

House of Representatives

Supplementary Order Paper

Wednesday, 27 July 2022

Plant Variety Rights Bill

Proposed amendment

Hon Judith Collins, in Committee, to move the following amendment:

Clause 14

In *clause 14*, after *subclause (2)* (page 14, after line 8), insert:

- (2A) In **subclause (2)**, to **authorise another person** includes where—
- (a) the authorising party was outside New Zealand at the time of authorising; but
 - (b) the restricted act occurred in New Zealand.

Explanatory note

This Supplementary Order Paper amends the Plant Variety Rights Bill. It elaborates on the meaning of “[authorising] another person to undertake ... restricted acts” in *clause 14(2)*. It provides that the scope of authorisation includes situations where the authorising party is outside New Zealand but the infringement occurs within New Zealand. This ensures that where actors solicit or fund restricted acts that infringe upon a plant variety right, they are liable for their actions regardless of their location.

This amendment reflects the decision of the Court of Appeal in *Gao v Zespri Group Ltd* [2021] NZCA 442, which clarified that restricted acts occurring in New Zealand, even if authorised by parties overseas, are within both the scope of New Zealand courts’ jurisdiction and the territorial nature of plant variety rights as contemplated by the International Convention for the Protection of New Varieties of Plants (1991).