

[AS REPORTED FROM THE PRIMARY PRODUCTION COMMITTEE]

*House of Representatives, 9 June 1988.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[Clauses 8, 11, and 12 of this Bill were formerly clauses 8, 11, and 12 of the Meat Amendment Bill]

*Hon. Colin Moyle*

## MEAT AMENDMENT (NO. 2)

### ANALYSIS

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### A BILL INTITULED

### An Act to amend the Meat Act 1981

BE IT ENACTED by the Parliament of New Zealand, as follows:

*New*

- 5 **1. Short Title and commencement**—(1) This Act may be cited as the Meat Amendment Act (No. 2) 1988, and shall be read together with and deemed part of the Meat Act 1981\* (hereinafter referred to as the principal Act).

\*1981, No. 56

Amendments: 1982, No. 82; 1983, No. 121; 1985, No. 142

No. 14—3B

*Price*

*incl. GST \$1.90*

## New

(2) Sections 11 (2) and 12 of this Act shall come into force on the 1st day of October 1988.

(3) The rest of this Act shall come into force on the 28th day after the day on which it receives the Royal assent.

5

**[Clauses 2 to 7 of the Meat Amendment Bill became sections 2 to 7 of the Meat Amendment Act 1987]**

**8. Application for and grant of licence**—Section 26 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections: 10

“(2) The Director-General shall consider every application for a licence under this Act, and, if satisfied that—

“(a) It complies with the requirements of this Act; and

“(b) The local authority concerned has confirmed that—

“(i) The premises concerned comply with all 15 relevant bylaws and planning schemes; and

“(ii) The situation of the premises is not objectionable; and

“(iii) Satisfactory provision is made in respect of drainage, sanitation, and the disposal of refuse, 20 effluents, and trade wastes; and

“(c) The construction of the premises, its accommodation for animals, and its equipment is completed and satisfactory,—

shall notify the applicant that upon payment to the Director-General of a specified sum (being the Director-General’s estimate of the costs to the Ministry of establishing the inspection service at the premises) a licence will be granted. 25

“(2A) Where an application for a licence under this Act has been made in respect of premises that were, or part of which was, formerly licensed under this Act or the Meat Act 1964, or that were or was part of any premises that were *(formerly so licensed)* so licensed within the previous 12 months, the costs referred to in subsection (2) of this section may include all or an appropriate proportion of the costs to the Ministry of 30 disestablishing any former inspection service at the premises.

“(2B) Upon payment of the sum specified under subsection (2) of this section in respect of any premises, the Director-General shall grant the licence concerned. 35

*New*

“**(2c)** Subject to **subsection (2d)** of this section, if required to do so the Director-General shall give to the occupier or intended occupier of any premises the Director-General’s best estimate  
5 of—

“(a) The sum likely to be specified under **subsection (2)** of this section in respect of establishing an inspection service at the premises; and

“(b) If the estimate includes any sum under **subsection (2A)** of this section, the amount of the sum.  
10

“(2d) The Director-General may refuse to give an estimate under **subsection (2c)** of this section unless paid the Director-General’s reasonable costs in causing it to be prepared.

“(2e) The Director-General shall not be bound by any  
15 estimate given under **subsection (2c)** of this section”.

**8A. Cancellation and suspension of licences**—Section 29 of the principal Act (as substituted by section 8 of the Meat Amendment Act 1987) is hereby amended by adding the following subsections:

20 “**(5)** Where—

“(a) A licence has been suspended; and

“(b) The meat inspection service at the premises concerned has been disestablished or withdrawn on or during the suspension,—

25 the Director-General may refuse to re-establish or reinstate the service at the premises until the licensee has paid, or made arrangements satisfactory to the Director-General to pay, to the Director-General the costs to the Ministry of disestablishing and re-establishing, or withdrawing and reinstating, the service at  
30 the premises.

“(6) Subject to **subsection (7)** of this section, if required to do so the Director-General shall give to the licensee of any premises the Director-General’s best estimate of the costs to the Ministry of disestablishing and re-establishing, or withdrawing and  
35 reinstating, the meat inspection service at the premises.

“(7) The Director-General may refuse to give an estimate under **subsection (6)** of this section unless paid the Director-General’s reasonable costs in causing it to be prepared.

“(8) The Director-General shall not be bound by any estimate  
40 given under **subsection (6)** of this section”.

**[Clauses 9 and 10 of the Meat Amendment Bill became sections 8 and 9 of the Meat Amendment Act 1987]**

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**11. Recovery of inspection costs**—(1) The principal Act is hereby amended by inserting, after Part III, the following Part: 5

“PART IIIA

“RECOVERY OF INSPECTION COSTS

“43A. **Interpretation**—(1) In this Part of this Act, unless the context otherwise requires,—

“ ‘Agreed employee level’, in relation to a plant for any period, means the number of employees agreed for the period in relation to the plant under section 43c (1) (a) of this Act by the plant’s manager and the Director-General: 10

“ ‘Agreed operating hours’, in relation to a plant for any period, means the hours agreed for the period in relation to the plant under section 43c (1) (c) of this Act by the plant’s manager and the Director-General: 15

“ ‘Assigned employee’, in relation to a plant, means an officer or employee of the Ministry employed to perform statutory duties in or about that specific plant only: 20

“ ‘Manager’, in respect of any plant, means the licensee of the plant; and includes any person placed in charge of the plant by a manager of the plant: 25

“ ‘Notional additional rate’, in relation to occasional employees of any class or description employed at a plant of any class or description during any period, means the rate prescribed for employees and plants of that class or description under section 43E (1) (b) of this Act in respect of the period: 30

“ ‘Notional rate’, in relation to occasional employees of any class or description employed at a plant of any class or description during any period, means the rate prescribed for employees and plants of that class or description under section 43E (1) (a) of this Act in respect of the period: 35

“ ‘Occasional employee’, in relation to a plant, means an officer or employee of the Ministry employed to perform statutory duties in or about both that specific 40

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plant and one or more other specific plants, on a regular or structured basis:

“ ‘Plant’, means any premises licensed under this Act:

5 “ ‘Statutory duties’, means duties performed, or to be performed, for the purposes of this Act.

“43B. **Plant managers to make payments to Ministry—**

(1) Subject to **subsection (2)** of this section, the manager of a plant shall pay to the Director-General, within 30 days of its being demanded by written notice from the Ministry delivered to the manager, an amount equal to the sum of the following amounts in respect of a past period specified in the notice:

10 “(a) In respect of each weekday, for each class or description of employee the product of 8 times the appropriate notional rate and the number of assigned employees of that class or description employed on the day in relation to the plant:

15 “(b) In respect of each weekday, the total amount (calculated at ordinary time, time and a half, or double time, as the case may be) that would have been payable to assigned employees in respect of employment in or about the plant on the day otherwise than during agreed operating hours if the ordinary time hourly rate of each were the appropriate notional rate:

20 “(c) In respect of each Saturday and Sunday, the total amount (calculated as aforesaid) that would have been payable to assigned employees in respect of employment in or about the plant on the day if the ordinary time hourly rate of each were the appropriate notional rate:

25 “(d) In respect of each day, the total amount (calculated as aforesaid) that would have been payable to occasional employees in respect of employment in or about the plant during the period if the ordinary time hourly rate of each were the appropriate notional rate and each was in addition paid at the appropriate notional additional rate:

30 “(e) A contribution towards the other costs of the Ministry arising from the employment of employees in relation to the plant during the period, being such proportion of the sum of the amounts described in paragraphs (a) to (d) of this subsection as is prescribed in

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that behalf by the Governor-General (by Order in Council in force during the whole of the period.

“(2) Where any sum payable under **subsection (1)** of this section remains unpaid more than 30 days after its being demanded, the Director-General may charge interest on it at a rate not exceeding the rate payable by the Ministry to its bankers in respect of overdrafts. 5

“(3) The Director-General shall cause to be paid into the Consolidated Account all money paid under **subsection (1)** of this section. 10

“(4) Every amount payable under **subsection (1)** or **subsection (2)** of this section shall be recoverable as a debt due to the Crown; and the Crown may—

“(a) Recover it accordingly in any Court of competent jurisdiction; or 15

“(b) Deduct it from any amount payable by the Crown to the manager concerned.

“43C. **Ministry and plant managers may agree levels of inspections**—A plant’s manager and the Director-General may enter into an agreement for the purposes of **section 43B (1)** of this Act specifying, in relation to any specified future period,—

“(a) The number of assigned employees who should be required in or about the plant when operating at intended peak operation and efficiency; and 25

“(b) The period (expressed in inspector/hours) of inspection by occasional employees that should be required in or about the plant when operating at intended peak operation and efficiency; and 30

“(c) Any normal operating hours for the plant.

“43D. **Discounts**—The Governor-General may, by Order in Council, prescribe a rate of discount for the purposes of **section 43B (2)** of this Act; and during every period during which the whole of which an Order in Council under this subsection is in force and an agreement under **section 43C** of this Act is in force in relation to a plant, the following provisions shall apply to the payments required to be made under **section 43B** of this Act in respect of the plant and period: 35

“(a) The amount described in **section 43B (1) (a)** of this Act shall for each class or description of employee be reduced 40

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by the prescribed proportion of 8 times the notional rate and the lower of—

5 “(i) The agreed employee level of employees of that class or description for the plant concerned on the day concerned; and

“(ii) The number of assigned employees of that class or description employed on the day in relation to the plant:

10 “(b) If, in respect of any Saturday during the 5 days before which (excluding statutory holidays) the average daily period for which assigned employees were required to be available in the plant concerned was not less than 6½ hours, and the agreement under  
15 **section 43c** of this Act specifies any normal operating hours for the plant, the amount described in **section 43B (1) (c)** of this Act shall be reduced by the prescribed proportion of the total amount (calculated as aforesaid) that would have been  
20 payable to the lower of—

“(i) The agreed employee level for the plant concerned on the day; and

25 “(ii) The number of assigned employees employed in or about the plant on the day,—  
in respect of their employment in or about the plant during agreed operating hours if the ordinary time hourly rate of each were the appropriate notional rate:

30 “(c) The amount described in **section 43B (1) (d)** of this Act shall be reduced by the prescribed proportion of the total amount (calculated at ordinary time rates) that would have been paid to occasional employees in respect of employment in or about the plant if—

35 “(i) Only the number of inspector/hours agreed under **section 43c (1) (b)** of this Act had been worked in or about the plant by occasional employees during each week concerned; and

40 “(ii) The occasional employees concerned had each been paid at the appropriate notional rate and, in additional, the appropriate notional additional rate:

“(d) The contribution described in **section 43B (1) (e)** of this Act shall be reduced accordingly.

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“43E. **Prescription of hourly rates**—(1) The Governor-General may from time to time, by Order in Council, make regulations prescribing in respect of any future period (whether fixed or indefinite)—

5  
 “(a) A notional hourly rate for the purposes of calculating the amounts recoverable under **section 43B** of this Act from the managers of plants in respect of the availability to perform statutory duties in or about plants by assigned and occasional employees; and 10  
 different rates may be prescribed for different classes or descriptions of plant, for different classes of descriptions of employee, or both; and

15  
 “(b) A notional additional hourly rate for the purposes of calculating the amounts recoverable under **section 43B** of this Act from the managers of plants in respect of the hours of employment of occasional employees during which they do not perform statutory duties in or about any plant; and different rates may be prescribed for different classes or 20  
 descriptions of plant, for different classes of descriptions of employee, or both.

25  
 “(2) No regulations under **subsection (1)** of this section shall be made except on the recommendation of the Minister, who shall not recommend the making of any such regulations without having consulted organisations recognised by the Minister as representing the interests of the managers of plants and notified the organisations of the reasons for the amounts prescribed by the regulations.”

30  
 (2) Section 44A of the principal Act is hereby consequentially repealed.

*New*

11. **Recovery of inspection costs**—(1) The principal Act is hereby amended by inserting, after Part III, the following Part:

## “PART IIIA

35

## “RECOVERY OF INSPECTION COSTS

“43A. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—



*New*

- 5 “ ‘Inspection contract’, in relation to any plant in any season, means the general form of agreement for the season for plants of the kind or description concerned, with the modifications (if any) agreed or advised under **section 43E** of this Act for the plant in the season:
- “ ‘Inspection costs’ means the direct and indirect costs to the Ministry of the meat inspection service:
- 10 “ ‘Manager’ means the licensee of a plant, and includes a person placed in charge of it by its manager; and, in relation to a plant, means a manager of that plant:
- “ ‘Plant’ means premises approved or licensed under this Act:
- 15 “ ‘Rebate’ means a reduction allowed under **section 43H** of this Act:
- “ ‘Season’ means a year commencing on the 1st day of October.
- “**43B. Director-General to recover inspection costs—**
- 20 (1) In the administration of this Part of this Act, the Director-General shall take all reasonable steps to ensure that there is recovered in respect of every season the difference between—
- “ (a) The sum of—
- 25 “ (i) Inspection costs in respect of the season; and
- “ (ii) Any shortfall (otherwise than by way of rebate) in the recovery of inspection costs in respect of the season before; and
- “ (b) The sum of—
- 30 “ (i) All rebates in respect of the season; and
- “ (ii) Any over-recovery of inspection costs in respect of the season before.
- “ (2) For the purpose only of **subsection (1) (b) (ii)** of this section, every rebate shall be deemed to have been recovered in full.
- 35 “**43c. Incidence of recovery—**In the administration of this Act, the Director-General shall take all reasonable steps to ensure that the proportion of the amount required by **section 43B** of this Act to be recovered in respect of any season that is to be recovered from the managers of plants of any kind or description is an appropriate reflection of the proportion of the activities of the meat inspection service, and the activities of the
- 40

## New

Ministry in support of the service, that is likely to be devoted to plants of the kind or description during the season.

“43D. **Director-General to consult representative organisations**—(1) The Director-General shall from time to time consult the organisations for the time being recognised by the Director-General as representing the interests of the managers of plants of any kind or description as to the basis in which inspection costs are to be recovered in respect of plants of that kind or description.

“(2) The consultation shall take the form of attempting to agree a general form of contract providing for the recovery of inspection costs from managers of plants of the kind or description concerned.

“(3) If the Director-General and the organisations concerned reach agreement, the general form of contract for plants of the kind or description concerned shall be the form agreed.

“(4) If—

“(a) Four weeks have passed since the last of the organisations to be consulted was consulted; and

“(b) The Director-General and the organisations have not reached agreement,—

the Director-General may advise the organisations of a general form of contract, and of the Director-General’s reasons for deciding on the form; and in that case the general form of contract for plants of the kind or description concerned shall be the form advised of.

“(5) In deciding on a form under subsection (3) or subsection (4) of this section, the Director-General shall have regard to—

“(a) All matters raised by the organisations concerned during consultation; and

“(b) Any rate of reduction for the time being directed under section 43G of this Act; and

“(c) Sections 43B and 43C of this Act.

“(6) A form may provide for incentives for prompt payment, arbitration in relation to the application or interpretation of inspection contracts based on it, or both.

“(7) Subsection (6) of this section does not affect the generality of subsections (1) to (5) of this section.

“43E. **Director-General to consult managers**—(1) The Director-General shall before every season consult the manager

*New*

of every plant as to whether or not the general form of contract for plants of the kind or description concerned should be modified by the inclusion of all or any of the following:

5     “(a) A description of a level and pattern of operation for the plant for the season that is, in relation to the operation of the meat inspection service at the plant, efficient:

10     “(b) Provision for the payment of a deposit or bond by the manager:

   “(c) Provision for the payment of penalties in respect of late payments;—

and, if so, the form in which they are to be included.

15     “(2) If the Director-General and the manager of a plant reach agreement on the form and content of modifications under **subsection (1)** of this section or that there are to be none, the general form of contract (as modified or without modification, as the case may be) shall have effect according to its tenor as a contract between them for the recovery from the manager of  
20 inspection costs for the season concerned.

   “(3) If—

   “(a) Four weeks have passed since the Director-General consulted a manager; and

25     “(b) The Director-General and the manager have not reached agreement on the form and content of modifications or the question of whether or not there are to be modifications,—

30     the Director-General may advise the manager of modifications (including or not including, at the Director-General’s discretion, any or all of the matters referred to in **paragraphs (a) to (c) of subsection (1)** of this section) or the fact that there are to be no modifications, and the Director-General’s reasons for deciding on the modifications or absence of modification; and in that  
35     case the general form of contract (as modified or without modification, as the case may be) shall have effect according to its tenor as a contract between them for the recovery from the manager of inspection costs for the season concerned.

   “(4) In deciding on the form and content of an inspection contract, the Director-General shall have regard to—

40     “(a) All matters raised by the manager concerned during consultation; and

   “(b) Any general directions of the Minister; and

## New

“(c) The Ministry’s obligations under this Act; and

“(d) Sections 43b and 43c of this Act.

“(5) An inspection contract under **subsection (2)** of this section  
in relation to any plant for any season— 5

“(a) Shall take effect in place of any inspection contract  
under **subsection (3)** of this section in relation to the  
plant for the season; and

“(b) Shall take effect from the commencement of the season.

“(6) All payments made under an inspection contract under **subsection (3)** of this section that is later replaced by an inspection  
contract under **subsection (2)** of this section shall be deemed to  
have been made under the latter contract; and— 10

“(a) If the payments made exceed those required under the  
latter contract, the Director-General shall, at the 15  
option of the manager concerned, refund the excess  
or credit it against amounts to be recovered under  
the agreement; and

“(b) If the payments required under the latter contract  
exceed those made, it shall be deemed to include a 20  
provision requiring the manager to pay the shortfall  
to the Director-General upon demand by the  
Director-General.

“(7) Any penalties provided for in an inspection contract shall  
be payable and recoverable notwithstanding any rule of law to 25  
the contrary.

“43F. **Inspection service may be withdrawn in certain  
circumstances**—(1) Except to the extent that the inspection  
contract concerned provides otherwise, the Director-General  
may withdraw or limit the meat inspection service at any plant 30  
if its manager is in breach of any obligation imposed by an  
inspection contract for the season or the previous season (being  
a contract that applies to the plant).

“(2) The Director-General may during any season withdraw  
the meat inspection service at any plant if no inspection 35  
contract for the season (being a contract that applies to the  
plant) is then in effect.

“(3) Where, pursuant to **subsection (1)** or **subsection (2)** of this  
section, the meat inspection service at a plant has been  
withdrawn, the Director-General may refuse to reinstate it until 40  
the plant’s manager has paid to the Ministry the Ministry’s  
reasonable costs in withdrawing and reinstating the service.

## New

“(4) **Subsections (1) to (3)** of this section shall have effect notwithstanding any other provision of this Act.

“(5) Nothing in **subsections (1) to (3)** of this section derogates  
5 from or affects any power of the Director-General to disestablish or withdraw the meat inspection service from any plant arising otherwise than under the subsections.

“43G. **Minister may direct rebates**—(1) The Minister may  
10 from time to time direct the Director-General to allow to the managers of plants, in respect of the operation of their plants in any specified future season in conformity with an efficient pattern and level of operation, a reduction of a specified percentage of the amount otherwise recoverable.

“(2) The Minister shall publish in the *Gazette* a copy of every  
15 direction under **subsection (1)** of this section.

“43H. **Rebates**—Every inspection contract that contains a description of a level and pattern of operation for the plant to which it relates that is, in relation to the operation of the meat inspection service at the plant, efficient shall be deemed to  
20 include a provision requiring the Director-General to allow the manager concerned during any period when the plant is operating in conformity with the level and pattern of operation described a reduction of the amount otherwise recoverable in respect of the plant under the contract of the percentage (if  
25 any) directed by the Minister under **section 43G (1)** of this Act in respect of the season concerned.”

(2) Section 44A of the principal Act is hereby consequentially repealed.

**11A. Consultations, etc. before commencement of**  
30 **Act**—Subject to **section 12** of this Act, **Part IIIA** of this Act shall apply to—

- (a) All rebates directed; and
- (b) All consultations undertaken; and
- (c) All general forms agreed or advised; and
- 35 (d) All agreements reached; and
- (e) All arrangements advised,—

between the 17th day of May 1988 and the commencement of this Act as if the Part had come into force on the 17th day of May 1988.

**12. Transitional provisions and savings in relation to recovery of costs by Ministry**—(1) Without limiting the generality of any provision of the Acts Interpretation Act 1924, the former section 44A of the principal Act (as repealed by section 11 (2) of this Act) shall continue to have effect in respect of any period before the commencement of this *(Act)* section as if it had not been repealed. 5

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(2) Every agreement under that former section shall have effect as if made under new Part IIIA of the principal Act (as substituted by section 11 (1) of this Act). 10

(3) In respect of the period between the commencement of this Act and the commencement of an Order in Council revoking the Meat (Recovery of Inspection Costs) Order 1986, the latter order shall have effect as if— 15

(a) It is an order under section 43B (2) of the principal Act prescribing a discount of one third for the purposes of section 43B (1) of the principal Act; and

(b) It is an order under section 43B (1) (e) of the principal Act prescribing a proportion of 49.76 percent. 20

*New*

**12A. Regulations**—Section 49 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Regulations made under this section may instead of or as well as prescribing the amount of any fees provide that— 25

“(a) Fees are to be calculated on the basis of one or more hourly rates payable in respect of employees of the Ministry; or

“(b) Fees are to be calculated by reference to the costs (including or excluding indirect costs) to the Ministry of undertaking the activities to which the fees relate; 30

or

“(c) Both.”

**[Clause 13 of the Meat Amendment Bill became section 10 of the Meat Amendment Act 1987]** 35