



Consultation Paper on Proposed Revisions to the Cost Recovery Regimes

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

Animal Products – general information

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6 Animal Products Act 1999 cost recovery

6.1 OVERVIEW

The processing of animal material into products for use, trade and export is a growing industry. Our trading partners need assurances New Zealand's exports of live animals, germplasm and other animal material are fit for use, and we need to ensure that imports meet relevant standards. MPI provides a range of services under the Animal Products Act, including standard setting.

This is the first comprehensive review of fees since 2008, though some fees were updated in 2011.

The current review of the Food Sector (the Agricultural Compounds and Veterinary Medicines, Animal Welfare, Animal Products and Wine Acts) covers approximately 200 fees, with total fees for services related to Animal Products in 2014/15 of around \$10 million.

More significant proposed changes include a move to full recovery for live animal and germplasm exports, which have historically been under-recovered by MPI.

The proposals would result in increased cost recovery of \$7.5 million by MPI from the food sector, from \$55.3 million to \$62.8 million. This takes into account savings from the merger of the New Zealand Food Safety Authority and the Ministries of Fisheries and Agriculture and Forestry of \$23.6 million, of which \$2.8 million is attributable to industry and has been used to offset additional cost increases for industry.

6.2 ACTIVITIES UNDER THE ANIMAL PRODUCTS ACT 1999

In administering the Animal Products Act 1999, MPI carries out activities in the following key areas:

- setting of New Zealand export standards;
- facilitating exports (including official assurances);
- providing approvals and registrations;
- event and emergency response;
- managing compliance, which covers monitoring and audit, investigations and enforcement;
- policy advice (including technical input).

The main activities in each of these areas are described in more detail in section 0, Appendix 1.

6.3 MPI VERIFICATION SERVICES ACTIVITIES

6.3.1 Overview

MPI Verification Services is responsible for activities under the following Acts:

- Animal Products Act 1999;
- Animal Welfare Act 1999;
- Biosecurity Act 1993;
- Hazardous Substances and New Organisms Act 1996;
- Food Acts 1981 and 2014.

MPI Verification Services is accountable for providing clearance, verification and official assurance services to over 3,800 businesses operating under the Animal Products Act 1999, Animal Welfare Act 1999, Biosecurity Act 1993, Hazardous Substances and New Organisms

Act 1996 and Food Act 1981, to confirm that New Zealand and overseas market access requirements are met. Most of that service is provided to business exporting animals, animal products and animal materials.

The Ministry employs more than 270 staff for the provision of these services and generates direct and indirect costs of over \$37 million a year. Of the staff providing verification and certification, 200 are registered veterinarians and 30 hold university qualifications in science or agriculture. MPI participates in the New Zealand Veterinary Association veterinary salary benchmarking surveys, to ensure total MPI veterinary remuneration remains relative to market.

Staff work throughout New Zealand providing service to registered exporters, importers, primary and secondary processing business, and biosecurity containment facilities, covering a wide range of product types, including eggs, game, hides and skins, honey, live animals, meat, poultry, pork and processed seafood.

MPI Verification Services is accredited to ISO17020 and is a recognised agency under the Animal Products Act 1999.

6.3.2 Services provided by MPI Verification Services

MPI Verification Services provides a range of food safety and biosecurity verification and certification services to enable market access strategies and support standards setting, including:

- verification and certification services to processing companies (for example, meat, seafood, game and dairy);
- performing imported foods clearance procedures (most of this work occurs in Auckland but all regions are involved to some degree);
- verifying containment and transitional facilities under the Biosecurity Act 1993.

Details of MPI's Verification Services structure are provided in section 6.38, Appendix 2.

The export meat sector accounts for 80 percent of the agency's activities. This sector includes slaughterhouses, meat and fish pack houses, cold storage facilities and other specialised premises processing animal products.

The agency also provides certification with official assurances that enable products to enter overseas markets. Improved market access conditions are negotiated on the back of the strength of Verification Services credibility.

The performance of the agency and its operators is subject to both internal (MPI Systems Audit Team) and external (overseas regulatory authorities) audits, and access to overseas markets is dependent on satisfactory audit outcomes.

Establishment and circuit verifications

Frontline staff work either in physical establishments or in a circuit. In some cases establishment staff perform some circuit verifications. Establishment staff are full-time veterinarians, which is mandated by market access requirements.

Staff working in circuits are a combination of veterinarians and non-veterinarians. Unlike the establishment staff, circuit staff are not located full-time in a single premise. They carry out their work at a number of different premises at frequencies largely determined by the performance of the operator in meeting regulatory requirements. In addition, specific visits are mandated by some markets, known as veterinarian market access visits.

6.3.3 Cost recovery approach for Verification Services

The fees and charges that correspond to Verification Services are prescribed in Part 7 of the Animal Products (Fees, Charges, and Levies) Regulations 2007. Operators pay depending on whether they fall into the circuit or establishment charging regimes.

- Circuit charges refer to charges payable in respect of any place or premises where the verification functions are performed by Authority verifiers who are not permanently or semi-permanently based at the place or premises.
- Establishment charges refer to charges payable in respect of any place or premises where the verification functions are performed by Authority verifiers who are permanently or semi-permanently based at the place or premises.

MPI's Verification Services charges comprise:

- A **basic charge** (also known as a programme charge), which represents MPI's indirect and overhead costs, although some circuit sectors are charged a licence fee in lieu of a basic charge; and
- **Hourly rates** that represent MPI's variable costs. MPI may also charge at higher 'penal' and 'overtime' rates where MPI staff are requested to work outside the usual hours or situations.

Establishment hourly charges

The basic hourly charge (programme charge) is calculated annually based on MPI verifier FTE (2,080 hours a year available full-time) staffing numbers at an establishment. These charges are billed as a bulk amount per invoice period.

The hourly charges are the frontline rate for actual hours on site and contain a component of frontline overhead. The rates for a supervising and meat veterinarian vary but both contain the same amount of overhead.

Overtime and penal time rates are calculated from the frontline hourly charge rate minus the overhead component.

Circuit hourly charges

The frontline circuit rate for both a veterinarian and a travelling technical supervisor are made up of a basic hourly charge (programme) rate, currently \$20.97, along with an hourly rate charge, currently \$93.04.

The industry sectors associated with the processing of fish and operators of cool stores are currently charged a reduced hourly frontline rate and do not pay the basic hourly programme rate in accordance with historical NZFSA cost recovery policy settings. They do, however, pay an annual charge pro rata monthly invoice. These charges are currently:

- stores, \$1,100 a year;
- primary processing of fish, \$549 a year;
- primary processing of bivalve molluscan shellfish, \$1,547 a year.

Overtime and penal time rates apply and are calculated from the frontline rate minus the basic hourly charge. Proposals for Verification Services are discussed in Part 6A.

6.4 LIVE ANIMAL EXPORT SERVICES

MPI's services for the live animal and germplasm sector include the following:

- export standards and systems — developing, implementing, monitoring and reviewing export standards and systems;

- market access maintenance — maintaining access to existing overseas markets by means of negotiations of market access conditions and specifications according to changing overseas authorities' requirements;
- new market access — developing new market access protocols and negotiating requirements for exporting live animals and germplasm to a particular country or market;
- official assurances — providing verification and inspection services and issuing official assurances to governments of importing countries;
- negotiating equivalences — negotiating equivalences and dispensations to importing countries' requirements;
- recognitions and approvals — running official assurance programmes and administering the systems for recognitions and approvals of recognised persons and agencies involved in official assurances to foreign governments, work that also includes approval of germplasm centres under the MPI Official Assurance Programme.

6.5 DAIRY INDUSTRY SERVICES

MPI provides a range of services to the dairy industry, including

- compliance and performance monitoring;
- development and maintenance of New Zealand and export standards;
- development and maintenance of market access;
- processing of Export Declaration forms;
- auditing exporters;
- maintenance of electronic certification;
- verification services;
- monitoring dairy residues.

Further details of MPI's services and activities are provided in section 6.39, Appendix 3.

6.6 POLICY PROPOSALS

6A - Live animal and germplasm exports

APA#1 – Change the method of charging for negotiating and maintaining market access for the live animal and germplasm sectors

APA#2 – Incorporate the current waivers into the regulations

APA#3 – Charge for support staff who assist with issuing export certificates

APA#4 – Align one-hour minimum charge

APA#5 – Align hourly rates for the live animal and germplasm sectors

6B - Policy proposals – Certification Services

APA#6 – Charge for changing the recognised agency on a Risk Management Programme

APA#7 – Recover costs for halal-related services

APA#8 – Recover costs for re-certification as a supplier for wild animals or game estates

APA#9 – Recover costs for re-listing of further pet food processors

APA#10 – Charge for additional time spent processing Official Assurances (Non-Dairy)

APA#11 – Charge for minor amendments to a Risk Management Programme (Non-Dairy)

APA#12 – Recover costs for inspection and audit under the Animal Products Act 1999

APA#13 – Recover costs for the approval of a maintenance compound

6C - Policy proposals – Levies on animal products

APA#14 – Charge for homekill and recreational catch service providers

APA#15 – Establish a minimum charge for levies

APA#16 – Require information to inform levies

APA#17 – Increase annual charge for the Meat Industry Initiative Fund

6D - Policy proposals – Verification Services

APA#18 – Change the way programme charges are calculated and applied

APA#19 – Remove annual charges

APA#20 – Charge for establishing a full-time verification services presence

APA#21 – Charge for non-verification functions

APA#22 – Remove differentiation between veterinarian and non-veterinarian circuit verifiers

APA#23 – Introduce new penal rates

APA#24 – Revise definition of penal rates

6E - Policy proposals – Dairy industry

APA#25 – Enhance charging approach for New Zealand standards, performance monitoring, export standards, market access and residue monitoring

APA#26 – Introduce a new cost recovery method for infant formula exports

APA#27 – Establish an identical Verification Services charging regime for dairy verification inspection and audit

APA#28 – Charge for minor amendments to a Risk Management Programme (Dairy)

APA#29 – Charge for additional time spent processing Official Assurances (Dairy)

APA#30 – Add waiver provisions to dairy industry fees and charges regulations

6.37 APPENDIX 1 – MPI ACTIVITIES UNDER THE ANIMAL PRODUCTS ACT

6.37.1 New Zealand standards, specifications and guidance

MPI activities in the area of setting standards include:

- setting New Zealand safety and suitability standards for food, pet food and other animal products for animal consumption;
- setting maximum residue limits;
- developing and implementing operational standards and guidance for industry;
- clarifying and interpreting standards or specifications;
- setting evaluation and verification requirements (and providing training and updates to recognised persons);
- contributing to the development of international standards;
- establishing import requirements;
- reviewing the effectiveness of standards.

6.37.2 Export standards and market access

MPI activities in facilitating exports include:

- provision of technical policy advice to government policy makers;
- contributing to the development of international standards;
- negotiating technical market access conditions and specifications;
- providing certification and other assurance activities to meet international authority requirements;
- setting evaluation and verification requirements;
- provision of verification services (where these must be performed by government employees);
- administering the export eligibility system (E-Cert);
- overall review of industry export programmes.

6.37.3 Approvals and registrations

MPI services in this area include:

- providing the services to regulated parties under the Act:
 - registration of risk management programmes (production systems and processes);
 - approval and recognition of agencies and persons, including third party verifiers (such as warrants for MPI, VA, and PHU staff);
 - registration of exporters.
- providing the administrative systems and processes for approvals, including evaluation and review;
- maintenance of associated public registers;
- suspension and removal of approvals and registrations.

6.37.4 Monitoring and audit

MPI monitoring and audit work in this area includes:

- regularly collection and assessment of information to check compliance with regulatory requirements;
- general (national) monitoring programmes such as monitoring of the shellfish commercial harvest;
- random sampling and testing of products across all sectors;
- imported food monitoring programme;

- industry level monitoring programmes such as the National Chemical Contaminants Programme (dairy), and poultry residue monitoring;
- monitoring and assessing recognised agencies and persons;
- scheduled auditing of industry or business systems and processes;
- intervening when non-compliance is detected;
- dealing with inquiries and providing information to industry on compliance;
- trends analysis for compliance and non-compliance.

6.37.5 Operational response and investigations

Our work in this area includes:

- responding to and investigating consumer complaints and reports of non-compliance;
- investigation of signals and information that indicate potential problems.

6.37.6 Enforcement

MPI's main activities in the area of enforcement include:

- applying corrective actions in cases of non-compliance by containment or prevention of recurrence;
- imposing regulatory sanctions;
- initiating and/or managing product recalls and emergency responses;
- implementing standards relating to responses for the range of events that arise;
- providing systems and processes for emergency response;
- co-ordinating recalls of food (domestic and international) and other relevant products from the New Zealand market;
- preparing and taking prosecutions;
- ensuring a nationally consistent response.

6.37.7 Policy advice (including technical input)

Our policy advice work includes:

- provision of technical policy advice to government policy makers;
- engagement, on behalf of New Zealand, with the Codex Alimentarius Commission and other multi-lateral forums.

6.38 APPENDIX 2 – MPI VERIFICATION SERVICES STRUCTURE

MPI Verification Services plays a key role in the meat industry owing to the requirement by the EU and China for full-time veterinary supervision. Other markets like the United States also have requirements for government veterinarian presence with varying frequencies.

The MPI Verification Services directorate is led by a Director, supported by:

- an Operational Specialist Coordinator who provides coordination of MPIVS operational matters;
- an Agency Technical Manager who provides the overall leadership and direction in technical matters;
- six regional technical managers, each of whom is supported by a regional business coordinator and a regional technical specialist.

Teams operate in the following geographical areas (supported by the Wellington Head Office-based technical team):

- Upper North Island;
- Waikato and the Bay of Plenty;
- Manawatu, Taranaki and Wanganui;
- Hawkes Bay/Wellington;
- Canterbury and the West Coast; and
- Southland and Otago.

6.39 APPENDIX 3 – SERVICES TO THE DAIRY INDUSTRY

6.39.1 The development and maintenance of New Zealand standards

MPI develops and maintains New Zealand standards by:

- setting New Zealand safety and suitability standards;
- developing and implementing operational standards and guidance for industry;
- clarifying and interpreting standards and specifications;
- setting verification requirements;
- reviewing the effectiveness of standards.

6.39.2 Performance Monitoring

Monitoring for dairy industry performance encompasses:

- undertaking system performance audits to ensure the regulatory model is working as intended;
- monitoring and assessing recognised agencies' and accredited persons' performance (in conjunction with the accreditation body) by assessing a percentage of performance-based verification reports;
- providing technical clarification, technical assessments and regulatory compliance dispute resolution, and managing critical non-compliance;
- monitoring, reporting on and managing routine procedural failures in dairy processing premises and export non-conformances;
- contributing to industry forums and working groups such as the Dairy Product Safety Advisory Council, and liaising with overseas regulators on systems performance.

MPI will investigate cost recovery for responses and incidents that fall outside the scope of current cost recovery provisions as part of its overarching review of cost recovery.

6.39.3 The development and maintenance of market access and export standards

MPI develops and maintains market access and export standards by:

- negotiating technical market access and specifications for existing markets;
- developing, maintaining and evaluating export food standards and systems;
- reviewing industry export programmes;
- setting verification requirements for industry.

6.39.4 The dairy residue monitoring programme (National Chemical Contaminants Programme)

Independent service providers sample raw milk, colostrum and dairy products to confirm that residue or contaminant levels do not exceed acceptable limits for New Zealand or for export markets and report the results to MPI. The monitoring includes random monitoring and targeted surveillance of raw milk, dairy material and dairy products on farm, in bulk milk tanks, in milk tankers and at dairy premises as well as surveys (when there is little or no historical data).

The key outputs of this service are:

- an assurance that not less than 99 percent of raw milk conforms to New Zealand and international standards at the farm gate;
- confirmation that the regulatory framework delivers dairy products that are safe and accurately represented;
- confirmation of the accuracy of attestations provided to other competent authorities;
- confirmation that Registered Manufacturing Programme sampling and testing plans and procedures are appropriate, reliable and capable of identifying non-conformances;
- investigation of unfavourable findings to ensure that controls remain effective and that emerging hazards are identified and appropriate regulatory measures are applied.

The National Chemical Contaminants Programme includes the independent verification programme, which verifies the accuracy of commercial testing of exported products for food safety, wholesomeness and standards of identity.

9 Proposals that impact across multiple cost recovery regimes

9.1 BACKGROUND

The current structure of the Ministry is a result of the merger of different agencies that administered a range of Acts that provide for cost recovery. Because of this there are differences in the approach to cost recovery between sectors.

Some cost recovery issues, or features of them, are common across the different cost recovery regimes. The Ministry is therefore proposing to amend multiple sets of regulations at the same time to standardise some approaches to cost recovery, and the language used to describe them.

As a means of seeking feedback from all affected sectors, these multi-regime issues have been grouped for consultation purposes. Implementation for individual cost recovery regimes will be through the Regulations made under the authority of individual Acts.

9.2 POLICY PROPOSALS

Common#1 – Align hourly rate charges
Common#2 – Use Inland Revenue Department vehicle mileage rates

Common#3 – Recover costs for support staff involved in specialist services

Common#4 – Recover other costs incurred by MPI

Common#5 – Charge for performance of function, power or duty under the Act, Regulations and Notices not prescribed elsewhere

Common#6 – Correct use of the term ‘levy’

Common#7 – Update references to recognised persons and agencies

Common#8 – Align veterinary professional rates across biosecurity and food regulations

9.3 COMMON#1 – ALIGN HOURLY RATE CHARGES

9.3.1 Background

The food safety cost recovery regulations prescribe hourly rate charges using a number of different approaches, for example:

- Animal Products (Fees, Charges, and Levies) Regulations – one hour of time, with time thereafter charged on the basis of an assessment charge at hourly increments until the last half hour, which is done in 15 minute increments;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007 – similar approach, but prescribed in a different manner;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002 – different approach;
- Animal Welfare Export Certificate Regulations 1999 – different approach.

9.3.2 Regimes affected by this proposal

This change would apply to the following regulations:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.3.3 Problem definition

The different hourly rate charging approaches under each set of regulations adds complexity for staff performing similar functions under the different Acts as they may be required to follow different administrative processes for charging for services under each Act.

Options considered

The Ministry considered two options:

- Option 1 — maintain the status quo (inconsistent wording across multiple regulations).
- Option 2 — adopt a common approach across regulations, to the extent possible.

MPI's preferred approach is to establish a common approach across regulations. This will help to ensure consistency (and thereby promote efficiency) for staff performing similar functions under the different Acts.

The majority of cost-recoverable activity falls under the Animal Products Act 1999. Extending the approach prescribed in Part 1 and Part 2 of Schedule 1, of the Animal Products (Fees, Charges, and Levies) Regulations 2007 to regulations under other Acts is considered the most appropriate approach to take. A minimum charge of one hour also allows for the administrative costs associated with invoicing and collection.

9.3.4 Proposed alignment of hourly rate charging approach in keeping with the animal products fees

All time spent by an officer or employee of the Ministry would be chargeable at:

- a minimum charge of one hour, at the appropriate rate for the activity;
- an hourly rate, charged in 15-minute increments, for any time in excess of the first hour.

The Ministry proposes to apply this approach to the following regulations, with any necessary modifications:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.3.5 Questions for consideration

Question 9.3

- 1) Do you support the adoption of a common approach for hourly rate charging under the various food sector cost recovery regimes?
- 2) If not, what is your preferred approach for each of the food sector cost recovery regimes, and what are your reasons for this preference?

9.4 COMMON#2 – USE INLAND REVENUE DEPARTMENT VEHICLE MILEAGE RATES

9.4.1 Background

The Ministry recovers vehicle costs using mileage rates prescribed in the regulations for each regime. A number of different rates are currently in force, and these rates can quickly become out of date.

Similarly, the various regulations prescribe the bases for recovery of other costs incurred by the Ministry when delivering services to users.

The Inland Revenue Department (IRD) collects data on the costs of operating a motor vehicle, and the Commissioner promulgates a standard vehicle mileage rate under section DE12(3) of the Income Tax Act 2007.

The Ministry proposes to remove ‘static’ references in the current regulations and adopt the periodic rate promulgated by the Commissioner of Inland Revenue.

9.4.2 Regimes affected by this proposal

This change would apply to the all cost recovery regulations:

- Biosecurity (Costs) Regulations 2010 – veterinary inspectors only;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.4.3 Problem definition

The vehicle mileage rates are prescribed in various regulations and quickly become out of date. MPI’s collective employment agreement with its verifiers and some other staff provides for charging at the rate published by the Commissioner of Inland Revenue under section DE 12 (3) of the Income Tax Act 2007. The current rate³³ is \$0.77 cents per kilometre.

The difference in employment agreement rates and the regulated rates for mileage and other costs can also lead to a discrepancy in the costs the Ministry recovers from service users and the reimbursements made to Ministry staff for some activities.

9.4.4 Proposed change to a common approach for mileage rates and the recovery of any other travel costs

MPI proposes to amend various regulations to provide for cost recovery of motor vehicle costs at the rate promulgated from time to time by the Commissioner of Inland Revenue under section DE 12 (3) of the Income Tax Act 2007.

This proposal would apply to the travel costs for veterinary inspectors only in the Biosecurity (Costs) Regulations 2010.

This proposal will support efficiency and equity.

³³ <http://www.ird.govt.nz/technical-tax/op-statements/os-review-mileage-rate-2014.html>

9.4.5 Questions for consideration

Question 9.4

- 1) Do you agree with the proposal to harmonise vehicle mileage rates and other travel costs across the various cost recovery regimes?
- 2) Do you agree with the use of the mileage rate promulgated from time to time by the Commissioner of Inland Revenue under section DE 12(3) of the Income Tax Act 2007?
- 3) If not, what is your preferred approach to mileage rates for each cost recovery regime, and what are your reasons for these preferences?

9.5 COMMON#3 – RECOVER COSTS FOR SUPPORT STAFF INVOLVED IN SPECIALIST SERVICES

9.5.1 Background

Support staff members within the Ministry perform essential but non-specialist services that support the delivery of specialist certification. This includes the maintenance and administration of registers and the preparation and filing of documents.

MPI is able to recover costs for these services, but no mechanism currently exists in the various regulations to do this.

9.5.2 Regimes affected by this proposal

This change would apply to the following regulations:

- Biosecurity (Costs) Regulations 2010;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.5.3 Problem definition

By way of example, as part of the process for issuing live animal and germplasm export certificates, MPI support staff prepare paper export certificates that are issued by recognised persons. This practice is more cost-effective than using specialist recognised persons, and allows recognised persons to focus on technical matters instead of administration.

Part 8 of the Animal Product (Fees, Charges, and Levies) Regulations 2007 does not include a provision for MPI to recover the costs of non-recognised persons involved in specialist functions and activities necessary for the export of live animals or germplasm. Consequently, MPI cannot fully recover the cost of these services.

This problem could be resolved by only using expert staff whose time can be cost-recovered for undertaking this work, but this is a very inefficient use of their time. Another option would be to build administration time into levies, but this does not apportion the costs as directly as a fee to that person or group who caused the costs to be incurred.

A similar problem exists for other cost recovery regimes.

9.5.4 Proposed charges for support staff involved in export certification

MPI proposes to create a new cost recovery item in each of the relevant regulations to allow MPI to recover for time spent by other employees undertaking functions and activities necessary for the production of certificates or provision of expert services.

9.5.5 Questions for consideration

Question 9.5

- 1) What is your preferred method for cost recovery of support staff time across the various cost recovery regimes?
- 2) If you prefer different methods for individual cost recovery regimes, what are these methods and what are your reasons for these preferences?

9.6 COMMON#4 – RECOVER OTHER COSTS INCURRED BY MPI

9.6.1 Background

Other costs include incidental and additional costs that the Ministry incurs during the delivery of services to users. These costs are often unpredictable and vary depending on the nature of the service provided.

These costs include categories such as external review, expert review, notification, product testing, travel and accommodation, as well as disbursements such as photocopying, printing and stationery, phone, fax, video conferencing, postage and courier charges.

9.6.2 Problem definition

Inconsistent regulatory approaches add administrative complexity, particularly for staff that work across multiple regimes.

9.6.3 Proposed charges for support staff involved in export certification

MPI proposes that actual and reasonable costs incurred by an officer or employee of the Ministry may be recovered when they arise from:

- a request by the operator of a risk management programme, or other processor;
- an act, or omission, of an operator or processor.

MPI proposes that recoverable costs include, but not be limited to, costs such as external review, expert review, notification, product testing, travel and accommodation, as well as disbursements such as photocopying, printing and stationery, phone, fax, video conferencing, postage and courier charges.

MPI proposes that a common approach for recovering other costs be applied to the following regulations, with any necessary modifications:

- Biosecurity (Costs) Regulations 2010;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.6.4 Questions for consideration

Question 9.6

What is your preferred approach for the recovery of incidental costs incurred by the Ministry for delivery of services to users for each cost recovery regime (or for all cost recovery regimes)?

9.7 COMMON#5 – CHARGE FOR PERFORMANCE OF FUNCTION, POWER OR DUTY UNDER THE ACT, REGULATIONS AND NOTICES NOT PRESCRIBED ELSEWHERE

9.7.1 Background

MPI provides a range of functions, powers and duties under various Acts, and subsidiary regulations and notices and standards. The various cost recovery regulations prescribe fees, charges and levies for specific functions, powers or duties under the relevant Act, regulations and notices.

Item 23 of the Schedule of the Biosecurity (Costs) Regulations 2010 enables MPI to recover the costs of performing a function, power, or duty—

- required to be undertaken under the Act or regulations made under the Act; and
- not prescribed elsewhere in the Schedule.

The item is payable as an hourly rate for each adviser involved and is payable by the person whose actions resulted in the specific function, power or duty being required.

The Ministry is proposing to adopt this approach for other cost recovery regimes.

9.7.2 Problem definition

The Ministry currently cannot charge for the exercise of functions, powers or duties under Acts, regulations and notices unless they are prescribed for that regime.

It is not practical or possible to specify all of MPI's functions, powers or duties under all Acts and subsidiary regulations and notices, or the associated fees or charges for them, in an exhaustive manner. There are two main reasons:

- The Ministry was not aware of the function, power or duty when the regulations were promulgated.
- The function, power or duty under the Acts, and subsidiary regulations and notices is new. For example, halal-related services were not included in the Animal Product (Fees, Charges, and Levies) Regulations 2007, and were subsequently added by the Animal Products (Overseas Market Access Requirements for Halal Assurances) Notice 2013.

MPI's inability to recover costs for the exercise of functions, powers or duties under the Acts and subsidiary regulations and notices is causing it to under-recover the cost of delivering these services.

9.7.3 Proposed fees for performance of function, power or duty under the Act, Regulations and Notices not prescribed elsewhere

The Ministry proposes to include cost recovery for performance of a function, power or duty that is:

- required to be undertaken under the relevant Act, including subsidiary regulations and notices;
- not prescribed elsewhere in the relevant cost recovery regulations.

The hourly rate would be the relevant rate for other services provided under the empowering Act. MPI proposes that this approach be applied to the following regulations, with any necessary modifications:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

The item would be payable by the person whose actions resulted in the specific function, power or duty being required.

This proposal would support equitable cost recovery and efficient service delivery.

9.7.4 Questions for consideration

Question 9.7

What is your preferred method of cost recovery for time spent performing functions, powers or duties not specified elsewhere for each cost recovery regime (or for all cost recovery regimes)?

9.8 COMMON#6 – CORRECT USE OF THE TERM ‘LEVY’

9.8.1 Background

MPI imposes levies on some products to fund industry good services. For historic reasons, when some cost recovery regulations were created, certain charges (industry goods) were described in regulations as ‘standard’ charges, when from a legal perspective these are actually levies.

9.8.2 Regimes affected by this proposal

This change would affect the:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.8.3 Problem definition

The regulations inappropriately describe certain cost recovery items as ‘fees’ and ‘charges’ when, in law, they are ‘levies’.

The options are:

- Option 1: maintain the status quo;

- Option 2: update the descriptions.

The Ministry's preferred approach is to update the descriptions to remove ambiguity and clarify the application of the various types of charges.

9.8.4 Proposed re-categorisation of fixed fees as levies

MPI proposes to change the terminology used for items recovering industry good costs in the various regulations from 'fees' or 'charges' to the legally correct term 'levies'. This proposal involves no changes to fees.

9.8.5 Questions for consideration

Question 9.8

Do you have any concerns about the proposed clarification of use of the term 'levy'?

9.9 COMMON#7 – UPDATE REFERENCES TO RECOGNISED PERSONS AND AGENCIES

9.9.1 Background

The Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 have been amended since the relevant cost recovery regulations were last reviewed.

9.9.2 Regimes affected by this proposal

This change would affect the:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Biosecurity (Costs) Regulations 2010;
- Wine Regulations 2006.

9.9.3 Problem definition

The references in regulations to the relevant parts of the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 relating to recognised persons and agencies are out of date.

9.9.4 Proposed amendments

MPI proposes to amend the cost recovery regulations to update the references to the relevant parts of the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 relating to recognised persons and agencies.

This is a minor and technical adjustment to cost recovery regulations to make changes to update the regulations. It involves no changes to fees.

9.9.5 Questions for consideration

Question 9.9

Do you have any concerns about the proposed updates to references to the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 in various regulations?

9.10 COMMON#8 – ALIGN VETERINARY PROFESSIONAL RATES ACROSS BIOSECURITY AND FOOD REGULATIONS

9.10.1 Background

MPI has a responsibility to service users to ensure that charges for similar activities and services across different regulations are consistent, and that the rationale for differential charging is clear.

9.10.2 Problem definition

Veterinary inspectors undertake a variety of activities and functions under biosecurity and food legislation.

Current hourly rates for veterinary inspector activities were set prior to the creation of MPI from its predecessor agencies. These predecessor agencies had different cost (including overhead) structures. As a result, veterinary inspectors undertaking similar work, but now with the same cost structure, are being recovered at different rates for activities undertaken under biosecurity and food legislation.

The options considered were:

- Option 1: maintain the status quo;
- Option 2: amend the veterinary inspector hourly rates in the Biosecurity (Costs) Regulations to align with that specified in the relevant food regulations (proposed rate of \$186.30 per hour).

9.10.3 Proposed charges

The proposal is to amend the veterinary inspector rate in the Biosecurity (Costs) Regulations to \$186.30 per hour to align with the rate proposed in the relevant food sector regulations.

9.10.4 Questions for consideration

Question 9.10

Do you have any concerns about the proposed alignment of charging rates for veterinarians under the biosecurity cost recovery regime and the food cost recovery regime?