



# Organic Export Requirement

## Recognised Agencies and Persons

18 December 2017

Draft for  
Consultation

## TITLE

Organic Export Requirement: Recognised Agencies and Persons

## COMMENCEMENT

This Organic Export Requirement is effective from [Effective Date]

## REPLACEMENT

This Organic Export Requirement replaces

## ISSUING BODY

This Organic Export Requirement is issued by the Ministry for Primary Industries.

Dated at Wellington,

Director, Plants, Food & Environment  
Ministry for Primary Industries

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## Introduction

This introduction is not part of the Organic Export Requirement, but is intended to indicate its general effect.

## Purpose

This Organic Export Requirement outlines the requirements for recognition of Third Party Agencies (TPAs) and Recognised Persons providing services on behalf of the Ministry for Primary Industries (MPI) for the Official Organic Assurance Programme (OOAP).

## Background

This Organic Export Requirement is an essential part of the MPI system for official assurances for organic products. It describes the responsibilities of TPAs and Recognised Persons providing services on behalf of MPI to organic operators participating in the OOAP.

MPI recognition is based on the TPA accreditation to the current version of ISO/IEC 17065 or ISO/IEC 17020 performed against this Organic Export Requirement: Recognised Agencies and Persons. A person assigned by MPI participates in the accreditation process in the role of technical expert.

The accreditation body and the MPI technical expert work together in the initial assessment and ongoing performance measurement of TPAs and Recognised Persons.

Ongoing performance measurement is undertaken at a frequency assigned by the accreditation body and MPI technical expert.

This Organic Export Requirement is administered by MPI and brings together the previous OOAP Standards OP 1 and OP 2.

## Who should read this Organic Export Requirement?

This Organic Export Requirement applies to:

- organisations who apply for recognition or TPAs who are recognised by MPI to provide services on behalf of MPI for the OOAP; and
- persons who apply for recognition or Recognised Persons who are recognised by MPI to provide services on behalf of MPI for the OOAP, including reviewing, verifying or certifying organic operators' conformance with Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3) and relevant overseas market access requirements (OMARs); and
- persons who apply for recognition or Recognised Persons who are recognised by MPI to provide services verifying the eligibility of consignments for official organic assurances on behalf of MPI for the OOAP.

## Why is this important?

TPAs and Recognised Persons must meet the requirements and follow the processes set out in this Organic Export Requirement. If the requirements set out in this Organic Export Requirement are not met, this may result in the refusal, suspension or withdrawal of MPI recognition. Failure to address the corrective actions to resolve a suspension may result in the withdrawal of recognition.

MPI recognition of TPAs is conditional on their agreement to the conditions set down in the Contract for Services as Third Party Agency for the Official Organic Assurance Programme (Appendix 1 to this Organic Export Requirement).

## Document History

Version Date	Section Changed	Change(s) Description
This version	All	Combines two documents, issued August 2005 <ul style="list-style-type: none"><li>Organic Products Standard 1 (OP1) - Accreditation, Recognition, and Performance Measurement Criteria for Third Party Agencies and their Personnel</li><li>Organic Products Standard 2 (OP2) - Third Party Agency Responsibilities</li></ul>

## Other information

The following documents should be read along with this Organic Export Requirement:

- ISO/IEC 17065:2012 Conformity Assessment – Requirements for bodies certifying products, processes and services
- ISO/IEC 17020:2012 Conformity Assessment – Requirements for the operation of various types of bodies performing inspection
- Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3)
- Organic Overseas Market Access Requirements (OMARs).
- The Contract for Services as Third Party Agency for the Official Organic Assurance Programme (Appendix 1 to this Organic Export Requirement).

## Key contacts:

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## Part 1: Requirements

### 1.1 Application

- (1) This Organic Export Requirement applies to Third Party Agencies (TPAs) and their personnel recognised by MPI, or in the process of being recognised by MPI, to provide services on behalf of MPI for the OOAP.

### 1.2 Definitions

- (1) In this Organic Export Requirement:

**accreditation** means formal endorsement of competency of TPAs for specified categories, following assessment by an accreditation body against the requirements in this Organic Export Requirement, and the most recent versions of:

- a) ISO/IEC 17065 (Conformity Assessment – Requirements for bodies certifying products, processes and services) (ISO/IEC 17065); or
- b) ISO/IEC 17020 (Conformity Assessment – Requirements for the operation of various types of bodies performing inspection) (ISO/IEC 17020)

**accreditation body** means an independent organisation which accredits TPAs to certain ISO Standards as agreed with MPI, and:

- a) is peer reviewed against ISO/IEC17011; and
- b) is a member of ILAC, APLAC, IAF or PAC; and
- c) which works with MPI under an MOU arrangement

**assessment** means systematic examination of an individual, organisation, plan, programme or system against a defined set of requirements

**assurance failure** means a situation where an official organic assurance has been issued for products which do not conform to the Organic Export Requirements and relevant OMARs

**assurance verifier** means a recognised person who verifies operators requests for official organic assurances on behalf of a TPA

**contractor** means a natural or legal person or business entity who provides services specified in a contract

**control file** means all the documentation relating to an operator participating in the OOAP, for the purposes of the certification activities

**critical non-conformance** means any identified non-conformance which affects the system's ability to continue to provide confidence that the requirements of the OOAP are met. Examples of critical non-conformance include:

- a) critical situations (see definition);
- b) events (see definition);
- c) critical non-conformance identified following assessments of registered operators;
- d) failure to identify when a product is non-conforming;
- e) failure to segregate non-conforming product;
- f) failure to identify non-conformance;
- g) failure to rectify non-conformance within the specified timeframe;
- h) failure to prevent reoccurrence of non-conformance

**critical situation** means any situation which places public health, animal welfare, market access, national good, or MPI's credibility at risk, or where an offence is suspected

**event** means any of the following situations:

- a) assurance failure;
- b) critical non-conformance identified by the TPA within the TPA's system;
- c) critical situation identified during the TPA's work;
- d) importing countries requirements obtained from a source other than MPI, for example, where an overseas authority issues new requirements and does not notify MPI through normal channels

**food processing and handling** in the context of a product category for recognition of a person includes import and export, and has the same definition as:

- a) 'processing and handling' in the Food Act 2014, but does not include displaying and serving the food; and
- b) 'dairy processing' in the Animal Products Act 1999; and
- c) 'process' in the Animal Products Act 1999

**plants and plant production** in the context of a product category for a person's recognition means the growing and harvesting of plants and plant products including crops, wild crops, pasture or any plant or part of a plant intended to be sold as a food, fed to livestock or used in the field to manage nutrients and soil fertility, excluding seaweed

**key technical personnel (KTP)** means a TPAs recognised person who has been assessed and formally recognised by MPI as being competent to accept responsibility for the assessment of the competence of recognised personnel within a TPA

**livestock production** in the context of a product category for recognition of a person means to 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

**MPI** means Ministry for Primary Industries

**MPI technical expert** means a person who has been assigned by MPI to assess the competence of TPAs and their personnel in conjunction with the accreditation body as part of the accreditation process

**non-conformance** means any failure to conform with the requirements of the OOAP

**official assurance** means a statement made by MPI to a foreign government, or an agent of a foreign government, attesting that, as appropriate, any one or more of the following conditions apply in respect of a product:

- a) any specified process has been completed with respect to the product concerned;
- b) the product concerned meets the Standards set for the product;
- c) any market access requirements of the importing country, which New Zealand has agreed to meet, that are stated in the official assurance, have been met by the system under which the product was produced or processed;
- d) the situation in New Zealand, in relation to any matter concerning plant or animal product, is as stated in the official assurance

**official organic assurance** means an official assurance attesting to the organic status of consignments exported under the OOAP

**operator** means the owner or person in control of the products for which certification is sought under the OOAP, and includes primary producers, processors, handlers, importers or exporters

**organic management plan (OMP)** means a plan for managing a certified organic operation (including import and export) that has been agreed to between the operator and the TPA. The OMP covers all aspects of organic production, processing or handling, and describes all measures taken to ensure conformity to the requirements of the relevant OMARs

**OMP certifier** means a recognised person who reviews the OMP verification report and determines operator's eligibility to participate in the OOAP

**OMP reviewer** means a recognised person who reviews the OMP against Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3)

**OMP verifier** means a recognised person who verifies the operator's conformance with their OMP

**OMAR** means an overseas market access requirement, which are requirements agreed between the New Zealand government and the government of the export destination and are issued by MPI

**peer review** means a formal review of work by another staff member who performs the same work, to ensure consistency in decision-making

**performance appraisal** means a formal assessment of a person's performance and achievements against a performance plan and development plan

**recognised person or recognised personnel** means a person or TPA personnel who have been formally recognised by MPI as being competent to undertake one or more roles defined in this Organic Export Requirement

**surveillance assessment** means an assessment performed by the accreditation body and MPI technical expert to determine TPA or recognised person conformance with selected requirements of the OOAP

**third party agency (TPA)** means an organisation formally recognised by MPI to provide services on behalf of MPI for the OOAP

**verification** means the checks carried out by recognised persons to determine whether:

- a) operations that are subject to an OMP are in on-going conformance with the requirements of the OMP and the OOAP;
- b) organic products exported under the OOAP have been produced or made in a way that meets the requirements of the relevant OMAR

**working day** means any day not being a Saturday or Sunday, a public holiday observed in Wellington, New Zealand or the period from 26 to 31 December each year.



## Part 2: Third Party Agencies (TPA)

### 2.1 Role

- (1) TPAs review and verify that:
  - a) operators registered with them to participate in the OOAP meet the requirements of Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3); and
  - b) organic products produced for export under the OOAP meet the terms of the OMAR for the destination market.

### 2.2 Applying to be recognised as a TPA

- (1) Before granting an agency recognition under the OOAP, MPI must be satisfied that the applicant is fit and proper by considering:
  - a) the competencies and resources of the applicant to manage and carry out the functions and activities for which recognition is sought; and
  - b) any specified conviction entered against the applicant or any director or manager of the applicant; and
  - c) the applicant's character and reputation, including the character and reputation of the directors of the applicant or of those responsible for its management or control; and
  - d) 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
  - e) any applicable requirements of the OOAP; and
  - f) any other matters MPI considers relevant.
- (2) Any organisation recognised as a TPA under the OOAP must enter the Contract for Services as a Third Party Agency for the Official Organic Assurance Programme in Appendix 1.

#### 2.2.1 Initial recognition

- (1) An organisation requesting initial recognition as a TPA under the OOAP must apply in writing in the approved form and manner, and include a copy of the organisations quality system documentation and technical procedures to:
  - a) the accreditation body for ISO/IEC 17065 or ISO/IEC 17020 accreditation for the MPI OOAP; and
  - b) MPI, and provide all of the following:
    - i) a list of the markets;
    - ii) the categories of recognition in clause 3.1.6;
    - iii) the relevant information required in clause 2.2.3, depending on which assessment system the organisation selects.
- (2) Following an initial assessment by the accreditation body and MPI technical expert, temporary recognition may be given to the TPA and its recognised persons until a full assessment of the TPA and recognised persons is undertaken.
- (3) A decision to grant an organisation full recognition as a TPA will be based on demonstrated conformance with this Organic Export Requirement at a witness assessment by the accreditation body and MPI technical expert.

## 2.2.2 Renewal of recognition as a TPA

- (1) To continue recognition, the TPA must apply to MPI in writing, allowing sufficient time for assessments and reporting to be undertaken, before the expiry of recognition of the TPA. The application must include a copy of the report from the most recent assessment by the accreditation body and MPI technical expert.
- (2) MPI's decision to renew recognition as a TPA will be based on:
  - a) a review of the report provided in clause 2.2.2 (1); and
  - b) any other information considered by MPI to be relevant to the ability of the TPA to provide services on behalf of MPI.

## 2.2.3 Assessment system for recognition of personnel

- (1) TPAs must select one of the following assessment systems for the recognition of TPA personnel:
  - a) performance-based assessment based on the accreditation body and MPI technical expert recommendation. The following information must be supplied with the application in clause 2.2.1:
    - i) the roles and categories of recognition in clause 3.1.6 required for each person; and
    - ii) evidence of the persons competences for the role they are applying for.
  - b) key technical person assessment based on the TPA's Key Technical Person (KTP) recommendation. All of the following information must be supplied with the application in clause 2.2.1:
    - i) an organisational chart including the TPA management team, the KTP and the recognised personnel providing services for the OOAP;
    - ii) internal procedures for assessing recognised personnel;
    - iii) internal procedures for making recommendations to MPI;
    - iv) evidence demonstrating KTP competence including peer review and training;
    - v) a list of roles and categories of recognition in 3.1.6 required for each person;
    - vi) evidence of the persons competences for the role they are applying for.
- (2) At any time a TPA may apply to MPI in writing to change the assessment system used for the recognition of personnel in clause 2.2.3(1).

## 2.2.4 Confirmation of recognition

- (1) MPI will confirm recognition as a TPA:
  - a) in a formal notification; and
  - b) on a public register on the MPI website.
- (2) MPI will confirm recognition of each recognised person:
  - a) in a formal notification; and
  - b) on a public register on the MPI website.
- (3) MPI will confirm continuation of recognition as a TPA or recognised person:
  - a) in a formal notification; and
  - b) on the MPI website.

## 2.2.5 Duration of recognition

- (1) Organisations may be recognised as a TPA for the duration of their accreditation by the accreditation body, but for no longer than 5 years.

## 2.3 Maintaining MPI recognition as a TPA

### 2.3.1 To maintain MPI recognition, a TPA must:

- (1) Maintain accreditation to the most recent version of:
  - a) ISO/IEC 17065; or
  - b) ISO/IEC 17020.
- (2) Maintain conformance with this Organic Export Requirement.
- (3) Ensure it is adequately resourced, including ensuring adequate numbers of competent staff.
- (4) Maintain systems which ensure it is able to carry out the functions and activities for which it is recognised, and which document that:
  - a) only appropriately recognised persons, including contracted staff, perform services for which an MPI recognition is required; and
  - b) non-recognised persons do not perform tasks for which a recognition is required; and
  - c) the confidentiality of the information obtained or created while providing services on MPI's behalf is safeguarded; and
  - d) any conflict of interest that might arise while providing services on behalf of MPI is managed appropriately; and
  - e) all work is completed without time constraints, intimidation or other factors that could influence the ability to conform to the requirements of recognition; and
  - f) operators under their control are registered; and
  - g) operators are classified into risk categories, based on the level of risk identified for their operation. These risk categories are used to determine:
    - i) the frequency of verification; and
    - ii) the frequency of additional OMP verification; and
    - iii) to select operations for sampling for residue testing; and
  - h) all operations, and all sites within operations, are verified within a reasonable timeframe, which is based on a risk assessment of the operation; and
  - i) where applications for dispensation to Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3) are provided, the applications are appropriately assessed and granted; and
  - j) an up to date, publicly available list of the operators under its control is maintained, including at least the name of the operator, their address and scope of their certification; and
  - k) a management review of quality systems is undertaken at least annually; and
  - l) an internal audit against the requirements of ISO/IEC 17020, ISO/IEC 17065 and this Organic Export Requirement is undertaken at least annually.
- (5) Ensure all recognised personnel that its manages or supplies:
  - a) maintain competency in the scopes for which they are recognised; and
  - b) are not placed in a position or a situation that comprises his or her impartiality and independence in carrying out the functions and activities for which he or she is recognised; and
  - c) are assessed, at least annually, by performance appraisal; and
  - d) are assessed, at least annually, by internal peer review; and
  - e) do not provide verification services continuously to the same operator for more than 3 years, unless MPI has expressly allowed this; and
  - f) only certify OMPs that they have not verified in the last 2 years; and
  - g) do not verify OMPs that they will certify.
- (6) Manage recognised personnel who are identified as not conforming during the assessment in clause 2.5.1(1), or are not meeting the requirements of clause 3.3 to ensure that:
  - a) they provide no further services on behalf of MPI for the OOAP until the reasons for non-conformity are resolved; and

- b) a review is conducted of the work done by the non-conforming recognised person before the non-conformance being identified, to determine any corrective actions required; and
  - c) affected operators are advised; and
  - d) where necessary the work undertaken by the non-conforming recognised person is repeated by another recognised person at the TPA's expense.
- (7) Manage operators participating in the OOAP by:
- a) providing registered operators who meet the requirements of the OOAP with documentary evidence, in a secure format, which at least allows the identification of the operator, the scope of their certification, the specific export eligibility and the period of validity; and
  - b) verifying operators OMPs at least annually; and
  - c) entering and maintaining contractual arrangements with their operators which allow:
    - i) full access to the operator's records, personnel, products, production site and facilities at any reasonable time, by the TPA, MPI representatives and importing country officials to enable assessment of the OOAP, and sampling for testing; and
    - ii) exchange of information including OMP verification reports between TPAs in cases where an operator is certified by more than one TPA, or where the operator changes their TPA; and
    - iii) reporting of relevant information to MPI; and
    - iv) storing control files by the TPA for a period of at least five years in cases where the operator withdraws from the OOAP; and
    - v) a statement clarifying ownership of the data supporting the provision of official organic assurances; and
    - vi) full access by the operators to all records concerning their certification held by the TPA; and
    - vii) payments of all fees related to the operator participation in the OOAP; and
    - viii) management of operator's non-conformance.
- (8) Manage non-conforming operators by:
- a) documenting and establishing the degree of non-conformance by:
    - i) assessing the intent of the operator to deviate from the OMP; and
    - ii) determining the extent of the non-conformance; and
    - iii) determining the root cause of the non-conformance or system breakdown;
  - b) working with the operator to ensure that non-conforming products are not exported with an official organic assurance; and
  - c) agreeing on an appropriate corrective action plan with the operator, which includes:
    - i) what action is to be taken; and
    - ii) who is responsible for ensuring that the action is taken and is effective; and
    - iii) the time frame for implementation; and
    - iv) how the corrective actions will be verified as having been successfully implemented;
  - d) assessing the effectiveness of the corrective action plan in clause 2.3.1(8)c); and
  - e) reassessing the verification frequency where a critical non-conformance is identified within the operator system; and
  - f) increasing the OMP verification frequency where the operator has:
    - i) failed to demonstrate conformance with the OMP;
    - ii) failed to complete the corrective action required by the OMP verifier;
    - iii) failed to identify or manage a critical non-conformance;
    - iv) shown regular or persistent non-conformance.
- (9) Manage suspension of operators by:
- a) suspending operators' eligibility for the OOAP for a period agreed between the TPA and MPI if:
    - i) a critical non-conformance is identified within the operator's system; or

- ii) the agreed corrective action plan in clause 2.3.1(8)c) is not implemented; or
    - iii) an operator formally requests their certification to be suspended;
  - b) issuing suspended operators with a notice of suspension which includes:
    - i) the reason for the suspension; and
    - ii) the scope of the suspension; and
    - iii) the terms and conditions for reinstatement; and
    - iv) the date and time from which the suspension takes place; and
    - v) the duration of the suspension;
  - c) amending suspended operators inclusion on the TPAs list of operators in clause 2.3.1(4j)) by including the date of suspension.
- (10) Reinstating suspended operators by:
  - a) verifying that the conditions for reinstatement in the suspension notice issued under clause 2.3.1(9b) have been satisfactorily met; and
  - b) reinstating suspended operators' eligibility for the OOAP, and advising them of this; and
  - c) amending reinstated operators inclusion on the TPAs list of operators in clause 2.3.1(4j)).
- (11) Managing withdrawal of operators by:
  - a) withdrawing operators' eligibility for the OOAP if:
    - i) the conditions for reinstatement stated in a suspension notice issued under clause 2.3.1(9b) are not met within the specified time frame; or
    - ii) the operator formally requests their certification to be withdrawn.
  - b) issuing operators whose eligibility for the OOAP has been withdrawn with a notice of withdrawal which includes:
    - i) the reasons for withdrawal; and
    - ii) the effective date and time of the withdrawal.
  - c) amending withdrawn operators inclusion on the TPAs list of operators in clause 2.3.1(4j)) by either:
    - i) removing them from the list; or
    - ii) include the date of withdrawal.
- (12) Verify consignments are eligible for export under the OOAP by ensuring that:
  - a) consignment eligibility verification is only carried out by an assurance verifier; and
  - b) all products in consignments are correctly verified as meeting the requirements of the OOAP and the destination markets OMAR; and
  - c) the consignment information provided by the exporter is verified as being accurate; and
  - d) the outcome of the assurance verification is declared to MPI.
- (13) Undertake additional OMP verification by ensuring that:
  - a) unannounced OMP verification is carried out annually on at least 15% of the TPAs registered operators with the selection of operators determined:
    - i) by their risk category in clause 2.3.1(4g); and
    - ii) randomly; and
    - iii) based on previous non-conformance issues; and
    - iv) based on the complexity of the operation;
  - b) the unannounced OMP verification in clause 2.3.1(13)a) incorporates 5% of the TPAs registered operators for each market, except where the TPA has less than 20 operators registered for that market; and
  - c) the TPA has a plan to undertake unannounced OMP verification on each registered operator over time.

- (14) Manage a residue sampling and testing programme which ensures that:
- a) residue testing is carried out on at least 5% of the TPAs registered operations for each market annually, except where the TPA has less than 20 operations registered for that market. The selection of operations is based on:
    - i) the risk categories in clause 2.3.1(4)g); and
    - ii) the suspected use of products or practises not permitted under the OOAP; and
  - b) regular sampling and testing is undertaken to:
    - i) determine the base level of any prohibited substances that may be present in an operation's system at the time of entry into the programme; and
    - ii) detect the presence of substances not permitted under the OOAP; and
    - iii) detect production techniques not in conformance with the OOAP; and
  - c) sampling is undertaken by the TPA or an independent party following:
    - i) the laboratory sampling procedure; and
    - ii) the TPA or independent parties documented procedures to ensure integrity of the sample is maintained and protected from substitution, contamination or tampering; and
  - d) operators are provided with a receipt when samples are taken by the OMP verifier; and
  - e) testing of samples is carried out by a laboratory recognised by MPI to perform the required tests; and
  - f) test results which show the presence of prohibited substances or suggest the use of production techniques not permitted under the OOAP:
    - i) are immediately notified to the operator; and
    - ii) are investigated to determine:
      - 1) why the residue is present; and
      - 2) the degree of operator conformity with the OOAP;
  - g) products affected by the results in clause 2.3.1(14)g) are suspended from being eligible for official organic assurance pending the outcome of the investigation; and
  - h) sampling carried out as part of an investigation to confirm non-conformance with the OOAP is at the TPAs expense; and
  - i) the TPA has a plan to undertake residue testing on each registered operation over time.
- (15) Manage information to ensure that:
- a) records, including test results and control files, from operators, including those who withdraw from the OOAP are kept for at least 5 years; and
  - b) records created by the certifying agent are maintained for at least 10 years.
- (16) Co-operate with other TPAs to ensure that:
- a) all relevant information on the operations under their control is shared where operators are certified by more than one TPA; and
  - b) when an operator changes TPAs:
    - i) the new TPA is provided with a copy of the OMP verification reports and confirmation of closure of non-conformances within a reasonable timeframe; and
    - ii) any previously identified non-conformances have been or are being addressed following the agreed corrective action plan; and
  - c) all relevant information is shared when a registered operators non-conformance affects operators registered with other TPAs, as necessary.
- (17) Report to MPI with all of the following:
- a) notification of a non-conforming recognised person by the following working day on discovery of the non-conformance;

- b) critical non-conformances by the following working day after becoming aware of them;
  - c) notification that a recognised person ceases to be employed or contracted by the TPA;
  - d) any change in directorship or management and control of the TPA;
  - e) a quarterly report for the quarters ending March, June, September and December, by the 23<sup>rd</sup> of the following month, which summarises all of the following:
    - i) all non-conformances under the OOAP issued to operators, in the manner required by MPI;
    - ii) all events that have occurred in the quarter;
    - iii) updates on any on-going events;
    - iv) critical non-conformities identified following assessments of registered operators;
    - v) actual and proposed changes to the TPAs system that may impact on the TPAs ability to meet this Organic Export Requirement;
    - vi) disputes including background, outcomes, legal action and settlements; and
    - vii) TPA management and staff changes;
  - f) an annual report for the year ending on the 31 December, before 31 January the following year, which includes all of the following:
    - i) operator information including: name, address and phone number; ID code; product category and market eligibility;
    - ii) number of annual OMP verifications;
    - iii) number of unannounced OMP verifications;
    - iv) number of non-conformities issued;
    - v) number of non-conformities not closed out within the agreed time frame, and an explanation why;
    - vi) number of samples taken for residue testing of prohibited substances;
    - vii) number of tests showing residues of prohibited substances;
    - viii) number of event reports submitted to MPI;
  - g) any other relevant report to MPI upon request.
- (18) Participate in stakeholder standardisation sessions organised by MPI.

## 2.4 Surrender of recognition

- (1) A TPA may surrender their recognition or the recognition of any recognised person under their management or control by writing to MPI specifying the date on which the surrender is to take effect.
- (2) Before the date on which the surrender takes effect, the TPA must notify:
  - a) any recognised persons for whom the agency is responsible of the surrender, if that persons recognition is not also being surrendered
  - b) each client of the TPA of the surrender and the date on which it will take effect.
- (3) Where a TPA surrenders recognition of the TPA or of a recognised person, MPI will remove the details of the TPA or recognised persons from the MPI website.

## 2.5 Performance management of TPAs

### 2.5.1 Conformity assessment

- (1) On-going conformance will be assessed at a frequency determined by the accreditation body and MPI. The criteria for assessing conformance includes:
  - a) the quality system documenting procedures which will enable the TPA to meet this Organic Export Requirement; and
  - b) no deficiencies are noted in the TPA procedures; and

- c) the TPA and recognised persons follow the TPAs procedures; and
- d) the TPA meets all the relevant requirements of this Organic Export Requirement, specifically the requirements in clause 2.3; and
- e) the TPA has paid its fees to MPI and the accreditation body.

### **2.5.2 Managing poor performance**

- (1) MPI may take action using any of the options, or combination of options, in clauses 2.5.3 – 2.5.6, clause 4.1 or clause 4.2, in any order, where MPI suspects, or has reason to suspect:
  - a) a TPA is not meeting its obligations as a recognised agency; or
  - b) a TPA is not meeting the requirements set in clause 2.3.1; or
  - c) a critical situation has occurred or is occurring.
- (2) Before taking any action, MPI will notify the TPA in writing of:
  - a) the action it proposes to take; and
  - b) the reason for proposing action; and
  - c) the date and time the proposed action would start.
- (3) MPI will provide the TPA with a reasonable period of time to respond to these concerns and proposed actions.

### **2.5.3 Corrective action plan**

- (1) A corrective action plan may be agreed between MPI and the TPA which will include:
  - a) what action is to be taken and the date it commences; and
  - b) who is responsible for ensuring that the action is taken and is effective; and
  - c) the time frame for implementation; and
  - d) how the corrective actions will be verified as having been successfully implemented; and
  - e) how the effectiveness of the corrective action plan will be assessed.

### **2.5.4 Additional surveillance**

- (1) In addition to the reasons specified in clause 2.5.2(1), MPI may undertake an additional surveillance assessment at the expense of the TPA if:
  - a) a surveillance assessment indicates the TPA is not meeting any of the requirements in clause 2.3; or
  - b) a critical non-conformance is identified in the TPAs system.

### **2.5.5 Increasing surveillance frequency**

- (1) MPI may increase the frequency of surveillance assessments in conjunction with the accreditation body.
- (2) MPI may reduce the surveillance assessment frequency in conjunction with the accreditation body if the accreditation body and MPI technical expert verify that:
  - a) the corrective action plan is fully implemented; or
  - b) any critical non-conformance is fully resolved.

### **2.5.6 Management plan**

- (1) In addition to the reasons in clause 2.5.2(1), MPI may put the TPA on a management plan if:
  - a) a critical non-conformance is not resolved to the satisfaction of MPI; or
  - b) the TPA requests assistance to implement the corrective action plan or to resolve a critical non-conformance.
- (2) If MPI proceeds with a management plan, the TPA and MPI will work together to agree:



- a) the extent of the management plan; and
- b) what action is to be taken; and
- c) who is responsible for ensuring that the action is taken and is effective; and
- d) the time frame for implementation; and
- e) how the management plan will be verified as having been successfully implemented; and
- f) how the effectiveness of the management plan will be assessed.

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## Part 3: Recognised persons

### 3.1 Roles and responsibilities

- (1) Persons may be recognised under the OOAP in one or more of the roles described in clauses 3.1.1 – 3.1.5.
- (2) Recognised persons must be employed or contracted by a TPA.
- (3) Only recognised persons may undertake the roles described in clauses 3.1.1 – 3.1.5.
- (4) Tasks which form part of a recognised role may only be performed by persons recognised to perform that role.

#### 3.1.1 OMP reviewer

- (5) The OMP reviewer reviews OMPs for conformance to Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3), including approval of:
  - a) recipes; and
  - b) labels; and
  - c) inputs.

#### 3.1.2 OMP verifier

- (1) The OMP verifier verifies that the operator is operating in conformance with their OMP.
- (2) OMP verification must only be undertaken if the OMP review has determined that the OMP conforms to the requirements of Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3).
- (3) OMP verifiers must write a report after each verification.
- (4) Reports following announced verifications must be countersigned by the operator or their representative.

#### 3.1.3 OMP certifier

- (1) The OMP certifier determines the operator's eligibility to participate in the OOAP based on the findings of the OMP review and OMP verification.
- (2) The OMP certifier assesses the frequency of the operators OMP verification and ensures that non-conforming operators are managed as required in clauses 2.3.1(8)e) and 2.3.1(8)f).

#### 3.1.4 Assurance verifier

- (1) The assurance verifier verifies the eligibility of consignments for official organic assurance by:
  - a) verifying that the products in the consignment meet the requirements of the OOAP; and
  - b) verifying that the products in the consignment meet the requirements of the OMAR for the destination market; and
  - c) verifying that the information provided by the exporter is accurate; and
  - d) declaring the outcome of the assurance verification to MPI.

#### 3.1.5 Key Technical Person (KTP)

- (1) The KTP assesses the competence of recognised personnel within a TPA, including:
  - a) initial assessment; and
  - b) on-going assessment and maintenance of recognition.

- (2) The KTP makes a recommendation to MPI for the recognition of persons in a particular role in clauses 3.1.1 – 3.1.4 and category of recognition in clause 3.1.6.

### **3.1.6 Categories of recognition**

- (1) OMP reviewers, OMP verifiers and OMP certifiers must be recognised to provide services on behalf of MPI for the OOAP in one or more of the following product categories:
  - a) food processing and handling (food);
  - b) food processing and handling (wine-making);
  - c) plants and plant production;
  - d) livestock production (dairy);
  - e) livestock production (non-dairy);
  - f) livestock production (apiary).
- (2) Recognition of OMP reviewers, OMP verifiers and OMP certifiers may cover requirements for one or more of the markets covered by the OOAP, and provided in the OMARs.

### **3.1.7 Contractors**

- (1) Recognised persons who contract their services to TPAs must comply with the requirements stated in clause 3.3.
- (2) Contracted personnel may be recognised for more than one TPA.
- (3) Contracted personnel may not be recognised as a KTP.

## **3.2 Apply for recognition for personnel**

- (1) Before granting a person recognition under the OOAP, MPI must be satisfied that the applicant is a fit and proper person by considering:
  - a) the applicant's competency to carry out the role and activities for which recognition is sought; and
  - b) any specified conviction entered against the applicant; and
  - c) the applicant's character and reputation; and
  - d) the applicant's ability to maintain an appropriate degree of impartiality and independence in carrying out the role and activities for which recognition is sought; and
  - e) any applicable requirements of the OOAP; and
  - f) any other matters that MPI considers relevant.

### **3.2.1 Initial recognition**

- (1) For TPAs using performance-based assessment in clause 2.2.3(1)a):
  - a) before applying for recognition in one of the roles in clauses 3.1.1 – 3.1.4, the person must have had a successful witness assessment by the accreditation body and MPI technical expert in the role and product category that is to be applied for;
  - b) a TPA requesting initial recognition of a person under the OOAP for one or more roles in clauses 3.1.1 – 3.1.4, must apply on the applicant's behalf, in writing to MPI;
  - c) the application in clause 3.2.1(1)b) must include:
    - i) a copy of the most recent assessment report by in clause 3.2.1(1)a); and
    - ii) where the application is for recognition as an OMP reviewer, OMP verifier or OMP certifier, the product categories in clause 3.1.6 to be covered by the recognition;
  - d) the decision to recognise a person as an OMP reviewer, OMP verifier, OMP certifier or assurance verifier under the OOAP will be based on:
    - i) the outcome of the assessment in clause 3.2.1(1)a); and

- ii) any other information considered by MPI to be relevant to the ability of the recognised person to perform the roles for which they are recognised.
- (2) For TPAs using KTP assessment in clause 2.2.3(1)b):
  - a) before applying for recognition as a KTP, the person must have had a successful witness assessment by the accreditation body and MPI technical expert which includes:
    - i) an appraisal of their competence; and
    - ii) an assessment of a sample of recognised personnel that have been under their supervision;
  - b) recognition as an OMP reviewer, OMP verifier or OMP certifier or assurance verifier will be based on a recommendation from the KTP.
- (3) Candidates for recognition as an OMP reviewer, OMP verifier or OMP certifier must have carried out at least 2 relevant tasks in the previous 12 months under the supervision of a recognised person in each of the categories for which recognition is sought.
- (4) Candidates for recognition as a KTP must have at least 2 years relevant experience, evidence of which must be included with the application for recognition.

### **3.2.2 Duration of recognition**

- (1) The initial recognition in clause 3.2.1 of persons in the roles in clauses 3.1.1 – 3.1.5 will be 1 year.
- (2) The renewed recognition in clause 3.2.4 of persons in the roles in clauses 3.1.1 – 3.1.5 will be 3 years.

### **3.2.3 Inclusion of additional categories of recognition**

- (1) For TPAs using performance-based assessment in clause 2.2.3(1)a), a recognised person's recognition may include additional product categories in clause 3.1.6 by:
  - a) ensuring the recognised person has had a successful witness assessment by the accreditation body and MPI technical expert in the role and product category that recognition is to be applied for, before making the application; and
  - b) requesting changes to the categories in clause 3.1.6 of a person's recognition as an OMP reviewer, OMP verifier or OMP certifier under the OOAP by applying in writing, on behalf of the recognised person, to MPI, including a copy of the most recent assessment report in clause 3.2.3(1)a) in the application.
  - c) A decision to change the categories of a person's recognition under the OOAP will be based on:
    - i) the outcome of a witness assessment by the accreditation body and MPI technical expert; and
    - ii) any other information considered by MPI to be relevant to the ability of the recognised person to perform the role for which they are recognised.
- (2) For TPAs using KTP assessment in clause 2.2.3(1)b), the KTP may include additional product categories in clause 3.1.6 in a recognised person's recognition by:
  - a) making a recommendation to MPI to change the categories in clause 3.1.6 of a recognised person's recognition as an OMP reviewer, OMP verifier or OMP certifier under the OOAP in writing, on behalf of the recognised person, to MPI; and
  - b) ensuring that the recognised person they are recommending has undergone a suitable period of training in the requested category which includes:
    - i) accompanying a person recognised in the requested role and product category as that recognised person performs that activity; and
    - ii) performing the activity in the requested category under the supervision of a person recognised for that role and product category.

### 3.2.4 Renewal of recognition

- (1) For TPAs using performance-based assessment in clause 2.2.3(1)a):
  - a) a recognised person's recognition may be submitted for renewal by MPI by the TPA:
    - i) ensuring the recognised person has had a successful witness assessment by the accreditation body and MPI technical expert in the role, and at least one product category for roles in clauses 3.1.1 – 3.1.3, that renewal of recognition is to be applied for, before making the application;
    - ii) applying to MPI in writing, allowing sufficient time for review and reporting to be undertaken, before the expiry of recognition of the recognised person. The application must include:
      - the roles, and product categories of recognition for roles in clauses 3.1.1 – 3.1.3, for the recognised person; and
      - a copy of the report from the recognised person's most recent witness assessment in clause 3.2.4(1)a); and
      - payment of any applicable fee.
  - b) MPIs decision to renew a recognised person's recognition will be based on:
    - i) a review of the report provided in clause 3.2.4(1)a)i); and
    - ii) any other information considered by MPI to be relevant to the ability of the recognised person to perform the role for which they are recognised.
- (2) For TPAs using KTP assessment in clause 2.2.3(1)b):
  - a) a recognised person's recognition may be submitted for renewal by MPI by the KTP:
    - i) making a recommendation to MPI to renew a recognised person's recognition in writing, on behalf of the recognised person, to MPI in sufficient time for review and reporting to be undertaken, before the expiry of recognition of the recognised person; and
    - ii) payment of any applicable fee.
  - b) MPIs decision to renew a recognised person's recognition will be based on:
    - i) a review of the recommendation provided in clause 3.2.4 (2)a)i); and
    - ii) any other information considered by MPI to be relevant to the ability of the recognised person to perform the role for which they are recognised.

### 3.2.5 Withdrawal of recognition

- (1) TPAs using performance-based assessment in clause 2.2.3(1)a) may request withdrawal of a role or product category from a recognised person's recognition by writing to MPI.
- (2) The KTP of TPAs using key technical person assessment in clause 2.2.3(1)b) may notify the withdrawal of a role or category from a recognised person's recognition by writing to MPI.

### 3.2.6 Confirmation of recognition

- (1) MPI will confirm recognition of a person as in clause 2.2.4.

## 3.3 Maintaining MPI recognition as a recognised person

- (1) Recognised persons providing services on behalf of MPI for the OOAP must:
  - a) be competent in the skills relevant to their role; and
  - b) have a satisfactory understanding of the technical aspects of the categories for which they are to be recognised; and
  - c) have had formal technical training or practical experience in the field for which recognition is sought; and

- d) have an understanding of the organic industry appropriate to the categories of their recognition; and
- e) demonstrate an understanding of this Organic Export Requirement, Registration and Performance Measurement Criteria for Operators – Organic Products (NZFSA Standard OP3) and relevant OMARs; and
- f) effectively apply the quality systems and procedures of the TPA for which they are recognised; and
- g) regularly undertake the tasks required by the role they are recognised for; and
- h) OMP verifiers must have completed an appropriate Lead Assessor course (or equivalent), and be able to demonstrate active involvement in verification activities since completing the formal training; and
- i) complete any MPI e-learning modules, where applicable.

## 3.4 Performance management of recognised persons

### 3.4.1 Conformity assessment

- (1) For TPAs using performance-based assessment in clause 2.2.3(1)a):
  - a) on-going conformance of OMP reviewers, OMP verifiers, OMP certifiers and assurance verifiers will be checked as part of the conformity assessment of the TPA in clause 2.5.1;
  - b) the assessment of conformance will be based on:
    - i) a review of files related to tasks performed as part of the persons recognition; and
    - ii) an examination of performance appraisals in clause 2.3(5)c); and
    - iii) an examination of peer reviews in clause 2.3(5)d); and
    - iv) any other information considered necessary by MPI.
- (2) For TPAs using KTP assessment in clause 2.2.3(1)b):
  - a) on-going conformance of the KTP will be based on an interview and on-site assessment of a sample of recognised personnel supervised by the KTP by the accreditation body and MPI technical expert.
  - b) on-going conformance of OMP reviewers, OMP verifiers, OMP certifiers and assurance verifiers will be checked as part of the conformity assessment of the TPA in clause 2.5.1 and assessment of the KTP in clause 3.4.1(2)a).

### 3.4.2 Managing poor performance

- (1) MPI may take action using any of the options in clauses 3.4.3, 3.4.4, 4.1 or 4.2, in any order where MPI suspects, or has reason to suspect:
  - a) a recognised person is not meeting their obligations as a recognised person; or
  - b) a recognised person is not meeting the requirements set in clause 3.3; or
  - c) a critical non-conformance has occurred.
- (2) Before taking any action, MPI will notify the TPA responsible for the recognised person in writing of:
  - a) the action it proposes to take; and
  - b) the reason for proposing action, and
  - c) the date and time the proposed action would start.
- (3) MPI will provide the TPA responsible for the recognised person with a reasonable period of time to respond to these concerns and proposed actions.

### 3.4.3 Corrective action plan

- (1) A corrective action plan may be agreed between MPI and the TPA responsible for the recognised person which will include :

- a) what action is to be taken; and
  - b) who is responsible for ensuring that the action is taken and is effective; and
  - c) the time frame for implementation; and
  - d) how the corrective actions will be verified as having been successfully implemented; and
  - e) how the effectiveness of the corrective action plan will be assessed.
- (2) At the conclusion of a corrective action plan, MPI may undertake further action as in clause 3.4.2.

#### **3.4.4 Additional witness assessment**

- (1) In addition to the reasons in clause 3.4.2(1), MPI may undertake an additional witness assessment at the expense of the TPA if:
- a) a surveillance assessment under clause 2.5.1 indicates the recognised person is not meeting any of the requirements in clause 3.3; or
  - b) a critical non-conformance is identified in the TPAs system; or
  - c) for any other reason MPI has concerns regarding the recognised person ability to perform their role as a recognised person.
- (2) Following an additional witness assessment, MPI may undertake further action as in clause 3.4.2.

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## Part 4: Suspension, withdrawal and appeals

### 4.1 Suspension

- (1) MPI may suspend the recognition of a TPA or a person, in whole or part, in accordance with the provisions in the Contract for Services as Third Party Agency for the Official Organic Assurance Programme in Appendix 1, if:
  - a) the TPA loses ISO/IEC 17065 or ISO/IEC 17020 accreditation; or
  - b) the TPA has insufficient resources to provide services to their clients; or
  - c) actions taken in clauses 2.5.3 – 2.5.6, 3.4.3 or 3.4.4 have been ineffective; or
  - d) a critical non-conformance in the TPAs system is identified or unresolved; or
  - e) MPI has concerns regarding the TPAs or recognised person's ability to meet its obligations as a recognised agency or recognised person for any other reason.
- (2) In order to remedy the deficiency or failure that resulted in the suspension, MPI may:
  - a) impose conditions which must be satisfied before the suspension is lifted; or
  - b) require the TPA to take appropriate corrective action.
- (3) Where a suspension is in part, the TPA must continue to provide the services unaffected by the suspension to existing clients, but may not take on new clients or extend the categories of recognition.
- (4) The maximum period of suspension is 3 months.

#### 4.1.1 Notification of suspension

- (1) As soon as practicable after deciding to suspend a TPA or recognised person, MPI will issue a written notice of suspension to:
  - a) the TPA or recognised person of the suspension of the TPA or recognised person; and
  - b) the TPA of the suspension of a recognised person it is responsible for; and
  - c) a recognised person of the suspension of the recognition of the TPA that is responsible for that recognised person.
- (2) The written notice of suspension in clause 4.1.1(1) will include:
  - a) the reason for the suspension; and
  - b) the date and time the suspension starts; and
  - c) the period of the suspension; and
  - d) the specified services the suspension relates to; and
  - e) any conditions or corrective actions imposed in clause 4.1(2); and
  - f) sets out the right of the TPA to seek a review of the decision.

#### 4.1.2 Extension of suspension

- (1) MPI may extend the period of suspension, for a maximum of a further 3 months if, in the suspension period:
  - a) any conditions imposed in clause 4.1(2)a) have not been satisfied; or
  - b) any corrective actions imposed in clause 4.1(2)b) have not been fulfilled.
- (2) MPI will notify the TPA of the extended period in writing as in clause 4.1.1 and may:
  - a) impose additional conditions that must be satisfied before the extended period of suspension is lifted; or
  - b) require the TPA to take additional appropriate corrective action to remedy the deficiency or failure that resulted in the suspension.



### 4.1.3 Reinstatement of recognition

- (1) The TPA or recognised persons suspended services may be reinstated when:
  - a) MPI has verified that the conditions or corrective actions in clause 4.1(3) have been met; and
  - b) MPI is confident that the reason for suspension will not recur; and
  - c) MPI and the accreditation body have agreed on an ongoing surveillance frequency.
- (2) MPI will notify the TPA and recognised persons in writing that suspended services have been reinstated.
- (3) MPI will update the MPI website to remove reference to the suspension of recognition.

## 4.2 Withdrawal of recognition

- (1) MPI may withdraw all or part of the recognition of a TPA or of a person in accordance with the provisions in the Contract for Services as Third Party Agency for the Official Organic Assurance Programme in Appendix 1, if:
  - a) the conditions for reinstatement in a suspension notice are not met within the specified timeframe; or
  - b) the TPA or recognised person is no longer fit and proper to provide services on behalf of MPI for the OOAP; or
  - c) the TPA or recognised person has ceased to operate as a TPA or recognised person; or
  - d) the TPA or recognised person has failed to conform to criteria that led to its recognition to provide services on behalf of MPI for the OOAP; or
  - e) for any other reason MPI has concerns regarding the TPAs or recognised person's ability to meet its obligations as a recognised agency or recognised person;
  - f) the TPA or recognised person has failed to pay any applicable fees
- (2) Before withdrawing recognition, MPI will consult the TPA or recognised person about the proposed withdrawal of recognition by:
  - a) notifying the TPA or recognised person in writing; and
  - b) providing a reasonable opportunity to make a written submission on the proposed withdrawal; and
  - c) consider any submissions received on the proposed withdrawal.
- (3) If MPI decides to proceed with withdrawal of all or part of a TPAs or persons recognition, as soon as practicable after making this decision, MPI will notify:
  - a) the TPA or recognised person of the withdrawal of recognition of the TPA or recognised person; and
  - b) the TPA of the withdrawal of recognition of a recognised person it is responsible for; and
  - c) a recognised person of the withdrawal of recognition of the TPA that is responsible for its recognition.
- (4) If MPI proceeds with withdrawal of recognition of a TPA or recognised person, MPI will issue the TPA or recognised person with a notice of withdrawal which will:
  - a) specify the reason for the withdrawal; and
  - b) specify the effective date and time of withdrawal; and
  - c) specify the specified services the withdrawal relates to; and
  - d) sets out the right of the TPA to seek a review of the decision.
- (5) If MPI withdraws recognition of a TPA or recognised person:
  - a) details of the TPA or recognised person will be removed from the MPI website; and
  - b) the TPA must return the notification of recognition of the TPA or recognised person as soon as practicable after the withdrawal has taken effect; and

- c) the TPA must notify each client of the withdrawal as soon as practicable after the withdrawal takes effect.

### **4.3 Reviews**

- (1) A TPA may seek a review of a decision made by MPI by writing and stating the grounds of the review to MPI within 20 days of the notification of the decision.
- (2) MPI will convene a review panel to consider the review.
- (3) The TPA will be notified in writing of
  - a) the outcome of the review; and
  - b) the reasons for the decision on the review.
- (4) The original decision remains valid until the reviewer modifies or reverses it.
- (5) If the review modifies or reverses some of the original decision, the parts that are not modified or reversed remain valid.

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## **Appendix 1: Contract for services as TPA for the OOAP**

The contract is not included in this consultation on the Organic Export Requirement, and has been removed while the consultation takes place.

A copy of the contract may be requested by emailing [organics@mpi.govt.nz](mailto:organics@mpi.govt.nz)

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