



# **Proposed requirements for the inspection and clearance of imported and returned animal material and animal products intended for re-export with official assurances**

MPI Discussion Paper No: 2017/22

Prepared for all exporters and importers of animal material and animal products

By the MPI Food Assurance Team

ISBN No: 978-1-77665-583-0 (online)

ISSN No: 2253-3907 (online)

**June 2017**

## Disclaimer

While every effort has been made to ensure the information in this publication is accurate, the Ministry for Primary Industries does not accept any responsibility or liability for error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information.

Requests for further copies should be directed to:

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

Email: [brand@mpi.govt.nz](mailto:brand@mpi.govt.nz)

Telephone: 0800 00 83 33

Facsimile: 04-894 0300

This publication is also available on the Ministry for Primary Industries website at <http://www.mpi.govt.nz/news-resources/publications.aspx>

© Crown Copyright - Ministry for Primary Industries

# Contents

Page

---

<b>1. Submission</b>	<b>1</b>
1.1 How to have your say	1
1.2 The Official Information Act 1982 (the OIA)	1
<b>2. Background</b>	<b>1</b>
<b>3. Summary of proposed requirements</b>	<b>2</b>
<b>4. Proposed requirements</b>	<b>5</b>
4.1 Amalgamation of requirements	5
4.3 Inspection and clearance requirements	6
<b>5. Submissions</b>	<b>10</b>
<b>Annex 1: Recommended table of submissions</b>	<b>1</b>



# 1. Submission

The Ministry for Primary Industries (MPI) invites your comment on this discussion paper and the attached proposed Notice, which propose certain requirements for the inspection and clearance of the following classes of animal material and animal products:

- imported animal material and animal products of foreign origin intended for re-export from New Zealand with official assurances; and
- returned New Zealand animal material and animal products intended for re-export from with official assurances.

**Consultation closes on Friday 23 June 2017 at 5:00 pm.**

## 1.1 HOW TO HAVE YOUR SAY

MPI encourages submitters to make their submissions electronically so please email your submissions to: [food.assurance@mpi.govt.nz](mailto:food.assurance@mpi.govt.nz).

If you wish to convey your submissions in writing, these should be posted to the following address:

Amendments – OMAR01/172  
MPI Food Assurance Team (Level 12, Pastoral House)  
PO Box 2526  
Wellington

Please include the following information in your submission:

- the title and number of the discussion document;
- your name and title (if applicable);
- your organisation's name (if applicable); and
- your address

The following points may be of assistance in preparing comments:

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

## 1.2 THE OFFICIAL INFORMATION ACT 1982 (THE OIA)

Everyone has the right to request information held by government organisations, known as “official information”. Under the OIA, information is to be made available to requesters unless there are reasonable grounds for withholding it. The grounds for withholding information are outlined in the OIA.

If you are submitting on this discussion document, you may wish to indicate any grounds for withholding information contained in your submission. Reasons for withholding information could include that information is commercially sensitive or that the submitters wish personal information such as names or contact details to be withheld. MPI will consider such grounds when deciding whether or not to release information.

Any decision to withhold information requested under the OIA may be reviewed by the Ombudsman.

For more information please visit <http://www.ombudsman.parliament.nz/resources-and-publications/guides/official-information-legislation-guides>

### 1.3 WHAT HAPPENS NEXT

All submissions will be considered after consultation has closed and a recommendation will be made to the relevant decision maker about the final version of the proposed Notice to be issued. A summary of submissions and analysis will be sent to all submitters and posted on the MPI website.

The new Notice is scheduled be in place on 10 July 2017.

Key dates	Action
Friday 2 June 2017	Consultation starts
Friday 23 June 2017	Consultation closes (3 weeks consultation)
26 June 2017 – 30 June 2017	Consideration of submissions (1 week)
3 July 2017 – 7 July 2017	Final review (1 week)
Monday 10 July 2017	Notice is issued

## 2. Background

### **Issues that the proposals in the draft Notice and this discussion document are intended to address**

The proposals in the draft Notice and this discussion document cover the following two classes of animal material and animal products, and only to the extent that they are intended to be re-exported from New Zealand with official assurances:

- animal material and animal products imported from overseas countries (i.e. imported animal material and imported animal products); and
- animal material and animal products that were originally exported from New Zealand but subsequently returned (i.e. returned animal material and returned animal products).

The above classes of animal material and animal products were, at some point, handled or processed outside of New Zealand's regulatory system. As such, those animal material and animal products are generally not eligible for export with official assurances as official assurance eligibility is conditional upon processing being carried out only within New Zealand premises operating under a risk management programme (RMP) registered under the Animal Products Act 1999. This requirement ensures that animal material and animal products are only processed within premises that have been independently assessed as having the appropriate capacity and capability to manage associated risks. This feature forms the basis of official assurances that the Government provides to overseas countries in relation to animal material and animal products exported from New Zealand.

MPI is proposing to provide a process for incorporating the above classes of animal material and animal products into the New Zealand official assurance chain so they could be eligible for export with official assurances. This process would involve confirmation of official assurance eligibility and fitness for purpose through inspection by designated officials.

### **Imported animal material and imported animal products**

The proposals apply to imported animal material and imported animal products that are intended to be re-exported from New Zealand with official assurances. Imported animal material and imported animal products that are intended for domestic sale or for export without official assurances are out of scope.

Since imported animal material and imported animal products originated outside New Zealand's regulatory control, it becomes necessary that the eligibility of those animal material and animal products is confirmed through inspection before they are accepted into New Zealand's official assurance system.

Nothing in the draft Notice affects any requirements under the Biosecurity Act 1993 or the Food Act 2014. Importers of animal material and animal products, whether intended for domestic sale or for export (with or without official assurances), are required to comply with existing requirements under those Acts.

### **Returned animal material and animal products**

The proposals apply to returned animal material and returned animal products that are intended to be re-exported with official assurances. Returned animal material and returned

animal products that are intended for domestic sale or for export without official assurances are out of scope.

Animal material or animal products that were exported from New Zealand and have been cleared for entry into a foreign country are regarded as product of that country and cannot be categorised as “returned animal material or returned animal products” when imported back to New Zealand. They are, for the purposes of the proposals, categorised as imported animal material and imported animal products.

The proposed Notice requires the eligibility of returned animal material and returned animal products to be confirmed before they are accepted back into New Zealand’s official assurance system. This is necessary because such animal material and animal products had left New Zealand’s regulatory control when originally exported.

All returned animal material and returned animal products, whether intended for re-export (with or without official assurances) or domestic sale, must also comply with the requirements of the Biosecurity Act 1993.

### **Empowering provision in the Animal Products Act 1999 (the Act)**

The proposed requirements are specified in the form of a Notice to be issued under section 60 of the Act, which empowers the Director-General to specify requirements that are necessary for:

- facilitating access to overseas markets of New Zealand’s animal products; or
- meeting the requirements of relevant importing countries, or can reasonably be expected to satisfy the requirements of those countries; or
- safeguarding assurances provided by New Zealand in relation to animal products.

The requirements specified in the proposed Notice are consistent with the above purposes.

## **3. Summary of proposed requirements**

<b>Issue/Subject</b>	<b>Proposal</b>	<b>Relevant clause(s) in the Notice</b>
Application	The Notice will apply to: <ul style="list-style-type: none"><li>• all imported animal material and imported animal products intended for re-export with official assurances</li><li>• all returned animal material and returned animal products intended for re-export with official assurances</li></ul>	Clause 1.1
Definitions	Important terms used in the Notice have the meaning given to them in the “Definitions” clause. The terms “imported animal material”, “imported animal	Clause 1.2

	products”, “returned animal material”, “returned animal products” are all defined in the Notice. Those definitions would determine what’s in or out of scope.	
Inspection	Every consignment of animal material and animal products to which the Notice applies would be subject to an official assurance eligibility inspection.	<ul style="list-style-type: none"> <li>• Clause 2.1 for imported animal material and imported animal products</li> <li>• Clause 3.1 for returned animal material and returned animal products</li> </ul>
Purpose of inspection	To ensure fitness for purpose and compliance with eligibility requirements for export with official assurances	<ul style="list-style-type: none"> <li>• Clause 2.1(5) for imported animal material and imported animal products</li> <li>• Clause 3.1(5) for imported animal material and imported animal products</li> </ul>
Who carries out the inspection?	Official assurance verifier who is responsible for providing official assurance verification to the RMP premises where the inspection is carried out or a Biosecurity Officer who is also a warranted Animal Products Officer	<ul style="list-style-type: none"> <li>• Clauses 2.1(4) and 2.3(3) for imported animal material and imported animal products</li> <li>• Clauses 3.1(4) and 3.3(3) for returned animal material and returned animal products</li> </ul>
When must the inspection be carried out?	No later than 72 hours after Biosecurity clearance and before the consignment is further processed or unpacked (other than devanning as part of Biosecurity or Customs inspection); or Concurrently with Biosecurity clearance	<ul style="list-style-type: none"> <li>• Clauses 2.1(2) and 2.3(2) for imported animal material and imported animal products</li> <li>• Clauses 3.1(2) and 3.3(2), (3) for returned animal material and returned animal products</li> </ul>
Notification to official assurance verifier	The responsible exporter or operator to notify the official assurance verifier with relevant import information	<ul style="list-style-type: none"> <li>• Clause 2.2 for imported animal material and imported animal products</li> <li>• Clause 3.2 for returned animal material and returned animal products</li> </ul>
Place of inspection	At an RMP premises or at a Biosecurity transitional facility	<ul style="list-style-type: none"> <li>• Clause 2.3 for imported animal material and imported animal products</li> <li>• Clause 3.3 for returned animal material and returned animal products</li> </ul>
Scope of inspection	<ul style="list-style-type: none"> <li>• a documentary check of notified import</li> </ul>	<ul style="list-style-type: none"> <li>• Clauses 2.4 and 2.5 for imported animal material</li> </ul>

	<p>information; and</p> <ul style="list-style-type: none"> <li>• a product reconciliation check (flexibility where applicable)</li> <li>• provision for full inspection where necessary</li> </ul>	<p>and imported animal products</p> <ul style="list-style-type: none"> <li>• Clause 3.4 for returned animal material and returned animal products</li> </ul>
Criteria for official assurance eligibility clearance	<ul style="list-style-type: none"> <li>• The official assurance verifier is satisfied that the consignment is fit for intended purpose and complies with applicable export eligibility requirements;</li> <li>• Clearance may be full or conditional</li> <li>• Returned products that were manipulated in transit are not eligible for clearance</li> <li>• Returned products that were originally exported without an official assurance are not eligible for clearance</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 2.7 for imported animal material and imported animal products</li> <li>• Clause 3.5 for returned animal material and returned animal products</li> </ul>
Returned animal material and returned animal products that were originally exported with an official assurance and with an exemption issued under section 60B of the Act	<p>May be eligible if:</p> <ul style="list-style-type: none"> <li>• the exemption relates to labelling requirements only and the animal material or animal products are relabelled correctly for the new destination country; or</li> <li>• the exemption relates to compositional requirements and the animal material or animal products are reprocessed to meet any relevant standards and specifications for the time being in force.</li> </ul>	Clause 3.6
Import inspection plan	RMP premises to have an import inspection plan	<ul style="list-style-type: none"> <li>• Clause 2.8 for imported animal material and imported animal products</li> <li>• Clause 3.7 for returned animal material and returned animal products</li> </ul>

## 4. Proposed requirements

### 4.1 AMALGAMATION OF REQUIREMENTS

MPI currently operate two industry-specific systems for the inspection and clearance of imported and returned animal products. There is a system for dairy products and a separate one for non-dairy animal products. This is due to dairy products being a late inclusion in the Act.

The legal Notice, which sets out the requirements for the inspection of imported and returned non-dairy animal material and animal products (i.e. *OMAR 01/172 Import of Foreign Animal Material and Animal Products and Return to New Zealand of New Zealand Animal Material and Animal Products for Domestic Use or Export*) was originally issued in 2001. It did not cover dairy material and dairy products as they were outside the scope of the Act at that time. When dairy material and dairy products were included in the Act in 2005, OMAR01/172 was not amended so a separate system was developed for dairy material and dairy products.

MPI proposes to revoke the two industry-specific systems and replace them with a single system that applies across all animal material and animal products, as reflected in the proposed Notice. This would ensure consistency and uniformity of processes, and provide a single point of reference for MPI, the industry, and other stakeholders.

The proposed Notice will revoke and replace *OMAR 01/172 Import of Foreign Animal Material and Animal Products and Return to New Zealand of New Zealand Animal Material and Animal Products for Domestic Use or Export*.

**Question 1:** Do you agree with having a single Notice covering all classes of imported and returned animal material and animal products?

### 4.2 APPLICATION OF THE PROPOSED NOTICE

The proposed Notice covers the following classes of animal material and animal products that are intended for export from New Zealand with official assurances:

- imported animal material and animal products;
- returned animal material and animal products.

Animal material and animal products of the above classes are outside the scope of the Notice if intended for domestic sale or for export without official assurances.

The Notice defined imported animal material and animal products as those imported from an overseas country. These include animal material and animal products of New Zealand origin that had been:

- cleared for entry into an overseas country by the relevant competent authority; or
- further processed in a foreign country and imported into New Zealand; or
- traded in a foreign country and imported into New Zealand; or

- stored outside New Zealand on a vessel or in a foreign country, whether under customs bond or not, for a period that is longer than that which is reasonably required for border clearance. (This period does not include any period when the animal material is held at the foreign port pending a decision by the foreign government or until a vessel or an aircraft can be arranged for transport out of the foreign port).

The Notice defined returned animal material and animal products as those that were originally exported from New Zealand but were subsequently returned after without completing border clearance procedures within expected timeframes at the importing country for regulatory or non-regulatory reasons.

The application provisions are specified under clause 1.1 of the proposed notice.

**Question 2:** Do you agree with the application/scope of the proposed Notice? Feel free to comment on the scope and/or the definitions of the different classes of animal material and animal products covered by the Notice.

## 4.3 INSPECTION AND CLEARANCE REQUIREMENTS

### 4.3.1 Purpose of inspection and clearance

The purpose of the inspection is to ensure that imported and returned animal material and animal products are fit for their intended purpose and meet applicable export eligibility requirements for official assurances before they are allowed to re-enter the official assurance chain. This is specified under clauses 2.1(5) and 3.1(5) of the proposed Notice.

**Question 3:** Do you have any comments in relation to the stated purpose of official assurance eligibility inspection?

### 4.3.2 Inspection to be carried out by official assurances verifiers

Currently, OMAR 01/172 requires the inspection of imported and returned non-dairy animal material and animal products to be carried out by animal product officers. On the other hand, inspection of dairy animal material and animal products are carried out by official assurance verifiers (i.e. the recognised agency responsible for providing verification services to the owner of the dairy material or products).

MPI proposes a common approach where inspection of all imported and returned animal material and animal products are carried out by official assurance verifiers. The inspection required in the proposed Notice is ultimately about determining eligibility for official assurances, which is primarily the function of official assurance verifiers. If there is a need for additional controls, enforcement actions or product downgrade that require the exercise of an animal product officer's powers, this could be undertaken using the normal processes that apply to any animal products at any point in the production chain.

To streamline the inspection process, the proposed Notice provides an allowance for consignments to undergo official assurance eligibility inspection together with Biosecurity inspection. In this instance, inspection may be carried out by an official assurance verifier or a

Biosecurity Officer who is also a warranted animal product officer. The requirements are set out in clauses 2.3 and 3.3 of the proposed Notice.

**Question 4:** Do you have any comments in relation to the proposal for inspection to be carried out by official assurances verifiers?

#### 4.3.3 Time and place of inspection

The timing of official assurance eligibility inspections is important. Unreasonable delay increases the risks of consignments being unpacked or further processed and accidentally or deliberately introduced into the official assurance chain without clearance. A delay could also make it challenging for a verifier to attest that a consignment has not been subject to unauthorised alteration prior to inspection. Consequently, MPI proposes that inspection is carried out no later than 72 hours after the consignment has been granted full Biosecurity clearance and before it is unpacked or further processed.

A dispensation provision is being proposed where the 72 hour rule is not complied with. Eligibility for a dispensation would be conditional on the verifier being satisfied that the delay is not reasonably foreseeable and is outside the exporter's or operator's control, and the consignment was stored only at an RMP premises and was not opened or further processed during storage.

**Question 5:** Do you have any comments in relation to the proposed 72 hour rule for inspection and the associated dispensation provisions as discussed?

The place of inspection must comply with existing legal requirements relating to premises where processing of animal products (including storage) may occur. Under the Act, animal material and animal products must only be processed within RMP premises if they are to be eligible for export with official assurances. Therefore, MPI proposes that official assurances eligibility inspections are carried out at the first RMP premises that receives the consignment. The first RMP premises is specifically preferred because the risk of unauthorised alteration may increase if inspection is carried out after a consignment has been through a number of premises.

To ensure flexibility MPI would allow inspection to be carried out at another premises if it could not be done at the first receiving premises. The operator or exporter in control of the consignment would be responsible for ensuring that the consignment was not subject to unauthorised alteration and was transferred to that other premises without delay.

As previously explained, MPI is proposing to allow Biosecurity and Official assurance eligibility inspections to be carried out together where possible. MPI is aware that this may have to occur at a premises that is a Biosecurity approved transitional facility but not an RMP premises. As such, one of the factors that would have to be considered is whether or not the conditions of the premises would pose any risk to the fitness for intended purpose of the animal material or animal products.

**Question 6:** Do you have any comments in relation to the proposed place for inspection as discussed?

#### **4.3.4 Notification of verifiers where official assurance eligibility inspection is required**

As proposed in the Notice, official assurance eligibility inspection would have to be initiated by the relevant exporter or operator who intends to have an imported or returned consignment eligible for export with official assurances. Where that is the case, the relevant exporter or operator would be required to notify their official assurance verifier.

For imported animal material and animal products, the notification would have to include information set out under clause 2.2 of the proposed Notice, which includes, among other things, the relevant export certificate (original or certified copy) issued by the competent authority of the exporting country.

For returned animal material and animal products, the required information are set out under clause 3.2 of the proposed Notice, which includes, among other things, the relevant MPI export certificate (original or certified copy).

**Question 7:** Do you have any comments in relation to the information that is required to be notified to the official assurance verifier, as set out under clauses 2.2 and 3.2 of the proposed Notice?

#### **4.3.5 Scope of official assurance eligibility inspections**

MPI proposes that an official assurance eligibility inspection includes:

- a documentary check of the information that is required to be notified to the verifier, as explained in section 4.3.4 above; and/or
- a product reconciliation check. A product reconciliation check involves authentication of the details in the accompanying export certificate or official assurance (i.e. overseas export certificate in relation to imported consignments and MPI export certificate in relation to returned consignments) by checking for product quantity and labelling correlation.

For imported animal material and animal products, a verifier may reduce the frequency of product reconciliation check in a situation where the same exporter or RMP operator is importing the same type of animal material or animal products from the same supplier in the same country at regular intervals. Clause 2.5 of the proposed Notice sets out the relevant requirements.

For returned animal material and animal products, a verifier may forego product reconciliation check if the animal material or animal products have been returned in the original container with the original container seal still intact. The returned animal material and animal products must also have been subject to product reconciliation check under the Biosecurity Act 1993 and cleared with any resulting change to product packaging or shipping container seal documented in the relevant Biosecurity clearance documentation.

A full inspection whereby each individual unit within a consignment along with the package in which they are contained is inspected would generally not be required. However, there would be an exception to this rule. Where the verifier reasonably believes that product tampering or manipulation may have occurred, or a full inspection is required by the OMAR of the intended country of re-export, the verifier may conduct a full inspection. This discretion to conduct a full inspection applies to both imported and returned animal material and animal products.

**Question 8:** Do you have any comments in relation to the proposed scope of official assurance eligibility inspection place as discussed?

#### **4.3.6 Criteria for official assurance eligibility clearance**

As explained, the purpose of an official assurance eligibility clearance is to ensure fitness for intended purpose and compliance with applicable export eligibility requirements for official assurances. As such a verifier would not grant a clearance after inspection unless he or she is satisfied that the consignment being inspected is fit for intended purpose and complies with all applicable export eligibility requirements for official assurances.

**Question 9:** Do you have any comments in relation to the proposed criteria for official assurance eligibility clearance as discussed?

#### **4.3.7 Specific restrictions in relation to certain classes of returned animal material and animal products**

The following classes of returned animal material and animal products would not be eligible for an official assurance eligibility inspection and therefore would not be allowed to be introduced into the official assurance chain:

- returned animal material or returned animal products that have been further manufactured, processed or repackaged outside of New Zealand while being transported from or back to New Zealand, and regardless of any treatment that may have been carried out under the Biosecurity Act 1993 as a condition for re-entry into New Zealand; and
- returned animal material or returned animal products that were originally exported from New Zealand without an official assurance.

As stated, eligibility for official assurances is conditional upon processing being carried out in RMP premises. For both of the above-mentioned classes, processing would have happened outside the RMP chain with inadequate or no regulatory oversight at all.

**Question 10:** Do you have any comments in relation to the proposed restrictions as discussed?

Additionally, specific provisions are being proposed for the eligibility of returned animal material and returned animal products that were originally exported with an official assurance and with an exemption issued under section 60B of the Act. A section 60B exemption is an exemption from a food standard issued under the Food Act 2014, including the Food Standards Code. This would normally be an exemption from specific compositional or labelling requirements.

Under the proposed Notice, returned animal material and returned animal products that were originally exported with an official assurance and with a section 60B exemption may be granted official assurance eligibility clearance if the animal material or animal products are reprocessed in a manner that ensures compliance with the food standard from which they were exempt. Alternatively, the animal material or animal products may be re-exported without further processing or relabelling to the original destination country, where such re-export is permitted by that country.

**Question 11:** Do you have any comments in relation to the proposed requirements in relation to returned animal material and returned animal products that were originally exported with an official assurance and with an exemption issued under section 60B of the Act as discussed?

#### **4.3.8 RMP premises where official assurance eligibility inspections are carried out must have an import inspection plan**

It is essential that premises where inspections take place have the appropriate processes and procedures in place to facilitate compliance with the requirements of the Notice and to ensure that uninspected products are clearly distinguishable from export eligible products. As such MPI proposes that those premises have an official assurance eligibility inspection plan. The inspection plan would be verified during routine verification.

**Question 12:** Do you have any comments in relation to the proposal for stated RMP premises to have an official assurance eligibility inspection plan?

## **5. Submissions**

You may compile your submissions by answering the 12 questions in this discussion document or comment on any requirements in the proposed Notice.

MPI recommends that the body of your submission is set out in a format that is identical or similar to the table in Annex 1 below.

## Annex 1: Recommended table of submissions

Please write down your comments to each question in this discussion document in the corresponding row in Column 2.

Question Number	Comments
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	