

Subordinate Legislation (Confirmation and Validation) Bill (No 3)

Government Bill

As reported from the Regulations Review
Committee

Commentary

Recommendation

The Regulations Review Committee has examined the Subordinate Legislation (Confirmation and Validation) Bill (No 3), and recommends that it be passed with the amendment shown.

Introduction

The purpose of the bill is to confirm or to validate and confirm subordinate legislation made under various Acts. In passing this bill, the House would effectively be approving the subordinate legislation specified in this bill and allowing it to continue in force.

Clauses 7 to 13 would confirm and validate certain subordinate legislation that will lapse unless it is confirmed, and in some cases also validated, by an Act of Parliament. The subordinate legislation referred to in clauses 7 to 9 and 11 would be confirmed, and that referred to in clauses 10, 12, and 13 would be both validated and con-

firmed. However, under clause 4, the validations are formal (only to prevent lapse); they do not also cure any invalidity.

Of the 13 instruments that would be confirmed, and in three instances also validated by the bill, eight would lapse at the close of 31 December 2014, two at the close of 4 March 2015, two at the close of 30 June 2015, and one at the close of 31 December 2015 if they were not earlier confirmed, or validated and confirmed, by Act of Parliament.

Confirmation and validation is warranted

We heard that the departments with responsibility for administering the orders and regulations in the bill considered confirmation, or validation and confirmation, necessary in all instances to prevent the orders and regulations from lapsing and thus ceasing to be legally enforceable. If confirmed, or validated and confirmed, these orders would continue to have their intended effects, including applying the intended rates of benefits and allowances including war pensions, prohibiting certain imports and exports, and enabling the collection of levies.

We found no reason that the orders and regulations should not be confirmed or validated and confirmed.

We considered adding to the bill additional instruments that would lapse at the close of December 2015, but chose to defer them for further examination in the confirmation and validation legislation in 2015.

Process for scrutiny

In previous reports to the House on confirmation and validation bills, the Regulations Review Committee has discussed the process for scrutinising these bills. To allow more time for select committee consideration of these bills, the committee recommended that confirmation and validation bills be introduced earlier in the calendar year and subject to a streamlined procedure in the House. The committee considered that this would allow it time to refer specific policy issues to subject select committees.

This bill was introduced on 27 May 2014—earlier than usual, because of the timing of the 2014 general election. We appreciate the Government's efforts to allow more time for parliamentary scrutiny of these bills. The timing of the general election meant, however,

that we did not have time to refer policy issues raised by the bill to subject select committees for examination.

We welcome the House's recent decision to adopt a streamlined procedure for confirmation and validation bills. Standing Order 325 now provides that there is no debate on a confirmation and validation bill's first or third reading, and that the House does not resolve itself into committee unless an amendment to the bill is proposed. We expect our scrutiny to be greatly assisted by the adoption of this procedure, as it will allow more time for select committee consideration of these bills. We look forward to putting this new streamlined legislative process into practice fully in 2015.

Amendment

We recommend inserting new clause 9(e) to ensure the confirmation of the Excise and Excise-equivalent Duties Table (Alcoholic Beverages Indexation) Amendment Order 2014 before it expires on 31 December 2014. This order was made on 26 May 2014, too late to be included in the bill as introduced.

Appendix

Committee process

The Subordinate Legislation (Confirmation and Validation) Bill (No 3) was referred to us on 22 July 2014. We invited written submissions from the government departments with responsibility for administering the subordinate legislation in the bill. We received advice from the Office of the Clerk of the House of Representatives.

Committee membership

Hon David Cunliffe (Chairperson)

Andrew Bayly

Chris Bishop

Hon Chester Borrows

Hon David Parker

**Subordinate Legislation (Confirmation
and Validation) Bill (No 3)**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

Hon Gerry Brownlee

**Subordinate Legislation
(Confirmation and Validation)
Bill (No 3)**

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
General and technical provisions		
3	Purpose of this Act	2
4	Validations to prevent expiry do not cure invalidity, etc	2
5	Act binds the Crown	2
6	Repeal	2
Part 2		
Confirmations and validations		
7	Biosecurity Act 1993	3
8	Commodity Levies Act 1990	3
9	Customs and Excise Act 1996	3
10	New Zealand Superannuation and Retirement Income Act 2001 and Social Security Act 1964	3
11	Road User Charges Act 2012	3
12	Tariff Act 1988	4
13	War Pensions Act 1954	4

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Subordinate Legislation (Confirmation and Validation) Act (No 3) **2014**.

2 Commencement

5

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1**General and technical provisions****3 Purpose of this Act**

10

The purpose of this Act is to prevent the lapse (expiry or deemed revocation) of certain subordinate legislation that, by virtue of the Acts under which it is made, lapses at a stated time unless earlier confirmed or validated by an Act of Parliament.

4 Validations to prevent expiry do not cure invalidity, etc

15

In the light of their purpose, the validations effected by **sections 10, 12, and 13** do not—

- (a) express an intention to give legislative force to the provisions of the enactments validated; or
- (b) apply to any reason for invalidating any of those enactments; or
- (c) override any presumption that would otherwise apply to any of those enactments.

20

5 Act binds the Crown

This Act binds the Crown.

25

6 Repeal

The Subordinate Legislation (Confirmation and Validation) Act 2013 (2013 No 142) is repealed.

Part 2

Confirmations and validations

- 7 Biosecurity Act 1993**
The Biosecurity (System Entry Levy) (Border Processing—Trade Single Window) Amendment Order 2014 (LI 2014/156) is confirmed. 5
- 8 Commodity Levies Act 1990**
The following orders are confirmed:
- (a) Commodity Levies (Blackcurrants) Order 2013 (SR 2013/391): 10
 - (b) Commodity Levies (Harvested Wood Material) Order 2013 (SR 2013/454):
 - (c) Commodity Levies (Citrus Fruit) Order 2014 (LI 2014/44).
- 9 Customs and Excise Act 1996** 15
The following orders are confirmed:
- (a) Customs Import Prohibition (Southern Bluefin Tuna) Order 2013 (SR 2013/337):
 - (b) Customs Export Prohibition (Livestock for Slaughter) Order 2013 (SR 2013/457): 20
 - (c) Customs Import Prohibition (High-power Laser Pointers) Order 2013 (SR 2013/485):
 - (d) Excise and Excise-equivalent Duties Table (Tobacco Products Indexation and Separate 10% Increase) Amendment Order 2013: 25
 - (e) Excise and Excise-equivalent Duties Table (Alcoholic Beverages Indexation) Amendment Order 2014.
- 10 New Zealand Superannuation and Retirement Income Act 2001 and Social Security Act 1964**
The Social Security (Rates of Benefits and Allowances) Order 2014 (LI 2014/39) is validated and confirmed. 30
- 11 Road User Charges Act 2012**
The Road User Charges (Rates) Regulations 2014 (LI 2014/146) are confirmed.

12 Tariff Act 1988

The Tariff (ANZTEC) Amendment Order 2013 is validated and confirmed.

13 War Pensions Act 1954

The War Pensions (Rates of Pensions, Lump Sum Payments, 5
and Allowances) Order 2014 (LI 2014/60) is validated and confirmed.

Legislative history

27 May 2014
22 July 2014

Introduction (Bill 218–1)
First reading and referral to Regulations Review
Committee
