Reprint
as at 5 August 2013

Animal Products Act 1999

Public Act	1999 No 93
Date of assent	8 September 1999
Commencement	see section 1

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Note
Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry for Primary Industries.

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An Act to replace the Meat Act 1981 and the Dairy Industry Act 1952, and to reform and restate the law relating to the processing of animal material into products for use, trade, and export

Title: amended, on 1 June 2005, by section 3 of the Animal Products Amendment Act 2005 (2005 No 26).

1 Short Title and commencement

(1) This Act may be cited as the Animal Products Act 1999.

(2) This Act comes into force on 1 November 1999, except for Part 2.

(3) Part 2 comes into force on such date or dates as may be appointed by Order in Council, and for this purpose—

(a) different dates may be appointed for different provisions; and

(b) different dates may be appointed for different classes of animal material or products, animal product businesses, operations, or other purposes.

(4) To the extent not previously brought into force under subsection (3), Part 2 comes into force on 1 November 2002.

(5) The application of any provision brought into force by or under this section may, until 1 July 2006, be subject to the Animal Products (Ancillary and Transitional Provisions) Act 1999.

Section 1(3): Part 2 brought into force, on 20 November 2000, by the Animal Products Act Commencement Order 2000 (SR 2000/206).

Section 1(5): amended, on 26 September 2002, by section 3 of the Animal Products Amendment Act 2002 (2002 No 29).

Part 1
Preliminary provisions

2 Object of Act

The object of this Act is to—

(a) minimise and manage risks to human or animal health arising from the production and processing of animal material and products by instituting measures that ensure so far as is practicable that all traded animal products are fit for their intended purpose; and

(b) facilitate the entry of animal material and products into overseas markets by providing the controls and mechanisms needed to give and to safeguard official assurances for entry into those markets.

3 General scheme of Act

(1) In general terms, this Act seeks to achieve its objects by the following means:

(a) *Individual risk management programmes*

Part 2 generally requires all primary processors of animal material and products, and certain secondary processors of animal products for human or animal consumption, to operate under registered and independently verified risk management programmes suitable to their own particular animal material, products, and operations, unless and to the extent that such a programme is deemed unnecessary by reason of—

(i) the negligible degree of risk associated with the relevant animal material, product, operations, or intended product use; or

(ii) the fact that the animal material or product and operations concerned are covered by another legislative regime.

Provision is also made for other persons involved with animal material or products to operate under risk management programmes where the risk factors involved, or the requirements of overseas markets, justify such a requirement:

(b) *Regulated control schemes*

Part 3 makes provision for the imposition of regulated control schemes in the case of animal material or products or matters for which individually tailored risk management programmes are impracticable or inappropriate. These schemes may be an alternative or a supplement to individual risk management programmes:

(c) *Animal product standards*

Part 4 provides for the setting of animal product standards that set criteria that must be met for particular animal products to be treated as fit for their intended purpose (whether or not those products are also produced under an individual risk management programme or a regulated control scheme), and for the setting of any technical specifications required to meet those standards:

(d) *Exports of animal material and products*

Part 5 makes special provision in relation to the export of animal material and products from New Zealand, by—

(i) requiring the registration of all exporters of animal material and products intended for human or animal consumption, and certain other animal products (subject to exemptions); and

(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:

(e) *Homekill and recreational catch*

Part 6 makes special provision for the treatment of animals that are homekill or recreational catch, by—

(i) allowing for homekill or recreational catch to be processed either by the person whose homekill or recreational catch it is, or by a listed homekill or recreational catch service provider who operates

outside the normal risk management and regulatory system contained in Parts 2 to 4; and

(ii) imposing restrictions to ensure that homekill and recreational catch products cannot be traded or exported, or mingled with animal material or products that are for trade or export.

(2) The other provisions of this Act provide the mechanisms necessary to underpin the general scheme of the Act, and in particular include offence provisions imposing significant penalties for offences such as trading in animal products that have not been processed in compliance with the Act.

(3) The Ministry, under the Minister, is the regulatory agency responsible for the administration of this Act, with the following main functions:

(a) establishing the New Zealand standards and specifications relating to animal products that determine fitness for intended purpose:

(b) establishing and implementing regulated control schemes:

(c) providing official assurances:

(d) monitoring and auditing the risk management system:

(e) addressing non-compliance.

Section 3(1)(a): amended, on 26 September 2002, by section 4 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 3(1)(a): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 3(1)(d)(ii): substituted, on 1 June 2005, by section 4 of the Animal Products Amendment Act 2005 (2005 No 26).

Section 3(1)(d)(iii): substituted, on 1 June 2005, by section 4 of the Animal Products Amendment Act 2005 (2005 No 26).

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

accredited person has the same meaning as recognised person

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

animal means any member of the animal kingdom, and includes—

(a) any mammal, bird, finfish, shellfish, reptile, amphibian, insect, or invertebrate:

(b) any other creature or entity that is declared by the Minister by notice in the *Gazette* to be an animal for the purposes of this Act;—

but does not include a human being

animal material means any live or dead animal, or any tissue or other material taken or derived from an animal

animal product, or **product**, means any animal material that has been processed (other than simply transported or stored in such a way as not to involve any alteration to its nature) for the purpose, or ultimate purpose, of consumption or other use by humans or animals

animal product business means a business undertaking that, for reward or for the purposes of trade,—

(a) produces or processes animal material or product; or

(b) exports animal material or product

animal product officer, or **officer**, means a person appointed as an animal product officer under section 78, and includes the Director-General

animal product standard, or **standard**, means a standard prescribed under section 44 or section 46 that specifies the criteria that must be met to determine fitness for intended purpose of any class or description of animal product

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

contaminant means any substance or thing which—

(a) is undesirable, potentially harmful, or unexpected in a particular product or process; and

(b) is or may be present in, or in contact with, animal material or animal product;—

and **contaminated** has a corresponding meaning

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 pro-

cessing 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)

Director-General means the chief executive of the Ministry

dual operator butcher, or **dual operator**, means a retail butcher who—

(a) is listed under section 76 as a homekill or recreational catch service provider; and

(b) processes homekill or recreational catch at the same premises or place as the retail butcher processes or trades in regulated animal product

eaten, or **edible**, includes eaten or edible by animals

exporter means a person who exports any animal material or product from New Zealand, whether or not for reward or for purposes of trade; and, where an exporter registered under Part 5 is based overseas, includes the New Zealand agent or representative of that exporter

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

financial year means a period of 12 months beginning on 1 July and ending on 30 June

finfish has the same meaning as in the Fisheries Act 1996

fish means finfish and shellfish

fit for intended purpose, used in relation to any animal product, is described in section 5

Food Act regime means the alternative regimes under the Food Act 1981 that consist of, or relate to,—

(a) Part 1A of that Act and food safety programmes:
(b) the Food Hygiene Regulations 1974

food safety programme means an appropriate food safety programme within the meaning of the Food Act 1981, being

a programme whose adoption gives rise to an exemption from the Food Hygiene Regulations 1974 under Part 1A of that Act

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

game estate has the meaning given it by section 65B

hazard means a biological, chemical, or physical agent that—

(a) is in or has the potential to be in animal material or product, or is or has the potential to be a condition of animal material or product; and

(b) leads or could lead to an adverse health effect on humans or animals

homekill means an animal that—

(a) is killed (whether personally or by an agent) by its owner for the use or consumption of the owner, in terms of section 67; and

(b) is processed either by its owner or by another person under section 69, and not in compliance with Parts 2 to 4;—

and **homekill product** has a corresponding meaning

homekill or recreational catch service provider means a person listed as such under section 76

human or animal consumption, used in relation to any animal product, means that the product is intended to be eaten, or taken orally, or administered parenterally, or applied topically

in writing means printed, typewritten, or otherwise visibly represented, copied, or reproduced, including by fax or email or other electronic means

listed, in relation to a homekill or recreational catch service provider, means currently listed under section 76

marae includes the area of land on which all buildings such as wharenui (meeting house), wharekai (dining room), ablution blocks, and any other associated buildings are situated

milk means the mammary secretion of milking animals

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Min-

ister, is for the time being responsible for the administration of this Act

Ministry means the Ministry of Agriculture and Forestry or such other Ministry as has, with the authority of the Prime Minister, for the time being assumed responsibility for the administration of this Act

notice of recognition means, as applicable,—

(a) a notice of recognition given to a recognised agency or a recognised person in accordance with section 112(1)(b); or

(b) a notification given to a recognised class in accordance with section 112(1)(c)(i)

official assessor means a person appointed as an official assessor under section 79

official assurance has the meaning given by section 61(2)

operator, in relation to an animal product business, means the owner or other person in control of the business

parenterally means administering a substance to a human or animal by a route other than orally or topically

permissible functions and activities means verification functions and activities and other specialist functions and activities that may be carried out by a recognised agency, recognised person, or recognised class of persons for the purposes of this Act, and includes—

(a) verification functions and activities in relation to risk management programmes:

(b) other verification functions and activities in relation to regulated control schemes and export requirements:

(c) the provision of independent evaluations of the validity of risk management programmes for the purposes of section 20(2)(b)

place includes any building, conveyance, craft, fishing vessel, or structure; and includes any land, water, or other area where animals or animal material are produced or may be present

primary processor means a person who, for reward (otherwise than as an employee) or for purposes of trade,—

(a) slaughters and dresses mammals or birds; or

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

(c) removes or extracts or harvests any animal material from live animals for the purpose of processing for human or animal consumption; or

(ca) is a dairy processor; or

(d) in the case of—

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

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

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

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

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

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

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

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

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

but does not include hunters within the meaning of paragraph (b) of the definition of primary producer

primary producer, or **producer**, means a farmer, and includes—

(a) any person who (otherwise than as an employee) farms, raises, grows, or keeps animals for reward or for the purposes of trade in those animals or in animal material or products derived or taken from those animals; and

(b) any person who hunts animals for reward or for purposes of trade

process includes kill, slaughter, dress, cut, extract, manufacture, pack, preserve, transport, and store

processor means a primary processor or a secondary processor

produce—

(a) used in the context of primary production, means farm, raise, grow, or keep animals for reward or for the purposes of trade in those animals or in animal material or products derived or taken from those animals:

(b) where used in reference to animal product produced under a risk management programme or a regulated control scheme, refers to animal product that results from the application of any process or processes covered by the programme or scheme

public register means the public register of recognised agencies, recognised persons, and recognised classes maintained by the Director-General in accordance with section 112S

recognised agency means—

(a) a person who is recognised by the Director-General under section 101 or 102; and

(b) a group of persons who are recognised by the Director-General under section 102

recognised class means a class of natural persons that is recognised by the Director-General under section 105

recognised person means a natural person who—

(a) is recognised by the Director-General under section 103 or 104; or

(b) is a member of a recognised class, but only—

(i) to the extent that the person carries out the specified functions and activities for which the class is recognised; and

(ii) while the person continues to hold the qualifications or meet the other membership criteria according to which the class is defined in the public register in accordance with section 112(1)(a)

recognised risk management programme verifier means a recognised person whose specified functions and activities include carrying out verification functions and activities in relation to risk management programmes

recognised risk management programme verifying agency means a recognised agency whose specified functions and activities include managing and carrying out verification functions and activities in relation to risk management programmes

recreational catch means a wild animal that—

(a) is killed, captured, taken, or harvested by a recreational hunter or fisher, or other person undertaking similar recreational activities (including a client hunter killing or catching an animal on a game estate, as if in the wild), for the use or consumption of the hunter, fisher, or other person in terms of section 68; and

(b) is processed either by its catcher or by another person under section 69, and not in compliance with Parts 2 to 4;—

and **recreational catch product** has a corresponding meaning

registered exporter means an exporter currently registered under Part 5

registered risk management programme means a risk management programme that is currently registered under Part 2

regulated animal product means animal material or product for trade or export that is processed, or has been or is required to be processed, in accordance with Parts 2 to 4 (or with the Food Act 1981); and does not include any homekill or recreational catch product, or any product processed by a homekill or recreational catch service provider that ceases to be regulated animal product in terms of section 72

regulated control scheme means a scheme of a kind described in section 38, and includes an emergency control scheme instituted under section 41

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

retail butcher includes any type of butchery engaged in retail trade in regulated animal products

risk factors means—

(a) risks from hazards to animal or human health:

(b) risks from false or misleading labelling:

(c) risks to the wholesomeness of animal material or product

risk management programme has the meaning given by section 12, and, except in Part 2, is to be taken to refer to a registered risk management programme

secondary processor means a person who, for reward (otherwise than as an employee) or for purposes of trade, processes animal product at any stage beyond its primary processing

sell has the same meaning as trade; and **sale** has a corresponding meaning

shellfish has the same meaning as in the Fisheries Act 1996

specified functions and activities means the permissible functions and activities that are specified by the Director-General in a notice of recognition in accordance with section 112(2)(a) as functions and activities that—

(a) a recognised agency is responsible for managing and carrying out; or

(b) a recognised person may carry out; or

(c) persons who are members of a recognised class may carry out

topically means applying a substance externally to a part of the body of a human or animal

trade means sell for human or animal consumption or use; and includes—

(a) selling for resale (including as a constituent part of another article) for human or animal consumption or use; and

(b) offering or attempting to sell, or receiving for sale, or having in possession or exposing for sale, or sending or

delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and

(c) barter; and

(d) supplying an article under a contract, together with other goods or services or both, in consideration of an inclusive charge for the article and the other goods or services; and

(e) supplying an article where there is a statutory responsibility to supply; and

(f) offering as a public prize or reward, or giving away for the purpose of advertisement or in the furtherance of any trade or business; and

(g) every other method of disposition for valuable consideration

verification includes the ongoing checks carried out by recognised persons to determine whether—

(a) operations that are subject to a risk management programme or a regulated control scheme are in compliance with the requirements of the programme or the scheme or of this Act:

(b) animal material or products for whose export an official assurance is required have been produced or processed in a way that meets the requirements for the official assurance

wholesomeness, in relation to any regulated animal product, means that the product does not contain or have attached to it, enclosed with it, or in contact with it anything that is offensive, or whose presence would be unexpected or unusual in product of that description

wild animal means an animal that—

(a) is of a kind that occurs in the wild or in the sea; and

(b) is not, immediately before its taking or capture, owned by any person.

(2) For the purposes of this Act,—

(a) references to the requirements of Parts 2 to 4 include references to the requirements of any regulations, standards, specifications, Ministerial orders, notices, or directions made or given for the purposes of those Parts; and similarly, references to the requirements of

any other Part or provision include references to the requirements of any regulations, standards, specifications, notices, or directions made for the purposes of that Part or provision:

(b) references to any regulations under, or made under, a particular Part include references to regulations made under section 166 of this Act or section 25 of the Animal Products (Ancillary and Transitional Provisions) Act 1999, for the purposes of that Part.

(3) The categorisation of any person as a primary producer, a primary processor, a secondary processor, an exporter, or a home-kill or recreational catch service provider relates to the identification of the person in that capacity only, and does not prevent the person from being identified also, and accordingly treated as being, a person in any of the other categories.

(4) A notice in the *Gazette* made for the purposes of paragraph (d) of the definition of **primary processor** in subsection (1) is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

(5) Unless the context otherwise requires, parts of speech and grammatical forms of terms defined in this section have corresponding meanings in this Act.

Section 4(1) **accredited person**: substituted, on 1 June 2005, by section 5(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **accredited risk management programme verifier**: substituted, on 1 June 2005, by section 5(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **accredited verifier**: repealed, on 26 September 2002, by section 5(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **client hunter**: inserted, on 26 September 2002, by section 5(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **dairy material**: inserted, on 1 June 2005, by section 5(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **dairy processing**: inserted, on 1 June 2005, by section 5(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **dairy processor**: inserted, on 1 June 2005, by section 5(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **dairy product**: inserted, on 1 June 2005, by section 5(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **farm dairy**: inserted, on 1 June 2005, by section 5(3) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **farm dairy operator**: inserted, on 1 June 2005, by section 5(3) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **Food Standards Code**: inserted, on 1 June 2005, by section 5(4) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **game estate**: inserted, on 26 September 2002, by section 5(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **milk**: inserted, on 1 June 2005, by section 5(5) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **notice of recognition**: inserted, on 31 August 2012, by section 4(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **permissible functions and activities**: inserted, on 31 August 2012, by section 4(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **primary processor** paragraph (b): substituted, on 26 September 2002, by section 5(3) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **primary processor** paragraph (ca): inserted, on 1 June 2005, by section 5(6) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **primary processor** paragraph (d): substituted, on 26 September 2002, by section 5(4) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **public register**: inserted, on 31 August 2012, by section 4(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **recognised agency**: replaced, on 31 August 2012, by section 4(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **recognised class**: inserted, on 31 August 2012, by section 4(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **recognised person**: replaced, on 31 August 2012, by section 4(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **recognised risk management programme verifier**: replaced, on 31 August 2012, by section 4(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **recognised risk management programme verifying agency**: replaced, on 31 August 2012, by section 4(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **recognised verifying agency**: repealed, on 26 September 2002, by section 5(5) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **recreational catch** paragraph (a): amended, on 26 September 2002, by section 5(6) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **rendering**: inserted, on 26 September 2002, by section 5(7) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **risk factors**: amended, on 26 September 2002, by section 5(8) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **specified functions and activities**: inserted, on 31 August 2012, by section 4(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 4(1) **verification**: amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 4(1) **verification**: amended, on 26 September 2002, by section 5(9) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 4(1) **verification** paragraph (a): amended, on 7 July 2010, by section 4 of the Animal Products Amendment Act 2010 (2010 No 47).

Section 4(4): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

5 Product processed fit for intended purpose

The phrase **fit for intended purpose**, used in relation to animal product that has been processed in accordance with Parts 2 to 4, means that, by reason of animal material or product having had the relevant risk factors managed in accordance with Parts 2 and 3, and meeting any relevant animal product standards and associated specifications set under Part 4, the product is suitable for the purpose for which the product is specifically stated or could reasonably be presumed to be intended having regard to its nature, packaging, and identification.

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.

Section 6: substituted, on 1 June 2005, by section 6 of the Animal Products Amendment Act 2005 (2005 No 26).

Application of Act generally

7 Products and material to which Act generally applies

(1) In general terms, this Act applies, or may be made to apply, to the production and processing, for reward or for purposes of trade or export, of—

(a) all animal material, whether alive or dead, including the material of mammals, birds, fish, reptiles, amphibians, insects, and other creatures and entities:

(b) all products, both edible and non-edible, derived in whole or in part from animal material, including products derived from mammals, birds, fish, reptiles, amphibians, insects, and other creatures and entities.

(2) The specific requirements of this Act apply principally to animal material and animal products that are intended for human or animal consumption, but may also apply or be made to apply to animal material and products intended for other purposes.

(3) This Act applies to the processing of animal products that are also foods within the meaning of the Food Act 1981 to the extent provided in sections 32 to 34.

(4) This Act applies to the processing of animals that are homekill or recreational catch in the manner specified in Part 6.

8 Products and material excluded from ambit of Act

(1) This Act does not apply to any animal material or animal product if and to the extent that—

(a) animal material or product of that kind is exempted from all or any of the provisions of this Act by Order in Council made under section 9; or

(b) *[Repealed]*

(2) *[Repealed]*

Section 8(1)(b): repealed, on 1 June 2005, by section 7 of the Animal Products Amendment Act 2005 (2005 No 26).

Section 8(2): repealed, on 1 June 2005, by section 7 of the Animal Products Amendment Act 2005 (2005 No 26).

9 Exemptions from ambit of Act by Order in Council

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, exempt from the operation of all or any of the provisions of this Act—

(a) any animal material or animal product, or any 1 or more classes or descriptions of animal material or animal product:
(b) any 1 or more classes or descriptions of producers, processors, or exporters of animal material or animal product:
(c) any 1 or more classes or descriptions of operations, premises, or places in relation to the production, processing, or export of animal material or animal product:
(d) any combination of the above.

(2) The Minister may not recommend the making of an order under this section unless the Minister is satisfied, having regard to the matter to be exempted, that—
(a) the risk to human or animal health of providing the exemption is negligible; or
(b) there are other sufficient safeguards, whether by way of regulated control scheme or in other legislation or by other means, to minimise any risk to human or animal health involved in providing the exemption.

(3) In determining whether or not to make an order under this section, the Minister is to have regard to the following considerations:
(a) the need to protect the health of consumers and users of animal products:
(b) the desirability of facilitating market access:
(c) the desirability of maintaining consistency between New Zealand's animal product standards and any relevant standards, requirements, or recommended practices that apply or are accepted internationally:
(d) the relative costs of having the exemption or not having it, who bears the cost, and the positive and negative impacts on New Zealand consumers and users:
(e) the most effective way of managing the relevant risk factors:
(f) such other matters as the Minister considers relevant.

(4) The Minister may not recommend the making of an order under this section unless satisfied that appropriate consultation has been carried out in accordance with section 163.

(5) An exemption under this section may have retrospective effect.

10 Application of Act includes exclusive economic zone

(1) This Act applies to the production and processing of animal material and animal products within New Zealand and within or on all New Zealand fisheries waters (as defined in the Fisheries Act 1996), but does not apply to the processing of fish on any fishing vessel within the exclusive economic zone that is not registered under the Fisheries Act 1983 or the Fisheries Act 1996 unless the vessel is used to harvest farmed finfish or shellfish.

(2) For the purposes of this section, fish landed in New Zealand from any fishing vessel registered under the Fisheries Act 1996 are deemed to have been taken and processed within New Zealand fisheries waters until the contrary is proved.

Section 10(1): amended, on 26 September 2002, by section 7 of the Animal Products Amendment Act 2002 (2002 No 29).

Part 2
Risk management programmes

11 Object of this Part

The object of this Part is to provide, as the main means for ensuring that animal products are fit for their intended purpose, for the production and processing of certain animal materials and products to occur under 1 or more registered risk management programmes that are subject to independent verification.

12 What is a risk management programme?

(1) A risk management programme is a programme designed to both—

(a) identify; and

(b) control, manage, and eliminate or minimise—

hazards and other risk factors in relation to the production and processing of animal material and animal products in order to ensure that the resulting animal product is fit for intended purpose.

(2) Risk factors may relate to the nature of the animal material or product concerned, or to the production, processing, preparation, distribution, trade, or intended use of the animal material or product.

(3) Risk management programmes are to be individually tailored for each animal product business, having regard to—

(a) each type of animal material and animal product that the business produces or processes; and

(b) each type of process or operation that is applied to the animal material or product; and

(c) each set of premises or place in which the animal material or product is produced or processed.

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

(4) A risk management programme for each type of animal material or product, each type of process or operation, and each set of premises or place may be formulated as a single stand-alone programme, or may form part of a larger risk management programme that applies to 1 or more materials, products, processes, operations, places, or premises within the same business or operation.

(4A) A risk management programme may also apply to 1 or more comparable animal product businesses in cases where the Director-General has given approval under section 17A.

(5) A food safety programme may be registered as a risk management programme in accordance with section 34.

Section 12(3A): inserted, on 26 September 2002, by section 8(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 12(4A): inserted, on 26 September 2002, by section 8(2) of the Animal Products Amendment Act 2002 (2002 No 29).

13 Who must have a risk management programme?

(1) Subject to subsection (3), the following persons must operate under a registered risk management programme, whether as the registered holder of the programme or as a business to which the programme applies under section 17A, in respect

of their production or processing of animal material or animal product:

(a) all primary processors of animal material:

(b) all secondary processors of animal products intended for human or animal consumption, except to the extent that they are subject to the Food Act regime:

(c) retail butchers who are dual operator butchers:

(d) such other persons as may be specified by Order in Council under section 15 as requiring to operate under a risk management programme.

(2) While a secondary processor of animal products intended for export to an overseas market for which an official assurance under Part 5 is required is not obliged by subsection (1) to have a registered risk management programme,—

(a) such a person should be aware of the implications of not having a programme as set out in section 33; and

(b) if the person elects under section 32 to operate under a registered risk management programme, or to register a food safety programme as a risk management programme under section 34 for the purposes of certain operations, they will be treated as a person who is required to have a registered risk management programme in respect of the animal products or operations concerned.

(3) Nothing in subsection (1) requires a person to operate under a risk management programme in respect of—

(a) the primary production of animal material (subject to any order under section 15):

(b) the transporting of animal material prior to primary processing (subject to any order under section 15):

(c) the secondary processing of animal products not intended for human or animal consumption (except to the extent indicated in subsection (2) in respect of animal product for export for which an official assurance is required, and subject to any order under section 15):

(d) the processing of any homekill or recreational catch by a listed homekill or recreational catch service provider (except as provided in section 71 in the case of dual operator butchers):

(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):

(f) any type of animal material, animal product, process, operation, premises, or place that is exempted from the provisions of this Part by Order in Council made under section 9:

(g) any matter that is for the time being subject to an exemption granted by the Director-General under section 14.

Section 13(1): amended, on 1 June 2005, by section 8(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 13(1): amended, on 26 September 2002, by section 9(a) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 13(1)(d): amended, on 26 September 2002, by section 9(a) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 13(3): amended, on 26 September 2002, by section 9(b) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 13(3)(e): substituted, on 1 June 2005, by section 8(2) of the Animal Products Amendment Act 2005 (2005 No 26).

14 Director-General may grant limited exemption from requirement to have risk management programme

(1) The Director-General may, by notice under section 167, exempt in whole or in part any producer or processor from the requirement to formulate or operate under a risk management programme—

(a) for such period as is specified in the notice; and

(b) on such conditions (if any) as may be specified in the notice.

(2) The Director-General may not grant an exemption under subsection (1) unless satisfied that the risk to human or animal health of providing the exemption is negligible (having regard, if appropriate, to the period of the exemption or the conditions imposed).

(3) *[Repealed]*

(4) An exemption under subsection (1) may have retrospective effect.

Section 14(3): repealed, on 26 September 2002, by section 10(a) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 14(4): amended, on 26 September 2002, by section 10(b) of the Animal Products Amendment Act 2002 (2002 No 29).

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

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, require any 1 or more classes of primary producer, dairy processor, secondary processor, transporter, or exporter of animal material or products who would not otherwise be required to have a risk management programme by virtue of section 13(3)(a), (b), (c), (e), or (f) to operate under a risk management programme under this Part in respect of such animal material or products, processes, operations, premises, or places as may be specified in the order.

(2) The persons to whom the order applies may be defined by reference to—

(a) the type of animal material or product that they produce or process; or

(b) the intended purpose or destination of the animal material or product in question; or

(c) the type of operations or processes carried out in relation to the animal material or product in question; or

(d) the type of premises or place in which the operations or processes are carried out in relation to the animal material or product in question; or

(e) any combination of the above.

(3) The Minister may not recommend the making of an order under this section unless—

(a) the Minister is satisfied that the order is necessary or desirable—

(i) in the interests of achieving the fitness for intended purpose of the animal product concerned; or

(ii) for the purpose of facilitating access to overseas markets; and

(b) except where the Minister considers the making of the order a matter of urgency in the public interest, there

has been appropriate consultation on the subject matter of the order in accordance with section 163.

Section 15(1): amended, on 1 June 2005, by section 9(a) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 15(1): amended, on 1 June 2005, by section 9(b) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 15(1): amended, on 26 September 2002, by section 11 of the Animal Products Amendment Act 2002 (2002 No 29).

16 Duties of operators of risk management programmes

(1) The operator of a registered risk management programme has the following duties:

(a) to ensure that the operations of the animal product business do not contravene the relevant requirements of and under this Act, including the requirements set out in the risk management programme:

(b) to ensure that the risk management programme is consistent with the requirements of regulations and specifications in force from time to time under this Act:

(c) to adequately implement and resource all operations under the programme, including provision for the instruction, competency, and supervision of staff to ensure the delivery of animal product that is fit for intended purpose:

(d) to ensure that all operations under the programme are commensurate with the capability and the capacity of the premises or place, facilities, equipment, and staff to deliver animal product that is fit for intended purpose:

(e) to give relevant recognised agencies and recognised persons such freedom and access as will allow them to carry out their functions and activities under this Act, including verification functions and activities.

(2) The operator of a registered risk management programme also has the duty to notify the Director-General, in advance where practicable, and otherwise as soon as possible, of any change in the operator's recognised risk management programme verifying agency.

Section 16(1)(e): amended, on 31 August 2012, by section 5 of the Animal Products Amendment Act 2012 (2012 No 59).

Section 16(1)(e): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 16(2): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

17 Contents of and requirements for risk management programmes

(1) A risk management programme must—

(a) be in writing in a form acceptable to the Director-General:

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

(i) the operator whose programme it is; and

(ii) the animal product business or businesses covered by the programme:

(c) identify—

(i) the animal material or animal product being produced or processed; and

(ii) the premises or place to which the programme applies; and

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

(2) A risk management programme must—

(a) set out the procedures the operator will use for identifying, controlling, managing, eliminating, or minimising risk factors:

(b) describe the steps the operator will take to confirm that the programme is working effectively:

(c) provide for appropriate corrective actions (including recall of product) to be undertaken where the product may not be fit for intended purpose or not in accordance with its labelling or identification:

(d) set out appropriate and auditable documentation and record keeping:

(e) as appropriate to the operations under the risk management programme, contain the matters specified in, and otherwise comply with—

(i) any relevant animal product standard or other requirement prescribed by regulations made under this Act:

(ii) any relevant specifications set by the Director-General under section 167 (including location of reference material and documents recording specific procedures).

(3) In relation to hazards (and without limiting the requirements of subsection (2)), a risk management programme must demonstrate that the following matters have also been taken into account in its development:

(a) systematic identification of any hazards, and determination of the significance of those hazards, involved in the production and processing of animal material or product covered by the risk management programme:

(b) determination of the points at which the hazards of significance identified in paragraph (a) occur, and the processes or procedures to best control them:

(c) establishment of acceptable parameters of the processes or procedures at the points determined in paragraph (b):

(d) establishment of monitoring procedures to demonstrate control at the points determined in paragraph (b):

(e) identification of the action that will be taken if any parameters established for the risk management programme are not achieved:

(f) establishment of procedures for the ongoing confirmation that the risk management programme is effective in managing the hazards:

(g) appropriate and auditable documentation and record keeping.

(4) A proposed risk management programme must also make appropriate provision for verification activities and the rights of recognised risk management programme verifiers, as specified by the Director-General by notice under section 167.

(5) A risk management programme may contain, as a component part, an appropriate food safety programme within the meaning of the Food Act 1981, provided the food safety programme is registered as a risk management programme under section 34.

Section 17(1)(b): substituted, on 26 September 2002, by section 12(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 17(1)(c)(ii): amended, on 26 September 2002, by section 12(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 17(1)(c)(iii): added, on 26 September 2002, by section 12(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 17(4): amended, on 7 July 2010, by section 5 of the Animal Products Amendment Act 2010 (2010 No 47).

Section 17(4): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 17(4): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

17A Multi-business risk management programmes

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

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

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

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

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

(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.

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

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

(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.

Section 17A: inserted, on 26 September 2002, by section 13 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 17A(2)(c): amended, on 1 June 2005, by section 10(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 17A(2)(d): added, on 1 June 2005, by section 10(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 17A(5): added, on 1 June 2005, by section 10(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Registration of risk management programmes

18 Register of risk management programmes

(1) The Director-General must keep and maintain a register of risk management programmes that records—

(a) all risk management programmes registered under this Part; and

(b) matters relating to the registration of food safety programmes as risk management programmes under section 34.

(2) The purpose of the register is—

(a) to enable members of the public to know what business operations are subject to risk management programmes, and who is responsible for various functions under those programmes; and

(b) to facilitate the ability of the Director-General to ensure that all traded animal products are fit for intended pur-

pose, and in particular to manage any emergency situation; and

(c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under this Act.

(3) The Director-General must—

(a) keep the register open for public inspection, without fee, at all reasonable hours at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and

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

(4) The register may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility—

(a) that records or stores information electronically or by other means; and

(b) that permits the information so recorded to be readily inspected or reproduced in usable form; and

(c) that permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote logon access.

19 Matters to be shown in register of risk management programmes

The register of risk management programmes must contain the following particulars in relation to each programme registered under this Part:

(a) the name and address (including the electronic address, if available) of the business owner or operator whose programme it is:

(b) the name, or the position or designation, of the person who is responsible for the day to day management of the programme, as nominated by the owner or operator of the business:

(c) the date on which the programme was registered, and the registration number or other unique identifier allocated to it:

(d) the types of animal material and animal product to which the programme applies:

(e) the principal categories of processing and other operations carried out under the programme:

(f) the location (if appropriate) and type of premises or place to which the programme applies (or, if more appropriate, a place where the general public can obtain up-to-date information of the location and type of premises or place to which the programme applies):

(g) the name of the recognised risk management programme verifying agency (and, if appropriate in the case of a food safety programme registered as a risk management programme under section 34, the approved auditor under the Food Act 1981) responsible for the verification function under the programme:

(h) identification of any risk management programme whose registration amounts to an election under section 32:

(i) identification of any food safety programme that is registered as a risk management programme under section 34:

(j) the date on which the most recent amendment to the risk management programme has been registered under section 25:

(k) the date of any update of the risk management programme under section 26:

(l) the date (and period, if appropriate) of any suspension of operations under the programme or any deregistration or surrender of registration of the programme:

(m) a brief indication of the reason for any such suspension or deregistration:

(n) such other particulars as may be prescribed by regulations made under this Act.

Section 19(f): amended, on 26 September 2002, by section 14 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 19(g): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 19(j): amended, on 26 September 2002, by section 16 of the Animal Products Amendment Act 2002 (2002 No 29).

20 Applications for registration of programmes

(1) The operator of an animal product business may apply to the Director-General for the registration of a risk management programme.

(2) An application for registration must be made in writing in a form or manner approved by the Director-General, and be accompanied by—

(a) either—

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

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

(b) subject to subsection (3), a copy of a report of an independent evaluation, carried out not more than 6 months before the date of the application for registration, of the validity of the risk management programme in terms of sections 12 and 17; and

(c) the name of the recognised risk management programme verifying agency that has indicated it is prepared to undertake verification functions in respect of the programme; and

(d) such further information and other material (including declarations, where appropriate) as may be required by regulations made under this Act; and

(e) the prescribed fee (if any).

(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.

Section 20(2)(a): substituted, on 26 September 2002, by section 17 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 20(2)(b): substituted, on 26 September 2002, by section 17 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 20(2)(b): amended, on 1 June 2005, by section 11(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 20(2)(c): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 20(3): added, on 1 June 2005, by section 11(2) of the Animal Products Amendment Act 2005 (2005 No 26).

21 Director-General may require further information

(1) The Director-General may require an applicant to supply further information or other material before determining whether or not to register a risk management programme.

(2) If the information or material is not supplied within 6 months of the date of the request, or within such further time as the Director-General allows, the application for registration lapses.

22 Registration of risk management programme

(1) The Director-General must register a risk management programme submitted by an applicant if satisfied that—

(a) the content of the risk management programme—

(i) complies with the requirements imposed by or under this Act; and

(ii) ensures that, as far as practicable, the animal product to be produced under the programme will be fit for intended purpose; and

(b) the applicant is a fit and proper person to operate an animal product business, taking into account whether the applicant 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; and

(c) the business, or its operator, is resident in New Zealand within the meaning of section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007.

(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) Registration may be subject to such reasonable conditions as the Director-General may specify, including conditions relating to the commencement of operations under the programme.

(3) The Director-General must, as soon as practicable after registering a risk management programme, supply the applicant with—

(a) a notice of registration; and

(b) a notice of any conditions imposed under subsection (2); and

(c) a registration number or other unique identifier; and

(d) an authorised copy of the registered risk management programme.

(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.

(4) The Director-General must, as soon as practicable after registering a risk management programme, supply the operator's recognised risk management programme verifying agency with an authorised copy of the registered risk management programme.

(5) Registration of a programme under this section continues in force until the programme is deregistered under section 28 or its registration is surrendered under section 29.

Section 22(1)(c): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 22(1A): inserted, on 1 June 2005, by section 12(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 22(3A): inserted, on 1 June 2005, by section 12(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 22(4): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

23 Refusal to register programme

(1) If, after considering an application and any further information or material supplied under section 21, the Director-General proposes to refuse to register a risk management programme, the Director-General must give the applicant—

(a) a notice containing such particulars as will clearly inform the applicant of the grounds on which the Director-General proposes to refuse to register the programme; and

(b) a reasonable opportunity to make written submissions or be heard in respect of the matter.

(2) Where the Director-General finally determines to refuse to register a programme, the Director-General must as soon as practicable notify that fact to the applicant in writing, giving reasons.

(3) If a person acting under the delegated authority of the Director-General declines to register a risk management programme, the applicant may seek a review of that decision under section 162.

24 Registration may not be transferred

(1) The registration of a risk management programme applies only to the particular operator and premises or place specified in the programme, and may not be transferred to a different operator or premises or place.

(2) Nothing in this section prevents the registration in the name of a new operator, or in relation to new premises or a new place, of a risk management programme in substantially identical terms to those which applied to a former operator or premises.

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

(3) For the purposes of this section, the following circumstances will, except as otherwise specified by the Director-General by notice under section 167, be treated as involving a change in the operator of a registered risk management programme, and so require registration of a new risk management programme rather than amendment of an existing registered programme:

(a) a change in the name of a company (but not in a company's shareholding):
(b) a change in the members of a partnership (but not in members' respective shares in the partnership):
(c) the death, bankruptcy, receivership, or liquidation of the operator of the programme.

Section 24(2A): inserted, on 26 September 2002, by section 15 of the Animal Products Amendment Act 2002 (2002 No 29).

25 Significant amendments to risk management programme

(1) The operator of a registered risk management programme must amend that programme, and apply for registration of the amendment, where any change, event, or other matter means that the programme—
(a) is no longer appropriate, or will no longer be appropriate, to the animal material or product, processes, or premises or place covered by the programme; or
(b) otherwise impacts, or will impact, on the fitness for intended purpose of the animal product concerned or the content of the risk management programme as required under section 17(1).

(2) The operator must amend the programme, and apply for registration of the amendment, before the event where the operator knows of the change, event, or other matter in advance, and in all other cases must do so without unreasonable delay.

(3) The operator of a risk management programme may at any time apply to the Director-General, in a manner approved by the Director-General and on payment of the prescribed fee (if any), for registration of an amendment to the programme.

(4) Sections 21 to 23 apply to an application under this section, with any necessary modifications, as if it were an application for registration under section 20.

(5) As soon as practicable after determining to register an amendment, the Director-General must—
(a) notify the applicant in writing accordingly; and
(b) where the amendment relates to future events or matters, specify the date or occasion on which the amendment takes effect or will apply; and

(c) supply to both the applicant and the appropriate recognised risk management programme verifying agency a certified copy of the amendment (or, where appropriate, of a redraft of the relevant part of the programme that incorporates the amendment); and

(d) make an appropriate entry on the register of risk management programmes.

(6) If the Director-General proposes to refuse to register an amendment, the Director-General must give the applicant—

(a) a notice containing such particulars as will clearly inform the applicant of the grounds on which the Director-General proposes to refuse to register the amendment; and

(b) a reasonable opportunity to make written submissions or be heard in respect of the matter.

(7) Where the Director-General finally determines to refuse to register an amendment, the Director-General must as soon as practicable notify that fact to the applicant in writing, giving reasons.

(8) If a person acting under the delegated authority of the Director-General declines to register an amendment, the applicant may seek a review of that decision under section 162.

(9) The Director-General may, by notice under section 167, specify matters in relation to amendments to risk management programmes and their amendment, including—

(a) specifying the kinds of amendments that require registration and those which do not; and

(b) specifying any amount of notice that may be required in respect of events or matters of a kind known to the operator in advance that will require an amendment to a registered risk management programme.

Section 25 heading: amended, on 26 September 2002, by section 18 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 25(5)(c): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

26 Updates of minor amendments to risk management programmes

(1) For the purpose of ensuring that a registered risk management programme continues to comply with the requirements of section 17, every operator of a risk management programme must from time to time notify the Director-General of all amendments to the risk management programme that—

(a) are of such a nature as not to require registration under section 25; and

(b) have not been previously notified to the Director-General under this section.

(2) Notification of such amendments must—

(a) be made in a manner approved by the Director-General; and

(b) be made at such intervals as may be prescribed by regulations made under this Act, or otherwise by notice by the Director-General under section 167; and

(c) contain such details and be accompanied by such other material (including declarations and evaluation reports, if required) as may be prescribed by regulations made under this Act or by notice by the Director-General under section 167; and

(d) be accompanied by the prescribed fee (if any).

(3) On being satisfied that the requirements of this section have been complied with, and that the registered risk management programme concerned continues to comply with the requirements of section 17, the Director-General must register the fact that the programme has been updated under this section.

(4) The Director-General may, by notice under section 167, specify matters for the purposes of this section.

27 Suspension of operations under registered programme

(1) The Director-General may at any time suspend any or all operations under a registered risk management programme for a period of up to 3 months if the Director-General has reasonable grounds to believe that the risk management programme may not be or is no longer effective, or that the animal product produced under the risk management programme does not meet or no longer meets the requirements of this Act.

(2) The Director-General may impose conditions and requirements in respect of the implementation and operation of a suspension under this section.

(3) Where the Director-General suspends all or any operations under a risk management programme, he or she must give written notice of that fact to the operator of the programme, specifying—

(a) the reason for the suspension; and

(b) the period of the suspension; and

(c) the date on which or time at which it commences (which may not be earlier than the date or time of notification); and

(d) the operations to which the suspension applies; and

(e) any conditions or requirements in relation to the suspension.

(4) If the Director-General considers it necessary in the circumstances, and after having notified the operator of the proposed extension and the reasons for it and having given the operator a reasonable opportunity to be heard, the period of suspension may be extended for such further period not exceeding 3 months as the Director-General notifies to the operator in writing before the expiry of the original suspension.

(5) The Director-General must notify the appropriate recognised risk management programme verifying agency of any suspension under this section.

(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) Where operations are suspended under this section, the Director-General may direct the operator or person in charge to take action appropriate to deal with any affected animal material or product and exercise any of his or her other powers under section 82.

(9) If a person acting under the delegated authority of the Director-General suspends any operations under this section, the operator of the risk management programme or of the animal

product business concerned may seek a review of the suspension under section 162.

Section 27(5): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

28 Deregistration of risk management programme

(1) The Director-General may at any time remove a risk management programme from the register if the Director-General is satisfied that—

(a) the Director-General would be justified under section 27 in suspending operations under the programme but, in light of repeated suspensions of operations under the risk management programme in the past under that section, it would be more appropriate to deregister the programme; or

(b) there is or has been such a serious failure of operations or other matters under the programme as to cast doubt on the fitness for intended purpose of the animal product produced under the programme; or

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

(d) the operator of the programme is no longer a fit and proper person to operate or be responsible for the operation of an animal product business, taking into account any conviction of the operator or any director or manager of the animal product business concerned, 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; or

(e) the risk management programme has ceased to be relevant to the operations it purports to cover by reason of there being a change in the identity of—

(i) the person who owns or has control of the business concerned; or

(ii) the premises or place where the relevant operations are carried out; or

(iii) the material or product being produced or processed; or

(iv) the type of production or processing being carried out.

(2) The Director-General may not deregister a risk management programme under this section unless he or she has first—

(a) notified the operator of the programme (whether orally or in writing) of the intention to deregister and the reason for deregistration; and

(b) given the operator an opportunity to be heard.

(3) Where the Director-General determines to deregister a risk management programme, the Director-General must—

(a) give written notice of that fact to the operator of the programme, giving reasons and specifying the date on which the deregistration takes effect (which may not be earlier than the date of notification); and

(b) notify the appropriate recognised risk management programme verifying agency of that fact.

(4) Where a risk management programme is deregistered under this section, the Director-General may direct the operator or person in charge to take action appropriate to deal with any affected animal material or product and may exercise any of his or her other powers under section 82.

(5) The Director-General may notify any deregistration under this section in the *Gazette*.

(6) The deregistration of a risk management programme under this section does not affect any other actions that the Director-General may take under this Act.

(7) If a person acting under the delegated authority of the Director-General deregisters a risk management programme under this section, the operator of the risk management programme or of the animal product business concerned may seek a review of the deregistration under section 162.

Section 28(1)(c): substituted, on 26 September 2002, by section 19 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 28(3)(b): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

28A Removal of animal product business from coverage of wider risk management programme

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

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

Section 28A: inserted, on 26 September 2002, by section 20 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 28A heading: amended, on 7 July 2010, by section 6 of the Animal Products Amendment Act 2010 (2010 No 47).

29 Surrender of registration

(1) The operator of a registered risk management programme may at any time surrender registration of the programme by notice in writing to the Director-General.

(2) Where the operator or animal product business concerned ceases to operate as a producer or processor of animal material or animal product, that operator (or, where appropriate, the liquidator, receiver, executor, or other successor in title of the operator) must, within 30 days of so ceasing,—

(a) notify the Director-General in writing of that fact; and

(b) surrender the notice of registration to the Director-General; and

(c) notify the appropriate recognised risk management programme verifying agency of that fact.

(3) At the same time as notification under subsection (1) or subsection (2), the operator or other relevant person must also notify the Director-General of how it is proposed to deal with any remaining animal material or product covered by the risk management programme.

(4) The Director-General may approve or agree to any such proposal, but may also, if appropriate, exercise any of his or her powers under section 82.

(5) On being notified of a surrender under this section,—
  (a) the Director-General must record the surrender on the register of risk management programmes; and
  (b) the surrender takes effect from the date stated in the register.

Section 29(2)(c): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

30 Risk management programme in conflict with regulations or specifications

Where there is any conflict between the requirements of a registered risk management programme and those of any regulations or specifications made under this Act, whether by reason of a failure to amend or update the programme to reflect any new requirements or otherwise, the requirements of the regulations or specifications prevail.

Relationship between Food Act regime and risk management programmes

31 Object of sections 32 to 34

The object of sections 32 to 34 is to recognise the general equivalence of food safety programmes and risk management programmes, and to minimise the problems of overlap of 2 separate legislative regimes, by—
  (a) allowing, in section 32, a secondary processor of an animal product which is a food to elect to operate solely under a risk management programme and this Act, rather than under the equivalent Food Act regime (particularly where the food is for export, and may require official assurances); and
  (b) providing, in section 34, for the registration of food safety programmes as risk management programmes, and allowing switching between programmes in the case of persons who wish to operate principally under one regime, but may also need or wish to operate from

time to time under the other regime in respect of all or part of their operations.

Section 31: amended, on 26 September 2002, by section 21 of the Animal Products Amendment Act 2002 (2002 No 29).

32 Secondary processors of animal products which are food may elect to operate under risk management programme

(1) A secondary processor of an animal product which is a food within the meaning of the Food Act 1981 may elect under this section to operate under a registered risk management programme rather than under a food safety programme or under the Food Hygiene Regulations 1974 in respect of that product.

(2) An election under this section—

(a) is made by notifying it to the Director-General, whether at the time the secondary processor applies for registration of a risk management programme or in such other manner as the Director-General may approve; and

(b) takes effect when the risk management programme of the secondary processor is registered, or is notified in the register as taking effect.

(3) Sections 20 to 23 apply in relation to the application for registration of a risk management programme of any person making an election under this section.

(4) Where an election is made under this section,—

(a) for the purposes of this Act, the secondary processor is to be treated as a person who is required to have a risk management programme in respect of the animal product concerned; and

(b) the Food Act regime does not apply to the matters covered by the registered risk management programme.

(5) An election under this section is to be treated as revoked if the secondary processor surrenders the risk management programme under section 29, and subsection (4) of this section ceases to apply on and from the date stated in the register.

(6) When the Director-General has registered a secondary processor's risk management programme following an election of the processor under this section, the Director-General must—

(a) notify the chief executive of the agency for the time being responsible for the administration of the Food Act

1981 and any relevant territorial authority (as defined in section 8B of the Food Act 1981) of the election; and

(b) note the election on the register of risk management programmes in accordance with section 19.

(7) Where an election is treated as revoked by subsection (5), the Director-General must similarly notify the chief executive and relevant territorial authority referred to in subsection (6)(a), and must note the revocation on the register.

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

(1) Where a secondary processor operates under the Food Act regime rather than under a risk management programme in relation to any animal product that is for export, and overseas market access requirements as notified or made available by the Director-General under section 60 apply to that product,—

(a) the product must meet the requirements imposed by or under this Act for the giving of official assurances, if any official assurance is to be given under this Act in relation to the product; and

(b) if it does not, it cannot be the subject of an official assurance under this Act.

(2) For the purposes of subsection (1)(a), the secondary processor must operate under either a registered risk management programme or a food safety programme that is registered as a risk management programme in accordance with section 34, and meet such additional requirements as may be notified or made available under section 60.

Section 33(2): amended, on 26 September 2002, by section 22 of the Animal Products Amendment Act 2002 (2002 No 29).

34 Alternate or intermittent use of risk management programmes and food safety programmes

(1) A secondary processor who wishes to have a food safety programme recognised as a risk management programme to be operated on an intermittent basis may apply to the Director-General for registration of the programme as a risk management programme.

(2) The application must be in a manner approved by the Director-General and be accompanied by the prescribed fee (if any), and sections 20(2) to 23 apply to any such application as if it were an application under section 20(1).

(3) Where a food safety programme is registered as a risk management programme,—

(a) its operator may operate under it only at the times and in the manner, and on the giving of such notification, as may be specified in conditions (if any) imposed under section 22; and

(b) during, or in respect of matters occurring during, any period when the operator operates under the programme as a risk management programme,—

(i) for the purposes of this Act the operator is to be treated in respect of those operations as a person who is required to have a risk management programme in respect of those operations; and

(ii) subject to any regulations made under this section, the Food Act regime does not apply to those operations; and

(c) during, or in respect of matters occurring during any period when the operator does not so operate, the operator is to be treated as subject to the Food Act regime, and, subject to any regulations made under this section, this Part does not apply in relation to that period or matters occurring during it; and

(d) despite anything in this Act or the Food Act 1981, the risk management programme is subject to whichever audit or verification regime is specified by the Director-General under subsection (4).

(4) In imposing conditions on registration under section 22(3), the Director-General—

(a) must specify whether and to what extent the programme is to be subject to the verification requirements of this Act or the audit requirements of the Food Act 1981; and

(b) in making such a specification, is to have regard to the desirability of continuity in audit or verification services, functions, or requirements and to any overseas

market access requirements notified or made available under section 60; and

(c) may impose such other conditions as are reasonable in light of the operator's proposed use of the programme.

(5) Before registering a food safety programme as a risk management programme, the Director-General must advise the applicant of the conditions of the proposed registration and give the applicant the opportunity to withdraw the application.

(6) On registering a programme, the Director-General must as soon as practicable notify the fact and the conditions of the registration to—

(a) the applicant; and

(b) the chief executive of the agency for the time being responsible for the administration of the Food Act 1981, or the relevant territorial authority; and

(c) the applicant's recognised risk management programme verifying agency (if applicable); and

(d) the applicant's approved auditor under the Food Act 1981.

(7) Regulations and specifications made under sections 166 and 167 may provide for matters relating to the registration of food safety programmes as risk management programmes under this Act. Such regulations may—

(a) specify or set criteria for determining whether all or any 1 or more classes of such programmes are to be subject to the verification regime of this Act or the audit regime of the Food Act 1981; and

(b) exempt persons or provide for their exemption, whether wholly, partially, or conditionally, from compliance with specified requirements imposed by or under either Act, where such exemptions are appropriate in the interests of avoiding unnecessary or undesirable duplication of equivalent duties or matters under the 2 Acts.

Section 34(6)(c): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

References to recognised risk management programme verifying agency

Heading: replaced, on 31 August 2012, by section 6 of the Animal Products Amendment Act 2012 (2012 No 59).

35 References to recognised risk management programme verifying agency

A reference in this Part to a recognised risk management programme verifying agency, in relation to a risk management programme, must be treated as if it were a reference to a recognised risk management programme verifier if a recognised person carries out the verification functions and activities for that programme without being employed or engaged by a recognised agency.

Section 35: replaced, on 31 August 2012, by section 7 of the Animal Products Amendment Act 2012 (2012 No 59).

36 Director-General may require notification by recognised agency of termination of contracts

[Repealed]

Section 36: repealed, on 31 August 2012, by section 8 of the Animal Products Amendment Act 2012 (2012 No 59).

Part 3
Regulated control schemes

37 Object of this Part

The object of this Part is to provide for regulated control schemes which are special regulatory regimes to provide for cases where—

(a) it is inappropriate or impracticable to manage risk factors under risk management programmes; or

(b) risk factors may need to be addressed in relation to the production of animal material or the processing of animal product that is not required by this Act to be covered by a registered risk management programme; or

(c) special provision is required for the purposes of overseas market access requirements.

Section 37(a): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 37(b): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

38 Nature of regulated control schemes

(1) The object of a regulated control scheme is to impose risk management measures in circumstances where—

(a) it is not feasible or practicable for the relevant risk factors to be managed by individual animal product business operators within individual risk management programmes (whether or not those operators would normally be required to have a risk management programme); or

(b) having regard to considerations of economic efficiency, or to legal considerations that may require the exercise of statutory authority for the successful management of risk factors, it is necessary or appropriate that the measures be imposed generally rather than being dealt with by way of individual risk management programmes; or

(c) the measures are additional to those normally required to meet New Zealand animal product standards, and are necessary to meet access requirements of overseas markets as notified or made available under section 60.

(2) A regulated control scheme may be imposed—

(a) by way of regulations made under section 166 on the recommendation of the Minister, supplemented by specifications and other requirements set by the Director-General under section 40:

(b) in the case of measures required to meet access requirements of overseas markets that have been notified or made available under section 60, by way of specifications and requirements set by the Director-General under section 40.

Section 38(1)(a): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 38(1)(b): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

39 Scope of regulated control schemes

(1) A regulated control scheme must specify its prime purpose, and may—

(a) apply to all or any 1 or more classes of animal material or product, person or business, process or operation, premises or place, or area:

(b) without limiting the generality of section 38, provide for matters such as surveying, monitoring, data collection, disease surveillance, sampling, testing, and analysis of or in relation to animal material and products and anything in the environment which may affect the suitability for its intended use of animal material or the fitness for intended purpose of animal products:

(c) authorise or provide for technical matters and specifications and matters of detail to be specified by the Director-General under section 40.

(2) No regulated control scheme may be held invalid merely because it—

(a) confers any discretion on, or allows any matter to be determined or approved by, the Minister, the Director-General, or any animal product officer; or

(b) allows the Minister or the Director-General to impose specifications or requirements as to the performance of any activities.

(3) The Minister may not recommend the making of regulations for the purposes of imposing a regulated control scheme unless he or she—

(a) is satisfied that any 1 or more of the criteria specified in section 38(1) apply; and

(b) is satisfied that appropriate consultation has been carried out in accordance with section 163.

(4) In determining whether or not to recommend the making of a regulated control scheme, or the content of such a scheme, the Minister is to have regard to—

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

(b) the most effective way of handling the relevant risk factors:

(c) the desirability of facilitating market access:

(d) the desirability of maintaining consistency between New Zealand animal product standards and any relevant

standards, requirements, or recommended practices that apply or are accepted internationally:

(e) the relative costs of having the scheme or not having it, who bears the cost, and any positive and negative impacts on consumers and users:

(f) whether the scheme option proposed or selected is the most cost effective way of achieving its prime purpose:

(g) such other matters as the Minister considers relevant.

Section 39(b): substituted, on 7 July 2010, by section 7 of the Animal Products Amendment Act 2010 (2010 No 47).

40 Director-General may set specifications and other requirements for purposes of regulated control schemes

(1) The Director-General may from time to time, by notice under section 167, set specifications and other detailed requirements that—

(a) are specified or contemplated by or necessary or desirable to give effect to a regulated control scheme; or

(b) are necessary or desirable to meet overseas market access requirements that have been notified or made available under section 60; or

(c) are necessary or desirable to amplify the manner in which the requirements of any such scheme or requirements may or are to be met.

(2) The Director-General may set specifications and other requirements under subsection (1)(a) or (c) only after having regard to the matters specified in section 39(4) and (except where section 163(5) applies) after appropriate consultation carried out in accordance with section 163.

41 Emergency control schemes

(1) The Minister may, by order, institute emergency control schemes if, in the opinion of the Minister,—

(a) an emergency or urgent situation has arisen involving risk to—

(i) human or animal health; or

(ii) the integrity or reputation of New Zealand exports of animal material or products; or

(iii) overseas market access for New Zealand exports of animal material or products; and

(b) it is not practicable in the circumstances of the particular case, in time to deal with the situation, to—

(i) issue or amend regulations or specifications in accordance with sections 39 and 40; or

(ii) otherwise effectively alleviate or minimise the relevant risk.

(2) Any such order may contain any of the matters specified in sections 39 and 40.

(3) Any such order must as soon as practicable be—

(a) either published or notified in the *Gazette*; and

(b) to the extent practicable, brought to the attention of all persons likely to be affected by it.

(4) If the order is notified only, and not published, in the *Gazette*,—

(a) the Director-General must make copies of the order available for inspection free of charge, and for purchase at a reasonable cost, at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and

(b) the *Gazette* notice must specify where a copy of the order may be inspected or obtained.

(5) A Ministerial order under this section—

(a) takes effect on such day as may be specified in the order (which may not be earlier than the day it is notified or published in the *Gazette*, except in the case of any person affected who has been supplied with a copy of the order at any earlier time); and

(b) unless sooner revoked, expires at the end of 6 months after the date of its publication or notification in the *Gazette*, unless extended by the Minister by notice in the *Gazette* for a further period not exceeding 6 months (at the end of which period it expires).

(6) Before making an order under this section, the Minister must ensure that such consultation as is reasonable and practicable in the circumstances has been undertaken, but section 163 does not apply to an order under this section.

(7) In the case of inconsistency between a Ministerial order under this section and any other regulated control scheme, the Ministerial order prevails.

(8) A Ministerial order may be amended at any time in the same manner as it was made.

(9) Despite anything in section 28 of the State Sector Act 1988, the Minister may not delegate to any other person the power to make orders under this section, or to extend or revoke such orders.

(10) An order made under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 41(10): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Part 4
Animal product standards and specifications

42 Object of this Part

The object of this Part is to provide for—

(a) the setting of standards that must be met by any animal product intended for trade or processed for reward before it may be considered fit for intended purpose; and

(b) the setting of specifications that may be necessary or desirable to ensure such standards are met.

43 Application of standards and specifications

Standards and specifications set under this Part may apply in respect of any class or description of animal material or product, person or business, process or operation, equipment or other thing, premises or place, or area, and may apply regardless of whether or not a risk management programme is in place or required in respect of the relevant material or product, person or business, process or operation, premises or place, or area.

44 Regulations may prescribe animal product standards

(1) Regulations may be made under section 166, on the recommendation of the Minister, prescribing standards that specify the criteria that must be met to ensure that animal products produced or processed for reward or trade or for export from New Zealand are fit for intended purpose.

(2) Without limiting the generality of subsection (1), standards may be prescribed for the purposes of, or in relation to, all or any of the following matters:

(a) the fitness for intended purpose of animal products:

(b) the composition of animal material or products, including any limitations or requirements in relation to ingredients or additives:

(c) the imposition of limitations or requirements in relation to hazards, wholesomeness, microbiological or chemical status, or the occurrence of other substances in animal material or products:

(d) the production, processing, and preparation of animal material or products:

(e) the genetic modification of animal material or products or ingredients or additives:

(f) the examining, sampling, and testing of animal material or products, or associated things, to determine their composition or status or fitness for intended purpose or suitability for their intended use:

(g) the packing, storage, and handling of animal material or products, or associated things:

(h) materials, substances, containers, appliances, and equipment used, or intended for use, in relation to animal material or products or associated things:

(i) the carriage and delivery of animal material or products, or associated things:

(j) the identification and labelling of animal material or products or associated things:

(k) the keeping of records and provision of returns and information:

(l) other matters relevant to the management of risk factors.

(3) A standard may apply generally, or in relation to any 1 or more of the following:

(a) any specified animal material or product, person or business, activity, or related matter or thing:
(b) any specified class or classes of animal material or product, person or business, activity, or related matter or thing:
(c) the same class of animal material or product, person or business, activity, or related matter or thing in different circumstances.

(4) A standard may authorise or provide for specifications and matters of detail to be specified by the Director-General under section 45.

(5) Without limiting the generality of subsection (1), a class of animal material or product, person or business, activity, or matter may be defined by reference to the premises or place, area, or locality in which the relevant animal material or product or matter or thing, is produced, processed, or otherwise dealt with, or occurs.

(6) No prescribed standard may be held invalid merely because it—
(a) confers any discretion on, or allows any matter to be determined or approved by, the Minister, the Director-General, or any animal product officer; or
(b) allows the Minister, the Director-General, or any other person to impose requirements as to the performance of any activities.

(7) In prescribing any standards under this section, the Minister is to have regard to—
(a) the need to protect the health of consumers and users of animal products:
(b) the desirability of facilitating market access:
(c) the desirability of maintaining consistency between New Zealand animal product standards and any relevant standards, requirements, or recommended practices that apply or are accepted internationally:
(d) such other matters as the Minister considers relevant.

(8) The Minister may not recommend the prescribing of any animal product standard unless the Minister is satisfied that appropriate consultation has been carried out in accordance with section 163.

45 Director-General may issue specifications supplementary to animal product standards

(1) The Director-General may from time to time, by notice under section 167, set specifications and other detailed requirements that—

(a) are specified or contemplated by or necessary to give effect to any standard prescribed under section 44:

(b) are necessary or desirable to amplify the manner in which any such standard may or must be achieved.

(2) The Director-General may set specifications under this section only after having regard to the matters specified in section 44(7) and (except where section 163(5) applies) after appropriate consultation carried out in accordance with section 163.

46 Emergency animal product standards and specifications

(1) The Minister may, by order, issue emergency animal product standards and specifications if, in the opinion of the Minister,—

(a) an emergency or urgent situation has arisen involving risk to—

(i) human or animal health; or

(ii) the integrity or reputation of New Zealand exports of animal material or products; or

(iii) overseas market access for New Zealand exports of animal material or products; and

(b) it is not practicable in the circumstances of the particular case, in time to deal with the situation, to—

(i) issue or amend regulations or specifications in accordance with sections 44 and 45; or

(ii) otherwise effectively alleviate or minimise the relevant risk.

(2) Any such order may contain any of the matters specified in sections 44 and 45.

(3) Any such order must as soon as practicable be—

(a) either published or notified in the *Gazette*; and

(b) to the extent practicable, brought to the attention of all persons likely to be affected by it.

(4) If the order is notified only, and not published, in the *Gazette*,—

(a) the Director-General must make copies of the order available for inspection free of charge, and for purchase at a reasonable cost, at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and

(b) the *Gazette* notice must specify where a copy of the order may be inspected or obtained.

(5) A Ministerial order under this section—

(a) takes effect on such day as may be specified in the order (which may not be earlier than the day it is notified or published in the *Gazette*, except in the case of any person affected who has been supplied with a copy of the order at any earlier time); and

(b) unless sooner revoked, expires at the end of 6 months after the date of its publication or notification in the *Gazette*, unless extended by the Minister by notice in the *Gazette* for a further period not exceeding 6 months (at the end of which period it expires).

(6) Before making an order under this section, the Minister must ensure that such consultation as is reasonable and practicable in the circumstances has been undertaken, but section 163 does not apply to an order under this section.

(7) In the case of inconsistency between a Ministerial order under this section and any animal product standard or specification prescribed or issued under section 44 or section 45, the Ministerial order prevails.

(8) A Ministerial order may be amended at any time in the same manner as it was made.

(9) Despite anything in section 28 of the State Sector Act 1988, the Minister may not delegate to any other person the power to make orders under this section, or to extend or revoke such orders.

(10) An order made under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 46(10): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Part 5
Export of animal material and products

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.

Section 47: substituted, on 1 June 2005, by section 13 of the Animal Products Amendment Act 2005 (2005 No 26).

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

(1) No person may export from New Zealand any animal material or product to which this Part applies unless—

(a) the person is registered as an exporter under this Part; or

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

(i) by Order in Council made under section 9; or

(ii) by regulations under this Act or by notice given by the Director-General under section 50.

(2) Subject to subsection (1)(b), this Part applies to—

(a) all animal products intended for human or animal consumption:

(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:

(c) such other animal material or products as are specified by Order in Council made under section 49.

Section 48(1)(b): amended, on 1 June 2005, by section 14(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 48(2)(b): substituted, on 1 June 2005, by section 14(2) of the Animal Products Amendment Act 2005 (2005 No 26).

49 Registration of exporters of non-edible, etc, material or products may be required by Order in Council

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, require any 1 or more classes of exporter of animal material or products, being animal material or products of a kind not described in section 48(2)(a) or (b), to register as exporters under this Part in respect of such animal material or products as may be specified in the order.

(2) Without limiting the generality of subsection (1), the animal material or products to which the order relates may be defined by reference to—

(a) the class or description of animal material or product exported or to be exported; or

(b) the intended purpose or destination of the animal material or product exported or to be exported; or

(c) the class or description of operations or processes carried out in relation to the animal material or product exported or to be exported; or

(d) the class or description of premises or place, or the area, in which operations or processes were carried out in relation to the animal material or product exported or to be exported; or

(e) any combination of the above.

(3) The Minister may not recommend the making of an order under this section unless—

(a) the Minister is satisfied that the order is necessary or desirable—

(i) in the interests of protecting the health of humans or animals, or otherwise to ensure the fitness for intended purpose of the animal product concerned; or

(ii) for the purpose of facilitating access to overseas markets; or

(iii) to protect the integrity or reputation of New Zealand exports of animal material and products; and

(b) in the case of an order recommended on a ground specified in paragraph (a)(i), there has been appropriate consultation on the subject matter of the order in accordance with section 163.

50 Director-General may exempt certain consignments

(1) The Director-General may, by notice under section 167, exempt from all or any of the requirements of this Part any particular consignment or animal material or product or person, or class of consignments or animal material or products or persons, if the Director-General is satisfied that the consignment or animal material or product to be exported is—

(a) to be used for the purposes of research or development; or

(b) to be used as a trade sample or otherwise to assess any overseas market for the initial development of that market; or

(c) for the personal use or other non-commercial use of the person travelling with the consignment; or

(d) of a kind that may be exempted by the Director-General in accordance with any order or regulations made under this Act.

(2) An exemption under this section may be subject to such conditions as are specified in the notice.

51 Duties of exporters

It is the duty of every exporter of animal material or products to which this Part applies—

(a) to ensure that their operations as an exporter do not contravene any relevant requirement of or under this Act; and

(b) to export only animal material or products that meet—

(i) any relevant animal product standards and specifications; and

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

(c) to notify the Director-General as soon as possible, and in any case not later than 24 hours after the event or first knowledge of the event, in any case where animal material or products exported or to be exported by the exporter—

(i) are not fit, or are no longer fit, for intended purpose; or

(ii) are refused entry by the foreign government concerned; or

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

(iv) do not have, or no longer have, the required official assurances; and

(d) to maintain procedures and processes to demonstrate that the record-keeping requirements of and under this Act in relation to the provenance and processing of the animal material or product exported by the exporter are being complied with.

Section 51(b)(ii): substituted, on 1 June 2005, by section 15(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 51(c)(iii): substituted, on 1 June 2005, by section 15(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Registration of exporters

52 Director-General to maintain register of exporters

(1) The Director-General must keep and maintain a register of exporters that records persons authorised under this Part to export animal material or products to which this Part applies.

(2) The purpose of the register is—

(a) to enable members of the public to know who is authorised under this Part to export animal material and products; and

(b) to facilitate the ability of the Director-General to—

(i) advise exporters of export requirements; and

(ii) safeguard official assurances for entry of animal material and products into overseas markets, including in emergency situations; and

(c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under this Act.

(3) The Director-General must—

(a) keep the register open for public inspection, without fee, during reasonable hours at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and

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

(4) The register may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility—

(a) that records or stores information electronically or by other means; and

(b) that permits the information so recorded to be readily inspected or reproduced in usable form; and

(c) that permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote logon access.

Section 52(2)(b)(i): substituted, on 1 June 2005, by section 16 of the Animal Products Amendment Act 2005 (2005 No 26).

53 Matters to be shown in register of exporters

The register of exporters must contain the following particulars in relation to each exporter:

(a) the name and address (including the electronic address, if available) of the exporter:

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

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

(c) such other particulars as may be required by or under this Act.

Section 53(b): substituted, on 26 September 2002, by section 24 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 53(ba): inserted, on 26 September 2002, by section 24 of the Animal Products Amendment Act 2002 (2002 No 29).

54 Applications for registration

(1) A person who intends to export any animal material or product to which this Part applies (other than animal material or product exempted under section 9 or section 50 or by regulations under this Act) must apply to the Director-General, in a manner approved by the Director-General, for registration on the register of exporters.

(2) On receipt of a properly made application accompanied by the prescribed fee (if any), the Director-General must register the applicant as an exporter unless the Director-General considers that—

(a) the applicant is not a fit and proper person to be registered as an exporter, having regard to any conviction of the applicant or any director or manager of the applicant, whether in New Zealand or overseas, for 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; or

(b) there has in the past been a serious or repeated failure by the applicant to comply with duties of the type specified in section 51; or

(c) there are other good grounds for considering that the applicant is likely in the future to fail to comply with the duties specified in section 51; or

(d) subsection (3) applies to disqualify the person.

(3) No person may be registered as an exporter unless—

(a) they are a New Zealand resident within the meaning of section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007; or

(b) they have an agent who is a New Zealand resident within the meaning of those sections.

(4) For the purpose of assessing the matters specified in subsection (2), the Director-General may require an applicant to supply information additional to that contained in the application.

(5) If the applicant fails to supply the information within 3 months after the request, or within such further time as the Director-General may allow, the application lapses.

Section 54(3)(a): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

55 Registration as exporter

Where the Director-General determines to register an applicant as an exporter, the Director-General must—

(a) register the person as an exporter on the register, showing the date of registration; and

(b) notify the person in writing accordingly.

56 Refusal to register

(1) If the Director-General proposes to refuse to register a person as an exporter, the Director-General must give the applicant—

(a) a notice containing such particulars as will clearly inform the applicant of the substance of the grounds on which the Director-General proposes to refuse to register the applicant; and

(b) a copy of any information on which the Director-General relies in proposing to refuse to register the applicant; and

(c) a reasonable opportunity to make written submissions or be heard in respect of the matter.

(2) Where the Director-General finally determines to refuse to register a person as an exporter, the Director-General must as soon as practicable notify the person, in writing, of—

(a) the decision; and

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

57 Annual registration fee payable

(1) Every registered exporter is liable to pay, either annually or at such greater interval as may be prescribed, the prescribed fee (if any), in respect of their continued registration.

(2) Any failure to pay the fee by the due date that persists for more than 30 days may result in deregistration under section 58.

58 Deregistration of exporters

(1) The Director-General may remove a person from the register of exporters if satisfied that—

(a) there has been a serious or repeated failure by the applicant to comply with the duties specified in section 51; or

(b) the person is disqualified from being registered as an exporter by virtue of section 54(3), or is not a fit and proper person to be registered as an exporter having regard to any conviction of a kind referred to in section 54(2)(a) that—

(i) arose after the person's registration as an exporter; or

(ii) first came to the attention of the Director-General after the person's registration as an exporter; or

(c) any failure to pay the annual fee or other fee prescribed under section 57 by the due date has persisted for more than 30 days.

(2) Before removing a person from the register, the Director-General must—

(a) notify the person in writing of his or her intention, giving the reasons for that intention and the facts and assumptions on which it is based; and

(b) give the person a reasonable opportunity, within the time specified in the written notice, to provide evidence, information, and submissions as to why the person should not be removed from the register.

(3) Where the Director-General considers it urgently necessary in the interests of human or animal health, or the integrity or reputation of New Zealand exports,—

(a) the Director-General may direct the exporter to suspend all export operations, or such operations as the Director-General may specify, pending a final determination as to whether the exporter should be deregistered, and may also give such directions under section 82 as appear to the Director-General to be reasonable in relation to any animal material or products under the control of the exporter at the time the direction is given; and

(b) any such direction takes effect from the date of the notification under subsection (2), or such later date as the Director-General specifies; and

(c) the exporter must comply with the direction.

(4) After considering the material (if any) supplied by a person under subsection (2)(b), the Director-General must—

(a) make a final decision as to whether or not to remove the person from the register; and

(b) as soon as practicable, notify the person of the decision in writing, giving reasons and the facts or assumptions on which the decision is based in the case of an unfavourable decision.

Section 58(4): amended, on 26 September 2002, by section 25 of the Animal Products Amendment Act 2002 (2002 No 29).

59 Refusal to register or decision to deregister may be reviewed in certain cases

If a person acting under the delegated authority of the Director-General refuses an application to register a person as an exporter, or deregisters a person, the person may seek a review of that decision under section 162.

Export requirements and official assurances

Heading: substituted, on 1 June 2005, by section 17 of the Animal Products Amendment Act 2005 (2005 No 26).

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

[Repealed]

Section 59A: repealed, on 1 June 2005, by section 17 of the Animal Products Amendment Act 2005 (2005 No 26).

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.

Section 60: substituted, on 1 June 2005, by section 17 of the Animal Products Amendment Act 2005 (2005 No 26).

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 spe-

cific export or processing activities cannot be properly undertaken under this Act unless they have that access.

Section 60A: inserted, on 1 June 2005, by section 17 of the Animal Products Amendment Act 2005 (2005 No 26).

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 2A 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).

Section 60B: inserted, on 1 June 2005, by section 17 of the Animal Products Amendment Act 2005 (2005 No 26).

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.

Section 61: substituted, on 1 June 2005, by section 17 of the Animal Products Amendment Act 2005 (2005 No 26).

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.

Section 61A: inserted, on 1 June 2005, by section 17 of the Animal Products Amendment Act 2005 (2005 No 26).

62 Form and content of official assurance

(1) An official assurance may be in the form of a certificate or declaration or in such other form as may be determined by the Director-General.

(2) An official assurance may relate to—

(a) 1 or more consignments of animal material or product; or

(b) 1 or more producers or processors or exporters of animal material or product; or

(c) 1 or more export destinations; or

(d) any combination of the above.

(3) An official assurance may be communicated to its appropriate destination by writing, fax, electronic means, or any other form of communication that is accurate, clear, and verifiable.

(4) The Director-General may, by notice under section 167, issue specifications setting out requirements and procedures for the issue and control of official assurances.

63 Obtaining of official assurance

(1) A person who wishes to obtain an official assurance in respect of any animal material or product for export may apply in a manner approved by the Director-General, and must supply any information required by the Director-General and pay any relevant fee.

(2) The Director-General need not issue an official assurance unless satisfied that the information obtained from the applicant justifies the giving of the assurance.

Section 63(1): amended, on 26 September 2002, by section 27 of the Animal Products Amendment Act 2002 (2002 No 29).

64 Official assurance may be withdrawn, and reissued

(1) An official assurance may be withdrawn by the Director-General or other authorised person if the Director-General or person is satisfied that—

(a) the assurance was incorrectly or inappropriately given; or

(b) events or circumstances occurring since the assurance was given mean that it no longer holds true, or is misleading.

(2) The Director-General or other authorised person may, on application in a manner approved by the Director-General and on payment of the prescribed fee (if any), reissue the official assurance (with any modifications, if appropriate) as a new official assurance.

Section 64(2): amended, on 26 September 2002, by section 28 of the Animal Products Amendment Act 2002 (2002 No 29).

65 Persons who may be authorised to issue official assurances

The Director-General may designate 1 or more persons employed within the Ministry as authorised persons who may issue official assurances for the purposes of this Part.

Part 5A
Game estates

Part 5A: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65A Object of this Part

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

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

Section 65A: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65B What is a game estate?

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

Section 65B: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

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

(1) A client hunter may kill or process a game estate animal himself or herself (either on the game estate or on the client hunter's own property), or have it processed by a listed

homekill or recreational catch service provider, in accordance with section 68.

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

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

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

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

(4) A game estate operator may also—

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

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

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

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

Section 65C: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65D Game estates that must be listed

A game estate must be listed under this Part if—

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

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

Section 65D: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65E Director-General to maintain list of game estates

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

(2) The purpose of the list is—

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

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

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

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

(3) The Director-General must—

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

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

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

Section 65E: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65F Matters to be shown in list of game estates

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

(a) the name and address (including the electronic address, if available) of the game estate operator:
(b) the address or location of the place comprising the game estate:
(c) the species or kinds of game estate animal available for hunting:
(d) the date on which the game estate was listed:
(e) such other particulars as may be prescribed by notice or regulations under this Act.

Section 65F: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65G Applications for listing

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

Section 65G: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65H Listing as game estate

(1) On receipt of a properly made application accompanied by the prescribed fee (if any), the Director-General must list the applicant's operation as a game estate if satisfied that—
(a) the operation is a game estate to which section 65D applies; and
(b) having regard to the objects and requirements of this Act, there is no good reason why the operation should not be listed as a game estate.

(2) Where the Director-General determines to list an applicant's operation as a game estate, the Director-General must—
(a) include the applicant and the applicant's game estate operation on the list of game estates; and
(b) notify the applicant in writing accordingly.

Section 65H: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65I Refusal to list

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

(a) the decision; and

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

Section 65I: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65J Delisting

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

(a) the listed operator so requests; or

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

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

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

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

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

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

Section 65J: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65K Review of decision to refuse to list, or to delist

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

Section 65K: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

65L Listing fee payable

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

Section 65L: inserted, on 26 September 2002, by section 29 of the Animal Products Amendment Act 2002 (2002 No 29).

Part 6
Homekill and recreational catch

66 Object of this Part

(1) The principal objects of this Part are—

(a) to allow for owners of animals and recreational hunters and fishers to kill and process their own animals and recreational catch, or have it done for them by certain identified persons, outside the normal regulatory requirements of this Act, provided that the animal or recreational catch is for their own use or consumption and is not traded:

(b) to ensure that homekill and recreational catch is treated entirely separate from, and cannot be mingled with or traded as, regulated animal products.

(2) In particular, this Part provides for—

(a) the listing of persons who may undertake homekill or recreational catch services on behalf of animal owners or recreational hunters and fishers:

(b) a prohibition on any person undertaking such services at any premises or place where regulated animal products are processed, except in the case of retail butchers who also list as homekill or recreational catch service providers:

(c) dual operator butchers to operate under a risk management programme that specifically recognises and takes account of the risk factors involved in carrying out dual operations at the same premises or place.

Section 66(2)(c): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

67 Homekill allowed

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

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

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

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

(2) For the purposes of subsection (1), homekill product will be treated as being for the use or consumption of the owner, and not for trade, if—

(a) in the case of an animal belonging to a farmer, the farmer supplies the homekill product to an employee of the farmer who is employed in an ongoing manner in the farmer's daily farming operations, for the use or consumption of that employee (including his or her family or household); or

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

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

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

(3) Despite subsection (1), animal product from an animal that is killed at a location other than the animal owner's own prop-

erty or a listed service provider's premises or place, or by a person other than the owner or a listed service provider, may nevertheless be treated as homekill product if—

(a) humane reasons necessitated the killing of the animal at that other location or by that other person; and

(b) the other requirements of this section are otherwise met in relation to the animal and material derived from the animal (except to the extent that any immediately associated processing is required at the location of the killing).

(4) In this section, **own property**, in relation to an animal owner, means land which the owner—

(a) owns or leases; or

(b) has a legal right to occupy or use, and does in fact occupy, or use to conduct farming or similar operations.

Section 67(1): substituted, on 26 September 2002, by section 30(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 67(2)(b): substituted, on 26 September 2002, by section 30(2) of the Animal Products Amendment Act 2002 (2002 No 29).

68 Processing of recreational catch

(1) Nothing in this Act prevents a person who has hunted or harvested an animal as recreational catch from—

(a) killing or processing the animal himself or herself, on his or her own property or at or near the place where the animal was hunted or harvested; or

(b) having the animal killed or processed, otherwise than in accordance with Parts 2 to 4, by a listed homekill or recreational catch service provider, on the service provider's premises or place or on the catcher's property or at or near the place where the animal was hunted or harvested,—

so long as the recreational catch product is for the use or consumption of the catcher (including members of the catcher's party or family or household), and not for trade; and Parts 2 to 4 do not apply to any such recreational catch.

(2) For the purposes of subsection (1), recreational catch product will be treated as being for the use or consumption of the catcher, and not for trade, if—

(a) the edible part of the product is for the use or consumption of the catcher (or members of the catcher's party or family or household); and

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

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

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

(3) For the purposes of this Act, customary catch that is duly authorised under the Fisheries Act 1996 is to be treated as recreational catch that complies with the requirements of this section, so long as it is used for the purposes for which such catch is authorised.

Section 68(2)(b): substituted, on 26 September 2002, by section 31 of the Animal Products Amendment Act 2002 (2002 No 29).

69 Homekill and recreational catch service providers

(1) Despite anything in this Act, but subject to section 70, the following persons may kill or process for reward, for the owner or hunter or harvester of the animal, any animal or animal material that is homekill or recreational catch without needing to have or comply with a risk management programme, or to comply with any other requirement imposed by or under Parts 2 to 4:

(a) persons listed as homekill or recreational catch service providers under section 76:

(b) persons who are in the business of providing meals and who prepare and serve recreational catch as a meal to its catcher and members of the catcher's party:

(c) any other class of persons specified for the purposes of this section by regulations made under this Act.

(2) Except as provided in section 70, a person listed as a homekill or recreational catch service provider under this Part is exempt from the requirement to operate under a risk management programme in respect of the processing of animal material or products that are homekill or recreational catch; and nothing in Parts 2 to 4 applies in respect of such operations.

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

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

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

Section 69(3): added, on 26 September 2002, by section 32 of the Animal Products Amendment Act 2002 (2002 No 29).

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

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

(a) homekill or recreational catch processing operations; and

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

(2) Subsection (1) does not apply to—

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

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

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

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

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

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

Section 70: substituted, on 26 September 2002, by section 33 of the Animal Products Amendment Act 2002 (2002 No 29).

71 Requirements for dual operator butchers

(1) A retail butcher may carry out, at the same premises or place, both regulated animal product operations or trade and homekill or recreational catch operations, but only subject to the following conditions:

(a) the retail butcher must be listed as a homekill or recreational catch service provider:

(b) no animal that is homekill or recreational catch may be killed on or at any premises or place where regulated animal product is processed or traded:

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

(c) the dual operator butcher must operate under a risk management programme in respect of all regulated animal products within the retail butchery business (and accordingly is deemed to have made an election under section 32) at the premises or place concerned, and may not operate under the Food Act regime at the premises or place:

(d) in addition to any other matters required under Part 2, the risk management programme of the dual operator butcher must identify and specify the following matters:

(i) the unique risk factors inherent in having homekill or recreational catch processed in a place or premises where regulated animal products are also processed or traded:

(ii) the measures to be taken to ensure that homekill and recreational catch products are not confused with regulated animal products, and do not enter the dual operator's normal retail butcher trade

or other trade in regulated animal products for human or animal consumption:

(iii) the measures to be taken to ensure that no product from the business, whether homekill, recreational catch, or regulated animal product for human or animal consumption, is exported, whether by the service provider or any other person (otherwise than as specifically provided by section 50 in the case of the person whose homekill or recreational catch it was).

(2) For the avoidance of doubt, homekill or recreational catch product may not be treated as regulated animal product merely because it is processed at any premises or place subject to a risk management programme as required by subsection (1)(c) and (d).

Section 71(1)(ba): inserted, on 26 September 2002, by section 34 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 71(1)(d)(i): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

72 Product processed by homekill or recreational catch service provider ceases to be regulated animal product

(1) If a homekill or recreational catch service provider at any time processes any animal product sourced from operations subject to a registered risk management programme or a regulated control scheme or the Food Act regime (or from premises licensed under the Meat Act 1981), then, unless subsection (2) applies, that product ceases to be regulated animal product, and cannot be traded.

(2) Subsection (1) does not apply to the processing of animal product by a dual operator butcher at the dual operator butcher's premises or place under the dual operator butcher's registered risk management programme for regulated animal products, and in this case the animal product remains regulated animal product that can be traded.

Listing of homekill and recreational catch service providers

73 Director-General to maintain list of homekill and recreational catch service providers

(1) The Director-General must keep and maintain a list of homekill and recreational catch service providers that records all persons listed to kill or process for reward homekill or recreational catch of another person.

(2) The purpose of the list is—

(a) to enable members of the public to know who is recognised by law to provide homekill and recreational catch services; and

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

(3) The Director-General must—

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

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

(4) The list may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility—

(a) that records or stores information electronically or by other means; and

(b) that permits the information so recorded to be readily inspected or reproduced in usable form; and

(c) that permits the information to be accessed by electronic means, including (without limitation) by means of remote logon access.

74 Matters to be shown in list of homekill and recreational catch service providers

The list of homekill and recreational catch service providers must contain the following particulars in relation to each homekill or recreational catch service provider:

(a) the name and address (including the electronic address, if available) of the service provider:

(b) the premises or place or area of operations of the service provider where killing and processing of homekill or recreational catch is carried out:

(c) whether or not the service provider is a dual operator butcher:

(d) the date on which the service provider was listed:

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

75 Applications for listing

(1) A person (including a dual operator butcher) who wishes to provide the service of killing or processing the homekill or recreational catch of another person for reward may apply to the Director-General in a manner approved by the Director-General for listing as a homekill or recreational catch service provider.

(2) A person may not apply for listing under this section if the person also processes for sale or reward or otherwise trades in any regulated animal product for human or animal consumption at the premises or place where it is proposed to carry out homekill or recreational catch operations, other than in their capacity as a retail butcher.

(3) On receipt of a properly-made application accompanied by the prescribed fee (if any), the Director-General must list the applicant as a homekill or recreational catch service provider if satisfied that the person is not precluded from listing by subsection (2).

76 Listing as homekill or recreational catch service provider

Where the Director-General determines to list an applicant as a homekill or recreational catch service provider, the Director-General must—

(a) include the person on the list of homekill and recreational catch service providers, showing the date of listing; and

(b) notify the person in writing accordingly.

77 Annual listing fee payable

(1) Every listed homekill or recreational catch service provider is liable to pay, either annually or at such greater intervals as may be prescribed, the prescribed fee (if any) in respect of their continued listing.

(2) The Director-General may remove a person from the list of homekill and recreational catch service providers if satisfied that any failure to pay the prescribed fee by the due date has persisted for more than 30 days.

(3) Before removing a person from the list, the Director-General must notify the person in writing of his or her intention, and give the person a reasonable opportunity, within the time specified in the written notice, to pay the unpaid fee.

(4) The removal of a person from the list under this section does not affect their right to make a further application for listing under section 75.

Part 7
Officers, powers, etc

Appointment of officers

78 Appointment of animal product officers

(1) The Director-General may from time to time appoint persons as animal product officers for the purposes of this Act.

(2) Persons appointed under subsection (1) must be employed under the State Sector Act 1988.

(3) An animal product officer may be authorised, on his or her appointment, to exercise all of the powers and functions conferred on animal product officers under this Act, or only those powers and functions specified in the officer's instrument of appointment or subsequent written notice from the Director-General to the officer.

79 Appointment of official assessors

(1) The Director-General may from time to time appoint official assessors for the purpose of carrying out such routine examinations of animal material and products as may be required for the purposes of this Act, and particularly for the purpose of enabling official assurances to be given under this Act. Persons appointed under this subsection must be employed under the State Sector Act 1988.

(2) The Minister may from time to time appoint as official assessors for the purposes of this Act persons employed in a State enterprise within the meaning of the State-Owned Enterprises Act 1986 or within a Crown entity as defined in the Public Finance Act 1989, for the purpose of carrying out routine examinations of animal material and products for the purposes of this Act, and particularly for the purpose of enabling official assurances to be given under this Act.

(3) An official assessor may be authorised, on his or her appointment, to exercise all of the powers and functions conferred on official assessors under this Act, or only those powers and functions specified in the assessor's instrument of appointment or subsequent written notice from the Director-General to the assessor.

(4) No person is to be treated as employed in the State services for the purposes of the State Sector Act 1988, or in the Government service for the purposes of the Government Superannuation Fund Act 1956, by reason only of the person's appointment under subsection (2).

(5) The Minister may at any time suspend or revoke an appointment made under this section.

Section 79(2): amended, on 26 September 2002, by section 35 of the Animal Products Amendment Act 2002 (2002 No 29).

Powers of Director-General

80 Director-General may issue notices

The Director-General may from time to time issue notices as specified in section 167.

81 Director-General may give directions

(1) The Director-General may, by notice in writing, give directions to any or all animal product officers, official assessors, recognised persons, recognised agencies, or recognised classes as to the exercise of their functions under this Act.

(2) The Director-General may, by notice in writing, give such directions to the following persons as may be appropriate and reasonable concerning the taking of preventative or corrective action in respect of animal material or product that the Director-General cannot be reasonably satisfied will meet the requirements of this Act in the absence of such action:

(a) any operator or person in charge of a risk management programme:

(b) any operator or person in charge of an animal product business subject to a regulated control scheme:

(c) any operator or person in charge of an animal product business that supplies animal material or product to any other person:

(d) any exporter:

(e) any person in control of, or reasonably appearing to be in control of, any animal material or product.

(3) A direction must be given to a recognised class by notifying the class in accordance with section 112W.

Section 81(1): amended, on 31 August 2012, by section 9(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 81(1): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 81(3): inserted, on 31 August 2012, by section 9(2) of the Animal Products Amendment Act 2012 (2012 No 59).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The notice may require the declaration—

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

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

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

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

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

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

Section 81A: inserted, on 26 September 2002, by section 36 of the Animal Products Amendment Act 2002 (2002 No 29).

81B Director-General may impose movement and related controls

(1) The Director-General may, by notice to the owner, operator, or person in control (or reasonably appearing to be in control) of any animal, animal material, or animal product business concerned, impose or provide for the imposition of movement or related controls in accordance with this section if the Director-General has reasonable ground to suspect the existence of a hazard or source of contamination (a **risk source**) that may affect animals or animal material that may be processed for human or animal consumption.

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

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

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

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

(d) any other appropriate thing or circumstance.

(3) The movement or related controls—

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

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

(ii) may be affected by the risk source:

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

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

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

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

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

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

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

source or to animals or animal material suspected of being contaminated:

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

(5) A notice under this section may—

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

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

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

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

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

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

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

(9) For the purposes of this section,—

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

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

Section 81B: inserted, on 26 September 2002, by section 36 of the Animal Products Amendment Act 2002 (2002 No 29).

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

(1) This section applies in relation to a situation where the Director-General—

(a) suspends operations under a registered risk management programme in accordance with section 27; or

(b) deregisters a risk management programme in accordance with section 28; or

(c) accepts a surrender of registration under section 29, in circumstances where no agreement has been reached on how it is proposed to deal with any remaining animal material or product covered by the risk management programme; or

(d) suspends export operations of an exporter in accordance with section 58; or

(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.

(2) In a situation to which this section applies, the Director-General may, whether immediately before, at the same time as, or after taking the relevant action referred to in subsection (1),—

(a) give directions to the relevant operator, person in charge (or person who reasonably appears to be in charge), owner of the product or material concerned, or exporter, or any of them, on the handling, storage, further processing, transport, identification, classification, reclassification, verification, condemnation, destruction, or disposal of the animal material or product affected by the deregistration, surrender, or suspension; and

(b) where any such directions are not complied with, undertake the appropriate directed activities himself or herself (through animal product officers or other Ministry officers or employees) in relation to the affected animal material or product.

(3) The Director-General may recover all actual and reasonable costs of any activities undertaken under subsection (2)(b) from

the person to whom the direction in question was given under subsection (2)(a) and who failed to comply with the direction.

Section 82(1)(d): amended, on 1 June 2005, by section 18 of the Animal Products Amendment Act 2005 (2005 No 26).

Section 82(1)(e): added, on 1 June 2005, by section 18 of the Animal Products Amendment Act 2005 (2005 No 26).

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

(1) The Director-General may give statements in writing as to New Zealand animal product standard, upon request and on payment of the prescribed fee (if any), for any particular consignment or animal product or class of consignments or animal products, if the Director-General is satisfied that the animal product or consignment concerned has been processed in accordance with any applicable requirements of this Act to the relevant animal product standard.

(2) A statement as to New Zealand standard is not a guarantee that the contents of all or any particular consignment of animal products to which it relates—

(a) necessarily meet the commercial requirements of the consumer; 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 in transit in New Zealand or since it left New Zealand; or

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

(3) The Director-General may determine the form and content of a statement as to New Zealand animal product standard.

(4) A statement as to New Zealand animal product standard may be withdrawn at any time by the Director-General if the Director-General is satisfied that—

(a) the statement was incorrectly or inappropriately given; or

(b) events or circumstances occurring since the statement was given mean that it no longer holds true, or is misleading.

Section 83(1): amended, on 1 June 2005, by section 19 of the Animal Products Amendment Act 2005 (2005 No 26).

84 Privileged statements by Director-General

(1) The Director-General may from time to time, for the purpose of protecting the public, publish under this section statements relating to any animal material or animal product, or to any matter contained or implied in advertisements, either generally or in any particular advertisement or class or classes of advertisements, relating to any animal material or animal product.

(2) Every statement published under this section is protected by qualified privilege.

85 Recall of animal material and animal product

(1) The Director-General may, for the purpose of examining, reclassifying, rectifying, or disposing of any animal product that is not fit for intended purpose or whose fitness is in doubt, or that is mislabelled or incorrectly identified, issue a notice in writing directing the recall of that product and requiring the product to be taken to a place specified in the notice, or a place agreed to between the Director-General and the recipient of the notice.

(2) The Director-General may, for the purpose of examining, controlling, or disposing of any material that he or she has reason to believe is being or has been misrepresented as being animal product, or as being suitable for inclusion in or processing into animal product when it is not, issue a notice in writing directing the recall of animal material and requiring it to be taken to a place specified in the notice, or a place agreed to between the Director-General and the recipient of the notice.

(3) A notice under this section (a **recall notice**) may also specify any requirements that may be imposed under section 90 or section 91.

(4) A recall notice may be directed to any 1 or more persons who own or have control over the animal material or product in question.

(5) On receipt of a recall notice, the person on whom it is served must as soon as practicable—

(a) advise the Director-General of the details of the manner in which the notice is to be complied with; and

(b) give written notice to the Director-General when the recall, and any specified requirement associated with the recall, has been completed.

(6) If a person who owns or has control of animal material or product fails or refuses to comply with a recall notice,—

(a) the Director-General may take such reasonable steps as are necessary to ensure control of the material or product (including entry by animal product officers into premises under a warrant); and

(b) the Director-General may recover the costs and expenses reasonably incurred in assuming control of the material or product as a debt due from that person.

(7) Nothing in this section affects the power of the Director-General to issue a statement of a kind referred to in section 84.

86 Delegation by Director-General

The Director-General may delegate under section 41 of the State Sector Act 1988 all or any of his or her functions, powers, or duties under this Act, except the power to issue statements under section 84.

Powers of animal product officers

87 Power of entry

(1) An animal product officer may, for the purpose of determining whether or not any person is complying with this Act or any animal material or animal product or associated thing is in compliance with the requirements of this Act, without a warrant enter any place (other than a dwellinghouse or marae) at, in, or from which—

(a) any primary producer operates, or any animal product business that is subject to a risk management programme or a regulated control scheme or a food safety programme that is also registered as a risk management programme is operated; or

(b) any kind of goods that is or includes animal material or product is processed for sale or sold; or

(c) any registered exporter operates; or

(d) any listed homekill or recreational catch service provider operates; or

(e) any recognised agency or recognised person operates; or

(f) the books or records, or other business information kept in writing or electronic form, of any such producer, business, service provider, recognised agency, recognised person, or exporter are kept.

(2) Where an animal product officer believes on reasonable grounds that it is necessary to do so for the purpose of preventing or minimising a risk to human health, the officer may enter any place (other than a dwellinghouse or marae) adjoining or in the vicinity of a place where shellfish grow or are harvested for the purpose of identifying, monitoring, sampling, or testing any element or thing that might constitute a potential contaminant to or in the shellfish.

(3) *[Repealed]*

(4) An animal product officer may, pursuant to and in accordance with the conditions of a search warrant issued under section 94, enter any place (including a dwellinghouse or a marae) specified in the warrant.

(5) The provisions of subparts 1, 4, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 (except for sections 118 and 119) apply.

(6) *[Repealed]*

Section 87(1): amended, on 1 October 2012, by section 190(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 87(1)(b): amended, on 26 September 2002, by section 37(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 87(1)(e): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 87(1)(f): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 87(2): amended, on 1 October 2012, by section 190(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 87(3): repealed, on 1 October 2012, by section 190(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 87(4): amended, on 1 October 2012, by section 190(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 87(5): replaced, on 1 October 2012, by section 190(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 87(6): repealed, on 1 October 2012, by section 190(5) of the Search and Surveillance Act 2012 (2012 No 24).

88 Power to examine, etc

(1) An animal product officer may, so far as is reasonably necessary for the purpose of determining compliance with this Act at any place that the officer may enter under section 87(1),—

(a) examine all things, and open containers, packages, and other things to inspect their contents:

(b) examine, inquire about, and copy any documents or other records (including records held in electronic or other form) relating to the obligations and duties under this Act, and for this purpose may—

(i) remove documents or records to another place for the purpose of copying them, 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; and

(ii) require a person who has control of or knowledge of the documents or records to reproduce or assist in reproducing in usable form information recorded or stored in a computer or other device or system:

(c) use or require the use of any reasonable means to identify the kind or description of any animal material, animal product, equipment, package, container, or other relevant thing:

(d) identify or mark any animal material, animal product, equipment, package, container, or other relevant thing:

(e) take samples of any animal material (or take whole animals, in appropriate cases) or animal product, or any other input, substance, or thing which has been, is, or may be in contact with or in the vicinity of any animal material or animal product, and test or analyse or arrange for the testing or analysis of such samples:

(f) direct the operator or person in charge of the place to identify and hold any animal material, animal product,

substance, equipment, package, container, or other relevant thing until—

(i) the results of tests and analysis have been assessed; or

(ii) any lawful direction of an animal product officer has been complied with.

(2) The provisions of Part 4 of the Search and Surveillance Act 2012 (other than subparts 2, 3, and 8, and sections 118 and 119) apply in respect of the exercise of powers under subsection (1)(a) or (b).

(3) An animal product officer may call on any person to assist him or her in the exercise of his or her powers under this section (other than under subsection (1)(a) or (b)). Any such person may act only under the supervision and in accordance with the instructions of the animal product officer.

Section 88(1)(b)(i): amended, on 1 June 2005, by section 20 of the Animal Products Amendment Act 2005 (2005 No 26).

Section 88(2): replaced, on 1 October 2012, by section 191(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 88(3): amended, on 1 October 2012, by section 191(2) of the Search and Surveillance Act 2012 (2012 No 24).

89 Power to interrupt operations, etc

For the purposes of determining or ensuring the compliance of animal material or animal products with the requirements of this Act, an animal product officer may—

(a) interrupt any operations involved in the production or processing or export of any animal material or product:

(b) restrict or prohibit the use of any process, animal material or product, substance, equipment, or other relevant thing:

(c) direct the operator or the person in charge of the relevant operations to do any reasonable thing, at the cost of the operator.

90 Power to condemn and require disposal of animal products that are diseased, contaminated, etc

(1) An animal product officer may condemn, and require the owner or person in control to destroy, dispose of, or otherwise rectify,—

(a) any animal product which in the opinion of the officer, reasonably formed in the light of any relevant standards and specifications for the time being in force, is not fit for intended purpose:

(b) any animal material, or other input, substance, or thing which in the reasonable opinion of the officer has contributed to, or may have contributed to, any animal product not being fit for intended purpose:

(c) any animal material or animal product which in the opinion of the officer, reasonably formed in the light of any relevant standards and specifications for the time being in force, is contaminated or diseased or otherwise not in compliance with this Act.

(2) An animal product officer may seize and detain, and if necessary dispose of or arrange for the disposal of or otherwise rectify,—

(a) any product, material, input, substance, or thing of a kind referred to in subsection (1)(a) to (c):

(b) any animal material or animal product which appears to the officer, after making such enquiries as are reasonable in the circumstances, to have been abandoned or to have no apparent or readily identifiable owner.

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

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

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

(3) For the purposes of subsection (1), where—

(a) a random sample of any animal material or product has been taken and tested or examined; and

(b) an animal product officer has formed the opinion that, for any reason, the particular animal material or product sampled is not fit for intended purpose, or is contaminated, diseased, or otherwise not in compliance with this Act; and

(c) the officer has also formed the opinion that any other animal material or product is likely to be unfit for intended purpose or is contaminated, diseased, or otherwise not in compliance with this Act, for a similar reason, by reason of—

(i) having probably come from the same place as the animal material or product sampled; or

(ii) having probably been raised, treated, exposed, transported, killed, dressed, processed, stored, or otherwise dealt with in the same way as the animal material or product sampled,—

the officer is entitled, without sampling and testing or examining the other animal material or product, to form that opinion in respect of that other animal material or product.

(4) Where a sample of animal material or product is found to be contaminated, diseased, or otherwise not in compliance with this Act then, in the absence of proof to the contrary, it is to be presumed that the live animal concerned was similarly contaminated or diseased or otherwise not in compliance with this Act.

(5) Any destruction, disposal, or rectification required under subsection (1) is at the cost of the owner or person in control, and any expenses reasonably incurred by an officer in the exercise of his or her powers under subsection (2) or subsection (2A) may be recovered from that owner or person.

Section 90(2A): inserted, on 26 September 2002, by section 38(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 90(5): amended, on 26 September 2002, by section 38(2) of the Animal Products Amendment Act 2002 (2002 No 29).

91 Power to require presentation of live animals

(1) An animal product officer may for the purposes of this Act—

(a) by written notice require the owner or person in control of live animals to present those animals in a manner suitable for examination, testing, sampling, and identification:

(b) direct the owner or person in control of the animals to hold, isolate, separate, or treat any or all of the animals.

(2) If the owner or person in control fails to present the animals as required by a written notice under subsection (1)(a), the officer may capture, collect, muster, extract, harvest, or pen the animals for the relevant purpose.

(3) The presentation of any animal required by a written notice under subsection (1)(a) is at the cost of the person to whom the notice was addressed, and any expenses reasonably incurred by the officer in the exercise of his or her powers under subsection (2) may be recovered from that person.

91A Disposal of seized animals prior to commencement or determination of proceedings

(1) This section applies if—

(a) a live animal is or live animals are seized by a constable or an animal product officer under the authority of a search warrant issued under section 94; and

(b) either—

(i) proceedings for an offence involving that animal or those animals—

(A) have been commenced but not yet determined; or

(B) have not yet been commenced but are intended to be commenced within a reasonable period; or

(ii) the owner of that animal or animals cannot be located.

(2) If this section applies, a District Court, on its own motion or on an application by a constable or an animal product officer, may make an order authorising—

(a) the sale of the animal or animals; or

(b) the placement of the animal or animals with another person; or

(c) the destruction, slaughter, and processing of the animal or animals for animal products for sale, or other disposal of the animal or animals.

(3) The District Court—

(a) must, before making an order under subsection (2), give the owner of the animal or animals, if known and able to be contacted, an opportunity to be heard; and

(b) may make an order under subsection (2) if it is satisfied that there are good reasons for making that order; and

(c) may, when making the order, impose conditions (whether relating to the payment of any security holder in the animal or animals or otherwise).

(4) In determining whether to make any order referred to in subsection (2), the court must have regard to the following matters:

(a) whether the owner of the animal or animals has been identified, and if not, the steps that have been taken to identify and contact that person:

(b) the number of animals involved:

(c) the cost of continuing to hold the animal or animals:

(d) the physical state of the animal or animals:

(e) whether it is reasonable or practicable for the animal or animals to be placed elsewhere:

(f) whether it is reasonable or practicable for the Ministry to retain possession of and care for the animal or animals until the determination of the proceedings relating to the animal or animals:

(g) whether any person will suffer material loss, and the extent of that loss, if the animal or animals are or are not sold:

(h) the fitness for purpose of any animal products derived from the seized animal or animals:

(i) any other matters the court considers relevant.

(5) If an animal is or animals are sold under an order made under subsection (2)(a) or animal products are sold under an order made under subsection (2)(c), the proceeds of sale (if any) must be held by the Ministry (after deducting (in order) the costs of transport and processing, the cost of sale, any sums required to be paid to a security holder or any other person

under a condition of the order for sale, and any costs incurred by the Crown in caring for the animal or animals or providing veterinary treatment to that animal or those animals).

(6) The Ministry must, unless the proceeds of sale are otherwise forfeited to the Crown or the owner of the animal or animals is unknown or cannot be contacted, pay the proceeds of sale to the owner as soon as practicable—

(a) after the determination of the proceedings for an offence involving that animal or those animals; or

(b) after a decision is taken not to commence any such proceedings.

Section 91A: inserted, on 1 October 2012, by section 192 of the Search and Surveillance Act 2012 (2012 No 24).

92 Powers under search warrant

[Repealed]

Section 92: repealed, on 1 October 2012, by section 193(1) of the Search and Surveillance Act 2012 (2012 No 24).

Powers of official assessors

93 Powers of official assessors

(1) An official assessor may, for the purpose of determining whether or not any animal material or product, or any animal product business operation, complies with the requirements of this Act, exercise any of the following powers:

(a) the power to take, test, and examine any animal material or animal product or associated thing:

(b) the powers of an animal product officer under section 89 (power to interrupt or restrict or prohibit operations, and associated power of direction):

(c) the powers of an animal product officer under section 90(1) and (3) (power to condemn animal material or product and require or carry out its destruction, disposal, or rectification).

(2) Any destruction, disposal, or rectification required by the exercise of the powers described in section 90(1) is at the cost of the owner or person in control of the relevant animal material or product or thing.

(3) Every official assessor must, in the performance of his or her powers and functions,—
   (a) use his or her best endeavours to comply with and give effect to any relevant performance standards or other requirements issued by the Director-General by notice under section 167; and
   (b) comply with any lawful direction given by the Director-General under section 81.

Search warrants

94 Issue of search warrant

(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a search warrant in respect of any place (including any dwellinghouse or marae or other place that an animal product officer has no power to enter under section 87) if satisfied, on an application made in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012 by an animal product officer or a constable, that there are reasonable grounds for believing that there is at that place any thing—
   (a) in respect of which an offence under this Act has been or is being committed; or
   (b) that has been, is being, or is intended to be used by any person for the commission of an offence under this Act; or
   (c) that is or may be evidence of the commission of an offence under this Act by any person; or
   (d) that might constitute a contaminant to or in any shellfish grown or harvested adjacent to or in the vicinity of the place, being a contaminant that may pose a risk to human health.

(2) Subject to section 95, the provisions of Part 4 of the Search and Surveillance Act 2012 apply.

(3) Despite subsection (2), sections 118 and 119 apply only in respect of a warrant issued to a named constable or to every constable.

Section 94(1): amended, on 1 October 2012, by section 193(2)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 94(1): amended, on 1 October 2012, by section 193(2)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 94(2): replaced, on 1 October 2012, by section 193(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 94(3): replaced, on 1 October 2012, by section 193(3) of the Search and Surveillance Act 2012 (2012 No 24).

95 Powers of Police and animal product officers under warrant

(1) Without limiting the powers conferred by any search warrant issued under section 94(1), every warrant issued under that section authorises the constable or animal product officer who is executing it, and any person called on by that constable or officer to assist, to exercise—

(a) all of the powers of an animal product officer under sections 88 to 91; or

(b) only such of those powers as are specified in the warrant.

(1A) To avoid doubt, Part 4 of the Search and Surveillance Act 2012 does not apply in respect of any exercise of a power under sections 89 to 91 as a consequence of subsection (1) of this section.

(2) A constable or an animal product officer may call on any person to assist him or her in the execution of a search warrant. Any such person may act only under the supervision and in accordance with the instructions of the constable or animal product officer.

Section 95(1): replaced, on 1 October 2012, by section 193(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 95(1A): inserted, on 1 October 2012, by section 193(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 95(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

96 Requirements when executing warrant

(1) *[Repealed]*

(2) *[Repealed]*

(3) *[Repealed]*

(4) A constable or officer who is exercising a power of entry in relation to a marae or a building associated with a marae must

have regard to the kawa of the marae so far as is practicable in the circumstances.

Section 96(1): repealed, on 1 October 2012, by section 193(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 96(2): repealed, on 1 October 2012, by section 193(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 96(3): repealed, on 1 October 2012, by section 193(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 96(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

97 Disposal of property seized under search warrant

Subparts 1, 5, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply in respect of any property seized under a search warrant, subject to the following provisions:

(a) *[Repealed]*

(b) *[Repealed]*

(c) *[Repealed]*

(d) if any person is convicted of an offence to which the item relates, the court may if it thinks fit order that the item be forfeited to the Crown or disposed of as the court directs at the expense of the convicted person, and may order that the person pay any reasonable costs incurred by the Commissioner of Police or the Director-General in retaining the item.

Section 97: amended, on 1 October 2012, by section 193(6)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 97(a): repealed, on 1 October 2012, by section 193(6)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 97(b): repealed, on 1 October 2012, by section 193(6)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 97(c): repealed, on 1 October 2012, by section 193(6)(b) of the Search and Surveillance Act 2012 (2012 No 24).

General provisions

98 Protection of persons acting under authority of Act, etc

No animal product officer, official assessor, recognised person employed under the State Sector Act 1988, or any person called on to assist an officer, official assessor, or recognised person who does any act or omits to do any act in pursuance

of any of the functions or powers conferred on that officer, assessor, or person by or under this Act is under any civil or criminal liability in respect of that act or omission, unless the officer, assessor, or person has acted, or omitted to act, in bad faith or without reasonable cause.

Section 98: amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Part 8
Recognised agencies, persons, and classes of persons

Part 8: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

99 Outline of this Part

This Part—

(a) establishes a procedure for the recognition of agencies (including recognised risk management programme verifying agencies) that are responsible for managing and carrying out specified functions and activities for the purposes of this Act; and

(b) establishes a procedure for the recognition of persons (including recognised risk management programme verifiers) or classes of persons who are to carry out specified functions and activities for the purposes of this Act; and

(c) sets out the duties of recognised agencies, recognised persons, and recognised classes, and when their recognition can be suspended or withdrawn; and

(d) provides for the establishment and maintenance of a public register of recognised agencies, recognised persons, and recognised classes, and for the public to access the register.

Section 99: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

100 Interpretation

In this Part,—

requirements of this Act means any requirements or procedures specified in—

(a) this Act; or

(b) regulations made under this Act; or

(c) a notice issued under section 167

specified conviction means—

(a) a conviction for an offence against this Act; or

(b) a conviction (whether in New Zealand or in another country) for any offence relating to fraud or dishonesty; or

(c) a conviction (whether in New Zealand or in another country) for any offence relating to management control or business activities in respect of businesses of a kind (whether in New Zealand or in another country) that—

(i) are regulated under this Act or any other Act administered by the Ministry; or

(ii) are subject to an overseas regulatory regime similar to that set out in this Act.

Section 100: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Recognition of agencies, persons, and classes of persons

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

101 Recognition of agencies

(1) The Director-General may, on the application of a person, recognise that person as an agency that is responsible for the management and carrying out of specified functions and activities.

(2) Before recognising an applicant, the Director-General must—

(a) consider whether to impose a condition under section 111(1) requiring the applicant to manage or supply recognised persons to carry out some or all of the permissible functions and activities for which recognition is sought; and

(b) be satisfied that the applicant is a fit and proper person to manage and carry out the permissible functions and activities for which recognition is sought.

(3) In determining whether an applicant is a fit and proper person, the Director-General—

(a) must take into account the following matters:

(i) the competencies and resources of the applicant to manage and carry out the permissible functions and activities for which recognition is sought; and

(ii) any specified conviction entered against the applicant or any director or manager of the applicant; and

(iii) the applicant's character and reputation, including, if appropriate, the character and reputation of the directors of the applicant or of those responsible for its management or control; and

(iv) the applicant's ability to maintain an appropriate degree of impartiality and independence in managing and carrying out the permissible functions and activities for which recognition is sought; and

(v) any applicable requirements of this Act; and

(b) may take into account any other matters that the Director-General considers relevant.

Section 101: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

102 Recognition of certain agencies without application

(1) The Director-General may, without receiving an application under section 101(1), recognise any of the persons set out in subsection (2) as an agency that is responsible for the management and carrying out of specified functions and activities.

(2) The persons are—

(a) the Ministry:

(b) any group of persons within the Ministry that is designated by the Director-General for the purpose.

(3) Section 101(2) and (3) apply to subsection (1) accordingly, with all necessary modifications.

Section 102: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

103 Recognition of persons

(1) The Director-General may, on the application of a natural person, recognise that person to carry out specified functions and activities.

(2) Before recognising an applicant, the Director-General must—
- (a) consider whether to impose a condition under section 111(1) requiring the applicant to be managed, employed, or engaged by a recognised agency to carry out some or all of the permissible functions and activities for which recognition is sought; and
- (b) be satisfied that the applicant is a fit and proper person to carry out the permissible functions and activities for which recognition is sought.

(3) In determining whether an applicant is a fit and proper person, the Director-General—
- (a) must take into account the following matters:
  - (i) the competency of the applicant to carry out the permissible functions and activities for which recognition is sought; and
  - (ii) any specified conviction entered against the applicant; and
  - (iii) the applicant's character and reputation; and
  - (iv) the applicant's ability to maintain an appropriate degree of impartiality and independence in carrying out the permissible functions and activities for which recognition is sought; and
  - (v) any applicable requirements of this Act; and
- (b) may take into account any other matters that the Director-General considers relevant.

Section 103: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

104 Recognition of certain persons without application

(1) The Director-General may, without receiving an application under section 103(1), recognise any of the following natural persons to carry out specified functions and activities:

(a) any officer or employee of the Ministry:
(b) any officer or employee of any department of the public service listed in Schedule 1 of the State Sector Act 1988.

(2) Section 103(2) and (3) apply to subsection (1) accordingly, with all necessary modifications.

Section 104: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

105 Recognition of classes of persons

(1) The Director-General may recognise a class of natural persons to carry out specified functions and activities.

(2) The Director-General may recognise a class of natural persons—
(a) on the application of any person who the Director-General is reasonably satisfied—
(i) represents that class of persons; or
(ii) is an appropriate person to make an application on behalf of that class of persons; or
(b) without receiving an application.

(3) Before recognising a class of natural persons, the Director-General must—
(a) consult the members of the class and the applicant (if any) in accordance with section 112X about the application for recognition of the class; and
(b) be satisfied that the class is an appropriate class to carry out the permissible functions and activities for which the class is proposed to be recognised.

(4) In determining whether a class is an appropriate class, the Director-General—
(a) must take into account the following matters:
(i) whether the class can be defined with appropriate accuracy and specificity; and
(ii) the degree to which members of the class share common characteristics (for example, qualifications, skills, and experience); and
(iii) the degree to which the ordinary qualifications, skills, functions, and activities of members of the class correspond with, and demonstrate adequate competency to carry out, the permissible func-

tions and activities for which the class is proposed to be recognised; and

(iv) whether the class is supervised, regulated, governed, or controlled by or under a professional or regulatory body or system (for example, a disciplinary body or system), or an enactment; and

(v) whether the class is subject to a code of ethics or standards of professional conduct to which members must adhere; and

(vi) any applicable requirements of this Act; and

(b) may take into account any other matters that the Director-General considers relevant.

(5) If the Director-General recognises a class of persons under this section, the Director-General may, if he or she considers on reasonable grounds that it is appropriate to do so, exclude 1 or more members of the class, or categories of members of the class, from the recognised class (*see* section 110).

Section 105: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

106 Interrelationship between sections 101 to 105

To avoid doubt, a natural person may be recognised under any 1 or more of sections 101 to 105 despite already being recognised in another capacity under any 1 or more of those sections.

Section 106: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Recognition process

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

107 Application for recognition

An application for recognition under section 101, 103, or 105 must—

(a) be in the appropriate form and manner provided or approved by the Director-General for that purpose; and

(b) be accompanied by the prescribed application fee (if any).

Section 107: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

108 Director-General may require further information

(1) The Director-General may require a person who applies for recognition to supply further information or material before determining whether to grant the recognition.

(2) An application for recognition lapses if the additional information or other material is not supplied—

(a) within 3 months after the date of the requirement; or

(b) within any further time that the Director-General allows by notice in writing.

Section 108: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

109 Proposal to refuse application to recognise agency, person, or class of persons

(1) If the Director-General proposes to refuse an application for recognition in whole or in part, the Director-General must consult the applicant in accordance with section 112X about the proposed refusal.

(2) The notification given to the applicant in accordance with section 112X(a)(i) must—

(a) specify the grounds for proposing to refuse the application; and

(b) include a copy (or an adequate summary) of all material information the Director-General relies on in proposing to refuse the application.

(3) If the Director-General finally determines to refuse the application (in whole or in part), the Director-General must, as soon as practicable, give the applicant written notice of—

(a) the decision and the Director-General's reasons for it; and

(b) if applicable, the applicant's right to seek a review of that decision under section 162.

Section 109: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

110 Proposal to exclude members, or categories of members, from recognition of class

(1) If the Director-General proposes to exclude any members, or categories of members, from the recognition of a class, the Director-General must consult those members and the applicant (if any) in accordance with section 112X about the exclusion of the members.

(2) The notification given to the members and the applicant (if any) in accordance with section 112X(a) must—
  (a) specify the grounds for proposing to exclude the members; and
  (b) include a copy (or an adequate summary) of all material information the Director-General relies on in proposing to exclude the members.

(3) If the Director-General finally determines to exclude any members, or categories of members, from the recognition of a class, the Director-General must, as soon as practicable, give those members and the applicant (if any) written notice of—
  (a) the decision and the Director-General's reasons for it; and
  (b) if applicable, the members' and the applicant's right to seek a review of that decision under section 162.

Section 110: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

111 Director-General may impose or vary conditions of recognition

(1) The Director-General may impose any conditions the Director-General thinks fit when he or she recognises an agency, a person, or a class of persons under any of sections 101 to 105.

(2) The Director-General may vary any conditions by, as appropriate,—
  (a) giving a recognised agency or a recognised person written notice of the variation; or
  (b) notifying a recognised class of the variation in accordance with section 112W.

(3) However, before varying a condition the Director-General must consult the recognised agency, recognised person, or

recognised class in accordance with section 112X about the proposed variation, unless the agency is, or is within, the Ministry or the person is within the Ministry.

(4) If a person acting under the delegated authority of the Director-General varies a condition, the recognised agency, the recognised person, or a member of the recognised class to whom the condition applies may seek a review of the variation under section 162.

(5) Subsections (3) and (4) do not apply if the variation is made on the application of the recognised agency, recognised person, or recognised class in accordance with the terms of that application.

(6) In this section, **vary** means—
- (a) to impose additional conditions; or
- (b) to revoke or amend any conditions.

Section 111: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112 Grant of recognition

(1) If the Director-General recognises an agency, a person, or a class of persons, the Director-General must, as soon as practicable,—
- (a) enter the name of the recognised agency or recognised person, or a definition of the class that allows the class to be accurately and readily identified, in the public register; and
- (b) for a recognised agency or a recognised person, give the agency or person a notice of recognition; and
- (c) for a recognised class,—
  - (i) notify the class in accordance with section 112W of its recognition; and
  - (ii) if there was an applicant, give the applicant written notice of the recognition of the class.

(2) A notice of recognition must specify—
- (a) the permissible functions and activities for which the recognition is granted; and
- (b) for a recognised class, any members or categories of members that are excluded from the recognised class in accordance with section 105(5); and

(c) any conditions of recognition imposed under section 111(1); and

(d) the duration of the recognition under section 112B.

Section 112: replaced, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112A Scope, effect, and transfer of recognition

(1) Recognition of a recognised agency or a recognised person applies only to the particular agency or particular person specified in the notice of recognition.

(2) If a class of persons is recognised,—

(a) that recognition applies—

(i) to the class as defined in the public register; and

(ii) to each member of that class, but only—

(A) to the extent that the member carries out the specified functions and activities for which the class is recognised; and

(B) while the member continues to hold the qualifications or meet the other membership criteria according to which the class is defined in the public register in accordance with section 112(1)(a); and

(b) each member of the class—

(i) is a recognised person; and

(ii) is subject to the duties of recognised persons set out in section 112H; and

(iii) may independently carry out the specified functions and activities for which the class is recognised; and

(iv) may have the recognition of the class of which he or she is a member suspended or withdrawn for him or her only; and

(c) all conditions of recognition imposed on the class under section 111, and all directions or other requirements that apply to the class, also apply to, and must be complied with by, each member of the class individually; and

(d) a suspension or withdrawal of the recognition of the class, and any condition or corrective action imposed under section 112J(3) on the suspension of the class,

also applies to each member of the class individually; and

(e) each member of the class who carries out the specified functions and activities for which the class is recognised—

(i) does so on his or her own account; and

(ii) is personally responsible for his or her own actions or omissions.

(3) Further to subsection (2), this Part applies to a recognised person who is recognised by virtue of being a member of a recognised class, as far as applicable and with all necessary modifications, as if—

(a) a reference to a recognised person's specified functions and activities were a reference to the specified functions and activities of the recognised class of which he or she is a member; and

(b) a reference to a recognised person's recognition were a reference to the class's recognition; and

(c) a reference to a recognised person's notice of recognition were a reference to the class's notice of recognition.

(4) Recognition may not be transferred to a different agency, person, or class of persons, and may not vest by operation of law in any person other than the agency, person, or class of persons specified in the notice of recognition.

Section 112A: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112B Duration of recognition

(1) Recognition has effect for—

(a) a specified period commencing and ending on the dates stated in a notice of recognition in accordance with section 112(2)(d); or

(b) if no period is specified, an indefinite period.

(2) However,—

(a) recognition ends if it is withdrawn under section 112N or 112O or surrendered under section 112Q; and

(b) recognition has no effect while it is suspended under section 112J or 112K.

Section 112B: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112C Renewal of recognition before expiry

(1) If an agency, a person, or a class of persons is recognised for a specified period, then no later than 1 month before the end of that period—

(a) the agency, the person, or an appropriate representative may apply to the Director-General for renewal of the recognition; or

(b) the Director-General may renew the recognition without application if the agency, person, or class was initially recognised by the Director-General without application.

(2) In determining whether to renew the recognition of an agency, a person, or a class of persons, the Director-General must consider the matters set out in (as applicable) section 101(2) and (3), 103(2) and (3), or 105(3)(b) and (4) unless the Director-General is satisfied that—

(a) either—

(i) the circumstances of the agency, person, or class have not changed; or

(ii) if the circumstances of the agency, person, or class have changed, those changes do not adversely affect the current recognition; and

(b) the reasons why the Director-General recognised the agency, person, or class still apply; and

(c) the agency or person has, or a sufficient proportion of the members of the class have, complied with all applicable conditions of recognition imposed under section 111 and requirements of this Act during the period of recognition.

(3) If the Director-General proposes to vary any conditions of recognition imposed on the agency, person, or class of persons under section 111 when the Director-General renews the recognition, the Director-General—

(a) must vary the conditions in accordance with section 111(2) to (6); and

(b) may, by notice in writing to the agency, person, or class, temporarily extend the specified period of the existing recognition in order to allow consultation in accordance with section 111(3) (if required) to be completed before the period of recognition ends.

(4) Sections 108 to 112B apply with all necessary modifications to applications under this section.

(5) An application under this section that is received by the Director-General after the deadline specified in subsection (1) must be treated as if it were a new application for recognition under section 101, 103, or 105, as applicable.

(6) In this section, **appropriate representative** means any person who the Director-General is reasonably satisfied—

(a) represents the recognised class; or

(b) is an appropriate person to make an application on behalf of the class.

Section 112C: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112D Application for renewal of recognition

An application for renewal of recognition under section 112C must—

(a) be in the appropriate form and manner provided or approved by the Director-General for that purpose; and

(b) be accompanied by the prescribed application fee (if any).

Section 112D: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112E Substituted notice of recognition

(1) A recognised agency or a recognised person may apply to the Director-General for a new notice of recognition to be issued in substitution for an existing notice of recognition if—

(a) any conditions of recognition imposed on the agency or person are varied under section 111(2); or

(b) the existing notice has become disfigured or dilapidated, or contains a mistake; or

(c) the existing notice has been lost or destroyed.

(2) The Director-General must cancel the existing notice of recognition and give a new notice of recognition in substitution for it if—

(a) an application for a substituted notice of recognition is made to the Director-General in the appropriate form and manner provided or approved by the Director-General for that purpose; and

(b) the application is accompanied by the prescribed application fee (if any).

Section 112E: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112F Ongoing recognition fees, charges, or levies

Recognised agencies and recognised persons must pay the prescribed fee, charge, or levy (if any) for ongoing recognition for the prescribed period on or before the date provided or approved by the Director-General for that purpose.

Section 112F: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Performance of specified functions and activities

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112G Duties of recognised agencies

(1) When carrying out its specified functions and activities, a recognised agency must ensure that it—

(a) carries out only functions and activities that are within the scope of those specified; and

(b) is adequately resourced and its systems are maintained to a level that ensures it is able to carry out those functions and activities; and

(c) has documented policies and procedures to safeguard the confidentiality of the information obtained or created while carrying out those functions and activities; and

(d) has systems, processes, and procedures to manage appropriately any conflict of interest that might arise while carrying out those functions and activities; and

(e) complies with all conditions of recognition imposed under section 111; and

(f) complies with all applicable directions given under section 81; and

(g) complies with all applicable requirements of this Act.

(2) When carrying out its specified functions and activities, a recognised agency must also ensure that each recognised person that the agency manages and supplies (if any)—

(a) maintains all competency requirements applicable to his or her recognition; and

(b) is not placed in a position or a situation that compromises his or her impartiality and independence in carrying out his or her specified functions and activities.

(3) The duties in section 112H apply to a recognised agency (in addition to the duties in subsection (1)), but only to the extent that the agency is recognised to carry out its specified functions and activities itself (instead of being recognised to manage or supply a recognised person to carry out its specified functions and activities).

Section 112G: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112H Duties of recognised persons

When carrying out his or her specified functions and activities, a recognised person must ensure that he or she—

(a) carries out only functions and activities that are within the scope of those specified; and

(b) maintains all competency requirements applicable to his or her recognition; and

(c) maintains an appropriate degree of impartiality and independence; and

(d) maintains appropriate confidentiality (particularly in respect of commercially sensitive matters) relating to operations and activities the person comes into contact with in the course of carrying out those functions and activities (except to the extent that the person is required to report under paragraph (e) or otherwise for the purposes of this Act), including matters relating to design, technology, systems, personnel, and practices; and

(e) reports to the Ministry (or any other specified authority), in accordance with any applicable requirements of this Act,—
  (i) any matter that a recognised person is required to report; and
  (ii) for a recognised risk management programme verifier, any failure to comply with, or any inadequacy in, a risk management programme; and
  (iii) for a recognised person who carries out functions and activities in relation to a regulated control scheme, any failure to comply with the scheme; and
(f) complies with all conditions of recognition imposed under section 111; and
(g) complies with all applicable directions given under section 81; and
(h) complies with all applicable requirements of this Act.

Section 112H: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112I Recognised agency or person may act in other capacities

Nothing in section 112G or 112H prevents a recognised agency or a recognised person from carrying out functions and activities that are outside the scope of the agency's or person's specified functions and activities, provided that the agency or person does not do so—
(a) in the agency's or person's capacity as a recognised agency or a recognised person; or
(b) while purporting to act as a recognised agency or a recognised person.

Section 112I: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Suspension of recognition

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112J Suspension of recognition of recognised agency, recognised person, or recognised class

(1) The Director-General may suspend all or part of the recognition of a recognised agency, recognised person, or recognised class if the Director-General has reasonable grounds to believe that—

(a) the performance of the agency, person, or a significant proportion of the members of the class is unsatisfactory, taking into account the requirements of the recognition; or

(b) the agency, person, or a significant proportion of the members of the class no longer meets 1 or more of the criteria on which that agency, person, or class was recognised under whichever of sections 101 to 105 applies; or

(c) the agency, person, or a significant proportion of the members of the class has failed to comply with section 112G or 112H or any other applicable requirements of this Act, and that failure causes the Director-General to question the ability of the agency, person, or class to carry out the specified functions or activities of the agency, person, or class; or

(d) for an agency or a person, the agency or person has failed to pay an ongoing recognition fee, charge, or levy within 30 days after the date on which it was due and payable.

(2) The maximum period of suspension is 3 months.

(3) The Director-General may do either or both of the following:

(a) impose conditions that must be satisfied before the suspension is lifted:

(b) require a suspended agency, person, or class to take appropriate corrective action to remedy the deficiency or failure that resulted in the suspension.

Section 112J: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112K Director-General may extend suspension of recognition

(1) The Director-General may extend the period of a suspension under section 112J if the Director-General has reasonable grounds to believe that—
  (a) any conditions imposed under that section have not been satisfied within the suspension period; or
  (b) any corrective actions imposed under that section have not been fulfilled within the suspension period.

(2) The period of extension—
  (a) may be for any further period that the Director-General notifies in writing to the agency or the person, or notifies to the class in accordance with section 112W, before the expiry of the original suspension; but
  (b) must not exceed a further 3 months.

(3) The Director-General may (in addition to any conditions or requirements imposed under section 112J(3)) do either or both of the following:
  (a) impose conditions that must be satisfied before the extended period of suspension is lifted:
  (b) require a suspended agency, person, or class to take appropriate corrective action to remedy the deficiency or failure that resulted in the suspension.

Section 112K: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112L Method of suspension of recognition

(1) The Director-General must, as soon as practicable after deciding to suspend, or extend the suspension of, a recognised agency, recognised person, or recognised class, notify—
  (a) a recognised agency or recognised person of the suspension of the agency or person; and
  (b) a recognised agency of the suspension of a recognised person for whom the agency is responsible; and
  (c) a recognised person of the suspension of any recognised agency that is responsible for that person; and
  (d) a recognised class of the suspension of the class.

(2) A notice of suspension must—
  (a) be given to a recognised agency or a recognised person by notice in writing; and

(b) be given to a recognised class by notifying the class in accordance with section 112W; and

(c) specify—

(i) the reason for the suspension; and

(ii) the date and time the suspension starts; and

(iii) the period of the suspension; and

(iv) the specified functions and activities that the suspension relates to; and

(v) any conditions or corrective actions imposed under section 112J(3) or 112K(3); and

(d) if applicable, set out the right of the recognised agency, recognised person, or recognised class (under section 162) to seek a review of the decision to suspend the recognition of the agency, person, or class.

(3) The Director-General may notify any suspension of recognition in the *Gazette*.

(4) In subsections (1) to (3), **suspension** includes an extension of a suspension.

Section 112L: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112M Suspension does not limit other actions

A suspension under section 112J or an extension of a suspension under section 112K does not affect any other actions that the Director-General may take under this Act.

Section 112M: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Withdrawal of recognition

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112N Withdrawal of recognition of recognised agency or recognised person

(1) The Director-General may withdraw all or part of the recognition of a recognised agency or a recognised person if the Director-General has reasonable grounds to believe that—

(a) suspending all or part of the agency's or person's recognition under section 112J (or extending a suspension

under section 112K) would be justified, but repeated suspensions in the past have been ineffective; or

(b) the agency or person is no longer a fit and proper person to carry out the agency's or person's specified functions and activities; or

(c) the agency or person has failed to comply with section 112G or 112H or any other applicable requirements of this Act, and that failure causes the Director-General to question the agency's or the person's ability to carry out the agency's or person's specified functions or activities; or

(d) the agency or person has ceased to operate as a recognised agency or a recognised person; or

(e) the agency or person has continued to fail to pay an ongoing recognition fee, charge, or levy after the agency's or person's recognition has been suspended on the ground set out in section 112J(1)(d); or

(f) the agency or person has failed to comply with or maintain any criteria or competencies that led to the recognition of the agency or person; or

(g) the agency is no longer the appropriate agency to hold the recognition, but only if the agency is, or is within, the Ministry or a department of the public service listed in Schedule 1 of the State Sector Act 1988.

(2) However, before withdrawing recognition, the Director-General must consult the agency or person in accordance with section 112X about the proposed withdrawal of recognition, unless the agency is, or is within, the Ministry or the person is within the Ministry.

(3) The notification given to the agency or person in accordance with section 112X(a)(i) must—

(a) specify the grounds for the proposed withdrawal; and

(b) include a copy (or an adequate summary) of all material information the Director-General relies on in proposing to withdraw the recognition.

Section 112N: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112O Withdrawal of recognition of recognised class

(1) The Director-General may withdraw all or part of the recognition of a recognised class if the Director-General has reasonable grounds to believe that a significant proportion of the members of the class—

(a) have ceased to hold a qualification or meet 1 or more other membership criteria according to which the class is defined in the public register in accordance with section 112(1)(a); or

(b) have failed to comply with section 112H or any other applicable requirements of this Act, and that failure causes the Director-General to question the class's ability to carry out the class's specified functions or activities.

(2) However, before withdrawing recognition on the ground set out in subsection (1)(b), the Director-General must consult the recognised class in accordance with section 112X about the proposed withdrawal of recognition.

(3) The notification given to the recognised class in accordance with section 112X(a)(ii) must—

(a) specify the grounds for the proposed withdrawal; and

(b) include a copy (or an adequate summary) of all material information the Director-General relies on in proposing to withdraw the recognition.

Section 112O: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112P Method of withdrawal of recognition

(1) The Director-General must, as soon as practicable after deciding to withdraw all or part of the recognition of a recognised agency, recognised person, or recognised class, notify—

(a) a recognised agency or recognised person of the withdrawal of recognition of the agency or person; and

(b) a recognised agency of the withdrawal of recognition of a person for whom the agency is responsible; and

(c) a recognised person of the withdrawal of recognition of any recognised agency that is responsible for that person; and

(d) a recognised class and, if there was an applicant on behalf of the class, the applicant of the withdrawal of recognition of the class.

(2) A notice of withdrawal must—

(a) be given to a recognised agency, a recognised person, or an applicant by notice in writing; and

(b) be given to a recognised class by notifying the class in accordance with section 112W; and

(c) specify—

(i) the reason for the withdrawal; and

(ii) the date and time the withdrawal takes effect; and

(iii) the specified functions and activities that the withdrawal relates to; and

(d) if applicable, set out the right of the recognised agency, recognised person, or recognised class (under section 162) to seek a review of the decision to withdraw the recognition.

(3) The Director-General may notify any withdrawal of recognition in the *Gazette*.

(4) An agency or a person who is recognised under any of sections 101 to 104 and whose recognition is withdrawn must return the agency's or person's notice of recognition to the Director-General as soon as practicable after the withdrawal of recognition takes effect.

(5) An agency or a person whose recognition is withdrawn must, as soon as practicable after the withdrawal of recognition takes effect, take reasonable steps to notify each person who was a client of the agency or person immediately before the withdrawal that the agency's or person's recognition has been withdrawn.

Section 112P: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Surrender of recognition

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112Q Surrender of recognition

(1) A recognised agency or recognised person may—

(a) surrender his, her, or its recognition by written notice to the Director-General; and
(b) specify in the notice a future date on which the surrender is to take effect.

(2) Before the date on which a surrender takes effect, the recognised agency or recognised person that is surrendering his, her, or its recognition must,—
(a) for a recognised agency, notify the surrender to any recognised persons for whom the agency is responsible; and
(b) for a recognised person, notify the surrender to any recognised agency that is responsible for that person; and
(c) take reasonable steps to notify each person who will be a client of the agency or person immediately before the surrender that the agency's or person's recognition is surrendered.

Section 112Q: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112R Effective date of surrender of recognition

A surrender takes effect on the later of—
(a) the date specified in the notice given in accordance with section 112Q(1); or
(b) the date on which the Director-General records the surrender in the public register in accordance with section 112T(1)(b)(v) or removes the agency or person from the public register in accordance with section 112V(3).

Section 112R: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Public register of recognised agencies, recognised persons, and recognised classes

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112S Public register of recognised agencies, recognised persons, and recognised classes to be kept

(1) The Director-General must keep and maintain a public register of each—
  (a) recognised agency:
  (b) recognised person:
  (c) recognised class.

(2) The public register may be kept in any manner the Director-General thinks fit, including, either wholly or partially, by means of a device or facility—
  (a) that records or stores information electronically or by other means; and
  (b) that permits the information so recorded to be readily inspected or reproduced in usable form; and
  (c) that permits the information to be accessed by electronic means, including by means of remote log-on access.

(3) The purpose of the public register is to—
  (a) enable members of the public and persons operating industries regulated under this Act to know who is recognised to carry out particular functions and activities for the purposes of this Act; and
  (b) facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under this Act.

Section 112S: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112T Contents of public register

(1) The public register must contain all of the following information:
  (a) for each recognised agency and recognised person,—
    (i) the full name and the business or other contact address (including the electronic address, if available) of the agency or person; and
    (ii) any suspension of the agency's or person's recognition; and
  (b) for each recognised class,—
    (i) a definition of the class that allows the class to be accurately and readily identified; and

(ii) 1 or more of the following:

(A) a list of the members of the class:

(B) a statement specifying where a copy of a list of the members of the class may be obtained:

(C) a statement specifying where information about the membership of the class may be obtained; and

(iii) a list of any members, or a description of any categories of members, within the class that are excluded from the recognised class in accordance with section 105(5); and

(iv) any suspension of the class's recognition; and

(v) a list of any members of the class whose recognition has been suspended, withdrawn, or surrendered and the date on which the suspension, withdrawal, or surrender takes effect; and

(c) the specified functions and activities of each recognised agency, recognised person, and recognised class; and

(d) the date on which each agency, person, and class was recognised and the duration of that recognition; and

(e) any other particulars that are prescribed in regulations made under this Act.

(2) A suspension of recognition that is recorded on the public register must specify—

(a) the date and time the suspension starts; and

(b) the period of the suspension; and

(c) the specified functions and activities that the suspension relates to.

(3) If a person is recognised as both a recognised agency and a recognised person, the information referred to in subsection (1)(a)(i) and (c) to (e) must either—

(a) be recorded twice, once in the recognised person part of the register, and again in the recognised agency part of the register; or

(b) be recorded in one of those areas of the register and cross-referenced in the other area of the register.

Section 112T: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112U Inspection of public register

The Director-General must—

(a) make the public register available for public inspection, free of charge, at reasonable hours at the head office of the Ministry; and

(b) supply to any person, on request and on payment of a reasonable charge (if any), a copy of any entries on the public register.

Section 112U: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112V Removal from public register

(1) The Director-General must, as soon as practicable, remove the name of a recognised agency, recognised person, or recognised class from the public register if the period for which the recognition is granted expires and is not extended under section 112C(3)(b) or renewed.

(2) Subsection (3) applies if the recognition of a recognised agency, a person who is recognised under section 103, or a recognised class is—

(a) withdrawn under section 112N or 112O; or

(b) surrendered under section 112Q.

(3) The Director-General must, as soon as practicable after withdrawing the recognition or being notified of the surrender,—

(a) record the withdrawal or surrender and the date on which it takes effect; and

(b) remove that agency, person, or class from the public register.

Section 112V: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Miscellaneous matters

Heading: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112W Notification to category or class of persons

(1) If any matter is required to be notified to a category or class of persons or a recognised class under this Part, it must be notified in 1 or more of the following ways:

(a) by notice in the *Gazette*:
(b) by publication in all major metropolitan daily newspapers on at least 2 occasions:
(c) by notifying a person who the Director-General is reasonably satisfied represents the category or class or is an appropriate person to receive a notification on behalf of the category or class:
(d) if there was an applicant for the recognition of the class, by notifying that applicant:
(e) by publication, either temporarily or permanently, on the Ministry's public Internet site:
(f) by mail or email to all members of the category or class:
(g) in any other manner that the Director-General is reasonably satisfied will ensure that the matter is sufficiently notified to the category or class.

(2) In deciding which methods of notification are most appropriate in any particular case, the Director-General must consider—
(a) the nature and significance of the matter required to be notified; and
(b) the size and type of the category or class of persons and its characteristics, geographical spread, and degree of representation and organisation.

Section 112W: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112X Means of consultation

If the Director-General is required to consult a person or a category or class of persons under this Part, the Director-General must—
(a) notify the person or persons of the matter to be consulted on (the **matter**) by, as applicable,—
(i) giving the person written notice; or
(ii) notifying the category or class of persons in accordance with section 112W; and
(b) give all persons who are notified of the matter a reasonable opportunity to make a written submission on the matter; and
(c) if provided for in the notice (at the discretion of the Director-General), give all persons who are notified of the

matter a reasonable opportunity to make an oral submission on the matter; and

(d) consider any submissions that he or she receives on the matter from any person who was notified of the matter.

Section 112X: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112Y Director-General may require notification of termination of contracts

(1) The Director-General may, by notice under section 167, require any recognised risk management programme verifier or recognised risk management programme verifying agency to notify the Director-General of the termination of any contract with a client for managing or carrying out verification functions and activities.

(2) The notice may apply generally or to any particular case or class of case.

(3) The recognised risk management programme verifier or recognised risk management programme verifying agency must notify the Director-General in writing of the termination as soon as practicable, and in no case later than 7 days after it occurs.

Section 112Y: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

112Z Director-General must consider exemption, waiver, or refund of fees

(1) The Director-General must consider whether an exemption, a waiver, or a refund of all or part of a prescribed fee, charge, or levy is appropriate if—

(a) an application is made under section 107 by 1 person for more than 1 type of recognition (for example, if a person applies to be recognised as both a recognised agency and a recognised person); or

(b) an application is made under section 112C by 1 person to renew more than 1 type of recognition; or

(c) 1 person is liable under section 112F to pay a prescribed fee, charge, or levy for ongoing recognition under more than 1 of sections 101 to 105.

(2) However, subsection (1) only applies if regulations prescribing the relevant fee, charge, or levy authorise the Director-General to grant an exemption, waiver, or refund in these circumstances (*see* section 121).

Section 112Z: inserted, on 31 August 2012, by section 10 of the Animal Products Amendment Act 2012 (2012 No 59).

Part 9
Cost recovery

113 Principles of cost recovery

(1) The Minister and the Director-General are to take all reasonable steps to ensure that so many of the direct and indirect costs of administering this Act as are not provided for by money appropriated by Parliament for the purpose are recovered under this Part, whether by way of fees, levies, or otherwise.

(2) In determining the most appropriate method of cost recovery under section 114, and its level, in any particular case or class of cases of animal material or product, animal product business, person, or other matter, the Minister and Director-General are to have regard, as far as is reasonably practicable, to the following criteria:

(a) equity, in that funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service:

(b) efficiency, in that costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost:

(c) justifiability, in that costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service:

(d) transparency, in that costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.

(3) Costs should not be recovered under this Part unless there has been appropriate consultation with affected parties in accordance with section 163, and the parties involved have been given sufficient time and information to make an informed contribution.

(4) Nothing in subsection (3) or section 163 requires consultation in relation to specific fees or charges, or the specific levels of fees or charges, so long as the fees or charges set are reasonably within the purview of any general consultation or any consultation carried out for the purposes of section 116, and a failure to comply with subsection (3) does not affect the validity of any regulations made for the purposes of this Part.

(5) Nothing in this section requires a strict apportionment of the costs to be recovered for a particular function or service based on usage, and, without limiting the way in which fees or charges may be set, a fee or charge may be set at a level or in a way that—

(a) is determined by calculations that involve an averaging of costs or potential costs:

(b) takes into account costs or potential costs of services that are not directly to be provided to the person who pays the fee or charge but which are an indirect or potential cost arising from the delivery of the service in question to a class of persons or all persons who use the service.

114 Methods of cost recovery

The methods by which costs may be recovered under this Part are as follows:

(a) fixed fees or charges:

(b) fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis:

(c) the recovery by way of fee or charge of actual and reasonable costs expended in or associated with the performance of a service or function:

(d) estimated fees or charges, or fees or charges based on estimated costs, paid before the provision of the service or function, followed by reconciliation and an appro-

priate further payment or refund after provision of the service or function:

(e) refundable or non-refundable deposits paid before provision of the service or performance of the function:

(f) fees or charges imposed on users of services or third parties:

(g) levies:

(h) any combination of the above.

Section 114(b): amended, on 26 September 2002, by section 39 of the Animal Products Amendment Act 2002 (2002 No 29).

115 Cost recovery to relate generally to a financial year

(1) Except as provided in subsection (2), any regulations under this Part that set a fee, charge, or levy that applies in any financial year—

(a) must have been made before the start of that financial year; but

(b) except as the regulations may otherwise provide, apply in that year and all subsequent years until revoked or replaced.

(2) Subsection (1) does not prevent the alteration or setting during any financial year of a fee, charge, or levy payable in that year if either the fee, charge, or levy is reduced or removed (or restated without substantive alteration) or, in the case of an increase or a new fee, charge, or levy,—

(a) appropriate consultation has been carried out with persons or representatives of persons substantially affected by the alteration or setting; and

(b) the Minister is satisfied that those persons, or their representatives, agree or substantially agree with the alteration or setting.

(3) Subsection (1) does not prevent the amendment of any regulation setting a fee, charge, or levy if any substantive alteration effected by the amendment is for the purpose of correcting an error.

(4) Recovery may be made in any financial year of any shortfall in cost recovery for any of the preceding 4 financial years and allowance may be made for any over-recovery of costs in those

years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

Section 115(2): amended, on 26 September 2002, by section 40 of the Animal Products Amendment Act 2002 (2002 No 29).

115A Application of section 115(1) to assurances in respect of export licences issued under Dairy Industry Restructuring Act 2001

Section 115(1) does not apply to assurances given in respect of export licences issued under the Dairy Industry Restructuring Act 2001 until the financial year beginning 1 July 2010.

Section 115A: inserted, on 15 December 2007, by section 22 of the Dairy Industry Restructuring Amendment Act 2007 (2007 No 107).

116 Three-yearly review of cost recovery

(1) The Minister must cause to be reviewed, at least once in every 3-year period occurring since the original setting of, or latest change to, the levels and methods of cost recovery in relation to any class of animal material or product, animal product business, person, or other matter, the levels and methods of cost recovery in the relevant area that are likely to be appropriate for the following financial year or years.

(2) The Minister must ensure that appropriate consultation takes place in relation to any such review.

(3) A review may make provision for recovery in any relevant financial year of any shortfall in cost recovery for any of the preceding 4 financial years, or make allowance for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

(4) Subsection (1) does not require all areas of cost recovery to be reviewed at the same time, and nor does it impose any time limit on the making of regulations to implement the results of a review.

117 Fees and charges to be prescribed by regulations

(1) Regulations may be made under this Act, on the recommendation of the Minister, prescribing fees and charges for the purposes of this Act.

(2) The fees may be prescribed using any 1 or more of the methods specified in section 114(a) to (f), or any combination of those methods.

(3) Different fees and charges, or different rates or types of fee or charge, may be prescribed in respect of different classes or descriptions of animal material, animal products, persons or businesses, operations, or other matters, or any combination of them.

(4) Without limiting subsection (3), the fees and charges prescribed may—

(a) differ depending on whether or not a special or urgent service is provided:

(b) include more than 1 level of fee or charge for the same service provided in different ways, or provided in or in respect of different places:

(c) differ for otherwise similar services provided in different ways:

(d) differ for otherwise similar services provided to different categories of person:

(e) differ depending on the amount of service required or the components of the service required for the particular person or class of person.

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

(5) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of sections 113 and 115 have been met.

Section 117(4A): inserted, on 26 September 2002, by section 41 of the Animal Products Amendment Act 2002 (2002 No 29).

118 Regulations may impose levies

(1) Regulations may be made under this Act, on the recommendation of the Minister, prescribing levies for the purposes of this Act.

(2) Different levies or rates of levy or bases on which an amount of levy is to be calculated or ascertained may be prescribed for

different purposes, and different levies or rates of levy or bases for calculation may be set for different classes or descriptions of animal material, animal products, persons or businesses, operations, or other matters, or any combination of them.

(3) Without limiting the generality of subsection (1), regulations imposing levies may—

(a) specify when and how any levy is to be paid:

(b) require that any levy, or estimated amount of levy, be paid in advance of performance of the services or functions to which it relates:

(c) specify persons, other than persons primarily responsible for paying the levy, who are to be responsible for collecting a levy, and provide for retention of any part of the levy money collected as a fee for that service:

(d) require, or empower the Director-General to require, the provision of information and returns in relation to levies:

(e) require the keeping of separate trust accounts for levy money received or deducted by persons responsible for collecting levies, and prescribe matters in relation to such trust accounts:

(f) prescribe a method of arbitration or mediation in the case of disputes as to—

(i) whether or not any person is required to pay, or collect, the levy concerned; or

(ii) the amount of levy any person is required to pay or collect;—

and provide for related matters, including procedures and remuneration for arbitrators or mediators.

(4) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of sections 113 and 115 have been met.

119 Trust accounts required to be kept by persons collecting levies

(1) Where regulations made under section 118 require the operation of a trust account for any levy money by the person responsible for collecting the levy,—

(a) any amount held in such an account that is due to be paid to the Director-General by the levy collector is to be treated as levy money held on trust for the Director-General; and

(b) any amount so held on trust is not available for the payment of any creditor (other than the Director-General) of the levy collector, and is not liable to be attached or taken in execution at the instance of any such creditor; and

(c) a person who ceases to be a person responsible for collecting a levy must continue to maintain the trust account until all the levy money payable to the Director-General in respect of the period during which the person was responsible for collecting the levy has been paid.

(2) Nothing in subsection (1)(c) affects any obligation or liability under this Act of any other person who has become responsible for collecting the levy concerned.

120 Other charges not requiring to be prescribed

(1) Nothing in this Part or any other provision of this Act prevents the Director-General from requiring a reasonable charge to be paid for any of the services the Ministry provides in relation to the administration of this Act, or any actual and reasonable expenses incurred in providing the services, other than services in respect of which a fee or charge or levy is prescribed under this Part.

(2) Without limiting subsection (1), and for the avoidance of doubt, the Director-General may—

(a) operate a telephone information service for which each caller pays according to their usage or on some averaged basis:

(b) charge persons for the cost of mailing, faxing, emailing, or couriering information to them:

(c) charge for the cost of written material, unless that material is required by an Act or by regulations made under this Act to be provided free of charge:

(d) charge for access to any website, or for information or services provided by any website, operated by the Ministry:

(e) charge for access to any library or research services provided in relation to matters pertaining to animal material, animal products, or associated things:

(f) charge any person for services provided in relation to an animal product business or otherwise under this Act.

(3) All money received as a result of such charges received by the Ministry must be paid into the Departmental Bank Account.

121 Exemptions, waivers, and refunds

(1) Regulations made under this Act may provide for exemptions from, or waivers or refunds of, any fee, levy, or charge payable under this Act, in whole or in part, in any class of case.

(2) Any such regulations may authorise the Director-General to grant an exemption, waiver, or refund in any particular case or class of case.

122 Fees, levies, and charges to constitute debt due to Director-General

Any fee, levy, or charge that has become payable is a debt due to the Director-General, and is recoverable as a debt by the Director-General in any court of competent jurisdiction. Until paid in full, it remains a debt due to the Crown.

123 Penalties for failure to pay fee, levy, or charge

(1) Where a person has failed to pay to the Director-General by the due date any fee, levy, or charge payable under this Part,—

(a) section 14 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 applies to increase the amount payable; and

(b) section 15 of that Act applies to allow the Director-General, in appropriate cases, to waive the payment of all or any of the amount of any such increase; and

(c) section 16 of that Act applies to allow the Director-General to withdraw, or refuse to provide the person in default with, any service of the kind to which the debt relates.

(2) For the purposes of subsection (1)(c) of this section and section 16 of the Ministries of Agriculture and Forestry (Restructur-

ing) Act 1997, and without limiting the generality of that section 16, the references in those provisions to the withdrawal or refusal to provide any service are to be treated as also authorising the Director-General, in an appropriate case, to—

(a) withhold or suspend any approval under this Act, or refuse to perform any function under this Act in relation to the person in default:

(b) withhold the registration of any exporter or risk management programme, or the listing of any homekill or recreational catch service provider, under this Act, or require the suspension of any relevant operations of the exporter or operator of the risk management programme:

(c) withhold any official assurance.

(3) Where the withdrawal of any approval or registration under this section, or any suspension of operations, requires the Director-General to provide any further service, perform any further function, or incur any further costs in the interests of ensuring the fitness for intended purpose of the animal product involved in the withdrawal or suspension, the Director-General may recover any reasonable amount for the additional service, function, or costs as a debt due from the person who owns or is responsible for the operation concerned.

124 Obligation to pay fee, levy, or charge not suspended by dispute

The obligation of a person to pay any fee, levy, or charge under this Act (including any penalty referred to in section 123), and the right of the Director-General to receive and recover the fee, levy, charge, or penalty, are not suspended by any dispute between the person and the Director-General regarding the person's liability to pay the fee, levy, or charge, or the amount of the fee, levy, or charge.

125 Levy regulations to be confirmed

(1) Where in any year any regulations imposing a levy have been made under this Part on or after 1 January in any year and before 1 July in that year, and—

(a) have not been revoked with effect on or before 1 July in the next year; and

(b) have not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of Part 3 of the Legislation Act 2012,—

they are to be treated as having been revoked with the close of 30 June in that next year unless confirmed by an Act of Parliament passed on or before that day.

(2) Where in any year any regulations imposing a levy have been made under this Part after 30 June in any year and on or before 31 December in that year, and—

(a) have not been revoked with effect on or before 1 January in the year after the next year; and

(b) have not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of Part 3 of the Legislation Act 2012,—

they are to be treated as having been revoked with the close of 31 December in the year after the year in which they were made, unless confirmed by an Act of Parliament passed on or before that day.

Section 125(1)(b): amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Section 125(2)(b): amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Part 10
Offences, penalties, and proceedings

126 Offences involving endangerment of human or animal health

(1) A person commits an offence who, being a producer, processor, or exporter of animal material or animal products, contravenes or fails to comply with any provision of this Act knowing that the contravention or failure would or is likely to endanger the lives or health of the public, or the life or health of any individual.

(2) A person commits an offence who, being the operator of a risk management programme or a person who is required to operate under a risk management programme, or a person subject to the requirements of a regulated control scheme, contravenes

or fails to comply with any provision of this Act knowing that the contravention or failure—

(a) may create, directly or indirectly, a risk to human or animal health; or

(b) may, directly or indirectly, increase the likelihood of an existing risk to human or animal health.

(3) *[Repealed]*

(4) A person who commits an offence against subsection (1) is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $500,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 5 years and a fine not exceeding $100,000.

(5) A person who commits an offence against subsection (2) is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $300,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 2 years and a fine not exceeding $75,000.

Section 126(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 126(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 126(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

127 Offences involving deception

(1) A person commits an offence who, with intent to deceive and for the purpose of obtaining any material benefit or avoiding any material detriment,—

(a) makes any false or misleading statement or any material omission in any communication, application, record, or return for the purpose of this Act, or destroys, cancels, conceals, alters, obliterates, or fails to provide any document, record, return, or information required to be kept or communicated under this Act; or

(b) falsifies, removes, misuses, alters, misapplies, misrepresents, or fails to apply any brand or material or prod-

uct description or other form of identification of animal material or animal product required or authorised to be used under this Act; or

(c) falsifies, removes, misuses, alters, misapplies, misrepresents, or fails to apply any identification, differentiation, or security system or device specified or approved or required under section 158; or

(d) misrepresents, substitutes in whole or in part, adulterates, or otherwise tampers with animal material or animal product to which this Act applies so that it no longer matches or complies with its identification, description, certificate, label, or official assurance; or

(e) falsifies, alters, or misapplies any certificate or declaration or other statutory form attached or relating to any animal material or animal product that is required or authorised to be used under this Act, or any official assurance, or tampers with any animal material or animal product that is subject to such a certificate, declaration, form, or assurance; or

(f) falsifies, removes, suppresses, or tampers with any samples, test procedures, test results, or evidence taken or seized by an animal product officer, official assessor, recognised agency, or other recognised or authorised person in the exercise of their functions or powers under this Act; or

(g) falsifies, removes, suppresses, or tampers with any samples, test procedures, or test results taken by or for an operator of a registered risk management programme for the purposes of that programme or this Act, or by or for a person subject to the requirements of a regulated control scheme for the purposes of that scheme or this Act; or

(h) aids, abets, incites, counsels, procures, or conspires with any other person to commit an offence under this section.

(2) *[Repealed]*

(3) A person who commits an offence against subsection (1) is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $500,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 5 years and a fine not exceeding $100,000.

Section 127(1)(f): amended, on 31 August 2012, by section 11(a) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 127(1)(f): amended, on 31 August 2012, by section 11(b) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 127(1)(f): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 127(2): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 127(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

128 Sale of non-complying animal material or product

(1) A person commits an offence who sells or offers for sale, or has in the person's possession for sale,—

(a) any animal material to which any of Parts 2 to 5 apply that, to the person's knowledge, does not or no longer meets any relevant specification under Part 4 or requirement under Part 5, or the requirements of any relevant regulation; or

(b) any animal product to which any of Parts 2 to 5 apply that, to the person's knowledge, has not been processed in accordance with the requirements of Parts 2 to 5 that apply to the product, or is not otherwise fit for intended purpose.

(2) A person commits an offence against this Act who sells or offers for sale, or has in possession for sale, any animal material or animal product for human or animal consumption that purports or is represented to have been produced or processed in accordance with Parts 2 to 4, but that, to the person's knowledge, has not been processed in accordance with those Parts.

(3) *[Repealed]*

(4) Where in any proceedings for an offence against this section knowledge on the part of the defendant is an essential element of the offence with which the defendant is charged, that knowledge is to be presumed until the contrary is proved.

(5) A person who commits an offence against this section is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $500,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 2 years and a fine not exceeding $100,000.

Section 128(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 128(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

129 Presenting non-complying animal material for processing

(1) A person commits an offence against this Act who, knowing that the animal material is or is likely to be processed for human or animal consumption, presents for sale or processing (whether directly or by an agent) any animal material that fails to comply with any requirement of Parts 2 to 4 that applies to it.

(2) Where in any proceedings for an offence against this section knowledge on the part of the defendant is an essential element of the offence with which the defendant is charged, that knowledge is to be presumed until the contrary is proved.

(3) A person who commits an offence under this section is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $100,000:

(b) in the case of an individual, to a fine not exceeding $20,000.

Section 129(1): amended, on 26 September 2002, by section 42 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 129(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

130 Offence to export unless registered

(1) A person commits an offence against this Act who, being a person who is required to be registered as an exporter in relation to the animal material or product concerned, without being so registered exports any animal material or animal product to which Part 5 applies other than in accordance with an exemp-

tion granted under section 9 or section 50 or by regulations made under this Act.

(2) *[Repealed]*

(3) A person who commits an offence against subsection (1) is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $300,000:

(b) in the case of an individual, to a fine not exceeding $50,000.

Section 130(2): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 130(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

131 Offences in relation to homekill and recreational catch

(1) A person commits an offence against this Act who—

(a) being both a homekill or recreational catch service provider and also a person who for reward or purposes of trade processes or trades in regulated animal products for human or animal consumption, operates those 2 activities at the same premises or place, other than as a dual operator butcher; or

(b) exports any animal material or product for human or animal consumption knowing that the animal material or product—

(i) is homekill or recreational catch product (not being homekill or recreational catch product that is exported for his or her own use by the person whose homekill or recreational catch it was); or

(ii) is derived from a dual operator butcher, or from an animal product business operating in the same premises or place both as a homekill or recreational catch service provider and as a trader in, or processor for reward or purposes of trade of, regulated animal product for human or animal consumption; or

(c) being a homekill or recreational catch service provider, kills or processes an animal as homekill, or receives an animal for killing or processing as homekill, know-

ing that the person presenting the animal has not been actively involved in the day-to-day maintenance of the animal.

(2) A person commits an offence against this Act who—

(a) operates for reward as if they were a homekill or recreational catch service provider without being currently listed as such under section 76; or

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

(b) being the owner or person in charge of an animal, engages for reward as a homekill or recreational catch service provider in respect of that animal a person who, to the owner's or person's knowledge, is not currently listed as a homekill or recreational catch service provider under section 76; or

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

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

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

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

(bc) being a dual operator butcher, kills an animal that is homekill or recreational catch at any premises or place

where regulated animal product is processed or traded; or

(c) sells or attempts to sell any animal material or product for human or animal consumption that was processed as homekill or recreational catch product and not in accordance with the requirements of Parts 2 to 4 (except as permitted by sections 67(2)(b)(ii), 68(2)(b)(ii), and 69; or

(d) presents an animal to a homekill or recreational service provider for killing or processing as homekill when the person is not an owner of the animal who has been actively involved in the day-to-day maintenance of the animal, or of other animals of the same kind, for a period of at least 28 days immediately preceding the presentation of the animal.

(3) *[Repealed]*

(4) A person who commits an offence against subsection (1) is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $500,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 2 years and a fine not exceeding $100,000.

(5) A person who commits an offence against subsection (2) is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $300,000:

(b) in the case of an individual, to a fine not exceeding $75,000.

(6) Where in any proceedings for an offence under this section knowledge on the part of the defendant is an essential element of the offence with which the defendant is charged, that knowledge is to be presumed until the contrary is proven.

Section 131(2)(ab): inserted, on 26 September 2002, by section 43(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 131(2)(ba): inserted, on 26 September 2002, by section 43(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 131(2)(bb): inserted, on 26 September 2002, by section 43(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 131(2)(bc): inserted, on 26 September 2002, by section 43(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 131(2)(c): amended, on 26 September 2002, by section 43(3) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 131(2)(d): amended, on 26 September 2002, by section 43(4) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 131(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 131(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 131(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

132 Breach of compliance order

(1) A person commits an offence against this Act who, without reasonable excuse, breaches or fails to comply with the terms of a compliance order or interim compliance order issued under section 150 or section 151.

(2) A person who commits an offence against this section is liable on conviction to—
- (a) a fine not exceeding—
  - (i) $300,000, in the case of a body corporate; or
  - (ii) $50,000, in the case of an individual; and
- (b) an additional fine not exceeding $2,000 for every day on which the breach or failure continues.

Section 132(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

133 Obstruction of officers, etc

(1) A person commits an offence against this Act who threatens, assaults, or intentionally obstructs or hinders—
- (a) any animal product officer, official assessor, or recognised risk management programme verifier; or
- (b) an assistant of such a person; or
- (c) any recognised agency, recognised person, or other authorised person (including a person having functions or powers under the Food Act 1981 in relation to a food safety programme that is registered as a risk management programme pursuant to section 34),—

who is acting in the exercise or performance of a function, power, or duty under this Act or under any risk management programme.

(2) A person commits an offence against this Act who, with intent to deceive, personates or pretends to be an animal product officer, official assessor, recognised risk management programme verifier or recognised risk management programme verifying agency, or a person referred to in subsection (1)(c).

(3) A person who commits an offence against this section is liable on conviction to a fine not exceeding—
  (a) $250,000, in the case of a body corporate; or
  (b) $50,000, in the case of an individual.

Section 133(1)(a): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 133(1)(c): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 133(1)(c): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 133(2): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 133(2): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 133(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

134 Offence of breach of duty

(1) A person commits an offence who, without reasonable excuse,—
  (a) being the operator of a risk management programme, breaches or fails to carry out any of the duties specified in section 16; or
  (b) being a recognised agency, breaches or fails to carry out any of the duties specified in section 112G; or
  (c) being a recognised person, breaches or fails to carry out any of the duties specified in section 112H; or
  (d) being a registered exporter, breaches or fails to carry out any of the duties specified in section 51.

(2) A person who commits an offence under subsection (1) is liable on conviction—

(a) in the case of a breach or failure in relation to any of the duties specified in subsection (3), to—
  (i) in the case of a body corporate, a fine not exceeding $200,000:
  (ii) in the case of an individual, a fine not exceeding $50,000:
(b) in any other case, to—
  (i) in the case of a body corporate, a fine not exceeding $100,000:
  (ii) in the case of an individual, a fine not exceeding $25,000.

(3) The duties that attract a penalty referred to in subsection (2)(a) are as follows:
(a) for operators of risk management programmes, the duties specified in—
  (i) section 16(1)(c) (ensuring operations under a programme are adequately implemented and resourced):
  (ii) section 16(1)(d) (ensuring operations under programme are commensurate with capability and capacity of premises or place, facilities, equipment, and staff, etc):
  (iii) section 16(1)(e) (giving recognised agencies and recognised persons appropriate freedom and access for their functions and activities):
(b) for recognised persons, the duties specified in—
  (i) section 112H(c) (maintaining impartiality and independence):
  (ii) section 112H(e) (reporting required matters to Ministry):
  (iii) *[Repealed]*
(c) for exporters, the duties specified in section 51(b) (export only material or products that meet relevant standards and specifications, and relevant overseas market access requirements).

Section 134(1)(b): amended, on 31 August 2012, by section 12(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 134(1)(c): amended, on 31 August 2012, by section 12(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 134(1)(c): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 134(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 134(3)(a)(iii): amended, on 31 August 2012, by section 12(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 134(3)(a)(iii): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 134(3)(b): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 134(3)(b)(i): amended, on 31 August 2012, by section 12(4) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 134(3)(b)(ii): amended, on 31 August 2012, by section 12(5)(a) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 134(3)(b)(ii): amended, on 31 August 2012, by section 12(5)(b) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 134(3)(b)(iii): repealed, on 31 August 2012, by section 12(6) of the Animal Products Amendment Act 2012 (2012 No 59).

135 Failure to comply with Act, etc

(1) A person commits an offence who, without reasonable excuse, fails to comply with—

(a) any provision of this Act; or

(b) any provision of any regulations made under this Act the failure to comply with which is specified in those regulations as an offence; or

(c) any direction, condition, notice, or requirement lawfully given, made, or imposed by or under this Act.

(2) In proceedings for an offence against this section it is not necessary for the prosecution to show that the defendant intended to commit the offence.

(3) A person who commits an offence against this section for which no other penalty is specified is liable on conviction—

(a) in the case of a body corporate, to a fine not exceeding $100,000:

(b) in the case of an individual, to a fine not exceeding $20,000.

Section 135(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

136 Defence for persons charged with breach of duty or failure to comply

(1) In any prosecution for an offence against section 134 or section 135, it is a defence if the defendant proves that—

(a) the breach or failure concerned was due to the act or omission of another person, or to an accident or some other cause outside the defendant's control; and

(b) the defendant took reasonable precautions and exercised due diligence to avoid the breach or failure, or breaches or failures of that kind.

(2) A defence under subsection (1) is available only if, at least 14 days before the date on which the hearing of the proceedings commences or within such further time as the court may allow, the defendant delivers to the prosecutor a written notice that—

(a) states that the defendant intends to rely on the relevant defence; and

(b) specifies the nature of the act or omission constituting the relevant breach or failure and the precautions taken against such breaches or failures.

137 Presumptions as to dual operator butchers

In any proceedings for an offence against this Act, any animal material or product on display to the public or offered or exposed for sale at the premises or place of a dual operator butcher is to be presumed to be for sale until the contrary is proved.

138 Presumption as to possession for sale, etc

Where any animal material or animal product is found on or at any premises or place used by any person (other than a dual operator butcher) for the sale of animal material or products, or for the holding or storage of animal material or animal products intended for sale, the animal material or animal product is to be presumed in any proceedings for an offence against this Act to be in the possession of that person for the purposes of sale until the contrary is proved.

139 Proof of compliance with Act

In any proceedings for an offence against this Act relating to the sale of animal material or product, or in respect of which the sale of animal material or product is an element of the offence, it is for the defendant to prove that the provenance and previous processing of the material or product was legitimate in light of the requirements of this Act.

140 Evidence in proceedings

(1) In any proceedings for an offence against this Act, a certificate or document (including electronic copy) of any of the following kinds is admissible in evidence and, in the absence of proof to the contrary, is sufficient evidence of the matter stated in the certificate or of the contents of the document, as the case may require:

(a) a certificate purporting to be signed by the Director-General, or by a delegate of the Director-General, to the effect that, at any specified date or period,—

(i) a named person or body is or was, or is not or was not, an official assessor, an animal product officer, a recognised risk management programme verifier, a recognised risk management programme verifying agency, a recognised person, a recognised agency, or an employee of the Ministry; or

(ii) a specified risk management programme was or was not registered, or was or was not amended, deregistered, or surrendered under Part 2; or

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

(iii) a named person was or was not registered as an exporter under Part 5 or listed as a homekill or recreational catch service provider under Part 6, or that the person's registration or listing was made, removed, or withdrawn; or

(iv) a specified operation was or was not suspended under section 27 or section 58; or

(v) any official assurance, or any statement under section 83, had or had not been given in respect

of any animal material or animal product or consignment; or

(vi) a named person had or had not made an election under section 32 to operate under a registered risk management programme; or

(vii) a specified food safety programme was or was not registered as a risk management programme, with specified conditions, pursuant to section 34; or

(viii) a specified document was or was not a copy of an official assurance given under this Act; or

(ix) a specified document was or was not a copy of a registered risk management programme; or

(x) a specified document was or was not a copy of a notice or direction given under this Act; or

(xi) a specified document was a copy of an extract from a register or listing kept under this Act; or

(xii) a specified identification, differentiation, or security system or device was or was not specified or approved under section 158:

(b) a certificate purporting to be signed by any person authorised by this Act or the State Sector Act 1988 to delegate to any person, or to persons of any kind or description, the exercise or performance of any power or function under this Act, stating that—

(i) the person has delegated the exercise or performance of the power or function specified in the certificate to the person specified in the certificate; or

(ii) the person has delegated the exercise of the power or function specified in the certificate to persons of a kind or description specified in the certificate, and that a named person specified in the certificate is a person of that kind or description:

(c) a certificate purporting to be signed by an analyst, a recognised agency, or a recognised person stating the results of an analysis, test, or examination of a sample taken under or for the purposes of this Act:

(d) a document purporting to be a copy of any material incorporated by reference into any regulation or notice or order under section 167:

(e) a document purporting to be a copy of a registered risk management programme:

(f) a document purporting to be a copy of an official assurance or a statement given under section 83:

(g) a document purporting to be a copy of a notice or direction or approval or specification (including a copy of any material incorporated by reference) or requirement given under this Act.

(2) The production of a certificate or document purporting to be a certificate or document to which subsection (1) applies is prima facie evidence that it is such a certificate or document, without proof of the signature of the person purporting to have signed it or of its nature.

(3) No certificate of an analyst, a recognised agency, or a recognised person, and no other evidence of an analysis, test, or examination under this Act, is to be ruled inadmissible or disregarded by reason only of the fact that any of the provisions of this Act or of any regulations or specifications made under this Act relating to the taking, analysing, testing, or examining of samples have not been strictly complied with, if there has been reasonable compliance with those provisions.

(4) A certificate or document to which subsection (1) applies is not admissible in evidence unless—

(a) at least 14 days before the hearing at which the certificate or document is to be tendered, a copy is served, by or on behalf of the prosecutor, on the defendant or the defendant's agent or counsel, and that person is at the same time informed in writing that the prosecutor does not propose to call the person who signed the certificate or document as a witness at the hearing or to call evidence as to the nature of the document; and

(b) the court has not, on the application of the defendant made not less than 7 days before the hearing, ordered, not less than 4 days before the hearing (or such lesser period as the court in the special circumstances of the

case thinks fit), that the certificate or document should not be admissible as evidence in the proceedings.

(5) The court may not make an order under subsection (4)(b) unless it is satisfied that there is a reasonable doubt as to the accuracy or validity or identity of a certificate or document.

Section 140(1)(a)(i): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 140(1)(a)(i): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 140(1)(a)(iia): inserted, on 1 June 2005, by section 23 of the Animal Products Amendment Act 2005 (2005 No 26).

Section 140(1)(c): amended, on 31 August 2012, by section 13(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 140(1)(c): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 140(3): amended, on 31 August 2012, by section 13(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 140(3): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

141 Presumption as to authority

(1) A return, record, transaction, form, application, or other information purporting to be completed, kept, or provided by or on behalf of a person is for the purposes of this Act to be presumed to have been completed, kept, or provided by that person unless the contrary is proved.

(2) The production of—

(a) any document presented by an animal product officer purporting to be a notice or an extract from a notice issued by the Director-General in accordance with section 164 or section 167, or a copy of any such notice or extract; and

(b) a copy of the *Gazette* in which the notice was notified—

is in all courts and in all proceedings sufficient evidence, until the contrary is proved, of the existence, notification, and contents of the notice.

142 Liability of body corporate

If, in the course of proceedings against a body corporate for an offence against this Act, it is necessary to establish the state

of mind of the body corporate, it is sufficient to show that a director, employee, or agent of the body corporate, acting within the scope of that person's actual or apparent authority, had that state of mind.

143 Liability of directors and managers of companies

Where a body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is also guilty of a like offence if it is proved that—

(a) the act or omission that constituted the offence took place with the authority, permission, or consent of the director or person; or

(b) the director or person knew that the offence was to be or was being committed, and failed to take all reasonable steps to prevent or stop it.

144 Liability of companies and persons for actions of agent or employee

(1) Any act or omission on behalf of a body corporate or other person (both called **the principal**) by a director, agent, or employee (each called **the agent**) of the principal is to be treated for the purposes of this Act as being also the act or omission of the principal.

(2) Despite subsection (1), where a principal is charged under this Act in relation to the act or omission of an agent for an offence against any of sections 126, 127, 128, 131(1)(b), 131(1)(c), and 131(2)(b), it is a good defence to the charge if the principal proves that the principal took all reasonable steps to prevent the commission of the offence or the commission of offences of that kind.

145 Time limit for filing charging document for offence against section 129 or 135

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against section 129 or 135 of this Act ends on the date that is 2 years after the date on which the offence was committed.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Section 145: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Compliance orders

146 Compliance orders

(1) A compliance order is an order made by a District Court that may do any 1 or more of the following things:

(a) require a person to cease, or prohibit a person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the court, contravenes or is likely to contravene this Act or any requirement imposed by or under this Act, and thus—

(i) is likely to endanger the health of humans or animals through the sale of defective or non-complying animal material or product; or

(ii) is likely to prejudice the integrity or reputation of New Zealand exports of animal material or products, or the integrity of official assurances given under this Act:

(b) require a person to remedy or mitigate any adverse effect arising from any action or matter that may be the subject of an order under paragraph (a):

(c) require a person to do something that, in the opinion of the court, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect arising from any action or matter that may be the subject of an order under paragraph (a):

(d) require a person to pay money to or reimburse the Crown for any actual and reasonable costs and expenses that the Crown has incurred or is likely to incur in avoiding, remedying, or mitigating any adverse effect arising from the failure of the person to comply with a compliance order earlier made against them under paragraph (a) or paragraph (b) or paragraph (c).

(2) For the purposes of subsection (1)(d), **actual and reasonable costs** include the costs of investigation, supervision, and moni-

toring of the relevant situation, and the costs of any actions required to avoid, remedy, or mitigate the relevant adverse effect.

(3) A compliance order may be made on such terms and conditions as the court thinks fit, including the provision of security or the entry into a bond for performance.

(4) If the court so orders, a compliance order applies to the personal representatives, successors, and assigns of the person to whom the order is addressed to the same extent that it applies to the person.

147 Application for compliance order

(1) The Director-General may at any time apply to a District Court for a compliance order of a kind specified in section 146.

(2) Every application to a District Court under this section must be made by originating application.

(3) Except as modified—

(a) by sections 148 to 156; and

(b) by any rules made under section 157,—

the rules relating to the practice and procedure of District Courts for the time being in force under the District Courts Act 1947 apply with respect to every application to the court under this section.

148 Notification of application

(1) Except as provided in section 151 (which relates to temporary compliance orders), the Director-General must serve notice of the application on every person directly affected by the application.

(2) The notice must be served within 5 working days after the date on which the application is filed in the District Court, or within such further time as a District Court may allow.

149 Right to be heard

Except as provided in section 151, before deciding an application for a compliance order, the court must—

(a) hear the applicant; and

(b) hear any person against whom the order is sought who wishes to be heard.

150 Decision on application

After considering an application for a compliance order, the court may—

(a) make an appropriate order under section 146; or

(b) refuse the application.

151 Interim compliance orders

(1) If a District Court Judge considers it necessary to do so, the Judge may make an interim compliance order without requiring service of notice in accordance with section 148 and without holding a hearing.

(2) Before making an interim compliance order, the Judge must consider—

(a) whether failure to make the order is likely—

(i) to endanger the health of humans or animals through the sale of the animal material or product concerned; or

(ii) to prejudice the integrity or reputation of New Zealand exports of animal material or products, or the integrity of official assurances under this Act; and

(b) whether the court should hear the applicant or any person against whom the order is sought; and

(c) such other matters as the Judge thinks fit.

(3) The Judge must direct the applicant or another person to serve a copy of the interim compliance order on the person against whom the order is made.

(4) The interim compliance order—

(a) takes effect from when it is served, or on and from such later date as the order directs; and

(b) remains in force until the application under section 147 for a compliance order in respect of the same matter is determined, or until cancelled under subsection (5) of this section or under section 152.

(5) A person against whom an interim compliance order has been made without the person having been heard may apply to a District Court Judge to change or cancel the order, and, after hearing from that person and the applicant for the order, the Judge may confirm, change, or cancel the interim compliance order.

152 Change or cancellation of compliance order

(1) Without limiting section 151(5), any person directly affected by a compliance order may at any time apply to a District Court in the prescribed manner to change or cancel the order.

(2) The applicant must, within 5 working days after making the application, serve notice of the application in the prescribed manner on the Director-General and on any other person (outside the Ministry) who was directly affected by the original order.

(3) Before deciding an application to change or cancel a compliance order, the court must hear the applicant, the Director-General, and any person directly affected by the original compliance order who wishes to be heard.

(4) After considering the application, the court may—
- (a) change or cancel the compliance order; or
- (b) refuse the application.

153 Compliance with compliance order

(1) Where a compliance order is served on the person against whom it is directed, the person must—
- (a) comply with the order; and
- (b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.

(2) If the person fails to comply with the order, the Director-General may comply with the order on behalf of the person, and, for this purpose, may—
- (a) exercise, or direct the exercise of, any of the powers of an animal product officer under this Act; and
- (b) recover the costs and expenses of complying with the order as a debt due from the person.

154 Appeals to High Court

(1AA) This subsection applies to a decision of a District Court, on an application under section 147, to—

(a) make or refuse to make a compliance order; or

(b) dismiss the proceedings; or

(c) otherwise finally determine the proceedings.

(1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.

(2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

(3) *[Repealed]*

Section 154(1AA): inserted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 154(1): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 154(2): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 154(3): repealed, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

155 Appeals to Court of Appeal or Supreme Court

(1) With the leave of the court appealed to, a party to an appeal under section 154 may appeal to the Court of Appeal or the Supreme Court against any determination of the High Court in the appeal.

(2) On an appeal under this section, the Court of Appeal or the Supreme Court has the same power to adjudicate on the proceedings as the High Court had.

(3) Subsection (1) is subject to section 14 of the Supreme Court Act 2003 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court).

Section 155: substituted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

156 Effect of appeal

Except where the court making the order appealed from otherwise directs,—

(a) the operation of a compliance order is not suspended by an appeal under section 154 or section 155; and

(b) every compliance order may be enforced in the same manner in all respects as if no such appeal were pending.

157 Rules of court

In addition to all other powers conferred by the District Courts Act 1947, the Governor-General may from time to time, by Order in Council, make rules—

(a) regulating the practice and procedure of District Courts in proceedings under this Act that relate to compliance orders:

(b) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act that relate to compliance orders.

Part 11
Miscellaneous provisions

Identification and related systems

158 Identification systems and devices

(1) The Director-General may from time to time, by notice under section 167, specify or approve—

(a) systems and devices providing for the identification, differentiation, or security of animal material, animal products, premises or places, and associated things:

(b) the persons who may operate or apply such systems and devices:

(c) the persons who manufacture identification, differentiation, and security systems and devices, and the security of the processes used to manufacture them:

(d) conditions on the use and security of the identification systems or devices.

(2) The Director-General may specify or approve identification, differentiation, or security systems and devices and persons under this section for any of the following purposes:

(a) facilitating the management and auditing of risks in relation to animal material and products:
(b) marking the presence or absence in animal material or products of particular qualities or standards relating to the purposes of this Act:
(c) indicating the intended purpose of any animal material or product:
(d) supporting requirements in relation to official assurances.

(3) In determining whether or not to approve an identification, differentiation, or security system or device under this section, the Director-General must have regard to the need for methods of identification that—
(a) provide unique, clear, and lasting identification, differentiation, or security having regard to the purpose for which identification, differentiation, or security is needed; and
(b) do not create confusion with any other generally used system of identification, differentiation, or security; and
(c) minimise the risk of misuse of the identification, differentiation, or security system or device.

(4) Regulations made under this Act may apply prohibitions, restrictions, requirements, or conditions on persons or classes of persons in respect of their use of identification, differentiation, or security systems or devices specified or approved under this section.

(5) In this section, **device** includes a device that, whether or not also serving identification or differentiation purposes, may also operate as a security device to prevent or hinder tampering with any identification device, container, or packaging, or the contents of the container or packaging.

Section 158(1)(d): amended, on 26 September 2002, by section 44 of the Animal Products Amendment Act 2002 (2002 No 29).

Recordkeeping requirements and use of information

159 Records and returns

(1) The following persons must keep such records and other information in relation to animal material, animal products, and

associated things, and make such returns to the Director-General as may be required by or under regulations or other specifications or requirements made by or under this Act:

(a) operators of animal product businesses:
(b) operators of registered risk management programmes:
(c) exporters:
(d) persons subject to a regulated control scheme:
(e) dual operator butchers:
(f) homekill or recreational catch service providers:
(g) recognised persons:
(h) recognised agencies.

(2) The following persons must also keep such records and information, and make such returns to the Director-General or other appropriate person in the Ministry, as may be required by or under a registered risk management programme:

(a) the operator of the risk management programme:
(b) recognised risk management programme verifiers and recognised risk management programme verifying agencies who carry out verification functions and activities in relation to the programme:
(c) any other recognised person or recognised agency who undertakes functions or activities in relation to the programme.

(3) For the purposes of this Act, the Director-General may, in any particular case or class of cases, by notice under section 167,—

(a) require records and other information additional to those specified in regulations to be kept and provided to the Director-General by any person referred to in subsections (1) and (2); and
(b) specify the manner and form in which such records and other information are to be kept and provided.

Section 159(1)(g): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 159(2)(b): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 159(2)(b): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 159(2)(c): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

160 Records to be available for inspection, etc

A person who is required by or under section 159 to keep records or any other information must at all reasonable times—

(a) permit the Director-General, any animal product officer, or any official assessor to inspect and make copies of any such record or information; and

(b) on demand from the Director-General, any animal product officer, or any official assessor, provide access to all relevant information required to be kept under this Act in the person's possession with respect to any animal material or animal product or thing subject to this Act or any associated thing.

161 Disclosure of information for purpose of ensuring product safety, etc

(1) The purpose of this section is to ensure that government agencies and other persons and agencies involved in risk management programmes, food safety programmes, or in the administration of other requirements imposed by or under this Act, are able to disclose to each other such information as is desirable or necessary to ensure—

(a) the health or well-being of producers, processors, consumers, and users of animal material and products; or

(b) the fitness for intended purpose of animal products; or

(c) the integrity and reputation of New Zealand exports of animal material and products, and the integrity of official assurances given under this Act.

(2) Despite privacy principles 2 and 11 of the Privacy Act 1993, an approved agency or an officer or employee of an approved agency may disclose to any other approved agency, or officer or employee of that agency, any information supplied or obtained under or for the purposes of any of the enactments specified in subsection (5)(a), if the disclosure of that information is necessary or desirable for any of the purposes specified in subsection (1).

(3) Nothing in subsection (2) authorises the disclosure of any information to the persons or bodies listed in paragraphs (b) to (f)

of subsection (5) unless the disclosure is necessary to enable them to properly discharge their obligations under this Act.

(4) Nothing in subsection (2) authorises the disclosure of commercially sensitive information unless and to the extent that the disclosure is necessary in the particular case to ensure—
- (a) the health or well-being of any person or animal; or
- (b) the integrity and reputation of New Zealand exports of animal material and products, or the integrity of official assurances given under this Act.

(5) In this section, **approved agency** means—
- (a) any government department that is for the time being charged with the administration of any of the following Acts:
  - (i) this Act:
  - (ii) *[Repealed]*
  - (iii) the Health Act 1956:
  - (iv) the Apiaries Act 1969:
  - (iva) the Marine Farming Act 1971:
  - (ivb) the Testing Laboratory Registration Act 1972:
  - (v) the Meat Act 1981:
  - (vi) the Food Act 1981:
  - (vii) the Medicines Act 1981:
  - (viii) the Biosecurity Act 1993:
  - (viiia) the National Animal Identification and Tracing Act 2012:
  - (viiib) the Hazardous Substances and New Organisms Act 1996:
  - (ix) the Fisheries Act 1996 or the Fisheries Act 1983:
  - (x) the Customs and Excise Act 1996:
  - (xi) the Agricultural Compounds and Veterinary Medicines Act 1997:
  - (xia) the Animal Welfare Act 1999:
  - (xib) the Dairy Industry Restructuring Act 2001:
  - (xii) any other Act enacted in substitution for any of the above enactments:
- (b) any primary producer, processor, transporter of animal material or product, or exporter:

(c) any recognised risk management programme verifier or recognised risk management programme verifying agency:

(d) any other person or body having functions or duties under this Act:

(e) any other person or body having an involvement in 1 or more risk management programmes or food safety programmes whose proper performance of their functions or duties depends on the supply of the relevant information:

(f) any management agency that is charged with the administration of pest management plans or pathway management plans under the Biosecurity Act 1993.

Section 161(5)(a)(ii): repealed, on 1 June 2005, by section 24(a) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 161(5)(a)(iva): inserted, on 1 June 2005, by section 24(b) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 161(5)(a)(ivb): inserted, on 1 June 2005, by section 24(b) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 161(5)(a)(viiia): replaced, on 21 February 2012, by section 75 of the National Animal Identification and Tracing Act 2012 (2012 No 2).

Section 161(5)(a)(viiib): inserted, on 1 June 2005, by section 24(c) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 161(5)(a)(xia): inserted, on 1 January 2000, by section 194 of the Animal Welfare Act 1999 (1999 No 142).

Section 161(5)(a)(xib): inserted, on 1 June 2005, by section 24(d) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 161(5)(c): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 161(5)(c): amended, on 26 September 2002, by section 5(10) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 161(5)(f): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Right of review

162 Right of review of certain decisions made under delegated authority

(1) This section applies to any of the following decisions made under this Act by a person acting under the delegated authority of the Director-General:

(a) a decision to refuse to register a risk management programme under section 23 or an amendment to a programme under section 25:

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

(c) *[Repealed]*

(d) *[Repealed]*

(e) a decision to refuse to register a person as an exporter under section 56:

(f) a decision to deregister an exporter or to suspend export operations under section 58:

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

(h) a decision to refuse an application to recognise an agency under section 101:

(i) a decision to refuse an application to recognise a person under section 103:

(j) a decision to refuse an application to recognise a class under section 105:

(k) a decision to exclude any members, or categories of members, from the recognition of a class under section 105(5):

(l) a decision to vary a condition of recognition under section 111, unless the variation is made on the application of the recognised agency, the recognised person, or a member of the recognised class in accordance with the terms of that application:

(m) a decision to suspend, or to extend the suspension of, recognition of an agency, a person, or a class under section 112J or 112K:

(n) a decision to withdraw recognition of an agency, a person, or a class under section 112N or 112O.

(2) A person who is dissatisfied with any such decision may seek a review of the decision by the Director-General or by a person

designated by the Director-General who was not involved in making the original decision.

(3) An application for a review must—

(a) be in writing; and

(b) state the grounds on which it is believed that the original decision was inappropriate; and

(c) be provided to the Director-General within 30 days after the original decision was notified to the applicant.

(4) The Director-General, or a person designated by the Director-General who was not involved in the original decision, must review the matter within 60 days, or within such extended period not exceeding a further 30 days as the Director-General or designated person may specify by notice in writing to the applicant.

(5) For the purposes of a review, the Director-General or designated person may require the applicant to supply information additional to that contained in the application for review within a specified time. The time taken to supply any such information (or allowed for its supply, if the information is not in fact supplied) is not to be counted for the purposes of the time limits specified in subsection (4).

(6) The decision sought to be reviewed remains valid unless and until altered by the Director-General or designated person.

(7) The Director-General or designated person must, as soon as practicable, notify the applicant for review of his or her decision on the review in writing, giving reasons for the decision.

(8) A decision by the Director-General under this section is final, unless determined otherwise by a court of law of competent jurisdiction.

Section 162(1): amended, on 31 August 2012, by section 14(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(b): substituted, on 26 September 2002, by section 45(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 162(1)(c): repealed, on 31 August 2012, by section 14(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(d): repealed, on 31 August 2012, by section 14(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(g): added, on 26 September 2002, by section 45(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 162(1)(h): inserted, on 31 August 2012, by section 14(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(i): inserted, on 31 August 2012, by section 14(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(j): inserted, on 31 August 2012, by section 14(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(k): inserted, on 31 August 2012, by section 14(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(l): inserted, on 31 August 2012, by section 14(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(m): inserted, on 31 August 2012, by section 14(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 162(1)(n): inserted, on 31 August 2012, by section 14(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Consultation, notification, etc

163 Consultation requirements for making of certain Orders in Council, specifications, etc

(1) Before making any recommendation for the making of an Order in Council or regulations under section 9 (exclusion from ambit of Act), section 15 (inclusion within requirement to have risk management programme), section 38 (regulated control schemes), section 44 (animal product standards), section 49 (inclusion within requirement for exporters to be registered), or section 118 (levies), the Minister—

(a) must be satisfied that the Director-General has carried out consultation in accordance with subsection (3) and has advised the Minister of the results of any such consultation; and

(b) must take into account the results of that consultation.

(2) Before setting any specifications or requirements for the purposes of any regulated control scheme or animal product standards under section 40(1)(a) or (c) or section 45, the Director-General must consult in accordance with subsection (3) and take into account the results of that consultation.

(3) The Director-General must—

(a) do everything reasonably practicable on his or her part to consult with the persons or organisations that appear to the Director-General to be representative of the interests of persons likely to be substantially affected by the

making of the relevant order or regulations or the setting of the relevant specifications or requirements referred to in subsections (1) and (2); and

(b) in the case of a proposed Order in Council, advise the Minister of the results of any such consultation.

(4) The process for such consultation should, to the extent practicable in the circumstances, include—

(a) the giving of adequate and appropriate notice of the intention to make the order or set the specifications or requirements; and

(b) the provision of a reasonable opportunity for interested persons to make submissions; and

(c) adequate and appropriate consideration of any such submissions.

(5) This section does not apply in respect of the making of any order by the Minister or the setting of any specifications or requirements by the Director-General if the Minister or Director-General considers it necessary or desirable in the public interest that the order be made, or the specifications or requirements be set, as a matter of urgency.

(6) A failure to comply with this section does not affect the validity of any order or regulations made or any specifications or requirements set under this Act.

164 Notification of certain matters

(1) This section applies to notices issued by the Director-General that are of a kind listed in section 167.

(2) Where any notice to which this section applies affects only 1 person or a small number of persons, and the identity of those persons is known, the Director-General must—

(a) notify the persons of the matter individually in accordance with section 165; and

(b) either—

(i) supply them with a copy of the specifications, requirements, exemption, or other matter concerned; or

(ii) notify them where they may inspect a copy free of charge (which may include inspection by elec-

tronic means) or obtain a copy on payment of a reasonable charge.

(3) Where it is not possible or practicable to notify a matter to which this section applies in accordance with subsection (2), the Director-General must—

(a) either publish the specifications, requirements, exemption, or other matter concerned in the *Gazette*, or notify their making or existence in the *Gazette*; and

(b) where the Director-General considers it practicable, cause them to be brought to the attention of persons likely to be affected by them by notice or publication in any newspaper or trade journal, or by any other practicable means (including electronic means).

(4) If the specifications, requirements, exemption, or other matter concerned are notified only, and not published, in the *Gazette*,—

(a) the Director-General must make copies available for inspection free of charge, and for purchase at a reasonable cost, at the head office of the Ministry and at such other places as the Director-General determines; and

(b) the *Gazette* notice must specify where a copy may be inspected or obtained.

165 Service of individual notices, etc

(1) Where under any of the provisions of this Act any notice or other document or information is to be served on or supplied to the Minister, the Director-General, an animal product officer, or an official assessor, it may be delivered, whether personally, by post, or by electronic means acceptable to the Director-General, to an animal product officer or official assessor at an appropriate office of the Ministry.

(2) Where under any of the provisions of this Act any person is to be notified of any matter, written notice of that matter may be given or supplied to the person either personally or by post or facsimile addressed to that person, or by electronic means acceptable to the person, at—

(a) the person's address or electronic address as notified under this Act, in the case of an operator of a registered risk management programme, or a registered ex-

porter or a listed homekill or recreational catch service provider; or

(b) the person's last known business or residential address, in any other case.

(3) Where a solicitor represents that the solicitor is authorised to accept any notice or document on behalf of any person, it is sufficient notification to deliver the document to the solicitor if the solicitor signs a memorandum stating that he or she accepts the document on behalf of that person.

(4) Where any notice or other document or information is posted to any person (whether physically or by electronic means), it will be treated as having been received by that person not later than 7 days after the date on which it was posted, unless the person proves that, otherwise than through fault on the person's part, it was not so received.

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

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

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

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

(1A) However, section 112W overrides this section if the relevant person is a member of a recognised class.

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

(a) to the relevant person directly; or

(b) to the relevant person's employer.

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

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

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

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

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

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

(a) within 7 days; or

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

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

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

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

Section 165A: inserted, on 26 September 2002, by section 46 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 165A(1)(a): amended, on 1 June 2005, by section 5(8) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 165A(1A): inserted, on 31 August 2012, by section 15 of the Animal Products Amendment Act 2012 (2012 No 59).

Regulations, notices, etc

166 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) prescribing requirements, criteria, specifications, procedures, and related matters in relation to risk management programmes and the amending and updating of risk management programmes, and to elections to operate under a risk management programme under section 32 or the registration of a food safety programme as a risk management programme under section 34:

(b) prescribing requirements, criteria, specifications, and other related matters in respect of regulated control schemes in accordance with section 38:

(c) prescribing animal product standards, including criteria, specifications, and other related matters, in accordance with section 44:

(d) prescribing exemptions for any class of consignment, animal material or product, or person for the purposes of section 50, including prescribing conditions in respect of any such exemption and authorising the Director-General to exempt or impose conditions in relation to any consignment, animal material or product, or person of a prescribed class:

(e) prescribing requirements and procedures for the recognition and renewal of recognition of agencies, persons, and classes of persons under Part 8:

(ea) prescribing competencies, qualifications, experience, or other requirements that must be met—

(i) in order for a person to be recognised as a recognised agency or a recognised person under Part 8:

(ii) in order for a class of persons to be recognised as a recognised class under Part 8:

(iii) by a recognised agency, recognised person, or recognised class:

(iv) by an official assessor:

(eb) prescribing performance standards or other requirements that must be met by a recognised agency when it is managing or carrying out, or a recognised person, a recognised class, or an official assessor when it is carrying out, its specified functions and activities:

(ec) prescribing any particulars that must be contained in the public register:

(f) prescribing procedures and requirements relating to the registration of exporters:

(g) prescribing procedures and requirements for applying for and obtaining official assurances, and otherwise prescribing matters in relation to official assurances:

(h) prescribing procedures and requirements relating to the use by persons of identification, differentiation, and security systems and devices approved or specified under section 158, including prohibitions, restrictions, and conditions on the use of such systems and devices:

(i) prescribing fees, charges, or levies for the purposes of this Act in accordance with the requirements for regulations made under section 117 or 118, including—

(i) fees or charges for applications, renewals, or related matters under this Act (for example, for applications for registration under Part 2 or 5 or for applications for recognition under Part 8):

(ii) fees, charges, or levies that are payable on an ongoing basis by a person given a particular status under this Act (for example, for ongoing registration under Part 2 or 5, for ongoing listing under Part 6, or for ongoing recognition under Part 8):

(j) prescribing records, returns, or information in relation to animal material or animal products or associated things which any person or class of persons may be required to keep or provide to the Director-General or any animal product officer or official assessor:

(k) *[Repealed]*

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

(l) prescribing procedures and requirements for the listing of homekill and recreational catch service providers:

(m) prescribing for the purposes of section 69 classes of persons who may kill or process for reward homekill or recreational catch without requiring to be listed as homekill or recreational catch service providers:

(n) prescribing forms and procedures for the purposes of this Act:

(o) specifying matters which constitute offences for the purposes of section 135(1)(b):

(p) providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(2) Regulations made under this Act may—

(a) authorise the Minister or the Director-General to issue or impose any approval, requirement, prohibition, specification, restriction, condition, direction, instruction, or order in any particular case or class of cases:

(b) authorise an animal product officer or official assessor to issue or impose any requirement, prohibition, condition, direction, or instruction in any particular case or class of cases:

(c) exempt from compliance with or from the application of any provisions of the regulations any animal material, animal product, process, operation, person, place, premises, or area, or authorise the Minister or the Director-General to grant such exemptions as the regulations may specify.

Section 166(1)(e): replaced, on 31 August 2012, by section 16(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 166(1)(ea): inserted, on 31 August 2012, by section 16(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 166(1)(eb): inserted, on 31 August 2012, by section 16(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 166(1)(ec): inserted, on 31 August 2012, by section 16(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 166(1)(i): replaced, on 31 August 2012, by section 16(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 166(1)(k): repealed, on 31 August 2012, by section 16(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 166(1)(ka): inserted, on 26 September 2002, by section 47 of the Animal Products Amendment Act 2002 (2002 No 29).

167 Notices

(1) The Director-General may from time to time issue notices for the following purposes:

(a) exempting under section 14 any animal product producer or processor from the requirement to operate under a risk management programme:

(b) setting specifications in relation to risk management programmes for the purposes of sections 17 and 34:

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

(c) specifying matters in relation to the amendment of risk management programmes under section 25, including specifying the kinds of changes that do not constitute an amendment requiring registration, and specifying the amount of notice of a future amendment that may be required:

(d) specifying matters in relation to the updating of risk management programmes under section 26:

(e) notifying requirements in relation to the termination of contracts with recognised risk management programme verifiers or recognised risk management programme verifying agencies under section 112Y:

(f) setting specifications for the purposes of, or imposing, a regulated control scheme for overseas market access purposes under section 40(1)(b):

(g) setting specifications under a regulated control scheme in accordance with section 40:

(h) setting specifications and providing for matters of detail in relation to animal product standards in accordance with section 45:

(i) exempting under section 50 any particular consignment or animal material or product or person, or class of consignments, animal material or products, or persons, from the export requirements of Part 5:

(j) specifying particulars to be shown on the register of exporters under section 53(c):

(ja) specifying under section 60 requirements that must be met in relation to animal material or product intended for export:

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

(k) setting specifications in relation to the issue and control of official assurances under section 62:

(l) specifying matters in relation to the obtaining of official assurances under section 63:

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

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

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

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

(m) specifying requirements and procedures for the recognition and renewal of recognition of agencies, persons, and classes of persons under Part 8:

(maa) specifying competencies, qualifications, experience, or other requirements that must be met—

(i) in order for a person to be recognised as a recognised agency or a recognised person under Part 8:

(ii) in order for a class of persons to be recognised as a recognised class under Part 8:

(iii) by a recognised agency, recognised person, or recognised class:

(iv) by an official assessor:

(maab) specifying performance standards or other requirements that must be met by a recognised agency when it is managing or carrying out, or a recognised person, a recognised class, or an official assessor when it is carrying out, its specified functions and activities:

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

(n) notifying, and setting specifications in relation to, identification and differentiation systems and security devices specified or approved under section 158 for the purposes of this Act:

(o) specifying records and other information to be kept and returns to be made by any person for the purposes of section 159.

(p) *[Repealed]*

(q) *[Repealed]*

(2) Any notice under subsection (1) must be notified in accordance with section 164.

(3) A notice made under subsection (1)(ma) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 167(1)(ba): inserted, on 26 September 2002, by section 48(1) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 167(1)(e): replaced, on 31 August 2012, by section 17(1) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 167(1)(ja): inserted, on 26 September 2002, by section 48(2) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 167(1)(ja): amended, on 20 September 2007, by section 4 of the Animal Products Amendment Act 2007 (2007 No 39).

Section 167(1)(jb): inserted, on 1 June 2005, by section 26 of the Animal Products Amendment Act 2005 (2005 No 26).

Section 167(1)(la): inserted, on 26 September 2002, by section 48(3) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 167(1)(lb): inserted, on 26 September 2002, by section 48(3) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 167(1)(lc): inserted, on 26 September 2002, by section 48(3) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 167(1)(ld): inserted, on 26 September 2002, by section 48(3) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 167(1)(m): replaced, on 31 August 2012, by section 17(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 167(1)(maa): inserted, on 31 August 2012, by section 17(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 167(1)(maab): inserted, on 31 August 2012, by section 17(2) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 167(1)(ma): inserted, on 26 September 2002, by section 48(4) of the Animal Products Amendment Act 2002 (2002 No 29).

Section 167(1)(p): repealed, on 31 August 2012, by section 17(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 167(1)(q): repealed, on 31 August 2012, by section 17(3) of the Animal Products Amendment Act 2012 (2012 No 59).

Section 167(3): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

168 Incorporation of material by reference into regulations, notices, and orders

(1) The following material may be incorporated by reference into any regulations, notice, or order (all referred to in this section as instruments) made or given under this Act:

(a) standards, requirements, or recommended practices published by or on behalf of any body or person in New Zealand or in any other country:

(b) standards, requirements, or recommended practices of international or national organisations:

(c) standards, requirements, or recommended practices of any country or jurisdiction:

(d) any other material that, in the opinion of the Minister (or, as appropriate, the Director-General), is too large or impractical to be printed as part of the instrument concerned.

(2) Any such material may be incorporated in an instrument in whole or in part, and either unmodified or with such additions, omissions, or variations as are specified in the instrument.

(3) Any such material so incorporated by reference in an instrument is to be treated for all purposes as forming part of that instrument.

(4) Every reference in an instrument to the current edition of any standard work of reference is, unless the instrument otherwise specifies, to be construed at any particular time as the latest edition of that work available at that time, together with any amendments, additions, and deletions made to or from it up to that time.

(5) If any amendment to material incorporated by reference under this section (other than to any standard work of reference) is made, that amendment does not take effect until the date spe-

cified for that purpose by the Director-General by notification in the *Gazette*.

(6) The Director-General must—

(a) make available for inspection free of charge, at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate, copies of all material incorporated in an instrument by reference under this section; and

(b) either make copies of such material available for purchase, at reasonable cost, or advise where copies of the material may be obtained.

Repeals, amendments, and transitional provisions

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

(1) The following matters ancillary to this Act appear in the Animal Products (Ancillary and Transitional Provisions) Act 1999:

(a) repeal of the Meat Act 1981 with effect on and from 1 July 2006:

(b) amendments to the Meat Act 1981 pending its repeal:

(c) associated repeals, revocations, and amendments to other Acts and regulations (including a restatement of provisions of the Apiaries Act 1969 saved by section 171 of the Biosecurity Act 1993 and section 111 of the Biosecurity Amendment Act 1997):

(d) transitional provisions applying up until 1 July 2006:

(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) For the purposes of sections 20, 21 and 22 of the Interpretation Act 1999, this Act, together with the Animal Products (Ancillary and Transitional Provisions) Act 1999, is to be treated as having repealed the Meat Act 1981 and the Apiaries Act 1969 and (with effect on the commencement of the

Animal Products Amendment Act 2005) the Dairy Industry Act 1952 and having been passed in substitution for those Acts (but without preventing the Biosecurity Act 1993 from being similarly treated in relation to relevant provisions of the Apiaries Act 1969).

Section 169(1)(a): amended, on 26 September 2002, by section 49 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 169(1)(d): amended, on 26 September 2002, by section 49 of the Animal Products Amendment Act 2002 (2002 No 29).

Section 169(1)(e): added, on 1 June 2005, by section 27(1) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 169(2): amended, on 1 June 2005, by section 27(2) of the Animal Products Amendment Act 2005 (2005 No 26).

Section 169(2): amended, on 1 November 1999, pursuant to section 38 of the Interpretation Act 1999 (1999 No 85).

Schedule

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[Repealed]

Schedule: repealed, on 1 October 2012, by section 193(7) of the Search and Surveillance Act 2012 (2012 No 24).

Animal Products Amendment Act 2012

Public Act	2012 No 59
Date of assent	30 August 2012
Commencement	see section 2

1 Title

This Act is the Animal Products Amendment Act 2012.

2 Commencement

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

3 Principal Act amended

This Act amends the Animal Products Act 1999.

18 Transitional provision for agencies or persons recognised under principal Act

An agency or a person that, immediately before the commencement of this Act, was recognised to carry out specified functions under Part 8 of the principal Act is deemed to have been recognised to carry out those specified functions under Part 8 of the principal Act, as amended by this Act, and anything evidencing the recognition is valid as a notice of recognition under Part 8 of the principal Act, as amended, until it expires or is suspended or revoked.

Reprints notes

1 General

This is a reprint of the Animal Products Act 1999 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also http://www.pco.parliament.govt.nz/editorial-conventions/.

4 Amendments incorporated in this reprint

Legislation Act 2012 (2012 No 119): section 77(3)
Biosecurity Law Reform Act 2012 (2012 No 73): section 93
Animal Products Amendment Act 2012 (2012 No 59)
Search and Surveillance Act 2012 (2012 No 24): sections 190–193
National Animal Identification and Tracing Act 2012 (2012 No 2): section 75
Criminal Procedure Act 2011 (2011 No 81): section 413
Animal Products Amendment Act 2010 (2010 No 47)
Policing Act 2008 (2008 No 72): section 116(a)(ii)
Dairy Industry Restructuring Amendment Act 2007 (2007 No 107): section 22
Income Tax Act 2007 (2007 No 97): section ZA 2(1)
Animal Products Amendment Act 2007 (2007 No 39)
Animal Products Amendment Act 2005 (2005 No 26)
Supreme Court Act 2003 (2003 No 53): section 48(1)
District Courts Amendment Act 2002 (2002 No 63): section 4
Animal Products Amendment Act 2002 (2002 No 29)
Animal Products Act Commencement Order 2000 (SR 2000/206)

Animal Welfare Act 1999 (1999 No 142): section 194
Interpretation Act 1999 (1999 No 85): section 38

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2013