

Animal Products Amendment Act 2005 026  
Commenced: 1 June 2005

The Parliament of New Zealand enacts as follows:

1 Title

(1) This Act is the Animal Products Amendment Act 2005.

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

2 Commencement

This Act comes into force on 1 June 2005.

3 Title amended

The Title of the principal Act is amended by inserting, after the words "Meat Act 1981", the words "and the Dairy Industry Act 1952".

4 General scheme of Act

Section 3(1)(d) of the principal Act is amended by repealing subparagraphs (ii) and (iii), and substituting the following subparagraphs:

"(ii) where appropriate in the light of the requirements of foreign governments, specifying requirements which may be additional to domestic New Zealand requirements for certain products; and

"(iii) where appropriate, providing for the giving of official assurances to overseas authorities in relation to animal material or products exported from New Zealand."

5 Interpretation

(1) Section 4(1) of the principal Act is amended by repealing the definitions of accredited person and accredited risk management programme verifier, and substituting the following definitions:

"accredited person has the same meaning as recognised person

"accredited risk management programme verifier has the same meaning as recognised risk management programme verifier".

(2) Section 4(1) of the principal Act is amended by inserting, after the definition of contaminant, the following definitions:

"dairy material---

"(a) means animal material that is---

"(i) milk extracted from a milking animal; and

"(ii) any material derived or processed from milk extracted from a milking animal, up until delivery of the material at the place of sale for consumption or for end use for purposes other than consumption, or its export; and

"(b) includes dairy product that, having been purchased or imported, is further processed

"dairy processing means all processing activities in relation to dairy material; and includes---

"(a) the extraction of milk from milking animals for the purposes of export or sale:

"(b) transport of dairy material from a farm dairy to a place where processing or manufacturing involving the dairy material occurs:

"(c) processing of dairy material, including heat treatment, cooling, separation, concentration, filtering, blending, and extraction of milk components:

"(d) the addition of other material (including food, ingredients, additives, or processing aids as defined in the Food Standards Code) or other dairy material to dairy material:

"(e) the manufacture of products, including milk, butter, cream, milk-fat products, cheese, processed cheese, whey cheese, dried milks, milk-based infant formula, evaporated milks, condensed milks, whey, whey powder, whey products, casein, milk protein products, ice-cream, low dairy fat ice-cream-like products, yoghurt, other fermented milks, dairy desserts, lactose, and colostrum products:

"(f) the packaging of dairy material:

"(g) the storage, transportation, and handling of dairy material prior to---

"(i) delivery of the material at the place of sale for consumption or for end use for purposes other than consumption; or

"(ii) its export:

"(h) further processing of dairy material that was previously dairy product with or without the addition of other material (including food, ingredients, additives, or processing aids as defined in the Food Standards Code), including reprocessing, repacking, reconstitution with water, and recombination of dairy products with or without water to make any dairy products

"dairy processor means a person who, for reward (otherwise than as an employee) or for purposes of trade, carries out dairy processing; and---

"(a) includes---

"(i) a farm dairy operator:

"(ii) a transporter of dairy material from a farm dairy to a place of processing or manufacture:

"(iii) a transporter of dairy material from one place of processing or manufacture to another:

"(iv) an operator of any premises where dairy material is processed or manufactured or stored:

"(v) a transporter of dairy material to the place of export or sale for consumption or end use for purposes other than consumption:

"(b) does not include persons (such as airline or shipping staff, stevedores, retailers, or wholesalers) handling the relevant product at the port of export or at the place of sale for consumption or use

"dairy product---

"(a) means animal product that, having originally been dairy material,---

"(i) has been delivered to the place of sale for consumption, or for end use for purposes other than consumption; or

"(ii) has left New Zealand's territorial waters in the course of its export; and

"(b) includes dairy produce within the meaning of the Dairy Industry Act 1952 (as in force before its repeal by section 75 of the Animal Products (Ancillary and Transitional Provisions) Act 1999)".

(3) Section 4(1) of the principal Act is amended by inserting, after the definition of exporter, the following definitions:

"farm dairy means a place where milking animals are milked on a permanent or temporary basis; and

"(a) subject to paragraph (b), includes---

"(i) any stockyard, milking yard, feedyard, silo pad, or other construction associated with or involved in the activity of extracting milk from milking animals; and

"(ii) any place where milk from the milking animals is first collected, filtered, deposited, cooled, stored, or treated for transport or for further processing; but

"(b) does not include any place where any further processing takes place, or transport to that place

"farm dairy operator means the person in charge of operations at a farm

dairy, including the extraction of milk from milking animals".

(4) Section 4(1) of the principal Act is amended by inserting, after the definition of food safety programme, the following definition:

"Food Standards Code means the code incorporated into New Zealand law by the New Zealand (Australia New Zealand Food Standards Code) Food Standards 2002 and issued by the Minister under section 11C of the Food Act 1981".

(5) Section 4(1) of the principal Act is amended by inserting, after the definition of marae, the following definition:

"milk means the mammary secretion of milking animals".

(6) Section 4(1) of the principal Act is amended by inserting in the definition of primary processor after paragraph (c), the following paragraph:

"(ca) is a dairy processor; or".

(7) Section 4(1) of the principal Act is amended by inserting, after the definition of recognised agency, the following definitions:

"recognised person, in relation to any verification or other specialised function or activity, means a person recognised or accredited under section 103 to perform that function or activity

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

(8) The provisions of the principal Act specified in the Schedule of this Act are consequentially amended in the manner indicated in that schedule.

#### 6 New section substituted

The principal Act is amended by repealing section 6, and substituting the following section:

"6 References to this Act include references to Animal Products (Ancillary and Transitional Provisions) Act 1999, etc

Except where the context otherwise requires,---

"(a) references to this Act include references to the Animal Products (Ancillary and Transitional Provisions) Act 1999, and to regulations or specifications or other requirements made or imposed under either Act:

"(b) references in other Acts to this Act also include references to the Animal Products (Ancillary and Transitional Provisions) Act 1999 and to regulations or specifications or other requirements made or imposed under that Act or this Act."

#### 7 Products and material excluded from ambit of Act

Section 8(1)(b) and (2) of the principal Act are repealed.

## 8 Who must have a risk management programme?

(1) Section 13(1) of the principal Act is amended by inserting, after the words "under a registered risk management programme", the words ", whether as the registered holder of the programme or as a business to which the programme applies under section 17A,".

(2) Section 13(3) of the principal Act is amended by repealing paragraph (e), and substituting the following paragraph:

"(e) the processing of dairy material or dairy product that is not intended for human or animal consumption (subject to any order made under section 15):".

## 9 Certain persons may be required to have risk management programme by Order in Council

Section 15(1) of the principal Act is amended---

(a) by inserting, after the words "primary producer," the words "dairy processor,";

(b) by inserting, after the expression "(b), (c)," the expression "(e),".

## 10 Multi-business risk management programmes

(1) Section 17A(2) of the principal Act is amended by adding the expression "; and" to paragraph (c), and adding the following paragraph:

"(d) each person whose business or part-business is to be covered by the programme is aware of the implications for his or her business in the event of---

"(i) a suspension or deregistration of the programme; or

"(ii) the person whose programme it is ceasing to operate for any other reason."

(2) Section 17A of the principal Act is amended by adding the following subsection:

"(5) The Director-General may decline his or her approval under this section if not satisfied that the operator of another business to which it is proposed that the programme apply is a fit and proper person to operate an animal product business, taking into account whether the operator or any directors or managers of the business concerned have been convicted, whether in New Zealand or overseas, of any offence relating to fraud or dishonesty, or relating to management control or business activities in respect of businesses of a kind (whether in New Zealand or elsewhere) that are regulated under this Act."

## 11 Applications for registration of programmes

(1) Section 20(2)(b) of the principal Act is amended by inserting, before the words "a copy", the words "subject to subsection (3)".

(2) Section 20 of the principal Act is amended by adding the following subsection:

"(3) The Director-General may waive or modify the requirement to provide a copy of an independent evaluation report if---

"(a) the risk management programme is fully based on a template, model, or code of practice approved under section 12(3A); or

"(b) the risk management programme is a multi-business risk management programme approved by the Director-General in accordance with section 17A; or

"(c) the risks to human or animal health are negligible, and the Director-General is satisfied that the nature of the business does not require an independent evaluation report to ensure validity in terms of sections 12 and 17."

## 12 Registration of risk management programme

(1) Section 22 of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) Nothing in subsection (1) requires the Director-General to register a risk management programme that purports to apply to a business or part-business of a person other than the applicant if the Director-General has not approved the programme's coverage of that business or part-business under section 17A."

(2) Section 22 of the principal Act is amended by inserting, after subsection (3), the following subsection:

"(3A) The Director-General may, at any time during the 12-month period following the commencement of operations under a registered risk management programme, by written notice to the operator concerned, impose further conditions as if they were imposed on registration under subsection (2), or amend or revoke any conditions imposed under that subsection."

## 13 New section substituted

The principal Act is amended by repealing section 47, and substituting the following section:

### "47 Object of this Part

The object of this Part is to facilitate sustainable international trade in animal material and animal products from New Zealand by---

"(a) providing for the specifying of requirements that must be met in relation to all or any classes or descriptions of animal material or animal products for them to be eligible for export; and

"(b) providing for requirements and systems intended to safeguard official assurances provided by New Zealand in respect of animal material and

animal products; and

"(c) providing for the registration of exporters of animal material and animal products, where appropriate."

14 Exporters of animal products for human or animal consumption, and certain other animal material and products, must be registered

(1) Section 48(1)(b) of the principal Act is amended by omitting all the words occurring before subparagraph (i), and substituting the following words:

"(b) the animal material or product or consignment or person concerned is exempted from the requirements of this section---".

(2) Section 48(2) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

"(b) all animal material or products in respect of which---

"(i) requirements are notified or made available under section 60A; and

"(ii) an official assurance is required:".

15 Duties of exporters

(1) Section 51(b) of the principal Act is amended by repealing subparagraph (ii), and substituting the following subparagraph:

"(ii) any relevant requirements pertaining to exports notified or made available under section 60A; and".

(2) Section 51(c) of the principal Act is amended by repealing subparagraph (iii), and substituting the following subparagraph:

"(iii) do not or no longer meet relevant requirements notified or made available under section 60A; or".

16 Director-General to maintain register of exporters

Section 52(2)(b) of the principal Act is amended by repealing subparagraph (i), and substituting the following subparagraph:

"(i) advise exporters of export requirements; and".

17 New sections and heading substituted

The principal Act is amended by repealing sections 59A, 60, and 61, and the heading between sections 59A and 60, and substituting the following heading and sections:

"Export requirements and official assurances

## "60 Export requirements

"(1) The Director-General may, by notice issued under this section, specify requirements in relation to all or any class or description of animal material or animal product intended for export, if the Director-General is satisfied that the setting of the requirements---

"(a) is necessary or desirable for the purpose of facilitating access to overseas markets; or

"(b) is in accordance with the requirements of the relevant authority of the importing country, or can reasonably be expected to satisfy the requirements of the relevant authority of the importing country; or

"(c) is necessary or desirable to safeguard assurances provided by New Zealand.

"(2) In specifying requirements under subsection (1) the Director-General may, where he or she considers it necessary or desirable, specify the manner in which the export requirements may or must be met, when this may or must occur, who is responsible for ensuring the requirements are met, and any recording requirements that are to be complied with.

"(3) Requirements specified under subsection (1) may include requirements that the Director-General is satisfied are necessary or desirable for the purpose of maintaining consistency with any standards, requirements, or recommended practices that apply or are accepted internationally.

## "60A Director-General to notify or make available export requirements

"(1) The Director-General must---

"(a) either notify or ensure that there is made available to registered exporters any export requirements specified under section 60; and

"(b) make those requirements available for inspection free of charge, or for purchase at reasonable cost, to such exporters, operators of risk management programmes, and other persons as are affected by the requirements.

"(2) Nothing in subsection (1) prevents the Director-General from---

"(a) charging for access to any website, or for information or services provided by any website; or

"(b) in the case of export requirements that are commercially sensitive, limiting access to those requirements to persons who satisfy the Director-General that their specific export or processing activities cannot be properly undertaken under this Act unless they have that access.

## "60B Exemption from requirements of food standards where appropriate

"(1) The Director-General may, by notice under section 167, where satisfied that it is appropriate to do so having regard to the requirements of the

relevant overseas market,---

"(a) exempt from the requirements of any food standards issued under Part IIA of the Food Act 1981 or any standards specified by notice under section 167 of this Act any 1 or more classes or descriptions of animal material or animal product that is intended for export from New Zealand to any destination other than Australia:

"(b) exempt from the requirements of any such food standards that apply only in New Zealand any 1 or more classes or descriptions of animal material or animal product that is intended for export to Australia.

"(2) Regulations made under section 166 may also provide for exemptions of a kind referred to in subsection (1)(a) or (b).

"61 Director-General may issue official assurances

"(1) The Director-General, or a person authorised by the Director-General under section 65, may issue an official assurance in respect of animal material or animal product.

"(2) Without limiting the matters to which an official assurance may apply, an official assurance is a general statement to a foreign government, or an agent of a foreign government, attesting that, as appropriate, any 1 or more of the following applies in respect of any animal material or animal product:

"(a) any specified process has been completed under this Act with respect to the animal material or product concerned:

"(b) the animal product concerned meets the applicable animal product standards set under this Act:

"(c) any requirements specified by notice under section 60A that are stated in the assurance have been met:

"(d) the situation in New Zealand, in relation to any matter concerning animal material or animal products, is as stated in the assurance.

"(3) An official assurance is not a guarantee that the contents of all or any particular consignment of animal material or animal products to which it relates---

"(a) necessarily meet the commercial requirements of the importer; or

"(b) are fit for consumption or use no matter what the status or description of the consumer or user, or what has happened to the consignment or what has been its treatment since it left New Zealand; or

"(c) are fit for consumption or use for a purpose other than that for which they were intended.

"61A No Crown liability

The Crown is not liable, and nor is the Director-General or any employee of the

Ministry liable, for any loss arising through the refusal or failure of the relevant authority of an overseas market to admit export animal material or animal product to that market."

18 Power to direct disposal, etc, of animal material or product in certain circumstances

Section 82(1) of the principal Act is amended by adding the expression "; or" to paragraph (d), and adding after that paragraph the following paragraph:

"(e) suspends an operation subject to a regulated control scheme, or deregisters or accepts deregistration of an operator or operation that is subject to a regulated control scheme, as is provided for in the relevant regulations."

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

Section 83(1) of the principal Act is amended by omitting the words "under a risk management programme or regulated control scheme (or both) to the relevant New Zealand animal product standard for its intended purpose", and substituting the words "in accordance with any applicable requirements of this Act to the relevant animal product standard".

20 Power to examine, etc

Section 88(1)(b)(i) of the principal Act is amended by inserting, after the words "copying them", the words ", or require the person having control of the documents or other records to forward them or a copy of them to the officer by way of post, courier post, fax, or other means acceptable to the officer".

21 Conditions of recognition or accreditation

Section 105(2) of the principal Act is amended by inserting, before the word "activities", the word "verification".

22 New section inserted

The principal Act is amended by inserting, after section 108, the following section:

"108A Suspension of recognition

"(1) The Director-General may at any time, by notice in writing to a recognised agency or recognised person, suspend the recognition for a period not exceeding 3 months if the Director-General has reasonable grounds to believe that the performance of the agency or person is unsatisfactory having regard to the requirements of the position.

"(2) The Director-General may impose conditions or requirements that must be satisfied if the suspension is to be lifted.

"(3) If the Director-General considers that conditions or requirements have not been satisfied within the suspension period, the Director-General may, by notice in writing, extend the suspension for a further period not exceeding 3

months.

"(4) Where the Director-General suspends recognition under this section or extends a period of suspension, the notice of suspension or extension must specify---

"(a) the reason for the suspension or extension:

"(b) the period of the suspension or extension:

"(c) the date and time the suspension or extension commences:

"(d) the functions and activities that the suspension or extension relates to:

"(e) any conditions or requirements to be met before or during the suspension.

"(5) The Director-General must notify---

"(a) the relevant recognised agency of any suspension of recognition of a person for whom the agency is responsible:

"(b) any relevant recognised person of the suspension of recognition of an agency with which the person is associated.

"(6) The Director-General may notify any suspension under this section in the Gazette.

"(7) A suspension under this section does not affect any other actions that the Director-General may take under this Act.

"(8) The Director-General may direct the agency or person the subject of a suspension under this section to take appropriate action to remedy the deficiency or failure that gave rise to the suspension.

"(9) If a person acting under the delegated authority of the Director-General suspends any recognition of a person or agency under this section, the person or agency concerned may seek a review of the decision under section 162."

## 23 Evidence in proceedings

Section 140(1)(a) of the principal Act is amended by inserting, after subparagraph (ii), the following subparagraph:

"(iia) any matter was or was not recorded on the risk management programme register; or".

## 24 Disclosure of information for purpose of ensuring product safety, etc

Section 161(5)(a) of the principal Act is amended---

(a) by repealing subparagraph (ii):

(b) by inserting, after subparagraph (iv), the following subparagraphs:

"(iva) the Marine Farming Act 1971:

"(ivb) the Testing Laboratory Registration Act 1972:"

(c) by inserting, after subparagraph (viii), the following subparagraphs:

"(viiiia) the Animal Identification Act 1993:

"(viiiib) the Hazardous Substances and New Organisms Act 1996:"

(d) by inserting, after subparagraph (xia), the following subparagraph:

"(xib) the Dairy Industry Restructuring Act 2001:"

25 Right of review of certain decisions made under delegated authority  
Section 162(1) of the principal Act is amended by repealing paragraph (d), and substituting the following paragraph:

"(d) a decision to suspend or withdraw recognition of a person or agency under section 108A or section 109:"

26 Notices

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

"(jb) notifying any exemption under section 60B from the requirements of any food standard:"

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

(1) Section 169(1) of the principal Act is amended by adding the following paragraph:

"(e) repeal of the Dairy Industry Act 1952 (with effect on the commencement of the Animal Products (Ancillary and Transitional Provisions) Amendment Act 2005), together with associated revocations, amendments, and savings and transitional provisions."

(2) Section 169(2) of the principal Act is amended by inserting, after the words "Apiaries Act 1969", the words "and (with effect on the commencement of the Animal Products Amendment Act 2005) the Dairy Industry Act 1952".

Schedule s 5(8)  
Amendments to principal Act consequential on change of definitions

Section 4(1)

Omit from the definition of verification the word "accredited" and substitute the word "recognised".

Section 16(1)(e)

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

Section 17(4)

Omit the word "accredited" and substitute the word "recognised risk management programme".

Cross heading preceding section 35

Omit this heading and substitute the heading

"Recognised agencies and risk management programme verifiers".

Section 35

Omit from the section heading the word "accredit".

Omit from paragraph (b) the word "Accredit" and substitute the word "recognise".

Section 81(1)

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

Section 87(1)

Omit from paragraphs (e) and (f) the word "accredited" and substitute in each case the word "recognised".

Section 98

Omit the word "accredited" at both places where it occurs and substitute the word "recognised".

Part 8 heading

Omit the word "accredited".

Section 99

Omit from subsection (1)(a) the word "accredited" and substitute the word "recognised".

Omit from subsection (1)(b) the word "Accredit" and substitute the word "recognise".

Omit from subsection (2) the word "accredited" and substitute the word "recognised".

Section 101

Omit from the section heading the word "accredit" and substitute the word "recognise".

Omit from subsection (1) the words "accredit that person" and substitute the words "recognise that person as suitable".

Omit from subsection (2) the word "accreditation" and substitute the word "recognition".

Omit from subsections (2)(c) and (3) the word "accredited" and substitute the

word "recognised".

Omit from subsection (4) the word "accreditation" and substitute the word "recognition".

#### Section 102

Omit from the section heading the words "or accreditation".

Omit from subsection (1) the words "accreditation under".

Omit from subsection (4) the words "accreditation of".

#### Section 103

Omit from the section heading the words "or accreditation".

Omit from subsection (1) the words "accreditation as".

Omit from subsection (1) the words "or accreditation, as the case may require,".

Omit from subsections (1)(c), (2)(twice), (3), (3)(a), and (3)(b)(iii) the words "or accreditation".

#### Section 104

Omit from the section heading the words "or accreditation".

Omit from subsection (1) the words "or accreditation".

Omit from subsection (1)(a) the words "or accredit".

Omit from subsections (1)(b), (2), and (3) the words "or accreditation".

#### Section 105

Omit from the section heading the words "or accreditation".

Omit from subsection (1) the words "or accreditation" at both places where it occurs.

Omit from subsection (2) the word "accredited" and substitute the word "recognised".

Omit from subsections (3)(twice) and (4) the words "or accredited".

Omit from subsection (5) the words "or accreditation" at both places where they occur.

Omit from subsection (5) the words "or accredited".

#### Section 106(a)

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

#### Section 107

Omit from the section heading the word "accredited" and substitute the word "recognised".

Omit from the words preceding paragraph (a) the words "accredited, an accredited" and substitute the words "recognised, a recognised".

Omit from paragraph (a) the words "an accredited" and substitute the words "a recognised".

Omit from paragraph (c) the word "accreditation" and substitute the word "recognition".

Omit from paragraph (e)(iii) the word "accredited" and substitute the word "recognised".

Omit from paragraph (f) the words "an accredited" and substitute the words "a recognised".

#### Section 108

Omit from the section heading the words "and accreditation".

Omit from subsection (1) the word "accredited" and substitute the word "recognised".

Omit from subsection (1)(twice) and subsection (2)(a) the words "or accreditation".

Omit from subsection (2)(b) the words "or accredited".

Omit from subsection (3) the words "or accreditation".

#### Section 109

Omit from the section heading the words "or accreditation".

Omit from subsection (1) the word "accredited" and substitute the word "recognised".

Omit from subsections (1), (1)(a), (1)(b), (1)(c), (2), and (3)(at the 4 places they occur) the words "or accreditation".

Omit from subsection (3) the words "or accredited".

Omit from subsection (4) the words "or accreditation".

#### Section 110

Omit from the section heading the words "or accreditation".

Omit from subsections (1) and (3) the word "accredited" and also the words "or accreditation".

#### Section 111

Omit from the section heading the words "or accreditation".

Omit the words "or accreditation" where they twice occur.

#### Section 112

Omit from the section heading the word "accredited".

Omit from subsection (1) the words "recognised and person accredited" and substitute the words "and person recognised".

Omit from subsection (2) the words "or accredited".

Omit from subsection (3) the word "accredited" and also the words "or accreditation".

#### Section 127

Omit from subsection (1)(f) the expression ", accredited,".

#### Section 133

Omit from subsection (1)(a), subsection (1)(c), and subsection (2) the word "accredited" and in each case substitute the word "recognised".

#### Section 134

Omit from subsection (1)(c) the words "an accredited" and substitute the words "a recognised".

Omit from subsection (3)(a), (b), and (b)(iii) the word "accredited" and substitute the word "recognised".

#### Section 140

Omit from subsection (1)(a)(i) and (c) and subsection (3) the words "an accredited" and substitute the words "a recognised".

#### Section 159

Omit from subsection (1)(g) the word "Accredited" and substitute the word "recognised".

Omit from subsection (2)(b) and (c) the word "accredited" and substitute the word "recognised".

#### Section 161

Omit from subsection (5)(c) the word "accredited" and substitute the word "recognised".

#### Section 162

Omit from subsection (1)(c) the words "accredit or".

Omit from subsection (1)(d) the words "accreditation or".

#### Section 165A

Omit from subsection (1)(a) the words "an accredited" and substitute the words "a recognised".

#### Section 166

Omit from subsection (1)(e) the words "the accreditation of".

Omit from subsection (1)(k) the word "accredited" and substitute the word "recognised".

#### Section 167(1)

Omit from paragraph (m) the words "accreditation of".

Omit from paragraphs (p)(ii)(twice) and (q) the word "accredited" and substitute the word "recognised".

#### Legislative history

10 March 2005        Divided from Animal Products (Dairy Products and Other  
Matters) Bill as Bill 123-3A

15 March 2005    Third reading