

Chair
Cabinet Economic Development Committee

National Animal Identification and Tracing (NAIT) legislative amendments: policy approvals

Proposal

1. This paper seeks approval of proposals for inclusion in a National Animal Identification and Tracing (NAIT) Amendment Bill (the Bill) and amendment regulations, and authorisation to proceed to drafting. The changes address the recommendations of the NAIT Review as well as lessons from the *Mycoplasma bovis* response, to improve the NAIT scheme and make it fit for the future.

Executive summary

2. The legislative package includes amendments to address recommendations of the OSPRI¹-led NAIT Review and issues arising from the Ministry for Primary Industries (MPI) response to *the Mycoplasma bovis* incursion. These changes are essential to address failures in the scheme.
3. I am seeking Cabinet approval to proceed to drafting the Bill and amendment regulations. The Bill is category 2 on the Government's Legislation Programme 2019 (to be passed within the year). One legislative package will include changes to the NAIT Act 2012, NAIT (Infringement Offences) Regulations, NAIT (Exemptions and Obligations) Regulations, and Animal Products Regulations 2000, to give effect to the proposals.
4. Most recommendations of the NAIT Review have already been, or are being, implemented through non-regulatory means. The package in this paper is one part of, and supports, many other actions being taken by NAIT Limited (the organisation running the scheme) and MPI, to improve the system and increase compliance. NAIT Limited is revising its Standards, making database and business system and process improvements, and undertaking farmer education. Both agencies are increasing enforcement activity.
5. Public consultation on the majority of the proposals in the package was conducted for eight weeks in late 2018, and 92 submissions were received. Separate consultation was undertaken on the performance management framework proposals with the governance bodies of the existing NAIT organisation and central agencies.
6. Overall there was good support from submitters for the package of changes. The proposals in this paper take account of feedback received and input from all stakeholder engagements. Once Cabinet has authorised drafting of the Bill and regulations I intend to release the summary of submissions (attached to this paper) on the MPI website.
7. The package's objectives are to improve the legislative framework underpinning the NAIT scheme, to:
 - improve traceability;

¹ Operational Solutions for Primary Industries - OSPRI

- incentivise compliance with the scheme;
 - encourage the effective and efficient use of NAIT data;
 - ensure the framework is fit for the future (strengthen the scheme).
8. The package as a whole is unlikely to be contentious, and there is good general support for the changes. However, two proposals will increase penalties, and others deal with offence provisions.
9. I also propose a new offence for transporting untagged animals. More than half of the submissions that commented on this proposal supported (or offered qualified support) for it. However the transport sector was not in favour. This is therefore likely to stimulate some debate. The movements of animals, however, are a critical control point for biosecurity and this is a clear gap in the traceability chain. It is already an offence for a Person in Charge of an Animal (PICA) to *send* an untagged animal to another farm or to a saleyard, but further behaviour change is needed. My aim is that transporters will leave untagged animals behind, thereby providing an incentive for PICAs to ensure their animals are tagged.
10. A summary table of all the changes is in Appendix One. The main proposals are:

<p>A: To improve traceability</p> <ul style="list-style-type: none"> • Require that PICAs only use tags at the specific location they are issued for • Rename 'impracticable to tag' as "unsafe to tag", and remove the exemption in 5 years • Change the timeframe for when a PICA must declare a movement of unsafe to tag animals to 'before sending', require untagged animals to be marked, and add an associated offence
<p>B: To provide incentives to comply</p> <ul style="list-style-type: none"> • Enable a seller to make the animal location history available to a purchaser • Align penalty limits with those in the Biosecurity and Animal Products Acts • Align infringement fees with those in the Biosecurity and Animal Products Acts • Make it an offence to transport an untagged animal that does not have an exemption
<p>C: To improve access to, and use of, NAIT data</p> <ul style="list-style-type: none"> • Amend the Act's purposes of holding core data to include stock theft and wandering stock • Enable all public sector organisations to apply for access to NAIT core data • Improve access to NAIT information by MPI staff, and facilitate its use by other authorities
<p>D: To help ensure the scheme is fit for the future</p> <ul style="list-style-type: none"> • Amend the definition of PICA to clarify that responsibilities apply to everyone in charge of NAIT animals • Require PICAs to report annually the presence and estimated numbers of farmed non-NAIT animals • Allow the Minister to formally inform the NAIT Board of government priorities and expectations • Set the expectation and requirements for a NAIT organisation to keep the Minister informed on its performance in delivering its statutory duties and functions • Amend the threshold for Ministerial intervention in a NAIT organisation • Permit the Minister to issue 'directions', with commensurate safeguards • Allow the Minister to, if desired, appoint a representative to assist the NAIT Board

11. There are also 13 technical amendments. These clarify intent, fix drafting omissions, or make minor corrections, clarifications and enhancements. They are solely aimed at making the legislation work better, not changing what was originally intended by Parliament.
12. I am not proposing in this package to change the company form of the current NAIT organisation. However, I have asked officials to undertake policy development in collaboration with central agencies on the best ways to ensure the NAIT data and database are protected and secured for farmers, industry and the public good, should a different NAIT organisation be appointed in the future, and to advise me on this in time for any change to be included in the legislative package.

Background

13. The National Animal Identification and Tracing (NAIT) scheme is New Zealand's system for identifying and tracing animals. It currently traces cattle and deer, through using specific tags and the NAIT database. NAIT is a vital part of our national biosecurity system. The scheme helps us to respond to and manage animal diseases by providing information on where animals are located, their movements to other places, and the persons in charge of them (PICAs). NAIT data is also useful for other industry and public good purposes.
14. The NAIT scheme is currently run by NAIT Limited, which is a wholly owned subsidiary of the not-for-profit company OPSRI Limited². OSPRI is owned by three shareholders, Beef+LambNZ, DairyNZ and Deer Industry NZ. NAIT Limited has a governance Board, which is supported by a Stakeholder Council.
15. The Government appropriates \$2.14 million annually to NAIT Limited to support the scheme. The rest of the organisation's income (\$5.8 million in the 2017/18 year) comes from tag and slaughter levies paid by scheme participants. The Ministry for Primary Industries spends an additional \$5.2 million annually on NAIT compliance activity.
16. This paper does not contain any proposals to change the current delivery model (for example, to make the company that runs the scheme a Crown entity).

The OSPRI-led NAIT Review

17. In mid-2016 OSPRI commissioned a review to evaluate NAIT's performance and determine if improvements were needed. Its findings and recommendations were reported to the Minister for Biosecurity at the end of March 2018.

Responding to the Mycoplasma bovis incursion

18. The OSPRI-led NAIT Review was overtaken by the *Mycoplasma bovis* incursion. The response to this cattle disease showed failings in the NAIT system. Cabinet appropriated \$472 million over the 2017/18 to 2019/20 years for the *Mycoplasma bovis* eradication programme [CAB-Min-18-0274 refers], which demonstrates the serious impact such incursions can have. The speed and accuracy of tracing infected cattle was hampered by scheme failures, and increased response times and costs.

² Operational Solutions for Primary Industries Limited - OSPRI

The proposed legislation package

19. I tasked officials to: implement the Review recommendations; address lessons learnt from the biosecurity response to *Mycoplasma bovis*; and to ensure the NAIT scheme is fit for the future. Most of the Review recommendations are being, or have been, implemented through non-regulatory means.
20. Late last year the Ministry for Primary Industries (MPI) consulted publicly on a range of legislative change proposals to strengthen the scheme. These changes are essential to support the non-regulatory actions and fill identified gaps, so that we can regain confidence in the NAIT scheme.

Objectives of the proposed legislation package

21. The package includes amendments to the NAIT Act 2012, two sets of existing regulations under the NAIT Act and NAIT-animal related regulations under the Animal Products Act 1999.
22. I intend that the select committee will be able to examine the entire proposed package, whether the changes are to primary legislation or regulations, so that stakeholders can air their views.
23. The objectives of the package are to:
 - a improve traceability;
 - b incentivise compliance with the scheme;
 - c encourage the effective and efficient use of NAIT data;
 - d ensure the framework is fit for the future.
24. The changes proposed will do this by:
 - filling gaps;
 - addressing issues identified through the NAIT Review and the *Mycoplasma bovis* response;
 - clarifying the obligations of, and consequences for, system participants;
 - making technical amendments to the NAIT Act.

Policy proposals

25. The NAIT Review and the *Mycoplasma bovis* outbreak showed significant failures in the scheme, in particular, issues in traceability due to untagged animals and general non-compliance by PICAs, with weak incentives to comply. A lack of clarity around some of the roles and responsibilities of scheme participants was also identified, along with some problems in accessing NAIT data.
26. Proposals for the Bill and regulations take into account feedback received during public consultation and other engagement with stakeholders. The proposals are relatively straightforward, and although some technical issues may be raised at select committee, overall I do not expect the package as a whole to be controversial. However, there is likely to be debate around the proposed increase in penalties and fines, and the new offence for transporting untagged animals.

27. The proposals in this paper are set out in the order of the objectives above. They are also summarised in Appendix One. A summary of submissions is also attached to this paper.

A: Proposals to improve traceability

28. Traceability is reliant on effective tagging of animals and recording any untagged ones. This is fundamental to the scheme. My aim is to ensure there are incentives to get all animals tagged, and know where they have been and where they have gone.
29. PICAs often keep a stock of tags. When the animal is tagged, the tag is activated and must be registered in the database. Tags are read electronically or manually when the animals are moved.
30. Adjusting the rules to make them practical for farmers and having associated offences for non-compliance, will deal with the issues identified. Three proposals relate to animal tagging.

Require that PICAs must only use NAIT tags at the specific location they were issued for, with a 12-month transition period and an associated offence provision

31. Tags relate to the animal's location, not the individual PICA, but some PICAs have been taking their stock of tags with them when they change farms, and using them elsewhere.
32. I propose that PICAs will only be able to use the tags issued for a specified NAIT location. This proposal arose from the NAIT Review, which found some farmers are taking tags with them when they move, which compromises the animals' traceability as the primary information in the NAIT database relates to the NAIT location the animals are at.
33. The change will link all NAIT animals to their birthplace, which will give more complete information about where animals have been and what contact they have had with others.
34. Most submitters supported this change, although some noted practical considerations. NAIT shareholders³ suggested a lead-in period to ensure farmers can use existing stocks of tags, and that will be provided for.

Rename the 'impracticable to tag' exemption as "unsafe to tag", make the sole criterion that the safety of the PICA is at risk, and remove the exemption five years after the amendment bill is enacted

35. Ideally, in a tracing system all animals should be tagged. However, there is currently an exemption available for untagged animals that are going straight to a meat works. (Note that there is no exemption for movements to saleyards or other farms).

³ NAIT Limited's shareholders are Beef+LambNZ; DairyNZ; and Deer Industry NZ

36. The NAIT Review and submitters said that this exemption, which aims to protect a farmer from harm when re-tagging unruly animals, has been abused and used inappropriately, for example to avoid paying to tag an animal or because the PICA is too busy. Most submissions supported the change proposed, with some questioning whether there should be an exemption at all.
37. Letting untagged animals be moved around has got to stop. I consider this change will re-focus the exemption specifically on the danger to the health and safety of the person in charge of the animal, rather than the “inconvenience” of re-tagging an animal.
38. Animals are supposed to be tagged before they are six months old. Work is going on at NAIT Limited to improve tag retention by ensuring tags meet the international requirements, so tag failures and the number of adult beasts needing re-tagging will reduce. I am therefore signalling that the lifespan of this exemption is finite.
39. Some countries (such as the United Kingdom) have no such exemption. Therefore, five years after the legislation is passed, all farmers will have to either have the equipment needed to tag all their animals, or find a way (for example, use a routine veterinarian visit) to do so. This timeline gives farmers enough time to change their re-tagging practices.

Change the timeframe for when a PICA must declare the movement of unsafe to tag animals from '48 hours prior' to “before sending”, and set a requirement that unsafe to tag animals must be visibly identifiable (that is, clearly marked); and provide an associated offence

40. Any unsafe to tag⁴ animals are required to be declared 48 hours before they are moved to the meatworks. Both the NAIT Review and submitters said that it is difficult to meet this requirement because animals are not mustered until just prior to the movement and only then would an untagged animal be identified.
41. I therefore propose that the PICA has more flexibility in reporting timeframes, as long as the declaration is made before the animal is sent to the meatworks. The change will be easier for PICAs to comply with, as animals are often mustered less than 48 hours before transportation to a meatworks, while retaining the goal of maintaining a record of untagged animals.
42. Marking the animal will help the transporter and destination meatworks to know which animal is unruly, and alert the transporter to check with the PICA that the animal has an exemption.
43. This new relaxed timeframe is a temporary measure as it will become obsolete once the exemption is removed (see proposal above).

⁴ See previous proposal re name change for this exemption

B: Proposals to provide incentives to comply

44. The NAIT Review and response to the *Mycoplasma bovis* incursion showed that low compliance with NAIT obligations was the main failure that led to the difficulty MPI had in tracing potentially infected animals. Three proposals aim to improve compliance.

Enable a seller to make the location history of a NAIT animal available to a purchaser

45. One of the direct intended benefits to farmers for their compliance with NAIT was an ability for them to see an animal's history before purchasing it, to inform the buying decision and help farmers manage their own biosecurity risks. Access for purchasers to location history was specifically included in the Act as one of the purposes of holding core data.
46. However, the provision has been interpreted as relating to 'personal information', so in practice, access to this data was often difficult to get. This weakened the direct benefit of NAIT for farmers and PICAs, and could be reducing the incentive to comply with the NAIT regime. I therefore propose a change to focus on the seller providing the animal location history information. This approach deals with any perceived privacy issues.
47. Eighty percent of the submissions on this proposal supported it. Some comments were made about it possibly creating a perverse incentive for people to mask the identity of their animals, but that would be (as now) illegal, and should be identified through NAIT Limited's monitoring and compliance activity.
48. The NAIT database application will enable a seller to generate their own lifetime traceability reports, on request via their NAIT account.
49. I consider this change proposal will achieve a balance between protecting the identification of previous PICAs (names and phone numbers would not be available), and making sure that the free-flow of information delivers PICAs a direct benefit from complying with NAIT obligations.
50. Some submitters wanted there to be some sanction if a seller does not provide the information. Unfortunately, that is not possible under NAIT provisions as the exchange of information between individual citizens falls under civil law. However, if this proposal is agreed there will be an education campaign to encourage purchasers to request the information. I anticipate that over time the provision of such information will become a standard part of the terms of sale and purchase contracts for NAIT animals.

Align penalty limits with those in the Biosecurity and Animal Products Acts

51. The ability for the courts to deal with egregious offending is currently capped to the equivalent of 10 individual non-compliant animals [\$10,000 for individuals; \$20,000 for body corporates]. This is too low.
52. Given the serious impact of NAIT non-compliance, demonstrated by the cost of responding to *Mycoplasma bovis*, I propose increasing the maximum penalty for prosecutable offences to the same level as those in the Biosecurity and Animal Products Acts [\$100,000 for individuals and \$200,000 for body corporates].

53. This change will give judges a broader range of penalties so they can choose a sentence commensurate with the level of offending.
54. The majority of submitters supported this proposal, with comments around the need to demonstrate the seriousness of non-compliance, and its deterrence effect. Note that this change will only apply to prosecution sentencing.

Align infringement fees with those in the Biosecurity and Animal Products Acts

55. Infringements for smaller scale offending [\$300 for failing to register as a PICA; \$150 for other offences] are also lower than those in the Animal Products and Biosecurity Acts, which sends a confusing message about the importance of NAIT compliance.
56. Most submissions supported this proposal, saying it is an important signal to potential offenders about the serious nature of non-compliance and be more consistent with general biosecurity legislation. Some commented that infringement fees would be disproportionately high.
57. I consider that aligning the fees for similar offending [at \$800 for failing to register as a PICA; \$400 for other offences], alongside MPI's increased NAIT enforcement, will provide a good incentive for people to obey the basic rules that underpin our biosecurity response capability.

Make it an offence to transport an untagged animal that does not have an exemption

58. The majority (55%) of submitters supported (or offered qualified support) for this proposal. However the transport sector was not in favour. This proposal is therefore likely to stimulate some debate.
59. The Road Transport Forum said that they would support the change only if transport operators were exempt. The main reasons given were around the impracticality of transport operators checking for tags in often poor light conditions, and the risk that responsibility for ensuring animals are tagged would be perceived to transfer to the transport operator.
60. However, the movement of animals is a critical control point for biosecurity and there is a clear gap in the traceability chain. It is already an offence for a PICA to *send* an untagged animal to another farm or to a saleyard, but further behaviour change is needed. I consider the person *transporting* animals should also have a responsibility to ensure they are NAIT compliant.
61. I propose that it becomes an infringement offence to transport an untagged animal that does not have an exemption. This would mean that a truck driver who does this could potentially receive an infringement notice. The aim is that untagged animals are left behind. This offence will help change behaviour and increase compliance with the scheme.
62. The estimated costs are described in the attached impact statement. I do not expect overall costs to the sector to be onerous because PICAs are already required to have all their animals tagged, but there are likely to be some implementation considerations.

63. This proposal may therefore create debate and I will be interested in the views of the select committee, as I am seeking to lock down the integrity of the animal movement chain and fill an obvious gap.
64. My aim is that transporters will leave untagged animals behind, thereby providing an incentive for PICAs to ensure their animals are tagged. I do not intend to prescribe how a driver can ensure they have a defence if caught with untagged animals – they will be free to choose the best method for them. If this offence is agreed, MPI will work with the sector and transporters to produce best practice guidance and clarify what will constitute a defence for an animal transporter. A defence would be available to a transporter who took all reasonable steps to avoid committing the offence. It is possible that a transport operator will want a written assurance from the farmer that the animals are NAIT compliant before loading them, or may choose to look at the tags themselves as the animals are loaded.
65. Enforcement of this provision will be even more straightforward once the exemption for untagged animals referred to in paragraphs 35-39 is removed five years after the legislation comes into force.

C: Proposals to improve access to, and use of, NAIT data

66. NAIT core data is useful for many purposes and what it can be accessed for is set out in the Act. The reasons include: enabling NAIT officers, Authorised Persons, and other persons with duties under the Act to carry out those functions; facilitating purposes of other Acts (such as the Biosecurity Act, Primary Products Marketing Act); responding to food-borne and other animal diseases; supporting productivity, market assurance and trade requirements; responding to natural disasters or emergency service requests; providing data for policy development on primary industries; enabling NAIT to publish general agricultural statistics; and, providing data to enable a purchaser to trace the life history of the animal. If a request does not meet one of these purposes, core data cannot be released.⁵
67. As a general principle, agencies that need information to do their jobs should be able to get it in the most effective and efficient way. Three proposals address appropriate and speedy access to core NAIT information.

Amend the Act's purposes of holding core data to include responding to stock theft and wandering stock

68. Common situations such as stock theft or wandering stock are not expressly covered under the purposes for holding data set out in the Act, so information on where animals belong is not as easily accessible as it should be to those who need it to respond to those incidents.
69. I consider this change supports our recent addition of stock rustling behaviour as a separate offence in the Crimes Act. Submitters generally support this proposal, with some noting that they always thought these were already purposes for holding the data.

⁵ Anyone can apply to access anonymised data

70. The Animal Control Officers Institute (council staff) endorse this proposal. The New Zealand Transport Agency also supports it and notes that, due to their size, wandering cattle are the greatest road safety risk involving animals. With 599 incidents involving cows in 2017/18⁶ and 587 in 2018/19, any actions to help identify these animals will be beneficial and reduce costs for all parties as their impoundment times will reduce. NZ Police supports this proposal.

Enable all public sector organisations to apply for access to NAIT core data for the purposes of the Act

71. Core data may include a person's name or address. The current definition of public sector agencies that are able to request this data for one or more of the purposes in the Act is unnecessarily restrictive, and excludes agencies such as local fire services, traffic control staff, or council animal control officers who are often the first responders to calls about wandering stock.
72. Submitters generally said that they supported the use of data for the core purposes of the Act, and welcomed more transparency. Some concerns were raised about the potential for misuse of data, and that more public sector organisations would be able to access the data. Beef+LambNZ and Deer Industry NZ want data release restricted to the agencies listed in the State Sector Act only. Note that such a restriction would mean the agencies mentioned above would remain excluded, so is not preferred. Protections for use of the data already exist in the Act.
73. I recommend that any public sector organisations should be able to request access to core data for the purposes set out in the Act. This change shifts the focus of permissions to the legitimate use of the data and whether the purposes for holding it are met, rather than on who is requesting it. By way of example, local traffic control officers seeking information about wandering stock would be able to access data if this proposal is agreed. Note that requestors still need to apply to the NAIT Data Access Panel to get the information. Government agencies such as IRD, or regional councils, are unable to access and use NAIT data except for the specific purposes in the Act.

Improve access to NAIT information by MPI staff designated by the Director-General, and facilitate its use by other authorities

74. All information requests currently go through NAIT Limited's Data Access Panel, which until recently used a very cautious approach to releasing information.
75. Improved data access for MPI will mean that NAIT information can be accessed more efficiently, both in biosecurity response situations and to benefit New Zealand's primary sector more broadly. Allowing decisions on MPI access to the data to be made by the Director-General of MPI rather than NAIT Limited, alongside enabling direct access for specific staff on an ongoing basis, will reduce the demands on NAIT Limited to deal with multiple data requests from MPI.

⁶ Data is for February to February periods

76. The majority of submissions agreed with this proposal, citing the *Mycoplasma bovis* experience and underlining how critical it is for MPI to access the data efficiently. Dairy New Zealand and Deer Industry New Zealand did not support the change, saying that it is not necessary and seeking assurances about the protection of confidential information. NAIT Limited supports MPI's access to data to fulfil their obligations under the Act.
77. There is also a problem with after-hours access to needed animal identification data. NAIT Limited does not have a 24/7 service, but MPI does. I consider permitting MPI to facilitate speedy access by other authorities who need the information in urgent situations, alongside enhancing MPI's policy development and research abilities, will be beneficial.

D: Proposals to help ensure the scheme is fit for the future

78. All of the above proposals strengthen the legislative framework. Additional proposals will help to future-proof the scheme.

Amend the definition of PICA to clarify that the responsibilities apply to everyone in charge of NAIT animals

79. This proposal arose from the NAIT Review. The Act contains penalties that apply to a body corporate. However, the definition of PICA relates to a 'natural person', limiting the responsibility for complying with NAIT obligations to an individual.
80. The majority of submissions, including the NAIT shareholders, supported the change, with the main reasons cited as improved accountability and clarity. Some said that corporate responsibility is already clear so the proposal should not mean a change for most people.
81. I recommend this change to support the original intent of the Act, so that a body corporate may be found liable for non-compliance as well as, or instead of, an individual.

Require PICAs to report annually the presence and estimated numbers of farmed non-NAIT animals (such as sheep, goats, pigs) at a NAIT location, to assist biosecurity responses

82. While the NAIT scheme currently applies only to cattle and deer, PICAs are asked for information on other animal species farmed at their NAIT location. Around 55 percent of PICAs already provide this information voluntarily.
83. In a biosecurity response to a disease that affects multiple species, for example foot and mouth disease, this information would be extremely useful in assessing the risks and taking action. Information is collected under the Agricultural Production Survey undertaken by Statistics New Zealand, but the Statistics Act 1975 prohibits the use of this data for biosecurity purposes.
84. Around half of submissions supported this change. Some said this will only give a partial view as it will not cover wild animals. The NAIT shareholders support the proposal and indicated that in the future, broader change will likely be needed (for example, bringing other species into NAIT).

85. I agree there is a need to bring other species into NAIT in the future. Following the enactment of the legislation in this package, officials will commence the policy development, including specific public consultation, necessary to do so. Note that statute change is not required to introduce new species, and it can be achieved by an Order in Council to amend the schedule to the Act.
86. In the meantime, I consider this proposal will give MPI and NAIT Limited access to high level estimates of animal numbers to support the response to a cross-species biosecurity incursion. A change will be made to the NAIT system to allow a stocktake of non-NAIT animals at the end of each financial year. This information will help to identify the locations at highest risk for spreading a disease between species.

Filling gaps in the performance management framework

87. A designated NAIT organisation has wide regulatory powers, duties and functions that are normally reserved for government entities. However, the current appointed organisation, NAIT Limited, is a private not-for-profit company.
88. This model for delivery of core government regulatory functions is highly unusual. Therefore, some unusual solutions are required to ensure government has oversight mechanisms and can take action if required in future.
89. Recent performance failures contributed to the issues highlighted by the *Mycoplasma bovis* biosecurity response. A lack of clarity on Ministerial powers to deal with poor performance must be fixed.
90. Five proposals address identified performance management framework gaps in the Act. These work together, reinforcing each other so that the framework as a whole is fit for purpose. These proposals were not part of the general public consultation. I and my officials engaged separately on these proposals with the NAIT Board, shareholders, and stakeholder council as well as central agencies.
91. It is important to note that these amendments do not relate directly to the existing NAIT organisation's past performance. Most of them are simply normal business practice. They provide the necessary disciplines to identify and avert future failures, enable action to be taken early and in a graduated fashion if needed, and allow for an orderly transition if in the future a different organisation needs to be appointed.
92. Officials from central agencies have been involved in the development of, and support this suite of proposals. The three shareholders for the current NAIT organisation generally support these changes, as do the Board and the Stakeholder Council⁷, although they had some implementation questions that are covered under the specific proposals below.
93. I consider the combined proposals below will address the gaps in the current framework, and allow government interests and expectations to be better taken account of in future.

⁷ The governance bodies for the current NAIT organisation

94. The first two changes formalise normal processes (setting out priorities, reporting to the Minister) for regulatory entities. The proposed change to the threshold will encourage earlier use of existing ministerial tools (for example, issue a policy or standard; seek information). The final two proposals represent new tools. Together this suite of measures will enable stronger oversight of the organisation and the ability to take action swiftly if necessary.

Allow the Minister to, from time to time, formally inform the NAIT Board of government priorities and expectations

95. This change will provide for a Minister to, at appropriate intervals, inform the NAIT Board of their priorities and expectations of the organisation, enabling the Board to take them into account when delivering their statutory duties and functions. The organisation will then need to report on their delivery of these, as part of their normal reporting requirements.

Set the expectation and requirements for a NAIT organisation to keep the Minister informed on its performance in delivering its statutory duties and functions

96. There is also no clearly articulated requirement in the Act for the NAIT organisation to send reports to the Minister on a regular basis (for example, annually), nor for the independent audit of performance against key measures.
97. Although reporting requirements could be set through the Minister issuing *ad hoc* policies under existing powers, that approach risks the NAIT organisation or government losing sight of them over time.
98. I propose the Act requires a NAIT organisation to set out in its National Operating Plan how it will measure and independently audit its activities in relation to the performance of its statutory duties and functions, and report on these and the audit results to the Minister at agreed intervals. The organisation will also have to provide the Minister the results of the annual review of the National Operating Plan for comment before the new plan is finalised, and report how government appropriations and industry levies have been spent.
99. In addition to the legislation changes, as requested by the Treasury MPI will develop a contract for services with NAIT Limited. I expect that the contract for services will set out the terms for additional reporting and monitoring of the annual appropriation.

Amend the threshold for Ministerial intervention in a NAIT organisation, to include non-performance of statutory duties and functions that impact the effective operation of the scheme

100. Currently, the Minister's powers to intervene directly in the NAIT organisation can only be exercised where there is a "significant risk to the integrity and effective operation of the scheme as a whole". This is a very high threshold. It does not encourage or support more-graduated interventions being considered when there is a significant risk to only parts of the NAIT scheme.
101. The Minister has powers to revoke a NAIT organisation's appointment, but that is a blunt instrument that does not allow action at an earlier stage when a performance issue becomes apparent and can be corrected.

102. The current governance bodies accept that the existing threshold is too high but were concerned about potential ministerial interference in day to day activities of the organisation. I therefore propose a change to include the non-performance of a statutory duty or function that impacts the integrity or effective operation of the scheme as being a threshold. This will allow any intervention to be proportional to the particular level of non-performance of a future NAIT organisation. It would remove ambiguity about the threshold at which the Minister may exercise the powers in the Act.
103. Such a change would enable the full range of responses already anticipated in the Act to be considered. These range from appointing a person to perform a single function temporarily, right through to the replacement of a NAIT organisation.

Include a power for the Minister to issue, amend or revoke 'directions' on the performance of a statutory function or duty or the exercise of a power, with the commensurate safeguards of a requirement to consult the NAIT Board and to table the direction in Parliament

104. The Minister can direct a NAIT organisation to perform a different duty to the duties already specified in the Act, but cannot make a direction in relation to existing duties. The current tools (such as issuing a policy or standard) work indirectly, only apply to existing functions/duties, and are unclear on how each might be applied to achieve the desired outcomes.
105. The power for a Minister to direct an organisation that exists to fulfil a regulatory role is very common (for example, it is standard for Crown agents). It provides surety that the public interest can be prioritised as necessary. I propose that the existing provision explicitly refers to ministerial 'directions' as well, and clarifies that the standards tool is different to the standards issued by NAIT Limited.
106. The standard safeguards that offer protections for the use of this ability will be applied.

Allow the Minister, informed by an assessment by the Director-General of MPI, to appoint a representative for a specified term to assist the NAIT Board

107. It is inappropriate for the government to take a minority shareholding in a fully private not-for-profit company. However, the current delivery model where a wholly independent company has such significant statutory powers, duties and functions, and no contract for services, is highly unusual.
108. The existing informal situation where the Board has permitted an observer appointed by the Director-General for MPI to sit in on Board discussions has worked quite well recently, but that observer can be excluded from discussions at any time.
109. This proposal aims to ensure that a Minister may, if desired and on the advice from the Director-General for MPI, appoint a suitable person to represent government interests and appropriately feed information back to the Minister.
110. The existing governance bodies were concerned about potential conflicts between duties under the Companies Act and the NAIT Act if a person was appointed to the Board.

111. My proposal therefore is that this potential appointment would not be a director position, nor would the representative be an advisor to OSPRI the parent company. This approach will remove any perception of conflicting duties. The functions of this representative would be to observe the decision-making processes and decisions of the Board, help the Board understand the policies of the Government, and advise the Minister on any matters relating to the Board or its performance.
112. To ensure the representative can fulfil these functions, the Act would provide that they may attend any meeting of the Board and will be provided with copies of all information that is supplied to Board members. This approach will enable the Ministerial representative to be present for discussions on all aspects of NAIT Board business, the NAIT scheme, or the wider traceability system.
113. The requirement for the Director-General of MPI to assess the need for a particular appointment and advise the Minister accordingly before any appointment is made provides flexibility and protections around the appointment. The terms and conditions of the appointment will be agreed between the Minister and the person.

Protecting and securing NAIT data and the database for the future

114. I expect that the framework change proposals above will allow government interests to be properly addressed. However, the scheme is wholly dependent on the data and database. I have therefore tasked officials to examine options to ensure the data is secure and protected for the future, and to report back to me in time for any changes necessary to be included with this amendment package.

E: Technical amendments

115. I propose 13 technical amendments be made. These will ensure the NAIT Act and associated regulations: link to the Search and Surveillance Act; amend provisions that inadvertently do not capture locations that have not been registered as NAIT locations; and make other minor corrections and clarifications to make the legislation work better. None of these change policy or the original intentions of Parliament.
116. The Ministry for Primary Industries consulted on the package of technical amendments. Only 12 submissions commented on these, and of these most related to the first proposal below.

Align NAIT Act provisions with the Search and Surveillance (S&S) Act

117. Both the NAIT Act and the S&S Act were enacted in 2012 but the sequencing meant that NAIT Act was passed first. The Select Committee report on the original NAIT Bill specifically stated that alignment should occur but this did not happen at the time.
118. The Ministry for Primary Industries consulted on proposals to ensure NAIT Act provisions that relate to monitoring of compliance and the investigation and prosecution of offences align with the S&S Act.

119. Five submitters commented on these proposals. Most feedback related to the potential to link the NAIT Act directly to the Search and Surveillance Act provisions. Two supported the change as sending clear signals about the importance of compliance, and one suggested there is the potential to treat farmers differently to other members of the public (for example, that no search warrant is needed). It is important to note that none of the existing powers are being amended.
120. I recommend that the NAIT Act comes under the S&S Act provisions by adding it to the Schedule of the S&S Act so that there is total consistency in the powers and protections across both statutes rather than the current *ad hoc* approach. Duplicated provisions in the Schedule of the NAIT Act will be removed.

Capture NAIT locations that have not been registered

121. All locations where cattle and deer are held must be registered with NAIT. Last year the Government made urgent technical amendments to the NAIT Act to make clear that obligations apply whether or not a person is operating at a registered or non-registered location. However, some provisions do not yet capture this intent. The NAIT obligations and offences should apply whether or not locations have been registered. I therefore recommend the following amendments:
- a amend Schedule 2 of the Act to capture the obligation to register as a PICA at registered and unregistered locations;
 - b amend Schedule 2 of the Act to capture the obligation on PICAs to tag NAIT animals at all locations whether registered or not;
 - c amend the NAIT (Obligations and Exemptions) Regulations to ensure the definitions of destination PICA and point of original PICA capture all locations, whether registered or not;
 - d amend the NAIT (Obligations and Exemptions) Regulations to capture that the exemption applying to NAIT animals born at a location applies whether or not that location has been registered.

Minor corrections, clarifications, and enhancements

122. I propose eight minor enhancements to the NAIT Act and associated regulations:
- a amend section 32 of the Act to reflect that exported animals do not go through a transitional facility but via a port of export;
 - b add the Animal Welfare Act to the list of applicable Acts in section 40 of the Act (for the avoidance of doubt);
 - c clarify in section 40 that that phrase “risks to life and welfare” relates to both people and animals, and clarify that ‘emergency services’ is used in the broadest sense and includes animal control officers and other similar officers;
 - d correct a drafting error reference from ‘clause 41’ to ‘clause 40’ in section 48 of the Act;
 - e clarify that an audit of core data “may” be on a cost recovery basis instead of “must”, and clarify this relates to a formal audit rather than an investigation-based audit;

- f correct a drafting error in clause 75 Schedule 2 of the Act to include reference to a NAIT Authorised Person (in line with clause 53 Schedule 2);
- g replace two forms in Schedule 2 of the NAIT (Infringement Offences) Regulations with updated forms, and align these with forms to be added to the Animal Products Regulations relating to NAIT animals, to ensure consistency across the infringement regimes operated by MPI;
- h amend section 51 of the Act to also allow evidence produced by a device (such as a NAIT reader) to be admissible in court and sufficient proof that the device operated in the way asserted by the prosecution.

General provisions

123. Enacting the proposals in this paper may require commencement and transitional provisions to give effect to the policy, for example the removal of the unsafe to tag exemption five years after enactment.

Public consultation

124. Public consultation on proposals for inclusion in the package ran from 30 October to 19 December 2018. The consultation document detailed policy proposals for implementing the recommendations of the NAIT Review that require legislative change, as well as other proposals arising from the *Mycoplasma bovis* response lessons.
125. Consultation on the document proposals was web-based, distributed to a list of key industry contact points, and available publicly on the MPI website. Activities to encourage public engagement and submissions throughout the consultation period included:
- targeted social media messages directed at key industry organisations and the public;
 - advertisements in rural media and regional daily newspapers;
 - articles in key industry publications;
 - shared content on industry social media.
126. MPI individually notified over 168 contacts for groups including industry, iwi and Māori organisations and non-NAIT animal associations; other contacts obtained through our general communications lists; and members of existing MPI forums (such as the MPI Māori Biosecurity Network) about the consultation and requested that they notify their members. NAIT Limited also sent notification emails to the 105,000 PICAs on its database.
127. MPI offered to discuss the proposals if desired, and attended forums (such as the Livestock Transporters AGM) and public events such as the Christchurch Agricultural Show.
128. Ninety-two submissions were received, covering most key groups in the primary industries sector. I propose to keep stakeholders informed about decisions on the amendments by posting a copy of this Cabinet paper, along with the regulatory impact assessment and the summary of submissions, on the MPI website.

129. The public consultation did not cover the performance management framework proposals. Separate consultation with the existing NAIT organisation governance groups and central agencies was conducted on those proposals.

Departmental consultation

130. The following government agencies were consulted on this paper: the Ministry for Business, Innovation and Employment; Department of Conservation; Government Chief Privacy Office within the Department of Internal Affairs; Ministry of Justice; NZ Police; Office of the Privacy Commissioner; Parliamentary Counsel Office; State Services Commission; Te Puni Kōkiri; The Treasury. The Department of the Prime Minister and Cabinet was informed.

Financial implications

131. Any costs for the Ministry for Primary Industries and for NAIT Limited from the legislative change proposals will be met from within existing budgets. Potential financial implications and identified cost impacts for business from implementing the proposals are identified in the regulatory impact assessment.

Impact analysis

132. A regulatory impact assessment (RIA) has been prepared by the Ministry for Primary Industries and is attached to this paper. Proposals that either have only minor or no impacts on businesses or individuals and/or are technical revisions to improve legislative clarity are exempt from RIA requirements.
133. A Quality Assurance Panel from the Ministry for Primary Industries reviewed the RIA. The Panel considers that it meets the quality assurance criteria. MPI's analysis of costs, benefits, and other impacts is sound and the regulatory analysis assessment criteria have been met.

Legislative implications

134. Once Cabinet approves the policy, drafting by the Parliamentary Counsel Office will commence, with introduction of the Bill and regulations package planned for mid-2019. The Bill is category 2 on the Government's Legislation Programme 2019 (to be passed within the year). The Bill is estimated to be up to 50 clauses. The amendment Act will bind the Crown.
135. The NAIT (Infringement Offences) Regulations and NAIT (Obligations and Exemptions) Regulations will also be amended, with an estimated 10 clauses for each. The Animal Products Regulations will be amended to insert two forms relating to NAIT animals so as to be consistent with the NAIT (Infringement Offences) Regulations forms (an estimated two clauses).

Human rights implications

136. None of the proposals in this paper appear to be inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993. The Ministry of Justice has been consulted on the proposals. Formal Bill of Rights vetting will be undertaken as part of the process of developing the amendment bill.

Proactive release

137. Following Cabinet consideration I intend to consider the release of this paper, in line with the Official Information Act 1982. I will also release the submissions summary and regulatory impact assessment to provide context for the decisions reached in this paper.

Recommendations

138. I recommend that the Cabinet Economic Development Committee:

1. **Note** that during 2016-2018 a review led by OSPRI Limited of the National Animal Identification and Tracing (NAIT) scheme recommended changes, including legislative amendments, to improve the scheme;
2. **Note** that the incursion of the cattle disease *Mycoplasma bovis* in mid-2017 identified failures in the NAIT scheme that contributed to the cost and difficulty tracing infected animals and led to the government funding \$472 million over the 2017/18 to 2019/20 years [CAB-Min-18- 0274 refers];
3. **Note** that the legislative amendments proposed in this paper are one component of several actions being taken to rectify problems and improve the NAIT scheme, and this package is essential to address the issues identified and support the necessary operational changes;
4. **Note** that public consultation and other stakeholder engagement on proposals for inclusion in the legislation package has been conducted, there is generally good support for the proposals, and the proposals below take account of feedback received;

Objectives

5. **Agree** that the objectives of the NAIT legislation package are to:
 - a improve the traceability of NAIT animals
 - b incentivise compliance with the NAIT scheme
 - c encourage the effective and efficient use of NAIT data
 - d ensure the NAIT framework is fit for the future;
6. **Agree** to amend the National Animal Identification and Tracing (NAIT) Act 2012 and associated NAIT regulations to:

Tagging changes

- 6.1 require that a Person in Charge of Animals (PICA) may only use NAIT tags at the specific location they were issued for, with an associated offence for failing to do so, and allow a transition period of 12 months to use up existing tags;
- 6.2 rename the 'impracticable to tag' exemption as "unsafe to tag" and make the safety of the PICA the sole criterion for getting this exemption; and provide for the removal of this exemption to occur five years after enactment of the NAIT Amendment Bill;
- 6.3 change the timeframe for a PICA to declare an 'unsafe to tag' animal from the current '48 hours prior' to "before sending"; set a requirement that 'unsafe to tag' animals must be visibly identifiable, and make failure to declare an offence;

Incentives to comply

- 6.4 enable a seller to, on request, make the location history of a NAIT animal available to a potential purchaser of that animal;
- 6.5 align penalty limits with those in the Biosecurity and Animal Products Acts so that in a court prosecution the judge can give a penalty appropriate to the level of offending;
- 6.6 align infringement fees with those for similar offences under the Biosecurity and Animal Products Acts to send a clear signal about the importance of compliance with NAIT obligations;
- 6.7 make it an offence to transport untagged animals that do not have an exemption;

Improve access to and use of NAIT data

- 6.8 amend the purposes of holding core data to include dealing with stock theft and wandering stock;
- 6.9 allow any public sector organisation to request access to core NAIT data as long as the Act's purposes for holding this data are met;
- 6.10 improve access to NAIT core data by MPI staff designated by the Director-General, and provide that MPI may facilitate access for authorities that need core data information quickly for the purposes of the Act.

Ensure the scheme is fit for purpose

- 6.11 amend the definition of PICA to clarify that the responsibilities apply to everyone in charge of NAIT animals;
- 6.12 require PICAs to report annually the presence and estimated numbers of farmed non-NAIT animals (such as sheep, goats, pigs) at a NAIT location, to assist biosecurity responses;

Future-proof the performance management framework for a NAIT organisation

- 6.13 allow the Minister to, from time to time, formally inform the NAIT Board of her/his priorities and expectations;
- 6.14 set the expectation that a NAIT organisation will keep the Minister informed on its performance, and require it to:
 - i. include in its National Operating Plan the details of how it will measure and independently audit its activities in relation to the performance of its statutory duties and functions;
 - ii. report to the Minister the independently audited results of its performance against the measures specified in the National Operating Plan, at an agreed frequency;
 - iii. provide the Minister with results of the annual review of the National Operating Plan for comment before the new plan is finalised;
 - iv. report to the Minister annually on how government appropriations and industry levies have been spent;
- 6.15 amend the threshold for ministerial intervention in section 9 of the Act to include the non-performance of one or more statutory duties and functions that impact the integrity or effective operation of the scheme, and to allow earlier and graduated actions when needed;

- 6.16 include a power for the Minister to issue, amend and revoke 'directions' in relation to the performance of a statutory function or duty or the exercise of a power, with the commensurate safeguards of a requirement to consult the NAIT Board and to table the direction in Parliament;
- 6.17 allow the Minister to, if desired, and informed by an assessment by the Director-General of the Ministry for Primary Industries, appoint a representative for a specified term whose functions are to observe the decision-making processes and decisions of the Board, help the Board in understanding the policies and priorities of the Government, and advise the Minister on any matters relating to the Board or its performance, and ensure this representative may attend any meeting of the Board and will be provided with copies of all information that is supplied to Board members;
- 7. **note** that the Minister for Biosecurity has asked officials to undertake policy development in collaboration with central agencies on the best ways to ensure the NAIT data and database are protected and secured for farmers, industry and the public good, and to advise the Minister on this matter in time for any changes to be included in this legislation package;

Technical amendments

- 8. **Agree** to include the following technical amendments in the NAIT Amendment Bill and amendment regulations package:
 - Amendment to ensure the NAIT Act 2012 provisions align with those in the Search and Surveillance Act 2012*
 - 8.1 add the NAIT Act to the Schedule of the Search and Surveillance Act so that all the powers and protections are consistent and aligned;
 - Amendments to capture locations not registered as NAIT locations*
 - 8.2 capture the existing obligation to register as a Person In Charge of Animals (PICA) at registered NAIT locations to include also non-NAIT locations;
 - 8.3 capture the existing obligation on PICAs to tag NAIT animals at registered NAIT locations and also non-NAIT locations;
 - 8.4 amend the definitions of destination PICA and point of origin PICA to capture locations not registered as NAIT locations;
 - 8.5 amend the exemption applying to NAIT animals born at a NAIT location to capture locations not registered as NAIT locations;
 - Other minor corrections, clarifications, and enhancements*
 - 8.6 amend section 32 of the Act to reflect that exported animals do not go through a transitional facility but via a port of export;
 - 8.7 add the Animal Welfare Act to the list of applicable Acts in section 40 of the Act;
 - 8.8 clarify in section 40 that that phrase "risks to life and welfare" relates to both people and animals, and clarify that 'emergency services' is used in the broadest sense and includes animal control officers and other similar officers;

- 8.9 correct a drafting error reference from 'clause 41' to 'clause 40' in section 48 of the Act;
 - 8.10 clarify that an audit of core data "may" be on a cost recovery basis instead of "must", and clarify this relates to a formal audit rather than an investigation-based audit;
 - 8.11 correct a drafting error in clause 75 Schedule 2 of the Act to include reference to a NAIT Authorised Person (in line with clause 53 Schedule 2);
 - 8.12 replace two forms in Schedule 2 of the NAIT (Infringement Offences) Regulations with updated forms, and also add similar forms to the Animal Products Regulations to ensure consistency across the infringement regimes operated by the Ministry for Primary Industries;
 - 8.13 amend section 51 of the Act to also allow evidence produced by a device (such as a NAIT reader) to be admissible in court and sufficient proof that the device operated in the way asserted by the prosecution;
9. **Agree** to any transitional provisions required to give effect to the proposals in this paper;
 10. **Invite** the Minister for Biosecurity to issue instructions to the Parliamentary Counsel Office to draft a NAIT Amendment Bill and amend associated regulations to implement recommendations 5-9 above;
 11. **Authorise** the Minister for Biosecurity to make final decisions on detail and to make changes, consistent with the policy intent outlined in this paper, on any issues that arise during the drafting of the package;
 12. **Note** that the NAIT Amendment Bill is category 2 on the Government's Legislation Programme 2019 and its introduction and first reading is therefore planned for mid-2019;
 13. **Note** that the Ministry for Primary Industries will publish on its website the summary of submissions and regulatory impact assessment alongside a copy of this Cabinet paper, having had regard to the Official Information Act 1982.

Authorised for lodgement

Hon Damien O'Connor
Minister for Biosecurity

Appendix One: Summary table of policy proposals for inclusion in the NAIT legislative change package

Change area [discussed in paper]	Proposed amendment	Legislation amended
<p>A. Better traceability-tagging changes</p> <p>[p 5]</p> <p>[pp 5-6]</p> <p>[p 6]</p>	<ul style="list-style-type: none"> Require that PICAs must only use NAIT tags at the specific location they were issued for, with a 12-month transition period and an associated offence Rename the ‘impracticable to tag’ exemption as ‘unsafe to tag’, make the sole criterion that the safety of the PICA is at risk, and remove the exemption five years after the amendment bill is enacted Change the timeframe for when a PICA must declare the movement of unsafe to tag animals from ‘48 hours prior’ to “before sending”, set a requirement that unsafe to tag animals must be visibly identifiable, and provide an associated offence 	<p>NAIT Act</p> <p>NAIT (Obligations and Exemptions) Regulations</p> <p>NAIT (Obligations and Exemptions) Regulations</p>
<p>B. Incentives to comply</p> <p>[p 7]</p> <p>[pp 7-8]</p> <p>[p 8]</p> <p>[pp 8-9]</p>	<ul style="list-style-type: none"> Enable a seller to, on request, make the location history of an animal available to a purchaser of that animal Align penalty limits with those in the Biosecurity and Animal Products Acts Align infringement fees with those under the Biosecurity and Animal Products Acts Make it an offence to transport an untagged animal that does not have an exemption 	<p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT Act and NAIT (Obligations and Exemptions) Regulations</p>
<p>C. Improve access to, and use of, NAIT data</p> <p>[pp 9-10]</p> <p>[p 10]</p> <p>[pp 10-11]</p>	<ul style="list-style-type: none"> Amend the Act’s purposes of holding core data to include responding to stock theft and wandering stock Enable all public sector organisations to apply for access to NAIT core data for the purposes of the Act Improve access to NAIT information by MPI staff designated by the Director-General, and facilitate its use by other authorities 	<p>All NAIT Act</p>
<p>D. A scheme fit for the future</p> <p>[p 11]</p> <p>[pp 11-12]</p> <p>[p 13]</p> <p>[p 13]</p>	<ul style="list-style-type: none"> Amend the definition of PICA to clarify that the responsibilities apply to everyone in charge of NAIT animals Require PICAs to report annually the presence and estimated numbers of farmed non-NAIT animals (such as sheep, goats, pigs) at a NAIT location Allow the Minister to, from time to time, formally inform the NAIT Board of government priorities and expectations Set the expectation and requirements for a NAIT organisation to keep the Minister informed on its performance in delivering its statutory duties and functions (as is normal practice for entities with 	<p>All NAIT Act</p>

Change area [discussed in paper]	Proposed amendment	Legislation amended
<p>[p 13]</p> <p>[p 13-14]</p> <p>[p 14]</p> <p>[pp 14-15]</p>	<p>statutory duties that receive government funding), requiring a NAIT organisation to:</p> <ol style="list-style-type: none"> i. include in its National Operating Plan the details of how it will measure and independently audit its activities in relation to the performance of its statutory duties and functions ii. report to the Minister the independently audited results of its performance against these measures, at an agreed frequency iii. provide the Minister with results of the annual review of the National Operating Plan for comment before the new plan is finalised iv. report to the Minister annually on how government appropriations and industry levies have been spent <ul style="list-style-type: none"> • amend the threshold for ministerial intervention, to allow earlier and graduated actions when needed • include a power for the Minister to issue, amend and revoke 'directions' in relation to the performance of a statutory function or duty or the exercise of a power, with the commensurate safeguards of a requirement to consult the NAIT Board and to table the direction in Parliament • allow the Minister, informed by an assessment by the Director-General, to appoint representative for a specified term whose functions are to observe the decision-making processes and decisions of the Board, assist the Board in understanding the policies of the government, advise the Minister on any matters relating to the Board or its performance, and permit the representative to attend any Board meeting and be provided with copies of all notices, documents and other information that is provided to Board members 	<p>All NAIT Act</p>
<p>E. Technical amendments</p> <p>[pp 15-16]</p>	<p><i>Align NAIT with S&S Act 2012</i></p> <ul style="list-style-type: none"> • Add the NAIT Act to the Schedule of the Search and Surveillance Act so that all the powers and protections are consistent; 	<p>NAIT Act and Search & Surveillance Act</p>

Change area [discussed in paper]	Proposed amendment	Legislation amended
Technical amendments (contd) [p 16]	<p><i>Capture locations not registered as NAIT locations</i></p> <ul style="list-style-type: none"> • capture the existing obligation to register as a Person In Charge of Animals (PICA) at registered NAIT locations to include also non-NAIT locations • capture the existing obligation on PICAs to tag NAIT animals at registered NAIT locations and also non-NAIT locations • amend the definitions of destination PICA and point of origin PICA to capture locations not registered as NAIT locations • amend the exemption applying to NAIT animals born at a NAIT location to capture locations not registered as NAIT locations 	<p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT (Obligations and Exemptions) Regulations</p>
[pp 16-17]	<p><i>Minor corrections, clarifications, enhancements</i></p> <ul style="list-style-type: none"> • amend section 32 of the Act to reflect that exported animals do not go through a transitional facility but via a port of export • add the Animal Welfare Act to the list of applicable Acts in section 40 of the Act • clarify in section 40 that that phrase “risks to life and welfare” relates to both people and animals, and clarify that ‘emergency services’ is used in the broadest sense and includes animal control officers and other similar officers • correct a drafting error reference from ‘clause 41’ to ‘clause 40’ in section 48 of the Act • clarify that an audit of core data “may” be on a cost recovery basis instead of “must”, and clarify this relates to a formal audit rather than an investigation-based audit • correct a drafting error in clause 75 Schedule 2 of the Act to include reference to a NAIT Authorised Person (in line with clause 53 Schedule 2) • replace two forms in Schedule 2 of the NAIT (Infringement Offences) Regulations with updated forms, and also add these forms to the Animal Products Regulations to ensure consistency across the infringement regimes operated by the Ministry for Primary Industries • amend section 51(2) of the Act to also allow evidence produced by a device (such as a NAIT reader) to be admissible in court and sufficient proof that the device, operated in the way asserted by the prosecution. 	<p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT Act</p> <p>NAIT (Infringement Offences) Regulations and Animal Products Regulations</p> <p>NAIT Act</p>