



Amendments to the dairy official assurances specifications

Proposed changes to the Animal Products
(Official Assurances Specifications – Dairy Products)
Notice 2011

MPI Discussion Paper No: 2014/26

Prepared for the dairy industry
by the Food Assurance Team, Ministry for Primary Industries

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Submission

The Ministry for Primary Industries (MPI) invites comment on this discussion document, which outlines proposals to amend the Animal Products (Official Assurances Specifications – Dairy Products) Notice 2011 (the dairy OAS).

The following points may be of assistance in preparing comments:

- (a) where possible, comment should be specific to a particular section in the document. All major sections are numbered and these numbers should be used to link comments to the document;
- (b) where possible, reasons and data to support comments may be provided;
- (c) the use of examples to illustrate particular points is encouraged;
- (d) as a number of copies may be made of your comments, please use good quality type, or make sure the comments are clearly hand-written in black or blue ink.

Please include the following information in your submission:

- (a) the title of the discussion document;
- (b) your name and title (if applicable);
- (c) your organisation's name (if applicable); and
- (d) your address

Please submit your response by 5:00 pm on 30 June 2014. Responses should be sent to:

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1 Introduction

1.1 OFFICIAL ASSURANCES

The Food Assurance Team is proposing to amend the Animal Products (Official Assurances Specifications - Dairy Products) Notice 2011 (“the dairy OAS”).

The dairy OAS specifies the requirements for the issue and control of official assurance.

Official assurances in general

The Animal Products Act 1999 empowers the Director-General of MPI or a person authorised by the Director-General to issue an official assurance in respect of animal material or animal product.

An official assurance is a general statement to a foreign government, attesting that the animal material or animal product being exported to them is fit for purpose, meeting New Zealand domestic requirements and additional negotiated overseas market access requirements. MPI issues official assurances on behalf of the New Zealand Government in the form of export certificates.

Official assurances for dairy material and dairy product

The Animal Products (Official Assurances Specifications – Dairy Products) Notice 2011 (the dairy OAS) sets out requirements pertaining to the issue and control of export certificates for dairy products, the approved manner for applying for export certificates, and the application procedure for the re-issue of export certificates.

You can view the dairy OAS on MPI’s food safety website at:

<http://www.foodsafety.govt.nz/elibrary/industry/animal-products-dairy-notice-2011.pdf>

Electronic systems for issuing official assurances

Export certification is currently carried out in two separate electronic certification systems; one system for dairy product (MP E-cert), and the other system for non-dairy animal product (AP E-cert). Between June and September 2014, all export certification will transition into a new system (the new AP E-cert). This transition provides an opportunity for MPI to review the dairy OAS to ensure its fitness for purpose.

1.2 REGULATORY REQUIREMENTS

The Dairy OAS is issued under sections 62(4) and 167(1)(k) of the Animal Products Act 1999 (“the Act”). These provisions authorize the Director-General to issue a notice specifying the requirements for the issue and control of official assurances.

Official assurances are issued by the Director-General or persons authorized by the Director-General under section 65 of the Act. Official assurances are issued by way of export certification. In practice, export certificates for dairy products are issued by the Dairy Certification Unit, a team within MPI’s Verifications Services Directorate.

2 Background

The transition of dairy export certification to the new AP E-cert is the primary driver for reviewing the dairy OAS in this instance. Due to this transition, new requirements about the issue and control of official assurances will be introduced. As a result, the Dairy OAS needs to be amended to mandate these requirements.

The following factors influenced MPI's decision to propose the amendments set out in this discussion paper:

- (a) the need to mandate new requirements caused by the MP to AP E-cert transition;
- (b) the need for better traceability as recommended by the Ministerial Inquiry into the Whey Protein Concentrate Contamination;
- (c) that it is sensible to fully utilise the enhanced traceability capability of the new AP E-cert; and
- (d) that the traceability provisions under clause 7 of the Dairy OAS need to be improved to meet current and future market demands.

The proposed amendments fundamentally include the mandating of new requirements triggered by the MP to AP E-cert transition; and the revocation and replacement of the traceability framework under clause 7.

It must be noted that MPI is only recommending the revocation and replacement of the traceability framework under clause 7 as oppose to the countries to which the framework applies. This means that the new traceability framework will still only apply to dairy material and dairy product that are intended for the European Union and Customs Union but there will be no full traceability requirement for dairy material and dairy product intended for the rest of the markets. It is highly likely that other markets will require full traceability in the future.

The full traceability option for all markets is not recommended because MPI's Traceability Working Group is working on broader traceability issues that may impact on this.

3 Summary of proposed amendment

3.1 AMENDMENTS TRIGGERED BY THE TRANSITION OF EXPORT CERTIFICATION FROM MP E-CERT TO AP E-CERT

Incorporation of the E-cert Help File by reference

Most system-related requirements resulting from the transition are set out in a material called the [E-cert Help File](#). It is proposed that the [E-cert Help File](#) is incorporated by reference into the dairy OAS to ensure the legality of requirements it contains.

Changing the basis of dairy export certification from operator verification information to eligibility documentation

The transition will also result in the change of the basis of dairy certification. Currently, dairy certification is done on the basis of *operator verification information*. The main source of operator verification information is a document called *Summary of Records (SORs)*, which contains information about the product and is generated electronically in MP E-cert.

Post transition, the use of operator verification information will be discontinued and dairy export certification will be based on *eligibility documentation*, which includes *eligibility declarations* and *eligibility documents* electronically generated in the new AP E-cert. The approved eligibility declaration or eligibility document is used as the basis for export certificates.

There are requirements relating to the raising, issuing and management of eligibility declarations and eligibility documents which ensure they achieve their intended purposes. This paper sets out these requirements.

Amending the scope of verification under current clause 33

Since eligibility declarations and eligibility documents will become the basis of dairy export certification, it is appropriate that the scope of verification undertaken by official assurance verifiers is focused on these documents.

In relation to eligibility declarations, these documents are auto-approved in E-cert so it eliminates a level of check by MPI. In granting auto-approval status to operators, MPI is effectively putting a lot of trust on operators to do the right thing. In order to maintain the integrity of the official assurance system, it is necessary that eligibility declarations are verified on an ongoing basis.

House-keeping amendments

Other house-keeping amendments will be made as necessary, and these include-

- (a) deleting all references to MP E-cert and replace them with AP E-cert ;
- (b) deleting all references to SORs;
- (c) deleting references to *operator verification information* and replace them with *eligibility documentation*;

- (d) deleting all references to MAF and replace them with MPI; and
- (e) deleting references to MAF Verification Animal and Food Product and replace them with MPI Verification Services.

3.2 AMENDMENTS TRIGGERED BY THE PUSH FOR BETTER TRACEABILITY

Introducing a new traceability framework to replace the traceability framework under clause 7

MPI proposes that the traceability framework under clause 7 of the dairy OAS be replaced. Clause 7 mandates full traceability for dairy material and dairy product intended for export to countries that require premises listing. This includes member states within the European Union and Customs Union. Although the application of clause 7 is already OMAR-driven, MPI proposes to provide a more explicit link between OMAR traceability requirements and the dairy OAS traceability requirements.

The proposed traceability framework for clause 7 countries will utilise AP E-cert's inbuilt traceability functionality. This is to improve the traceability framework for export to countries mandating full traceability and to ensure that New Zealand's assurances are universally accepted now and into the future.

The proposed framework is significantly similar to the framework used in the meat and seafood industry. The meat and seafood traceability framework has passed previous overseas countries' audits.

4 Proposal

4.1 INCORPORATING THE E-CERT HELP FILES BY REFERENCE

It is proposed that the [E-cert Help File](#) is incorporated by reference as part of the dairy OAS. This means that the E-cert Help File will remain a standalone document but the requirements contained therein will be legally enforceable as part of the dairy OAS. Only requirements that pertain to rights, powers and obligations that are mandated will be part of the dairy OAS whereas explanatory and guidance statements will not.

4.1.1 Scope of amendment

It is proposed that the following new provisions are inserted into the dairy OAS:

“Incorporation of material by reference

The [E-cert Help File](#) is incorporated into this notice by reference for the completion of eligibility documentation and export certificate requests electronically generated in E-cert.”

Please note that you need to be an authorised E-cert user before you can view the [E-cert Help File](#). For information on how you can become a user, please refer to the [MPI food safety website](#).

4.1.2 Amendment rationale

The inclusion of this new provision is intended to clear any doubt as to the legal status of the [E-cert Help File](#). The material contains obligations, powers and rights that are intended to be mandatory so it is important that these elements are clearly mandated. Additionally, the material is quite lengthy and technical in nature so it makes sense to incorporate it by reference rather than by transferring all the requirements to the dairy OAS.

4.2 CHANGING THE BASIS OF CERTIFICATION FROM VERIFICATION INFORMATION TO ELIGIBILITY DOCUMENTATION

Dairy export certification, which is currently based on SORs raised in MP E-cert, will transition to EDecs and EDs raised in the new AP E-cert. There are rules fundamental to ensuring that EDecs and EDs are properly utilised to achieve the purposes they are designed for and these rules will have to be clearly set out in the dairy OAS. For this reason, a new Part 3, which sets out the rules about the issue and control of EDecs and EDs, is proposed.

4.2.1 Scope of amendment

The scope of this amendment would include the inclusion of a new Part 3, which will replace the existing sub clause 6(3).

“Part 3: Eligibility documentation – General

3.1 Eligibility declaration (EDec) and eligibility document (ED)

- (1) Where it is intended to export dairy material or dairy product with an official assurance, the operator of the last premises to process the dairy material or dairy product must raise an eligibility declaration or eligibility document electronically in E-cert to support any subsequent export certification requests that an exporter may raise for that dairy material or dairy product.

- (2) Eligibility declarations and eligibility documents must be prepared by an operator in accordance with this notice, the [E-cert Help File](#), and other relevant export requirements issued by notice under the Act.
- (3) Operators must ensure that eligibility declarations and eligibility documents are prepared correctly.

3.2 Imported dairy material or dairy product

- (1) All eligibility declarations and eligibility documents relating to imported animal material or animal product, must-
 - (a) identify the country or countries of origin of the animal material or product concerned; and
 - (b) refer to the relevant documentation issued by the foreign government.
- (2) All exporters seeking an official assurance for dairy material or dairy product containing imported dairy material or product must supply to the authorised person the original certificate issued by the competent authority of the exporting country or a certified copy of the certificate.

3.3 Eligibility declarations to be raised only by authorised users

- (1) Eligibility declarations must only be raised by authorised users.
- (2) An authorised user must be a person who has current firsthand knowledge of the premises for which they are raising an eligibility declaration; this knowledge must include an understanding of the relevant requirements within and made under the Act, including specifications and export requirements.
- (3) Where a premises does not have an authorised user with current firsthand knowledge of the operation, the operator must raise eligibility documents in place of eligibility declarations.

3.4 Non-compliance

- (1) Where the Director-General believes on reasonable grounds that an operator or their employee, agent or contractor has misused, or has failed, or is failing, to comply with clause 3.3, the Director-General may notify the operator of this belief.
- (2) Notice under sub clause (1) must-
 - (a) be in writing; and
 - (b) clearly document the grounds of alleged non-compliance; and
 - (c) specify a reasonable period within which the operator must remedy any non-compliance and/or make submissions to the Director-General regarding the non-compliance.
- (3) Notwithstanding sub clause (2)(c) the Director-General may immediately require that an operator raise eligibility documents, in place of eligibility declarations, where non-compliance or misuse threatens the integrity of official assurances issued under the Act.
- (4) If, following the expiry of the reasonable period specified under sub clause (2)(c), the Director-General is satisfied that the operator has failed to comply with clause 3.3, the Director-General may require that eligibility documents are raised in place of eligibility declarations.

3.5 Eligibility documents to be issued only by official assurance verifiers

- (1) Eligibility documents may only be issued by an official assurance verifier.
- (2) Any official assurance verifier issuing eligibility documents must-

- (a) have a thorough knowledge and understanding of this notice and any export requirements applicable to the operator's business; and
 - (b) have current firsthand knowledge of the operator's business so as to confirm that the details contained in the eligibility document are complete and accurate.
- (3) Eligibility documents are completed once the relevant official assurance verifier has issued the documents.

3.6 Procedure for official assurance verifiers

- (1) All official assurance verifiers must follow the principles of certification in the Veterinary Council of New Zealand's "Code of Professional Conduct for Veterinarians".
- (2) Official assurance verifiers must only issue eligibility documents that are raised by an operator in accordance with the [E-cert Help File](#).
- (3) Eligibility documents must not be issued if the details on the documents are incomplete, inaccurate or not in accordance with the requirements of this notice, or any relevant export requirements."

4.2.2 Amendment rationale

The primary reason for this amendment is due to the fact the new AP E-cert will only generate eligibility declarations and eligibility documents instead of summary of records. The provisions proposed above are fundamental in ensuring the credibility and effectiveness of an export certification system that is based on eligibility declarations and eligibility documents.

The proposed clause 3.2, which relates to imported dairy material, is equivalent to current sub clause 10(5) of the dairy OAS. The only material difference is that certified copies of certificates will now be acceptable. It is anticipated that this requirement will simplify the companies' and MPI's business process without undermining the integrity of the official assurance system.

The proposed clause 3.3 will replace current clause 5 of the dairy OAS, which generally allows operators to designate a person to provide operator verification information to MPI on behalf of their company. MPI believes that companies should be left to implement their own process for nominating their E-cert users whereas MPI will concentrate on assessing user applications.

EDecs are auto-approved in the system when raised by operators, which demonstrates MPI's trust in the operator to do the right thing. Additionally, auto-approval bypasses a level of regulatory check so it is necessary that those who are granted auto-approval status are subject to appropriate qualifications. The proposed clause 3.3 provides such qualifications.

The proposed clause 3.4 is intended to be an enforcement mechanism for clause 3.3.

The proposed clause 3.5 provides the qualification criteria applicable to official assurance verifiers issuing eligibility documents. This clause is intended to safeguard the integrity of the official assurance system by ensuring that official assurance verifiers who issue eligibility documents have the appropriate knowledge that would enable them to ascertain the accuracy and truthfulness of information sets out in eligibility documents.

The proposed clause 3.6 sets out the procedure that official assurance verifiers must follow when issuing eligibility documents.

4.3 MANDATING THE INCLUSION OF HS CODES

4.3.1 Scope of amendment

The inclusion of actual HS Codes in an eligibility declaration, eligibility document, and export certificate request will be made mandatory. MPI's understanding is that the HS Code field has always been a mandatory field even though operators were required to input the default "ZZZZZZ" value. MPI intends to mandate that actual HS Codes are to be entered going forward instead of the default value.

This clarification does not necessarily require a specific amendment to the dairy OAS; incorporating the E-cert Help File by reference achieves this objective.

4.3.2 Amendment rationale

The inclusion of HS Codes is mandated because:

- (a) it meets market expectations of internationally-recognised product identification;
- (b) it improves the ability to search properly under the new application;
- (c) it is consistent with NZ Government expectations around collection and use of data; and
- (d) it is consistent with MPI data standards.

4.4 AMENDING THE SCOPE OF VERIFICATION

4.4.1 Scope of amendment

It is proposed that current verification framework under Part 8 of the dairy OAS is deleted and replaced with the following provisions, which would be part of the new Part 10:

“Part 10: Verification

10.1 Verification

- (1) The official assurance verifier of the premises where eligibility declarations are raised must, on an ongoing basis, check at least 5% of eligibility declarations to ensure that they have been raised correctly.
- (2) In addition to sub clause (1), as part of the normal verification programme for that premises, an official assurance verifier must check all supporting documentation in relation to a selection of eligibility declarations, which have been raised to support export certificates, for premises for which they have direct responsibility.
- (3) Verification checks must include examination of-
 - (a) eligibility documentation to verify that there is sufficient information to support export certification; and
 - (b) supporting documentation to ensure that it-
 - (i) identifies lots;
 - (ii) has traceability via the inventory control system; and
 - (iii) has traceability to incoming eligibility declarations.

- (4) In addition to the requirements of sub clause (1), an official assurance verifier may audit official assurance supporting documentation at any time where there are reasonable grounds for doing so.”

4.4.2 Amendment rationale

The proposal to replace the current verification framework is deemed necessary because of-

- (a) the change in the basis of certification from Summary of Records raised in MP E-cert to eligibility declarations and eligibility documents raised in AP E-cert; and
- (b) the replacement of Record of Market Eligibility with eligibility declarations and eligibility documents for traceability purposes for products intended for export to markets that require premises listing.

The above changes require a verification framework that focuses on eligibility declarations and eligibility documents. The current verification framework does not allow for ongoing desktop verification of eligibility declarations and eligibility documents. Ongoing desktop verification is necessary especially in relation to verifying eligibility declarations.

4.5 INTRODUCING A NEW TRACEABILITY FRAMEWORK TO REPLACE THE TRACEABILITY FRAMEWORK UNDER CLAUSE 7

Clause 7 of the dairy OAS sets out a traceability framework that applies to product intended for export to countries that require premises listing as part of their overseas market access requirements (OMAR).

The clause 7 traceability framework operates by mandating the use of Records of Market Eligibility (ROMEs) as a traceability tool. ROMES are required to be raised whenever dairy material or dairy product is transferred between premises. The operator of the sending premises is responsible for raising the ROME and making it available to the operator of the receiving premises within 48 hours of the product’s departure. There is no prescribed form for ROMES so it is up to the operator to decide the form as long as the prescribed information is there.¹

It is proposed that the current paper-based traceability framework under clause 7 is deleted and replaced with a new electronic traceability framework based on eligibility declarations and eligibility documents. The new framework will be more explicitly OMAR-driven.

4.5.1 Scope of amendment

The scope of this amendment would include deleting the current clause 7 and replacing it with a new Part 4 as follows:

“Part 4: Additional product eligibility requirements for specified markets

4.1 Application of this part

- (1) This part, which is additional to Part 3, applies to dairy material and dairy product intended for export to a market where there is-
 - (a) an OMAR for the premises to be listed for that market; or

¹ Sub clause 7(4) prescribed the information that should be in a ROME

- (b) an OMAR for product or premises to be subject to a traceability system.
- (2) Exporters may only request certification for dairy product and dairy material sourced from operators who comply with the requirements of this part.
- (3) This part does not apply to fluid streams transferred between RMPs under common ownership.

4.2 Transfer of dairy product or dairy material between premises to be associated with eligibility documentation

- (1) Where this part applies and where it is intended to export dairy material and dairy product with an official assurance, the operator of the consigning premises must raise an eligibility declaration or an eligibility document when-
 - (a) the dairy material or dairy product is transferred between premises, or
 - (b) the dairy material or dairy product is transferred to the exporter, or
 - (c) the dairy material or dairy product is transferred between exporters.
- (2) Despite sub clause (1), dairy material or dairy product is not required to be associated with an eligibility declaration or eligibility document when transferred-
 - (a) to or from vehicle docking facilities (VDFs); or
 - (b) between premises with multiple RMPs, owned or occupied by the same operator and situated within the same boundary fence with an inventory control system in place that provides for adequate traceability equivalent to that provided for in an Eligibility Declaration or Eligibility Document, and if the transfer is under the direct control of the operator; or
 - (c) between RMP operators that are directly adjoining and managed by a common managerial structure; with an inventory control system in place that provides for adequate traceability equivalent to that provided for by an Eligibility Declaration or Eligibility Document, and if the transfer is under the direct control of the operator.
- (3) The exemption in sub clause (2)(c) does not apply to mobile operators.

4.3 Eligibility documentation to be available to the operator of receiving premises within 48 hours of dairy material's or dairy product's departure

- (1) Operators must ensure that the eligibility declaration or eligibility document for dairy material and dairy product transferred from one premises to another premises is accessible in E-cert within 48 hours of the dairy material or dairy product leaving the consigning premises.
- (2) Where an eligibility declaration or eligibility document is not accessible in E-cert within 48 hours, the dairy material or dairy product is not eligible for export with an official assurance.
- (3) Despite sub clause (2), where technical problems prevent the eligibility declaration or eligibility document from being made available within 48 hours, the dairy material or dairy product may remain eligible for official assurances if-
 - (a) the RMP operator of the sending premises promptly notifies the official assurance verifier and explains the reason for the delay:
 - (b) the official assurance verifier is satisfied that the cause of the delay was unavoidable:

- (c) the eligibility declaration or eligibility document is made available without further delay.
- (4) The operator must have a system to show any movement of animal material or animal product for the incoming eligibility declaration or eligibility document to the outgoing eligibility declaration or eligibility document.
- (5) Dairy material or dairy product diverted to premises that are not its intended destination, as recorded in the eligibility declaration or eligibility document, cannot leave those premises until the eligibility declaration or eligibility document is either replaced or amended.
- (6) The amended or replacement eligibility declaration or eligibility document must be available to the operator and official assurance verifier (where applicable) of the premises to which the dairy material or dairy product was diverted within 48 hours of the dairy material or dairy product leaving the consignor's premises.

4.4 Dairy material and dairy product not to be processed at or dispatched from the receiving premises before eligibility documentation is approved

- (1) The eligibility declaration or eligibility document must have been approved and accessible to the operator, and official assurance verifier (where applicable) of the receiving premises before the dairy material or dairy product concerned is-
 - (a) processed at the receiving premises; or
 - (b) despatched from the receiving premises, in the case of dairy material or dairy product that are not processed at those premises.
- (2) For the purpose of this clause, the word "processed" does not include refrigeration or other means of preservation or storage necessary to ensure that the dairy material or dairy product can be held without deterioration.
- (3) An operator that receives a consignment of dairy material or dairy product without an eligibility declaration or eligibility document within 48 hours of the dairy material or dairy product leaving the sending premises, must identify and segregate that consignment from all other consignments at the premises.
- (4) Dairy material and dairy product that are processed without the approved eligibility declaration or eligibility document being available to the operator in accordance with sub clause (1), is not eligible for export with an official assurance.

4.5 Transfer of imported dairy material and dairy product

- (1) All transfer documentation that is prepared to accompany the transfer of imported animal material or product, must-
 - (a) identify the country or countries of origin of the animal material or product concerned; and
 - (b) refer to the relevant documentation issued by the foreign government.
- (2) Consignor operators transferring imported animal material or product must, where applicable, ensure that copies of all relevant import certificates are available to the consignee operators to support the issuing of official assurances.

4.6 Changes to country eligibility

- (1) Where the incoming eligibility declaration or eligibility document list eligible countries and an operator of a receiving premises wishes to extend the eligibility of the dairy material or dairy product to a country or countries other than those already shown on that documentation, the following procedure applies-
 - (a) the operator of the receiving premises must identify any differences between the requirements for the additional country or countries on the incoming eligibility declaration or eligibility document;
 - (b) the operator must keep auditable records to support the extended eligibility; these records must clearly demonstrate the resolution and verification of any differences through examination of the dairy material or dairy product, and the process or procedures that have been applied at the consigning business;
 - (c) the outgoing eligibility declaration or eligibility document must contain the declaration “eligibility extended”, when extending eligibility to a market with additional requirements to those countries listed in the incoming eligibility declaration or eligibility document.
- (2) Where it is not possible to follow the procedure in the preceding clause, the operator of the receiving premises must require the operator of the consigning premises to amend, or produce a replacement of the incoming eligibility declaration or eligibility document.
- (3) Where eligibility documents are used, the official assurance verifier must identify any differences between the requirements for the additional country or countries on the outgoing eligibility document and the countries on the incoming eligibility document.

4.7 Control declarations

- (1) An operator may only amend the wording of an eligibility declaration or eligibility document if the outgoing eligibility declaration or eligibility document lists eligible countries and-
 - (a) controls additional to those in specifications are necessary to achieve or maintain country eligibility; or
 - (b) country eligibility requires additional controls which are covered by specifications.
- (2) Where sub clause (1) applies, the operator must include on that eligibility declaration or eligibility document a declaration stating precisely and succinctly additional controls and procedures, given that such controls and procedures do not undermine existing specifications in any way.
- (3) The operator must keep a copy of all control declarations and a record of the circumstances in which each was required, for a period of 4 years.
- (4) In the case of eligibility documents-
 - (a) all control declarations must additionally be approved by the official assurance verifier responsible for verifying the premises, prior to their use; and

- (b) the official assurance verifier must keep a copy of all declarations and a record of the circumstances in which each was required, for a period of 7 years after the last use of the control declaration.”

4.8 Transitional provisions

- (1) Operators to whom this part applies may choose to operate under the provisions of clause 7 of the Animal Products (Official Assurance Specifications – Dairy Products) Notice 2011 instead of the provisions of this part until the close of business day 31 December 2014.
- (2) To avoid doubt, sub clause (1) expires on the close of business day 31 December 2014 and operators must comply with this part from 01 January 2015.

4.5.2 Amendment rationale

The current traceability provisions for dairy are not considered to meet the needs of importing countries for which the provisions were intended. The proposed amendments are adapted from the traceability model currently used in the meat and seafood sector, which has passed previous overseas countries' audits.

Unlike MP E-cert, eligibility declarations and eligibility documents can be generated electronically in the new AP E-cert. Records of Market Eligibility (ROME) are only paper-based so the proposed traceability model is more efficient from a business process perspective.

The proposed traceability model better positions dairy traceability to accommodate future market requirements and takes into account recommendations of the ministerial inquiry into the Whey Protein Concentrate Contamination. Since eligibility declarations and eligibility documents are generated electronically in E-cert, MPI has the ability to trace product information and movement through the E-cert system.

It is understood that some parties may need a transition period for complying with the proposed framework given that they would need time to understand how it works and to make appropriate business process adjustments and resource allocation for implementing the framework. Accordingly, clause 4.8 proposes a transitional period.

5 New structure of the dairy OAS

The new dairy OAS will have 10 parts instead of 9. This is due to the inclusion of the new parts 3 and 4. The current Part 9, which is the revocation part, will be part of the title page. The 10 parts of the amended dairy OAS are:

Part 1: Introduction – This part includes:

- Background;
- Application;
- Consequences of non-compliance;
- Change history;
- Incorporation by reference; and
- Definitions.

Part 2: General Requirements – This part includes:

- Requirement on RMP operators;
- Requirements on exporters;
- Records;
- Test reports; and
- Communication with foreign authorities.

Part 3: Eligibility Documentation – General – This part will contain specifications on the issue and control of eligibility declarations and eligibility documents.

Part 4: Traceability Requirements for Limited Markets – This part replaces the current clause 7.

Part 5 – This is the current part 3

Part 6 – This is the current part 4

Part 7 – This is the current part 5

Part 8 – This is the current part 6

Part 9 – This is the current part 7

Part 10 – This is the current part 8

Additionally, there will be a title page, which will contain provisions relating to the following:

- Title;
- Purpose;
- Commencement date;
- Revocation; and
- Issuing authority.

The notice will be in the new format that was recently approved by MPI for all tertiary legislation it issues. This would result in the inclusion of certain inconsequential provisions that are part of the new template.



Animal Products Notice

Draft for Consultation

Animal Products (Official Assurances Specifications - Dairy Products) Notice 2014

TITLE

[Animal Products (Official Assurances Specifications - Dairy Products) Notice 2014]

COMMENCEMENT

[This Animal Products Notice comes into force on .]

REVOCATION

This Animal Products Notice revokes and replaces the Animal Products (Official Assurances Specifications – Dairy Products) Notice 2011.]

ISSUING AUTHORITY

[This Animal Products Notice is issued pursuant to sections 62(4), 63, 64 and 167(1)(k) and (l) of the Animal Products Act 1999.]

Dated at Wellington this [...] day of [..... 2014]

Draft for Consultation

Paul Dansted
Manager, Food Assurance
Ministry for Primary Industries
(acting under delegated authority of the Director General)
A copy of the instrument of delegation may be inspected at the Director General's office.

Contact for further information
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Introduction

This introduction is not part of the Animal Products Notice, but is intended to indicate its general effect.

Purpose

[This Animal Products Notice is issued under the Animal Products Act 1999 for the purposes of-

- (a) setting specifications in relation to the issue and control of official assurances for dairy material and dairy product under section 62 of that Act; and
- (b) setting specifications in relation to the obtaining of official assurances for dairy material and dairy product under section 63 of that Act, including the approved manner for applying for an official assurance; and
- (c) providing the approved application procedure for the reissue of official assurances for dairy material and dairy product under section 64 of that Act.]

Background

- (1) [The Animal Products Act 1999, under section 61, empowers the Director-General to issue official assurances to facilitate the entry of animal material and animal product into overseas markets. Section 62(4) of that Act further empowers the Director-General to issue, by notice under section 167, specifications setting out requirements and procedures for the issue and control of official assurances.
 - (2) This notice specifies requirements to be met in order for dairy material and dairy product to be eligible for export with an official assurance. In particular, it specifies requirements relating to-
 - (a) the acceptable form of eligibility documentation;
 - (b) the issue and control of eligibility documentation;
 - (c) the process of raising eligibility documentation and export certificate requests in E-cert; and
 - (d) the process to be followed by authorised persons when issuing official assurances.
 - (3) The Ministry for Primary Industries provides an electronic certification system (E-cert) to facilitate the generation of eligibility documentation and the issue of export certificates. This notice also incorporates requirements relating to the acceptable use of the E-cert system.
-]

Who should read this Animal Products Notice?

[Any person who processes or exports dairy material and dairy product requiring official assurances should read this notice. Official assurance verifiers and authorised persons should also read this notice.
]

Why is this important?

- (1) [Operating other than in accordance with this notice may result in a dairy material or dairy product not being eligible for export with an official assurance. MPI may not issue an export certificate for a dairy material or dairy product that fails to comply with any provision of this notice.
- (2) For the purposes of section 135(1)(c) of the Act, a failure to comply with this notice, without reasonable excuse, is an offence.

Contacts

- (3) [For all matters relating to the operation of this notice, please dial MPI's general enquiry line 0800 00 83 33 (local) or +64 4 894 0100 (overseas) and request to be put through to the Food Assurance Team.
- (4) Alternatively, you can write to us on the address provided at the bottom of page 1 of this notice.]

Other information

This notice does not contain an exhaustive list of prerequisite requirements for the eligibility of dairy material and dairy product for export with official assurances. It is the responsibility of dairy operators and exporters to ensure familiarity with the Animal Products Act 1999 and all legislation issued under it that are of relevance to the subject matter.]

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Part 1: General provisions

1.1 Application

This notice applies to-

- (a) dairy material and dairy product intended for export for which official assurances are required;
- (b) dairy operators who process dairy material or dairy product for which an official assurance is required;
- (c) dairy exporters exporting dairy material or dairy product for which an official assurance is required;
- (d) any person who is authorised to use the electronic certification system provided by the Ministry for Primary Industries for official assurance purposes;
- (e) persons authorised by the Director-General under section 65 of the Act to issue official assurances; and
- (f) official assurance verifiers who carry out verification under this notice.

1.2 Incorporation of material by reference

The [E-cert Help File](#) is incorporated into this notice by reference for the completion of eligibility documentation and export certificate requests electronically generated in E-cert.

1.3 Definitions

- (1) In this notice, unless the context otherwise requires, -

authorised person means a person designated by the Director-General under section 65 of the Act as an authorised person for the purpose of issuing official assurances and for withdrawing and reissuing official assurances under section 64 of the Act.

authorised user means a person that has met specified competency criteria and has been given authority to access E-cert or live animal export certificate templates to enable the raising of eligibility declarations

country eligibility when applied to an identified lot of animal material or product means that all export requirements appropriate to the intended country(ies) of export, have been met; and **eligibility status** has a corresponding meaning

E-cert means the electronic programme provided by the Director-General for the processing of eligibility declarations, eligibility documents and electronic export certificates, and includes the [E-cert Help File](#) in that electronic programme

eligibility declaration (EDec) means a document an operator raises in E-cert in accordance with the E-cert Help File, and auto-approved by E-cert, which confirms the eligibility for export of any dairy material or dairy product requiring an official assurance

eligibility document (ED) means a document raised by an operator in E-cert in accordance with the requirements detailed in the E-cert Help File, and issued by an official assurance verifier, which confirms the eligibility for export of any dairy material or dairy product requiring an official assurance

exhaust means an action taken by an authorised person, official assurance verifier or operator, on a transfer document, to indicate that the product or product item is no longer represented by that transfer document

export certificate in relation to dairy material and dairy product, is the form of an official assurance for dairy product determined by the Director-General pursuant to section 62 of the Act

export certificate set means the original export certificate form plus the appropriate number of copies; and **certificate set** has a corresponding meaning

export requirement means a requirement specified under section 60 of the Act and notified or made available under section 60A and where appropriate, any exemption issued in accordance with section 60B. Export requirements include overseas market access requirements

inventory control is a system whereby the operator is able to satisfactorily demonstrate the identity, traceability and eligibility of animal material or animal product through their records

import certificate means the official sanitary certificate associated with the animal material or product and issued by the government of the country from which New Zealand has imported the animal material or product

imported animal material or product means animal material or product imported into New Zealand and includes New Zealand animal material or product that is mixed with animal material or product imported into New Zealand

issued in relation to paper documents, means signed by an authorised person, official assurance verifier or in the case of eligibility documentation generated in E-cert means, system-approved, approved by an official assurance verifier or authorised person; and issue has a corresponding meaning

MPI means the Ministry for Primary Industries **MPI website** refers to <http://www.mpi.govt.nz>

official assurance verifier (OA verifier) means a person recognised under section 103 of the Act to undertake official assurance verification and includes an animal product officer employed by the MPI Verification Services; and verifier has a corresponding meaning

official assurance verification means the functions and activities of confirming compliance with any New Zealand standard and export requirements which apply to the animal material or animal product concerned

operator means the owner or other person in control of an animal product business operating under a registered Risk Management Programme

overseas market access requirements (OMAR) means an export requirement specific to an identified overseas market or markets. **premises** means the place where an animal product business is operated

preprinted export certificate form means a paper export certificate that is preprinted and obtained from an approved supplier, as opposed to being printed on to security paper from the E-cert electronic database

print-run number means the number printed in the bottom left hand corner of each preprinted export certificate form

raise in relation to the E-cert system, means to complete and submit an eligibility document, eligibility declaration or an export health certificate in accordance with the [E-cert help file](#)

recognised agency in relation to any function or activity, means a person or body recognised by the Director-General under section 103 of the Act for the purpose of performing that function or activity

recognised person means a person recognised or accredited by the Director-General under section 103 of the Act to perform specialist functions and activities

security paper is sensodised watermark security paper fully sensitised to CBS1 requirements and includes covert and overt UV flecks. The true watermark, owned by the maker, is applied during manufacture. The front side of each sheet has a disruptive wavy background with the words 'New Zealand SPS Certificate'

shoulder number means the unique number of the eligibility document, eligibility declaration or export certificate allocated by E-cert when a document is raised, or applied at or before signature of a paper document

signatory seal means the unique stamp issued by MPI Verification Services to authorised persons and official assurance verifiers employed by MPI

signing office or **signing location** means the place at which an authorised person issues export certificates

the Act means the Animal Products Act 1999.

unprocessed means not having been subject to any form of primary processing, as defined in the Act and the Animal Products (Definition of Primary Processor) Notice 2000

- (2) Any term or expression that is defined in the Act, Animal Products (Ancillary and Transitional Provisions) Act 1999, or regulations made under those Acts and used, but not defined in this notice, has the same meaning as in those Acts or regulations.

Part 2: General requirements

2.1 Requirements on operators

2.1.1 Requirements to ensure product eligibility

- (1) An operator intending to process dairy material or dairy product for export for which an official assurance is required must ensure that such dairy material and dairy product are eligible for official assurances.
- (2) An operator intending to process dairy material or dairy product for export for which an official assurance is required must carry out specific checks on the received animal material against the relevant export requirements including production, storage, transport conditions, product item marks, labels and any other identifying features.

2.1.2 Requirements to keep records

- (1) An operator intending to process dairy material or dairy product for export for which an official assurance is required, must-
 - (a) keep records so that the usage and movement of the dairy material or dairy product, and any ingredients and processing aids used, can be traced;
 - (b) keep eligibility documentation for the relevant dairy material or dairy product; and
 - (c) keep test reports obtained during the production and processing of the dairy material or dairy product.
- (2) The operator who processed the final material must provide the records required under this clause upon request to the Director-General, an authorised person, the relevant exporter or an official assurance verifier.
- (3) The system or systems used to generate or hold records must have sufficient security built in to restrict who can change or affirm the status of any dairy material or dairy product, and all changes and affirmations must leave an auditable record, including identification of persons who submit information into the system.
- (4) All operators to whom Part 4 applies must retain a copy of received and sent eligibility declarations and eligibility documents accompanying incoming consignments.
- (5) Operators must keep records required by this clause for a period of 4 years after the last of the dairy material or dairy product that the records relate to have left the control of that premises.

2.1.3 Requirements to provide test reports

- (1) The operator who processed the final dairy material or dairy product must provide the relevant test reports to MPI, the relevant exporter, or a recognised agency verifier when requested by the Director-General or authorised person.
- (2) The operator may provide copies of test reports to MPI, the relevant exporter, or a recognised agency verifier as part of eligibility documentation. Copies must be marked as a copy and annotated with the following statement signed and dated by a designated signatory:
"I hereby confirm that this is a true, complete and accurate copy of the original."
- (3) Laboratories that are recognised as a Category 1 recognised agency who provide test reports to MPI as part of eligibility documentation, must ensure the test report-
 - (a) Is accurate;
 - (b) Is unaltered;
 - (c) Clearly presents the test results; and

- (d) Clearly presents other information that is relevant to the dairy material or dairy product.

2.1.4 Requirement to incorporate into RMP how to meet the requirements of this part

An operator intending to process dairy material or dairy product for export for which an official assurance is required, must include in its RMP a description on how the requirements of this part (Part 2) will be met.

2.2 Requirements on exporters

2.2.1 Requirement to ensure product eligibility for intended destination country

All exporters must ensure the dairy material or dairy product for export requiring an official assurance is eligible for an official assurance for the intended destination country before export commences.

2.2.2 Requirements to provide eligibility documentation

- (1) All exporters seeking an official assurance must supply adequate eligibility documentation and records to satisfy the Director-General or authorised person that the dairy material or dairy product for which the assurance is sought is eligible for official assurance.
- (2) All exporters seeking an official assurance must obtain eligibility documentation for the dairy material or dairy product which is to be exported from the operator of the premises of final control.
- (3) All exporters must provide eligibility documentation to MPI in accordance with the requirements of Part 3 of this notice.
- (4) Any specific requirements from the importing country notified under section 60 of the Act regarding imported dairy material or dairy product and its certification must be complied with.

2.3 MPI may request further information

The Director-General or authorised person may request further information from the operator, exporter, recognised agency or dairy processor in order to verify compliance with the Animal Products Act 1999, the Animal Products (Dairy) Regulations 2005 and any relevant dairy product standards and specifications issued under the Act.

2.4 Communication with foreign authorities

The following agencies or persons must not engage in any direct communication with foreign governments or with New Zealand overseas diplomatic or trade posts on matters relating to official assurances, without the prior authorisation from the Director-General-

- (a) animal product officers;
- (b) authorised persons;
- (c) official assessors;
- (d) official assurance verifiers;
- (e) recognised agencies; and
- (f) recognised persons.

Part 3: Eligibility documentation – General

3.1 Eligibility declaration (EDec) and eligibility document (ED)

- (1) Where it is intended to export dairy material or dairy product with an official assurance, the operator of the last premises to process the dairy material or dairy product must raise an eligibility declaration or eligibility document electronically in E-cert to support any subsequent export certification requests that an exporter may raise for that dairy material or dairy product.
- (2) Eligibility declarations and eligibility documents must be prepared by an operator in accordance with this notice, the [E-cert Help File](#), and other relevant export requirements.
- (3) Operators must ensure that eligibility declarations and eligibility documents are prepared correctly.

3.2 Imported dairy material or dairy product

- (1) All eligibility declarations and eligibility documents relating to imported animal material or animal product, must-
 - (a) identify the country or countries of origin of the animal material or product concerned; and
 - (b) refer to the relevant documentation issued by the foreign government.
- (2) All exporters seeking an official assurance for dairy material or dairy product containing imported dairy material or product must supply to the authorised person the original certificate issued by the competent authority of the exporting country or a certified copy of the certificate.

3.3 Eligibility declarations to be raised only by authorised users

- (1) Eligibility declarations must only be raised by authorised users.
- (2) An authorised person must be a person who has current firsthand knowledge of the premises for which they are raising an eligibility declaration; this knowledge must include an understanding of the relevant requirements within and made under the Act, including specifications and export requirements.
- (3) Where a premises does not have an authorised user with current firsthand knowledge of the operation, the operator must raise eligibility documents in place of eligibility declarations.

3.4 Non-compliance

- (1) Where the Director-General believes on reasonable grounds that an operator or their employee, agent or contractor has misused, or has failed, or is failing, to comply with clause 3.3, the Director-General may notify the operator of this belief.
- (2) Notice under sub clause (1) must-
 - (a) be in writing; and
 - (b) clearly document the grounds of alleged non-compliance; and
 - (c) specify a reasonable period within which the operator must remedy any non-compliance and/or make submissions to the Director-General regarding the non-compliance.
- (3) Notwithstanding sub clause (2)(c) the Director-General may immediately require that an operator raise eligibility documents, in place of eligibility declarations, where non-compliance or misuse threatens the integrity of official assurances issued under the Act.

- (4) If, following the expiry of the reasonable period specified under sub clause (2)(c), the Director-General is satisfied that the operator has failed to comply with clause 3.3, the Director-General may require that eligibility documents are raised electronically in E-cert, in place of eligibility declarations.

3.5 Eligibility documents to be issued only by official assurance verifiers

- (1) Eligibility documents may only be issued by an official assurance verifier.
- (2) Any official assurance verifier issuing eligibility documents must-
- (a) have a thorough knowledge and understanding of this notice and any export requirements applicable to the operator's business; and
 - (b) have current firsthand knowledge of the operator's business so as to confirm that the details contained in the eligibility document are complete and accurate.
- (3) Eligibility documents are completed once the relevant official assurance verifier has issued the documents.

3.6 Procedure for official assurance verifiers

- (1) All official assurance verifiers must follow the principles of certification in the Veterinary Council of New Zealand's "Code of Professional Conduct for Veterinarians".
- (2) Official assurance verifiers must only issue eligibility documents that are raised by an operator in accordance with the E-cert Help File.
- (3) Eligibility documents must not be issued if the details on the documents are incomplete, inaccurate or not in accordance with the requirements of this notice, or any relevant export requirements.

Part 4: Additional product eligibility requirements for specified markets

4.1 Application of this part

- (1) This part, which is additional to Part 3, applies to dairy material and dairy product intended for export to a market where there is-
 - (a) an OMAR for the premises to be listed for that market; or
 - (b) an OMAR for product or premises to be subject to a traceability system.
- (2) Exporters may only request certification for dairy product and dairy material sourced from operators who comply with the requirements of this part.
- (3) This part does not apply to fluid streams transferred between RMPs under common ownership.

4.2 Transfer of dairy product or dairy material between premises to be associated with eligibility documentation

- (1) Where this part applies and where it is intended to export dairy material and dairy product with an official assurance, the operator of the consigning premises must raise an eligibility declaration or an eligibility document when-
 - (a) the dairy material or dairy product is transferred between premises; or
 - (b) the dairy material or dairy product is transferred to the exporter; or
 - (c) the dairy material or dairy product is transferred between exporters.
- (2) Despite sub clause (1), dairy material or dairy product is not required to be associated with an eligibility declaration or eligibility document when transferred-
 - (a) to or from vehicle docking facilities (VDFs); or
 - (b) between premises with multiple RMPs, owned or occupied by the same operator and situated within the same boundary fence with an inventory control system in place that provides for adequate traceability equivalent to that provided for in an Eligibility Declaration or Eligibility Document, and if the transfer is under the direct control of the operator; or
 - (c) between RMP operators that are directly adjoining and managed by a common managerial structure; with an inventory control system in place that provides for adequate traceability equivalent to that provided for by an Eligibility Declaration or Eligibility Document, and if the transfer is under the direct control of the operator.
- (3) The exemption in sub clause (2)(c) does not apply to mobile operators.

4.3 Eligibility documentation to be available to the operator of receiving premises within 48 hours of dairy material's or dairy product's departure

- (1) Operators must ensure that the eligibility declaration or eligibility document for dairy material and dairy product transferred from one premises to another premises accessible in E-cert within 48 hours of the dairy material or dairy product leaving the consigning premises.
- (2) Where an eligibility declaration or eligibility document is not accessible in E-cert within 48 hours, the dairy material or dairy product is not eligible for export with an official assurance.

- (3) Despite sub clause (2), where technical problems prevent the eligibility declaration or eligibility document from being available, the dairy material or dairy product shall remain eligible for official assurances given-
 - (a) that the RMP operator of the sending premises promptly notifies the official assurance verifier and explains the reason for the delay;
 - (b) that the official assurance verifier is satisfied that the cause of the delay was unavoidable;
 - (c) that the record is made available without further delay.
- (4) The operator must have a system to show any movement of animal material or animal product for the incoming eligibility declaration or eligibility document to the outgoing eligibility declaration or eligibility document.
- (5) Dairy material or dairy product diverted to premises that are not its intended destination, as recorded in the eligibility declaration or eligibility document, cannot leave those premises until the eligibility declaration or eligibility document is either replaced or amended.
- (6) The amended or replacement eligibility declaration or eligibility document must be available to the operator and official assurance verifier (where applicable) of the premises to which the dairy material or dairy product was diverted within 48 hours of the dairy material or dairy product leaving the consignor's premises.

4.4 Dairy material and dairy product not to be processed at or dispatched from the receiving premises before eligibility documentation is approved

- (1) The eligibility declaration or eligibility document must have been approved and accessible to the operator, and official assurance verifier (where applicable) of the receiving premises before the dairy material or dairy product concerned is-
 - (a) processed at the receiving premises; or
 - (b) despatched from the receiving premises, in the case of dairy material or dairy product that are not processed at those premises.
- (2) For the purpose of this clause, the word "processed" does not include refrigeration or other means of preservation or storage necessary to ensure that the dairy material or dairy product can be held without deterioration.
- (3) An operator that receives a consignment of dairy material or dairy product without an eligibility declaration or eligibility document within 48 hours of the dairy material or dairy product leaving the sending premises, must identify and segregate that consignment from all other consignments at the premises.
- (4) Dairy material and dairy product that are processed without the approved eligibility declaration or eligibility document being available to the operator in accordance with sub clause (1), are not eligible for export with an official assurance.

4.5 Transfer of imported dairy material and dairy product

- (1) All transfer documentation that is prepared to accompany the transfer of imported animal material or product, must-
 - (a) identify the country or countries of origin of the animal material or product concerned; and
 - (b) refer to the relevant documentation issued by the foreign government.
- (2) Consignor operators transferring imported animal material or product must, where applicable, ensure that copies of all relevant import certificates are available to the consignee operators to support the issuing of official assurances.

4.6 Changes to country eligibility

- (1) Where the incoming eligibility declaration or eligibility document list eligible countries and an operator of a receiving premises wishes to extend the eligibility of the dairy material or dairy product to a country or countries other than those already shown on that documentation, the following procedure applies-
 - (a) the operator of the receiving premises must identify any differences between the requirements for the additional country or countries on the incoming eligibility declaration or eligibility document;
 - (b) the operator must keep auditable records to support the extended eligibility; these records must clearly demonstrate the resolution and verification of any differences through examination of the dairy material or dairy product, and the process or procedures that have been applied at the consigning business;
 - (c) the outgoing eligibility declaration or eligibility document must contain the declaration "eligibility extended", when extending eligibility to a market with additional requirements to those countries listed in the incoming eligibility declaration or eligibility document.
- (2) Where it is not possible to follow the procedure in the preceding clause, the operator of the receiving premises must require the operator of the consigning premises to amend, or produce a replacement of the incoming eligibility declaration or eligibility document.
- (3) Where eligibility documents are used, the official assurance verifier must identify any differences between the requirements for the additional country or countries on the outgoing eligibility document and the countries on the incoming eligibility document.

4.7 Control declarations

- (1) An operator may only amend the wording of an eligibility declaration or eligibility document if the outgoing eligibility declaration or eligibility document lists eligible countries and-
 - (a) controls additional to those in specifications are necessary to achieve or maintain country eligibility; or
 - (b) country eligibility requires additional controls which are covered by specifications.
- (2) Where sub clause (1) applies, the operator must include on that eligibility declaration or eligibility document a declaration stating precisely and succinctly additional controls and procedures, given that such controls and procedures do not undermine existing specifications in any way.
- (3) The operator must keep a copy of all control declarations and a record of the circumstances in which each was required, for a period of 4 years.
- (4) In the case of eligibility documents-
 - (a) all control declarations must additionally be approved by the official assurance verifier responsible for verifying the premises, prior to their use; and
 - (b) the official assurance verifier must keep a copy of all declarations and a record of the circumstances in which each was required, for a period of 7 years after the last use of the control declaration.

4.8 Transitional provisions

- (1) Operators to whom this part applies may choose to operate under the provisions of clause 7 of the Animal Products (Official Assurances Specifications – Dairy Products) Notice 2011 instead of the provisions of this part until the close of business day 31 December 2014.
- (2) To avoid doubt, sub clause (1) expires on the close of business day 31 December 2014 and operators must comply with this part from 01 January 2015.

Part 5: Obtaining an official assurance

5.1 Obtaining an official assurance

- (1) Only a registered exporter or an exporter exempt from registration under Part 5 of the Act may apply for official assurances.
- (2) Registered exporters may apply for official assurances on behalf of exporters not required to be registered under Part 5 of the Act.
- (3) To obtain an export certificate for dairy material or dairy product, an exporter must apply to an authorised person on the approved application form.
- (4) Exporters must also comply with any additional requirements contained in the export requirements including the requirements of the intended importing country issued by notice under section 60 of the Act.
- (5) In submitting an application for export certification, exporters are attesting that they have appropriate evidence that the consignment is eligible for an official assurance in relation to the intended destination of the dairy material or product.

Draft for Consultation

Part 6: Procedure for the Issue of export certificates

6.1 Format and content of certificates

- (1) When determining the form and content of particular certificates under section 62 of the Act, the Director-General may require the exporter to provide written confirmation of requirements from the competent authority of the importing country.
- (2) If practicable, commercial information such as contract numbers and bank arrangements must not be entered on an export certificate.
- (3) Despite sub clause (2), commercial information may be entered on an export certificate if it is practicable to do so and only in the following manner-
 - (a) the information may be added to the main panel;
 - (b) the information must be placed in a bordered area;
 - (c) the information must be placed under the heading 'Unofficial commercial information' or an alternative heading which has been notified in an importing country requirement; and
 - (d) the information is not officially verified.
- (4) Information about New Zealand's animal health, sanitary controls, animal welfare or any other information required by or under the Act (including any importing country requirement) must not be entered on the export certificate under the heading of "Unverified Commercial Data".

6.2 Issue of export certificates

- (1) Export certificates may be issued by an authorised person provided the requirements of the Act, its regulations and export requirements including the requirements of the intended importing country have been met.
- (2) An authorised person must not issue an export certificate unless—
 - (a) the certificate is issued on the basis of eligibility documentation and other documentation provided in accordance with the requirements of this notice; and
 - (b) the authorised person considers that, based on the information provided in accordance with this notice or held by MPI, the product for which certification is sought complies with regulatory requirements, attestations made in the export certificate and OMAR; and
 - (c) the certificate has been signed by a authorised person who is a veterinarian in relation to attestations regarding animal health.
- (3) An export certificate must not be issued by an authorised person who knows, or has reason to suspect, that information provided by the exporter is incomplete, inaccurate, or, otherwise not in accordance with any requirement of the Act or relevant OMARs.
- (4) An authorised person must not issue an export certificate that has been altered or modified in any way other than in accordance with an importing country requirement or an authorisation given by the Director-General.

6.3 Multiple certification not permitted

- (1) Authorised persons may issue only one export certificate set of a particular type per consignment except where the OMAR provides otherwise.

- (2) Additional export certificate sets must not be issued to cover alternative destinations for the same consignment.

6.4 Issue of certificates for onward certification

- (1) If a written request is made by the importer, the following declarations may be added to export certificates and issued by an authorised person-
 - (a) If third country listing is required, use the following declaration on the appropriate export certificate-

“The [product] described on this certificate has been produced in premises listed for [insert name of country or countries] and is eligible for export to [insert name of country or countries].”
 - (b) If third country listing is not required, use the following declaration on the appropriate export certificate-

“The [product] is eligible for export to [insert name of country or countries].”
- (2) The product must be described as specifically as possible, and should match the description panel on the export certificate.
- (3) To support onward certification to a third country, supporting eligibility declarations or eligibility documents, must show eligibility to both the initial destination country and the country or countries for which onward eligibility has been requested.
- (4) Where the final importing country requires specific declarations to be included on export certificates consigned to intermediate countries, and these declarations have been agreed to by MPI, these will be notified by way of OMAR, for the final importing country.
- (5) An authorised person may issue supplementary certification under the following conditions—
 - (a) where the OMAR for the final destination country requires a specific clause (i.e. not one of the clauses in subclause (1)) on the export certificate for the intermediate country; and
 - (b) the current template for the intermediate country does not provide for the addition of that clause.
- (6) A supplementary certificate must—
 - (a) contain the same consignment details as the original export certificate, including the same final destination and product details;
 - (b) be in a form approved by the Director-General under section 62 of the Act; and
 - (c) only differ in respect of the attestations required to meet the third country's entry requirements.

6.5 Requirements for export certificates

- (1) Every certificate must be prepared using the certificate authorised by the Director General and the information provided or required under this notice.
- (2) Every export certificate must have—
 - (a) the authorised person's name and qualifications (where applicable) inserted legibly below the signature and the authorised person's signatory seal; and
 - (b) the date of issue.
- (3) The signature and signatory seal of an authorised person must be in a colour different from that of the text of the export certificate.
- (4) Where a hand-signed original export certificate is required an authorised person may issue only one hand-signed original export certificate as a single certificate or in a document set.

- (5) A hand-signed copy, marked as “copy” is to be issued for those countries specified in the relevant OMAR issued under section 60 of the Act as requiring two hand-signed certificates.
- (6) Where the use of an electronic facsimile signature on an original export certificate is authorised by the Director-General, an authorised person may issue an original export certificate with an electronic facsimile signature as a single certificate or in document set.
- (7) An electronic facsimile signature applied to a copy, marked as “copy” is to be issued for those countries specified in the relevant OMAR as requiring two electronically signed certificates.
- (8) Where for commercial reasons, a certified copy of a certificate is requested by the exporter, the exporter must provide a statement with an explanation and supporting documentation for the request.
- (9) An authorised person may, if satisfied with the statement in subclause (6), and the explanation and supporting documentation provided, issue a certified copy of the original export certificate by—
 - (a) endorsing the photocopied original or copy of the certificate with the words: “I certify that this document is a true and accurate copy of the original.”; and
 - (b) signing, dating and sealing the endorsed photocopy.
- (10) Copies of export certificates must be printed on paper that is—
 - (a) plain and white; and
 - (b) not used for original certificates or supplementary certificates.
- (11) Authorised persons must keep file copies of all export certificates they sign and all information used by the authorised person for the purposes of verification of product compliance for 7 years from the date of issuing the certificate.

6.6 Numbering of export certificates

- (1) Authorised persons must ensure all export certificates are issued with a unique identification number taken from a numbering sequence controlled by MPI.
- (2) For electronic export certificates, any E-cert unique identification number provided as part of the computer programme may be used.

6.7 Date stamping of export certificates

Authorised persons issuing export certificates must enter the actual date (and no other date) on which the export certificate is issued in the designated position on the certificate.

6.8 Allocation of signatory seals

- (1) Each authorised person is issued with a signatory seal with a unique individual number by the Director-General.
- (2) The signatory seal must only be used by the person to whom the signatory seal has been issued.

6.9 Use of signatory seals

- (1) The signatory seal must be affixed to each original export certificate at the time of issue and to any copies that are hand-signed or have electronic facsimile signatures.
- (2) The signatory seal must only be used by an authorised person for the purposes of authorising export certificates.

- (3) Where the Director-General has authorised applying an electronic facsimile signature to an original export certificate, an authorised person may issue an original export certificate with an electronic facsimile seal, as a single certificate or in a document set.
- (4) An electronic facsimile seal applied to a copy, marked as “copy” is to be issued for those countries specified in the relevant OMAR as requiring two electronically signed certificates.

6.10 Signatory seals

- (1) For the purposes of this notice, the use of the signatory seal by an authorised person is restricted to authorising export certificates.
- (2) MPI Verification and Systems must have a documented procedure for the issue and control of signatory seals and maintain a register of seals identifying the person each particular seal is issued to.
- (3) A copy of the register of seals as specified in sub clause (2) must be available to the Director-General.
- (4) MPI Verification and Systems must ensure that signatory seals are withdrawn from any person ceasing to be an authorised person, and the seal destroyed, or kept secure and only issued to another person after an interval of at least two years since that seal was last used. All seal destructions must be recorded in the register of seals.

6.11 Export certificates

Export certificates remain the property of the Director-General until received by a foreign government.

Part 7: Lost paper export certificates

7.1 Procedure for lost export certificates

- (1) Where an original paper export certificate has been lost in New Zealand after issue, the exporter may—
 - (a) request the issue of a certified copy of the export certificate, except where the OMAR states the destination country will not accept a certified copy; or
 - (b) request the issue of a replacement export certificate.
- (2) The Director-General may approve on a case-by-case basis other procedures for the issue of replacement export certificates for dairy material or product which may perish or be condemned if not cleared promptly.

7.2 Issue of a certified copy

- (1) This clause only applies where a legible photocopy of the lost original export certificate can be produced by the exporter.
- (2) The exporter must submit a signed statement of the circumstances of the loss and present it to an authorised person with a photocopy of the original lost export certificate.
- (3) Authorised persons may, if satisfied with the statement and the explanation provided, issue a certified copy of the original export certificate by—
 - (a) endorsing the photocopied certificate with the words;
"I certify that this document is a true and accurate copy of the original, which has been lost.",
and
 - (b) signing, dating and sealing the endorsed photocopy.

7.3 Issue of a replacement certificate

- (1) To obtain a replacement export certificate the exporter must—
 - (a) request a replacement certificate; and
 - (b) provide to an authorised person a signed statement that the certificate has been lost which details the circumstances of the loss.
- (2) The replacement export certificate set in the body of each document must contain either one of the following statements—
 - (a) "This replaces document set [document set number] (replaced certificate number) issued [date of issue]" in the case of E-cert generated certificates; or
 - (b) "This certificate replaces [export certificate number] issued [date of issue]" in the case of manually processed certificates.
- (3) Authorised persons must ensure that-
 - (a) replacement export certificates are issued with a new unique identification number;
 - (b) the file copies of the original certificate clearly record that the certificate has been cancelled and replaced, and
 - (c) the new unique identification number of the replacement certificate is recorded.

7.4 Export certificates lost overseas

- (1) In addition to the requirements under clause 7.1 of this notice, where an original paper export certificate has been lost overseas the exporter must apply for a replacement certificate within the period of the voyage or as soon as practicable after arrival and inspection at the destination of the dairy material or product to which the certificate relates.
- (2) Authorised persons must obtain authorisation from the Director-General prior to signing a replacement export certificate or issuing a certified copy of an export certificate.
- (3) As soon as is reasonably practicable after issuing replacement certificates, authorised persons must provide to the Director-General the—
 - (a) replacement certificate number;
 - (b) exporter's name and address;
 - (c) country of destination;
 - (d) vessel name (if applicable);
 - (e) known or approximate date of loss of the original export certificate;
 - (f) date the replacement export certificate was issued; and
 - (g) name and title of the authorised person issuing the export certificate.

Draft for Consultation

Part 8: Reissue of export certificates

8.1 Procedure for fixing incorrectly prepared export certificates

- (1) This clause sets out the procedure for the reissue of an export certificate where the reissue is required due to the detection of an error other than by a foreign government.
- (2) The exporter must request a replacement export certificate set in writing and provide reasons for the replacement.
- (3) In the case of E-cert generated certificates, the exporter must request a replacement export certificate and provide his or her reasons for the replacement certificate in the comments section of the E-cert application.
- (4) In the case of manually processed certificates, the exporter must complete a signed statement outlining the reasons for the replacement.
- (5) The replacement export certificate set in the body of each document must contain either one of the following statements—
 - (a) “This replaces document set [document set number] (replaced certificate number) issued [date of issue]” in the case of E-cert generated certificates; or
 - (b) “This certificate replaces [export certificate number] issued [date of issue]” in the case of manually processed certificates.
- (6) Where the error is a consequence of an inadvertent change of destination or method of conveyance of the consignment, the exporter must provide details of the circumstances and whether the consignment has been discharged in another country.
- (7) The exporter must present to the authorised person—
 - (a) the original issued export certificate; or
 - (b) evidence that the original issued export certificate is held by a New Zealand diplomatic or trade post; and
 - (c) any corrected documentation to support the issue of the replacement certificate; and
 - (d) any prescribed fee.
- (8) The authorised person must ensure the details entered on the replacement export certificate are consistent with the corrected documentation provided to the authorised person to support the issue of the replacement export certificate.
- (9) Authorised persons must ensure that-
 - (a) replacement export certificates are issued with a new unique identification number;
 - (b) the file copies of the original certificate clearly record that the certificate has been cancelled and replaced; and
 - (c) the new unique identification number of the replacement certificate is recorded.

8.2 Procedure where a foreign government is involved

- (1) This clause sets out the procedure for the reissue of an export certificate where the reissue is as a result of a foreign government detecting an error on the original issued certificate. The original issued certificate may be retained by that foreign government or be handed to a New Zealand diplomatic or trade post for destruction.

- (2) In addition to the duties under section 51 of the Act, the exporter must provide full details of the consignment and the reasons for the detection and rejection to an authorised person accompanied by the prescribed fee. The authorised person must seek prior approval from the Director-General for the reissue of the export certificate.
- (3) If the Director-General authorises the reissue of the export certificate, the replacement export certificate set in the body of each document must contain the following statement-
 - (a) "This replaces document set [document set number] (replaced certificate number) issued [date of issue]" in the case of E-cert generated certificates; or
 - (b) "This certificate replaces [export certificate number] issued [date of issue]" in the case of manually processed certificates.
- (4) The authorised person must ensure the details entered on the replacement export certificate are consistent with the supporting operator verification information and other information supplied to the authorised person for the issue of the original issued export certificate.
- (5) The exporter must provide to the authorised person—
 - (a) the original issued export certificate; or
 - (b) evidence that the original issued export certificate is held by a New Zealand diplomatic or trade post or foreign government; and
 - (c) any corrected documentation to support the issue of the replacement certificate; and
 - (d) any prescribed fee.
- (6) The authorised person must compare the details entered on the replacement certificate with the corrected documentation provided to support the issue of the replacement certificate. Any inconsistencies that relate to or originate from information received from the RMP operator or the dairy processor who manufactured the final product must be verified by the RMP operator signatory before the replacement certificate may be issued.
- (7) Authorised persons must ensure that-
 - (a) replacement export certificates are issued with a new unique identification number;
 - (b) the file copies of the original certificate clearly records that the certificate has been cancelled and replaced; and
 - (c) new unique identification number of the replacement certificate is recorded.
- (d) The authorised person must keep the original export certificate attached to the new file copy, except where that certificate is retained by a foreign government or destroyed by a New Zealand diplomatic or trade post.

Part 9: Security paper management

9.1 Approved supplier

- (1) Security paper used for the printing of export certificates for dairy material and dairy product may only be printed by a supplier approved by the Director-General.
- (2) No security paper may be produced or modified or made obsolete by the approved supplier without the prior approval of the Director-General.
- (3) The approved supplier of security paper must keep records for not less than 4 years detailing the procedures used for ordering, security, inventory supply and control.

9.2 Ordering of paper

- (1) An authorised person may order security paper from an approved supplier.
- (2) No one other than an authorised person may be supplied with security paper by an approved supplier for the purposes of providing export certificates for dairy material and dairy product.

Draft for Consultation

Part 10: Verification

10.1 Verification

- (1) The official assurance verifier of the premises where eligibility declarations are raised must, on an ongoing basis, check at least 5% of eligibility declarations to ensure that they have been raised correctly.
- (2) In addition to sub clause (1), as part of the normal verification programme for that premises, an official assurance verifier must check all supporting documentation in relation to a selection of eligibility declarations, which have been raised to support export certificates, for premises for which they have direct responsibility.
- (3) Verification checks must include examination of-
 - (a) eligibility documentation to verify that there is sufficient information to support export certification; and
 - (b) supporting documentation to ensure that it-
 - (i) identifies lots;
 - (ii) has traceability via the inventory control system; and
 - (iii) has traceability to incoming eligibility declarations.
- (4) In addition to the requirements of sub clause (1), an official assurance verifier may audit official assurance supporting documentation at any time where there are reasonable grounds for doing so.

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