

ANIMAL PRODUCTS AMENDMENT ACT 2002

2002 No 29

ANALYSIS (List of Sections)

1. Title
2. Commencement
3. Amendment of transition date
4. General scheme of Act
5. Interpretation
6. Products and material excluded from ambit of Act
7. Application of Act includes exclusive economic zone
8. What is a risk management programme?
9. Who must have a risk management programme?
10. Director-General may grant limited exemption from requirement to have risk management programme
11. Certain persons may be required to have risk management programme by Order in Council
12. Contents of and requirements for risk management programmes
13. New section 17A inserted
14. Matters to be shown in register of risk management programmes
15. Registration may not be transferred
16. Matters to be shown in register of risk management programmes
17. Applications for registration of programmes
18. Amendment of risk management programme
19. Deregistration of risk management programme
20. New section 28A inserted

21. Object of sections 32 to 34
22. Implications of failure to elect in case of animal product which is food whose export requires an official assurance
23. Object of Part 5
24. Matters to be shown in register of exporters
25. Deregistration of exporters
26. New section 59A inserted
27. Obtaining of official assurance
28. Official assurance may be withdrawn, and reissued
29. New Part 5A inserted
30. Homekill allowed
31. Processing of recreational catch
32. Homekill and recreational catch service providers
33. New section 70 substituted
34. Requirements for dual operator butchers
35. Appointment of official assessors
36. New sections 81A and 81B inserted
37. Power of entry
38. Power to condemn and require disposal of animal products that are diseased, contaminated, etc
39. Methods of cost recovery
40. Cost recovery to relate generally to a financial year
41. Fees and charges to be prescribed by regulations
42. Presenting non-complying animal material for processing
43. Offences in relation to homekill and recreational catch
44. Identification systems and devices

45. Right of review of certain decisions made under delegated authority
46. New section 165A inserted
47. Regulations
48. Notices
49. Repeals, amendments, and transitional provisions appear in Animal Products (Ancillary and Transitional Provisions) Act 1999

SCHEDULES

SCHEDULE

AMENDMENTS CONSEQUENTIAL ON CHANGED DEFINITIONS

Legislative history

(25 September 2002).

1. Title—

(1) This Act is the Animal Products Amendment Act 2002.

(2) In this Act, the Animal Products Act 1999 is called "the principal Act".

2. Commencement—

This Act comes into force on the day after the date on which it receives the Royal assent.

3. Amendment of transition date—

Section 1(5) of the principal Act is amended by omitting the expression "1 November 2002", and substituting the expression "1 July 2006".

4. General scheme of Act—

Section 3(1)(a) of the principal Act is amended by omitting the words "individually tailored", and substituting the word "suitable".

5. Interpretation—

(1) Section 4(1) of the principal Act is amended by repealing the definition of "accredited verifier", and substituting the following definition:

"'accredited risk management programme verifier' means a person currently accredited under section 103 as a risk management programme verifier".

(2) Section 4(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

"'client hunter' means a person who pays the operator of a game estate for the right to hunt or catch animals on the estate as if they were in the wild

"'game estate' has the meaning given it by section 65B".

(3)The definition of "primary processor" in section 4(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

"(b)dresses mammals or birds that are killed wild animals or are killed as if they were wild animals; or".

(4)The definition of "primary processor" in section 4(1) of the principal Act is amended by repealing paragraph (d) (but not the words following paragraph (d)(v)), and substituting the following paragraph:

"(d)in the case of—

"(i)finfish or shellfish, or animal material derived from finfish or shellfish; or

"(ii)a mammal or bird, or animal material derived from a mammal or bird, if in the opinion of the Minister it is appropriate that the primary processing of that mammal or bird or animal material should extend beyond the matters referred to in paragraphs (a) and (b); or

"(iii)any other animal, or animal material derived from any other animal,—

"processes those animals or that animal material to the extent specified by the Minister by notice in the Gazette after appropriate consultation in accordance with section 163 and after having regard to the following matters:

"(iv)industry practice in relation to the animal material concerned:

"(v)the degree of processing and number of processing operations required in relation to the animal material:

"(vi)the risk factors involved in processing the animal material:

"(vii)whether or not the processing of the animal material is or may be appropriately addressed by any legislative regime other than this Act:

"(viii)such other matters as the Minister considers relevant in the particular circumstances;—
".

(5)Section 4(1) of the principal Act is amended by repealing the definition of recognised verifying agency, and substituting the following definition:

"'recognised risk management programme verifying agency' means a person or body currently recognised under section 103 as a risk management programme verifying agency".

(6)The definition of "recreational catch" in section 4(1) of the principal Act is amended by inserting in paragraph (a), after the words "recreational activities", the words "(including a client hunter killing or catching an animal on a game estate, as if in the wild)".

(7)Section 4(1) of the principal Act is amended by inserting, after the definition of "regulated control scheme", the following definition:

"'rendering' means the breaking down of animal tissues into constituent fat and protein elements, whether by the application of heat and pressure or otherwise".

(8)The definition of "risk factors" in section 4(1) of the principal Act is amended by omitting the words "; and "risk" has a corresponding meaning".

(9)The definition of "verification" in section 4(1) of the principal Act is amended by omitting the word "verifiers", and substituting the word "persons".

(10)The provisions specified in the Schedule are consequentially amended in the manner indicated in that schedule.

6.Products and material excluded from ambit of Act—

Section 8 of the principal Act is amended by adding, as subsection (2), the following subsection:

“(2) Subsection (1)(b) does not prevent the issuing of an official assurance in respect of any product that is or contains both animal product and dairy produce.”

7. Application of Act includes exclusive economic zone—

Section 10(1) of the principal Act is amended by inserting, after the words “registered under”, the words “the Fisheries Act 1983 or”.

8. What is a risk management programme?—

(1) Section 12 of the principal Act is amended by inserting, after subsection (3), the following subsection:

“(3A) Nothing in subsection (3) prevents a risk management programme for a particular business or part of a business from being based on a template, a model, or a code of practice, if in the view of the Director-General the template, model, or code of practice is valid and appropriate for businesses of that kind.”

(2) Section 12 of the principal Act is amended by inserting, after subsection (4), the following subsection:

“(4A) A risk management programme may also apply to one or more comparable animal product businesses in cases where the Director-General has given approval under section 17A.”

9. Who must have a risk management programme?—

Section 13 of the principal Act is amended—

(a) by omitting from subsection (1) the words “develop and” where they twice occur (before paragraph (a), and in paragraph (d)):

(b) by omitting from subsection (3) the words “develop or”. 10. Director-General may grant limited exemption from requirement to have risk management programme—

Section 14 of the principal Act is amended—

(a) by repealing subsection (3):

(b) by omitting from subsection (4) the words “(other than an exemption granted on the grounds referred to in subsection (3))”.

11. Certain persons may be required to have risk management programme by Order in Council—

Section 15(1) of the principal Act is amended by omitting the words “develop and”.

12. Contents of and requirements for risk management programmes—

(1) Section 17(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) specify the name and address (including the electronic address, if available) of—

“(i) the operator whose programme it is; and

“(ii) the animal product business or businesses covered by the programme.”

(2) Section 17(1)(c) of the principal Act is amended by adding the expression “; and” to subparagraph (ii), and adding the following subparagraph:

“(iii) any other businesses to which the programme applies (if it does not apply only to the business of the person applying for registration).”

13. New section 17A inserted—

The principal Act is amended by inserting, after section 17, the following section:

17A. Multi-business risk management programmes—

(1) A registered risk management programme may apply to more than one business, if the Director-General approves.

(2) The Director-General may approve one person's risk management programme applying to all or part of the business or businesses of 1 or more other persons if satisfied that—

(a) the programme is appropriate to the other businesses or part-businesses, as well as to the business of the person whose programme it is; and

(b) the registered operator of the programme will have sufficient control, authority, and accountability for all matters covered by the programme in relation to the other businesses or part-businesses subject to its coverage; and

(c) the applicant for the approval has obtained the consent or otherwise taken into account the views of any person whose business or part-business is to be covered by the programme.

(3) The approval may be given subject to conditions.

(4) Application for approval under this section must be made by the operator of the risk management programme, either at the time of application for its registration under section 20, or as an application for amendment under section 25(3)."

14. Matters to be shown in register of risk management programmes—

Section 19 of the principal Act is amended by inserting, at the end of paragraph (f), the words "(or, if more appropriate, a place where the general public can obtain up-to-date information of the location and type of premises or place to which the programme applies)".

15. Registration may not be transferred—

Section 24 of the principal Act is amended by inserting, after subsection (2), the following subsection:

(2A) Nothing in this section prevents the extension of the programme to the business or part-business of another person in accordance with an approval given under section 17A."

16. Matters to be shown in register of risk management programmes—

Section 19(j) of the principal Act is amended by omitting the words "any amendment", and substituting the words "the most recent amendment".

17. Applications for registration of programmes—

Section 20(2) of the principal Act is amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:

(a) either—

(i) a copy of the risk management programme (or such number of copies as may be required by the Director-General); or

(ii) an outline of the contents of the risk management programme that complies with the requirements of the Director-General for such outlines; and

“(b) a copy of a report of an independent evaluation, carried out not more than 6 months before the date of the application for registration, of the validity of the risk management programme in terms of sections 12 and 17; and.”

18. Amendment of risk management programme—

The heading to section 25 of the principal Act is amended by omitting the words “Amendment of”, and substituting the words “Significant amendments to”.

19. Deregistration of risk management programme—

Section 28(1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

“(c) whether by reason of the passage of time, changing circumstances, or for any other reason, the risk management programme no longer ensures the fitness for intended purpose of animal product produced under the programme; or”.

20. New section 28A inserted—

The principal Act is amended by inserting, after section 28, the following section:

“28A. Removal of business operator from coverage of wider risk management programme—

“(1) The Director-General may at any time remove any animal product business from the coverage of a registered risk management programme that applies to 2 or more comparable businesses if the Director-General is satisfied that deregistration of the programme would be appropriate under section 28(1) if the animal product business were the only one operating under the programme.

“(2) Subsections (2) to (7) of section 28 apply in relation to the removal of the business from the coverage of the risk management programme as if references in these sections to deregistration of the programme were references to removal from the coverage of the programme.”

21. Object of sections 32 to 34—

Section 31 of the principal Act is amended by omitting the words “in producing product that is fit for intended purpose”.

22. Implications of failure to elect in case of animal product which is food whose export requires an official assurance—

23. Object of Part 5—

Section 47 of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

“(c) as a means of facilitating the above 2 aims, providing for—

“(i)the registration of exporters of animal products intended for human or animal consumption, and exporters of certain other animal material or products; and

“(ii)the setting of general requirements relating to animal material and products intended for export.”

24.Matters to be shown in register of exporters—

Section 53 of the principal Act is amended by repealing paragraph (b), and substituting the following paragraphs:

“(b)the date of registration and the date of expiry of that registration:

“(ba)the date of any deregistration under section 58:”

V

26.New section 59A inserted—

The principal Act is amended by inserting, immediately before section 60, the following section:

“59A.Director-General to notify general requirements for animal product or material for export—

“(1)The Director-General may, by notice under section 167, specify requirements that must be met in relation to all or any classes of animal material or animal product intended for export, if the Director-General is satisfied that the setting of the requirements is—

“(a)necessary or desirable for the purpose of facilitating access to overseas markets, or to maintain consistency with any standards, requirements, or recommended practices that apply or are acceptable internationally; and

“(b)in the national interest.

“(2)Without limiting the generality of subsection (1), the requirements may relate to matters such as—

“(a)material and product packaging, labelling, and branding:

“(b)the use of seals on cartons and containers, and other restraints on material or product:

“(c) conveyances and equipment:

“(d) the condition in which material or product is stored, held, or contained:

“(e) the handling of categories of animal materials and products with special risk characteristics:

“(f) requirements relating to the preparation of animals for live export.”

27. Obtaining of official assurance—

Section 63(1) of the principal Act is amended by omitting the words “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”, and substituting the words “any information required by the Director-General and pay any relevant fee”.

28. Official assurance may be withdrawn, and reissued—

Section 64(2) of the principal Act is amended by inserting, after the expression “Director-General” where it first occurs, the words “or other authorised person”.

29. New Part 5A inserted—

The principal Act is amended by inserting, after section 65, the following Part:

“PART 5A - GAME ESTATES

“65A. Object of this Part—

“(1) The main object of this Part is to facilitate the tracing of any animal material or product intended for human or animal consumption that is derived from animals from game estates, thus helping to ensure proper treatment of the animal material or product.

“(2) This is achieved by requiring the listing of game estates from which edible parts of game estate animals are removed (while leaving unaffected the ability to dispose of skins, hides, horns, antlers, or other material that is not for human or animal consumption).

65B. What is a game estate?—

A game estate is a place within which animals are kept (whether all of the time or only some of the time), as if in the wild, for the purpose of providing opportunities for persons to hunt or catch them as recreational catch as if in the wild, being animals of a species, kind, or description specified for the purposes of this section by notice under section 167.

65C. Use and disposal of animal material and product from game estate animals—

(1) A client hunter may kill or process a game estate animal himself or herself (either on the game estate or on the client hunter's own property), or have it processed by a listed homekill or recreational catch service provider, in accordance with section 68.

(2) A game estate operator may dress and process a game estate animal for a client hunter only if the operator is a listed homekill or recreational catch service provider, except as provided in subsection (3).

(3) Nothing in Part 6 or in subsection (2) of this section requires a game estate operator to be listed as a homekill or recreational catch service provider if—

(a) the operator only carries out limited processing, such as removing trophy heads or skinning killed animals; or

(b) the only processing carried out by the operator (beside any limited processing referred to in paragraph (a)) is the preparation and serving of the recreational catch as a meal to its catcher or members of the catcher's party.

(4) A game estate operator may also—

(a) in accordance with section 67, have any game estate animal from his or her estate (whether or not caught or killed by a client hunter) killed or processed by a listed homekill or recreational catch service provider for the operator's own use or consumption as if the operator were the owner and farmer of the animal:

(b) sell or otherwise dispose of any parts of a game estate animal (including such things as skins, hides, and trophy heads) from the operator's estate, by whomever caught or killed or processed, that are not for human or animal consumption:

(c) sell or dispose of any parts of such an animal to a renderer in accordance with any conditions imposed by the Director-General by notice under section 167.

(5) A game estate operator who is listed under this Part may also present killed game estate animals for primary processing in accordance with Parts 2 to 4 for use or consumption as regulated animal product.

65D. Game estates that must be listed—

A game estate must be listed under this Part if—

“(a) any edible parts of game estate animals killed by client hunters on the game estate are allowed by the operator to be removed by the client hunters (except to the extent they are intended for use as trophies); or

“(b) the operator wishes to supply game estate animal material for processing in accordance with Parts 2 to 4 for use or consumption as regulated animal product.

“65E. Director-General to maintain list of game estates—

“(1) The Director-General must keep and maintain a list of all game estates to which section 65D applies.

“(2) The purpose of the list is—

“(a) to enable members of the public to know—

“(i) what places are listed game estates for the purposes of this Act; and

“(ii) who is recognised by law as authorised to operate a listed game estate for the purposes of this Act; and

“(b) to facilitate the compliance, audit, and other functions of the Ministry as the agency with regulatory functions under this Act.

“(3) The Director-General must—

“(a) keep the list open for public inspection, without fee, during ordinary office hours at the head office of the Ministry and at such other places as the Director-General determines; and

“(b) supply to any person copies of all or part of the list on request and payment of a reasonable charge for the production of the copy.

“(4) The list may be kept in such manner as the Director-General thinks fit.

“65F. Matters to be shown in list of game estates—

“The list of game estates must contain the following particulars in relation to each game estate:

“(a) the name and address (including the electronic address, if available) of the game estate operator:

“(b) the address or location of the place comprising the game estate:

“(c) the species or kinds of game estate animal available for hunting:

“(d) the date on which the game estate was listed:

“(e) such other particulars as may be prescribed by notice or regulations under this Act.

65G.Applications for listing—

A person who wishes to operate a listed game estate must apply to the Director-General in a manner approved by the Director-General for listing as a game estate.

65H.Listing as game estate—

(1)On receipt of a properly made application accompanied by the prescribed fee (if any), the Director-General must list the applicant's operation as a game estate if satisfied that—

(a)the operation is a game estate to which section 65D applies; and

(b)having regard to the objects and requirements of this Act, there is no good reason why the operation should not be listed as a game estate.

(2)Where the Director-General determines to list an applicant's operation as a game estate, the Director-General must—

(a)include the applicant and the applicant's game estate operation on the list of game estates; and

(b)notify the applicant in writing accordingly.

65I.Refusal to list—

If the Director-General determines to refuse to list an applicant's operation as a game estate, the Director-General must, as soon as practicable, notify the applicant in writing of—

(a)the decision; and

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

65J.Delisting—

(1)The Director-General may remove any game estate from the list if—

(a)the listed operator so requests; or

(b)the Director-General is satisfied that the criteria referred to in section 65H no longer apply, or the place is no longer operated as a game estate; or

(c)any failure to pay the listing fee (if any) by the due date has persisted for more than 30 days.

(2)Before delisting a game estate on any of the grounds referred to in subsection (1)(b) and (c), the Director-General must—

(a)notify the game estate operator in writing of his or her intention; and

“(b)give the person a reasonable opportunity, within the time specified in the written notice, to explain why the game estate should not be delisted, or to pay the unpaid fee.

“(3)The delisting of a game estate under this section does not affect the right of a person to make a further application for listing under section 65G.

“65K.Review of decision to refuse to list, or to delist—

“If a person acting under the delegated authority of the Director-General refuses an application to list an operation as a game estate, or delists a game estate, the person aggrieved by the decision may seek a review of the decision under section 162.

“65L.Listing fee payable—

“Every operator of a listed game estate is liable to pay, either annually or at such greater intervals as may be prescribed, the prescribed fee (if any) in respect of the continued listing of the game estate.”

30.Homekill allowed—

(1)Section 67 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1)Nothing in this Act prevents an animal owner from—

“(a)killing or processing the animal himself or herself on his or her own property; or

“(b)in the case of an animal owner who has been actively engaged in the day-to-day maintenance of the animal, or of other animals of the same kind, for a period of at least 28 days immediately preceding the killing of the animal, having the animal killed or processed, otherwise than in accordance with Parts 2 to 4, by a listed homekill or recreational catch service provider on the service provider's premises or place or the animal owner's own property,—

so long as the resulting homekill product is for the use or consumption of the animal owner (including his or her family or household), and not for trade; and Parts 2 to 4 do not apply to any such homekill.”

(2)Section 67(2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b)the edible part of the homekill product is for the use or consumption of the owner (or the owner's family, household, or farm employee), and the only parts of the homekill product that are traded—

“(i)are not for human or animal consumption; or

“(ii)are sold or disposed of to a renderer in accordance with any conditions imposed by the Director-General by notice under section 167.”

31.Processing of recreational catch—

Section 68(2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b)the only parts of the recreational catch product that are traded—

“(i)are not for human or animal consumption; or

“(ii)are sold or disposed of to a renderer in accordance with any conditions imposed by the Director-General by notice under section 167.”

32.Homekill and recreational catch service providers—

Section 69 of the principal Act is amended by adding the following subsection:

“(3)Nothing in section 131(2)(c) prevents a person referred to in paragraphs (a) to (c) of subsection (1) from trading or otherwise disposing of animal material derived from the processing of homekill or recreational catch if the animal material—

“(a)is skins, hides, horns, antlers, or other material that is not for human or animal consumption; or

“(b)is sold or disposed of to a renderer in accordance with any conditions imposed by the Director-General by notice under section 167.”

33.New section 70 substituted—

The principal Act is amended by repealing section 70, and substituting the following section:

“70.Limitation on regulated animal product and homekill or recreational catch operations being carried out at same premises or place—

“(1) Except as provided in subsection (2), no person may carry out at the same premises or place both—

“(a) homekill or recreational catch processing operations; and

“(b) the processing of, or trade in, any regulated animal product for human or animal consumption.

“(2) Subsection (1) does not apply to—

“(a) retail butchers acting in accordance with section 71; or

“(b) persons who are in the business of providing meals containing or consisting of regulated animal product, to the extent only that those persons also prepare and serve recreational catch as a meal to its catcher and members of the catcher's party; or

“(c) game estate operators who are in the business of providing meals containing or consisting of regulated product to client hunters and their parties, to the extent that they also prepare and serve a client hunter's recreational catch as a meal to the client hunter and members of the client hunter's party; or

“(d) listed game estate operators who are also listed homekill or recreational catch service providers, to the extent that they perform homekill or recreational catch services—

“(i) to client hunters in respect of animals taken by the client hunters; or

“(ii) in respect of animals owned by the game estate operator that are to be processed and consumed by the game estate operator (including the operator's family, household, or employees).”

34. Requirements for dual operator butchers—

Section 71(1) of the principal Act is amended by inserting, after paragraph (b), the following paragraph:

“(ba) regulated animal product must be processed and stored separately from any homekill or recreational catch animal material or product:.”

35. Appointment of official assessors—

Section 79(2) of the principal Act is amended by inserting, after the words "State-Owned Enterprises Act 1986", the words "or within a Crown entity as defined in the Public Finance Act 1989".

36. New sections 81A and 81B inserted—

The principal Act is amended by inserting, after section 81, the following sections:

"81A. Director-General may require declarations as to supply or movement of animals, animal material, or animal products—

"(1) The Director-General may, by notice under section 167, require the owner or person in control (or reasonably appearing to be in control) of any animal, animal material, or animal product to complete and supply, in accordance with the notice, a declaration under this section where—

"(a) there is to be a change of ownership in the animal, animal material, or animal product concerned; or

"(b) the animal, animal material, or animal product is to be moved to a new premises, property, or place.

"(2) The notice may require the declaration to contain all or any of the following information:

"(a) matters relating to the management of the animal from date of birth (if appropriate):

"(b) matters relating to the history of the animal, animal material, or animal product, including, where appropriate,—

"(i) identification or details of any owner or previous owner of the animal or animal material, or any person who presented or supplied the animal or animal material to the person required to make the declaration:

"(ii) identification or details of the area or place where the animal was kept or was taken, harvested, or procured, and any surrounding area or place that the animal may have had access to:

"(c) matters relating to treatments or applications applied to the animal or to which the animal has been exposed by way of veterinary medicines or agricultural compounds:

"(d) information relating to the feeding of the animal:

"(e) information relating to the possible exposure of the animal or animal material or product to hazards:

“(f) information relating to any movement or related controls imposed in respect of the animal, animal material, or animal product:

“(g) the status of the animal, animal material, or animal product in relation to any testing performed:

“(h) the place the animal, animal material, or animal product is being moved from, the place it is being moved to, and any previous place it has been moved from:

“(i) matters relating to the transport or movement of the animal or animal material or animal product:

“(j) in the case of animal material taken by a hunter or client hunter or game estate operator, the place where the animal was killed or caught and the place the animal material is being sent to:

“(k) the existing and new owner of the animal, animal material, or animal product:

“(l) any other matter necessary or relevant to establishing the suitability of the animal or animal material for processing for human or animal consumption.

“(3) The notice may require the declaration—

“(a) to accompany the animal, animal material, or animal product, or be provided to the recipient or new owner of the animal, animal material, or animal product by post, fax, email, or other appropriate means:

“(b) to be kept by all or any of the supplier, recipient, or new owner of the animal, animal material, or animal product for a period of up to 4 years.

“(4) In considering whether to require declarations under this section, the Director-General must have regard to the following matters:

“(a) the need to protect the health of consumers and users of animal material and animal products:

“(b) the desirability of facilitating market access for animals, animal material, and animal products:

“(c) the desirability of maintaining consistency between New Zealand animal product standards and any relevant standards, requirements, or recommended practices that apply or are accepted internationally.

“(81B) Director-General may impose movement and related controls—

“(1) The Director-General may, by notice to the owner, operator, or person in control (or reasonably appearing to be in control) of any animal, animal material, or animal product business concerned, impose or provide for the imposition of movement or related controls in accordance with this section if the Director-General has reasonable ground to suspect the

existence of a hazard or source of contamination (a risk source) that may affect animals or animal material that may be processed for human or animal consumption.

“(2)The notice must specify the particular risk source, whether by reference to—

“(a)a place or area (where, for instance, there may be contamination from the land or the environment); or

“(b)a particular person or animal product business, or an identified class of persons or animal product businesses (where, for instance, the contamination may be from human intervention or omission); or

“(c)an animal or any animal material, or any identified group of animals or class of animal material (where, for instance, the contamination may be transmissible); or

“(d)any other appropriate thing or circumstance.

“(3)The movement or related controls—

“(a)may be imposed in relation to any animals, animal material, place or area, activity, animal product business, or associated thing that—

“(i)is suspected to be the risk source; or

“(ii)may be affected by the risk source:

“(b)must be of a nature directed at minimising the risk to humans or animals of detrimental effects.

“(4)Without limiting the generality of subsection (3), the controls may—

“(a)restrict, apply conditions to, or prohibit the movement, trade in, or presentation for processing of any animal or animal material, or any class of animal or animal material, that is suspected of being contaminated:

“(b)contain directions that specified actions in relation to the risk source, or the animals or animal material that may be affected by it, are to be taken to minimise the risk of harm to humans and animals, including—

“(i)isolation of the animals, animal material, or place concerned:

“(ii)the confining, detention, storage, or treatment of animals, animal material, or things that have been in contact with or exposed to the risk source or contaminated animals or animal material:

“(iii)forms of intervention in the possible trade in contaminated animals or animal material, or animals or animal material or products exposed to the risk source or to animals or animal material suspected of being contaminated:

“(iv) sampling, testing, or analysis to be undertaken by the owner or person in charge of the property, place, animals, animal material, or animal product business, or by any other person, to the extent reasonable and necessary or desirable to determine the contamination status of the relevant property, place, animals, material, or business.

“(5) A notice under this section may—

“(a) direct the keeping of records or documentation in respect of any matters the subject of the notice:

“(b) include a requirement for the recipient of the notice to notify the Director-General when all or any of the risk source is disposed of.

“(6) The notice continues in force until revoked, or until such earlier time as is specified in the notice.

“(7) A notice may at any time be amended or revoked in the same manner as that in which it was issued.

“(8) Section 164(2) to (4) applies to the issue of notices under this section as if—

“(a) they were notices of a kind listed in section 167; and

“(b) section 164(3) applied in cases where it was not possible, reasonable, or practical to notify a matter in accordance with section 164(2).

“(9) For the purposes of this section,—

“(a) the Director-General may approve systems for particular notices to be issued automatically on the occurring of a particular event or set of circumstances that indicates the likelihood of a particular risk source arising and the need for measures that will minimise the risk; and

“(b) any notices so issued are deemed to be issued by the Director-General under this section.”

37. Power of entry—

(1) Section 87(1)(b) of the principal Act is amended by omitting the word “food”, and substituting the words “kind of goods”.

(2) Section 87 of the principal Act is amended by adding the following subsection:

“(6) A person called on to assist an animal product officer under section 88(3) may accompany the officer into any premises or place that the officer enters under this section.”

38. Power to condemn and require disposal of animal products that are diseased, contaminated, etc—

(1) Section 90 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) An animal product officer may require the reclassification of any animal product of a kind referred to in subsection (1)(a), if satisfied that the product meets the requirements of the reclassification, and may require the owner or person in control of the product to either—

“(a) take all appropriate steps to give effect to the reclassification; or

“(b) destroy or otherwise dispose of or rectify the product to the satisfaction of the officer, if the owner or person does not take those appropriate steps.”

(2) Section 90(5) of the principal Act is amended by inserting, after the expression “subsection (2)”, the expression “or subsection (2A)”.

39. Methods of cost recovery—

Section 114(b) of the principal Act is amended by inserting, after the word “scale”, the words “or formula”.

40. Cost recovery to relate generally to a financial year—

Section 115(2) of the principal Act is amended by inserting, after the words “reduced or removed”, the words “(or restated without substantive alteration)”.

41. Fees and charges to be prescribed by regulations—

Section 117 of the principal Act is amended by inserting, after subsection (4), the following subsection:

“(4A) Where regulations prescribe a formula for determining a fee or charge, the formula may specify the value of 1 or more of its components as being an amount or amounts notified for those components by the Director-General under section 167.”

42. Presenting non-complying animal material for processing—

Section 129(1) of the principal Act is amended by inserting, after the words “for sale”, the words “or processing”.

43. Offences in relation to homekill and recreational catch—

(1) Section 131(2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

“(ab) operates a property as a game estate of a kind that section 65D requires to be listed as a game estate under Part 5A, unless the property is listed as a game estate under section 65H; or”.

(2) Section 131(2) of the principal Act is amended by inserting, after paragraph (b), the following paragraphs:

“(ba) being the owner of an animal who has not been engaged in its day-to-day maintenance, or the day-to-day maintenance of other animals of the same kind, for a period of at least 28 days immediately preceding its killing, kills and processes that animal at any place other than his or her own property (as defined in section 67(4)), other than for humane purposes; or

“(bb) provides facilities for any person to kill or process an animal for human or animal consumption, otherwise than in accordance with Parts 2 to 4, knowing that the person has not been engaged in the day-to-day maintenance of the animal, or of other animals of the same kind, for at least 28 days immediately preceding the killing of the animal, unless—

“(i) the person providing the facilities is a game estate operator or the owner of the place where the animal is taken or landed as recreational catch; or

“(ii) the facilities are provided for humane purposes; or

“(bc) being a dual operator butcher, kills an animal that is homekill or recreational catch at any premises or place where regulated animal product is processed or traded; or.”

(3)Section 131(2)(c) of the principal Act is amended by inserting, after the words "Parts 2 to 4", the words "(except as permitted by sections 67(2)(b)(ii), 68(2)(b)(ii), and 69)".

(4)Section 131(2)(d) of the principal Act is amended by adding the words ", or of other animals of the same kind, for a period of at least 28 days immediately preceding the presentation of the animal".

44. Identification systems and devices—

Section 158(1)(d) of the principal Act is amended by adding the words "or devices".

45. Right of review of certain decisions made under delegated authority—

(1)Section 162(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

"(b)a decision to suspend all or any operations under a risk management programme under section 27, or to deregister a programme under section 28, or to remove an animal product business or part-business from coverage of a programme under section 28A:".

(2)Section 162(1) of the principal Act is amended by adding the following paragraph:

"(g)a decision to refuse to list an operation as a game estate under section 65I, or to delist a game estate under section 65J

46. New section 165A inserted—

The principal Act is amended by inserting, after section 165, the following section:

"165A. Directions, etc, to non-Ministry persons with functions under Act—

“(1) This section applies in the case where the Director-General wishes to issue any notice, direction, or instruction or otherwise communicate any requirement (a ‘notification’) to a person or body (the ‘relevant person’) who—

“(a) has functions for the purposes of the administration of this Act, whether as an accredited person, recognised agency, official assessor, or otherwise; and

“(b) is a person or body who is not a Ministry employee or officer or group of Ministry employees or officers.

“(2) Where the Director-General wishes to issue a notification to a relevant person, the Director-General may issue that notification—

“(a) to the relevant person directly; or

“(b) to the relevant person's employer.

“(3) If the notification is issued to the relevant person directly, the Director-General must also, within a reasonable time, supply a copy of it to the relevant person's employer.

“(4) If the notification is issued to the relevant person's employer,—

“(a) the notification must clearly identify the relevant person or class of relevant persons the notification is intended for; and

“(b) it is deemed to have been given to the relevant person or persons if given within a reasonable time before the notification is required to be acted upon; and

“(c) the employer is under a duty to inform the relevant person, or all persons of the relevant class, of the content of the notification as soon as reasonably practicable having regard to the tenor of the notification.

“(5) For the purposes of subsections (3) and (4), ‘within a reasonable time’ means—

“(a) within 7 days; or

“(b) within such greater or lesser period, or at such greater or lesser intervals in relation to groups of notifications, as may have been generally agreed between the Director-General and the employer, or notified by the Director-General to the employer, in respect of notifications of that kind.

“(6) In this section, ‘employer’, in relation to the relevant person, includes—

“(a) a director, partner, secretary, or other officer or official of a company or other body of which the relevant person is an employee:

“(b) a company or other body to whom the relevant person is contracted in relation to the person's functions for the purposes of this Act.”

47.Regulations—

Section 166(1) of the principal Act is amended by inserting, after paragraph (k), the following paragraph:

“(ka)prescribing procedures and requirements for the listing of game estates:”.

48.Notices—

(1)Section 167(1) of the principal Act is amended by inserting, after paragraph (b), the following paragraph:

“(ba)specifying for the purposes of section 24(3) the circumstances that will not be treated as involving a change in the operator of a registered risk management programme:”.

(2)Section 167(1) of the principal Act is amended by inserting, after paragraph (j), the following paragraph:

“(ja)specifying under section 59A requirements that must be met in relation to animal material or product intended for export:”.

(3)Section 167(1) of the principal Act is amended by inserting, after paragraph (l), the following paragraphs:

“(la)specifying species, kinds, or description of animals to be treated as game estate for the purposes of section 65B:

“(lb)specifying other particulars to be shown in the register of game estates kept under section 65F:

“(lc)for the purposes of sections 67(2), 68(2), and 69(3), imposing conditions in respect of the sale or disposal to renderers of any parts of a homekill or recreational catch product:

“(ld)requiring the making of declarations under section 81A, and specifying matters in relation to the declarations:”.

(4)Section 167(1) of the principal Act is amended by inserting, after paragraph (m), the following paragraph:

“(ma)specifying the value to be attributed to any component of a formula of a kind referred to in section 117(4A) that determines fees or charges:”.

(5)Section 167 of the principal Act is amended by adding the following subsection:

“(3)A notice under subsection (1)(ma)—

“(a)is to be treated as a regulation for the purposes of the Regulations (Disallowance) Act 1989; but

“(b)is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.”

49.Repeals, amendments, and transitional provisions appear in Animal Products (Ancillary and Transitional Provisions) Act 1999—

Section 169(1) of the principal Act is amended by omitting from both paragraph (a) and paragraph (d) the expression “1 November 2002”, and substituting in each case the expression “1 July 2006”.

SCHEDULES SCHEDULE

s 5(10)

AMENDMENTS CONSEQUENTIAL ON CHANGED DEFINITIONS

SECTION 3(1)(A)(II)

Omit the word “risks” and substitute the words “risk factors”.

SECTION 16(2)

Omit the words “recognised verifying agency” and substitute the words “recognised risk management programme verifying agency”.

SECTION 17(4)

Omit the words “accredited verifiers” and substitute the words “accredited risk management programme verifiers”.

SECTION 19(G)

Omit the words “recognised verifying agency” and substitute the words “recognised risk management programme verifying agency”.

SECTION 20(2)(C)

Omit the words “recognised verifying agency” and substitute the words “recognised risk management programme verifying agency”.

SECTION 22(4)

Omit the words "recognised verifying agency" and substitute the words "recognised risk management programme verifying agency".

SECTION 25(5)(C)

Omit the words "recognised verifying agency" and substitute the words "recognised risk management programme verifying agency".

SECTION 27(5)

Omit the words "recognised verifying agency" and substitute the words "recognised risk management programme verifying agency".

SECTION 28(3)(B)

Omit the words "recognised verifying agency" and substitute the words "recognised risk management programme verifying agency".

SECTION 29(2)(C)

Omit the words "recognised verifying agency" and substitute the words "recognised risk management programme verifying agency".

SECTION 34(6)(C)

Omit the words "recognised verifying agency" and substitute the words "recognised risk management programme verifying agency".

HEADING TO SECTION 36

Omit the word "verifying" and substitute the word "recognised".

SECTION 37(A) AND (B)

Omit the word "risks" and substitute the words "risk factors".

SECTION 38(1)(A) AND (B)

Omit the word "risks" and substitute the words "risk factors".

SECTION 66(2)(C)

Omit the word "risks" and substitute the words "risk factors".

SECTION 71(1)(D)(I)

Omit the word "risks" and substitute the words "risk factors".

SECTION 107

Omit paragraph (f) and substitute:

“(f)in the case of an accredited risk management programme verifier, to be under the management of a recognised risk management programme verifying agency.”

SECTION 133(1)(C)

Omit the words “other recognised body” and substitute the words “recognised agency”.

SECTION 133(2)

Omit the words “recognised verifying agency” and substitute the words “recognised risk management programme verifying agency”.

SECTION 134(3)(B)

Omit subparagraph (iii) and substitute:

“(iii)section 107(f) (accredited risk management programme verifiers to be under management of recognised risk management programme verifying agency):”.

SECTION 140(1)(A)(I)

Omit the words “recognised verifying agency” and substitute the words “recognised risk management programme verifying agency”.

SECTION 159(2)(B)

Omit the words “Accredited verifiers and recognised verifying agencies” and substitute the words “accredited risk management programme verifiers and recognised risk management programme verifying agencies”.

SECTION 161(5)(C)

Omit the words “recognised verifying agency” and substitute the words “recognised risk management programme verifying agency”.

SECTION 167(1)(E)

Insert, after the word “recognised”, the words “risk management programme”. Legislative history

18 September 2002 Divided from Animal Products Amendment Bill (Bill 194-2) as Bill 194-3

19 September 2002 Third reading

