



# Cost Recovery Proposals for Dairy under the Animal Products Act 1999

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***Further copies :***

Requests for further copies should be directed to :

Policy Group  
New Zealand Food Safety Authority  
PO Box 2835  
WELLINGTON

Email: [policy@nzfsa.govt.nz](mailto:policy@nzfsa.govt.nz)

Telephone: (04) 894 2583

Facsimile: (04) 489 2583

## Submissions

NZFSA seeks submissions from all interested parties on any aspect of the proposed fees and charges presented in this document.

The following points may be of assistance in preparing comments:

- Wherever possible, comment should be specific to a particular section of the document. All major sections are numbered and these numbers should be used to link comments to the document.
- Omissions should be clearly and separately indicated.
- Comments should be to the point and, where possible, reasons and data to support comment are requested.
- The use of examples to illustrate particular points is encouraged.
- As a number of copies may be made of your comments, please use good quality type, or make sure the comments are clearly hand-written in black or blue ink.

Please include the following information in your submission:

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- your name and title (if applicable);
- your organisation's name (if applicable);
- your address;
- the number(s) of the sections you are commenting on.

**Please submit your response by 5.00pm on 16 April 2007.**

**Your comments should be sent to:**

Policy Group

New Zealand Food Safety Authority

PO Box 2835

Fax: (04) 894 2583

Email: [policy@nzfsa.govt.nz](mailto:policy@nzfsa.govt.nz)

Please note that your submission is public information and subject to the Official Information Act 1982. Therefore if you consider that any or all information in your submission should be treated as confidential or is commercially sensitive, please state this clearly when making your submission.

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# 1 Introduction

The purpose of this discussion paper is to present proposals for consideration to amend the cost recovery regulations for the dairy industry under the Animal Products Act 1999 (Animal Products Act or APA). It is proposed that existing fees and charges be increased to recover the full cost of the services provided by the New Zealand Food Safety Authority (NZFSA).

This paper should be read in conjunction with NZFSA's Information paper 'Cost Recovery Policy and Framework' August 2006 (available from [www.nzfsa.govt.nz](http://www.nzfsa.govt.nz)), which documents the policy basis for the proposals in this paper.

The paper has several key sections:

**Section 4** details the policy and legislative framework that NZFSA is following

**Section 5** lists the services NZFSA provides to the dairy industry which are subject to the cost recovery proposals to increase the fees and charges under the Animal Products (Dairy Industry Fees and Charges) Regulations 2005

**Section 6** details the costs of providing these services including how they are calculated

**Section 7** details the criteria for determining the Crown and industry contributions to the costs of providing NZFSA services

**Section 8** sets out the proposed fees and charges – for industry goods – market access and export standards, New Zealand standards, and compliance activities

**Section 9** sets out the proposed fees and charges – for private goods – approvals, accreditations, registrations and official assurances (certification).

This discussion paper outlines the cost recovery principals and methods provided for in the Animal Products Act. In determining who should pay for the different service areas the *Treasury Guidelines for Setting Charges in the Public Sector* and the *Audit office Guidelines on Costing and Charging for Public Sector Goods and Services* have also been taken into account. This paper also takes into account the constitutional principles as set out in Parliament's Standing Orders and guidance received from reports of the Regulations Review Committee.

## 2 Background

The current New Zealand Food Safety Authority (NZFSA) fees and charges for the dairy industry are collected under Animal Products (Dairy Industry Fees and Charges) Regulations 2005.

No changes are proposed for the cost recovery method for dealing with most of the services provided by the NZFSA to the dairy industry. However, there have been changes in how the fees and charges are calculated and the amount of costs to be recovered, and for some standard setting costs, who pays.

A number of factors have influenced these changes. These factors include:

- The last review took place in the 2004/05 financial year and in the past 3 years there has been an increase in indirect, salary and overhead costs for NZFSA but no corresponding increase in the fees and charges set out in the Dairy Regulations 2005.
- The restructure of NZFSA away from sector-based service delivery to a functionality-based service delivery approach now covers a wider base of services and has necessitated a change in how services are costed and allocated to sectors or services delivered.
- Some costs, previously funded from a component of Crown funded generic activity are proposed to be funded from industry funds i.e., some components of standards setting services were previously Crown funded and now proposed to be funded by industry.
- A review of the actual NZFSA resources needed to provide services to the dairy sector such as the Export Standards and Market Access Groups shows a historical under recovery of industry funding for the dairy programme.

### 3 The Process of the Review

The next steps in this review process will be to analyse submissions, provide a summary to submitters, and draw on submissions to put forward a proposal to Government. The next stage would be to implement Government decisions that result from this process. The aim is for the new fees to take effect from 1 July 2007.

## 4 Legislative Framework

Part 9 of the Animal Products Act provides for the recovery of costs of administering the Act that are not provided for by money appropriated by Parliament.

### 4.1 Cost recovery principles in the Animal Products Act

The principles of cost recovery and the methods of cost recovery are provided for in sections 113 and 114 of the Animal Products Act. Section 113 provides the criteria that need to be considered when determining the most appropriate method of cost recovery. The criteria are:

- **Equity** - Users or beneficiaries of a function, power or service will generally be required to fund the cost of providing the function, power or service at a level that reflects their use or benefit
- **Efficiency** - Costs should generally be allocated and recovered in a manner that ensures maximum benefits are delivered at minimum cost
- **Justifiability** - The costs (including the indirect costs) associated with providing a function, power or service should be reasonable and justifiable; and
- **Transparency** - The cost of providing a service, function or power should be identifiable and allocated in a transparent manner.

NZFA is not required to strictly apportion costs for a particular function, service or power based on usage. Fees or charges may be determined by averaging the costs or potential costs.

Fees and charges may also be set at a level that takes into account costs of services that are not directly provided to the person who pays the fees or charges but which are indirect arising from the delivery of a service to a class of persons or all persons who use the service.

## 4.2 Government guidelines

The Government's guidelines for user charges are set out in a paper prepared by the Treasury titled '*Guidelines for Setting Charges in the Public Sector*'. The Treasury paper was endorsed by the Government in December 2002.

The key principles for setting the rates for the fees and charges follow:

- Charges should in general be set at the full costs of providing the service, where full cost includes all overheads and non-cash cost (such as the capital charge), measured in accrual accounting terms
- Charges should not be excessive in relation to the costs incurred
- Charges can be set to vary by the location where the service is provided or by the time at which the service is provided but a balance needs to be struck between the gains from complex fee structures and the costs in terms of a loss of simplicity
- The process for setting charges should be clear and appropriate
- Transaction costs in setting and collecting the charges should be kept low
- Appropriate consultation with those affected should be undertaken when setting and changing the charges
- There should be a robust basis for any charges; and
- There should be fair treatment for taxpayers, beneficiaries of the service and risk exacerbators.

## 5 Services Provided

This section details the services provided by NZFSA to the dairy industry in administering the Animal Products Act that are subject to the cost recovery proposals in this paper. The services are:

- setting of New Zealand standards and systems
- setting export standards and systems and market access
- approvals, accreditation and registrations
- compliance
- official assurances (certification)
- event – emergency response
- policy advice (including technical input); and
- multi-lateral standard setting.

The main activities in these areas are:

### **New Zealand Standards, Specifications and Guidance**

- setting New Zealand safety and suitability standards
- developing and implementing operational standards and guidance for industry
- clarifying and interpreting standards or specifications
- setting verification requirements
- overall review of the effectiveness of standards

- contributing to the development of international standards
- establishing import requirements
- provision of technical policy advice

### **Export Standards and Market Access**

- contributing to the development of international standards
- negotiating technical market access conditions and specifications
- developing and implementing export standards and systems
- setting verification requirements for industry
- overall review of industry export programmes
- provision of technical policy advice

### **Official Assurances (Certification)**

- fulfilling obligations to other Governments for provision of assurances
- providing product certification activities to meet importing country requirements.

### **Approvals, Accreditations and Registrations**

- approval of:
  - risk management programmes
  - agencies and persons, including third party verifiers (including warrants)
  - exporters
  - products and/or substances

- facilities, equipment, premises
- providing the administrative systems and processes for approvals including evaluations and review
- assessment or evaluation of applications, systems or processes
- maintenance of associated public registers
- suspension and removal of approvals

#### **Event/Emergency Response**

- establishing standards and systems for emergency management
- managing incidents and responding to events

#### **Compliance and Monitoring activities**

- monitoring and assessing recognised agencies and recognised persons (in conjunction with the accreditation body)
- resolving regulatory compliance disputes
- imposing regulatory sanctions when non-compliance is not corrected
- responding proactively to prevent food safety being compromised
- responding to signals and information that indicate potential problems

## 6 Cost of providing services

This section details the current and future costs for NZFSA to provide services to the dairy industry. Budget information is provided on the proposed allocation of direct and indirect costs to each area of service, along with the staffing requirements.

### 6.1 Current situation

The current fees and charges are based on services provided by the former Dairy and Plants Group. Since those fees and charges were set in 2004, NZFSA has restructured away from sector-based delivery of services to a structure based on functionality, i.e., services to the dairy industry are now provided through the:

- New Zealand Standards
- Export Standards and Systems including Market Access and certification
- Approvals; and
- Compliance and Investigation Groups.

Alignment by function provides for greater efficiency and will assist with the harmonisation across the food sector of food standards on operation systems.

The move away from sector-based delivery has necessitated a different approach to how services to the dairy industry sector are costed.

In 2005/06 NZFSA's budgeted expenditure for New Zealand export standing setting, market access, and compliance was \$2,659,586 (excluding Approvals, Accreditations, Registrations and Official Assurance services) for the services NZFSA provided to the dairy industry. The expected cost of providing these same services to the dairy industry for 2007/08 is \$3,581,111, an increase of \$912,525.

Changes to NZFSA's cost recovery policy which reflect Government guidelines have resulted in Generic Standards activities being considered as an industry good and therefore funded by industry. Previously, these activities were considered to be partly a public good and therefore had a Crown funded contribution.

The services provided by NZFSA's New Zealand Standards and Export Standards Groups provide some public good components. The Crown funds these public good components generically across these activities.

Costs of goods for all NZFSA services with public good components supplied to all industry sectors (and therefore paid by the Crown) are estimated (for 2007/08) to be:

- \$774,515 for delivering multilateral standards
- \$1,240,627 for delivering technical input into policy advice
- \$854,179 for emergency response outputs and contributions to trans-Tasman activities which relate to animal product industries are also considered public goods.

## 6.2 Allocation of costs to services

NZFSA will incur direct and indirect costs as well as fixed and variable costs in delivering services to stakeholders.

This methodology is used to allocate costs for both the Crown and industry funded services. Discussion on who should fund these services is continued in Section 7.

**Direct costs** include personnel and operating costs (including fixed and variable costs).

**Indirect costs** include management, a share of NZFSA management and support services and NZFSA/ Ministry of Agriculture and Forestry (MAF) corporate overhead costs, such as accommodation, equipment and communications. MAF Corporate costs and NZFSA fixed costs are allocated to NZFSA outputs to each year and form part of the cost of producing these outputs. 'Drivers' for allocating the MAF costs across five MAF businesses are selected to best represent a fair usage of the particular service. For example, information management costs are spread on the basis of number of PCs and laptops used by the business and legal services of NZFSA on the basis of hourly usage.

**Generic Standards** have equal applicability across all food sectors. The key difference between generic standards and non-generic standards from an economic pricing perspective is the breadth of the industry to which the standards apply. In the case of industry-specific standards, the standards apply to a specific industry or sub-sector (eg, dairy, meat, game,

poultry etc). In the case of generic standards, the relevant 'industry' for cost-recovery purposes is the group of sectors or sub-sectors to which the standards apply.

### **6.3 Basis of the costs estimates**

#### **6.3.1 Process for calculating the costs**

The steps undertaken by NZFSA in calculating the costs of the services NZFSA provides (New Zealand Standards, Export Standards and Market Access outputs (including overheads)) to each sector under the Animal Products Act 1999 are as follows:

- Estimates of time spent by each staff member on a full-time-equivalent basis (FTE) on NZFSA's different outputs for each sector covered under the Animal Products Act 1999 in 2005/06 have been made by NZFSA Directors.
- These estimates of the FTE time spent by staff for each sector have then been pro-rated against the total level of personnel costs expected to be incurred for each output in 2007/08 to obtain an expected level of personnel cost per output per sector for 2007/08.
- The estimates of the FTE time spent for each sector have also been pro-rated against the total level of operating and indirect costs expected to be incurred for each output in 2007/08 to obtain an expected level of operating and indirect cost per output per sector for 2007/08.
- The costs of specific programmes are allocated directly to the sectors or service to which they apply, eg, the cost of the National Chemical Contaminants Programme will be a specific cost to the dairy sector.

#### **6.3.2 Generic standard setting**

Given that generic standards have equal applicability across all food sectors, the difficult question is how the costs should be allocated across these different sectors. The costs incurred in developing generic standards are in the nature of a joint cost, with the costs being common across the different sectors to which the generic standards apply.

Options for allocating the costs of generic standards to the different industry sectors (including the dairy sector) are:

- To pro-rata the costs across the sectors (eg, using FTEs as a driver)
- To allocate the costs on the basis of a flat rate (uniform charge) for each sector
- To allocate costs in proportion to the sector size.

A pro-rata allocation of the costs of generic standards across the different sectors on the basis of FTEs would be compatible with the approach taken for allocating other joint costs, ie, overheads. However, wider considerations need to be taken into account when looking at allocating the cost of generic standard setting across all sectors covered by NZFSA. These include the delivery of benefits to all persons producing or selling food whether or not they are a part of the Animal Products regulatory system. Allocation of generic costs on FTEs may not reflect an equitable distribution across all sectors.

A flat rate charge could seem inequitable as it could mean smaller sectors which impose relatively low costs on NZFSA may have to bear the same charge for developing generic standards as the much larger sectors.

NZFSA proposes that an equitable driver is to allocate New Zealand generic standard costs to all food sectors in proportion to the benefits received or allocate these costs on the use made of the standards as measured by the size of each sector (measured in value of total output, eg, both domestic and export).

### **6.3.3 Limitations of the costing methodology**

It is important to remember that NZFSA is delivering a programme of work, some of which can be attributed to specific sectors, but a great deal of this work is generic in nature and benefits all food sectors. There are also necessarily wide variances from year to year in the focus for specific sectors, with some sectors requiring concerted attention for a period, but then needing little specific input for many years.

NZFSA must also be able to respond rapidly to areas where emerging issues are identified or attention must be given to unplanned activities to address problems arising.

While time recording provides historic information on the time that has been spent on specific sectors in the past, it cannot provide predictive information for the effort required in the future years to which charges will be applied. Due to the wide variances in focus that may be required from year to year, historic time recording information is of limited use in allocating costs for future periods.

NZFSA must determine its charges for this programme for a whole industry made up of many sectors, not to individuals or companies (as a lawyer or a consultant would do) and must determine these some 12 – 18 months prior to the relevant charging year. Charges can therefore only ever be based on the best information available at the time, tempered with considerable managerial judgment.

This managerial judgment is based on:

- Experience of the sectors over time
- Knowledge of likely areas of focus for the forthcoming period; and
- Sound strategic planning.

It must be applied to assessments of future time allocation along with the principles of equity, efficiency, justifiability and transparency.

Unpredictable and extreme swings in the allocation of costs is difficult for both NZFSA and the industry to manage and a degree of 'smoothing' must be factored in over a five year period to ensure that charging rates are not based on a period that is in fact not representative of the total effort required.

Given the above, the charging regime applied is the best available but will be adapted and modified over time. In the meantime the Animal Products Act provides for the operation of memorandum accounting which allows for under or over recovery of costs to be kept aligned with a particular function, or to the sector, so in future years the over or under recovery can be recovered or refunded accordingly.

#### **6.4 Current operating budget 2006/07**

The current 2006/07 budget reflects the changes laid down in the Animal Products (Dairy Fees and Charges) Regulations 2005, carried forward from the Dairy Industry Act. They were last reviewed in 2004 for the 2004/05 financial year. No increase in charges have been made in the last three years and the regulatory programme costs have been applied as estimated resource allocations in the 2005/06 and 2006/07 financial years.

Better time tracking of activity/function against the industry sectors to which NZFSA provides services has enabled a level of confidence in the application of FTE units allocated to New Zealand Standards Activities, Export Standards and Systems and Market Access activity for the dairy sector.

#### **6.5 Estimated annual operating budget for 2007/08**

The estimated annual operating budget for 2007/08 is attached as Appendix 2.

## 7 Stakeholder Contributions to NZFSA Costs

This section details the criteria for determining the Crown and industry contributions to the costs of providing services. Based on these criteria, the relative Crown and industry contributions are proposed.

The Crown and industry, as the major stakeholders, will be contributing to the cost of the services provided by NZFSA. In determining the respective contributions of the Crown and industry, the Treasury document *Guidelines for setting Charges in the Public Sector* and the Audit Office Guidelines *Costing and Charging for Public Sector Goods and Services* have been taken into account.

### 7.1 Framework for determining service type

In principle, the appropriate source of funding of an activity depends on the nature of the good or service. Economic theory distinguishes between three types of goods or service: public goods (or services), industry goods (or services) and private goods (or services). The key characteristics of these three categories and their appropriate sources of funding are considered below.

#### 7.1.1 Public goods

The classic definition of a public good or service is where consumption of the good or service is both:

- Non-rival: where consumption of the good or service by one party does not reduce the amount of the good or service available to other potential consumers. An example is radio broadcasting because one person listening to the channel doesn't reduce the ability of others to tune in; and
- Non-excludable: where it is not possible (or too costly) to prevent a party from freely consuming the good or service. For example, in the case of public radio broadcasts, anyone with a suitable receiver can listen in.

Examples of pure public goods are rare. For example, some have argued that a lighthouse is a public good, as use by one ship of the light does not diminish the ability of another ship to use the light and it is generally difficult or impossible to prevent a ship from benefiting from

the service. However, it has been noted that original lighthouse services were in fact provided by operators who funded the activity by charges on ships entering the harbour. Similarly, in the case of radio broadcasting, while it may meet the criteria for a public good, there are ways other than general taxation of funding the activity (eg, advertising).

In practice, the distinction between a public good, industry good and private good is not black and white. The issue is more one of degree, with the practical question being how costly it is to charge (or exclude) a user of the publicly provided service.

### **7.1.2 Industry goods**

In the case of an industry (or club) good, use by one person does not detract from its use by another (ie, consumption is non-rival, like a public good), but people can be excluded from the benefits at low cost (unlike a public good).

Industry goods can, in principle, be provided by member-owned 'clubs' (eg, an industry organisation), by a separate organisation or by the public sector.

There are typically advantages in an industry good being funded by the industry (rather than by the taxpayer). These advantages can include:

- more equitable outcomes, as those who impose the cost of supplying the good or service, or who benefit from it (rather than the general taxpayer) pay for the costs of supplying the good or service;
- better incentives for the industry to moderate its demand for the publicly-provided services and to minimise the activities that give rise to the cost or risk associated with the activity; and
- better incentives for efficiency in the provision of the good or service, as the industry is likely to have better ability and greater incentives than the general taxpayer to monitor the performance of the supplier.

Where a publicly provided activity is industry (or privately) funded, the charging mechanisms used should be consistent, transparent, be able to be implemented. The charges set should not over-recover the cost of the service.

### 7.1.3 Private goods

In the case of private goods, people can be excluded from its benefits at low cost and its use by one person conflicts with its use by another.

Private goods are by far the most common. There is a strong case for recovering the costs of a private good from those who benefit from it.

## 7.2 Application of the principles to NZFSA's activities under the APA

This section considers the extent to which each of the outputs provided by NZFSA under the APA are public, industry or private goods, as defined above. With the exception of some New Zealand generic standard setting activities no changes are being proposed to the relative Crown/Industry contributions. In assessing the nature of the goods or service, the following criteria are used:

- Whether consumption of the service is non-rival;
- Whether consumption of the service is non-excludable; and
- The costs of identifying and charging those person or persons that create or contribute to the costs or risks (the 'exonerator') or the user/beneficiary in the case of private goods.

### 7.2.1 Market Access

NZFSA's output Market Access activities are activities undertaken to promote and deliver animal product exports worldwide and include bilateral/regional negotiations for obtaining and maintaining access. Exporters of dairy products are the primary beneficiaries.

Market Access is primarily an industry good as, while its use by one exporter does not detract from its use by another, it is largely an excludable activity. This is because exporters require registration and, in many cases official assurances, such as certification of an export consignment from the Government. Where the Government undertakes specific market access negotiations for specific products, the activity is also an 'industry good' because the industry sector which benefits can be easily identified. It is generally feasible to charge the exporter for the costs of market access as part of the official assurance process or by way of general export charges.

Some specific components of NZFSA's Market Access activities have public goods characteristics. These components are:

- Technical input to policy (see under heading below)
- Multilateral standards activities (see under separate heading)
- A case can also be made for Crown funding of the costs incurred by NZFSA in Free Trade Agreements (FTAs) negotiations, especially where the FTA is politically rather than trade driven or where the agreement is plurilateral (like the P4 agreement and the ASEAN agreement that is currently being developed).

It would be appropriate for most of these components of the costs of 'Market Access' to be publicly funded.

### **7.2.2 Export Systems and Standards**

Export Systems and Standards relate to the development, maintenance, evaluation and review of export food and food-related product standards; the development and implementation of systems and processes for export food and food-related regulatory programmes; and the development and implementation of standards and implementation tools for verification of export requirements. This output includes residue monitoring programmes such as the dairy residue monitoring programmes. Exporters of dairy products are the primary beneficiaries.

Export Systems and Standards is primarily an industry good. The development of the service is generically provided and the costs can be attributed, on an industry-by industry basis. It is also quite practical to charge on an individual industry basis.

The full costs associated with the National Contaminant Monitoring Programme for the dairy industry are included in the Export Systems and Standards output. This is a significant cost item at \$1,209,468. In the past a component of this charge was funded through the Dairy Exporter registration fee. The National Contaminants Monitoring Programme is an industry good. It is generally quite feasible to identify the costs incurred by the different industries/sectors and to charge the industry/sector accordingly.

### **7.2.3 New Zealand Systems and Standards**

In the case of the development and setting of operational standards and product and operational safety guidelines for a specific industry, use by one enterprise does not detract from its use by another but it is possible to exclude parties at a low cost. New Zealand Systems and standards are therefore industry goods.

It is quite feasible to charge the industry for such activities. Enterprises need to register their risk management programmes to supply products and the cost of developing and maintaining safety standards could legitimately be included as part of the costs of the registration, or through levies, or in the case of the dairy industry – differential charges. Generally those standards are put in place for industries use and benefit.

Some tension has arisen in recent years between Government guidelines for setting user-charges in the public sector and calls to assist and provide protection for small and medium size entities from the full cost of Government services to those enterprises. As a result, either larger business or the general taxpayer has had to cross-subsidise smaller businesses. Such subsidisation is inconsistent with Government guidelines and is likely to be a relatively blunt and inefficient form of assistance to the business sector.

### **7.2.4 Compliance**

The area of compliance is an industry good. Compliance and monitoring activities involve monitoring and assessing recognised agencies and accredited persons (in conjunction with the accreditation body). Compliance activities also involve resolving regulatory compliance disputes and, imposing regulatory sanctions when non-compliance is not corrected.

Other compliance activities involve ensuring that international obligations to other Governments for the provision of official assurances are undertaken and that product certification meets international authority requirements.

Other industry benefits derived from the work of NZFSA's Compliance, Audit, Investigation and Enforcement Team include the ability to respond proactively to threats which compromise food safety and to respond to signals and information that indicate potential problems.

### **7.2.5 Generic Standards**

In the case of generic New Zealand food standards, it can be argued that all New Zealand consumers benefit and that therefore the taxpayer should pay. However, in designing a funding regime the prime focus should be on who imposes or creates the costs, rather than on who benefits. Charging those who impose the costs can have the advantage of encouraging them to moderate their behaviour and to monitor the costs incurred in supplying the activity. On the other hand there are arguments that generic standards are so general in nature and the beneficiaries are so widespread that they will have little ability to influence their supply, or to monitor costs.

It should also be noted that the domestic consumers of a particular food or beverage are not the same as taxpayers. Different sectors have different standards with differing costs for designing, implementing and monitoring them. Further, consumers' patterns of expenditure on the different products differ widely so it is not clear that having the taxpayer pay is efficient or equitable.

As with Market Access, there are some components of the costs incurred in New Zealand Systems and Standards that are more properly regarded as public goods. These components are technical input to policy advice, multilateral standards activities, including trans-Tasman activities. It would be appropriate for most of these two components of the costs of 'New Zealand Systems and Standards' to be publicly funded. The Government also makes a contribution to the operation of Food Standards Australia New Zealand (FSANZ).

The situation is different for generic standards set for export standards and systems. Here the primary beneficiaries are the exporters, because the setting of such standards result in exporters developing, or maintaining, the ability to trade internationally.

### **7.2.6 Approvals, Accreditations and Registrations**

These costs have not been apportioned on a sector basis. The total direct and indirect costs of the services have been built into an hourly rate which has been apportioned to particular functions based on estimated time taken.

### **7.2.7 Official Assurances (Certification)**

These are private goods and therefore costs are allocated at a rate that reflects the actual cost of providing the service.

An official assurance is a general statement to a foreign Government, or an agent of a foreign government, attesting that, as appropriate, certain conditions apply in respect of export material or product.

The term official assurance carries a broader definition than just export certification, as it can include other types of assurances such as MOUs (Memorandums of Understanding) and administration regimes, and can incorporate the wider systems, processes and procedures underpinning the issuing of any assurance made by one Government to another.

Although third parties can perform a verification role, only Government is accountable for, and in control of, issuing official assurances for use in importing countries. The integral role played by Government in issuing official assurances helps to promote confidence in, and to protect the credibility of, official assurances. The exclusive role of Government in issuing official assurances is defined in legislation. For example, Section 61 of the Animal Products Act specifies that it is the Director-General of MAF, or persons authorised by the Director-General, who may issue official assurances.

To be robust and credible, official assurances must be supported by underlying export systems, processes and procedures which are auditable and which demonstrate exporters are complying with all appropriate standards, guidelines and recommendations.

### **7.2.8 Multilateral Standard Setting**

Multilateral standards activities cover a range of activities. NZFSA's contributions to multilateral negotiations and international forums (eg, Codex, the OECD, APEC, Biosafety and WTO) cover a general range of agricultural and food industry interests which benefit the agricultural and food sectors and could therefore be regarded as industry goods. However, they also contribute to meeting New Zealand's national interest obligations as a signatory to underlying treaties and agreements and to New Zealand's standing in the international arena and could therefore be regarded as public goods.

For the dairy industry the Crown will fund the chair and hosting of the Codex Committee for Milk and Milk Products. The Crown also contributes significantly to the International Dairy Federation.

It would be difficult to apportion the costs of such activities to an individual enterprise or sector group unless the activity was very focussed and tightly constrained to a particular sector. On the other hand, the costs of multilateral standards activities that relate to specific

agricultural/food products could be apportioned to the specific product and could (and should perhaps) be funded by that industry or sectoral group. For example, contributions to commodity specific Codex Committees could be expected to fall within this category. Overall, it is probably efficient for most of these activities to be Crown-funded.

#### **7.2.9 Technical input to policy**

Technical input to policy component activities should be regarded as a public good. Food safety advice, like other public policy advice, should take a national (rather than a sectoral) interest perspective and consider often competing claims. To maintain independence of advice, NZFSA's policy advice activities (like the policy advice activities) should be regarded as public goods and be taxpayer funded.

#### **7.2.10 Trans-Tasman activities**

A case can be made for Crown funding of the costs incurred by NZFSA for trans-Tasman activities which include the work NZFSA undertakes with FSANZ, CER and the Trans-Tasman Mutual Recognition Agreement (TTMRA).

## 8 Proposed Fees and Charges – Industry Goods (NZ Standards, Market Access, Export Standards and Compliance)

No changes are being proposed to the relative Crown/industry contributions. There are some changes to the description of some services provided to reflect the new NZFSA structure and to facilitate a harmonisation of approach across NZFSA. The proposed cost recovery method for dealing with most of the services provided by NZFSA is the same as that currently used under the Animal Products (Dairy Industry Fees and Charges) Regulations 2005.

### 8.1 Who pays?

The table below lists the sectors and persons from whom it is proposed the costs of services be cost recovered under the Animal Products (Dairy Industry Fees and Charges) Regulations 2005.

Service Area	Who Pays	Cost Recovery	Total Costs 07/08
<b>NZ Standards Activities</b>			
Dairy specific standards	Industry	Differentiated annual charge (based on company size as measured by raw milk collected)	\$528,087
Generic Standards <sup>1</sup>	Industry		

<sup>1</sup> For a description of Generic Standards see below

Service Area	Who Pays	Cost Recovery	Total Costs 07/08
<b>Market Access</b>			
Market Access General	Exporters	Differentiated annual charge (based on volume or value of exports).	\$512,765
Market Access (one-off)	Applicant	Time Based Charges (\$/hr)	
<b>Export Standards</b>			
Dairy Specific Standards	Industry/exporters	Differentiated annual charge (based on volume or value of exports)	\$951,691
Generic Standards			
<b>Specific Costs</b>			
National Chemical Contaminants Programme (NCCP)		Annual charge or fixed fee on volume or value of exports and fixed fee on raw milk or annual charge	\$1,209,468 (NCCP)
<b>Compliance</b>			
Industry performance (including system audits)	Industry	Differentiated annual charge (based on company size as measured by raw milk collected)	\$379,100

Third Party audits	Third party	Time based charge (\$/hr)	
Verification audits	Industry	Time based charge (\$/hr)	
Non-compliance intervention	Industry	Time based charge (\$/hr)	

## 8.2 Proposed fees and charges

This section proposes fees and charges for Market Access and Export Standards, NZ Standards and Compliance costs. These are industry goods and therefore costs cannot be charged to users in line with use because use by one dairy operator does not detract from the use of the service by any other dairy operator.

The current practice for recovering industry cost such as programme costs from the dairy industry is through a differential annual fees charge which is set based on the size of the dairy industry operation. This option is equitable for small and medium sized dairy operations but imposes higher costs on larger business. Whilst it is a more efficient mechanism than levies, it also can influence the behaviour of dairy companies between each of the charging levels.

### 8.2.1 NZ Standards Activities

The estimated total cost recovery for NZFSA for 2007/08 is \$528,087 (GST excl).

Dairy Industry Operator	Market Share	Cost Recovery Total for 2007/08 \$528,087 (GST excl)
Fonterra	95.4%	\$503,795
Tatua	0.8%	\$4,225
Westland	2.6%	\$13,730
Open Country	1.0%	\$5,281
Dairy Goat	0.1%	\$528.
Others (18 in total)	0.1%	\$528. divided by 18 = \$29 each

### 8.2.2 Market Access

The total NZFSA estimated costs to be recovered from the dairy industry for 2007/08 are \$512,765 (GST excl). The percentage of fee payments is based on industry size (milk solids received from farm suppliers).

Dairy Industry Operator (Exporter)	Current Market Share	Estimated Cost Recovery Total for 2007/08 = \$512,765 (GST excl)
Fonterra	90%	\$461,489
Others (167 small operators)	10%	\$307 each

### 8.2.3 Export Standards and Systems

The total NZFSA estimated costs to be recovered for 2007/08 are \$951,691 (GST excl).

Dairy Industry Operator	Current Market Share	Estimated Cost Recovery Total for 2007/08 = \$951,691 (GST excl)
Fonterra	95%	\$904,106
Others (167 small operators)	5%	\$285 each

### 8.2.4 Compliance

The estimated total cost recovery for NZFSA for 2007/08 is \$379,100 (GST excl).

Dairy Industry Operator	Market Share	Estimated Cost Recovery Total for 2007/08 is \$379,100 (GST excl)
Fonterra	95.4%	\$361,661
Tatua	0.8%	\$3033
Westland	2.6%	\$9857
Open Country	1.0%	\$3791
Dairy Goat	0.1%	\$379
Others	0.1%	\$379.10 (divided by the number of small industry operators)

## 9 Proposed Fees and Charges – Private Goods (Approvals, Accreditations, Registrations and Official Assurances (Certification))

### 9.1 Approvals, Accreditations and Registrations

This section proposes fees and charges for Approvals, Accreditations and Registrations-type services. These are private goods and therefore costs should be recovered from the users of these services at a rate that reflects the actual cost of providing the service. Disbursements and other administrative costs will also be recovered at cost.

At present the fees charged for 'Approval, Accreditation and Registrations' services are quite complex and vary depending on the section of the Act the service is provided under. NZFSA's hourly charges have varied significantly across the different sectors with which NZFSA works, and the varying legislation which NZFSA administers. There may be a case for simplifying the cost structure and establishing a single uniform fee for a given service across the different sectors which would reduce administration costs.

### 9.2 Proposals

Fixed fees and annual charges are proposed where an accurate estimate of time taken to perform functions can be made. The fixed charge is made up of time taken and the hourly rate, (see Appendix 1) plus known incidental costs. This will assist in minimising transaction costs and providing certainty over fees and charges.

Where there is a large variation in the cost of individual outputs, for example, in the time taken to perform the service, average costing through fixed fees is not an appropriate method. In such cases provision is made for therefore hourly rates, plus disbursement costs.

### 9.3 Proposed approval fees and charges (GST Inclusive)

Service Area	Type of Fee	Current Fee	When Fee Payable and by When	Proposed Application Fee	Proposed Renewal Fee
Application for evaluation and/or approval of variation of laboratories.	Application for approval fee.	\$134 per application, plus \$134 per hour in excess of 1 hour considering application.	Fee payable by the applicant on application for approval and any remainder payable within 1 month of granting or refusal to grant approval.	Fixed fee of \$343.13 per applicant (represents 2.5 hrs of time spent), plus \$137.25/hr thereafter.	Fixed fee of \$274.50 per renewal (represents 2 hrs of time spent), plus \$137.25/hr thereafter.
<b>Recognised Agency</b>  Application for evaluation of, and approval or variation of third party providers.	Application for approval fee.	\$134 per application plus \$134 per hour in excess of 1 hour considering application.	Fee payable by the applicant on application for approval and any remainder payable within 1 month of granting or refusal to grant approval.	Fixed fee of \$343.13 per application, plus \$137.25/hr thereafter.	Fixed fee of \$274.50 per renewal, plus \$137.25/hr thereafter.

<p><b>Recognised Persons</b></p> <p>Application for evaluation of, and approval or variation of third party providers.</p>	<p>Application for approval fee.</p>	<p>\$134 per application, plus \$134/hr thereafter.</p>	<p>Fee payable by the applicant on application for approval and any remainder payable within 1 month of granting or refusal to grant approval.</p>	<p>Fixed fee of \$343.13 per application, plus \$137.25/hr thereafter.</p>	<p>Fixed fee of \$274.50 per renewal, plus \$137.25/hr thereafter.</p>
<p>Risk Management Programmes (RMPs)</p> <p>3 Year Review</p>		<p>\$134 per application plus \$134/hr thereafter</p>			<p>Fixed fee of \$274.50 per renewal plus \$137.25/hr thereafter</p>
<p>RMP amendments</p>	<p>Application for approval fee</p>	<p>\$134 per application plus \$134/hr thereafter</p>		<p>Fixed fee of \$549.00 per application (represents 4 hrs time spent which is the average time it would take) plus \$137.25/hr thereafter</p>	

Application for evaluation of, and approval of RMPs	Application for approval fee	\$134 per application plus \$134/hr thereafter		Fixed fee of \$549.00 per application, plus \$137.25/hr thereafter	
Exporter registration	Application fee	\$327	Applicant	Fixed fee of \$205.88 per application (represents 1.5hrs of time spent), plus \$137.25/hr thereafter	Fixed fee of \$137.25 per renewal, plus \$137.25/hr thereafter
Application for registration	Annual fee	\$177	Applicant annually by date specified by Director General		

#### 9.4 Hourly rate charges

Where costs are incurred for assessment work or for services carried out at the request of an operator of a risk management programme, other processor or person, or from the act or omission of operator of a risk management programme, a charge will be incurred at the appropriate hourly rate (see Appendix 1) plus the costs of any actual and reasonable expenses incurred.

### 9.5 Official Assurances (Certification) GST excl

Service Area	Type of Fee/Charge	Current Fee/Charge	Proposed Fee/Charge
IMA Certification	Annual charge	\$355,134 per annum paid quarterly by Fonterra, plus disbursements	Same
Issue of Official Assurances	Issue fee	\$119 per hour or part hour	\$122/hour, plus disbursements
	Disbursements	Actual cost	

## Appendix 1: Fee Calculation Workings

### Hourly rate calculation 2007- 08 from budget: Approvals, Accreditations, Registrations

<b>Chargeable hours:</b>		
Personnel	1,884,663	
Operational	398,784	
Contractors	101,000	
Indirect costs	1,590,360	
Other Management Units		
	3,590,360	
FTEs:	27.8	
Chargeable Hours:	142,978	Chargeable Hours/Annum
Working Year	1,566	(at 75%)
Statutory Holidays	78	
Annual Leave	126	
Sick leave	60	
Courses and conferences	30	
Technical training	60	
<b>Annual Billable Hours</b>	<b>1,212</b>	<b>= \$122/hour (137.25 incl GST)</b>

**Hourly rate calculation: New Zealand Standards, Market Access and Export Standards**

**Chargeable Hours:**

Personnel 6,430,409

Operational 2,819,115

Contractors 763,641

Indirect Costs \$4,875,201

FTEs: 82.4

Chargeable Hours: 378,855 Chargeable hours/annum

Working year 1,435 (at 69%)

Statutory Holidays 71

Annual Leave 115

Sick leave 55

Courses and conferences 27

Technical Training 55

Annual Billable Hours 1,111

= \$164/hour (GST incl)

## Standard Setting Charge

### Export Standards and Systems charge (GST excl):

**Cost** = \$951,691

#### Payment mechanism

Differential fixed annual charge on raw milk received (to be determined on the basis of milk solids received).

#### Numbers of Registered Exporters

Fonterra 1

Other Dairy Exporters 167

#### Distribution of Costs

Fonterra 95% = \$904,106

Other Dairy Exporters (167) 5% = \$47,585 = \$ 285 each

### Market Access Standards charge (GST excl):

**Cost** = \$512,765

#### Payment Mechanism

Differential fixed annual charge on raw milk received (to be determined on the basis of milk solids received).

#### Numbers of Registered Exporters:

Fonterra = 1

Other Dairy Exporters = 167

#### Distribution of Costs

Fonterra = 90% (\$461,489)

Other Dairy Exporters = 10% (\$51,277) other dairy exporters will pay \$307 each

The rationale for the 90% 10% split is based on MAF estimates of the benefits from market access functions.

## Monitoring and Review

### National Chemical Contaminants Programme Charge (GST excl)

**Cost**                      \$1,209,468

#### Payment Mechanism

Annual charge on each registered exporter in line with benefits received.

#### Numbers of Exporters:

Fonterra	=	1
Other Exporters	=	167

#### Distribution of Costs

Fonterra	=	95%
Other Exporters	=	5%

#### Calculation of annual charge:

Fonterra	=	\$1,148,995
Other Exporters (167)	=	\$60,473
	=	<b>\$362/exporter + GST</b>

The rationale for the 95% /5% split is on participants' share of the export market.

**Compliance, Audit, Investigation and Enforcement (GST excl)**

**Cost** = \$379,100

**Payment mechanism**

Differential fixed annual charge on raw milk received (to be determined on the basis of milk solids received).

**Numbers of registered exporters plus distribution of costs**

Fonterra 95.4% = \$361,661

Tatua 0.8% = \$3032.80

Westland 2.6% = \$9856.60

Open Country 1.0% = \$3791.00

Dairy Goat 0.1% = \$379

Others 0.1% \$ 379 ( distributed across 167 others)

**Approvals**

**Approval, Accreditation and Registrations:**

**Payment mechanism:**

Fixed fee based on hourly rate plus time based charge is \$122 (GST excl) per hour plus disbursements

### **Official Assurances (Certification)**

#### **IMA Certification**

**Cost**                      \$355,134 (GST incl)

Annual charge paid quarterly by Fonterra plus disbursements

#### **Issue of Official Assurance**

Issue fee of \$122 (GST excl) or \$137.25 (GST excl) per hour plus disbursements.

## Appendix 2: Annual Operating Budget for 2007/08 (GST Excl)

<b>NZFSA output (Industry Goods)</b>	<b>Dairy Industry</b>
<b>Market Access</b>	
Direct Costs	234,292
Indirect Costs	84,271
Generic Standards	194,202
<b>Total Costs</b>	<b>512,765</b>
<b>Export Standards and Systems</b>	
Direct Costs	434,846
Indirect Costs	156,407
Specific Costs	1,209,468
Generic Standards	360,439
<b>Total Costs</b>	<b>2,161,159</b>
<b>NZ Standards Activities</b>	
Direct Costs	167,176
Indirect Costs	80,291
Tech Input into NZ Standards	20,299
Generic Standards	260,320
<b>Total Costs</b>	<b>528,087</b>
<b>Grand total</b>	
Direct Costs	836,314
Indirect Costs	320,969
Specific Costs	1,209,468
Technical Input into NZ Standards	20,299
Generic Standards	814,961
<b>Total costs (excl Compliance)</b>	<b>3,202,011</b>

<b>Compliance, Audit, Investigation and Enforcement</b>	
Indirect Costs	379,100
Total Costs	379,100
<b>Total costs (incl Compliance)</b>	<b>3,581,111</b>
<b>NZFSA output (Private Goods)</b>	
<b>Accreditation and Registrations</b>	<b>Hourly rate charge \$122/hour</b>
<b>Official assurances</b>	
IMA Certification	<b>\$355,134 per annum</b>
Issue of Official Assurance	<b>Hourly rate charge \$122/hour</b>