

# Perspectives of the regulatory environment from ERMA

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## The Environmental Risk Management Authority

The Environmental Risk Management Authority (ERMA New Zealand) is an independent, quasi-judicial authority set up by the Hazardous Substances and New Organisms (HSNO) Act to decide on applications to introduce hazardous substances and new organisms (ERMA New Zealand, 2006).

ERMA New Zealand is accountable to the Minister for the Environment and to Parliament. The Minister for the Environment appoints up to eight members to the decision-making committee, the Authority. Members of the Authority must have knowledge and experience in matters likely to come before them.

Under the HSNO Act 1996, anybody who wants to introduce a new organism into New Zealand must apply to ERMA New Zealand for approval. An application to release a new organism may be with or without controls. If no controls are applied then the organism ceases to be a new organism and is no longer regulated. Although ERMA New Zealand is the decision making body, enforcement of the Authority's decisions is the responsibility of Biosecurity New Zealand (MAFBNZ).

The HSNO Act and its regulations take a comprehensive, systematic approach to assessing the risks, benefits and costs of introducing new organisms into New Zealand. At the time that the HSNO Act came into force on 29 July 1998 there was no authoritative list of exotic plants present in New Zealand and to remedy this lack the Ministry of Agriculture and Forestry established the Plants Biosecurity Index (PBI) to facilitate the continued import of plant material. Therefore the PBI is a working list of species present

in New Zealand in lieu of more authoritative and comprehensive lists of plant species. New plant species can be added to the PBI if it can be established that the species is not a new organism.

## When is a plant a new organism?

Section 2A of the HSNO Act says a new organism is:

- An organism belonging to a species that was not present in New Zealand immediately before 29 July 1998;
- An organism for which a containment approval has been given; and
- An organism that belongs to a species, subspecies, infrasubspecies, variety, strain, or cultivar that has been eradicated from New Zealand.

The HSNO Act also has a schedule of prohibited species which includes 15 species or genera of plants that are not present in New Zealand and, as Parliament has determined that they are not wanted, cannot be the subject of an application.

It is important to note that ERMA New Zealand primarily regulates at the species level and as such does not operate at the cultivar level for species already present in New Zealand. However it does regulate hybrids where any of the parental species meets the definition of a new organism.

## How is a species added to the PBI?

Names can be added to the PBI at any time by providing adequate evidence for assessment to ERMA New Zealand. There is no fee for this service. This is not an application to import a new species; it is simply a process to document and substantiate what is already here. If ERMA New Zealand assesses that the species is present and not a new organism then

a request is made to Biosecurity New Zealand to add the name to the PBI. In the future we expect that through the plants in cultivation projects a more definitive list of cultivated plants will be developed and that this will be facilitated and supported through the New Zealand Organisms Register (NZOR). Such a list would then inform the PBI.

Where the evidence for a species being present in New Zealand is ambiguous a Section 26 to have the Authority make a determination is available. The fee for a determination of the new organism status of a plant by the Authority is currently NZ\$1125.

## What evidence is needed to establish whether or not a species is a new organism?

Some guidelines on the nature of evidence to support the presence of a species in New Zealand can be found in our policy *Interpretations and Explanations of Key Concepts* ([www.ermanz.govt.nz/resources/key\\_concepts.html](http://www.ermanz.govt.nz/resources/key_concepts.html)). Evidence in support of the presence of an organism in New Zealand includes import documentation, sales or exhibition catalogues, signed (preferably witnessed) statements from persons in possession of the species, statements from authoritative experts, or published books and scientific papers. However, in general, we encourage the enquirer to supply whatever information that they have for assessment.

Over the last four years several hundred new names and synonyms have been added to the PBI through this assessment process. Less than 20 have been rejected due to lack of sufficient evidence.

## Other options

Where it is clearly known that a species is in New Zealand but there is insufficient information to establish

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that it was present before 1998 or there is clear evidence that it has become established after 1998 there is a provision under Section 140(1)(ba) to make a regulation through Order in Council to the effect that the species is not a new organism. To have a species made not a new organism by regulation the species should not be the subject of an eradication operation or be an unwanted organism as defined by the Biosecurity Act. At this time only one species, a rust fungus, has been made not new by regulation. There is no fee for the development of a regulation.

Where a species is a new organism and is not present in New Zealand then an application to import either into containment or for release can be made. However, this is outside of the scope of the cultivated plant names workshop and is not discussed further.

#### **Conclusion**

There are a number of avenues available to clarify the new organism status of plants in cultivation in New Zealand. ERMA New Zealand encourages anyone that wants to establish what the status of a plant

is under the HSNO Act to contact an advisor in the New Organism group and discuss the species of concern.

#### **Reference**

ERMA New Zealand (2006). A guide to Hazardous Substances and New Organisms Act. ERMA New Zealand, Wellington. 53 p. Available at [www.ermanz.govt.nz/resources/index.html](http://www.ermanz.govt.nz/resources/index.html).

