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SUBMISSION ON: FOOD SAFETY LAW REFORM BILL

SUBMISSION TO: PRIMARY PRODUCTION SELECT COMMITTEE

Submitter: Horticulture New Zealand Incorporated

Submitted by: Mike Chapman, Chief Executive

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1. Horticulture New Zealand Incorporated (HortNZ), together with the organisations listed below, are making this submission on the Food Safety Law Reform Bill:

- Blackcurrants NZ Inc
- Hawke's Bay Fruit Growers Association
- Hawke's Bay Vegetable Growers Association
- Katikati Fruitgrowers' Association Inc
- Nashi New Zealand Inc
- New Zealand Citrus Growers Inc
- New Zealand Kiwifruit Growers Inc
- Onions New Zealand Inc
- Pipfruit NZ Inc
- Potatoes New Zealand Inc
- Strawberry Growers New Zealand Inc
- Vegetables NZ Inc

2. HortNZ, along with its affiliated organisations, represents the interests of New Zealand's 5500 commercial fruit and vegetable growers. The New Zealand horticulture industry is valued at over \$5.5 billion with \$3 billion in exports.

Background

This Bill amends the Food Act, Animal Products Act and the Wine Act. It paves the way for the Government to introduce requirements for traceability and recall procedures. It also gives greater powers for the Government to obtain information from businesses, and to increase the frequency and intensity of audits.

The new rules are being developed to implement the recommendations of the Government Inquiry into the Whey Protein Concentrate Contamination Incident.

Submissions are made on only the parts of the Bill that relate to the Food Act at National Programme Level 1 (covering horticulture businesses).

We fully support the purpose of this Bill. The horticulture industry is supported by Good Agricultural Practice (GAP) and Good Manufacturing Practice (GMP) programmes that provide audited quality systems which incorporates traceability. This places horticulture, with respect to the provisions of the Bill, in a very favourable position.

Examples of GAP programmes include GLOBALG.A.P and New Zealand GAP. Good Manufacturing Practice programmes include Woolworths Quality Assurance (WQA) and the British Retail Consortium Food Technical Standard (BRC).

We submit, that it makes the adoption under section 40 of the Food Act of the GAP / GMP programmes a sure and expedient way for the objectives of the Bill to be achieved.

We note, for the sake of completeness, that what is proposed in the Bill and what is achieved in the GAP / GMP programmes does not include consumer awareness of the origin of the product. The traceability covered in the Bill relates to the supply chain, giving the ability to track and trace product at any point in the supply chain.

Part 3A Tracing, recall, and verification

The Bill proposes a new section in the Food Act (Part 3 A) 'Tracing, recall, and verification'. This section includes general rules which enable the Government to issue notices requiring traceability and recall procedures to be in place for food businesses. It then goes further to require that these procedures are implemented and tested frequently.

We observe, that this is an ambitious objective at a national level, across over 40,000 food businesses. The horticulture industry's certified (GAP / GMP) horticulture businesses already have, as noted above, traceability procedures and are required to test these procedures annually. Additionally, this requirement is supported by a systematic programme of audits.

The traceability systems of individual businesses make up a connected traceability system that operates across the horticulture industry. This industry network has been built over many years and continues to improve.

While most horticulture businesses participate in this network, uncertified horticulture businesses may have only basic recall procedures, and are unlikely to test them regularly.

We submit, that the Food Act one-off audit requirement, which applies to businesses regulated at National Programme Level 1, is insufficient to support the objectives of the Bill, to establish a robust, national traceability and recall system.

We note, that the process to develop the regulations covering traceability and recall is still in

the early stages, with the first round of consultation with food businesses yet to be completed.

Section 133C (1)(b) would enable the Government to specify the content of procedures for tracing and recall, rather than setting objectives for tracing and recall and enabling each business to develop procedures appropriate to their operating environment.

We do not support this specific section because, setting out the content of procedures in Regulations, or indeed Notices, prevents the establishment of robust, integrated, operational procedures, and inhibits innovation, a key enabler of traceability and recall.

We:

1. Support the proposed traceability and recall rules in the Bill.
2. Propose that the auditing requirements in the Food Act (at National Programme Level 1) are reviewed to ensure that they support, and can deliver, an effective tracing and recall system at an industry level.
3. Propose that the Select Committee recommends that the horticulture industry's GAP and GMP programmes be recognised under section 30 of the Food Act.

Subpart 2 - Verification (auditing): Section 133 F

This proposal would enable the Government to establish regulations and notices to change the frequency and intensity of auditing, and to charge businesses for these audits.

We do not support this proposal for two reasons:

1. Any audit regime should be clearly set out in Regulations, to ensure consistency and provide certainty, which inclusion in Notices does not; and
2. For horticultural businesses operating under GAP / GMP standards, the audit process already includes traceability and recall testing. Any additional regulatory burden would add cost, for no gain, and would potentially serve to negate ownership of this important food safety mechanism ('just another compliance cost').

We support the inclusion of food safety audits in the Food Act, and we have requested greater recognition of industry GAP / GMP audits and verification framework.

The horticulture industry has presented many submissions about the inadequate frequency of audits in the Food Act (for uncertified businesses) and the unnecessary and expensive duplication of Food Act audits for GAP / GMP certified businesses. Aligning existing certification schemes with regulatory outcomes will maintain support for food safety across the supply chain, and recognise the extensive commercial effort in food safety. It is an important opportunity for the regulator to buy into genuine food safety outcomes by avoiding duplication, eliminating unnecessary cost, and being seen as proactive and connected.

We expect recognition of industry food safety programmes, including the verification framework, under the Food Act.

Under the Food Act, there is no ongoing verification for businesses at National Programme Level 1, beyond the initial audit. The proposal in s133 F would increase the frequency of Food Act imposed audits for horticulture businesses, further amplifying the duplication of the already established and credible industry audits. Our proposal, if adopted, will ensure that

growing operations are regulated by one robust audit system: a comprehensive and robust one-stop-shop for growers. We note, that having only one scheme will promote high levels of compliance and a marked reduction in complexity.

We:

1. Do not support this proposal for Notices to set out audit frequency and charging guidelines.
2. Do support the Bill enabling recognition, by the Chief Executive, of industry food safety programmes to achieve the needs of this Part, and other aspects of the Food Act. This includes recognition of equivalence of all parts of the system including:
 - The food safety standard (the requirements);
 - The assurance systems (independent audit, audit frequency etc); and
 - The ongoing assurance that provides food safety confidence (an enduring system of review, audit and reporting).

292A Chief Executive may require information to determine the safety of food.

This section enables the Chief Executive to obtain information about food when required to manage or address a food safety issue.

The regulator may obtain information, even when it results in the business breaching contractual obligations, or agreements.

We agree that the ability for the regulator to obtain information about the safety of food, to investigate and resolve a food safety crisis, is an important part of a good food safety system.

We submit however, that the proposed Bill lacks mechanisms to protect and secure information obtained via this rule, and to define how this information may be used, protected, stored, returned or destroyed.

We submit, that there is a need to include clauses to deal with the consequences to the business in relation to a breach of contract or agreement, in particular, where the result of an investigation is that the investigation is proved to be unnecessary, or is inconclusive. In this regard, we submit, that in the cases of breaches the Bill should provide for financial penalties and indemnities to be applied to the Government, as an incentive to ensure that commercially sensitive information is not leaked, whether intentionally, or inadvertently.

We:

1. Support the ability for the Chief Executive to obtain information to investigate a food safety issue.
2. We submit, that information that is obtained for this purpose should be protected by financial penalties and indemnities.

We strongly support measures to ensure food safety, but this needs to be balanced with the importance of keeping compliance costs in check by aligning the existing certification schemes, as mentioned in this submission, and to maintaining regulator / business confidentiality.

HortNZ wishes to be heard by the Select Committee in support of this submission.

A handwritten signature in blue ink, appearing to read 'MJ Chapman', with a large loop at the end.

MJ Chapman
Chief Executive