in 2009, to an estimated \$4.3 billion cost in 2020.<sup>8</sup> The increasing volume and diversification of goods imported today has changed the biosecurity risks we face. Climate change increases risks of new pests establishing and established pests spreading. The *Mycoplasma bovis* outbreak is the biggest biosecurity event New Zealand has faced. It highlighted significant pressures facing the biosecurity system and Government's exposure to fiscal shocks from medium and high scale biosecurity responses.
39. **Biosecurity law is increasingly becoming not fit-for-purpose.** We started with a broad review of the Act to overhaul the legislation for the future. In the review, we confirmed that the Act remains somewhat enabling. However, MPI has identified critical legislative pain points that impede the effectiveness of the biosecurity system, and which constrain progress and trade:<sup>9</sup>
  - Biosecurity risk management is becoming more expensive. The funding arrangements for readiness and response activities may no longer be equitable. Compensation can be a significant cost to the Crown and it may not be incentivising individuals to take steps to reduce their biosecurity risk.

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<sup>7</sup> [www.biosecurity-toolbox.org.nz/](http://www.biosecurity-toolbox.org.nz/)

<sup>8</sup> Economic cost of pests to New Zealand. 2020 Update. MPI Technical Paper No:2021/29. [www.mpi.govt.nz/dmsdocument/48496/direct](http://www.mpi.govt.nz/dmsdocument/48496/direct)

<sup>9</sup> This is not an expansive list but covers the most critical issues. Each pain point we discovered is discussed in detail in the topic-based impact statements.

- Biosecurity risk management is becoming cumbersome and unwieldy. Significant time and resource are required to develop import standards, increasing the likelihood that our requirements will not keep up with risks, and limiting imports which affects consumer choice, business innovation, and international trade. The long-term management of pests that have established is unnecessarily time consuming and difficult to access.
40. The biosecurity system needs a modern biosecurity law that protects what is important to New Zealand. We have an opportunity to ensure legislative settings reflect the context of today and the future. If these are not addressed, all initiatives from all users of the Act (central government, regional councils, the primary sector, and communities) to address biosecurity threats and risks remain limited within the outdated framework set by the Act.

## 4. Objectives of the Bill

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41. The overarching objective of the Bill for MPI is **ensuring biosecurity law continues to protect our environment and supports our economy**. As well as reducing the risk of pests and diseases from entering New Zealand, biosecurity plays a major part in limiting certain pests and diseases already established in New Zealand, through a range of management activities. This directly impacts productivity, sector growth and market access. The biosecurity system is crucial to protecting our natural environment, taonga species, and biodiversity, and also supports legislation to protect human health.
42. As a secondary objective, we want to pursue targeted changes to the Act to provide all users of the **Act with a fit-for-purpose toolbox that is complete, effective, efficient and future-proof**. Robust regulatory systems, and the capability to keep them fit-for-purpose, are important to the prosperity of New Zealanders. The now-completed Biosecurity Act Review identified critical pain points with the Act and unrealised opportunities. MPI seeks to strengthen, streamline, and future-proof the biosecurity system. It will help to deliver better value for money and enable more comprehensive management of risk.
43. Our focus is to make targeted improvements to ensure that we fulfil our stewardship of the biosecurity system and biosecurity law. As we carry out that work, we also seek to take advantage of opportunities to ensure our system reflects our way of life and the context of today.
44. If these objectives are delivered, we should see:
- enhanced measures to manage biosecurity risks – offshore, at the border and within New Zealand;
  - better incentives of the right behaviours and improved personal responsibility;
  - regulations are fit-for-purpose and reduce regulatory burden and compliance costs;
  - responsibilities are appropriately shared – regional development and devolved decision-making; and
  - sustainable economic growth and trade opportunities.

## 5. Criteria and how we apply them

45. The options are assessed against the following criteria:

Criteria	Description
<b>Effective</b>	<p>Does the option better protect New Zealand from biosecurity risk, while supporting our economy?</p> <p>How will the option affect incentives to manage biosecurity risk?</p> <p>Does the option lead to effective partnership and coordination between government and other players of the biosecurity system?</p> <p>Does the option share the costs and effects of biosecurity equitably?</p> <p>Does the option allow Government to manage fiscal pressures more sustainably?</p>
<b>Adaptable</b>	<p>Does the option deliver a modern legislation that is future-proof and enabling?</p> <p>Does the option provide a modern toolbox to users of the Act?</p>
<b>Efficient</b>	<p>How will the option address the administrative burden on regulators, and/or the compliance burden on regulated parties?</p> <p>How complex is the option to implement?</p>
<b>Clarity</b>	<p>Is the option logical, consistent, easy to understand, and does it provide sufficient certainty?</p> <p>Are roles and responsibilities assigned appropriately and clearly between central government, local government, industry, and local communities?</p>

46. All the topic-based impact statements will use these criteria. Due to the wide variety of proposals in the Bill, how each criteria applies will differ from topic-to-topic.
47. For example, the focus of the 'Effective' criterion for enforcement proposals will be on the question of "Does the option better protect New Zealand from biosecurity risk, while supporting our economy?". In contrast, the focus of the 'Effective' criterion for compensation proposals will be on the question of "How will the option affect incentives to manage biosecurity risk?" and "Does the option allow Government to manage fiscal pressures more sustainably?". How we consider each criterion will be clearly set out for each topic.
48. Some sections may also have additional criterion where relevant. For example, the compensation section has a specific criterion around fairness. Fairness is particularly relevant to proposals that affect how much compensation the government pays to those who suffer losses from the exercise of government powers.

49. We apply these criteria using the following method. We will do more analysis following consultation and our assessments may change in a future impact statement.

- ++ Significantly better than the status quo
- + Better than the status quo
- 0 No better or worse than the status quo
- Worse than the status quo
- Significantly worse than the status quo

## 6. Implementation and operation

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50. MPI will lead the process of amending the Act, including consideration of any transitional provisions to ensure the Bill comes into effect in a clear and orderly way. MPI will also work with relevant agencies to amend associated legislation where necessary.
51. Any legislative amendments will go through several stages before becoming law. These stages ensure that the proposed changes are subject to public debate and scrutiny. A Parliamentary Select Committee would invite public submissions. Any partners and stakeholders who wished to comment on the specific proposals could do so at that stage.
52. Once any legislative changes have become law, MPI would communicate the changes to partners and relevant stakeholders.
53. MPI would also consider whether to provide a reasonable period for people to change their practice, some proposals would come into force on a delayed timetable. This may also help support minimising costs.
54. MPI would work closely with partners and stakeholders on developing any regulations and other statutory instruments needed to give effect to the legislative reforms.

## 7. Monitoring, evaluation, and review

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55. As part of its regulatory stewardship activities, MPI could schedule a review of the regulatory aspects of the biosecurity regulatory system.
56. Once any legislative changes had been in force for a period of time (such as five or ten years), MPI could review the performance of the updated Act.
57. Monitoring and review activities would likely focus on answering some common questions:
  - Have the Bill's amendments led to more effective and efficient biosecurity risk management?
  - Are industry groups, producers, and other participants in the biosecurity system well informed of any updated requirements?
  - Are relevant parties complying with the updated requirements?
  - Have sufficient monitoring strategies been implemented?

- Is MPI working with Treaty partners and relevant industry groups to enable and ensure compliance?
- Have enforcement activities been undertaken where continued non-compliance has been identified?

## Appendix 1: Full list of proposals

System-wide issues proposals			
Theme	Proposal Number	Proposal	Relevant documents
Purpose clause in the Biosecurity Act	1	Insert an overarching purpose clause in the Biosecurity Act.	RIS 2. Discussion document 2.
	2★	Include new purpose clauses, as well as revise existing purpose clauses, for selected parts of the Biosecurity Act.	<u>See also:</u> Limiting food volumes in the air passenger pathway (RIS 4). Surveillance under the Biosecurity Act (RIS 7).
Ministerial involvement in significant decisions	3A★	Vest the Minister responsible for the Biosecurity Act with a 'call-in' power.	RIS 2. Discussion document 2.
	3B	Vest the Minister of the portfolio the chief technical officer works in with a 'call-in' power.	
Local knowledge in decision-making	4	Enable local knowledge to inform or guide decision-making in specific parts of the Biosecurity Act	RIS 2. Discussion document 2.
Biometric information	5	Clarify that the collection, use, or storage of information (including personal information) includes biometric information.	RIS 2. Discussion document 2.

## System-wide issues proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Powers of inspectors during searches</b>	6	Introduce a power of arrest for obstruction during searches.	RIS 2. Discussion document 2.
<b>Border fines for travellers with high-risk goods</b>	7	Create an additional infringement penalty for higher risk goods.	RIS 2. Discussion document 2. <u>See also:</u> Border and imports (RIS 4).
<b>Regional council access to infringement offences for pest and pathway management plans</b>	8★	Introduce the ability for regional councils to establish infringement offences in regional pest management plans.	RIS 2. Discussion document 2. <u>See also:</u> Long-term management (RIS 6).
<b>Enhancing compliance options for breach of a Controlled Area Notice (CAN)</b>	9★	Amend an existing offence, establish a new offence and corresponding infringement.	RIS 2. Discussion document 2.
<b>Stronger compliance options for places of first arrival (PoFA)</b>	10	Enable pecuniary penalties for breach of PoFA requirements.	RIS 2. Discussion document 2. <u>See also:</u> Border and imports (RIS 4).
	11	Create a new offence for breaching PoFA conditions of approval with a fine of up to \$200,000 and a continuing penalty of \$10,000 each day.	

<b>System-wide issues proposals</b>			
<b>Theme</b>	<b>Proposal Number</b>	<b>Proposal</b>	<b>Relevant documents</b>
<b>Sentencing</b>	12★	Introduce sentencing guidance into the Biosecurity Act.	RIS 2. Discussion document 2.
<b>Arrest powers for Police</b>  (minor and technical)	13★	Clarify arrest powers of police officers (or authorised biosecurity officers pending current proposal).	Discussion document 2.

<b>Funding and compensation proposals</b>			
<b>Theme</b>	<b>Proposal Number</b>	<b>Proposal</b>	<b>Relevant documents</b>
<b>Cost-shares in the Government-Industry Agreement (GIA)</b>	14A	Mandate a periodic review of the cost-shares in the GIA deed.	RIS 3. Discussion document 3.
	14B★	Set out a cost-share framework in legislation to guide cost-share arrangements with GIA partners.	
<b>Cost recovery from non-signatory beneficiaries</b>	15A	Levy non-signatory beneficiaries (NSBs) to build an up-front fund.	RIS 3. Discussion document 3.
	15B	Levy NSBs after a response to recover costs.	

## Funding and compensation proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Compensation - Improvements to operation of the scheme</b>	16 ★	Refining how non-compliance would make a person ineligible for compensation.	RIS 3. Discussion document 3.
	17 ★	Enabling more detailed compensation entitlements and requirements via regulation.	
	18 ★	Removing restrictions on the ability to vary compensation and enable upfront payment of future losses that have not yet been incurred.	
	19	Codify the operational dispute resolution process.	
<b>Compensation - Scope of losses that are compensable</b>	20 ★	<p>Stating which type of losses are and are not compensable, including removing some or all consequential losses from compensation.</p> <p>All sub-options (listed below 20A-E) include the proposal to address the first part of the option about tangible property and goods. The main trade-offs between the options are on how consequential losses are treated.</p>	RIS 3. Discussion document 3.
	20A	Income and professional fees are payable.	
	20B	All consequential losses are payable for the first year a producer is affected by the exercise of government powers.	
	20C	All consequential losses are payable for the first six months a producer is affected by the exercise of government powers.	
	20D	Professional fees are payable.	
	20E	No consequential losses are payable.	

## Funding and compensation proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Interaction between compensation and pest management plans</b> (minor and technical)	21	Make excluding compensation for breaches of national pathway management plans (NPMPs) and regional management plans (RPMPs) optional or align it with section 162A of the Biosecurity Act.	Discussion document 3.  <u>See also:</u>  Long-term management (RIS 6).
	21A	Make excluding compensation optional in the event of non-compliance with a pest or pathway management plan optional.	
	21B	Differentiate how non-compliance affects compensation between pest management plans and pathway management plans.	

## Border and imports proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Development of import health standards</b>	22	Enable technical amendments to an IHS without consultation.	RIS 4.  Discussion document 4.  <u>See also:</u>  Erroneous declarations in the passenger pathway (RIS 2).  Better compliance options for place of first arrival (PoFA) (RIS 2).
	23	Enable a rapid amendment process for IHSs during the first year of trade in a good without consultation.	
	24	Enable the ability to issue one-off or ad hoc permits for goods being imported as a one-off or on a sporadic basis.	
	25	Enable the use of permits to allow trade to continue while a suspended IHS is being reviewed.	
	26	Enable consultation on a risk management proposal for a good, rather than the draft IHS itself.	

## Border and imports proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Section 24 independent review panels</b>	27A	Amend the Biosecurity (Process for Establishing Independent Review Panel) Notice 2015 and work on cost recovery.	RIS 4. Discussion document 4.
	27B★	Amend section 24 so the review is undertaken by a senior public official rather than by establishing an independent review panel.	
	27C	Amend section 24 so that the review must only be about new evidence.	
	27D★	Remove section 24 from the Biosecurity Act.	
<b>Border clearances for cruise craft passengers</b>	28★	Create additional powers and duties in the Biosecurity Act enabling biosecurity inspectors to process passengers disembarking a vessel but who have already arrived in New Zealand.	RIS 4. Discussion document 4.
<b>Better management of biofouling removal in New Zealand's Exclusive Economic Zone</b>	29A★	Amend the Biosecurity Act to clarify that MPI has the power to regulate biofouling removal in relation to all vessels arriving in the EEZ with a clearly stated intention of arriving in New Zealand.	RIS 4. Discussion document 4.
	29B	Amend the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) to enable MPI to regulate biofouling removal under specific regulations.	
<b>Limiting volumes of food in the air passenger pathway</b>	30	Amend the purpose section of Part 3 of the Biosecurity Act to include improving operational efficiencies.	RIS 4. Discussion document 4.  <u>See also:</u> Purpose clause in the Act (RIS 2).
	31	Enable the Director-General to impose a limit on the volume of a class of food moving through the air passenger pathway.	

## Border and imports proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Facility approval framework</b>	32★	Streamline the legislative framework for transitional and containment facilities.	RIS 4. Discussion document 4.
<b>Enabling third-party verification at transitional facilities</b>	33A	Amend the Biosecurity Act to include the ability for an authorised third-party to undertake verification activities at transitional facilities.	RIS 4. Discussion document 4.
	33B ★	Enable the Director-General of MPI to recognise third parties to undertake specified roles and functions.	
<b>Providing biosecurity information to incoming passengers on commercial craft</b>	34A	Removing general duty under section 17AA of the Biosecurity Act and supporting regulations to provide biosecurity information to incoming passengers.	RIS 4. Discussion document 4.
	34B	Include a requirement for carriers of commercial craft to provide notice to the Director-General of MPI that biosecurity information has been provided.	
<b>Establishment of biosecurity control area in Place of First Arrival (minor and technical)</b>	35★	Make explicit the ability for a Place of First Arrival Standard to establish a biosecurity control area (BCA).	RIS 4. Discussion document 4.

## Readiness and response proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Government / industry agreement</b>	36	Modify and grow the GIA.	RIS 5. Discussion document 5.
	37	Create one or more biosecurity focussed cross-industry organisations to build primary sector skill and resilience.	
<b>Liability protection for GIA partners</b>	38 ★	Amend Part 5A to state that this confers functions on GIA Signatories to make joint-decisions under the Deed and Operational Agreements.	RIS 5. Discussion document 5.
<b>Faster emergency declarations</b>	39 ★	Change the decision-maker for a biosecurity emergency from the Governor-General to the Minister for Biosecurity.	RIS 5. Discussion document 5.
<b>Biosecurity practices</b>	40	Add a general biosecurity duty in the Biosecurity Act.	RIS 5. Discussion document.
	41	Expand the range of risk management plans that can be set through regulations under the Act.	
	42	Add provisions to the Act to enable greater use of the risk-based regulatory model where businesses are required to develop their own risk management plan.	
<b>Minor technical amendment to section 100ZA</b> (minor and technical)	43	Amend section 100ZA to add a power for the Minister to “un-recognise” an industry body when a sector withdraws from the GIA.	RIS 5. Discussion document 5.

Long-term management proposals			
Theme	Proposal Number	Proposal	Relevant documents
Pest and pathway management and small-scale management programmes	44 ★	Simplify the process to create national or regional pest and pathway management plans.	RIS 6 Discussion document 6. <u>See also:</u> Regional council access to infringement offences for pest and pathway management plans (RIS 2). Interaction between compensation and pest management plans (minor and technical exemption from RIS, Discussion document).
	45 ★	Enable (but not require) integrated pest and pathway management plans.	
	46 ★	Enable (but not require) the ability to have consolidated levies for NPMPs.	
	47 ★	Make it easier for regional councils to create small-scale management programmes (SSMPs).	
	48 ★	Enable management agencies to provide exemptions from rules in NPMPs.	
	49 ★	Enable more than one legal entity to share management agency responsibilities.	
	50 ★	Enable management agencies and regional councils the function of issuing permits for pests in NPMPs or RPMPs.	
	51 ★	Enable regional councils to remove exemptions from a regional pest or pathway management plan rule before the end of the original time frame.	
Alignment of long-term management outcomes	52 ★	Enable multiple National Policy Directions for Pest management to be made.	RIS 6. Discussion document 6.
	53 ★	Enable new regulations to be made to create nationally consistent baseline objectives, policies or rules for pest management.	

	54A	Strengthen section 55 by requiring that the party that is assigned responsibility must take action to manage the harmful organism or pathway.	
	54B ★	Streamline the process set out in the regulations to remove unnecessary steps or duplication.	
	54C	Repeal section 55 of the Act and revoke its associated regulations.	
<b>Management of unwanted organisms and notifiable organisms</b>	55 ★	Amend section 52 to define “communicate” in relation to a pest or unwanted organism.	RIS 6. Discussion document 6.
	56 ★	Enable a chief technical officer to tailor the application of sections 52 and 53 when declaring an unwanted organism.	
	57 ★	Align the permissions for exemptions contained in section 53(2) with those in section 52.	
	58 ★	Clarifying in the Biosecurity Act how unwanted organism status can be removed and making this process more efficient.	
	59 ★	Include a new transitional provision for all unwanted organisms to expire after five years.	
	60 ★	Improve the management of notifiable organisms.	
<b>Minor and technical</b>	61	Changing the name of the term “Unwanted Organisms” to “Controlled Organisms”.	Discussion document 6.

<b>Definitions related to unauthorised goods</b>	62A★	Provide a definition for 'New Zealand-born progeny' in section 2 of the Biosecurity Act.	RIS 6. Discussion document 6.
	62B★	Amend the definition of "goods" in section 2 of the Biosecurity Act to include planted trees or plants alongside moveable personal property.	
	62C	Amend the definition of "risk goods" in section 2 of the Biosecurity Act to include the New Zealand-born progeny of unauthorised goods.	
	62D★	Amend the definition of "unauthorised goods" to include the New Zealand-born progeny of unauthorised goods.	
<b>Minor and technical</b>	63	Amendment to section 115 (use of dogs and devices).	Discussion document 6.

### Surveillance and interfaces with Department of Conservation-administered legislation proposals

<b>Theme</b>	<b>Proposal Number</b>	<b>Proposal</b>	<b>Relevant documents</b>
<b>Interaction with the Freshwater Fisheries Regulations 1983</b>	64	Enable the Biosecurity Act to take precedence over sports fishing benefits.	RIS 7. Discussion document 7.
	65	Enable the Biosecurity Act to take precedence over sports fishing benefits following agreement from a chief technical officer.	
	66	Enable biosecurity powers, functions or duties to take precedence over other provisions where a fish is also an unwanted organisms.	
	67	Amend the Biosecurity Act to require Ministerial decision-making if a regional council and Fish and Game Council do not agree.	

## Surveillance and interfaces with Department of Conservation-administered legislation proposals

Theme	Proposal Number	Proposal	Relevant documents
<b>Surveillance and interaction with the Marine Mammals Protection Act</b>	68 ★	Change the purpose of Part 4 by enabling monitoring for pests, notifiable organisms, unwanted organisms, and other organisms that may cause infections, diseases or unwanted harm.	RIS 7. Discussion document 7.
	69 ★	Include a reference to the Marine Mammals Protection Act in the Biosecurity Act.	
<b>Interaction with the Wild Animal Control Act 1977</b>	70 ★	Clarify that regional councils can enter private land to control wild animals.	RIS 7. Discussion document 7.