



# Consultation Paper on Proposed Revisions to the Cost Recovery Regimes

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

Wine proposals and fee updates

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## 8 Cost recovery proposals under the Wine Act 2003

### 8.1 OVERVIEW

Wine is a growing export market. The Ministry continues to support development of the industry through administration of the Wine Export Certification System and standards setting for exports.

This is the first review of fees in the Wine area since the introduction of the Wine Regulations 2006. Wine-related activities are principally Crown-funded, with the Ministry providing a range of services under the Wine Act, including electronic certification of exports and overseas market access assistance.

Revenue from wine-related activities in 2014/15 is forecast to total \$0.170 million. The proposals contained in this document would result in forecast revenue for 2015/16 of \$2.100 million, primarily through a levy on export product.

The main proposals are to:

- introduce a levy to recover the cost of domestic standard setting and compliance;
- cease rebates that currently cover the cost of laboratory testing to support the issue of official assurances for specific export markets;
- introduce a one cent per litre levy on wine exported, to cover export standards setting, market access, export certification/e-certification costs.

### 8.2 ACTIVITIES UNDER THE WINE ACT 2003

The Wine Act 2003 requires the Minister for Food Safety and the Director-General of MPI to take all reasonable steps to ensure that, where funding for the wine regulatory programme is not provided for by the Crown, the direct and indirect costs of administering the Act are recovered through fees, levies, or otherwise.

Cost recovery provisions are given effect through the making of regulations. The cost recovery section of the Wine Regulations 2006 provides for the setting of fees and charges for costs to be recovered under the Wine Act, and for setting the timing of annual fee payments.<sup>28</sup>

In 2006, the Government decided to continue providing Crown funding for export assurance, export standard setting and market access of \$1.985 million per year. At the time, the Government's rationale for making the decision was that the wine export sector was in its infancy and the costs to be recovered were small.

At present, the Crown pays for:

- policy advice in relation to the Wine Act and regulations made under it;
- joint standard-setting for Australia and New Zealand;
- multilateral standard-setting;
- export standard-setting;
- enforcement activities for non-compliance;
- the administration of the Wine Export Certification Service (Wine E-Cert), including the cost of chemical analysis;
- compliance and systems audit.

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<sup>28</sup> The Wine Regulations provided for a fee of \$68.63 per winery per annum for standard setting, which was set prior to the implementation of the Act in 2004.

The wine industry pays for the New Zealand Standards programme. In 2013/14, New Zealand Winegrowers paid MPI \$151,000, which equated to \$216 per winery.

Further information on MPI's regulatory activities is provided in Appendix 1, section 8.14.

### **8.3 CROWN FUNDING FOR THE WINE REGULATORY PROGRAMME**

Continued funding of wine standard setting, market access and export assurances activities is inconsistent with the treatment of similarly regulated activities in the animal product export and plant export sectors.

Costs for plant export sectors are recovered through administrative means as there is no primary legislation covering production and export of plants and plant materials. Approvals are funded by an application fee and hourly rate charges. New Zealand and export standard-setting, market access and compliance and systems audit are funded using export certificate fees. Negotiations of equivalences are funded by an hourly rate.

Continuing Crown funding for wine is also inconsistent with the Government's policy of using cost recovery to encourage efficient use of MPI's resources by service users. In addition, the current system is administratively inefficient, as MPI rebates the cost of laboratory analyses of wine samples when an official assurance is required. This covers nearly 5,000 wine samples each year.

### **8.4 COST RECOVERABLE MPI ACTIVITIES UNDER THE WINE ACT 2003**

MPI performs a number of regulatory functions as part of the wine programme that contribute to positive outcomes for the New Zealand wine industry. Costs recovered include the costs of administering the Wine Act and maintaining MPI's ability to regulate the wine industry. Annual costs are calculated as a forecast average over a three-year period and then recovered on an annual basis.

Winemakers and exporters (who are not always winemakers) are the primary beneficiaries and users of the functions performed by MPI. The fundamental benefit to winemakers is being able to operate and produce wine that is 'fit for its intended purpose' and can then be sold in New Zealand and/or exported. Because some do not own the product they process, the benefit is not about adding value to product. The New Zealand Winegrowers 2014 Annual Report reports that there are 699 wineries in New Zealand. Of these, 614 fall into category 1 (small), 69 into category 2 (medium), and 16 into category 3 (large).<sup>29</sup>

The wine regulatory work programmes, including the setting of standards and specifications under the Wine Act 2003, are established in consultation with industry. Consultation is managed through regular dialogue with New Zealand Winegrowers, the Fruit Wine & Cider Makers Association and other key industry stakeholders.

MPI also consults directly with industry representative bodies on specific work programme proposals.

### **8.5 CESSATION OF REBATES FOR WINE SAMPLE TESTING**

Some export markets require an official assurance for New Zealand wine, which includes laboratory test results to verify compliance with the importing country's standards and requirements. The amount and cost of export wine testing is directly related to the amount of wine exported.

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<sup>29</sup> Small winery produces 0-200,000 litres per annum; a medium winery produces 200,001 litres to 2,000,000 litres per annum; and a large winery produces greater than 2,000,000 litres per annum.



Wine companies pay laboratories for tests at the time of testing. MPI currently rebates wine businesses for the full cost of wine export tests, up to a capped limit of \$160 per sample. A wine business becomes eligible for this rebate at the point at which the results from these tests are used to support an official assurance. In 2014/15 MPI rebates are forecast at around \$0.8 million, for about 5,000 samples tests.

Rebates were originally offered when New Zealand's wine industry was in its infancy. The wine industry is now a mature industry and the condition for rebating no longer applies. The practice of rebating the cost of testing will cease from 1 July 2015.

## **8.6 POLICY PROPOSALS**

*Wine#1 – Charge for changes to the recognised agency (or person) on a Wine Standards Management Plan*

*Wine#2 – Charge for minor amendments to a Wine Standards Management Plan*

*Wine#3 – Recover costs for processing a small winemaker exemption notification*

*Wine#4 – Recover costs for verification, inspection and audit*

*Wine#5 – Recover costs for New Zealand Standards and Compliance functions via a levy on New Zealand Winegrowers*

*Wine#6 – Recover the cost of funding for Export Standards setting, Market Access and export certification costs*

*Wine#7 – Recover costs for wine E-Cert*

## **8.7 WINE#1 – CHARGE FOR CHANGES TO THE RECOGNISED AGENCY (OR PERSON) ON A WINE STANDARDS MANAGEMENT PLAN**

### **8.7.1 Background**

MPI incurs costs when changes to a recognised agency (or person) on a wine standards management plan under the Wine Act 2003 are requested. These costs are associated with updating databases, reissuing formal documents, delegate sign-off and filing.

### **8.7.2 Problem definition**

Cost recovery is yet to be implemented for processing applications to change a recognised agency, or recognised person, on a wine standards management plan under the Wine Act 2003.

### **8.7.3 Proposed cost recovery for processing changes to a recognised agency (or person) on a wine standards management plan**

MPI proposes to establish a new fixed fee of \$77.50 (based on half an hour of billable time), plus an hourly rate assessment charge of \$155, chargeable in 15-minute increments after the first half hour. This rate would be included in the Schedule of the Wine Regulations 2006.

The proposed cost recovery method and rate are consistent with the approach taken for approval, accreditation and recognition functions for other sectors.

#### 8.7.4 Questions for consideration

##### Question 8.7

- 1) Do you agree with the proposed method of charging for changes to the recognised agency (or person) on a wine standards management plan?
- 2) If not, what is your preferred method of charging for changes to the recognised agency (or person) on a wine standards management plan, and what are the reasons for this preference?

### 8.8 WINE#2 – CHARGE FOR MINOR AMENDMENTS TO A WINE STANDARDS MANAGEMENT PLAN

#### 8.8.1 Background

MPI processes notifications of minor amendments to a wine standards management plan under section 23 of the Wine Act 2003. MPI incurs costs associated with updating databases, reissuing formal documents, delegate sign-off and filing.

#### 8.8.2 Problem definition

Cost recovery is yet to be implemented for processing notifications of minor amendments to a wine standards management plan under section 23 of the Wine Act 2003.

#### 8.8.3 Proposed charge for minor amendments to a wine standards management plan

MPI proposes to establish a new fixed fee of \$77.50 (based on half an hour of billable time), plus an hourly rate assessment charge of \$155, chargeable in 15-minute increments after the first half hour. This rate would be included in the Schedule of the Wine Regulations 2006.

The proposed cost recovery method and rate are consistent with the approach taken for approval, accreditation and recognition functions for other sectors.

#### 8.8.4 Questions for consideration

##### Question 8.8

- 1) Do you agree with the proposed method of charging for minor amendments to a wine standards management plan?
- 2) If not, what is your preferred method of charging for minor amendments to a wine standards management plan, and what are the reasons for this preference?

### 8.9 WINE#3 – RECOVER COSTS FOR PROCESSING A SMALL WINEMAKER EXEMPTION NOTIFICATIONS

#### 8.9.1 Background

MPI processes small winemaker exemption notifications under clause 5A of the Wine Regulations 2006, including updating the exemption database and confirming the exemption.

#### 8.9.2 Problem definition

Cost recovery has yet to be implemented for processing small winemaker exemption notifications under clause 5A of the Wine Regulations 2006.

### 8.9.3 Proposed cost recovery for processing a small winemaker exemption notification

MPI proposes to establish a new fixed fee of \$155 (based on an hour of billable time), plus an hourly rate assessment charge of \$155, chargeable in 15-minute increments after the first hour. This rate would be included in the Schedule of the Wine Regulations 2006.

The proposed cost recovery method and rate are consistent with the approach taken for approval, accreditation and recognition functions for other sectors.

### 8.9.4 Questions for consideration

#### Question 8.9

- 1) Do you agree with the proposed method of charging for processing small winemaker exemption notifications?
- 2) If not, what is your preferred method of charging for processing small winemaker exemption notifications, and what are the reasons for this preference?

## 8.10 WINE#4 – RECOVER COSTS FOR VERIFICATION, INSPECTION AND AUDIT

### 8.10.1 Background

MPI's Wine Officers are empowered under the Wine Act 2003 to verify, inspect and audit.

### 8.10.2 Problem definition

#### *MPI cannot recover costs for inspection or audit*

The current regulations do not allow cost recovery for inspection or audit. When compliance problems with an operator or exporter are detected, it may be necessary to inspect or audit the operator and work with them to bring about compliance. These services are considered private goods and should therefore be cost-recoverable on that basis.

#### *MPI cannot recover costs for compliance follow-up*

As noted above, MPI may be required to work with individual operators to ensure compliance. This is an important activity for which we cannot recover costs under current regulations. Receiving this service is considered a private good, and the associated costs of providing it should be met by those who cause them to be incurred.

#### *MPI cannot recover costs for verification*

The market for wine verification is contestable and serviced by the private sector. MPI has a role as a verifier of 'last resort' and must be able to provide verification services if required. To date, MPI has not been required to act as a verifier of last resort. Verification is considered a private good and is usually charged at an hourly rate, with other costs recovered as disbursements on an actual and reasonable basis.

### 8.10.3 Proposed cost recovery for verification, inspection and audit under the Wine Act 2003

MPI proposes to establish an hourly rate charge of \$155 for cost recovery of verification, inspection, audit and other individual-focused compliance activities under the Wine Act. Disbursements associated with these activities would be recoverable on an actual and reasonable basis.

#### 8.10.4 Questions for consideration

##### Question 8.10

- 1) Do you agree with the proposed method of charging for verification, inspection and audit services by Wine Officers?
- 2) If not, what is your preferred method of charging for verification, inspection and audit services by Wine Officers, and what are the reasons for this preference?

### 8.11 WINE#5 – RECOVER COSTS FOR NEW ZEALAND STANDARDS AND COMPLIANCE FUNCTIONS VIA A LEVY ON NEW ZEALAND WINEGROWERS

#### 8.11.1 Background

MPI performs a range of functions for the domestic wine sector, including provision of:

- a New Zealand standard setting programme;
- a compliance programme.

These functions are club or industry goods, and principally relate to the making and processing of wine and wine products.

The Wine Regulations 2006 enable MPI to recover an annual fee of \$300 on wine businesses for standard setting. These fees are not being charged currently because they are funded by the Crown.

New Zealand Winegrowers Inc makes a voluntarily payment to MPI of \$151,000 a year towards the cost of the New Zealand standards programme. No payment is made by non-grape wine producers. Compliance programme costs are currently Crown-funded, but in other areas prosecutions and investigations are Crown-funded while inspections and other operator-specific monitoring activity are individually funded. Fifty percent of MPI's wine compliance resources for wine are spent on domestic compliance activities.

Wine made from fruit other than grapes is also regulated under the Wine Act. Domestic grape wine sales as a proportion of total sales have decreased over the last three years from 97.9 percent to the current 96.9 percent, while non-grape wine sales have increased from 2.1 percent to the current 3.1 percent.

The current levy on wine businesses prescribed in the regulations has never been enforced and may not be the most equitable method of recovery. For example, the current fixed fee levy on wine businesses of \$300 in the regulations has no correlation to domestic sales production, and therefore to the level of each operator's benefit or use. Wine businesses selling large volumes of wine domestically would pay the same amount as wine businesses selling small volumes.

#### 8.11.2 Problem definition

In determining the appropriate cost recovery method there are two questions to consider:

- From whom should costs be recovered?
- How should costs be recovered?

All New Zealand wine businesses benefit from provision of New Zealand standards and a robust compliance programme. There are two options for targeting cost recovery:

- Target all wine businesses, including non-grape wine businesses.

- Target industry bodies such as New Zealand Winegrowers, an industry body representing grape growers and grape wine makers, and the Fruit Wine & Cider Makers Association of New Zealand Inc.

### **Options**

There are three main approaches for recovering costs, and a number of options for how cost recovery is implemented:

- Option 1: Continue negotiating voluntary payments from New Zealand Winegrowers Inc.
- Option 2: Impose a levy on wine industry bodies.

Option 2 would involve setting an annual charge based on the direct and indirect costs of providing the New Zealand standards programme and the compliance programme. New Zealand Wine growers would administer collection of the levy. This would replace the voluntary payment of \$151,000 currently paid by New Zealand Winegrowers with an amount based on a formula, which is likely to be around \$330,000 in 2015; or

- Option 3: Impose a levy on all wine businesses or holders of a wine standards management plan, using one of the following methods:
  - a) a uniform fixed annual levy on wine businesses.
  - b) a uniform fixed annual levy on holders of a wine standards management plan.
  - c) a differential levy based on wine business output from the previous year. There would be three charges based on three ranges of wine business output (0 to 200,000 litres a year; 200,001 litres to 2,000,000 litres a year; and greater than 2,000,000 litres a year).
  - d) a levy on each litre of wine produced.

### **Analysis of options**

An analysis of the options to fund New Zealand standards and compliance functions is provided in Table 13.

**Table 13: Options to fund New Zealand Standards and Compliance functions**

Option	Analysis
Option 1: Continue negotiating voluntary payments from New Zealand Winegrowers Inc	Continuing to negotiate voluntary payments from New Zealand Winegrowers would be administratively simple and effective at recovering the costs of the New Zealand standards programme and compliance programme. However, without a statutory mandate it creates a risk that funding could be withdrawn by New Zealand Winegrowers in future. Therefore this option is not preferred.
Option 2: Impose a levy on wine industry bodies (preferred)	<p>Imposing a levy on New Zealand Winegrowers would also be administratively simple and effective at recovering the costs of the New Zealand standards programme and compliance programme.</p> <p>New Zealand Winegrowers is funded by a levy on grape wine. Imposing a levy is equitable as all wine growers and makers benefit from the New Zealand standards programme. Recovering a share of compliance costs through a levy and a share through direct operator costs encourages wine maker compliance to minimise costs. This approach has a slight risk in that New Zealand Winegrowers could cease operating and be unincorporated, and therefore MPI's revenue security would be stopped. However, in our view, this risk is minimal.</p> <p>There are two key risks with this option:</p> <ul style="list-style-type: none"> <li>• Industry may not agree to provide funding for New Zealand Winegrowers to pay the levy.</li> <li>• MPI could increase charges before New Zealand Winegrowers is able to adjust its levy to collect additional revenue from the industry to meet the increased cost.</li> </ul> <p>Imposing a levy on the Fruit Wine &amp; Cider Makers Association is not feasible currently as</p>

	the Association's Commodity Levies Act 1990 Order has expired and the association cannot currently collect a levy from non-grape wine makers.
Option 3: Impose a levy on all wine businesses	<p>Imposing a uniform fixed levy on all grape wine businesses (699 in 2014) and non-grape wine businesses or, alternatively, holders of a wine standards management plan (239 in 2014), would not be equitable as it would not reflect different levels of output, benefit or contribution to risk.</p> <p>MPI's preferred approach under this option would be to impose a levy on each litre of wine produced based on wine business output from the previous year. This approach would be the most equitable. However, it would impose higher transaction and compliance costs than the alternative options would, particularly the option of collecting revenue directly from industry bodies, as it would require:</p> <ul style="list-style-type: none"> <li>• MPI to collect data and invoice each party;</li> <li>• operators to submit returns to MPI and process and pay MPI's invoice.</li> </ul> <p>These costs could be minimised by coordinating cost recovery with the collection of revenue under the Commodity Levies (Wine grapes) Order 2010.</p> <p>Imposing a levy solely on the output of non-grape wine businesses to recoup a 3.1 percent share of New Zealand Standards and compliance costs would not be efficient, as the collection and compliance costs would be disproportionately high relative to the revenue collected.</p>

### 8.11.3 Proposed annual levy on New Zealand Winegrowers

MPI's preferred approach is to establish an annual levy on New Zealand Winegrowers. The levy would be a set charge based on the direct and indirect costs of providing the New Zealand standards programme and 50 percent of compliance costs<sup>30</sup>. The levy amount rather than the formula would be prescribed in the regulations.

MPI prefers this approach because it is administratively simple and, compared with imposing a levy on all wine businesses, has significantly lower administrative costs and minimal additional compliance costs for the wine sector.

For the present, MPI does not propose to impose a levy on the Fruit Wine & Cider Makers Association, nor does it propose to impose a levy on non-grape wine output as this would not be efficient. MPI notes that non-grape wine's market share of domestic sales volumes is increasing. We will monitor development and reconsider imposing a levy if the Fruit Wine & Cider Makers Association resumes collecting a levy, or non-grape market share increases to the point where it is efficient to levy non-grape wine businesses.

### 8.11.4 Calculating the New Zealand Winegrowers levy

For the purposes of calculating the annual levy, MPI would use a formula similar to the example provided below. However at this stage we are *not* proposing to build this formula into the regulations, as it may be necessary to modify our approach over time.

$$\text{Annual levy payable by New Zealand Winegrowers} = DI + (0.5 \times C)$$

Where,

DI = Total direct and indirect costs of the New Zealand Wine Standards Programme.

<sup>30</sup> 50% represents the estimated allocation of compliance service time between domestic and export focussed producers.

*Direct and indirect costs* may include any accrued surpluses and deficits from the previous four years not already recovered in line with section 87(3).<sup>31</sup>

C = Wine compliance costs

### ***Proposed notices for 2015/16 annual levy on New Zealand Winegrowers***

The proposed annual levy payable by New Zealand Winegrowers for 2015/16 would be approximately \$330,000.

#### **8.11.5 Questions for consideration**

##### **Question 8.11**

- 1) Do you agree with the proposed method of cost recovery for standards and compliance functions for the domestic wine sector?
- 2) If not, what is your preferred method of cost recovery for standards and compliance functions for the domestic wine sector?

## **8.12 WINE#6 – RECOVER THE COST OF FUNDING FOR EXPORT STANDARDS SETTING, MARKET ACCESS AND EXPORT CERTIFICATION COSTS**

### **8.12.1 Background**

*Export standard setting, market access, wine export certification, Wine E-Cert, and compliance and systems audit activities are club goods that are currently Crown-funded*

MPI's performs a range of functions for the export wine sector, including:

- the export standard setting programme;
- the market access programme;
- compliance and systems audit activities related to export.

These functions are mostly related to the export of wine and wine products, and are considered club or industry goods as consumption (use) by one person does not detract from consumption by another and users can be excluded from the benefits of consumption at low cost.

There are two groups of beneficiaries from the services – wine businesses and overseas consumers.

Charging wine businesses is more efficient than charging the consumers for several reasons:

- Consumers are outside New Zealand's jurisdiction while wine businesses are clearly identifiable.
- Transaction and collections costs are significantly lower for collection from wine businesses, and wine businesses are well placed to pass the cost on to end consumers;
- Wine businesses are better placed than overseas consumers to value and monitor the benefits of MPI services, relative to their cost.
- Cost recovery from wine businesses incentivises industry to:
  - moderate demand for services;
  - implement effective risk management to minimise the need for MPI services or interventions.

<sup>31</sup> MPI does not intend to implement cost recovery for any deficits incurred prior to 1 July 2015.



The Wine Regulations 2006 allow MPI to recover an annual charge based on three ranges of wine business output (0 to 200,000 litres a year; 200,001 litres to 2 million litres a year; and greater than 2 million litres a year).

These fees are not being charged currently because they are Crown-funded.

### 8.12.2 Problem definition

MPI proposes to introduce cost recovery for export standard setting and market access. The methods allowed under the current regulations have never been implemented and may not be the most equitable or efficient approach.

The cost recovery options are shown in Table 14.

**Table 14: Cost recovery options for standard setting, market access and Wine E-cert, and compliance systems audit**

Options	Analysis
Option 1: Impose a flat levy on all wine exporters.	<p>This approach would not be equitable as it would not be based on export volume and therefore would not reflect the value of the benefits received. It could potentially result in small exporters paying a disproportionately large share, while large exporters pay a disproportionately small share.</p> <p>This option would be administratively efficient as MPI can efficiently identify and invoice all wine exporters.</p>
<p>Option 2: Impose a levy on each litre of wine exported.</p> <p>The levy would be imposed on businesses exporting more than 10,000 litres a year, to minimise administrative costs and ensure that MPI is not issuing levy invoices that amount to less than \$100.</p>	<p>This option would be less equitable than Option 3 but more equitable than Option 1 as it bands producers into groups based on a range of output, rather than targeting charges based on output.</p> <p>This option is administratively efficient as MPI can efficiently identify and invoice all wine businesses. This option may impose additional compliance costs as it would require all wine businesses to make returns to MPI each year about their output. Wine businesses already provide returns to MPI and the New Zealand Customs Service, so providing additional returns to MPI would add a minimal cost.</p>
<p>Option 3: Recover costs through Wine E-Cert for:</p> <ul style="list-style-type: none"> <li>confirmation of export eligibility;</li> <li>determination of consignment export eligibility;</li> <li>issue of official assurances;</li> <li>processing requests to amend, revoke or reissue an official assurance.</li> </ul>	<p>This approach would not be equitable as it would not be based on export volume and therefore would not reflect the value of the benefits received. It could potentially result in small exporters paying a disproportionately large share, while large exporters pay a disproportionately small share.</p> <p>This option is more administratively efficient and would have lower transaction costs than the alternative options would. All exporters would use Wine E-Cert and be required to pay associated costs. Recovering other costs associated with export standard setting, market access and compliance and system audit through this mechanism would have a low marginal cost. This option would also impose significantly fewer compliance costs on businesses as they would not need to make returns to MPI or fund an MPI cost recovery audit programme.</p>

The option of imposing a levy on New Zealand Winegrowers was not pursued as MPI is better placed to collect a levy.

### 8.12.3 Proposed levy on each litre of wine exported

MPI proposes to impose a levy on each litre of wine exported. The amount recovered would be in the order of **one cent per litre in 2015**.

The levy would be imposed on applicants for export consignment approval. This means that wine businesses whose product is exported would be liable to pay the levy. Wine businesses that make applications on behalf of third parties wishing to export their wine would need to make a commercial decision as to whether, and how, to pass on that cost.



This approach is preferred because it is equitable, administratively efficient and has relatively low transaction and compliance costs for the sector.

#### 8.12.4 Calculating the levy

For the purposes of calculating the annual levy, MPI would use a formula similar to the example provided below. However at this stage we are *not* proposing to build this formula into the regulations, as it may be necessary to modify our approach over time.

$$\text{Levy per litre of wine exported, } L_{\text{wine}}^{\text{export}} = \frac{EC}{V^{\text{annual}}}$$

Where,

EC = sector contribution to total export cost = (total direct and indirect Wine Market Access costs + total direct and indirect Wine Export Standard Setting costs + total direct and indirect Wine Export Certification costs + 50 percent of total direct and indirect Compliance Programme costs)<sup>32</sup>

$V^{\text{annual}}$  = total annual volume of wine in litres exported by a wine businesses exporting more than 10,000 L per annum (in the previous year).

#### *Proposed amount of 2015/16 levy on wine litres exported*

The proposed levy for 2015/16 would be approximately 1 cent per litre.

#### 8.12.5 Questions for consideration

##### Question 8.12

- 1) Do you agree with the proposed method of cost recovery for export-related functions in the wine sector?
- 2) If not, what is your preferred method of cost recovery for export-related functions in the wine sector?

### 8.13 WINE#7 – RECOVER COSTS FOR WINE E-CERT

#### 8.13.1 Background

##### *Wine E-Cert is a private good that is currently Crown-funded*

All grape wine exported from New Zealand must meet the export eligibility requirements that are set under the Wine Act 2003. These requirements ensure that the safety, traceability and quality of wine exported from New Zealand are maintained.

MPI uses the Wine Export Certification Service (WECS) to process applications to determine whether wine is eligible for export and issues export eligibility statements for each consignment of wine to confirm that eligibility. MPI also issues official assurances for some countries where overseas market access requirements have been agreed between New Zealand and overseas governments. An official assurance confirms that the wine exported from New Zealand meets the requirements of the importing country.

<sup>32</sup> Direct and indirect costs may include any accrued surpluses and deficits from the previous four years not already recovered in line with section 87 (3). MPI does not intend to implement cost recovery for any costs incurred prior to 1 July 2015.

MPI has re-developed the information technology system used for wine export certification (Wine E-Cert) to manage the risks of system failure arising from the age of the existing system, and to enhance the capability of the system to keep up with evolving trade practices.

Wine E-Cert services are considered private goods but are not currently cost-recovered. The Schedule in the Wine Regulations 2006 allows MPI to recover the costs of Wine E-Cert through. Table 15 sets out the current charges that were promulgated in 2006, but have never been charged.

**Table 15: Cost recovery options Wine E-cert**

Matter in respect of which fee or charge payable	Cost recovery method	Fee or charge \$
Application to determine whether wine eligible for export	per application	20.68
Statement of confirmation that wine eligible for export	per confirmation	5.91
Issue of official assurance	per certificate	8.82

### 8.13.2 Problem definition

#### *Current cost recovery items do not encourage efficient use of MPI's resources or support equity*

The current Wine E-Cert cost recovery items in the Wine Regulations 2006 will enable MPI to recover costs. However, the current items could be refined to encourage efficient use of MPI's resources and to more accurately charge users for the marginal costs of using MPI's services. More accurate charging supports equity as it reduces the risk that other exporters will have to cross-subsidise services demanded by other exporters.

The areas where more targeted cost recovery is needed are as follows:

- export eligibility statements based on sensory testing, chemical testing or both, and subsequent amendments differentiation needed because chemical testing incurs greater costs for MPI associated with MPI's E-Star information system;
- issue of official assurances and subsequent amendments;
- processing requests to revoke or reissue an official assurance that take more than 15 minutes, which is a good proxy for the average amount of time it takes MPI to issue an official assurance.

#### *Options*

MPI considered three options:

- Option 1: maintain the status quo.
- Option 2: enhance the charging regime for Wine E-Cert.
- Option 3: recover Wine E-Cert costs via the levy on exports.

MPI's preferred option is Option 3, to recover the costs of Wine E-Cert through the levy as it has lower transaction and administrative costs for MPI and industry and is relatively equitable as it requires exporters to pay the costs for Wine E-Cert based on their share of exports. Option 2 would encourage more efficient use of Wine E-Cert but has higher transaction and administrative costs for MPI and industry. MPI intends to monitor industry's use of Wine E-Cert following the introduction of cost recovery and will propose a more detailed charging regime for E-Cert if necessary.

### 8.13.3 Proposed changes to recover costs for items for export assurance

MPI proposes to recover the costs of Wine E-Cert through the levy on exports.

### 8.13.4 Questions for consideration

#### Question 8.13

- 1) Do you agree with the proposal to recover Wine E-cert costs through the (proposed) levy on exports?
- 2) If not, what is your preferred method of cost recovery for Wine E-cert costs?

## **8.14 APPENDIX 1 – MPI ACTIVITIES UNDER THE WINE ACT 2003**

### **8.14.1 New Zealand standards programme**

The Ministry develops, implements, monitors, and reviews safety and composition standards for the production, processing, transportation, storage, and sale of food and food-related products in New Zealand. This includes the following activities related to both grape and fruit winemaking:

- administering the Wine Act 2003;
- reviewing and maintaining standards for wine, including prescribing minimum percentages of inputs required to label or identify wine in terms of vintage, variety, or area of origin (grape wine only); keeping records and making returns as a means of ensuring the truthfulness of information, integrity of processes, and safety of wine;
- developing and reviewing guidance material to assist wineries to comply with safety and labelling standards;
- reviewing and updating the Codes of Practice for wine standards management plans for grape wine and for fruit wine, cider and mead;
- providing advice to winemakers and verifiers on meeting legislative requirements;
- managing recognition of agencies and persons for verification activities with respect to wine standards management plans;
- reviewing and maintaining verification requirements to ensure that standards are met;
- reviewing and monitoring winemakers and verifiers' compliance with standards.

### **8.14.2 Export standards programme**

The Ministry develops, implements, monitors and reviews systems, standards and processes for export food and food-related products. It also develops and implements verification standards and verification processes for export requirements, and manages the provision of official assurances for grape wine exports, including overseeing the administration of the export eligibility system. This includes the following activities:

- administering export components of the Wine Act;
- managing recognition of recognised laboratories for export laboratory analysis;
- monitoring performance of recognised laboratories;
- managing the contract for wine export certification with New Zealand Winegrowers;
- managing the contract for the random sampling programme for export;
- monitoring and managing the outputs from the random sampling programme;
- providing export advice to industry operators;
- developing and maintaining the electronic platform for wine export certification;
- reviewing and monitoring wine business operators and verifiers' compliance with export standards.

### **8.14.3 Market access programme**

The Ministry negotiates market access conditions and establishes overseas market access requirements (OMARs) with the relevant authorities of countries importing New Zealand products on behalf of exporters. This includes managing bilateral agreements, trading partner relationships, and equivalency negotiations.

The market access programme also provides strategic and operational input into the export standards programme, as it affects trade and MPI's bilateral relationships.

MPI also provides regulatory input into pluri-lateral forums such as the World Wine Trade Group and the APEC Wine Regulatory Forum, which have a focus on regulatory alignment to improve trade in wine, and the International Organisation of Wine and Vine (OIV) which, although not a standard setting body, does establish resolutions that are sometimes adopted into EC regulation.

#### **8.14.4 Compliance and system audit**

The functions that the Ministry performs in this area include:

- responding to and managing critical non-compliance;
- regularly collecting and assessing information to check compliance with regulatory requirements;
- random sampling and testing of products across the spectrum;
- monitoring and assessing recognised agencies and persons;
- scheduled auditing of industry or business systems and processes;
- responding to inquiries and providing information to industry on compliance.

## 8.15 APPENDIX 2 – EXISTING AND PROPOSED FEES UNDER THE WINE ACT 2003

*Fees are shown as GST exclusive.*

*Shaded columns and headers are for referencing and commentary purposes. Light grey shaded content is for new proposals. Additional line spacing and column/row lines have been added for readability.*

### Wine Regulations 2006

#### Schedule – Fees and charges

	Matter in respect of which fee or charge payable	Cost recovery method	Fee or charge	Proposed fee	Comment
1 2 3	Registration of wine standards management plan based solely on template approved by Director-General	Fixed charge plus hourly rate	\$122.00, plus \$122.00 per hour (or part hour) after the first hour	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Updated rates  Common#4
4 5 6	Registration of wine standards management plan not based solely on approved template	Fixed charge plus hourly rate	\$122.00, plus \$122.00 per hour (or part hour) after the first hour	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Updated rates  Common#4
7 8 9	Registration as an exporter under section 49 of Act	Fixed charge plus hourly rate	\$122.00, plus \$122.00 per hour (or part hour) after the first hour	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Updated rates  Common#4

		<b>Matter in respect of which fee or charge payable</b>	<b>Cost recovery method</b>	<b>Fee or charge</b>	<b>Proposed fee</b>	<b>Comment</b>
10 11 12		Application for amendment to wine standards management plan under section 22 of Act	Fixed charge plus hourly rate	\$122.00, plus \$122.00 per hour (or part hour) after the first hour	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Updated rates  Common#4
13 14 15		Recognition of agency or person under section 69 or 70 of Act	Fixed charge plus hourly rate	\$122.00, plus \$122.00 per hour (or part hour) after the first hour	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Updated rates  Common#4
16 17 18		Periodic recognition fee under section 77 of Act	Fixed charge plus hourly rate	\$122.00, plus \$122.00 per hour (or part hour) after the first hour	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Updated rates  Common#4
19		Application to determine whether wine eligible for export	Per application	\$21.00		Wine#7 Change to recovery of wine export certification costs through a levy on grape wine exports.
20		Statement of confirmation that wine eligible for export	Per confirmation	\$6.00		Wine#7 Change to recovery of wine export certification costs through a levy on grape wine exports.
21		Issue of official assurance	Per certificate	\$8.96		Wine#7 Change to recovery of wine export certification costs through a levy on grape wine exports.

		Matter in respect of which fee or charge payable	Cost recovery method	Fee or charge	Proposed fee	Comment
22		Standards setting; development of guidance material, templates, codes of practice, market access standards; systems audit and compliance	Fixed annual charge, per wine business	\$266.67	Annual levy on New Zealand Winegrowers of \$330,000	Wine#5 Change to recovery of domestic standards costs via a levy on NZ Winegrowers.
23		Development of market access standards and programme	Differential annual charge, per exporting winery:		Annual levy of \$0.01 per litre of wine exported, for businesses exporting more than 10,000 L per annum	Wine#6 Wine#7
24			(a) large winery (production over 2 million litres per annum)	\$7,196.00		
25			(b) medium winery (production of 200 001 litres or more per annum, but less than 2 million litres)	\$523.00		
			(c) small winery (production less than 200 000 litres per annum)	\$43.00		
26					Performance of a function, power or duty that is:	Common #5
27					<ul style="list-style-type: none"> <li>• required to be undertaken under the relevant Act, including subsidiary regulations and notices;</li> <li>• not prescribed elsewhere in the relevant cost recovery regulations.</li> </ul>	
28					<ul style="list-style-type: none"> <li>- \$155.00, plus</li> <li>- \$155 per hour after the first hour, in 15-minute increments, plus</li> <li>- actual and reasonable costs.</li> </ul>	
29					Verification, inspection, audit and other individual-focused compliance activities under the Act:	Wine#4
30					<ul style="list-style-type: none"> <li>- \$155.00, plus</li> <li>- \$155 per hour after the first hour, in 15-minute increments, plus</li> <li>- actual and reasonable costs</li> </ul>	
31					Payable within 1 month.	



		Matter in respect of which fee or charge payable	Cost recovery method	Fee or charge	Proposed fee	Comment
32 33 34					Compliance follow-up fee: - \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable within 1 month.	Wine#4
35 36 37					Processing small winemaker exemption notifications under clause 5A of Wine Regulations - \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Wine#3
38 39 40					Processing amendments to a wine standards management plan under section 23 of the Act: - \$77.50, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Wine#2
41 42 43					Processing changes to a recognised agency on a wine standards management plan under section 23 of the Act: - \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	Wine#1

## 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>33</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>33</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?