

PSGR

Physicians & Scientists for Global Responsibility

Submission to: **Primary Production Committee**
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Considering:

The Organic Products Bill

28 May 2020

Invitation:

https://www.parliament.nz/en/pb/sc/make-a-submission/document/52SCPP_SCF_BILL_94967/organic-products-bill

Organic Products Bill: <http://legislation.govt.nz/bill/government/2020/0221/latest/whole.html#LMS312669>

Address Primary Production Committee? **Yes**

The Secretary

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- 1.0. The draft form of this Bill is an excellent example of the struggle between public regulatory agencies being focussed upon economic growth versus protecting public and environmental health on sustainable bases.
- 1.1. The primary consideration for those engaged in organic agriculture is, protection of human and environmental health. Therefore, the quality of regulation is of the essence with regards to this matter.
- 1.2. This condition does not appear to be referred to in earlier documents. Neither the 2018 Summary nor the Regulatory Impact Statement discussed the objectives and principles of organic agriculture.
- 1.3. These documents referred to an 'organic regime' and that objectives of the regime should achieve increased consumer confidence, increase business certainty to invest in organics, enable trade and ensure good, cost effective administration. This was agreeable to submitters.
- 1.4. Organic agriculture as a growing market segment and is a response to market failure in conventional agriculture. Consumers transition to organics as it exhibits a higher standard of protection from chemical contaminants, heavy metals and from contamination by genetically engineered product.
- 1.5. Hazardous (toxic) chemical regulators lack resourcing to appropriately risk assess chemicals used in agriculture and in food processing. Their regulatory standards have not kept pace with scientific knowledges (common in medical sciences). As such, issues concerning the public, such as the cocktail effect of chemical mixtures; greater vulnerability of children; and hormone level risk, remain ignored in regulatory risk assessment. Nor do regulatory agencies consider risk from cocktail effects in the environment.
- 1.6. This Bill is an exciting opportunity. Organic consumers are precautionary, quality lead and they seek high value produce. In this market sector, conventional assurances of regulatory capability may not be sufficient, the principles of organic agriculture, and guidance concerning inputs, must be embedded at a high level in the proposed legislation to ensure the values of organic consumers are enshrined and can guide future regulations relating to organic production and processing.
- 1.7. Defining organic principles will strengthen the organic industry and creates economic advantage as it increases certainty. As Professor David Michaels has discussed:

‘The objectives of the new laws and the agencies empowered to enforce them is not only to stop the damage and prevent future harm; it is to maintain and strengthen the free market system. Although many advocates of free market economics refuse to acknowledge this dynamic, law and regulations are the underpinnings of our economic system.’¹

- 1.8. It is surprising that MPI have not observed the opportunity to create legislation that reflects longstanding aims of the New Zealand government and the public. Clauses could easily be inserted requiring protection of human and environmental health, of future generations, of freshwater, biodiversity, of drinking water, and to ensure organic principles are compatible with obligations

¹ Michaels, D. The Triumph of Doubt. Oxford University Press p271

regarding the Treaty of Waitangi and climate change. These politically challenging problems are compatible with the principles of organic agriculture and are less likely to be contested.

- 1.9. It seems because of the problem stated in (1.0), there has been difficulty integrating content into the Purposes that would assure consumer confidence – stating ‘increase consumer confidence’ is insufficient for the purposes of maintaining a level of standard – to ensure subsequent legislation has something to ‘hang off’. This is essential to retain commercial confidence, reduce risk of regression, and facilitate trade.
- 1.10. As such, the Organic Products bill is unworkable in its current form as it has left the objectives and principles of organic production, and guidance relating to acceptable inputs – critical for maintaining consumer trust - outside the scope of the document. Without organic objectives and principles there can be no consumer assurance.
- 1.11. The Bill would leave the organic sector without the binding framework that is seen in legislation in other jurisdictions.
- 1.12. Similarly, integration of clauses inclusive of issues in (1.1) would create both goodwill on the part of the organics movement and demonstrate that MPI and Cabinet are cognisant that organic production has the capacity to reduce stress on local ecology, while creating a product for one of the fastest growing market segments in the food and drink industries.
- 1.13. If handled erroneously the Organic Products Bill risks being an absurdity in law. This is because if organic principles are not upheld, and small businesses supported in transition, the capacity to grow a competitive and world class industry will be compromised.
- 1.14. With recognition that local soil and water quality is declining, the Bill can particularly be shaped to support the grass-roots small players in the sector who form the foundation for safe and nutritious food production in NZ. These growers have a valuable role as they exude fewer pollutants into the environment and this, at the very least, can be recognised as a public good and be supported.
- 1.15. Lacking principles and definition of what constitutes an organic product, or an input that may be used in organic agriculture in the legislation creates gaps that:
 - (a) Leave the organic sector without the binding framework that is seen in legislation in other jurisdictions.
 - (b) Risk slow but steady erosion of the reputation of the organic industry in Aotearoa.
 - (c) Cannot assure consumer trust in the long term.
 - (d) Produces a lower quality product that may be targeted following foreign screening measures.
 - (e) Fail to protect soil and freshwater quality, exacerbating domestic food security issues.
 - (f) Are unable to fulfill MPIs own objectives

2.0 Recommendations:

- 2.1. That guidelines for effective legislation for the NZ organic sector should give weight to the European legislation for its organic sector. That EU legislation has been operating for a decade; it

reflects and upholds long-standing organic principles; and the EU is also a desirable target market for our producers.²

2.2. The **purpose of the Act** might be better defined as follows:

3 Purpose

The purpose of this Act is to—

- (a) support and encourage the growth of domestic organic agriculture sector; and
- (b) maintain and support the established principles of organic agriculture; and
- (c) increase consumer confidence in purchasing organic products; and
- (d) ensure organic production is possible for future generations; and
- (e) increase certainty for businesses making organic claims and keep fees and regulatory requirements for new entrants at an acceptable level; and
- (f) facilitate both the local and export organic processed food industry.

2.3. The **definition for organic agriculture** might be defined as follows (IFOAM³):

- (a) Organic agriculture is a production system that sustains the health of soils, ecosystems and people. It relies on ecological processes, biodiversity and cycles adapted to local conditions, rather than the use of inputs with adverse effects.
- (b) Organic agriculture should sustain and enhance the health of soil, plant, animal and human as one and indivisible.
- (c) Organic agriculture should be based on living ecological systems and cycles, work with them, emulate them and help sustain them.
- (d) Organic agriculture should build on relationships that ensure fairness with regard to the common environment and life opportunities.
- (e) Organic agriculture should be managed in a precautionary and responsible manner to protect the health and well-being of current and future generations and the environment.

2.4. Organic agriculture should restricts the use of **external inputs in organic agriculture** (drawn from European legislation):

- (a) Where external inputs are required these shall be limited to:
 - (i) inputs from organic production;
 - (ii) natural or naturally-derived substances;
 - (iii) low solubility mineral fertilisers;
- (b) the strict limitation of the use of chemically synthesised inputs to exceptional cases these being:
 - (i) where the appropriate management practices do not exist; and

² REGULATIONS Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91. P. 189/4-189-5

³ IFOAM Definition of Organic Agriculture. <https://www.ifoam.bio/why-organic/organic-landmarks/definition-organic>

(ii) the external inputs referred to in paragraph (b) are not available on the market; or

(iii) where the use of external inputs referred to in paragraph (b) contributes to unacceptable environmental impacts;

(c) GMOs and products produced from or by GMOs are not permitted with the exception of veterinary medicinal products;

2.5. In addition to the above principles, the definition for **organic production and secondary processing** might be based on the following principles (EU legislation):

(a) the production of organic food from organic agricultural ingredients, except where an ingredient is not available on the market in organic form;

(b) GMOs and products produced from or by GMOs are excluded;

(c) the restriction of the use of food additives, of non organic ingredients with mainly technological and sensory functions and of micronutrients and processing aids, so that they are used to a minimum extent and only in case of essential technological need or for particular nutritional purposes;

(d) the exclusion of substances and processing methods that might be misleading regarding the true nature of the product;

(e) the processing of food with care, preferably with the use of biological, mechanical and physical methods

3.0 There are other opportunities to ensure a competent and dynamic sector and here I echo other submitters, in particular to emphasise the ongoing role of growers and producers in organic standards oversight:

3.1 Rename as ‘Organic Production and Products Bill’ to reflect the importance of the connection between the production system and the product.

3.2 Third party certifiers should have the power to give final approval to licensees (i.e. to issue certificates), and the relevant Ministry should restrict itself to accrediting those third party certifiers, keeping a register of the approved operators (certified licensees) and carrying out enforcement in the case of breaches.

3.3 The organic standards referred to in Section 105 should be overseen by an Organic Authority comprising members of the relevant Ministry and members of the organic sector which are appointed by an overall sector body, such as OANZ. The organic sector representation on such an authority should include producers, processors, consumers, traders, certifiers, organic scientific representatives and Māori (who must be present as the Crown’s partner in the Treaty of Waitangi). This body should be more than a technical advisory board; it must have the power to decide on, develop and monitor the content of the standards rather than simply recommend it to the Ministry. The Organic Authority could also have the role of working collaboratively to achieve the other purposes of the Bill (facilitate domestic and international trade; facilitate the growth of the domestic organic sector), such as advising the government on areas where research and funding are needed.

- 3.4 Include a provision in the bill for a Participatory Guarantee System (PGS), which is an IFOAM-recognised, low-cost, peer-review system for verifying the compliance with organic standards. Implement a very low threshold of turnover below which no approval/certification is required, and would also like to see a PGS made available to NZ domestic operators so that they can become certified/approved at low cost.
- 3.5 We wish to make an oral submission to the Primary Production committee.