

Radiocommunications Amendment Bill (No 5)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the New Zealand-China Free Trade Agreement Bill as reported from the Foreign Affairs, Defence and Trade Committee. The committee of the whole House has amended the bill and has divided it into the following bills:

- Tariff Amendment Bill comprising Part 1
 - Customs and Excise Amendment Bill (No 4) comprising Part 2
 - This bill comprising Part 3 and the Schedule
 - Fair Trading Amendment Bill (No 2) comprising Part 4
 - Electricity Amendment Bill (No 3) comprising Part 5.
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Bill (No 5)**

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Phil Goff

Radiocommunications Amendment Bill (No 5)

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	Schedule	4
	New Schedule 8 added to principal Act	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Radiocommunications Amendment Act (No 5)
2008.

- 2 Commencement**
This Act comes into force on the day after the date on which 5
it receives the Royal assent.

16 Principal Act amended**This Part** amends the Radiocommunications Act 1989.**17 Purpose**

This Part amends the principal Act to implement Annex 14 5
of the Free Trade Agreement between the Government of
New Zealand and the Government of the People's Republic of
China done at Beijing on 7 April 2008, namely the Agreement
between the Government of New Zealand and the Govern- 10
ment of the People's Republic of China on Cooperation in the
Field of Conformity Assessment in Relation to Electrical and
Electronic Equipment and Components.

18 Regulations(1) Section 134 is amended by inserting the following subsection
after subsection (1C): 15

“(1D) The power to regulate in relation to interfering equipment,
susceptible equipment, or other equipment under subsection
(1)(g) includes the power to regulate in relation to such equip-
ment that is, or may be, exported from New Zealand pursuant
to the Agreement between the Government of New Zealand 20
and the Government of the People's Republic of China on Co-
operation in the Field of Conformity Assessment in Relation to
Electrical and Electronic Equipment and Components, which
is Annex 14 to the Free Trade Agreement between the Gov-
ernment of New Zealand and the Government of the People's 25
Republic of China done at Beijing on 7 April 2008.”

(2) Section 134 is amended by adding the following subsection:

“(3) The provisions of **Schedule 8** apply to material incorporated
by reference in regulations made in reliance on **subsection**
(1D).” 30

18 Regulations(1) Section 134 is amended by inserting the following subsection
after subsection (1C):

- “(1D) The power to regulate in relation to interfering equipment, susceptible equipment, or other equipment under subsection (1)(g) includes the power to regulate in relation to such equipment that is, or may be, exported from New Zealand pursuant to the Conformity Cooperation Agreement.” 5
- (2) Section 134 is amended by adding the following subsections:
- “(3) The Conformity Cooperation Agreement (including any amendments made to that agreement in accordance with it) and any standards or rules referred to in the Conformity Cooperation Agreement may be incorporated by reference in regulations made in reliance on **subsection (1D)**. 10
- “(4) The provisions of **Schedule 8** apply to material incorporated by reference in regulations made in reliance on **subsection (1D)**.
- “(5) In this section, **Conformity Cooperation Agreement** means the Agreement between the Government of New Zealand and the Government of the People’s Republic of China on Cooperation in the Field of Conformity Assessment in Relation to Electrical and Electronic Equipment and Components, which is Annex 14 of the Free Trade Agreement between the Government of New Zealand and the Government of the People’s Republic of China done at Beijing on 7 April 2008.” 15 20

19 New Schedule 8 added

The principal Act is amended by adding the **Schedule 8** set out in the **Schedule** of this Act. 25

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	Schedule	s 19
	New Schedule 8 added to principal Act	
	Schedule 8	s 134(3) 5
	General provisions relating to material incorporated by reference in regulations	
1	Effect of material incorporated by reference in regulations	
(1)	This clause and clauses 2 to 8 apply to material incorporated by reference in regulations made in reliance on section 134(1D) .	10
(2)	Material incorporated by reference in regulations has effect as part of the regulations.	
2	Effect of amendments to, or replacement of, material incorporated by reference in regulations	15
	An amendment to, or replacement of, material incorporated by reference in regulations (regulations A) has legal effect as part of regulations A only if regulations made after the making of regulations A state that the particular amendment or replacement has that effect.	20
3	Proof of material incorporated by reference	
(1)	A copy of the material incorporated by reference in regulations, including any amendment to, or replacement of, the material, must be—	
(a)	certified as a correct copy of the material by the Secretary; and	25
(b)	retained by the Secretary.	
(2)	The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the regulations of the material.	30
4	Effect of expiry or revocation of material incorporated by reference	
	Material incorporated by reference in regulations that expires or is revoked, or that ceases to have effect, ceases to have legal	35

Schedule 8—*continued*

effect as part of the regulations only if regulations state that the material is revoked or ceases to have legal effect.

5 Access to material incorporated by reference

- (1) The Secretary—
- (a) must make the material referred to in **subclause (2)** 5
available for inspection during working hours free of charge at the head office of the Ministry of Economic Development and at any other places that the Secretary determines are appropriate; and
 - (b) must make copies available for purchase at a reasonable 10
price; and
 - (c) may make copies of the material available in any other way that the Secretary considers appropriate in the circumstances (for example, on an Internet site); and
 - (d) must give notice in the *Gazette* stating that— 15
 - (i) the material is incorporated in the regulations and the date on which the regulations were made; and
 - (ii) the material is available for inspection during working hours, free of charge, and the location of the place or places at which it can be inspected; 20
and
 - (iii) copies of the material can be purchased and the location of the place or places at which they can be purchased; and
 - (iv) if copies of the material are available under **paragraph (c)**, the material is available in other ways, and giving the details of how and where it can be accessed and obtained. 25
- (2) In this clause, **material** is—
- (a) material incorporated by reference in regulations: 30
 - (b) any amendment to, or replacement of,—
 - (i) that material that is incorporated in the regulations; or
 - (ii) the material referred to in **paragraph (a)** with the amendments or replacement material incorporated within it: 35

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Schedule 8—*continued*

- (c) if the material referred to in **paragraph (a) or (b)** is not in an official New Zealand language, as well as the material itself, an accurate translation of the material in an official New Zealand language.
- (3) A failure to comply with this clause does not invalidate regulations that incorporate material by reference. 5
- 6 Acts and Regulations Publication Act 1989 not applicable to material incorporated by reference**
The Acts and Regulations Publication Act 1989 does not apply to material incorporated by reference in regulations or to an amendment to, or replacement of, that material. 10
- 7 Application of Regulations (Disallowance) Act 1989 to material incorporated by reference**
- (1) Nothing in section 4 of the Regulations (Disallowance) Act 1989 requires material that is incorporated by reference in regulations to be laid before the House of Representatives. 15
- (2) The Regulations (Disallowance) Act 1989, apart from the modification to the application of section 4 of that Act made by **subclause (1)** of this clause, applies to regulations that incorporate material by reference. 20
- 8 Application of Standards Act 1988 not affected**
Clauses 1 to 7 do not affect the application of sections 22 to 25 of the Standards Act 1988.

Legislative history

23 July 2008

Divided from New Zealand-China Free Trade Agreement Bill (Bill 210–1) by committee of the whole House as Bill 210–2C
