



# Consultation Paper on Proposed Revisions to the Cost Recovery Regimes

Biosecurity, Animal Products, Agricultural Compounds  
and Veterinary Medicines, Wine and Animal Welfare

Proposals and fee updates that impact on  
multiple cost recovery regimes

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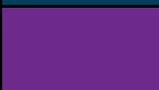
Publications Logistics Officer  
Ministry for Primary Industries  
PO Box 2526  
WELLINGTON 6140

Email: [costrecovery@mpi.govt.nz](mailto:costrecovery@mpi.govt.nz)  
Telephone: 0800 00 83 33

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## Glossary

**ACVM** – Agricultural Compounds and Veterinary Medicine Act 1997. The purpose of this Act of Parliament is to reform and restate the law relating to agricultural compounds.

**APA** – Animal Products Act 1999. The purpose of this Act of Parliament is to reform and restate the law relating to the processing of animal material into products for use, trade and export.

**APEC** – Asia Pacific Economic Co-operation. This is a forum for 21 Pacific Rim member economies that seeks to promote free trade and economic cooperation throughout the Asia-Pacific region.

**AWA** – Animal Welfare Act 1999. The purpose of this Act of Parliament is to reform the law relating to the welfare of animals and the prevention of their ill-treatment.

**AWEC** – Animal Welfare Export Certificate. A certificate issued under the Animal Welfare Export Certificate Regulations 1999 to ensure that any animal welfare risks during travel are minimised.

**BSEL** – Biosecurity System Entry Levy. This levy paid by stakeholders funds a proportion of the fixed costs common to all activities associated with managing biosecurity risks at the border.

**CODEX** – Codex Alimentarius Commission. A collection of internationally recognized standards, codes of practice, guidelines and other recommendations relating to foods, food production and food safety.

**DIRA** – the Dairy Industry Restructuring Act 2001. The purpose of this Act of Parliament is to provide for the transition of the New Zealand Dairy Board to a wholly owned subsidiary of new co-op and its conversion into a company.

**EU** – European Union.

**FTE** – Full-time equivalent.

**GIA** – Government and Industry Agreements are agreements between government and industry sectors to share management of risk.

**GMP** – Good Manufacturing Practice certificate.

**GST** – Goods and Services Tax. Most fees are shown on a GST-exclusive basis. The current rate of GST is 15%.

**IRD** – Inland Revenue Department.

**JBMS** – Joint Border Management System A set of integrated information technology products that New Zealand Customs Service and MPI use jointly to manage risk at the border

**MAF** – Ministry of Agriculture and Forestry, one of the agencies that were merged to form MPI.

**MPI** – the Ministry for Primary Industries, the government department undertaking the present consultation.

**MPI VS** – Ministry for Primary Industries Verification Services.

**NCCP** – National Chemical Contaminants Programme.

**NZFSA** – New Zealand Food Safety Authority, one of the agencies that were merged to form MPI.

**OECD** – Organisation for Economic Co-operation and Development is an international economic organisation of 34 countries founded in 1961 to stimulate economic progress and world trade.

**OIA** – Official Information Act 1982. The purpose of this Act of Parliament is to make official information more freely available, to provide for proper access by each person to official information relating to that person, to protect official information to the extent consistent with the public interest and the preservation of personal privacy.

**OMARs** – Overseas market access requirements. Notices issued by MPI with standards for exporters.

**RMP** – Risk management programme that is registered under the APA.

**RTT** – Research, teaching and testing sectors.

**T&CFs** – Transitional and Containment Facilities. Border and other facilities that accept imported goods and organisms.

**VICH** – Veterinary Co-operation on International Harmonisation.

**WECS** – Wine Export Certification Service. MPI processes applications to determine whether wine is eligible for export and issues Export Eligibility Statements for each consignment of wine to confirm that it is eligible for export.

**WPC** – Whey Protein Concentrate.



## 9 Proposals that impact across multiple cost recovery regimes

### 9.1 BACKGROUND

The current structure of the Ministry is a result of the merger of different agencies that administered a range of Acts that provide for cost recovery. Because of this there are differences in the approach to cost recovery between sectors.

Some cost recovery issues, or features of them, are common across the different cost recovery regimes. The Ministry is therefore proposing to amend multiple sets of regulations at the same time to standardise some approaches to cost recovery, and the language used to describe them.

As a means of seeking feedback from all affected sectors, these multi-regime issues have been grouped for consultation purposes. Implementation for individual cost recovery regimes will be through the Regulations made under the authority of individual Acts.

### 9.2 POLICY PROPOSALS

*Common#1 – Align hourly rate charges*

*Common#2 – Use Inland Revenue Department vehicle mileage rates*

*Common#3 – Recover costs for support staff involved in specialist services*

*Common#4 – Recover other costs incurred by MPI*

*Common#5 – Charge for performance of function, power or duty under the Act, Regulations and Notices not prescribed elsewhere*

*Common#6 – Correct use of the term ‘levy’*

*Common#7 – Update references to recognised persons and agencies*

*Common#8 – Align veterinary professional rates across biosecurity and food regulations*

### 9.3 COMMON#1 – ALIGN HOURLY RATE CHARGES

#### 9.3.1 Background

The food safety cost recovery regulations prescribe hourly rate charges using a number of different approaches, for example:

- Animal Products (Fees, Charges, and Levies) Regulations – one hour of time, with time thereafter charged on the basis of an assessment charge at hourly increments until the last half hour, which is done in 15 minute increments;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007 – similar approach, but prescribed in a different manner;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002 – different approach;
- Animal Welfare Export Certificate Regulations 1999 – different approach.

#### 9.3.2 Regimes affected by this proposal

This change would apply to the following regulations:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

### 9.3.3 Problem definition

The different hourly rate charging approaches under each set of regulations adds complexity for staff performing similar functions under the different Acts as they may be required to follow different administrative processes for charging for services under each Act.

#### *Options considered*

The Ministry considered two options:

- Option 1 — maintain the status quo (inconsistent wording across multiple regulations).
- Option 2 — adopt a common approach across regulations, to the extent possible.

MPI's preferred approach is to establish a common approach across regulations. This will help to ensure consistency (and thereby promote efficiency) for staff performing similar functions under the different Acts.

The majority of cost-recoverable activity falls under the Animal Products Act 1999. Extending the approach prescribed in Part 1 and Part 2 of Schedule 1, of the Animal Products (Fees, Charges, and Levies) Regulations 2007 to regulations under other Acts is considered the most appropriate approach to take. A minimum charge of one hour also allows for the administrative costs associated with invoicing and collection.

### 9.3.4 Proposed alignment of hourly rate charging approach in keeping with the animal products fees

All time spent by an officer or employee of the Ministry would be chargeable at:

- a minimum charge of one hour, at the appropriate rate for the activity;
- an hourly rate, charged in 15-minute increments, for any time in excess of the first hour.

The Ministry proposes to apply this approach to the following regulations, with any necessary modifications:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

### 9.3.5 Questions for consideration

#### Question 9.3

- 1) Do you support the adoption of a common approach for hourly rate charging under the various food sector cost recovery regimes?
- 2) If not, what is your preferred approach for each of the food sector cost recovery regimes, and what are your reasons for this preference?

## **9.4 COMMON#2 – USE INLAND REVENUE DEPARTMENT VEHICLE MILEAGE RATES**

### **9.4.1 Background**

The Ministry recovers vehicle costs using mileage rates prescribed in the regulations for each regime. A number of different rates are currently in force, and these rates can quickly become out of date.

Similarly, the various regulations prescribe the bases for recovery of other costs incurred by the Ministry when delivering services to users.

The Inland Revenue Department (IRD) collects data on the costs of operating a motor vehicle, and the Commissioner promulgates a standard vehicle mileage rate under section DE12(3) of the Income Tax Act 2007.

The Ministry proposes to remove ‘static’ references in the current regulations and adopt the periodic rate promulgated by the Commissioner of Inland Revenue.

### **9.4.2 Regimes affected by this proposal**

This change would apply to the all cost recovery regulations:

- Biosecurity (Costs) Regulations 2010 – veterinary inspectors only;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

### **9.4.3 Problem definition**

The vehicle mileage rates are prescribed in various regulations and quickly become out of date. MPI’s collective employment agreement with its verifiers and some other staff provides for charging at the rate published by the Commissioner of Inland Revenue under section DE 12 (3) of the Income Tax Act 2007. The current rate<sup>1</sup> is \$0.77 cents per kilometre.

The difference in employment agreement rates and the regulated rates for mileage and other costs can also lead to a discrepancy in the costs the Ministry recovers from service users and the reimbursements made to Ministry staff for some activities.

### **9.4.4 Proposed change to a common approach for mileage rates and the recovery of any other travel costs**

MPI proposes to amend various regulations to provide for cost recovery of motor vehicle costs at the rate promulgated from time to time by the Commissioner of Inland Revenue under section DE 12 (3) of the Income Tax Act 2007.

This proposal would apply to the travel costs for veterinary inspectors only in the Biosecurity (Costs) Regulations 2010.

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<sup>1</sup> <http://www.ird.govt.nz/technical-tax/op-statements/os-review-mileage-rate-2014.html>

This proposal will support efficiency and equity.

#### 9.4.5 Questions for consideration

##### Question 9.4

- 1) Do you agree with the proposal to harmonise vehicle mileage rates and other travel costs across the various cost recovery regimes?
- 2) Do you agree with the use of the mileage rate promulgated from time to time by the Commissioner of Inland Revenue under section DE12(3) of the Income Tax Act 2007?
- 3) If not, what is your preferred approach to mileage rates for each cost recovery regime, and what are your reasons for these preferences?

### 9.5 COMMON#3 – RECOVER COSTS FOR SUPPORT STAFF INVOLVED IN SPECIALIST SERVICES

#### 9.5.1 Background

Support staff members within the Ministry perform essential but non-specialist services that support the delivery of specialist certification. This includes the maintenance and administration of registers and the preparation and filing of documents.

MPI is able to recover costs for these services, but no mechanism currently exists in the various regulations to do this.

#### 9.5.2 Regimes affected by this proposal

This change would apply to the following regulations:

- Biosecurity (Costs) Regulations 2010;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

#### 9.5.3 Problem definition

By way of example, as part of the process for issuing live animal and germplasm export certificates, MPI support staff prepare paper export certificates that are issued by recognised persons. This practice is more cost-effective than using specialist recognised persons, and allows recognised persons to focus on technical matters instead of administration.

Part 8 of the Animal Product (Fees, Charges, and Levies) Regulations 2007 does not include a provision for MPI to recover the costs of non-recognised persons involved in specialist functions and activities necessary for the export of live animals or germplasm. Consequently, MPI cannot fully recover the cost of these services.

This problem could be resolved by only using expert staff whose time can be cost-recovered for undertaking this work, but this is a very inefficient use of their time. Another option would be to build administration time into levies, but this does not apportion the costs as directly as a fee to that person or group who caused the costs to be incurred.

A similar problem exists for other cost recovery regimes.

#### 9.5.4 Proposed charges for support staff involved in export certification

MPI proposes to create a new cost recovery item in each of the relevant regulations to allow MPI to recover for time spent by other employees undertaking functions and activities necessary for the production of certificates or provision of expert services.

#### 9.5.5 Questions for consideration

##### Question 9.5

- 1) What is your preferred method for cost recovery of support staff time across the various cost recovery regimes?
- 2) If you prefer different methods for individual cost recovery regimes, what are these methods and what are your reasons for these preferences?

### 9.6 COMMON#4 – RECOVER OTHER COSTS INCURRED BY MPI

#### 9.6.1 Background

Other costs include incidental and additional costs that the Ministry incurs during the delivery of services to users. These costs are often unpredictable and vary depending on the nature of the service provided.

These costs include categories such as external review, expert review, notification, product testing, travel and accommodation, as well as disbursements such as photocopying, printing and stationery, phone, fax, video conferencing, postage and courier charges.

#### 9.6.2 Problem definition

Inconsistent regulatory approaches add administrative complexity, particularly for staff that work across multiple regimes.

#### 9.6.3 Proposed charges for support staff involved in export certification

MPI proposes that actual and reasonable costs incurred by an officer or employee of the Ministry may be recovered when they arise from:

- a request by the operator of a risk management programme, or other processor;
- an act, or omission, of an operator or processor.

MPI proposes that recoverable costs include, but not be limited to, costs such as external review, expert review, notification, product testing, travel and accommodation, as well as disbursements such as photocopying, printing and stationery, phone, fax, video conferencing, postage and courier charges.

MPI proposes that a common approach for recovering other costs be applied to the following regulations, with any necessary modifications:

- Biosecurity (Costs) Regulations 2010;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

## 9.6.4 Questions for consideration

### Question 9.6

What is your preferred approach for the recovery of incidental costs incurred by the Ministry for delivery of services to users for each cost recovery regime (or for all cost recovery regimes)?

## 9.7 COMMON#5 – CHARGE FOR PERFORMANCE OF FUNCTION, POWER OR DUTY UNDER THE ACT, REGULATIONS AND NOTICES NOT PRESCRIBED ELSEWHERE

### 9.7.1 Background

MPI provides a range of functions, powers and duties under various Acts, and subsidiary regulations and notices and standards. The various cost recovery regulations prescribe fees, charges and levies for specific functions, powers or duties under the relevant Act, regulations and notices.

Item 23 of the Schedule of the Biosecurity (Costs) Regulations 2010 enables MPI to recover the costs of performing a function, power, or duty—

- required to be undertaken under the Act or regulations made under the Act; and
- not prescribed elsewhere in the Schedule.

The item is payable as an hourly rate for each adviser involved and is payable by the person whose actions resulted in the specific function, power or duty being required.

The Ministry is proposing to adopt this approach for other cost recovery regimes.

### 9.7.2 Problem definition

The Ministry currently cannot charge for the exercise of functions, powers or duties under Acts, regulations and notices unless they are prescribed for that regime.

It is not practical or possible to specify all of MPI's functions, powers or duties under all Acts and subsidiary regulations and notices, or the associated fees or charges for them, in an exhaustive manner. There are two main reasons:

- The Ministry was not aware of the function, power or duty when the regulations were promulgated.
- The function, power or duty under the Acts, and subsidiary regulations and notices is new. For example, halal-related services were not included in the Animal Product (Fees, Charges, and Levies) Regulations 2007, and were subsequently added by the Animal Products (Overseas Market Access Requirements for Halal Assurances) Notice 2013.

MPI's inability to recover costs for the exercise of functions, powers or duties under the Acts and subsidiary regulations and notices is causing it to under-recover the cost of delivering these services.

### 9.7.3 Proposed fees for performance of function, power or duty under the Act, Regulations and Notices not prescribed elsewhere

The Ministry proposes to include cost recovery for performance of a function, power or duty that is:

- required to be undertaken under the relevant Act, including subsidiary regulations and notices;
- not prescribed elsewhere in the relevant cost recovery regulations.

The hourly rate would be the relevant rate for other services provided under the empowering Act. MPI proposes that this approach be applied to the following regulations, with any necessary modifications:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

The item would be payable by the person whose actions resulted in the specific function, power or duty being required.

This proposal would support equitable cost recovery and efficient service delivery.

#### **9.7.4 Questions for consideration**

##### **Question 9.7**

What is your preferred method of cost recovery for time spent performing functions, powers or duties not specified elsewhere for each cost recovery regime (or for all cost recovery regimes)?

## **9.8 COMMON#6 – CORRECT USE OF THE TERM ‘LEVY’**

### **9.8.1 Background**

MPI imposes levies on some products to fund industry good services. For historic reasons, when some cost recovery regulations were created, certain charges (industry goods) were described in regulations as ‘standard’ charges, when from a legal perspective these are actually levies.

### **9.8.2 Regimes affected by this proposal**

This change would affect the:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

### **9.8.3 Problem definition**

The regulations inappropriately describe certain cost recovery items as ‘fees’ and ‘charges’ when, in law, they are ‘levies’.

The options are:

- Option 1: maintain the status quo;

- Option 2: update the descriptions.

The Ministry's preferred approach is to update the descriptions to remove ambiguity and clarify the application of the various types of charges.

#### **9.8.4 Proposed re-categorisation of fixed fees as levies**

MPI proposes to change the terminology used for items recovering industry good costs in the various regulations from 'fees' or 'charges' to the legally correct term 'levies'. This proposal involves no changes to fees.

#### **9.8.5 Questions for consideration**

##### Question 9.8

Do you have any concerns about the proposed clarification of use of the term 'levy'?

## **9.9 COMMON#7 – UPDATE REFERENCES TO RECOGNISED PERSONS AND AGENCIES**

### **9.9.1 Background**

The Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 have been amended since the relevant cost recovery regulations were last reviewed.

### **9.9.2 Regimes affected by this proposal**

This change would affect the:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Biosecurity (Costs) Regulations 2010;
- Wine Regulations 2006.

### **9.9.3 Problem definition**

The references in regulations to the relevant parts of the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 relating to recognised persons and agencies are out of date.

### **9.9.4 Proposed amendments**

MPI proposes to amend the cost recovery regulations to update the references to the relevant parts of the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 relating to recognised persons and agencies.

This is a minor and technical adjustment to cost recovery regulations to make changes to update the regulations. It involves no changes to fees.

### 9.9.5 Questions for consideration

#### Question 9.9

Do you have any concerns about the proposed updates to references to the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 in various regulations?

## 9.10 COMMON#8 – ALIGN VETERINARY PROFESSIONAL RATES ACROSS BIOSECURITY AND FOOD REGULATIONS

### 9.10.1 Background

MPI has a responsibility to service users to ensure that charges for similar activities and services across different regulations are consistent, and that the rationale for differential charging is clear.

### 9.10.2 Problem definition

Veterinary inspectors undertake a variety of activities and functions under biosecurity and food legislation.

Current hourly rates for veterinary inspector activities were set prior to the creation of MPI from its predecessor agencies. These predecessor agencies had different cost (including overhead) structures. As a result, veterinary inspectors undertaking similar work, but now with the same cost structure, are being recovered at different rates for activities undertaken under biosecurity and food legislation.

The options considered were:

- Option 1: maintain the status quo;
- Option 2: amend the veterinary inspector hourly rates in the Biosecurity (Costs) Regulations to align with that specified in the relevant food regulations (proposed rate of \$186.30 per hour).

### 9.10.3 Proposed charges

The proposal is to amend the veterinary inspector rate in the Biosecurity (Costs) Regulations to \$186.30 per hour to align with the rate proposed in the relevant food sector regulations.

### 9.10.4 Questions for consideration

#### Question 9.10

Do you have any concerns about the proposed alignment of charging rates for veterinarians under the biosecurity cost recovery regime and the food cost recovery regime?