Regulatory Impact and Business Compliance Costs Statement:

Amendments to the Game Industry Board Regulations 1985

February 2004

Ministry of Agriculture and Forestry
Te Manatū Ahuwhenua, Ngāherehere

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Background

1. The Game Industry Board, a statutory body, promotes and assists in the development of the deer industry and of markets for deer products. The Board funds industry good activities such as quality assurance programmes, research and development, TB control and product promotion from a compulsory levy imposed on farmed deer and velvet under the Regulations.
2. In 2001 an industry-commissioned review of industry structures by an independent Committee (the Review Committee) found a number of problems in the deer industry. Issues included the large number of industry organisations with complicated relationships, and duplication of activity and levy between organisations (particularly between the Board and the New Zealand Deer Farmers' Association (NZDFA)). The Review Committee recommended a number of changes, several of which would require amendments to the Regulations.
3. Aspects of the restructuring not requiring regulatory change have been formally implemented from 1 October 2002. The Board is now the single central deer industry organisation (operating under the name of Deer Industry New Zealand) and funded by a levy imposed under the Regulations. The NZDFA Council has been disestablished. The levy imposed on deer farmers by the NZDFA under the Commodity Levies (Farmed Deer Products) Order 2001 has been struck at zero and the Order-in-Council imposing the levy will lapse in October 2007.

Statement of the nature and magnitude of the problem and the need for government action

4. Problems with current Board composition and appointment process:
   Four main problems arise from the current compositions and appointments process:
   - farmers and the processing industry are unable to directly select their representatives, reducing Board accountability to the deer industry;
   - the Board's composition does not reflect the industry's objectives for a "partnership" approach between producers and industry;
   - the Board is larger than necessary; and
   - the independent position representing consumers is unnecessary given the industry's overwhelming export focus (and such a position is no longer required under the Primary Products Marketing Act).
5. Problems with levy payments on venison - currently venison processors are not required to contribute to Board levies on venison, although they have representation on the Board and benefit from the Board's activities. This levy system does not properly align governance and funding.
6. Problems with levy payments on contract processed velvet: the current collection regime can cause significant cash flow problems for processors who undertake contract processing, as they must remit to the Board the levy on contract processed velvet on receipt of the velvet, before they are able to recover the levy from producers. The Board estimates that on average a contract processor would bear between $5,000 - $10,000 in unrecovered levies per month, and the delay before recovery may be from 1 to 6 months (these are rough estimates, with costs and timing dependent on the processor involved). The Velvet Processors' Association has called for this problem to be addressed.

Statement of the public policy objective(s)

7. The public policy objectives are to provide for greater representation of and accountability to the deer industry by the Game Industry Board and for the Board to enhance industry cohesion and deliver greater efficiency and effectiveness to stakeholders. The proposals must also align with the producer board reform principles that changes must be broadly supported by producers, address minority interests and be in New Zealand's interests.

Statement of feasible options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s)

Option 1 - Status quo

8. Board composition and appointment: currently the Board consists of 10 members appointed by the Minister of Agriculture: 5 members representative of farmers, 4 members representative of industry (3 velvet, 1 venison), an independent member to represent the interests of consumers of deer products.
9. Levy arrangements on venison: levies are imposed per deer slaughtered and are paid by farmers only (fixed at 9.2 cents per kilogram for fallow deer and 14.2 cents per kilogram for deer other than fallow deer for 2002/03, an average of $8.52 per deer). Processors are not required to contribute to levies, but collect and remit levies to the Board. In the year ended 30 September 2002 the Board collected $2,484,225 in levies on venison.
10. Timing of levy payments on contract processed velvet: farmers are liable for levies on velvet, but processors are responsible for remitting the levies to the Board on receipt of the velvet at their packing house. This regime assumes that processors purchase velvet from producers when it is first received, allowing processors to deduct levies from the purchase price paid to farmers. Under a "contract processing" model the processor dries and sells the velvet as an agent for the farmer, with the farmer retaining ownership up to the point of sale. The current regime thus requires processors to remit to the Board the levy on contract processed velvet before they are able to recover the levy from producers.
11. Retention of the current regulatory regime would be inconsistent with broader restructuring already completed, and would not meet the policy objectives identified in paragraph 7.

Option 2: Deregulation of Board into a body under the Commodity Levies Act 1990

12. Under this option a new deer industry organisation would be formed and would have to decide on the scope of its activities and apply to the Minister of Agriculture for a levy under the Commodity Levies Act 1990 (CLA). Legislation may be needed to manage some aspects of the transition from a statutory structure, such as transfer of assets and liabilities of the Board to the new organisation. This option would remove regulatory prescription about the organisation's structure and processes, and would provide greater accountability to levy payers through the requirement for a levy payer referendum every 5 years. It would also be consistent with producer board reform in other sectors.
13. Currently there is little industry will or support for a move to a Commodity Levies Act framework, so this option is not consistent with one of the Government's policy principles regarding producer board changes. The CLA provides that only one group (e.g. farmers) can be primarily responsible for levies, which would prevent the implementation of a key

aspect of the industry-driven proposals (i.e. the 50:50 levy on producers and processors). Without the 50:50 levy, industry support for the 50:50 Board composition would be in doubt.

Option 3: (preferred option) - Amend Game Industry Board Regulations 1985

14. The Regulations would be amended to provide for the following:
    a) Move to election of directors: the Board would be responsible for conducting elections for directors representative of venison and velvet processors/exporters. The Selection and Appointments Panel of the NZDFA would select directors representative of farmers.
    b) 50:50 composition of Board: the Board would be composed of 8 directors: 4 elected by deer farmers, 3 elected by venison processors/exporters, and 1 elected by velvet processors/exporters.
    c) 50:50 liability for levies on venison - farmers and venison processors would be equally liable for levies on venison products. Venison processors would remain responsible for collecting levies on venison and remitting to the Board, but would only be able to recover from farmers half of the total levy payable. The Board would continue to fix the levy on venison annually by notice in the Gazette.
    d) Registered Contract Processors - velvet processors that satisfy registration criteria could register with the Board (at no charge) as a recognised contract processor. Criteria for registration would include: keeping records in respect of each individual stick and part of velvet received for contract processing, making monthly reports to the Board of velvet received for contract processing, and adoption of approved terms of trade including a clause that ensures farmers retain ownership of contract processed velvet until sale. Once registered, the processor would be entitled to pay levy on contract processed velvet on exit of velvet from the packing house or at the first payment to the producer, whichever is first. Processors who chose not to register would continue to pay levy on all velvet on its entry to the packing house.

Statement of the net benefit of the proposal, including the total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of the proposal, and other feasible options

Government

15. An industry-selected Board and the removal of the independent director position representing consumers will reduce Government's involvement in the industry and remove the costs associated with the appointments process.

Industry

16. Moving from appointments to industry-based selection should enhance Board responsiveness and accountability to producers and industry. The new Board composition should ensure that all sectors are fairly represented and improve decision-making in respect of whole-of-industry issues. These changes are seen as an integral part of the broader restructuring already undertaken.
17. The proposal will impose a new cost on venison processors/exporters by making them liable for 50% of the levy on venison. Based on figures for the year ended 30 September 2002, the 13 venison processing companies would be liable for $1,242,112.50 in total

levies. Conversely, farmers would benefit from a reduction in levies of the same amount. This 50:50 levy system will provide greater alignment between governance and funding.

18. Velvet processors will have more flexibility regarding remittance of levies on contract processed velvet, which should help to resolve cash flow issues. There may be increased compliance costs for those velvet processors who choose to register as contract processors in meeting the registration criteria. These are discussed further in the BCCS.
19. The Board's focus and performance should be enhanced by its new composition and by the completion of the restructuring generally. The reduced Board size will reduce the cost to levy payers (including annual savings of $35,000 in directors' fees and honoraria). The Board will face initial costs associated with developing election procedures in consultation with sectors, and ongoing costs of conducting elections in the future. The Board estimates these initial costs at approximately $16,000 and ongoing costs at approximately $8,000.

Statement of consultation undertaken

20. The Board's proposals for restructuring were developed through extensive consultation with farmers and industry, including the circulation of two discussion documents and a series of shed meetings. Polls of farmers and industry on different aspects of the restructuring were undertaken in 1999, 2001 and 2002, which showed strong support for the proposals. The one significant concern regarding the proposals was raised by the velvet processing sector, who opposed the 50:50 levy structure. As a result of this opposition the 50:50 levy will not apply to velvet. MAF officials have met with the Board to discuss the proposals on a number of occasions.
21. The Treasury, the Ministry of Economic Development, the Ministry of Justice, Te Puni Kokiri, the Ministry of Consumer Affairs, the Department of Conservation and the Department of Prime Minister and Cabinet have been consulted on the proposed amendments. The Treasury supports reform of the Board but considers the Commodity Levies Act 1990 a more appropriate framework for industry good activities. All other departments consulted broadly agree with or have no comment on the proposed amendments.

Business Compliance Cost Statement

22. There will be compliance costs for velvet processors arising from initial registration as contract processors (for example, improving records systems and developing approved terms of trade), and ongoing costs of complying with the registration criteria. These compliance costs will affect those velvet processor companies that choose to register. Currently around 4 of the 28 velvet processors contract process velvet, ranging from small operations to large companies. The costs associated with registration are not expected to be significant and will depend on processors' existing management, records and contract systems.
23. There will be one-off costs for venison processors in establishing systems for payment of their share of levies. These costs will affect all 13 venison processing companies, which range in size from small family-owned firms to large companies owning several multi-species processing premises and/or with interests in other processing companies. These costs are not expected to be significant and will depend on processors' existing levy collection and remittance systems.

24. There will also be costs for all 13 venison and 28 velvet processors associated with voting in industry elections, such as the time taken to gather relevant information on candidates, attending meetings with candidates and participating in elections. These costs are not expected to be significant.
25. The Board will communicate directly with the industry regarding the implementation of the proposals, in order to minimise compliance cost impacts for affected businesses.

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