

Deer Industry New Zealand Regulations 2004

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 20th day of September 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 3 of the Primary Products Marketing Act 1953, Her 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

These regulations are the Deer Industry New Zealand Regulations 2004.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the Gazette.

3 Interpretation

In these regulations, unless the context otherwise requires,---

Act means the Primary Products Marketing Act 1953

associated persons has the same meaning as in section 2 of the Securities Act 1978

collection agent means a person whose business is or includes operating a deer slaughterhouse, a velvet packing house, or a velvet pool

contract processed velvet means velvet that is processed by a registered contract velvet processor on behalf of the owner of the velvet

contract processed venison means venison processed by a deer slaughterhouse on behalf of the owner of the venison

deer means deer farmed or raised in New Zealand

deer farmer means a person---

(a) who owns deer; and

(b) who is in the business of farming or raising deer whether in conjunction with any other business or not

deer products---

(a) means anything for human consumption that is derived wholly or partly from slaughtered deer; but

(b) does not include venison or velvet

deer products marketer means a person---

(a) whose business is or includes the purchase and sale of deer products; and

(b) whose total gross receipts from the purchase and sale of deer products in the most recent period of 12 months ending on 30 September were \$50,000 or more

deer products processor means a person who operates premises---

(a) where deer products are received for processing; and

(b) that are---

(i) licensed as a packing house under the Meat Act 1981; or

(ii) operated under a risk management programme registered under Part 2 of the Animal Products Act 1999 or a regulated control scheme made under Part 3 of that Act

deer slaughterhouse means premises---

(a) licensed as deer slaughtering premises under the Meat Act 1981; or

(b) operating under a risk management programme registered under Part 2 of the Animals Products Act 1999 or a regulated control scheme made under Part 3 of that Act

DINZ means Deer Industry New Zealand established by regulation 4

director means a director of DINZ appointed or elected in accordance with regulation 6

election means an election held by DINZ for the purposes of electing 1 or more directors under regulation 6(1)(b) or regulation 6(1)(c) or both

levy means the levy imposed by regulation 18

penalty levy means a levy imposed under regulation 19

registered contract velvet processor means a velvet processor who is registered under Part 4

velvet marketer means a person---

(a) whose business is or includes the purchase and sale of raw or processed velvet; and

(b) whose total gross receipts from the purchase of raw velvet and sale of processed velvet derived from it in the most recent period of 12 months ending on 30 September were \$50,000 or more

velvet packing house means premises where velvet is received for preserving and packing, being premises---

(a) licensed as a packing house under the Meat Act 1981; or

(b) operating under a risk management programme registered under Part 2 of the Animal Products Act 1999 or a regulated control scheme made under Part 3 of that Act

velvet pool means a pooled collection of velvet owned by deer farmers who receive the net proceeds from the sale of the velvet in accordance with the weight and grade of velvet they supplied to the pool

velvet pool operator means a person---

(a) whose business is or includes operating a velvet pool; and

(b) who has sold 5 tonnes or more of velvet on behalf of deer farmers in the most recent period of 12 months ending on 30 September

velvet processor means a person operating 1 or more velvet packing houses

venison marketer means a person---

(a) whose business is or includes the purchase of deer and the sale of venison derived from the deer; and

(b) who was primarily liable for paying the levy or part levy on 50 tonnes or more of venison in the most recent period of 12 months ending on 30 September

venison processor means a person who operates 1 or more deer slaughterhouses.

Part 1
Deer Industry New Zealand

4 Establishment of Deer Industry New Zealand

(1) This section establishes a marketing authority to be called Deer Industry New Zealand.

(2) Deer Industry New Zealand is the same body as the Game Industry Board established by the Game Industry Board Regulations 1985.

5 Functions of DINZ

(1) The functions of DINZ are---

(a) to promote and assist the development of the deer industry in New Zealand:

(b) to assist in the organisation and development of the marketing of products derived from deer:

(c) to assist in the development of existing and new markets for products derived from deer:

(d) to maintain statistics and disseminate relevant information to members of the deer industry:

(e) to undertake, and arrange to be undertaken, research into deer and into processing methods for slaughtered deer:

(f) to monitor, and from time to time report on, the economics and efficiency of all components of the deer industry:

(g) to act in combination or association with any person or body of persons whether in New Zealand or elsewhere (whether by acquiring shares or other interests in a company or otherwise) engaged, concerned, or interested in the processing, marketing, or distribution of deer or products derived from deer:

(h) to report from time to time to the Minister and to the Minister of Foreign Affairs and Trade---

(i) on trends and prospects in overseas markets in respect of products derived from deer; and

(ii) on movements of costs and prices or other factors likely to affect the economic stability of the deer industry; and

(iii) on any other matters that DINZ considers appropriate, or that the Minister or the Minister of Foreign Affairs and Trade may request:

(i) to account to levy payers on DINZ's activities and its use of levy money and other resources:

(j) to perform any other functions that may be conferred on it by or under these regulations or any other enactment.

(2) DINZ must---

(a) apply levies paid to it under these regulations in performing its functions; and

(b) pending expenditure under paragraph (a), invest the levies.

(3) However, levies received under regulation 24(a)(i) must be applied to the control and eradication of bovine tuberculosis or for other animal health purposes.

6 Membership of DINZ

(1) DINZ comprises 8 directors elected or appointed as follows:

(a) 4 directors are to be appointed by the New Zealand Deer Farmers Association Incorporated in accordance with its rules:

(b) 3 directors are to be elected by venison marketers and venison processors in accordance with Schedule 1:

(c) 1 director is to be elected by deer products marketers, deer products processors, velvet marketers, velvet pool operators, and velvet processors in accordance with Schedule 1.

(2) A director holds office for a term expiring at the close of 30 June in the third year after the year in which the director was elected or appointed.

(3) However, a director may continue in office after the expiry specified in subclause (2) or under this subclause if, before the expiry, the Minister---

(a) authorises the director to continue in office; and

(b) specifies the length of the director's extended term.

(4) If a director continues in office under subclause (3), the term of office of the person elected or appointed to replace the director is reduced by a period equivalent to the director's extended term.

(5) Subclauses (2) to (4) apply subject to the director sooner dying, resigning, or being removed from office.

(6) A director whose term of office has expired may be re-appointed or re-elected.

(7) The powers of DINZ are not affected by a vacancy in its membership.

(8) This regulation applies subject to regulation 8.

7 Minister to be notified of change in directors

As soon as practicable after a person is elected or appointed, or ceases to hold office, as a director, DINZ must notify the Minister of the change.

8 Transitional provisions relating to directors

Schedule 2 applies in relation to the first directors of DINZ.

9 Certain persons disqualified from being directors of DINZ

(1) A person that is not a natural person cannot be a director of DINZ.

(2) A person is disqualified from being appointed or elected or from holding office as a director of DINZ if---

(a) DINZ were a company under the Companies Act 1993; and

(b) the person would be disqualified from being appointed or holding office as a director of a company under section 151(2)(a) to (f) of the Companies Act 1993.

(3) A person is disqualified from being appointed or elected or from holding office as a director of DINZ if the person and another person who is already a director of DINZ are---

(a) associated persons; or

(b) employees of the same person or of associated persons; or

(c) associated persons of the same person or of associated persons.

(4) Subclause (5) applies to directors of DINZ who, after being appointed or elected, become---

(a) associated persons; or

(b) employees of the same person or of associated persons; or

(c) associated persons of the same person or of associated persons.

(5) If any of paragraphs (a) to (c) of subclause (4) applies to 2 or more directors, all but 1 of the directors must resign.

(6) The directors who are to resign must be determined---

(a) by agreement of the directors concerned; or

(b) failing agreement, by lot.

10 Extraordinary vacancies

(1) A director may be removed from office by the Minister, by notice in writing,---

(a) because the director is disqualified from holding office under regulation 9; or

(b) for inability to perform his or her duties adequately, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(2) A director may resign his or her office by notice in writing addressed to DINZ.

(3) If a director dies, resigns, or is removed from office, the office becomes vacant and the vacancy is an extraordinary vacancy.

(4) An extraordinary vacancy must be filled by appointment or election in the same manner as the vacating member was appointed or elected.

(5) However, if the vacating director's term of office had less than 1 year to run, DINZ may appoint a replacement, whether the director had originally been appointed or elected.

(6) A person appointed or elected to fill an extraordinary vacancy holds office for the remainder of the term for which the vacating director was appointed or elected.

(7) Any person appointed or elected under this regulation is for all purposes a director of DINZ.

(8) This regulation applies subject to regulation 8.

11 Chairperson and Deputy Chairperson

(1) In each calendar year, DINZ must elect from its directors a Chairperson and a Deputy Chairperson for the ensuing 12 months.

(2) A person elected as Chairperson or Deputy Chairperson holds office until a successor comes into office, and is eligible for re-election.

(3) The Chairperson must preside at all meetings of DINZ at which he or she is present.

(4) In the absence of the Chairperson from a meeting, the Deputy Chairperson must preside, and if both are absent one of the directors present must be appointed by the directors attending to preside at the meeting.

(5) At a meeting of DINZ, the Chairperson or any other person presiding has a deliberative vote, but is not entitled to a casting vote.

12 Meetings of DINZ

(1) Meetings of DINZ must be held at the times and places that DINZ itself determines.

(2) However, DINZ may hold a meeting by means of audio, or audio and visual, communication if---

(a) all reasonable efforts have been made to enable each director to participate in the meeting held in this manner; and

(b) the number of directors participating constitutes a quorum for a meeting held under subclause (1); and

(c) the directors participating in the meeting can hear each other throughout the meeting.

(3) The Chairperson of DINZ, or any 4 directors, may, after having given at least 14 days' notice to the other directors in writing, call a special meeting.

(4) At a meeting of DINZ, a quorum is 5 directors, of which---

(a) 2 must be directors appointed under regulation 6(1)(a); and

(b) 2 must be directors elected under regulation 6(1)(b) or regulation 6(1)(c).

(5) A question arising at a meeting of DINZ must be decided by a majority of the votes recorded.

(6) However, a question arising at a meeting of DINZ that relates to a change in levy rates requires a majority of at least 75% of the directors to decide the question.

(7) A resolution in writing signed or assented to by letter, telegram, telex, fax, or electronic message by all directors of DINZ is as valid and effectual as if it had been passed at a meeting of DINZ duly called and constituted.

(8) Subject to these regulations and to the Act, DINZ may regulate its own procedure.

13 Disclosure of interests

(1) A director who, otherwise than as a director, is directly or indirectly interested in any arrangement or agreement made or entered into, or proposed to be made or entered into, by DINZ must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of DINZ.

(2) A disclosure under this regulation must be recorded in the minutes of DINZ and, except as otherwise provided by a resolution of DINZ, the director must not take part after the disclosure in a deliberation or decision relating to the arrangement or agreement and must withdraw from the meeting during the deliberation or decision.

14 Committees and delegations

(1) DINZ may---

(a) appoint advisory or technical committees of 1 or more persons as it thinks fit to advise DINZ on any matters relating to its functions and powers that are referred to them by DINZ; and

(b) delegate to an advisory or technical committee any of its functions and powers except---

(i) those relating to the fixing of levies; and

(ii) the power to delegate under this regulation.

(2) An advisory or technical committee may, in addition, furnish to DINZ reports on any matter concerning the deer industry in respect of which the committee, or a member or members of it, may have special knowledge or experience.

(3) A person may be appointed to be a member of a committee appointed under this regulation whether or not he or she is a director of DINZ, but if he or she is not a director and is appointed chairperson of the committee, DINZ must either confirm or reject that appointment.

15 Acquisition of deer

DINZ must not acquire deer or products derived from deer except for promotional, experimental, or developmental purposes.

16 DINZ Account

(1) For the purpose of these regulations, DINZ must establish with a registered bank (within the meaning of the Reserve Bank of New Zealand Act 1989) in New Zealand, an account to be known as the DINZ Account.

(2) There must be paid into the account---

(a) money derived from the operations of DINZ:

(b) levies payable to DINZ:

(c) any other money that may otherwise be lawfully paid to DINZ.

(3) There must be paid out of the DINZ Account all costs, charges, and expenditure incurred by or on behalf of DINZ in the performance of its duties and the exercise of its functions and powers under these regulations and in their administration.

(4) DINZ may open with the registered bank at which the DINZ Account is held or with a branch or agency of the bank, any imprest or subsidiary accounts that DINZ thinks necessary for the exercise of its functions and powers.

(5) An account under this section must be operated only by the person or persons as may be authorised by DINZ for that purpose.

17 Financial year

For the purposes of section 11(2) of the Act, the financial year of DINZ ends with the 30th day of September in each year.

Part 2 Deer industry levy

18 Deer industry levy

(1) A levy is imposed on---

(a) venison derived from deer that are slaughtered at a deer slaughterhouse:

(b) velvet derived from deer that is---

(i) sold by an operator of a velvet pool on behalf of a deer farmer; or

(ii) purchased by a person acting for an operator of a velvet packing house; or

(iii) received at a velvet packing house; or

(iv) if subparagraphs (i) to (iii) do not apply, sold for export or for processing or consumption in New Zealand.

(2) However, a levy is not payable under subclause (1)(b) on velvet if a levy has already been paid or is already payable in relation to the velvet.

(3) The notice setting the levy may---

(a) set the levy at a single rate or at different rates in relation to different types of deer; and

(b) specify circumstances in which the levy is not payable.

(4) The levy is payable to DINZ.

(5) All amounts of levy paid to DINZ form part of its funds in accordance with these regulations.

(6) Before 1 October in any year DINZ may fix, by notice in the Gazette, the rates of levy (including the basis of their calculation) that are to be paid in the next succeeding financial year.

(7) However, except with the written consent of the Minister, DINZ must not increase the rate of levy by more than 20% of the rate last fixed.

(8) If the rates of levy are not fixed under subclause (6) by 1 October, the rates for the next succeeding year are the same as those last fixed, whether under this regulation or by regulation 20 (as the case may be).

19 Penalty for late payment

(1) If any levy (or goods and services tax payable on the levy) has not been paid by the latest date for payment, then DINZ may charge an additional amount not exceeding the specified percentage of the levy not paid at that date.

(2) In subclause (1), specified percentage means a percentage that---

(a) has been notified by DINZ in the Gazette; and

(b) does not exceed 10%.

20 Rates of levy payable from commencement of regulations to 30 September 2005

Schedule 3 sets out---

(a) the rates of levy (including the penalty levy) payable on and after the commencement of these regulations to the close of 30 September 2005:

(b) the portion of the levy specified for control and eradication of bovine tuberculosis or other animal health purposes:

(c) the circumstances in which the levy is not payable.

21 Returns

(1) A person who is required to pay a levy to DINZ must provide a return (in a form provided by DINZ) of information required by DINZ for the purpose of determining the levy payable.

(2) The return must be provided to DINZ within 10 days after the end of the month that the return relates to.

22 When levy payable

(1) The due date for payment of the levy to DINZ is,---

(a) in the case of venison, the day on which the deer is slaughtered:

(b) in the case of velvet (excluding contract processed velvet and velvet that paragraph (d) applies to), the earliest of---

(i) the day on which the velvet is sold by an operator of a velvet pool; or

(ii) the day on which the velvet is purchased by a person acting for an operator of a velvet packing house; or

(iii) the day on which velvet is received at a velvet packing house:

(c) in the case of contract processed velvet, the earlier of---

(i) the day on which the owner of the contract processed velvet receives payment (in part or in full) for the velvet; or

(ii) the day on which the contract processed velvet leaves the premises of the registered contract processor:

(d) in the case of velvet that regulation 18(1)(b)(iv) applies to, the day on which the velvet is sold.

(2) The latest date for payment of the levy is the 20th day of the month following the month in which the due date occurs.

(3) This regulation applies subject to regulation 23.

23 Demands for estimated amounts of levy

(1) DINZ may estimate any levy payable and provide a levy demand for that estimated amount if---

(a) a return has not been supplied within the time specified in regulation 21(2); or

(b) DINZ is not satisfied that the information contained in a return is complete and correct.

(2) A collection agent who receives a demand under subclause (1) may dispute the estimated amount demanded within 10 days after the demand is made by giving a notice of dispute to DINZ; however, this applies only to the initial demand and not to a substitute demand made under subclause (3)(c)(i).

(3) Within 15 days after receiving a notice of dispute,---

(a) DINZ must consider the matters raised in it; and

(b) DINZ must undertake any audit of the operations of the collection agent concerned that DINZ thinks appropriate and the collection agent allows; and

(c) by written notice to the collection agent depending on its decision on the dispute, DINZ must---

(i) withdraw the demand, and substitute another for it; or

(ii) withdraw the demand, and indicate that no other demand will be substituted for it; or

(iii) confirm the demand.

(4) The latest date for payment of the levy is---

(a) 18 days after the demand is made or any longer period that DINZ allows, unless the collection agent has, within those 18 days, disputed the estimate under subclause (2) or regulation 31; or

(b) if the estimate has been disputed, within 18 days after the demand is confirmed or substituted under subclause (3) or regulation 38.

(5) For the purposes of this regulation, collection agent, in relation to velvet that regulation 18(1)(b)(iv) applies to, means the owner of the velvet.

24 Persons primarily liable for payment of levy

The following persons are primarily responsible for paying the levy to DINZ:

(a) in the case of venison derived from deer that are slaughtered at a deer slaughterhouse,---

(i) any portion of the levy specified for the control and eradication of bovine tuberculosis or for other animal health purposes is payable by the owner of the deer at the time the deer are slaughtered:

(ii) the balance of the levy is payable by the owner of the deer at the time the deer are slaughtered, but if (at the time of slaughter) the venison is sold to a venison marketer or venison processor, half of the balance of the levy is payable by the venison marketer or venison processor:

(b) in the case of velvet (excluding velvet that paragraph (c) applies to), the levy is payable by the owner of the velvet on the earliest of the following:

(i) when the velvet is sold by the operator of a velvet pool on behalf of the owner:

(ii) when the velvet is purchased by a person acting on behalf of an operator of a velvet packing house:

(iii) when the velvet is received at a velvet packing house:

(c) in the case of velvet that regulation 18(1)(b)(iv) applies to, the levy is payable by the owner of the velvet on the day on which it is sold.

25 Payment of levy by collection agent

(1) A collection agent who is a venison processor must pay the levy (and any goods and services tax payable on the levy) to DINZ on deer slaughtered at the venison processor's slaughterhouse.

(2) A collection agent who is the operator of a velvet pool must pay the levy (and any goods and services tax payable on the levy) to DINZ on velvet sold by that operator.

(3) A collection agent who is the operator of a velvet packing house must pay the levy (and any goods and services tax payable on the levy) to DINZ on velvet that is---

(a) purchased by a person acting for that operator; or

(b) received at the packing house.

(4) A collection agent may recover the levy (and any goods and services tax payable on it), except to the extent of any levy or penalty levy for which the collection agent is liable under these regulations, from the person primarily liable to pay the levy (or part levy) either as a debt due or by reducing the amount otherwise payable to that person for the deer or velvet purchased from that person.

(5) However, in the case of contract processed venison, the operator of the deer slaughterhouse may recover the full amount of the levy from the venison marketer or venison processor on whose behalf the operator has slaughtered the deer.

(6) A collection agent is not entitled to charge a collection fee for paying and recovering the levy.

26 DINZ may demand levy

(1) DINZ may give written notice to a collection agent,---

(a) of any amount of levy payable in accordance with regulation 22:

(b) of any penalty levy payable.

(2) DINZ may give written notice to the owner of velvet---

(a) of any amount of levy payable in accordance with regulation 22(1)(d):

(b) of any penalty levy payable.

(3) The collection agent or owner must, within 15 days (or any longer period DINZ allows in any particular case) after receiving the notice, pay to DINZ the amount specified in it.

27 Refunds

(1) If DINZ is satisfied that an amount paid to DINZ as levy was not payable, or was more than was payable, it must out of its funds refund the amount or excess.

(2) No amount is to be refunded under this regulation unless DINZ is satisfied that---

(a) the person claiming the refund has not recovered the amount paid; or

(b) if the person has recovered the amount paid, the person has since repaid the amount to the person from whom he or she has recovered the amount.

(3) A refund under this regulation must not be made to a person unless he or she furnishes to DINZ a return or other information, verified in the manner that DINZ may require, as will enable DINZ to determine the amount to be refunded.

28 Records relating to levy to be kept

(1) A person who makes a return or pays or is liable to pay an amount of levy under these regulations must keep accurate records of the payment and full particulars of the transaction to which the payment related.

(2) The records must be retained for a period of not less than 2 years after the date on which they are made.

29 Inspection of records

(1) A person specified in subclause (3) may enter premises (other than a dwellinghouse or marae) and---

(a) inspect---

(i) any records kept under regulation 28; and

(ii) any other books, accounts, documents, or other papers relating to amounts of levy paid or payable under these regulations; and

(b) take copies of the records, books, accounts, documents, or other papers.

(2) The power of entry must not be exercised unless---

(a) it is exercised at a reasonable time during business hours; and

(b) not less than 24 hours' notice of the intention to exercise the power of entry has been given to the person in charge of the premises; and

(c) the person exercising the power has, before doing so, produced his or her identification (including evidence of authorisation) to the person in charge of the premises.

(3) The persons entitled to exercise the power of entry are any officer, employee, or agent of DINZ or the Auditor-General who is duly authorised to do so by DINZ or the Auditor-General.

30 Levy to constitute debt due to DINZ

(1) An amount of levy (including any penalty levy) payable under these regulations constitutes a debt due to DINZ when it becomes payable, and is recoverable accordingly by DINZ in any court of competent jurisdiction.

(2) The provision of information or the making of a return under these regulations is not a prerequisite to the right of DINZ to assess, sue for, and recover an amount of levy.

Part 3
Mediation in case of dispute

31 Appointment of mediators

(1) This clause applies to any dispute about---

(a) whether or not any person is required to pay the levy; or

(b) the amount of levy payable, including a dispute about a demand for an estimated amount under regulation 23.

(2) Any party to the dispute may ask the President of the Institute of Chartered Accountants of New Zealand to appoint a person to resolve the dispute by mediation; and, in that case, the President (or a person authorised by the President to do so) may appoint a person to resolve the dispute by mediation.

(3) The mediator's appointment ends if---

(a) the parties to the dispute resolve it by agreement; or

(b) the mediator resolves the dispute under regulation 38.

32 Remuneration of mediators

(1) A mediator must be paid the remuneration (by way of fees and allowances) agreed to by the parties to the dispute.

(2) If the parties to a dispute cannot agree on a mediator's remuneration, the President of the Institute of Chartered Accountants of New Zealand (or a person authorised by the President to do so) must---

(a) fix an amount or several amounts to be paid to the mediator as remuneration; and

(b) specify the amount (if any) that each party is to pay.

(3) Each party must pay to the mediator the amount fixed by the President (or authorised person) and specified as an amount to be paid by that party.

33 Time and place of conference

Every conference organised by a mediator of the parties to a dispute is to be held on a day, and at a time and place, fixed by the mediator and notified in writing to the parties.

34 Conference to be held in private

Only the parties to a dispute and the mediator may attend a conference organised by the mediator.

35 Representatives

If satisfied that in all the circumstances it is appropriate to do so, a mediator may allow a representative of any party to a dispute to attend a conference of the parties organised by the mediator.

36 Right to be heard

Every party to a dispute, and every representative of a party allowed by the mediator to attend a conference of the parties organised by a mediator, may be heard at the conference.

37 Evidence

(1) A mediator may hear and take into account any relevant evidence or information, whether or not it would be admissible in a court of law.

(2) A mediator may, on the mediator's own initiative, seek and receive any evidence, and make any investigations and inquiries, that the mediator thinks desirable to resolve a dispute.

(3) A mediator may require any person giving evidence at a conference of the parties to a dispute to verify the evidence by statutory declaration.

38 Mediator may resolve dispute in certain cases

(1) A mediator may resolve a dispute for the parties if---

(a) the mediator has organised and presided at a conference of the parties, but the dispute has not been resolved; or

(b) the mediator believes that the parties are unlikely to resolve the dispute, whether or not they confer directly.

(2) If subclause (1) applies, the mediator must give each of the parties written notice of the mediator's decision and the reasons for the decision.

(3) The parties must comply with the decision of the mediator.

39 Appeal to District Court

(1) A party to a dispute who is dissatisfied with the decision made by a mediator under regulation 38 may appeal to a District Court against the decision.

(2) The appeal must be brought by the filing of a notice of appeal within 28 days after the making of the decision concerned, or within any longer time a District Court Judge allows.

(3) The Registrar of the Court must---

(a) fix the time and place for the hearing of the appeal, and notify the appellant and the other parties to the dispute; and

(b) serve a copy of the notice of appeal on every other party to the dispute.

(4) Every party may appear and be heard at the hearing of the appeal.

(5) On hearing the appeal, the Court may confirm, vary, or reverse the decision appealed against.

(6) The filing of a notice of appeal does not operate as a stay of any process for the enforcement of the decision appealed against.

Part 4

Registration of contract velvet processors

40 Application to register

A velvet processor may apply to DINZ to be a registered contract velvet processor.

41 Registration

(1) If DINZ is satisfied that an applicant meets the criteria for registration specified by DINZ by notice in the Gazette, DINZ must register the applicant as a registered contract velvet processor.

(2) For the purposes of subclause (1), DINZ must publish the notice in the Gazette as soon as practicable after the commencement of these regulations.

(3) DINZ may make the registration of a velvet processor under subclause (1) subject to any terms and conditions that it thinks fit.

42 Cancellation of registration

DINZ may cancel the registration of a registered contract velvet processor if DINZ is satisfied that the processor---

(a) No longer meets the criteria for registration notified under regulation 41(1); or

(b) has failed to comply with any condition imposed under regulation 41(3).

43 Monitoring compliance with conditions

A registered contract velvet processor must supply to DINZ, in writing and as soon as practicable after receiving DINZ's written request to do so, any information required by DINZ to assist it to monitor compliance with any condition imposed under regulation 41(3).

Part 5 Miscellaneous provisions

44 Offences

Every person commits an offence against these regulations who,---

(a) with intent to deceive, makes a false or misleading statement or a material omission in a declaration, return, or other communication made to DINZ or to any other person for the purposes of these regulations; or

(b) without reasonable excuse, knowingly fails to comply with a request, requirement, obligation, or provision imposed or required to be observed by these regulations.

45 Penalties

Every person who commits an offence against these regulations is liable on summary conviction,---

(a) in the case of an individual, to a fine not exceeding \$400:

(b) in the case of a body corporate, to a fine not exceeding \$2,000.

46 Revocation

(1) The Game Industry Board Regulations 1985 (SR 1985/154) are revoked.

(3) The returning officer may require the person making the objection to supply any evidence in support of the objection as the returning officer may reasonably require in order to determine the objection.

(4) The returning officer---

(a) must consider an objection; and

(b) must determine whether or not it should be accepted; and

(c) may seek further information from DINZ before making his or her decision.

(5) DINZ must---

(a) implement a decision of the returning officer; and

(b) amend the roll as necessary; and

(c) notify the objector and, where relevant, the person objected to, accordingly.

(6) No person's name may be removed from a roll as a result of an objection made under subclause (1) unless the returning officer has---

(a) given to the person notice in writing of the objection and of the particulars of the objection; and

(b) given the person an opportunity to make to the returning officer representations in relation to the objection; and

(c) considered any representations made to the returning officer by the person within 18 days after the day on which the notice specified in paragraph (a) was given.

(7) The notice required by subclause (6)(a) must be delivered to the person personally or sent to the person by post.

(8) Where the notice required by subclause (6)(a) is sent by post to the person, in proving the delivery it is sufficient to prove that the letter was properly addressed and posted.

4 Power of DINZ to amend roll

(1) DINZ may correct a roll if it has reason to believe that a person on the roll has changed his or her name.

(2) DINZ may remove a person's name from a roll if DINZ has reason to believe that the person is not, or has ceased to be, a person who may vote under regulation 6(1)(b) or (c).

(3) DINZ must, where appropriate, notify a person whose name has been removed from a roll by a notice posted to the last known address of the person.

(4) If DINZ has reason to believe that a person whose name is not on a roll is a person who may vote under regulation 6(1)(b) or (c), DINZ may enter the person's name on the appropriate roll.

(5) If DINZ has removed a person's name from a roll in error, DINZ may re-enter the person's name on the roll.

5 Revision of roll

(1) DINZ may inquire about the particulars of any person whose name is on a roll.

(2) An inquiry---

(a) must be in writing; and

(b) must require the person to whom it is addressed to sign and return any form supplied by DINZ together with any corrections to the information contained in it.

(3) If a person fails to respond to an inquiry under subclause (2), DINZ may, after making any further inquiry that it thinks fit, remove the name of the person from the roll.

6 Basis of voting

(1) One of the 3 directors to be elected under regulation 6(1)(b) must be elected on the basis of each person entitled to vote under that regulation having 1 vote.

(2) However, persons who are associated persons are entitled jointly to only 1 vote.

(3) The other 2 directors to be elected under regulation 6(1)(b) must be elected on the basis of each person entitled to vote under that regulation having 1 vote for each complete 1% of the total amount of levy paid under regulation 24(a)(ii) by the person during the last financial year for DINZ for which figures for the total amount of levy paid are available.

(4) However, for the purposes of subclause (3),---

(a) a person is not entitled to 50% or more of the votes; and

(b) a person may not divide votes between 2 or more candidates; and

(c) persons who are associated persons are treated as if they were a single person for determining the number of votes.

(5) A director elected to replace---

(a) a director elected on the basis specified in subclauses (1) and (2) must be elected on the same basis:

(b) a director elected on the basis specified in subclauses (3) and (4) must be elected on the same basis.

(6) The directors to be elected under regulation 6(1)(c) must be elected on the basis of each person entitled to vote under that regulation having 1 vote.

(7) However, persons who are associated persons are entitled jointly to only 1 vote.

(8) To avoid doubt, a person may vote for the purposes of both regulation 6(1)(b) and regulation 6(1)(c) if entitled to do so.

7 Certain votes not to be counted

(1) This regulation applies to the election of a director to be elected on the basis specified in clause 6(3) and (4).

(2) If a person who votes in accordance with clause 6(3) and (4) casts 50% or more of all the votes cast in the election, the returning officer must count the person's votes that are equivalent to only 49% of all votes cast in the election, and disregard the balance of the person's votes.

Elections

8 Election to be held if vacancy occurs

(1) DINZ must hold an election for an elected director position if the position becomes vacant.

(2) Elections must be held so as to coincide as closely as practicable with the expiry of the term of the vacating director, or as soon as practicable after his or her resignation, death, or removal from office, as the case may be.

(3) This clause applies subject to regulation 10(5).

9 Voters to be notified of election

(1) At least 60 days before the election day (as determined by DINZ), DINZ must notify each person on the appropriate roll of the election.

(2) The notice must state---

(a) that an election is to be held by postal ballot; and

(b) whether the election of directors is being held for the purposes of regulation 6(1)(b) or regulation 6(1)(c) or both; and

(c) the election day; and

(d) that DINZ invites nominations for candidates in the election and the form and closing date for nominations; and

(e) the criteria that must be met for a person to be entitled to vote; and

(f) the place or places where a copy of the rolls is kept for inspection by persons on the rolls.

10 Nomination of candidates

(1) No person is eligible to be elected as a director unless he or she is nominated in accordance with this clause.

(2) A nomination---

(a) must be in a form approved by the returning officer; and

(b) must be made by a person who is entitled to vote, and must be seconded by another person who is entitled to vote; and

(c) must be assented to by the nominee in writing; and

(d) must be sent or given to the returning officer.

(3) Nominations close at 5 pm on the day that is 35 days before the election day, and a nomination received after that time must not be accepted.

(4) The returning officer's decision as to the validity or acceptance of a nomination is final.

(5) Without limiting the grounds on which a nomination may be declined, the returning officer may decline to accept a nomination if he or she believes, on reasonable grounds, that the person concerned is disqualified under regulation 9 from holding office as a director.

(6) As soon as practicable after making a decision whether to accept or decline a nomination, the returning officer must give DINZ written notice of any nomination.

(7) As soon as practicable after the close of nominations, DINZ must give notice of the nominations to the persons on the appropriate roll in a manner that it considers fit.

11 Position if only 1 candidate

(1) If at an election only 1 candidate is nominated for election for a director position, the returning officer must declare that the candidate is duly elected.

(2) As soon as practicable after so declaring, the returning officer must give DINZ written notice stating that only 1 candidate was nominated for the director position, the name and address of that candidate, and that the person is duly elected.

12 Position if no candidate

If at an election no candidate is nominated for a director position, DINZ must set a new election day and call again for the nomination of candidates.

13 Position if more than 1 candidate

(1) If at an election more than 1 candidate is nominated for election for a director position, an election must be held by postal ballot of voters in

accordance with the following provisions:

(a) the returning officer must, immediately after the closing day for nominations, arrange for the preparation of ballot papers:

(b) the ballot papers must set out the names of the candidates in the alphabetical order of their surnames, and a statement that to be a valid vote it must reach the returning officer by 5 pm on the election day:

(c) separate ballot papers must be used for the purposes of regulation 6(1)(b) and regulation 6(1)(c), and each ballot paper must indicate which provision it is to be used for:

(d) the ballot paper must include a provision for the person voting to declare that the person is entitled to vote:

(e) the roll as it stands on the day 35 days before the election day must be used as the electoral roll:

(f) the returning officer must, as soon as possible after the ballot papers have been prepared, and not later than 20 days before the election day, arrange for a ballot paper, together with an envelope addressed to The Returning Officer, c/- Deer Industry New Zealand, [Postal address], Wellington marked "ballot paper", to be sent by post to every person whose name is on the roll concerned at the address appearing on the roll or to any other address nominated by the person:

(g) a ballot paper is not valid unless it is received by the returning officer by 5 pm on the election day:

(h) the person voting must vote for only 1 candidate by marking the ballot paper in a manner that the name of the person for whom he or she wishes to vote is clear to the returning officer:

(i) the returning officer, with any assistance that the returning officer considers necessary, must cause to be counted the votes recorded in the ballot papers received by him or her after rejecting invalid ballot papers:

(j) the candidate receiving the greatest number of votes is elected:

(k) in the event of the number of votes being equal for any 2 or more candidates, the returning officer must, if it is necessary to do so, determine by lot which of those candidates is elected.

(2) Despite subclause (1)(j), the candidate receiving the greatest number of votes is not elected if the candidate is disqualified from holding office by regulation 9.

(3) If subclause (2) applies,---

(a) the candidate receiving the next greatest number of votes is elected; but

(b) if there is no such candidate, another election must be held.

(4) As soon as practicable after the conclusion of an election, the returning officer must give DINZ written notice stating the number of votes recorded for each candidate, and the name of the candidate who has been elected for the director position.

14 Returning officer to be sole judge of regularity of election

(1) An election may be called into question only within 3 months after the date of the election.

(2) The returning officer is the sole and absolute judge of the regularity and propriety of all matters connected with an election, and no election may be called into question on the grounds that---

(a) a ballot paper or an addressed envelope was not forwarded to a voter; or

(b) a ballot paper from a voter was not received by the returning officer; or

(c) a ballot paper prepared by the returning officer was invalid in form; or

(d) a vote was invalidly recorded.

(3) However, an election may be called into question if, in the opinion of the returning officer, the irregularity materially affected the result of the election or occurred otherwise than in good faith.

(4) If an error in relation to the calculation or counting of votes is detected by DINZ or the returning officer, this must be corrected by the returning officer and the votes must be recounted under subclause (6).

(5) No election may be called into question on the grounds that a time limit prescribed by these regulations (other than a time limit prescribed by clause 10(3) or clause 13(1)(g)) was not strictly adhered to, unless, in the opinion of the returning officer, the irregularity materially affected the result of the election.

(6) If an election is called into question under this clause, the returning officer may ask DINZ to obtain further information from a voter or other source or run a check on voter entitlement (including the number of votes that may be cast), and the returning officer must either---

(a) recount the votes after---

(i) including any vote that was not previously counted due to the irregularity; and

(ii) rejecting any vote that was invalidly cast; and

(iii) rejecting invalid ballot papers; and

(iv) recalculating votes if an error is detected; or

(b) if the returning officer considers it necessary, notify DINZ that another election should be held.

(7) The returning officer must, as soon as practicable after recounting the votes or after another election is held, give DINZ written notice stating the number of votes recorded for each candidate, and the name of the candidate who has been elected for the director position or positions.

(8) A person who is elected as a result of an irregular election, but who is not the candidate who is finally elected for the director position, is to be treated as if he or she had resigned from office on the day on which the returning officer gives the notice to DINZ under subclause (7).

15 DINZ to retain ballot papers

(1) Ballot papers must be held by DINZ, and must be available to the returning officer for inspection.

(2) Ballot papers must be kept for at least 3 months after the date of the election.

16 DINZ to publicly notify results of election

(1) This clause applies when the returning officer has given DINZ notice under clause 11(2) or clause 13(4) or clause 14(7).

(2) As soon as practicable after receiving the notice, DINZ must give public notice stating the candidate who has been elected for any director position.

Schedule 2

r 8

Transitional provisions relating to first directors of DINZ

1 The first directors of DINZ are the members of the Game Industry Board holding office under the Game Industry Board Regulations 1985 immediately before the commencement of these regulations.

2 However, 1 of the members holding office under regulation 3(2)(a) of the Game Industry Board Regulations 1985 must resign as soon as possible after the commencement of these regulations.

3 The member to resign under clause 2 must be---

(a) chosen by agreement of the directors of DINZ; or

(b) failing agreement, by lot.

4 The first directors of DINZ who were appointed under regulation 3(2)(a) of the Game Industry Board Regulations 1985 must resign as follows:

(a) 1 director must resign by 30 June 2005:

(b) 1 director must resign by 30 June 2006:

(c) 2 directors must resign by 30 June 2007.

5 The first directors of DINZ who were appointed under regulation 3(2)(b) of the Game Industry Board Regulations 1985 must resign as follows:

(a) 2 directors must resign by 30 June 2005:

(b) 1 director must resign by 30 June 2006:

(c) 1 director must resign by 30 June 2007.

6 The members to resign under clause 4 or clause 5 must be---

(a) chosen by agreement of the directors concerned; or

(b) failing agreement, determined by lot.

7 Persons resigning under clause 5 must give notice of their intention to resign by 1 March in the year concerned.

8 After the resignation of a director under clause 4 or clause 5 or the removal from office of a director under regulation 10(1),---

(a) a director must be appointed under regulation 6(1)(a) if the resigning or removed director was appointed under regulation 3(2)(a) of the Game Industry Board Regulations 1985:

(b) a director must be elected under regulation 6(1)(c) if the resigning or removed director was appointed under regulation 3(2)(b) of the Game Industry Board Regulations 1985 and is the first such director to resign or be removed:

(c) a director must be elected under regulation 6(1)(b) if the resigning or removed director was appointed under regulation 3(2)(b) of the Game Industry Board Regulations 1985 and is the second or subsequent such director to resign or be removed.

9 For the purposes of clause 6(1) to (4) of Schedule 1, the first directors of DINZ who were appointed under regulation 3(2)(b) of the Game Industry Board Regulations 1985 must decide by agreement or, failing agreement, by lot---

(a) which director is to be treated as if he or she had been elected on the basis specified in clause 6(1) and (2) of Schedule 1; and

(b) which directors are to be treated as if they had been elected on the basis specified in clause 6(3) and (4) of Schedule 1.

Part 1
Rates of levy

Venison	Cents per kilogram
>From deer (other than fallow deer), on the basis of hot clean carcass weight after removal of condemned parts	18.2
>From fallow deer, on the basis of hot clean carcass weight after removal of condemned parts	13.2
Velvet	
>From deer (other than fallow deer) on a frozen weight basis	412.0
>From fallow deer, on a frozen weight basis	112.0

In this Part of the Schedule, hot clean carcass weight has the same meaning as in Standard IAS-3: Venison Standard Carcass of the Deer QA Venison Processors Industry Agreed Standards.

Part 2
Portion of levy specified for control and eradication of bovine tuberculosis or other animal health purposes

	Cents per kilogram
For venison	6.2
For velvet	62.0

Part 3
Rate of penalty levy

The rate of penalty levy is 10%.

Part 4
Circumstances in which levy not payable

Venison

No levy is payable for any complete deer carcass that, before or at the completion of its veterinary inspection, is wholly condemned.

No levy is payable for deer that are slaughtered in a deer slaughterhouse and are TB reactors, identified with an official reactor tag and accompanied by an official permit to be moved.

Velvet

No levy is payable on velvet unless the value of the velvet grade (as defined in the Industry Agreed Grading Guidelines) exceeds \$15 per kilogram (exclusive of goods and services tax).

Diane Morcom,
Clerk of the Executive Council.

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