

Animal Products Act 1999

GUIDE FOR EXPORTERS

MAF Public Information paper No. 30

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Ministry of Agriculture and Forestry
Te Manatu Ahuwhenua, Ngaherehere

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Website

There is an Animal Products Act website under the MAF homepage that contains a range of up to date information on the Animal Products Act:

www.maf.govt.nz/animalproducts

CONTENTS

Section 1:	Introduction	1
1.1	Further information.....	1
Section 2:	Background	2
2.1	Regulation of exporters prior to 1 November 1999	2
2.2	The need for export regulation.....	2
Section 3:	Export Regulation under the Animal Products Act	4
3.1	Exporters required to register.....	4
3.2	Exemptions	5
3.3	Duties of exporters	7
3.4	Prohibition on dual operator butchers.....	8
Section 4:	Exporter Registration Procedures	9
4.1	Register of exporters	9
4.2	Registration	9
4.3	Initial registration.....	10
4.4	Non-licensed exporters of animal products	10
4.5	Exporter applications	10
4.6	Annual renewal	11
4.7	Deregistration.....	11
4.8	Review of de-registration or a refusal to register.....	12
Section 5:	Overseas Market Access Requirements	13
5.1	Access to overseas market access requirements	14
5.2	Access to the Australian market.....	14
5.3	Official assurances	14
5.4	Obtaining official assurances	15
5.5	Issuance of official assurances	15
5.6	Verification that market access requirements are met	15
5.7	Statements as to New Zealand animal product standard.....	16
5.8	Administrative certificates	17
5.9	Replacement of official assurances.....	17
5.10	Re-exports	17
Section 6:	Fees and Charges	18
Appendix 1:	Glossary for the Purposes of this Document	19
Appendix 2:	Relevant Provisions of the Animal Products Act and associated orders and regulations	24
Appendix 3:	Fees and Charges on Commencement of the Act	35

SECTION 1: INTRODUCTION

The Animal Products Act 1999 reforms the New Zealand law that regulates the production and processing of animal material and products. The majority of the Act commenced on 1 November 1999. The Animal Products Act potentially applies to all animal material and products that are traded and used in New Zealand or exported from New Zealand. Some exemptions have been made (see also Section 3.2 of this guide).

This paper provides a general explanation of the workings of Part 5 “Export of Animal Material and Products” of the Animal Products Act 1999.

From 1 November 1999 one statutory regime applies in relation to exports (as provided in Part 5). This is aimed at ensuring that product leaving New Zealand will meet equivalent standards, labelling requirements, and assurances no matter which legislative regime it was produced and processed under; and meets any foreign government requirements agreed to by New Zealand in respect of official assurances. Official assurances are basically assurances from the New Zealand government to the importing country’s government that the latter’s market access requirements are met.

To assist readers, Appendices to this paper contain:

- **Appendix 1:** Glossary of Terms;
- **Appendix 2:** Part 5 of the Animal Products Act and associated sections; and
- **Appendix 3:** The fees and charges relating to the export regime.

1.1 Further information

MAF is working on implementation processes and a number of guides for various people and groups affected by this legislation.

There is an Animal Products Act website under the MAF homepage: www.maf.govt.nz/animalproducts. This page is currently under development and more documents will be added as they become available. Access to both the Animal Products Act and the Animal Products (Ancillary and Transitional Provisions) Act is provided at this site.

SECTION 2: BACKGROUND

2.1 Regulation of exporters prior to 1 November 1999

Prior to the Animal Products Act taking effect exporters were licensed as follows:

- game exporters by the Director-General of MAF under the Game Regulations 1975;
- meat exporters by Meat New Zealand under the Meat Board Act 1997;
- fish exporters by the Fishing Industry Board (via the New Zealand Seafood Industry Council) under the Fish Export Licensing Regulations 1975.

Exporters of other kinds of animal products were not licensed or registered.

The requirement for official assurances is highly variable because the importing country's government determines it, not New Zealand.

Most countries require official assurances for non-manufactured animal products that are intended as human foods and many countries require government assurances regarding New Zealand's animal disease status, either in addition to, or rather than, assurances regarding the status of the particular consignment.

Prior to 1 November 1999, the Meat Act 1981 imposed mandatory certification and other requirements on exported foods derived from meat, fish and bee products. There is no law directly regulating the export of live mammals and birds (including semen and the like), inedible by-product, and poultry meat.

Where certification was not mandatory, certificates were provided on the basis that the businesses concerned voluntarily complied with any market access requirements and placed themselves under MAF surveillance. In such cases the control mechanism has been MAF's discretion to refuse to provide a certificate on the grounds that the consignment either does not comply, or no longer complies, with the overseas market access requirements.

A relatively small volume of animal products (mostly manufactured foods and dietary supplements) are exported on assurances supplied by the Ministry of Health or Medical Officers of Health.

2.2 The need for export regulation

Some two-thirds of our animal produce is exported. Meat, game, fish, and their by-product alone generate an estimated 23% of total export returns. New Zealand's international image and track record for integrity in trading animals and their produce is pre-eminent and long-standing.

An adverse event involving New Zealand animal material and products in a foreign country will have obvious negative consequences for the exporter concerned. But experience has shown that the impact does not stop there. There could be national implications by way of consequent damage to the reputation of New Zealand products in general and/or the credibility of New Zealand's regulatory systems in the importing country. Thus constant pro-active vigilance is needed.

SECTION 3: EXPORT REGULATION UNDER THE ANIMAL PRODUCTS ACT

The object of the export provisions in the Animal Products Act, as described in section 47, is to facilitate overseas market access for animal material and products exported from New Zealand by:

- providing that the requirements of foreign governments, as agreed by New Zealand, are available to, and met on exportation; and
- providing for systems to be maintained to provide and safeguard the assurances required by foreign governments for animal materials and products; and as a means of facilitating the above two aims,
- providing for the registration of exporters of animal products intended for human or animal consumption, and exporters of certain other animal material or products.

Risk management system¹ compliance, and the meeting of any overseas market requirements, as agreed by New Zealand, is the responsibility of the exporter.

Registration of exporters will:

- provide for identification;
- enable contact with exporters by MAF (including the provision of market access requirements);
- facilitate monitoring by MAF; and
- enable trace-back in the event that it is necessary, such as if there is an adverse event.

3.1 Exporters required to register

The registration of exporters of animal material and products is a key mechanism that, in part, replaces the previous controls applied via mandatory export certification. It provides for transparency and accountability of those participating in animal material and product exporting.

The following categories of exporters of animal materials or products have to register, unless exempted by Order in Council:

- exporters of animal products intended for human or animal consumption;
- exporters of animal material or products that are subject to overseas market access requirements and where an official assurance is required; and

¹ The risk management system comprises the following main types of controls: risk management programmes; regulated control schemes; and controls relating to animal material and products exports.

- exporters of animal material or products which have been specifically identified by Order in Council under section 49.

The Animal Products (Additional Products for which Exporter Registration Required) Order 1999 requires all exporters of animal glands, bile, animal blood and blood products, deer velvet and deer velvet products to be registered (refer to **Appendix 2** for a reproduction of this Order).

The rationale for the making of this Order was that any of these products can be further broken down and parts eventually end up in the food or medicine chain for human or animal consumption, regardless of their stated purpose when they are exported from New Zealand. Also, there have been issues relating to fraud and deception in respect of these types of products in the past.

3.2 Exemptions

The Animal Products Act provides for exemptions to be made from its coverage.

Dairy produce

Section 8 of the Act states that all animal material and products that are dairy produce within the meaning of the Dairy Industry Act 1952 are excluded from the ambit of the Animal Products Act. Therefore, exporters of only dairy produce are not required to be registered under the Animal Products Act and exporter duties will not apply.

Catch of foreign fishing vessels and cosmetics

Section 9 of the Act provides for exemptions from the coverage of the Animal Products Act to be made by Order in Council. Exemption from all or part of the Act is possible where risks are either negligible or are adequately managed under other legislation. The following exemptions have been provided for in the Animal Products (Exemptions) Order 1999. This order came into force on 1 November 1999 and includes the following exemptions relevant to exporters:

Certain fish taken in exclusive economic zone exempt from Act –

- (1) Subject to the subclause (2), fish taken in the exclusive economic zone, and any animal product derived from such fish, are exempt from the requirements of the Act if–
 - (a) The fish are taken by a foreign fishing vessel in accordance with Part 5 of the Fisheries Act 1996, or a foreign fishing craft licensed under the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977; and
 - (b) The fish or animal product are not landed in New Zealand; and
 - (c) The fish or animal product derived from the fish, are not claimed to be

New Zealand fish or product.

- (2) This clause does not apply to exempt bivalve molluscan shellfish from the requirements of the Act.

Cosmetics exempt from Act –

All cosmetics within the meaning of the Medicines Act 1981 are exempt from the requirements of the Act.

The practical application of these two exemptions, and the impact for exporters, is that exporters of cosmetics for human use are not required to be registered and exporter duties will not apply. Also, exporters of fish taken by foreign fishing vessels where that fish is not landed in New Zealand will be treated likewise.

Multi-ingredient foods and meals consumed in transit

Regulations have been made under section 166 of the Animal Products Act to exempt two types of products from coverage by Part 5.

Regulation 4 of the Animal Products Regulations 1999 states that:

- (1) Consignments of the following material or products (being material or products that consist of or contain animal material or animal products) are exempt from the requirements of Part 5 of the Act:
 - (a) Multi-ingredient foods and other prepared foods which, despite containing 1 or more ingredients that are animal material or products, do not consist principally of animal material or products (for example, biscuits, cakes, bread, soups, sauces, snack foods, pastries, confectionery, and also prepared meals that do not consist principally of meat):
 - (b) Food for the consumption on any vessel or aircraft of passengers, crew, and animals during transit by sea or air from New Zealand, being meals in a ready-to-eat state or other food for human or animal consumption (for example, airline meals, ships' stores, and feed for animals being exported).
- (2) Nothing in subclause (1) operates to exempt from the requirements of Part 5 any consignment or class of consignments for which an official assurance is required.

Non-commercial live animals

Regulations have been made under section 166 of the Animal Products Act to exempt owners of an animal exporting that animal live for non-commercial purposes from the requirement to register as an exporter under Part 5 of the Act in respect of that export. This is to allow for exporting of such animals as family pets and competition animals, for example show horses.

The regulation that effects this policy is regulation 3 of the Animal Products Regulations 1999. These regulations came into force on 1 November 1999.

Non-commercial use, trade samples and research

Section 50 of the Act enables the Director-General to issue a notice exempting from any requirements in Part 5 any particular consignment, animal material or product or person or any classes of these things. To be eligible for such an exemption the consignment or animal material or product to be exported has to be:

- for research and development; or
- a trade sample to assess an overseas market for initial market development purposes; or
- for personal or non-commercial use of the person travelling with a consignment.

3.3 Duties of exporters

All exporters of animal material and products covered by the Animal Products Act, whether registered or not, will be required to act in accordance with the duties set out in section 51 of the Act. These are:

- to ensure that export operations do not contravene any relevant requirement under the Act; and
- to export only animal material or products that meet:-
 - any relevant animal product standards and specifications; and
 - any relevant overseas market access requirements, as notified or made available by the Director-General under section 60; and
- to notify the Director-General as soon as possible, and in any case not later than 24 hours after the event or first knowledge of the event, where animal material or products exported, or to be exported, by the exporter:-
 - are not fit, or are no longer fit, for intended purpose; or
 - are refused entry by the foreign government concerned; or
 - do not, or no longer, meet overseas market access requirements as notified or made available by the Director-General under section 60; or
 - do not have, or no longer have, the required official assurances; and
- to maintain procedures and processes to demonstrate that the record keeping requirements of and under the Act in relation to the provenance and processing of the animal material or product exported by the exporter are being complied with.

Failure to comply with the duties could lead to de-registration or prosecution or both. The Act provides penalties of up to \$200,000 for a corporate body and \$50,000 for an individual found guilty of breaching or failing to carry out the duties (refer section 134).

3.4 Prohibition on dual operator butchers

To ensure the continued integrity of the regulated system in the future, special requirements are to be established for retail butchers dealing in regulated animal product and who also handle homekill product in the same premises or place. Under the new Act, such 'dual operator' butchers will be required to establish risk management programmes for their regulated product operations. The programmes will also be required to demonstrate how homekill product will be prevented from entering the trade.

Under section 71 of the Act and the offence provision section 131, any animal material and products derived from a dual operator butcher is prohibited from being exported.

SECTION 4: EXPORTER REGISTRATION PROCEDURES

4.1 Register of exporters

The Director-General of MAF is required to keep and maintain a public register of exporters (section 52). The purpose of the register is to:

- enable members of the public to know who is authorised under the Animal Products Act to export animal material and products;
- facilitate the ability of the Director-General to advise exporters of overseas market access requirements and of developments in market access issues, and to safeguard official assurances including in an emergency situation; and
- facilitate the compliance, audit and other supporting administrative functions of MAF.

The register will contain the following information:

- the name and address (including electronic address, if available) of the exporter; and
- the date on which the exporter was registered, and the date of the most recent renewal of registration.

4.2 Registration

The Director-General will register applications that are properly made and accompanied by the appropriate fee, unless the Director-General considers:

- that the applicant, any director, or manager of the applicant, whether in New Zealand or overseas, has been convicted of any offence relating to fraud or dishonesty, or relating to the management control or business activities in respect of a business of a kind (whether in New Zealand or elsewhere) that would be regulated under this Act; or
- there has been a serious or repeated failure by the applicant to comply with the exporter duties; or
- the Director-General has good grounds for considering that the applicant is likely in the future to fail to comply with the exporter's duties; or
- the exporter is not a New Zealand resident and has not obtained a (named) agent who is a New Zealand resident.
(refer to section 54)

Exporter registration cannot be transferred between persons. Any major change in the ownership or control of an exporting business will require separate registration of the new (or changed) business.

An exporter may be registered under, or as the agent of, several trading companies.

4.3 Initial registration

The transition provisions under section 17 of the Animal Products (Ancillary and Transitional Provisions) Act 1999 provide that those exporters who are already licensed as meat exporters, game exporters or fish exporters are deemed to be registered under Part 5 of the Animal Products Act for the first six months following the new Act's commencement on 1 November 1999. This means they have until 30 April 2000 to become registered under Part 5 of the Animal Products Act.

4.4 Non-licensed exporters of animal products

Interim registration procedures were put in place by MAF in October 1999. These arrangements are to provide for a similar six-month transition for all non-licensed exporters of animal material and products. Further information and interim exporter registration application forms are available from the Food Assurance Authority, MAF or from the website – www.maf.govt.nz/animalproducts

In the interim, as is the case with the current licensees deemed to be registered, no registration fee applies to the non-licensed exporters who receive an interim exporter registration.

4.5 Exporter applications

Application for exporter registration must be made on the approved form that is available from:

MAF Food Assurance Authority
ASB Bank House
101 - 103 The Terrace
PO Box 2526
WELLINGTON
www.maf.govt.nz/animalproducts

The information required for registration includes the name and contact details of the exporter, including electronic address, if available, and the name and address of the New Zealand agent if the exporter is an overseas person. On lodging an application, the applicant is required to supply:

- a statutory declaration relating to convictions (including those of directors and managers of the business concerned); and
- the relevant fee (not applicable for the interim arrangements).

Note: If an applicant is unsure whether they are able to give such a declaration, they should either include the details in the declaration or seek advice from the Wellington office of MAF Food Assurance Authority.

When the Director-General determines to register an exporter then the applicant is to be notified in writing (section 55). When the Director-General proposes to refuse an application to register an exporter (section 56) then the Director-General must give the applicant a notice of this containing sufficient information to clearly show what the grounds for refusal to register are. The applicant then has the opportunity to be heard on the matter. However, the Director-General may still refuse registration.

4.6 Annual renewal

Registration will be subject to annual renewal. This is for the purposes of ensuring that the register is up-to-date. A fee is payable.

MAF will endeavour to send out a reminder notice to registered exporters in advance of the renewal date, however registration renewal is the responsibility of the exporter. Failure to renew will lead to de-registration 30 days after expiry of registration.

4.7 Deregistration

In accordance with section 58 of the Act, the Director-General may remove a person from the register of exporters if satisfied that there has been:

- a serious or repeated failure to comply with the exporter duties; or
- an offence has been committed which would disqualify the exporter from being registered; or
- failure to pay the annual registration fee or other fee prescribed by more than 30 days after the due date.

In the event of de-registration the Director-General has the power to direct suspension of any or all the exporter's export operations and also to direct the handling of affected animal material or product (section 82). For example, this may involve processing, identification, classification, reclassification, condemnation and destruction of animal material or product.

4.8 Review of de-registration or a refusal to register

Where a decision is made to refuse registration or to de-register an exporter by someone acting under delegation from the Director-General, the person affected may request the Director-General to carry out a review of the decision.

The procedure for reviewing a decision is set out in section 162 of the Animal Products Act. This states that:

- an application for review must be made in writing to the Director-General within 30 days of the original decision and state the grounds on which it is believed the decision was inappropriate;
- the Director-General, or a person delegated by the Director-General and who was not involved in the original decision, must review the matter within a maximum period of 90 days; and
- the decision in respect of the review, and the reasons for the decision, must be notified to the applicant in writing as soon as practicable.

The original decision will remain valid unless or until altered by the Director-General or the person delegated to undertake the review. A decision by the Director-General on an application for review is final unless determined otherwise by a court of law.

SECTION 5: OVERSEAS MARKET ACCESS REQUIREMENTS

It is important to ensure a consistent New Zealand response to any country's particular set of market access rules. Without this, the credibility of New Zealand assurances and products in that foreign market, and therefore future access to that market, will be at risk.

For this reason the Act gives the Director-General the following functions and responsibilities relating to market access for animal material and product exports:

- negotiating market access requirements and determining the requirements to be met by various categories of animal products to various countries (as agreed by New Zealand);
- making those requirements available to processors, exporters, verifiers, and other parties with a need to know. Market access requirements may relate to aspects of hygiene and food safety or animal health protection, or to administrative procedures, e.g. country listings, degrees of supervision, labelling, certification arrangements;
- where necessary, applying additional controls to meet market access requirements, e.g. controls on hormonal growth promotants in cattle for product to the European Union;
- advising processors, verifiers, and others with a need to know where adjustments to risk management programmes or verification arrangements are necessary for market access;
- designing the format of the assurances (and, usually, supporting systems and verification) and agreeing on the nature and the format of the assurance with officials of the importing country; and
- issuing specifications to ensure that particular assurance requirements are met, e.g. listing certifying veterinarians for Italy.

Any necessary documentation of relevant overseas market access requirements within the operations of an animal product business is part of the risk management system.

In the interests of ensuring that the overseas market access requirements are as up-to-date and valid as possible, all exporters are strongly advised to keep MAF informed of any information they may receive regarding new requirements, or changes in the way in which countries administer their requirements.

There will be occasions when new markets and/or access conditions arise unexpectedly and the existing published overseas market access requirements do not contain the necessary information. In these circumstances, a new or revised overseas market access requirement will need to be constructed in discussion between the Director-General, the

exporter and, where necessary, officials of the importing country. The Director-General will need to consider such matters as:

- the information received relative to the market access requirements;
- the availability of confirmation of requirements via diplomatic routes or by direct contact with the Government concerned; and
- whether the assurance requested is sustainable and verifiable.

5.1 Access to overseas market access requirements

Registered exporters and others with a 'need to know' will have access to the published overseas market access requirements on the MAF website. At the time of preparing this manual, specific administrative policies relating to such access are being developed.

5.2 Access to the Australian market

Businesses selling animal products in New Zealand and in Australia need to take into account food composition and labelling standards under the Food Act 1981 or the equivalent Australian legislation. Increasingly, food standards in the area of composition and labelling will be determined jointly with Australia through the operations of the Australia New Zealand Food Authority (ANZFA).

The basic principle under the Trans-Tasman Mutual Recognition Agreement (TTMRA) is that complying New Zealand products are deemed to meet Australian requirements (and vice versa). Nevertheless some additional requirements will continue, particularly where the animal health status of the two countries differs. Any additional requirements will be included in the overseas market access requirements.

To clarify: the sale of animal material and product to Australia is considered to be export, so exporters will need to be registered.

Dual operator butchers are prohibited from supplying product to Australia.

5.3 Official assurances

Official assurances are assurances from the New Zealand government to the importing country's government that the relevant market access requirements of that government have been met (section 61). They take a wide variety of forms.

Assurances may be general. Examples are the Veterinary Agreement with the European Union, and the Memorandum of Understanding regarding export of shellfish to the USA.

Such general assurances may or may not need to be backed up by assurances (certificates) accompanying each consignment. The number of general assurance arrangements is likely to increase in future with a consequent reduction in the need for consignment assurances.

More usually, an official assurance (known as an export certificate or sanitary certificate under the Meat Act system) relates to a particular consignment. At present official assurances are in the form of signed written certificates but MAF is endeavouring to convert as many as possible to electronic form.

The type of assurance format required for a particular type of animal material or product entering a particular market will be advised in the overseas market access requirements under the heading of the destination country. It is an offence to alter or adapt the format of an official assurance in any way (section 127).

5.4 Obtaining official assurances

Under section 63 of the Animal Products Act, the Director-General will issue a notice specifying the approved application manner and information required to enable him/her to issue an official assurance. The manner specified will cover the availability, control, completion, issuance and use of official assurances.

5.5 Issuance of official assurances

In accordance with section 65 of the Animal Products Act the Director-General can designate persons within MAF to issue official assurances.

However, for the transition period, section 19 of the Animal Products (Ancillary and Transitional Provisions) Act provides for the continuation of current arrangements for obtaining authorised signatures for official assurances. Existing arrangements that involve non-MAF staff will be progressively reviewed in consultation with the sectors concerned during 1999/2000.

5.6 Verification that market access requirements are met

In most cases, to be able to satisfy the requirements for overseas market access, the operator of a risk management programme or other animal product business proprietor will need to identify:

- the overseas markets he/she intends the product to access;

- any overseas market access requirements he/she needs to comply with in addition to the New Zealand animal products standard; and
- the systems he/she proposes to use to demonstrate compliance with the overseas market access requirements.

In turn the Director-General will need to determine what (if any) verification is needed to provide confidence that the official assurance can be issued with integrity. Where necessary, any special verification requirements will be set out in a specification that will be described in the overseas market access requirements.

For some products and markets, documented systems for achieving relevant overseas market access requirements may need to be recognised as valid by the Director-General in a manner similar to that for risk management programmes. In such cases the risk management programme operator may find it is more efficient to integrate the additional procedures for overseas market access purposes with those of the risk management programme.

Where the issue of official assurances is dependant on verifiers regularly providing MAF with confirmation that overseas market access requirements are being met, the businesses concerned will need to give those verifiers authority:

- to access all parts of any places and facilities where exports are being processed or held;
- to access all documentation and records relevant to animal product exports wherever and however kept; and
- where necessary, to intervene and order alteration or cessation of exporting in cases of critical risks to market access requirements or to fitness for intended purpose of products.

5.7 Statements as to New Zealand animal product standard

The Animal Products Act recognises that even where a foreign country does not require official assurances it is sometimes advantageous for New Zealand exporters to have some form of government-issued statement as to the fitness for intended purpose of a consignment. Accordingly, section 83 authorises the Director-General to issue statements in writing as to New Zealand animal product standard on payment of the appropriate fee. The Director-General must be satisfied that the animal product or consignment concerned has been processed under a risk management programme or regulated control scheme to the relevant New Zealand animal product standard for its intended purpose.

5.8 Administrative certificates

From past experience, exporters sometimes seek certificates from government to facilitate entry to foreign markets for matters other than in relation to New Zealand animal product standards. Such requests will be considered on a case-by-case basis depending on what sort of certification is sought, and whether any necessary verification arrangements are required or feasible. In such cases it is essential that the exporter concerned, in advance of exporting, obtain confirmation from MAF that the desired administrative certificate can be issued. Such certificates are outside of the Animal Products Act regime.

5.9 Replacement of official assurances

An official assurance, once issued, cannot be altered. In the event that the issued official assurance is no longer valid or is inappropriate for some other reasons, under section 64 of the Animal Products Act it can be withdrawn, and may be reissued. A reissued official assurance is a replacement for the original official assurance and thus will not be different in regard to purpose and intent; but will correct any errors of detail.

Essentially the current system of issuing replacement certificates will be continued. The Director-General establishes the manner of application for a reissue. Reissue may require a fee to be paid.

5.10 Re-exports

The policy relating to re-exports under the Animal Products Act will be very similar to that previously provided under section 11B of the Meat Act 1981. To be eligible for an official assurance or bear the label “Product of New Zealand” imported animal material or products intended to be re-exported (with or without further processing) will need to meet the following conditions:

- the animal material or products must have been lawfully imported i.e. have met the relevant New Zealand requirements, for example under the Biosecurity Act 1993 and/or, in the case of human foods only, the Food Act 1981. In the case of agricultural compounds, the requirements of the Animal Remedies Act 1967 or the Agricultural Compounds and Veterinary Medicines Act 1997, and in the case of hazardous substances, the Hazardous Substances and New Organisms Act 1996 would need to be met;
- the animal material or product must have been in compliance with the Act (or its equivalent under the Meat Act 1981 or Food Act 1981) throughout its “life”. This compliance must be accurately documented and able to be audited (this is also required of material or produce of New Zealand origin); and
- in some cases overseas markets may require specific information and/or statements as to the original origin of the material or product.

SECTION 6: FEES AND CHARGES

The fees and charges applying to the export sector on commencement of the Animal Products Act, in respect of exporter registration, issue or re-issue of official assurances or statement, can be found in Appendix 4 to this paper.

These draw on the charges set out in Schedule 4 of the Animal Products (Ancillary and Transitional Provisions) Act.

These charges along with others in the Animal Products (Ancillary and Transitional Provisions) Act will apply only until replaced by revised fees and charges under cost recovery regulations to be made under the Animal Products Act prior to the end of the 3-year transition period.

The costs of verifying that overseas market access requirements have been met are recoverable directly by the recognised agency doing the verification function.

APPENDIX 1: GLOSSARY FOR THE PURPOSES OF THIS DOCUMENT

Accredited verifier: or accredited risk management programme verifier means a person currently accredited by the Director-General as a risk management programme verifier.

Animal: any member of the animal kingdom, and includes,-

- (a) Any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate;
- (b) Any other creature or entity that is declared by the Minister by notice in the Gazette to be an animal for the purposes of this Act;

but does not include a human being.

Animal Products Act regime: the regime under the Animal Products Act 1999, including the Apiaries Act Regime, the Meat Act Regime and that part of the Food Act Regime that interfaces with the Animal Products Act 1999.

Apiaries Act regime: the provisions of Part 5 of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (being with minor amendments, provisions of the Apiaries Act 1969 that were saved by section 171 of the Biosecurity Act 1993 and section 111 of the Biosecurity Amendment Act 1997).

Animal material: any live or dead animal, or any tissue or other material taken or derived from an animal.

Animal product business: a business undertaking that, for reward or for the purposes of trade,-

- (a) Produces or processes animal material or product; or
- (b) Exports animal material or product.

(See existing business, new business)

Animal product standard, or standard: a standard prescribed by regulations and/or specifications made under the Animal Products Act that specifies the criteria that must be met to determine fitness for intended purpose of any class or description of animal product.

Animal product, or product: any animal material that has been processed (other than simply transported or stored in such a way as not to involve any alteration to its nature) for the purpose, or ultimate purpose, of consumption or other use by humans or animals.

Consumption: (See human or animal consumption).

Director-General: the chief executive of the Ministry of Agriculture and Forestry.

Dual operator butcher or dual operator: a retail butcher who,-

- (a) Is listed by the Director-General as a homekill or recreational catch service provider; and
- (b) Processes homekill or recreational catch at the same premises or place as the retail butcher processes or trades in regulated animal product.

Existing business or existing animal product business: a business that, as at the commencement of Part 2 of the Animal Products Act 1999, was operating as an animal product business, but does not include any business or operation referred to in paragraphs (a) to (c),-

- (a) A business that first becomes a dual operator butcher after the date of commencement of Part 2 of the Animal Products Act 1999 by reason of first becoming a retail butcher or a person who provides services in relation to homekill or recreational catch after that date:
- (b) Any new operations that are added, on or after the date of commencement of Part 2 of the Animal Products Act 1999, to a business covered by an existing licence or licences under the Meat Act 1981 to the extent that the operations are not covered by the existing licence or licences (or a licence granted after the commencement of Part 2 of the Animal Products Act 1999 in certain limited circumstances):
- (c) Any new primary processing operations that are added, on or after the date of commencement of Part 2 of the Animal Products Act 1999, to any business, whether or not subject to the Food Act regime, to the extent that the operations are not covered by an appropriate licence under the Meat Act 1981.

Exporter: a person who exports any animal material or product from New Zealand that is included in the coverage of the Animal Products Act 1999.

Fish: includes all species of finfish and shellfish (including molluscs, crustacea, and echionoderms), at any stage of their life history, whether living or dead (Fisheries Act, 1996).

Fit for intended purpose: the phrase, used in relation to any animal product, that has been processed in accordance with the requirements of a registered risk management programme under the Animal Products Act 1999, means that by reason of animal material or product having had the relevant risk factors managed and meeting any relevant animal product standards and associated specifications, the product is suitable for the purpose for which the product is specifically stated or could reasonably be presumed to be intended having regard to its nature, packaging, and identification.

Food Act regime: the alternative regimes under the Food Act 1981 that consist of, or relate to,-

- (a) Part IA of that Act and food safety programmes:
- (b) The Food Hygiene Regulations 1974.

Food safety programme: a documented programme designed to identify and control food safety risk factors in order to establish and maintain food safety. A food safety programme within the meaning of the Food Act 1981 is a programme whose adoption gives rise to an exemption from the Food Hygiene Regulations 1974 under Part 1A of that Act.

Hazard: a biological, chemical, or physical agent that,-

- (a) Is in or has the potential to be in animal material or product, or is or has the potential to be a condition of animal material or product; and
- (b) Leads or could lead to an adverse health effect on humans or animals.

Homekill: an animal that,-

- (a) Is killed or processed (whether personally or by an agent) by its owner on his or her own property; or
- (b) Is killed or processed either by its owner or by another person who is listed as a homekill or recreational catch service provider by the Director-General, and is not in compliance with the requirements of a registered risk management programme. This may occur at the owner's own property, or on the service provider's premises or place.

Provided that the resultant product is for the use or consumption of the owner (including his or her family or household) and is not for trade. Parts of the homekill which are not for human or animal consumption may be traded.

Homekill or recreational catch service provider: a person who is listed as a homekill or recreation catch service provider by the Director-General, who may kill or process for reward, for the owner, hunter or harvester of the animal, any animal or animal material that is homekill or recreational catch without needing to have, or to comply with, a registered risk management programme.

Human or animal consumption: used in relation to any animal product, means that the product is intended to be eaten, or taken orally, or administered parenterally, or applied topically.

Meat Act regime: the provisions of the Meat Act 1981 (as amended by Part 4 of the Animal Products (Ancillary and Transitional Provisions) Act 1999) and includes all regulations and other requirements made or imposed under that Act.

New business, or new animal product business: a business that first commences operations as an animal product business on or after the date of commencement of Part 2 of the Animal Products Act 1999, and includes,-

- (a) A business that first becomes a dual operator butcher after the date of commencement of Part 2 of the Animal Products Act 1999 by reason of first becoming a retail butcher or a person who provides services in relation to homekill or recreational catch after that date:
- (b) Any new operations that are added, on or after the date of commencement of Part 2 of the Animal Products Act 1999, to a business covered by an existing licence or licences under the Meat Act 1981 to the extent that the operations are not covered by the existing licence or licences (or a licence granted after the commencement of Part 2 of the Animal Products Act 1999 in certain limited circumstances):
- (c) Any new primary processing operations that are added, on or after the date of commencement of Part 2 of the Animal Products Act 1999, to any business, whether or not subject to the Food Act regime, to the extent that the operations are not covered by an appropriate licence under the Meat Act 1981.

Official assurance: a general statement to a foreign government, or an agent of a foreign government, attesting that, as appropriate any one or more of the following applies in respect of any animal material or product:

- (a) Any specified process has been completed under the Animal Products Act with respect of the animal material or product concerned:
- (b) The animal product concerned meets the animal product standards set under the Animal Products Act for that animal product:
- (c) Any market access requirements of the importing country, which New Zealand has agreed to meet, that are stated in the assurance have been met by the system under which the animal material or product was produced or processed:
- (d) The situation in New Zealand, in relation to any matter concerning animal material or animal products is as stated in the assurance.

Operator: in relation to an animal product business, means the owner or other person in control of the business.

Overseas market access requirements: access requirements for overseas markets which New Zealand has agreed to meet, as interpreted and notified by the Director General. These are requirements which must be met by operators of registered risk management programmes or exporters when exporting material or product to those markets covered by the access requirements.

Parenterally: administering a substance to a human or animal by a route other than orally or topically (e.g. by injection).

Place or premises: includes any building, conveyance, craft, fishing vessel, or structure; and includes any land, water, or other area where animals or animal material are produced or may be present.

Primary processor: a person who, for reward (otherwise than as an employee) or for purposes of trade,-

- (a) Slaughters and dresses mammals or birds; or
- (b) Dresses mammals or birds that were killed as wild animals; or
- (c) Removes or extracts or harvests any animal material from live animals for the purpose of processing for human or animal consumption; or
- (d) In the case of finfish or shellfish or any animal other than a mammal or bird, or in the case of a mammal or bird where in the opinion of the Minister it is appropriate that the primary processing of that mammal or bird should extend beyond the matters referred to in paragraphs (a) and (b), processes those animals to the extent specified by the Minister by notice in the Gazette.

Primary producer, or producer: a farmer, and includes,-

- (a) Any person who (otherwise than as an employee) farms, raises, grows, or keeps animals for reward or for the purposes of trade in those animals or in animal material or products derived or taken from those animals; and
- (b) Any person who hunts animals for reward or for purposes of trade.

Process: includes kill, slaughter, dress, cut, extract, manufacture, pack, preserve, transport, and store.

Processor: a primary processor or secondary processor.

Recognised agency: in relation to any function or activity, means a person or body recognised by the Director-General for the purpose of performing that function or activity. This will include the management and supply of accredited persons to perform specialist functions and activities for the purposes of the Animal Products Act, including evaluation and verification functions and activities.

Recreational catch: a wild animal that,-

- (a) Is killed, captured, taken, or harvested by a recreational hunter or fisher or other person undertaking similar recreational activities, for their own use or consumption and for the use or consumption of members of the catcher's party or family or household, and is not for trade.
- (b) Is processed either by its catcher or by a listed homekill or recreational catch service provider.

Parts of the recreational catch which are not for human or animal consumption may be traded.

Registered exporter: an exporter currently registered by the Director-General as eligible to export animal material and products. Where a registered exporter is based overseas, this includes the New Zealand Agent or representative of that exporter.

Registered risk management programme: a risk management programme that is currently registered by the Director General under the Animal Products Act (See risk management programme).

Retail butcher: includes any type of butchery engaged in retail trade in regulated animal products.

Risk management programme: is a programme designed to both identify and control, manage, and eliminate or minimise hazards and other risk factors in relation to the production and processing of animal material and animal products, in order to ensure that the resulting animal product is fit for intended purpose. A food safety programme established under the Food Act regime may be registered as a risk management programme if all the appropriate requirements are met.

Secondary processor: a person who, for reward (otherwise than as an employee) or for purposes of trade, processes animal product at any stage beyond its primary processing.

Topically: applying a substance externally to a part of the body of a human or animal.

Trade: sell for human or animal consumption or use; and includes,-

- (a) Selling for resale (including as a constituent part of another article) for human or animal consumption or use; and
- (b) Offering or attempting to sell, or receiving for sale, or having in possession or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and
- (c) Barter; and
- (d) Supplying an article under a contract, together with other goods or services or both, in consideration of an inclusive charge for the article and the other goods or services; and
- (e) Supplying an article where there is a statutory responsibility to supply; and
- (f) Offering as a public prize or reward, or giving away for the purpose of advertisement or in the furtherance of any trade or business; and
- (g) Every other method of disposition for valuable consideration.

Verification: includes the ongoing checks carried out by accredited verifiers to determine whether,-

- (a) Operations that are subject to a risk management programme or a regulated control scheme are in compliance with the requirements of the programme or of the Animal Products Act;
- (b) Animal material or products for whose export an official assurance is required have been produced or processed in a way that meets the requirements for the official assurance.

Wild animal: an animal that, -

- (a) Is a kind that occurs in the wild or in the sea; and
- (b) Is not, immediately before its taking or capture, owned by any person.

APPENDIX 2: RELEVANT PROVISIONS OF THE ANIMAL PRODUCTS ACT AND ASSOCIATED ORDERS AND REGULATIONS

ANIMAL PRODUCTS ACT 1999

PART 5 EXPORT OF ANIMAL MATERIAL AND PRODUCTS

47. Object of this Part---The object of this Part is to facilitate overseas market access for animal material and products exported from New Zealand by---

- (a) Providing that the requirements of foreign governments, as agreed by New Zealand, are available to, and met by, exporters and others; and
- (b) Providing for systems to be maintained to provide and safeguard the assurances required by foreign governments for animal material and products; and
- (c) As a means of facilitating the above 2 aims, providing for the registration of exporters of animal products intended for human or animal consumption, and exporters of certain other animal material or products.

48. Exporters of animal products for human or animal consumption, and certain other animal material and products, must be registered--- (1) No person may export from New Zealand any animal material or product to which this Part applies unless---

- (a) The person is registered as an exporter under this Part; or
 - (b) The animal material or product or consignment concerned is dairy produce to which section 8 applies, or the material or product or consignment or person is exempted from the requirements of this section---
 - (i) By Order in Council made under section 9; or
 - (ii) By regulations under this Act or by notice given by the Director-General under section 50.
- (2) Subject to subsection (1) (b), this Part applies to---
- (a) All animal products intended for human or animal consumption;
 - (b) All animal material or products that are subject to market access requirements notified or made available under section 60 and in respect of which an official assurance is required;
 - (c) Such other animal material or products as are specified by Order in Council made under section 49.

49. Registration of exporters of non-edible, etc, material or products may be required by Order in Council--- (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, require any 1 or more classes of exporter of animal material or products, being animal material or products of a kind not described in section 48 (2) (a) or (b), to register as exporters under this Part in respect of such animal material or products as may be specified in the order.

(2) Without limiting the generality of subsection (1), the animal material or products to which the order relates may be defined by reference to---

- (a) The class or description of animal material or product exported or to be exported; or
- (b) The intended purpose or destination of the animal material or product exported or to be exported; or
- (c) The class or description of operations or processes carried out in relation to the animal material or product exported or to be exported; or

- (d) The class or description of premises or place, or the area, in which operations or processes were carried out in relation to the animal material or product exported or to be exported; or
 - (e) Any combination of the above.
- (3) The Minister may not recommend the making of an order under this section unless---
- (a) The Minister is satisfied that the order is necessary or desirable---
 - (i) In the interests of protecting the health of humans or animals, or otherwise to ensure the fitness for intended purpose of the animal product concerned; or
 - (ii) For the purpose of facilitating access to overseas markets; or
 - (iii) To protect the integrity or reputation of New Zealand exports of animal material and products; and
 - (b) In the case of an order recommended on a ground specified in paragraph (a) (i), there has been appropriate consultation on the subject-matter of the order in accordance with section 163.

50. Director-General may exempt certain consignments--- (1) The Director-General may, by notice under section 167, exempt from all or any of the requirements of this Part any particular consignment or animal material or product or person, or class of consignments or animal material or products or persons, if the Director-General is satisfied that the consignment or animal material or product to be exported is---

- (a) To be used for the purposes of research or development; or
 - (b) To be used as a trade sample or otherwise to assess any overseas market for the initial development of that market; or
 - (c) For the personal use or other non-commercial use of the person travelling with the consignment; or
 - (d) Of a kind that may be exempted by the Director-General in accordance with any order or regulations made under this Act.
- (2) An exemption under this section may be subject to such conditions as are specified in the notice.

51. Duties of exporters--- It is the duty of every exporter of animal material or products to which this Part applies---

- (a) To ensure that their operations as an exporter do not contravene any relevant requirement of or under this Act; and
- (b) To export only animal material or products that meet---
 - (i) Any relevant animal product standards and specifications; and
 - (ii) Any relevant overseas market access requirements notified or made available by the Director-General under section 60; and
- (c) To notify the Director-General as soon as possible, and in any case not later than 24 hours after the event or first knowledge of the event, in any case where animal material or products exported or to be exported by the exporter---
 - (i) Are not fit, or are no longer fit, for intended purpose; or
 - (ii) Are refused entry by the foreign government concerned; or
 - (iii) Do not or no longer meet overseas market access requirements as notified or made available by the Director-General under section 60; or
 - (iv) Do not have, or no longer have, the required official assurances; and
- (d) To maintain procedures and processes to demonstrate that the record-keeping requirements of and under this Act in relation to the provenance and processing of the animal material or product exported by the exporter are being complied with.

Registration of Exporters

52. Director-General to maintain register of exporters--- (1) The Director-General must keep and maintain a register of exporters that records persons authorised under this Part to export animal material or products to which this Part applies.

(2) The purpose of the register is---

- (a) To enable members of the public to know who is authorised under this Part to export animal material and products; and
- (b) To facilitate the ability of the Director-General to---
 - (i) Advise exporters of overseas market access requirements, and of developments in market access issues; and
 - (ii) Safeguard official assurances for entry of animal material and products into overseas markets, including in emergency situations; and
- (c) To facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under this Act.

(3) The Director-General must---

- (a) Keep the register open for public inspection, without fee, during reasonable hours at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and
- (b) Supply to any person copies of all or part of the register on request and payment of a reasonable charge for the production of the copy.

(4) The register may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility---

- (a) That records or stores information electronically or by other means; and
- (b) That permits the information so recorded to be readily inspected or reproduced in usable form; and
- (c) That permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote log on access.

53. Matters to be shown in register of exporters--- The register of exporters must contain the following particulars in relation to each exporter:

- (a) The name and address (including the electronic address, if available) of the exporter;
- (b) The date on which the exporter was registered, and the date of each renewal of registration;
- (c) Such other particulars as may be required by or under this Act.

54. Applications for registration--- (1) A person who intends to export any animal material or product to which this Part applies (other than animal material or product exempted under section 9 or section 50 or by regulations under this Act) must apply to the Director-General, in a manner approved by the Director-General, for registration on the register of exporters.

(2) On receipt of a properly made application accompanied by the prescribed fee (if any), the Director-General must register the applicant as an exporter unless the Director-General considers that---

- (a) The applicant is not a fit and proper person to be registered as an exporter, having regard to any conviction of the applicant or any director or manager of the applicant, whether in New Zealand or overseas, for any offence relating to fraud or dishonesty, or relating to management control or business activities in respect of businesses of a kind (whether in New Zealand or elsewhere) that are regulated under this Act; or
- (b) There has in the past been a serious or repeated failure by the applicant to comply with duties of the type specified in section 51; or

- (c) There are other good grounds for considering that the applicant is likely in the future to fail to comply with the duties specified in section 51; or
- (d) Subsection (3) applies to disqualify the person.
- (3) No person may be registered as an exporter unless---
 - (a) They are a New Zealand resident within the meaning of section OE 1 or section OE 2 of the Income Tax Act 1994; or
 - (b) They have an agent who is a New Zealand resident within the meaning of those sections.
- (4) For the purpose of assessing the matters specified in subsection (2), the Director-General may require an applicant to supply information additional to that contained in the application.
- (5) If the applicant fails to supply the information within 3 months after the request, or within such further time as the Director-General may allow, the application lapses.

55. Registration as exporter--- Where the Director-General determines to register an applicant as an exporter, the Director-General must---

- (a) Register the person as an exporter on the register, showing the date of registration; and
- (b) Notify the person in writing accordingly.

56. Refusal to register--- (1) If the Director-General proposes to refuse to register a person as an exporter, the Director-General must give the applicant---

- (a) A notice containing such particulars as will clearly inform the applicant of the substance of the grounds on which the Director-General proposes to refuse to register the applicant; and
- (b) A copy of any information on which the Director-General relies in proposing to refuse to register the applicant; and
- (c) A reasonable opportunity to make written submissions or be heard in respect of the matter.

(2) Where the Director-General finally determines to refuse to register a person as an exporter, the Director-General must as soon as practicable notify the person, in writing, of---

- (a) The decision; and
- (b) The reasons for the decision, and the facts or assumptions on which it is based.

57. Annual registration fee payable--- (1) Every registered exporter is liable to pay, either annually or at such greater interval as may be prescribed, the prescribed fee (if any), in respect of their continued registration.

(2) Any failure to pay the fee by the due date that persists for more than 30 days may result in deregistration under section 58.

58. Deregistration of exporters--- (1) The Director-General may remove a person from the register of exporters if satisfied that---

- (a) There has been a serious or repeated failure by the applicant to comply with the duties specified in section 51; or
- (b) The person is disqualified from being registered as an exporter by virtue of section 54 (3), or is not a fit and proper person to be registered as an exporter having regard to any conviction of a kind referred to in section 54 (2) (a) that---
 - (i) Arose after the person's registration as an exporter; or
 - (ii) First came to the attention of the Director-General after the person's registration as an exporter; or
- (c) Any failure to pay the annual fee or other fee prescribed under section 57 by the due date has persisted for more than 30 days.

- (2) Before removing a person from the register, the Director-General must---
- (a) Notify the person in writing of his or her intention, giving the reasons for that intention and the facts and assumptions on which it is based; and
 - (b) Give the person a reasonable opportunity, within the time specified in the written notice, to provide evidence, information, and submissions as to why the person should not be removed from the register.
- (3) Where the Director-General considers it urgently necessary in the interests of human or animal health, or the integrity or reputation of New Zealand exports,---
- (a) The Director-General may direct the exporter to suspend all export operations, or such operations as the Director-General may specify, pending a final determination as to whether the exporter should be deregistered, and may also give such directions under section 82 as appear to the Director-General to be reasonable in relation to any animal material or products under the control of the exporter at the time the direction is given; and
 - (b) Any such direction takes effect from the date of the notification under subsection (2), or such later date as the Director-General specifies; and
 - (c) The exporter must comply with the direction.
- (4) After considering the material (if any) supplied by a person under subsection (2) (c), the Director-General must---
- (a) Make a final decision as to whether or not to remove the person from the register; and
 - (b) As soon as practicable, notify the person of the decision in writing, giving reasons and the facts or assumptions on which the decision is based in the case of an unfavourable decision.

59. Refusal to register or decision to deregister may be reviewed in certain cases--- If a person acting under the delegated authority of the Director-General refuses an application to register a person as an exporter, or deregisters a person, the person may seek a review of that decision under section 162.

Market Access Requirements and Official Assurances to Foreign Governments

- 60. Director-General to notify or make available access requirements for overseas markets--**
- (1) The Director-General must---
- (a) Either notify or ensure that there is made available to registered exporters and operators of risk management programmes any particular access requirements for overseas markets which New Zealand has agreed to meet; and
 - (b) Make those requirements available for inspection free of charge, or for purchase at reasonable cost, to such exporters and operators.
- (2) The Director-General may, where the Director-General considers it necessary or desirable, issue specifications that specify the manner in which the access requirements may or must be met, and must notify or make such specifications available in the same way as requirements are notified or made available under subsection (1).
- (3) Nothing in subsection (1) prevents the Director-General from---
- (a) Charging for access to any website, or for information or services provided by any website; or
 - (b) In the case of overseas market access requirements that are commercially sensitive, limiting access to those requirements to persons who satisfy the Director-General that their specific export or processing activities cannot be properly undertaken under this Act unless they have that access.

- 61. Director-General may issue official assurances---** (1) For the purposes of meeting the market access requirements of any foreign government that are notified or made available by the Director-General under section 60 in respect of any animal material or product to be exported, the Director-General, or a person authorised by the Director-General under section 65, may, in appropriate cases, issue an official assurance in respect of the animal material or product.
- (2) Without limiting the matters to which an official assurance may apply, an official assurance is a general statement to a foreign government, or an agent of a foreign government, attesting that, as appropriate, any 1 or more of the following applies in respect of any animal material or product:
- (a) Any specified process has been completed under this Act with respect to the animal material or product concerned;
 - (b) The animal product concerned meets the animal product standards set under this Act for that animal product;
 - (c) Any market access requirements of the importing country, which New Zealand has agreed to meet, that are stated in the assurance have been met by the system under which the animal material or product was produced or processed;
 - (d) The situation in New Zealand, in relation to any matter concerning animal material or animal products, is as stated in the assurance.
- (3) An official assurance is not a guarantee that the contents of all or any particular consignment of animal material or products to which it relates---
- (a) Necessarily meet the commercial requirements of the importer; or
 - (b) Are fit for consumption or use no matter what the status or description of the consumer or user, or what has happened to the consignment or what has been its treatment since it left New Zealand; or
 - (c) Are fit for consumption or use for a purpose other than that for which they were intended.

- 62. Form and content of official assurance---** (1) An official assurance may be in the form of a certificate or declaration or in such other form as may be determined by the Director-General.
- (2) An official assurance may relate to---
- (a) One or more consignments of animal material or product; or
 - (b) One or more producers or processors or exporters of animal material or product; or
 - (c) One or more export destinations; or
 - (d) Any combination of the above.
- (3) An official assurance may be communicated to its appropriate destination by writing, fax, electronic means, or any other form of communication that is accurate, clear, and verifiable.
- (4) The Director-General may, by notice under section 167, issue specifications setting out requirements and procedures for the issue and control of official assurances.

- 63. Obtaining of official assurance---** (1) A person who wishes to obtain an official assurance in respect of any animal material or product for export may apply in a manner approved by the Director-General, and must supply such information and pay such fee (if any) as is prescribed by regulations under this Act or specified by the Director-General by notice under section 167.
- (2) The Director-General need not issue an official assurance unless satisfied that the information obtained from the applicant justifies the giving of the assurance.

- 64. Official assurance may be withdrawn, and reissued---** (1) An official assurance may be withdrawn by the Director-General or other authorised person if the Director-General or person is satisfied that---
- (a) The assurance was incorrectly or inappropriately given; or

- (b) Events or circumstances occurring since the assurance was given mean that it no longer holds true, or is misleading.
- (2) The Director-General may, on application in a manner approved by the Director-General and on payment of the prescribed fee (if any), reissue the official assurance (with any modifications, if appropriate) as a new official assurance.

65. Persons who may be authorised to issue official assurances--- The Director-General may designate 1 or more persons employed within the Ministry as authorised persons who may issue official assurances for the purposes of this Part.

Powers of the Director-General

83. Director-General may give statements as to New Zealand animal product standard---

- (1) The Director-General may give statements in writing as to New Zealand animal product standard, upon request and on payment of the prescribed fee (if any), for any particular consignment or animal product or class of consignments or animal products, if the Director-General is satisfied that the animal product or consignment concerned has been processed under a risk management programme or regulated control scheme (or both) to the relevant New Zealand animal product standard for its intended purpose.
- (2) A statement as to New Zealand standard is not a guarantee that the contents of all or any particular consignment of animal products to which it relates---
 - (a) Necessarily meet the commercial requirements of the consumer; or
 - (b) Are fit for consumption or use no matter what the status or description of the consumer or user, or what has happened to the consignment or what has been its treatment in transit in New Zealand or since it left New Zealand; or
 - (c) Are fit for consumption or use for a purpose other than that for which they were intended.
- (3) The Director-General may determine the form and content of a statement as to New Zealand animal product standard.
- (4) A statement as to New Zealand animal product standard may be withdrawn at any time by the Director-General if the Director-General is satisfied that---
 - (a) The statement was incorrectly or inappropriately given; or
 - (b) Events or circumstances occurring since the statement was given mean that it no longer holds true, or is misleading.

Offences, Penalties and Proceedings

127. Offences involving deception--- (1) A person commits an offence who, with intent to deceive and for the purpose of obtaining any material benefit or avoiding any material detriment,-

--

- (a) Makes any false or misleading statement or any material omission in any communication, application, record, or return for the purpose of this Act, or destroys, cancels, conceals, alters, obliterates, or fails to provide any document, record, return, or information required to be kept or communicated under this Act; or
- (b) Falsifies, removes, misuses, alters, misapplies, misrepresents, or fails to apply any brand or material or product description or other form of identification of animal material or animal product required or authorised to be used under this Act; or

- (c) Falsifies, removes, misuses, alters, misapplies, misrepresents, or fails to apply any identification, differentiation, or security system or device specified or approved or required under section 158; or
 - (d) Misrepresents, substitutes in whole or in part, adulterates, or otherwise tampers with animal material or animal product to which this Act applies so that it no longer matches or complies with its identification, description, certificate, label, or official assurance; or
 - (e) Falsifies, alters, or misapplies any certificate or declaration or other statutory form attached or relating to any animal material or animal product that is required or authorised to be used under this Act, or any official assurance, or tampers with any animal material or animal product that is subject to such a certificate, declaration, form, or assurance; or
 - (f) Falsifies, removes, suppresses, or tampers with any samples, test procedures, test results, or evidence taken or seized by an animal product officer, official assessor, or other recognised, accredited, or authorised person or body in the exercise of their functions or powers under this Act; or
 - (g) Falsifies, removes, suppresses, or tampers with any samples, test procedures, or test results taken by or for an operator of a registered risk management programme for the purposes of that programme or this Act, or by or for a person subject to the requirements of a regulated control scheme for the purposes of that scheme or this Act; or
 - (h) Aids, abets, incites, counsels, procures, or conspires with any other person to commit an offence under this section.
- (2) A prosecution for an offence against this section may be proceeded with either summarily or on indictment.
- (3) A person who commits an offence against subsection (1) is liable---
- (a) In the case of a body corporate, to a fine not exceeding \$500,000;
 - (b) In the case of an individual, to imprisonment for a term not exceeding 5 years and a fine not exceeding \$100,000.

130. Offence to export unless registered--- (1) A person commits an offence against this Act who, being a person who is required to be registered as an exporter in relation to the animal material or product concerned, without being so registered exports any animal material or animal product to which Part 5 applies other than in accordance with an exemption granted under section 9 or section 50 or by regulations made under this Act.

(2) A prosecution for an offence against this section may be proceeded with either summarily or on indictment.

(3) A person who commits an offence against subsection (1) is liable---

- (a) In the case of a body corporate, to a fine not exceeding \$300,000;
- (b) In the case of an individual, to a fine not exceeding \$50,000.

134. Offence of breach of duty---(1) A person commits an offence who, without reasonable excuse,---

- (a) Being the operator of a risk management programme, breaches or fails to carry out any of the duties specified in section 16; or
- (b) Being a recognised agency, breaches or fails to carry out any of the duties specified in section 106; or
- (c) Being an accredited person, breaches or fails to carry out any of the duties specified in section 107; or
- (d) Being a registered exporter, breaches or fails to carry out any of the duties specified in section 51.

- (2) A person who commits an offence under subsection (1) is liable on summary conviction---
- (a) In the case of a breach or failure in relation to any of the duties specified in subsection (3), to---
 - (i) In the case of a body corporate, a fine not exceeding \$200,000:
 - (ii) In the case of an individual, a fine not exceeding \$50,000:
 - (c) In any other case, to---
 - (i) In the case of a body corporate, a fine not exceeding \$100,000:
 - (ii) In the case of an individual, a fine not exceeding \$25,000.
- (3) The duties that attract a penalty referred to in sub- section (2) (a) are as follows:
- (a) For operators of risk management programmes, the duties specified in---
 - (i) Section 16 (1) (c) (ensuring operations under a programme are adequately implemented and resourced):
 - (ii) Section 16 (1) (d) (ensuring operations under programme are commensurate with capability and capacity of premises or place, facilities, equipment, and staff, etc):
 - (iii) Section 16 (1) (e) (giving accredited persons appropriate freedom and access for their functions and activities):
 - (b) For accredited persons, the duties specified in---
 - (i) Section 107 (c) (maintaining impartiality and independence):
 - (ii) Section 107 (e) (reporting required matters to appropriate Ministry official):
 - (iii) Section 107 (f) (accredited verifiers to be under management of recognised verifying agency):
 - (c) For exporters, the duties specified in section 51 (b) (export only material or products that meet relevant standards and specifications, and relevant overseas market access requirements).

ANIMAL PRODUCTS REGULATIONS 1999

PURSUANT to section 166 of the Animal Products Act 1999, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

REGULATIONS

- 1. Title and commencement** – (1) These regulations may be cited as the Animal Products Regulations 1999.
(2) These regulations come into force on 1 November 1999.
- 2. Interpretation** – In these regulations, “the Act” means the Animal Products Act 1999.
- 3. Exemption from registration for owners of live animals exported for non-commercial purposes** – An owner of an animal who exports that animal live for non-commercial purposes is exempt from the requirement to register as an exporter under Part 5 of the Act in respect of that export.
- 4. Exemption from export requirements for certain foods** – (1) Consignments of the following material or products (being material or products that consist of or contain animal material or animal products) are exempt from the requirements of Part 5 of the Act:
 - a) Multi-ingredient foods and other prepared foods which, despite containing 1 or more ingredients that are animal material or products, do not consist principally of animal material or products (for example, biscuits, cakes, bread, soups, sauces, snack foods,

- pastries, confectionary, and also prepared meals that do not consist principally of meat):
- b) Food for the consumption on any vessel or aircraft of passengers, crew, and animals during transit by sea or air from New Zealand, being meals in a ready-to-eat state or other food for human or animal consumption (for example, airline meals, ships' stores, and feed for animals being exported).
- (2) Nothing in subclause (1) operates to exempt from the requirements of Part 5 any consignment or class of consignments for which an official assurance is required.

ANIMAL PRODUCTS (EXEMPTIONS) ORDER 1999

PURSUANT to section 9 of the Animal Products Act 1999, His Excellency the Governor-General, on the recommendation of the Minister of Food, Fibre, Biosecurity and Border Control made in accordance with that section, and acting by and with the advice and consent of the Executive Council, makes the following order.

ORDER

- 1. Title and commencement** – (1) This order may be cited as the Animal Products (Exemptions) Order 1999.
(2) This order comes into force on 1 November 1999.
- 2. Interpretation** – In this order, —
“The Act” means the Animal Products Act 1999.
“Exclusive economic zone” means the exclusive economic zone of New Zealand as defined by section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Act 1977.
- 3. Certain fish taken in exclusive economic zone exempt from Act** – (1) Subject to the subclause (2), fish taken in the exclusive economic zone, and any animal product derived from such fish, are exempt from the requirements of the Act if –
 - (a) The fish are taken by a foreign fishing vessel in accordance with Part 5 of the Fisheries Act 1996, or a foreign fishing craft licensed under the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977; and
 - (b) The fish or animal product are not landed in New Zealand; and
 - (c) The fish or animal product derived from the fish, are not claimed to be New Zealand fish or product.

(2) This clause does not apply to exempt bivalve molluscan shellfish from the requirements of the Act.
- 4. Certain fish for retail sale in New Zealand exempt from Act** – (1) Subject to the subclause (2), fish that are in New Zealand for the purpose of retail sale for human consumption are exempt from the requirements of this Act if –
 - (a) The fish are sold by way of retail sale; and
 - (b) The seller is not a person who, at the premises where the fish are sold by retail sale, also engages in —
 - (i) Selling fish by way of wholesale sale; or
 - (ii) Processing fish for any purpose other than retail sale from the same premises; or
 - (iii) Exporting fish; and

- (c) The fish are sold from premises (including a vehicle) that either —
 - (i) Are subject to the Food Hygiene Regulations 1974; or
 - (ii) Are exempt from those regulations by virtue of Part 1A of the Food Act 1981.
- (2) This clause does not apply to exempt bivalve molluscan shellfish from the application of the Act.

- 5. Cosmetics exempt from Act** - All cosmetics within the meaning of the Medicines Act 1981 are exempt from the requirements of the Act.

**ANIMAL PRODUCTS (ADDITIONAL PRODUCTS FOR WHICH EXPORTER
REGISTRATION REQUIRED) ORDER 1999**

PURSUANT to section 49 of the Animal Products Act 1999, His Excellency the Governor-General, on the recommendation of the Minister of Food, Fibre, Biosecurity and Border Control made in accordance with that section, and acting by and with the advice and consent of the Executive Council, makes the following order.

ORDER

- 1. Title and commencement** – (1) This order may be cited as the Animal Products (Additional Products for which Exporter Registration Required) Order 1999.
(2) This order comes into force on 1 November 1999.
- 2. Interpretation** – In this order, “the Act” means the Animal Products Act 1999.
- 3. Exporters of certain animal material and products to be registered, whether or not material or product intended for human or animal consumption** – Exporters of the following animal material or products must be registered as exporters under Part 5 of the Act, whether or not the material or products are intended for human or animal consumption:
 - (a) The glands or bile of any animal:
 - (b) Animal blood or blood products:
 - (c) Deer velvet or deer velvet products.

APPENDIX 3: FEES AND CHARGES ON COMMENCEMENT OF THE ACT

Extract from the Animal Products (Ancillary and Transitional Provisions) Act 1999

Schedule 4 – Part 1 - Schedule of Fees

Application for registration as an exporter	\$ 130
Annual exporter registration fee	\$ 150
Issue of official assurance	\$ 25
Re-issue of official assurance if replacement demanded by an importing country	\$1,000
Replacement of official assurance in other circumstances	\$ 25
Issue, on request, of statement under section 83	\$ 25

Note: The fees and charges relating to exports and listed above apply from 1 November 1999 until replaced by revised fees and charges under proposed cost recovery regulations.