

BIOSECURITY (RUMINANT PROTEIN) REGULATIONS 1999

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 22nd day of November 1999

Present:

The Right Hon Wyatt Creech presiding in Council

PURSUANT to section 165 of the Biosecurity Act 1993, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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REGULATIONS

1. Title and commencement---These regulations may be cited as the Biosecurity (Ruminant Protein) Regulations 1999.

(2) These regulations come into force on 1 January 2000.

SPART : Interpretation and Purposes

Interpretation and Purposes

2. Interpretation---In these regulations, unless the context otherwise requires,---

``Act" means the Biosecurity Act 1993:

``Animal" means any living stage of any member of the animal kingdom except human beings:

``Feed" means any matter produced as, or as part of, food for animals in premises that render, produce, or utilise ruminant protein, but does not include---

(a) Tallow; or

(b) Pet food packaged for retail sale and labelled for feeding to dogs or cats:

``Feed supplier" means a person who produces, trades in, or distributes feed:

``Operator" means the occupier of premises where ruminant protein is rendered, used, or stored and where---

(a) Non-ruminant mammalian, avian, or fish tissue is rendered for feeding to ruminants; or

(b) Feed intended for ruminants is produced:

``Registered programme" means a ruminant protein control programme (as amended, if amended) registered by the Director-General under regulation 9 or 10:

``Rumen" means the first stomach of a ruminant:

``Ruminant" means an animal of the order Artiodactyla that chews the cud regurgitated from its rumen, for example, cattle, sheep, deer, alpacas, and goats:

``Ruminant protein" means protein derived from the tissue of a ruminant, except dairy produce; and for this purpose---

(a) ``Tissue" includes blood; and

(b) ``Dairy produce" has the same meaning as in section 2 of the Dairy Industry Act 1952.

SPART : Interpretation and Purposes

3. Purposes of regulations---The purposes of these regulations are---

- (a) To prohibit the feeding of ruminant protein in any form, composition, or admixture to ruminants because of the risk of amplifying and spreading transmissible spongiform encephalopathies by doing so; and
- (b) To require operators to prepare, register, and implement ruminant protein control programmes; and
- (c) Consequentially, to manage the risk to New Zealand of an outbreak of a transmissible spongiform encephalopathy.

SPART : Prohibition

Prohibition

4. Offence to feed ruminant protein to ruminants---(1) A person commits an offence if that person knowingly---

- (a) Feeds ruminant protein in any form, composition, or admixture to a ruminant; or
- (b) Allows, causes, or permits a ruminant to consume ruminant protein in any form, composition, or admixture; or
- (c) Allows, causes, or permits other persons to feed ruminant protein in any form, composition, or admixture to a ruminant.

(2) A person who commits an offence under subclause (1) is liable to the penalty specified in regulation 18.

SPART : Ruminant Protein Control Programmes

Ruminant Protein Control Programmes

5. Operators to prepare ruminant protein control programme---(1) A person who is, and intends to remain, an operator on the date these regulations come into force must prepare a ruminant protein control programme and submit it to the Director-General, for registration, by 1 January 2001.

(2) A person who intends to become an operator, and a person referred to in subclause (4) (a) who intends to remain an operator, must prepare a ruminant protein control programme and submit it to the Director-General for registration.

(3) A ruminant protein control programme is not effective until it is registered under regulation 9.

(4) A person referred to in subclause (1)---

- (a) Who does not submit a ruminant protein control programme under subclause (1) by 1 January 2001, must not produce feed intended for ruminants after that date; and
- (b) Who has submitted a programme under subclause (1) by 1 January 2001 that is not registered, may produce feed intended for ruminants without a registered programme until 1 April 2001 but not after; and
- (c) Must produce feed intended for ruminants according to the programme submitted, once it is registered.

(5) A person referred to in subclause (2) must not produce feed intended for ruminants without a registered programme.

(6) An operator or person who does not comply with subclauses (1), (2), (4), or (5) commits an offence and is liable to the penalty specified in regulation 18.

(7) An offence under subclauses (1), (2), (4), and (5) is an offence of absolute liability.

SPART : Ruminant Protein Control Programmes

6. Programme amendment---(1) An operator may amend or replace a registered programme at any time but must submit the documents effecting the amendment, or the replacement programme, to the Director-General for registration.

(2) An amendment or replacement of a registered programme is not effective until it is registered under regulation 10.

SPART : Ruminant Protein Control Programmes

7. Requirements for programmes---A ruminant protein control programme must---

- (a) Specify how the operator will ensure that it does not commit an offence under these regulations; and
- (b) Specify how the operator will manage and minimise the risk of contamination of feed intended for ruminants, by ruminant protein; and
- (c) Specify how the operator will ensure that feed is labelled correctly; and
- (d) Provide for, and specify the components of, regular internal reviews of the programme designed to identify programme features that could be improved; and
- (e) Name an auditor, who is external to and independent of the operator, who agrees to undertake annual verification audits of the programme and to give a copy of each such audit to the Director-General; and
- (f) Require the operator to notify the Director-General, in advance if possible, of any change in the auditor's independence; and
- (g) State that the operator will co-operate with inspectors and authorised persons exercising their duties and powers, including their powers to---
 - (i) Inspect the records of the operator; and
 - (ii) Enter and inspect the premises of the operator; and
- (h) Require the operator to notify the Director-General of any change in circumstance that would prevent or substantially hinder the operator from satisfying a requirement of the programme.

SPART : Ruminant Protein Control Programmes

8. Register of programmes---(1) The Director-General must keep and maintain a register of ruminant protein control programmes and of their amendments or replacements registered under regulations 9 and 10.

(2) The register must include the following particulars for each ruminant protein control programme:

- (a) The name and address of the operator of the programme:
- (b) The name and address of the auditor responsible for the annual verification audits of the programme.

SPART : Ruminant Protein Control Programmes

9. Registration of programmes---(1) The Director-General must register a ruminant protein control programme submitted by an operator under regulation 5 (1) or (2), and notify the operator of registration, if satisfied that the programme meets the requirements of regulation 7.

- (2) If the Director-General declines to register a programme,---
- (a) The Director-General must indicate the grounds on which registration is declined; and
 - (b) The Director-General must invite the operator to prepare and submit a revised programme; and
 - (c) The operator may submit a revised programme to the Director-General not later than 14 days after the date on which that approval is declined or such later date as the Director-General may allow in a particular case.

SPART : Ruminant Protein Control Programmes

10. Registration of programme amendment or replacement---(1) As soon as practicable after receiving the documents effecting the amendment or the replacement programme under regulation 6, the Director-General must---

- (a) Register the programme as amended or the replacement programme, and notify the operator of registration, if satisfied that the programme as amended or the replacement programme meets the requirements of regulation 7; or
- (b) If the Director-General considers that the programme as amended or the replacement programme requires amendment,---
 - (i) Make such amendments as the Director-General considers necessary; and
 - (ii) Register the amended or replacement programme (as amended by the Director-General) and send a copy of the registered document to the operator.

(2) The Director-General must advise the operator, before doing so, of the Director-General's intention to amend a programme and must give the operator a reasonable opportunity to make submissions about that.

SPART : Ruminant Protein Control Programmes

11. Review of programme by Director-General---(1) The Director-General may review a registered programme at any time if the Director-General considers that to be necessary or desirable to achieve, or better achieve, the purposes of these regulations or the requirements of the registered programme.

(2) The Director-General must advise the operator of a registered programme that is to be reviewed of the reasons for the review.

(3) The Director-General may suspend any or all of the operations under a registered programme before commencing, or during, a review under this regulation.

(4) The Director-General must advise the operator of an operation suspended under subclause (3) of the reasons for the suspension, and must give the operator a reasonable opportunity to be heard on the suspension.

(5) If operations are suspended under subclause (3) the review must be completed as soon as practicable.

- (6) On completing a review, the Director-General may---
- (a) Cancel registration of a programme, or part of it, with or without conditions; or
 - (b) Amend a programme as the Director-General considers necessary; or
 - (c) Take a combination of actions under paragraphs (a) and (b).

(7) The Director-General must advise the operator, before doing so, of the Director-General's intention to exercise a power under subclause (6), and must give the operator a reasonable opportunity to make submissions about that intention.

(8) The Director-General's powers in this regulation may be applied---

- (a) To a single operator identified by the Director-General; or
- (b) Collectively to the registered programmes of all operators in a category of operators identified by the Director-General.

SPART : Ruminant Protein Control Programmes

12. Information---(1) The Director-General may request an operator to supply information or to comment on particular matters concerning that operator's ruminant protein control programme (before or after its registration) or an amendment, replacement, or review of that programme.

(2) The Director-General is not required to make any decision under regulation 9, 10, or 11 until that information or comment is received.

SPART : Labelling

Labelling

13. Obligation to label---(1) A feed supplier must ensure that feed that may be fed lawfully to ruminants is labelled so as to include the most appropriate of the following notices:

``Notice: suitable for feeding to [insert ruminant species or type]":

``Notice: suitable for inclusion in feed intended for ruminant animals".

(2) A feed supplier must ensure that feed that may not be fed lawfully to ruminants is labelled as follows:

``Notice: not to be fed to sheep, cattle, deer, alpacas, goats, or other ruminant animals".

(3) A person who produces, trades in, or distributes fertiliser containing ruminant protein must label that fertiliser in the way specified in subclause (2).

(4) The persons to whom the obligations in subclauses (1) to (3) apply must satisfy the obligations in those subclauses by 1 May 2000.

(5) A feed supplier and a person referred to in subclause (3) commit an offence if that feed supplier or person fail to label, or mislabel,

any feed or fertiliser under this regulation or fail to comply with regulation 14.

(6) A person commits an offence if the person, without reasonable excuse, defaces, removes, obscures, or alters a label affixed to feed or fertiliser under these regulations.

(7) A person who commits an offence under subclause (5) or (6) is liable to the penalty specified in regulation 18.

(8) An offence under subclause (5) is an offence of absolute liability.

SPART : Labelling

14. Labelling details---Every label required by regulation 13 must---

- (a) Be conspicuous and easily legible; and
- (b) Occupy at least 5% of the total area covered by all labelling of the feed or fertiliser; and
- (c) Be permanently stamped, affixed, or marked on---
 - (i) The package or container for the feed or fertiliser; or
 - (ii) The invoice, waybill, or similar document for feed or fertiliser supplied in bulk quantity; and
- (d) Be of such a nature and material that it will not fade or become detached under normal conditions.

SPART : Records

Records

15. Records by feed suppliers---(1) The Director-General may, by notice in writing, require a feed supplier to complete and keep, for 2 years, records of matters that relate, in the Director-General's opinion, to the requirements of these regulations.

(2) The records required to be kept must---

- (a) Be available for inspection within 5 working days of a request being made by the Director-General or by an inspector or authorised person; and
- (b) Be kept in a manner and format from which they can be readily retrieved and made available for inspection.

(3) A person required to keep records must, at all reasonable times, allow any person authorised by the Director-General, or any inspector or authorised person, to inspect and make copies of the records.

(4) A person who breaches this regulation without reasonable excuse commits an offence and is liable to the penalty specified in regulation 18.

SPART : Records

16. Records by ruminant producers---(1) This regulation applies to producers or farmers of ruminants.

(2) If the Director-General believes or suspects on reasonable grounds that a person to whom this regulation applies breaches, or may breach, these regulations, the Director-General may, by notice in writing, require that person to complete, and keep for 2 years, detailed records of the person's feed inventory and movements in that inventory.

(3) The records required to be kept must---

- (a) Be available for inspection within 10 working days of a request being made by the Director-General or by an inspector or authorised person; and
- (b) Be kept in a manner and format from which they can be readily retrieved and made available for inspection.

(4) A person required to keep records must, at all reasonable times, allow any person authorised by the Director-General, or any inspector or authorised person, to inspect and make copies of the records.

(5) A person who breaches this regulation without reasonable excuse commits an offence and is liable to the penalty specified in regulation 18.

SPART : Duties of Operators and Other Persons

Duties of Operators and Other Persons

17. Vigilance by affected persons---(1) Every person required to comply with these regulations must---

- (a) Ensure that his, her or its staff are fully informed about the requirements of these regulations; and
- (b) Remove any visible contaminants from vehicles, containers and other devices before using them for containment or transport of bulk feed intended for ruminants; and
- (c) Store feed intended for ruminants in ways that avoid contamination with ruminant protein; and
- (d) Prevent access by ruminants to---
 - (i) Feed not intended for ruminants; and
 - (ii) Ruminant protein; and
- (e) Not include ruminant protein in feed intended for ruminants; and
- (f) If necessary to achieve the purposes of these regulations, recall, relabel, reprocess, destroy, or treat feed; and
- (g) Generally take all steps necessary to achieve the purposes of these regulations.

(2) A person who fails knowingly to comply with any of the obligations in subclause (1) commits an offence and is liable to the penalty specified in regulation 18.

SPART : Offences

Offences

18. Provisions applying to all offences---(1) The penalties for all offences specified in these regulations are those set out in section 157 (6) of the Act.

(2) The penalties are,---

(a) In the case of an individual, a fine not exceeding \$5,000; and

(b) In the case of a corporation, a fine not exceeding \$15,000.

(3) Section 156 of the Act (which concerns liability of principals, agents, and employees) applies to all offences under these regulations.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations which come into force on 1 January 2000, seek to ensure that New Zealand does not suffer an outbreak of a transmissible spongiform encephalopathy. Bovine spongiform encephalopathy is believed to have spread in the United Kingdom from feeding ruminant protein in feed supplements to ruminant animals. Ruminant animals are those that chew their own regurgitated cud such as cattle, sheep, deer, alpacas, and goats.

Clause 3 specifies the purposes of the regulations. The prohibition and other requirements of the regulations are designed to manage the risk to New Zealand of an outbreak of a transmissible spongiform encephalopathy.

Clause 4 prohibits the feeding of ruminant animals with ruminant protein.

Clauses 5 to 11 require operators to prepare, and have registered, ruminant protein control programmes designed to minimise the risk of a breach of the prohibition. The Director-General may review a programme at any time and may suspend operations or cancel registration of a programme.

Clause 12 permits the Director-General to request information concerning a programme or an amendment or review of a programme.

Clauses 13 and 14 require persons who supply feed, and fertiliser containing ruminant protein, to label their products as suitable or not for feeding to ruminant animals. Blood and bone fertiliser would be labelled as unsuitable for feeding to ruminants, for example.

Clauses 15 and 16 permit the Director-General to require feed suppliers, ruminant farmers, and producers to maintain certain records.

Clause 17 places various obligations on persons who are subject to the regulations.

Clause 18 outlines the penalties attaching to the various offences created in the regulations.

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These regulations are administered in the Ministry of Agriculture and Forestry.