

# Regulatory Impact and Compliance Cost Statement

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## Background

The Animal Products Act 1999 (AP Act) requires all animal products traded and used to be “fit for purpose” and for the production and processing of certain animal materials and products to occur under one or more risk management programmes (RMPs). A RMP is a documented programme to identify and manage biological, chemical and physical hazards. It is the responsibility of each “person” (which can be an individual or business) covered by the AP Act to develop a RMP and to maintain it. Independent evaluation of the RMP is required prior to registration with the New Zealand Food Safety Authority (NZFSA) and its operation must be verified on an ongoing basis. A RMP may be deemed unnecessary because the degree of risk associated with the relevant animal material, product, operations, or intended product use is negligible, or the fact that the animal material or operations concerned are covered by another legislative regime. The AP Act also provides safeguards for animal product exports, including registration of certain exporters. The Animal Products (Exemptions and Inclusions) Order 2000 (the Order) enables exemptions of certain persons and operations from certain requirements of the AP Act. It also imposes requirements on certain persons who would not otherwise fall within the ambit of the AP Act.

## Statement of the nature and magnitude of the problem and the need for government action

### Exemptions

The NZFSA has undertaken a review of the requirement under the AP Act for certain “persons” to implement and maintain a RMP. The outcome of the review was that in some cases this requirement is unnecessary based on the negligible risk involved in production. The exact costs of registering a RMP vary according to the nature of the business. The direct assessment costs of registration of RMPs are currently \$100 together with costs of assessment of \$80 per hour. The key features of the status quo for those areas where the risks are not commensurate with the cost of compliance with an RPM are outlined below.

Regulation of some very small egg producers through RMPs is unnecessary because the risks to animal and human health are negligible and not commensurate with the costs of compliance. The cost of complying with the requirement to have RMPs for these very small egg producers would in some cases outweigh the revenue gained from egg sales and it is likely that some producers would cease production. It is expected that assessment would

take one to two hours to complete for the affected egg producers who have not been required to register RMPs in the past but will be required to register a RMP from 1 July 2005 under the transitional arrangements of the AP Act, unless exempted. The proposal to exempt egg producers with flocks of 100 female birds and under would affect around 30 of the 180 commercial producers in New Zealand. In addition, a number of persons who produce eggs incidentally, including hobbyists would be exempted.

Muttonbird harvesting is a seasonal activity limited to small islands off the North Island and Stewart Island where it is a traditional hereditary activity of Māori. It is a small scale activity with a dedicated customer base. The regulation of this activity through RMPs is inappropriate because of the negligible risk to animal and human health of harvesting muttonbirds, commensurate with the costs of compliance. It is likely that some harvesters would cease harvesting. Similarly whitebait harvesting is a limited activity and the cost of compliance with the requirement to register RMPs is not commensurate with the negligible risk to animal and human health involved in harvesting. Muttonbird and whitebait harvesters have not been required to register RMPs in the past but will be required to register a RMP by 1 July 2006 under the transitional arrangements of the AP Act, unless exempted.

Tourist/charter fishing vessel operators and fishing guides are required to be listed with the NZFSA under the AP Act as homekill or recreational catch service providers if they process recreational catch on behalf of the catcher, for reward. This processing commonly takes place as part of the fishing trip. The AP Act provides exemption from the requirement to have a RMP for listed persons. Listing and the requirement to have RMPs is considered not necessary because of the negligible risk associated with this activity. It is likely that the costs of compliance would result in a reduction in the availability of such operators and guides willing to perform this service. Tourist/charter fishing vessel operators and fishing guides undertaking such processing have not been required to register RMPs in the past but will be required to register a RMP by 1 July 2006 under the transitional arrangements of the AP Act, unless exempted.

Most fish bait and/or fish berley processing in New Zealand is undertaken by fish processors as a by product of their fish processing and such processors are already in the regulatory system. There are a few processors who are specialist producers of fish bait and fish berley for whom it is considered that this requirement to register RMPs is not commensurate with the risk to animal and human health. Specialist processors have not been required to register RMPs in the past but will be required to register a RMP by 1 July 2006 under the transitional arrangements of the AP Act, unless exempted.

Airline holding facilities within airport confines that provide only for the temporary protection of animal products consigned as air cargo during aircraft loading procedures will be required to register risk management programmes by 1 July 2006, unless exempted. Although it is unlikely that such facilities would cease operations if not exempted from the requirement to

register RMPs, regulation of these facilities is unnecessary and the costs of registering RMPs are not commensurate with the risk to animal and human health.

### Commercial Exporters of Live Animals

New Zealand is acknowledged internationally as an exporter with integrity. To help maintain this reputation it is important that New Zealand be proactive in considering matters that may be of concern to our export markets. The movement of animals and animal reproductive material is an internationally recognised animal health risk and registration of exporters is recognised as an appropriate mechanism to ensure that should live animals/animal reproductive material be exported and found to be diseased or defective, it is possible to quickly trace the source of the animal material exported. Section 48 of the AP Act requires commercial exporters of live animals to be registered under the AP Act only where official assurances are required for the market to which they are exporting. A number of exporters of live animals are not registered under the AP Act (estimated at no more than 20-50 annually, based on market knowledge), as they export live animals/animal reproductive material to countries that do not require official assurances for the species of animal or type of animal material being exported. Because most of New Zealand's export markets require official assurances the number of live animals/amount of animal reproductive material exported by unregistered exporters is considered to be small. The impact on New Zealand's export markets would however be significant if the New Zealand government were unable to locate the source of animal material found to be diseased, or defective animal material after export.

#### **Statement of the public policy objective(s)**

The public policy objectives are to:

- (a) minimise and manage risks to human or animal health arising from the production and processing of animal material and products while ensuring any controls are commensurate with risk; and
- (b) protect New Zealand's export markets and facilitate the entry of live animals/animal reproductive material and products into overseas markets.

#### **Statement of feasible options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s)**

#### ***Status-Quo***

The key features of the status quo are included in the problem section.

#### ***Amendment to the Animal Products (Exemptions and Inclusions) Order 2000 (Preferred Option)***

The preferred option is to:

Exempt the following persons from the requirement to have a RMP under the AP Act:

- persons engaged in egg primary processing with flocks of 100 female birds (all species) or less who sell retail directly to the consumer. There would be no registration or listing requirements for the exempted egg primary producers;
- persons engaged in muttonbird harvesting;
- persons processing only fish bait and/or fish berley (chum or ground bait);
- persons engaged in whitebait harvesting (and only such limited processing necessary to ensure direct delivery of the whitebait to a buyer/processor in good condition);
- tourist/charter fishing vessel operators and fishing guides (and also to exempt them from the requirement to be listed);
- airline holding facilities that provide only for the temporary protection of animal products consigned as air cargo during aircraft loading procedures and that are within airport confines and adjacent to the tarmac; and

Add a new 'inclusion' clause so that a person who, for reward or for the purposes of trade, exports live animals, or semen, ova or embryos is required to be registered as an exporter under Part 5 of the AP Act. Registration of affected exporters would require the completion of a two-page form and the payment of a fee of \$130, with an annual renewal fee of \$150.

**Statement of the net benefit of the proposal, including the total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of the proposal, and other feasible options**

### ***Government***

The proposed exemptions will avoid unnecessary regulation and ensure that controls are commensurate with the level of risk they pose. As costs of administering RMPs are recovered from the user, there would be no cost saving to government.

The proposal would result in an official list of commercial exporters of live animals/ animal reproductive material. As with official assurances it would not provide a guarantee that the live animal/animal reproductive material is free from disease or defect but it would provide a mechanism for traceback in the event of disease or defect found after export. The proposal may also facilitate access to foreign markets by providing a list of operations undertaking this activity that a foreign government could have access to if they so wish. Regulation is

commensurate with the risk which, although small, is potentially of high impact should it not be possible to trace the source of diseased/ defective live animal material exported from New Zealand. The cost to government of administering the registration will be marginal, as there is likely to be only a small number of businesses affected and cost are recovered from the exporter.

### ***Industry***

The proposed exemptions will avoid unnecessary direct and indirect compliance costs associated with the registration of RMPs and would be a significant benefit particularly to some small egg producers, muttonbird and whitebait harvesters, and tourist/charter boat operators and fishing guides processing their clients' catch, for whom in some cases the costs of registration of an RMP would exceed revenue gained. A number of businesses might cease production, for example very small egg producers only supplying customers directly.

The direct costs for exporters of live animals/animal reproductive material will involve filling out a registration form and an initial registration fee of \$130 and annual renewal fee of \$150. The compliance costs are identified in the business compliance cost statement. A business, which for commercial reasons, wishes to maintain multiple exporter registrations using different business names, that can demonstrate a common shareholding and that operate from a common business physical address may pay a single initial fee of \$200 and renewal fee of \$200.

### ***Society***

The proposals benefit society as a whole by avoiding unnecessary government regulation. The avoidance of unnecessary compliance costs associated with the registration of RMPs for small egg producers, would benefit society through ensuring continuing availability and choice in the supply of eggs from small producers, at "gate" and also off-site through direct delivery to customers, particularly in rural areas. The costs to society through increased risk to human and animal health are negligible.

New Zealand is acknowledged as an international trader with integrity. To help maintain this reputation it is desirable that New Zealand be proactive in considering matters that may be of concern to our export markets. The proposal benefits society through defending our export markets, as all exporters of live animals/animal reproductive material will be required to be registered; providing a system to trace the source of the exported animal material if required.

The NZFSA held public consultation on the proposals between 30 November 2004 and 4 February 2005. A public consultation document outlining the proposal was distributed to those likely to be affected by the proposals and submissions invited. Most submissions received related to the proposal to exempt egg primary processors with only direct sale from their place of production from the requirement to have a RMP. Concerns were expressed about increased risk to health, traceback in the event of diseased eggs, market advantage for those not required to have a RMP and effectiveness of the proposals given that most small egg producers sold some eggs off the premises where they were produced.

It was claimed that the proposal relating to egg producers would increase risks to human health, although no scientific evidence that this would be the case was offered. Concern was expressed that the exemption would be abused and that large numbers of “gate sale” eggs would be sold by big producers, particularly along main roads and in urban areas. This is not what was intended and after consideration of the submissions the proposal was amended to limit the exemption to producers with flocks of 100 female birds (of all species) or less.

Submissions indicated that the effectiveness of the exemption would be limited by the requirement that the eggs be sold from their place of production, as most small egg producers also sold off-site. After consideration of the submissions, the proposal was amended to enable producers with flocks of 100 or less to sell eggs directly to consumers away from the place of production, enabling exempted producers to deliver eggs to consumers’ homes and sell at farmers’ markets.

A significant outcome of the consultation was the number of submissions calling for free-range producers to be exempt, although the submissions failed to provide sound scientific arguments as to why this should be the case. The NZFSA is aware of scientific research indicating that free-range egg production is both a lower and a higher risk production system than more intensive production systems. There is thus no justification to propose an exemption based on production system.

The NZFSA consulted the Treasury, Department of Prime Minister and Cabinet, Ministry of Foreign Affairs and Trade, Ministry of Economic Development, Ministry of Consumer Affairs, Te Puni Kōkiri and Department of Conservation during preparation of these proposals. No issues of concern were raised.

***Business compliance cost statement***

The proposal to require registration of commercial exporters of live animals/animal reproductive materials will affect a small number of commercial exports of live animals and/or animal reproductive material not currently registered. As these exporters are not currently registered it is not possible to provide an accurate indication of the number of businesses likely to be affected by the proposal. Based on market knowledge the number is

likely to be small, no more than 20-50 per annum. As with businesses currently registered, affected businesses will face one-off and on-going compliance costs.

Affected exporters will need to understand the requirements and register with the NZFSA. Registration will involve the completion of a hard copy two-page registration form available electronically on the NZFSA's website, taking 15-30 minutes to complete. Instructions, also available on the NZFSA's website, will take around ten minutes to read and understand. Annual renewal of registration will also involve the completion of a two-page form, taking 15-30 minutes to complete. The form requests name of applicant, business address, type of live animal to be exported and the completion of a declaration.

The following steps have been taken to minimise compliance costs: the proposed registration of exporters of live animals/animal reproductive material not currently registered will utilise the existing procedures for registration, including relatively simple two-page form and clear guidance available on the NZFSA's website. The information required on the form has been minimised to five fields of information in most cases. It is not proposed to provide transitional arrangements as registration for the anticipated small numbers of businesses involved will be triggered by an export of live animal/animal reproductive material consignment, and given the likely small numbers can be handled on an individual basis. The NZFSA will utilise its existing networks with the animal export industry, with other government agencies and with veterinary services and export agents to publicise the requirement to register.