Ministry for Primary Industries
Manatū Ahu Matua

Guidance Document

An Overview of the Animal Products Act 1999

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Title

Guidance Document: An Overview of the Animal Products Act 1999

About this document

This guidance document has been developed to explain the different parts of the Animal Products Act 1999.

Related Requirements

The requirements to which this guidance document relates to are:

- Animal Products Act 1999

Document history

Version Date	Section Changed	Change(s) Description
January 2006	All	Combining the following documents into one guidance document: • Introduction to the Animal Products Act • General Structure of the Animal Products Act • Summary of the Animal Products Act 1999 • Summary of the Animal Products Act by Part
January 2017	All	New format and branding

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Contents

Purpose

This guidance document explains the different parts of the Animal Products Act 1999 (APA). Each numbered section of this document corresponds to the numbered part of the APA.

This document is not a legal interpretation of the APA and is intended only as a guide.

Background

The Animal Products Act 1999 (APA) is New Zealand's legal framework for processing animal material into food, such as meat and dairy products. It establishes a risk management system that requires all animal products traded and used to be 'fit for intended purpose' through meeting New Zealand animal product standards.

The purpose of the Animal Products Act 1999 is to:

- regulate the production and processing of animal material and animal products in New Zealand;
- govern the slaughter, processing and sale of some food intended for human and animal consumption, including farmed meat and wild game, seafood, honey and bee products, eggs and dairy products;
- manage physical, biological and chemical hazards that might present a risk, irrespective of where in the production or processing chain they occur;
- ensure that products produced under the APA are wholesome and truthfully labelled;
- facilitate the entry of animal material and products into overseas markets by providing the controls and mechanisms needed to give and to safeguard official assurances for entry into those markets.

Regulations, Orders and Notices under the APA

The following lists the Regulations under the APA:

(1) Animal Products Regulations 2000

(2) Animal Products (Dairy) Regulations 2005

(3) Raw Milk for Sale to Consumers Regulations 2015

(4) Animal Products (Exemptions and Inclusions) Order 2000

(5) Animal Products (Fee, Charges and Levies) Regulations 2007

(6) Animal Products (Dairy Industry Fees and Charges) Regulations 2007

Notices covering a range of legal requirements for businesses producing, processing, selling, storing, transporting, importing and exporting animal materials and products have been promulgated under the APA.

These are available on the MPI website: https://www.mpi.govt.nz/law-and-policy/requirements/animal-products-act-notices/.

Abbreviations

APA
The Animal Products Act 1999

DG
Director-General

FCP
Food Control Plan

HACCP
Hazard Analysis and Critical Control Point

MPI
Ministry for Primary Industries

RCS
Regulated Control Scheme

RMP
Risk Management Programmes

1 Preliminary Provisions

Part 1 of the APA contains the object, general scheme and provisions indicating the general application of the Act. It also contains the interpretation (definitions).

2 Risk Management Programmes

Part 2 of the APA provides the main means for:

a) ensuring that animal products are fit for their intended purpose; and
b) the production and processing of certain animal materials and products to occur under one or more registered risk management programmes (RMP).

An RMP is a documented programme to identify and manage known biological, chemical and physical hazards, and other risk factors. The RMP is to be based on the principles of Hazard Analysis and Critical Control Point (HACCP).

RMPs usually relate to the individual business, but can be based on a code of practice, model or template. A single RMP can be applied to a number of comparable businesses, if approved by the Director-General (DG).

2.1 Who must have a RMP?

Section 13 of the APA requires the following businesses to operate under an RMP:

a) primary processors of animal material;
b) secondary processors of animal products intended for human or animal consumption, except to the extent that they are subject to the Food Act regime;
c) retail butchers who are dual operator butchers;
d) other persons specified by Order in Council under section 15 of the APA as required to operate under an RMP.

A secondary processor of animal products intended for export with an official assurance must have an RMP to comply with overseas market access or official assurance requirements.

The Animal Products (Exemptions and Inclusions) Order 2000 lists the operations or product types that have been exempted from requirement for an RMP, and operations or product types requiring an RMP.

2.2 Duties RMP operators

Section 16 contains duties that all RMP operators must meet.

2.3 Contents of an RMP and Multi-business RMP

Sections 17 and 17A outline the content requirements of an RMP.

2.3.1 Development and Evaluation of an RMP

It is the responsibility of each business to develop and maintain an RMP. MPI has many resources that can help businesses to develop their RMPs, such as templates, codes of practices, models, HACCP plans and operational codes.

Refer to the Risk Management Programme Manual for Animal Product Processing for more information:

If an RMP is not based on a template, the RMP must be evaluated by a recognised evaluator prior to registration. Section 20 of the APA requires an independent evaluation report to accompany all RMPs submitted for registration, but there is an allowance for this requirement to be waived in certain circumstances. Evaluators are recognised by MPI and a list can be found here: http://www.foodsafety.govt.nz/registers-lists/evaluators-rmp/index.htm.

2.3.2 RMP Registration

Sections 18 to 30 of the APA discuss the registration of RMPs. MPI keeps a public database of registered RMPs: http://www.foodsafety.govt.nz/registers-lists/risk-management-programmes/index.htm.

RMPs are registered with MPI. When applying for registration, there are minimum documentation requirements such as:

a) the application form; and
b) RMP details; and
c) an evaluation report from a recognised evaluator (if the RMP is not based on a template); and
d) a statement from a recognised verification agency confirming that they will regularly verify the RMP.

2.3.3 RMP External Verification

An RMP must be verified on an ongoing basis by a MPI recognised verifier. This is to check that the business is meeting its obligations under its RMP and that the programme continues to deliver products that are fit for their intended purpose.

Verification must be carried out by MPI-recognised agencies. The RMP provides the verifier with the right to access areas, processes, documentation and data to be able to confirm compliance. Verification is performance based; with the scope, depth and frequency of verification altering depending on compliance results.

2.4 Food Act and RMP interface

Sections 31 to 34 recognise the general equivalence of food control plans (FCPs) under the Food Act 2014 and RMPs in producing product that is fit for its intended purpose. This helps to minimise the problems of overlap of two separate legislative regimes.

2.5 Recognised Verifiers

Section 35 links to Part 8 of the APA and requires the DG to recognise agencies and persons to perform RMP verification. Refer to Part 8 Recognised Agencies and Persons for more information.

3 Regulated Control Schemes

Part 3 provides for regulated control schemes (RCS) that are regulatory regimes for cases where:

a) it is inappropriate or impracticable to manage risks under RMPs; or
b) risks may need to be addressed for the production of animal material or processing of animal product that is not required by this Act to be covered by an RMP; or
c) special provision is required for the purposes of overseas market access requirements.

RCSs can be applied where:

a) it is not feasible or practicable for the relevant risks to be managed by individual business operators within individual RMPs (whether or not those operators would normally be required to have a RMP); or
b) having regard economic efficiency, or to legal considerations that may require the exercise of statutory authority for the successful management of risks. It is necessary or appropriate that the measures be imposed generally rather than being dealt with by individual RMPs; or
c) the measures are additional to those normally required to meet New Zealand animal product standards, and are necessary to meet overseas market access requirements.

This Part also allows for the making of emergency control schemes under certain situations.

4 Animal Product Standards and Specifications

Part 4 of the APA provides for:

a) setting standards to be met by any animal product intended for trade or processed for reward, before it may be considered fit for its intended purpose; and
b) setting specifications that may be necessary or desirable to ensure such standards are met.

These standards and specifications may apply regardless of whether an RMP is in place or required regarding any of the following relevant:

a) material or product;
b) person or business;
c) process or operation;
d) premises or place, or area.

Specifications can be set by DG Notices to amplify the standards.

This Part also allows for the making of emergency animal product standards and specifications under certain situations.

5 Export of Animal Material and Products

Part 5 of the APA makes special provision in relation to the export of animal material and products from New Zealand by:

a) requiring the registration of all exporters of animal material and products intended for human or animal consumption, and certain other animal products (subject to exemptions); and
b) enabling the notification of export requirements; and
c) providing for official assurances in relation to animal material or products exported from New Zealand.

Part 5 also provides for the issue of official assurances by the Government (usually in the form of certificates) when required by authorities in importing countries. The APA also provides for the Government to issue statements as to New Zealand animal product standards in other situations.

Safeguards for export products include:

a) registering exporters;
b) placing duties on exporters;
c) provisions set by the DG relating to the issuance and use of official assurances; and
d) New Zealand's interpretation of market access requirements;

5.1 Duties of Exporters

Section 51 lists the duties that all exporters of animal material and products are required to meet.

5.2 Export Requirements and Official Assurances

Sections 60 to 65 provide for the notification of export requirements and issuing of official assurances, including limits on what an official assurance is. Section 60B enables the DG to exempt certain exports from the requirement to meet food standards under the Food Act 2014.

5.3 Game Estates

Part 5A provides for game estates, a place where animals are kept (whether all of the time or only some of the time), as if in the wild, to provide opportunities for people to hunt or catch them as recreational catch as if in the wild.

The object of Part 5A is to facilitate the tracing of any animal material or product intended for human or animal consumption that is derived from game estate animals.

6 Homekill and Recreational Catch

Part 6 allows animal owners to kill, butcher their own animals on their own property for their own consumption and use. Animal owners and recreational hunters may also use an MPI listed **homekill or recreational catch service provider** to slaughter and butcher their animals for them, provided in the case of farmed animals they have been involved in their day-to-day maintenance for at least 28 days before they are killed.

Listed homekill and recreational service providers are required to maintain traceability of animal products and keep inventory records for inspection by MPI. Other than these requirements, homekill and recreational catch products are not processed in the regulated system and so are consumed at the person's own risk.

6.1 Dual Operator Butchers

Part 6 of the APA also covers dual operator butchers who are retail butchers that provide both a homekill and recreational catch service and operate a retail butchery at the same premises or place. MPI has created guidance on what is meant by same premises or place: Homekill: Activities occurring at the "same premises or place".

Dual operator butchers are required to have RMPs, which demonstrate how the risks, including those associated with having homekill or recreational catch product processed in the dual business will be managed. Homekill and recreational catch product must be prevented from entering the trade.

7 Officers, Powers etc

Part 7 provides for the appointment of animal product officers and official assessors. It also provides for their powers, along with the powers of the DG under the APA.

Sections under this Part could be used in the event of an emergency response, for example:

a) section 81B relating to the ability to impose movement and related controls; and
b) section 82 relating to the power to direct disposal of animal material and product.

This Part also contains the authority for the issuance of search warrants.

7.1 Statements on NZ Animal Product Standards

Section 83 enables the DG to give statements about the status of a product regarding NZ Standards. It is used to supplement the use of official assurances under Part 5 Export of Animal Material and Products.

8 Recognised Agencies and Persons

Part 8 provides for the DG to:

a) recognise agencies that manage and supply recognised persons to perform specialist functions and activities for the purposes of the APA, including verification functions and activities; and
b) recognise individuals to carry out such specialist functions and activities, including verification.

The sections in this Part provide for the administration of the recognition processes for both persons and agencies. Application, suspension and withdrawal processes are addressed.

Sections 112G and 112H provide for duties applying to agencies and persons. People involved with the key functions under the APA need to take responsibility for particular matters to ensure that the RMP works with credibility and integrity.

Section 112S provides for the DG to maintain a public listing of recognised agencies and persons. The following register can be found on the MPI website: Animal products recognised agencies – including dairy.

9 Cost Recovery

Part 9 empowers cost recovery under the APA. Cost recovery is implemented through regulations and follow the cost recovery principles set out in Section 113, based on the methods enabled by Section 114. Other sections in this Part cover administration requirements and cost recovery constraints or requirements.

Section 120 enables service type costs to be directly invoiced on an actual and reasonable basis. Such services would cover things like telephone charges, mailing charges, the provision of information etc. Service type costs are not prescribed.

10 Offence, Penalties and Proceedings

Part 10 contains the offence and penalty provisions. These are comprehensive and include several presumptions necessary for the practical application of the APA. The penalties are significant and reflect the responsibilities that underpin the risk management system.

Sections 146 to 157 provide for making compliance orders by a District Court. Comprehensive administration requirements are set out.

11 Miscellaneous Provisions

The miscellaneous provisions in Part 11 include:

a) Section 158: Identification systems and devices;
b) Sections 159 to 161: Record keeping requirements and use of information which ensures that Government agencies and other persons and agencies involved in RMPs, FCPs, or in the administration of other requirements imposed by or under the APA, are able to disclose to each other such information as is desirable or necessary to ensure:
    i) the health or well-being of producers, processors, consumers, and users of animal material and products; or

ii) the fitness for intended purpose of animal products; or
iii) the integrity and reputation of New Zealand exports of animal material and products, and the integrity of official assurances given under the APA.

c) Section 162: Right of review of certain decisions taken under the APA;
d) Sections 163 to 165A: Consultation and notification requirements;
e) Sections 166 to 168: The making of regulations and DG notices, including the clear ability to include material by reference.