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Regulations

- 1 Title**
These regulations are the Biosecurity (Costs) Regulations 2010.
- 2 Commencement**
These regulations come into force on 1 July 2010.
- 3 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—
- Act** means the Biosecurity Act 1993
- activity** means the performance or exercise, by a general inspector, a veterinary inspector, or a biosecurity adviser, of any function, power, or duty prescribed in the second column of the Schedule
- animal** means anything that is—
- (a) a living stage of an organism that is a member of the animal kingdom; or
- (b) the carcass, egg, or semen of an organism that is a member of the animal kingdom

animal material—

- (a) means organic material that is derived from, or is an excretion or a secretion of, an animal; but
- (b) does not include organic material if an inspector is satisfied that it has been treated so that it is free of any unwanted organism

assistance animal means an animal that is trained to assist a person with a disability

biosecurity adviser means a person whose role includes—

- (a) issuing permits required under import health standards; or
- (b) approving transitional and containment facilities and their operators

cleared means given a clearance, under section 26 of the Act, for the entry of goods into New Zealand

consignment means all goods listed on the documentation accompanying the goods

directly, in relation to an animal or animal material imported into New Zealand from a country that is a member of the European Community,—

- (a) includes —
 - (i) an animal or animal material that remains on board the aircraft or vessel transporting the animal or animal material while in transit in a country that is not a member of the European Community en route to New Zealand; and
 - (ii) animal material that disembarks the aircraft or vessel transporting the animal material while in transit in a country that is not a member of the European Community en route to New Zealand and that—
 - (A) remains in the original container; or
 - (B) is not repacked; but
- (b) does not include an animal that disembarks the aircraft or vessel transporting the animal while in transit in a country that is not a member of the European Community en route to New Zealand

European Community has the same meaning as in clause 3(1) of the Diplomatic Privileges (EC) Order 2004

general inspector means an inspector who is not a veterinary inspector

inspector means a person appointed under the Act as a general inspector or a veterinary inspector

machinery has the same meaning as in section 2(1) of the Health and Safety in Employment Act 1992

moped has the same meaning as in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986

motor cycle has the same meaning as in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986

motor vehicle has the same meaning as in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 but does not include—

- (a) machinery; or
- (b) agricultural vehicles (including tractors, combine harvesters, and other vehicles designed primarily for use on a farm)

pet animal means an animal that is not intended for commercial use

plant means a member of the plant kingdom

reasonable costs means costs that have been calculated to cover a number of actual business expenses that relate to a particular activity or service (for example, wrapping or packaging)

ruminant protein control programme has the same meaning as **registered programme** in regulation 2 of the Biosecurity (Ruminant Protein) Regulations 1999

veterinary inspector means an inspector who is registered as a veterinarian or a specialist under the Veterinarians Act 2005.

- (2) In these regulations, a term or expression used that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

General provisions

- 4 Costs payable to Director-General**
Costs payable under these regulations must be paid, on demand, to the Director-General.
- 5 Costs inclusive of GST**
Costs payable under these regulations are inclusive of goods and services tax.
- 6 Payment of costs**
- (1) Costs are payable under these regulations—
 - (a) for any activity prescribed in the second column of the Schedule; and
 - (b) at the rate specified for the activity in the third column of the Schedule; and
 - (c) by the person specified in the fourth column of the Schedule.
 - (2) Costs are also payable for—
 - (a) travel, under regulation 8;
 - (b) waiting time, under regulation 9;
 - (c) call-outs, under regulation 10.
 - (3) Costs payable for the activities specified in items 13 and 15 of the Schedule are, if an inspector requires, payable in advance of the activities being carried out.
 - (4) This regulation is subject to regulation 12 (which relates to waiver of costs).

Calculation of costs

- 7 Hourly rate costs**
- (1) Costs specified in these regulations as payable at an hourly rate must be calculated by—
 - (a) adding together the total number of 15-minute units spent by an inspector or a biosecurity adviser on an activity, travel, waiting, or a call-out, as the case may be; and
 - (b) multiplying the total number of units by 25% of the applicable hourly rate.

- (2) To avoid doubt, a minimum charge of 25% of the hourly rate is payable if the time spent by an inspector or a biosecurity adviser is 15 minutes or less.
- (3) In this regulation, **15-minute unit** means any period of 15 minutes or less.

8 Travel costs

- (1) Travel costs are payable for an activity that requires an inspector or a biosecurity adviser to leave his or her base or, in the case of a call-out under regulation 10, any other place.
- (2) Travel costs are—
 - (a) \$72 for an activity at a site that is 10 km radius or less from the base (or an equal share of that cost if more than 1 activity is carried out at the same site):
 - (b) \$100 for an activity at a site that is more than 10 km radius, but not more than 25 km radius, from the base (or an equal share of that cost if more than 1 activity is carried out at the same site):
 - (c) \$163 for an activity at a site that is more than 25 km radius, but not more than 50 km radius, from the base (or an equal share of that cost if more than 1 activity is carried out at the same site):
 - (d) to be calculated in accordance with subclause (3) for an activity at a site that is more than 50 km radius from the base.
- (3) Travel costs for an activity at a site that is more than 50 km radius from the inspector's or the biosecurity adviser's base must be calculated by adding together—
 - (a) costs calculated at the applicable hourly rate for the time that the inspector or biosecurity adviser has spent away from his or her base (or an equal share of that time if the activity is carried out at more than 1 site); and
 - (b) costs at the rate of 69 cents per kilometre for the distance travelled by the inspector or biosecurity adviser (or an equal share of that distance if the activity is carried out at more than 1 site); and
 - (c) any actual and reasonable costs associated with the activity, including accommodation, airfares, and meals (or

an equal share of those associated costs if the activity is carried out at more than 1 site).

- (4) The hourly rate for travel costs for an inspector or a biosecurity adviser is \$100.
- (5) Travel costs are payable—
 - (a) by the person, specified in the fourth column of the Schedule, responsible for paying the costs of the activity; and
 - (b) in addition to any other costs required to be paid under these regulations.

9 Waiting-time costs

- (1) Waiting-time costs are payable for an inspector or a biosecurity adviser who—
 - (a) arrives at a site, at a designated time, to undertake an activity; and
 - (b) discovers that the goods that are to be the subject of the activity are not available.
- (2) Waiting-time costs are payable, at the applicable hourly rate,—
 - (a) for each inspector or biosecurity adviser involved in the activity; and
 - (b) for the time each inspector or biosecurity adviser spends in waiting for the goods to become available.
- (3) The hourly rate for waiting-time costs for an inspector or a biosecurity adviser is \$100.
- (4) Waiting-time costs are payable—
 - (a) by the person, specified in the fourth column of the Schedule, responsible for paying the costs of the activity; and
 - (b) in addition to any other costs required to be paid under these regulations.

10 Call-out costs

- (1) Call-out costs are payable for an inspector or a biosecurity adviser who, having left his or her place of work, has been recalled to duty for the purpose of carrying out an activity.
- (2) Call-out costs are payable,—

- (a) at the applicable hourly rate, for each inspector or biosecurity adviser recalled for the duration of the recall period:
 - (b) at the applicable daily rate, for each inspector or biosecurity adviser recalled on a public holiday as specified in section 44 of the Holidays Act 2003.
- (3) The hourly rates for call-out costs are—
 - (a) \$114 for an inspector or a biosecurity adviser working at 1.5 times his or her hourly rate:
 - (b) \$128 for an inspector or a biosecurity adviser working at 2 times his or her hourly rate.
- (4) The daily rate for call-out costs on a public holiday is \$224 per day in addition to the applicable hourly rate in subclause (3)(a) or (b).
- (5) Call-out costs are payable—
 - (a) by the person, specified in the fourth column of the Schedule, responsible for paying the costs of the activity; and
 - (b) in addition to any other costs required to be paid under these regulations.

Other provisions

11 Inspector to decide whether goods imported for personal use of importer

- (1) An inspector must decide whether, in his or her opinion, the goods specified in the second column of items 1, 6, and 7 of the Schedule are goods being imported for the personal use of the importer.
- (2) In forming his or her opinion, an inspector must take into account the following matters:
 - (a) the nature of the goods; and
 - (b) the quantity of the goods; and
 - (c) the intended use of the goods after importation; and
 - (d) the requirements of subclauses (3) and (4).
- (3) An inspector must treat the goods as being imported for the personal use of the importer, if the goods are—
 - (a) personal baggage and effects:

- (b) household goods that are not intended for any 1 or more of the uses specified in subclause (4).
- (4) An inspector must treat the goods as being imported for a purpose other than for the personal use of the importer, if the goods are being imported for—
 - (a) trade or reward;
 - (b) testing or analysis;
 - (c) distribution to other persons (unless the distribution is in the nature of a personal gift).

12 Waiver of costs

- (1) The Director-General may, if satisfied that either of the circumstances in subclause (2) exists,—
 - (a) waive, in whole or in part, the payment of any costs required by these regulations to be paid; and
 - (b) if all or part of those costs have already been paid, refund all of the amount paid to the person who paid it.
- (2) The circumstances are—
 - (a) that the work actually done does not justify the payment (or full payment) of the costs concerned; or
 - (b) special circumstances that apply to the particular case.

Revocation

13 Revocation

The Biosecurity (Costs) Regulations 2006 (SR 2006/216) are revoked.

Schedule

Costs payable for activities

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Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
<i>Inspection of goods generally</i>			
1	Inspection of goods (except goods imported for the personal use of the importer) for the purpose of ascertaining whether those goods should be cleared	\$100 per hour for each inspector involved	Importer
<i>Tests, examinations, and treatment of goods that harbour or may harbour organisms</i>			
2	Tests, examinations, and treatments of imported goods, that harbour, or may harbour, an organism, that are— <ul style="list-style-type: none"> (a) carried out by the Ministry; and (b) necessary to identify the organism, so as to enable an inspector to decide whether the goods should— <ul style="list-style-type: none"> (i) be cleared; or (ii) be moved from a transitional facility to a containment facility; or (iii) continue to be held in a transitional or containment facility (as the case may be) 	\$100 per hour for each inspector involved; and actual and reasonable costs of the tests, examinations, and treatments	Importer

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
	<i>Inspection of motor cycles, mopeds, and motor vehicles at ports approved as places of first arrival</i>		
3	Inspection, and each re-inspection after treatment, of a consignment of a single used motor cycle or moped carried out at ports approved as places of first arrival under section 37 of the Act for the purpose of ascertaining whether the consignment should be cleared	\$16 per motor cycle or moped	Importer
4	Inspection, and each re-inspection after treatment, of a consignment of a single used motor vehicle having a gross laden weight not exceeding 3 500 kg (other than a motor cycle or moped) carried out at ports approved as places of first arrival under section 37 of the Act for the purpose of ascertaining whether the consignment should be cleared	\$40.50 per motor vehicle	Importer
5	Inspection, and each re-inspection after treatment, of a consignment of a single used motor vehicle having a gross laden weight exceeding 3 500 kg carried out at ports approved as places of first arrival under section 37 of the Act for the purpose of ascertaining whether the consignment should be cleared	\$57 per motor vehicle	Importer
	<i>Inspection of unaccompanied goods imported for personal use</i>		
6	Inspection of unaccompanied goods imported for personal use of the importer for the purpose of ascertaining whether those goods should be cleared	\$25 for 1 item \$50 for 2 to 4 items \$100 for 5 to 12 items \$130 for 13 to 20 items \$155 for 21 to 28 items	Importer

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
		\$180 for 29 to 36 items	
		\$25 for each block or part block of 8 items exceeding 36 items	
	<i>Inspection of goods not prescribed elsewhere in Schedule</i>		
7	Inspection, and each re-inspection after treatment of any goods (except accompanied goods imported for the personal use of the importer) that are required to be inspected under the Act for the purpose of ascertaining whether the goods should be cleared, and for which costs are not prescribed elsewhere in the Schedule	\$100 per hour for each inspector involved	Importer
	<i>Monitoring controls on new organisms and inspection of animals, animal material, or plants</i>		
8	Monitoring controls on new organisms in containment facilities	\$100 per hour for each inspector involved	Person holding an approval (issued under the Hazardous Substances and New Organisms Act 1996) to import the organism into containment, or to hold the organism in containment; or (where there is no approval) the importer or owner of the organism or the goods that harbour the organism
		\$96.10 per hour for each veterinary inspector involved in inspecting an animal or animal material imported directly from a country that is a member of the European Community	

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
9	Inspection of an animal that is intended to be cleared, or directed to a transitional or containment facility, on arrival	<p>\$100 per hour for each inspector involved in inspecting an animal imported from a country that is not a member of the European Community</p> <p>\$28.70 per animal imported directly from a country that is a member of the European Community</p> <p>\$40 per pet animal imported from a country that is not a member of the European Community</p> <p>No fee applies in relation to an assistance animal imported from any country, if the animal is accompanying a person who requires animal assistance</p>	Importer
10	<p>Inspection of an animal that—</p> <p>(a) is on board a craft within New Zealand territory; and</p> <p>(b) is not intended to be cleared</p>	\$100 per hour for each inspector involved	Operator of craft

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
11	Inspection and monitoring of an animal or plant held in a transitional or containment facility for the purpose of ascertaining whether the animal should— (a) be cleared; or (b) be moved from a transitional facility to a containment facility; or (c) continue to be held in a transitional or containment facility, as the case may be	\$100 per hour for each inspector involved \$96.10 per hour for each veterinary inspector involved in inspecting an animal imported directly from a country that is a member of the European Community	Importer
12	Inspection of a consignment of animal material (other than fish meal) for the purpose of ascertaining whether it should be cleared	\$100 per hour for each inspector involved in inspecting a consignment of animal material imported from a country that is not a member of the European Community \$28.70 for inspection of documents for each consignment imported directly from a country that is a member of the European Community; and \$57.40 for other types of inspection for each consignment imported directly from a country that is a member of the European Community	Importer

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
<i>Treatment, destruction, or disposal of risk goods</i>			
13	Treatment, before being cleared, of risk goods imported— (a) in a person's baggage (whether or not the baggage is accompanied); or (b) through the mail; or (c) among personal effects	Actual and reasonable costs of treatment; and any costs of packaging, storing, forwarding, and returning the goods before and after treatment	Importer
14	Treatment of imported risk goods, other than risk goods specified in item 13	Actual and reasonable costs of treatment; and any costs of packaging, storing, forwarding, and returning the goods before and after treatment	Importer
15	Destruction, transportation, re-shipment, or other disposal of goods	Actual and reasonable costs of destruction, transportation, re-shipment, or other disposal	Importer
16	Supervising, or advising on, destruction, transportation, re-shipment, or other disposal of goods	\$100 per hour for each inspector and biosecurity adviser involved	Importer
<i>Permits issued under import health standards</i>			
17	Processing an application for a permit, or amendment to a permit, under import health standards	\$163 for each application processed	Applicant

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
<i>Transitional and containment facilities</i>			
18	Processing an application for approval of a transitional or containment facility, or a facility operator	\$100 per hour for each inspector or biosecurity adviser involved	Applicant
19	Inspection and compliance auditing of a transitional or containment facility, to ascertain whether it should be approved, or continue to be approved, under section 39 of the Act	\$100 per hour for each inspector or biosecurity adviser involved	Applicant or facility operator (as the case may be)
20	Investigation and compliance auditing of a facility operator, or proposed operator, to ascertain whether the operator or proposed operator should be approved, or continue to be approved, under section 40 of the Act	\$100 per hour for each inspector or biosecurity adviser involved	Applicant or facility operator (as the case may be)
21	Assessing results obtained from inspection and compliance auditing of a transitional or containment facility, determining whether to confirm that the facility can continue to be approved under section 39 of the Act and, if appropriate, issuing confirmation documentation	\$160 per annum for each registered facility	Facility operator
<i>Auditing a ruminant protein control programme</i>			
22	Investigation and compliance auditing of a ruminant protein control programme under regulation 7A of the Biosecurity (Ruminant Protein) Regulations 1999	\$149.60 per hour for each inspector or authorised person involved who is employed under the State Sector Act 1988 or who is an agent of, or contracted to, the Ministry	Operator

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
<i>Functions, powers, and duties not prescribed elsewhere in Schedule</i>			
23	Performing a function, power, or duty—	\$100 per hour for each inspector and biosecurity adviser involved	Person whose actions result in the function being required
	(a) required to be undertaken under the Act or regulations made under the Act; and		
	(b) not prescribed elsewhere in the Schedule		

Rebecca Kitteridge,
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 July 2010, prescribe matters in respect of which costs are recoverable under the Biosecurity Act 1993. They replace the Biosecurity (Costs) Regulations 2006.

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