

Biosecurity (Ruminant Protein) Amendment Regulations 2004

Pursuant to section 165 of the Biosecurity Act 1993, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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1 Title

- (1) These regulations are the Biosecurity (Ruminant Protein) Amendment Regulations 2004.
- (2) In these regulations, the Biosecurity (Ruminant Protein) Regulations 1999¹ are called “the principal regulations”.

¹ SR 1999/410

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Interpretation

- (1) Regulation 2 of the principal regulations is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**by-product** means anything not intended, or capable of being used, for human consumption that is derived in whole or in substantial or known quantities from food for human consumption

“**food for human consumption** —

“(a) means anything that is used or represented as being for use as food for human beings; and

“(b) includes—

“(i) any ingredient, nutrient, or other constituent of any food, whether the ingredient, nutrient, or constituent is consumed or represented as being for consumption by human beings—

“(A) by itself; or

“(B) when used in the preparation of or mixed with or added to any food; and

“(ii) anything that is or is intended to be mixed or added to any food”.

- (2) Regulation 2 of the principal regulations is amended by revoking the definition of **feed**, and substituting the following definition:

“**feed**—

“(a) means any matter produced as, or as part of, food for animals in premises that produce, render, or utilise ruminant protein; but

“(b) does not include—

“(i) protein-free tallow (if the maximum level of insoluble impurities does not exceed 0.15% by weight):

“(ii) any derivative of the tallow described in subparagraph (i):

“(iii) rennet:

“(iv) dicalcium phosphate (if it contains no trace of protein or fat):

- “(v) peptides with a molecular weight of less than 10000 dalton:
 - “(vi) amino acids:
 - “(vii) pet food packaged for retail sale and labelled for feeding to dogs or cats”.
- (3) Regulation 2 of the principal regulations is amended by revoking the definition of **feed supplier**, and substituting the following definition:
- “feed supplier—**
- “(a) means a person who produces, trades in, or distributes feed; and
 - “(b) includes a person who redesignates, as food for animals,—
 - “(i) any food for human consumption; or
 - “(ii) any by-product.”.

4 Operators to prepare ruminant protein control programme

Regulation 5 of the principal regulations is amended by revoking subclauses (6) and (7), and substituting the following subclause:

- “(6) A person who fails to comply with the requirements of subclause (1), (2), (4), or (5) commits an offence and is liable to the penalty specified in regulation 18.”

5 New regulation 12A inserted

The principal regulations are amended by inserting, after regulation 12, the following regulation:

“12A Registration costs payable in accordance with Biosecurity (Costs) Regulations 2003

- “(1) This regulation applies to an operator or person who intends to become an operator (as the case may be) who submits to the Director-General for registration—
 - “(a) a ruminant protein control programme; or
 - “(b) a revised ruminant protein control programme; or
 - “(c) an amendment to a registered programme; or
 - “(d) a replacement for a registered programme.
- “(2) A person to whom this regulation applies must pay the processing costs for registration of the relevant programme—

- “(a) in accordance with regulations 4, 5, 6(1), and 37, and item 19(d) of Schedule 2 of the Biosecurity (Costs) Regulations 2003; and
- “(b) as if the person who processes the programme were a biosecurity adviser as defined in section 3 of the Biosecurity (Costs) Regulations 2003.”

6 Obligation to label

Regulation 13 of the principal regulations is amended by revoking subclause (8).

7 New heading and regulation 17A inserted

The principal regulations are amended by inserting, after regulation 17, the following heading and regulation:

*“Irrigation with wastewater from premises
where ruminant protein rendered, stored, or
used*

“17A Irrigation with wastewater from premises where ruminant protein rendered, stored, or used

- “(1) Despite regulation 17(1)(d) and (e), a person may irrigate pasture (by spray or other means) with wastewater from premises—
 - “(a) licensed under—
 - “(i) the Meat Act 1981; or
 - “(ii) any regulations or other requirements made or imposed under the Meat Act 1981; or
 - “(b) of an animal product business (as defined in section 4 of the Animal Products Act 1999) in which ruminants are processed or slaughtered; or
 - “(c) where ruminant protein is produced, rendered, stored, or utilised.
- “(2) However, a person may act under subclause (1) only if, before using the wastewater for irrigating the pasture, the wastewater has—
 - “(a) had float material and sediment removed from it; and
 - “(b) been screened to the extent that it would be suitable for spray irrigation.

- “(3) For the time that any pasture to which subclause (1) applies is visibly contaminated with the wastewater (and any residues from the wastewater), a person may not—
- “(a) use the pasture for grazing ruminants; or
 - “(b) harvest the pasture for the purposes of feeding ruminants.
- “(4) A person who irrigates pasture in breach of subclause (2) commits an offence and is liable to the penalty specified in regulation 18.
- “(5) A person who uses or harvests pasture in breach of subclause (3) commits an offence and is liable to the penalty specified in regulation 18.”

8 New regulation 18AA inserted

The principal regulations are amended by inserting, before regulation 18, the following regulation:

“18AA Strict liability offences

- “(1) This regulation applies to the offences in regulations 5(6), 13(5), and 17A(4) and (5).
- “(2) In any proceedings for an offence, it is not necessary for the prosecution to prove that the defendant intended to commit the offence.
- “(3) It is a defence in any proceedings for an offence if the defendant proves that—
- “(a) the breach was due to an event or cause beyond the control of the defendant, including natural disaster, mechanical failure, and sabotage; and
 - “(b) the defendant took all reasonable steps to ensure that the offence was not committed.
- “(4) A defendant is entitled to rely on an event or cause beyond the control of the defendant, as part of a defence under subclause (3), only—
- “(a) with the leave of the court; or
 - “(b) if—
 - “(i) the defendant has served on the informant a notice in writing identifying the event or cause relied on by the defendant; and

“(ii) the notice in subparagraph (i) is served not later than 14 days before the date on which the hearing of the proceedings begins.”

Martin Bell,
Acting for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, amend the Biosecurity (Ruminant Protein) Regulations 1999 (“the principal regulations”). The principal regulations seek to ensure that New Zealand does not suffer an outbreak of a transmissible spongiform encephalopathy. Bovine spongiform encephalopathy is believed to have spread in the United Kingdom from feeding ruminant protein in feed supplements to ruminant animals. Ruminant animals are those that chew their own regurgitated cud such as cattle, sheep, deer, alpacas, and goats.

The main amendments provide—

- that highly processed ruminant products (protein-free tallow and its derivatives, rennet, dicalcium phosphate (with no trace of protein or fat), peptides with a molecular weight of less than 10000 dalton, and amino acids) are excluded from the scope of the regulations:
- that—
 - **feed supplier** includes a person who redesignates as food for animals any food for human consumption or any by-product; and
 - a feed supplier is obliged to act in accordance with the labelling requirements of regulation 13 of the principal regulations:
- that an operator (or a person who intends to become an operator) must pay a charge in accordance with the Biosecurity (Costs) Regulations 2003 for the assessment and registration by a biosecurity adviser of the following:
 - a ruminant protein control programme:
 - a revised ruminant protein control programme:

- an amendment to a registered programme:
- a replacement for a registered programme:
- that, if prescribed steps are followed to ensure that the feeding of ruminant protein in any form to ruminants is avoided, a person may irrigate pasture with wastewater from premises—
 - licensed under the Meat Act 1981 (or any regulations or other requirements made under that Act); or
 - of an animal product business in which ruminants are processed or slaughtered; or
 - where ruminant protein is produced, rendered, stored, or utilised:
- for the recategorisation of all absolute liability offences as strict liability offences:
- a defence to a strict liability proceeding under the principal regulations where the defendant can show that—
 - the breach was due to an event or cause beyond his or her control, including natural disaster, mechanical failure, and sabotage; and
 - all reasonable steps were taken to ensure that the offence was not committed.

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