# Stage 2 Cost Recovery Impact Statement

**Ministry for Primary Industries' Cost Recovery Settings Annual Review 2024**

# Contents

# 1 Executive summary

To ensure cost recovery settings remain appropriate, MPI undertakes an annual review of its charges. The annual review includes:

- reviews of expenditure and revenue to ensure that deficits and surpluses are quickly addressed,
- addressing 'design issues' around who pays and how, with usually no impact on the total amount MPI recovers.

This CRIS explores options to address deficits in the Agricultural Compounds and Veterinary Medicines (ACVM) regime and a surplus under Circuit fees, and a collection of design changes in nine areas to ensure appropriate charging for the services provided. The proposed options are analysed against MPI's cost recovery principles of Transparency, Justifiability, Efficiency, and Equity.

Public consultation on the proposals considered in this CRIS was open from 2 February to 8 March 2024. MPI published the consultation document on its website and sent email notifications directly to businesses and industry organisations. In addition, MPI extended an invitation to meet with interested stakeholders, and met with peak bodies such as Animal and Plant Health New Zealand.

## 1.1 Revenue and expenditure reviews

### 1.1.1 ACVM fees increase

MPI consulted on a proposed increase to the ACVM fees from a base hourly rate[1] of $135 to $247 to recover future costs and an expected $0.8 million accumulated deficit. Deficits have arisen primarily due to higher than forecast inflation, an increase in staff numbers and a new IT system.

While several submitters assessed MPI's performance and the current service level is reasonable, most considered MPI should look for efficiencies. The peak industry body considers the current level of service is reasonable but raised concern about forecast costs. All but one of the twenty who submitted on this proposal were opposed to raising the fees to $247. A number of submitters proposed a graduated increase to fees be considered.

This CRIS includes an additional option to defer recovering the deficit for two years and increase the base hourly rate to $228, and to $252 from 2026/27.

Based on the analysis set out in this CRIS, MPI considers that the costs for fee-related services, including forecast costs, are reasonable and it is fair to fully recover the costs from service users. The option that defers recovery of the deficit is less Efficient than the option as consulted but may be considered more Equitable at a time of economic contraction. Overall, the choice of which option best meets the Government's preferences around Efficiency and Equity is for the Government to decide.

Under both options, the cost recovery increase per annum is equivalent to about 0.2% of estimated wholesale revenue across the sector. MPI does not expect the fee increases to lead to a material change in the market overall, though there may be a decrease in the number of agricultural compounds in the market.

It is also recommended to update one fee for an ACVM service provided by border biosecurity staff. Due to an oversight this was not increased from 1 July 2023 when the rate for other border services was updated.

### 1.1.2 ACVM levy increase

MPI consulted on a proposed increase to the ACVM levy from $540 to $1,233 per annum per Trade Name Product to recover future costs and an expected $2.7 million accumulated deficit. Deficits have arisen primarily due to higher than forecast inflation, an increase in staff numbers and the costs for a new IT system.

All but two of the 19 who submitted on this proposal were opposed to increasing the levy rate to $1,233. Most consider MPI should look for further efficiencies. Concern was raised that there had

[1] Fees can vary by time or be fixed or a combination of fixed and variable. 'Base hourly rate' refers to the hourly cost of the relevant services which underpins all the related fees.

been insufficient previous consultation on the forecast costs for the new IT project and expanding the current compliance function. Some said that a graduated increase would be preferred.

This CRIS considers two additional options, both of which reduce the overall cost by removing one of two new FTEs proposed for the compliance function. The two further options are:

- one additional compliance FTE (rather than two); increase the levy rate to $1,182 to fully recover costs and the accumulated deficit,
- one additional compliance FTE (rather than two) and defer recovering the deficit for a year; increase the levy rate to $985 in 2024/25, , and increasing the levy to $1,199 from 2025/26.

Based on the analysis in this CRIS, MPI considers that the costs for levied services, including forecast costs as consulted, are reasonable and it is fair to fully recover the costs from service users. MPI considers that, due to the ability to manage compliance with one additional FTE in the short term, the two additional options above better meet the Justifiability principle at this time.

The option that defers recovery of the deficit is less Efficient but may be considered more Equitable at a time of economic contraction. Overall, the choice of which option best meets the Government's preferences around Efficiency and Equity is for the Government to decide.

The $2.4 million cost recovery increase per annum under the option as consulted is equivalent to about 0.3% of estimated wholesale revenue across the sector. MPI does not expect the proposed levy increase under the above two options (or the option as consulted) to lead to a material change in business decisions or the overall market for these products. There may be a decrease in the number of agricultural compounds in the market, particularly products with low volumes or which are otherwise valued less by product users.

MPI also recommends removing the ability for the Director-General to reset the levy rate in future up to a maximum. This administrative change will remove the uncertainty regarding this authority.

### 1.1.3 Circuit verification fee decrease

It is proposed to reduce Circuit verification fees from $230.50 to $206.70 to eliminate an expected $2.0 million accumulated surplus.

The $230.50 fee was an increase on the previous fee of $176.00 to address an accumulated deficit. The deficit has been recovered faster than expected thanks to unexpected cost savings.

Data limitations around the variety of industries that use Circuits mean it is difficult to comprehensively estimate the impacts on different sectors and markets but the impact on households, exports and industry is expected to be negligible. The reduction in costs for the poultry industry, for example, would reduce consumer prices by about 0.002% over the long-run.

Two of the seven submitters on this proposal supported reducing the fees. The other five did not express a clear view.

## 1.2 Design issues

Design issues are relatively small gaps, inconsistencies or other flaws in cost recovery settings.

Submitters generally supported the proposals. Changes that received some opposition included cancelled vet appointments (1.2.5), re-establishment of export eligibility (1.2.7), and dairy quota certificates (1.2.9).

The problems and preferred options are summarised below along with a summary of feedback, and MPI's response, where there was opposition in submissions.

### 1.2.1 Vet inspections for pets

Regulations currently include a fixed fee for non-veterinarian pet inspections because, in the past, non-vet staff inspected pets after arrival in New Zealand to check if the animal could be cleared. It is now acknowledged that veterinary expertise is required for all pet inspections. The preferred option clarifies in regulations that only vet fee rates apply for this service, not non-vet rates.

### 1.2.2 Live animal administration time

The regulations for the import and export of live animals and germplasm are unclear about whether administration time for animal inspections such as reviewing documentation, in addition to time spent conducting the inspection itself, is cost recoverable. The preferred option clarifies the regulations to make it clear that administration time is charged for.

### 1.2.3 Cat and dog exports

The preferred option replaces current fees with a minimum fixed fee that matches the typical time it takes to process exports and a time variable charge for exports that take longer to process. The fixed fee will improve certainty for households about what fees they will face.

### 1.2.4 Cat and dog imports

The preferred option replaces current fees with a minimum fixed fee that matches the typical time it takes to process imports and a time variable charge for imports that take longer to process. The fixed fee will improve certainty for households about what fees they will face.

### 1.2.5 Cancelled vet appointments

Sometimes customers cancel MPI veterinary inspection appointments at late notice. Late notices mean it can be difficult for MPI to reallocate that time including doing inspections for other customers.

Vet appointment cancellation fees were unanimously opposed because they were concerned MPI would charge fees in situations that were outside users' control. One of the options consulted on would see a fee charged that fully recovered costs (up to $600 depending on the situation).

MPI agrees with submitters concerns and considers that full cost recovery is not appropriate until submitters concerns are addressed. If MPI does ultimately pursue full cost recovery for late cancellations, it will only be after MPI develops and consults on an accompanying implementation plan to reassure stakeholders that fees would be waived when there is a good reason for the cancellation. In the meantime, MPI considers it reasonable that a small fee of $46.45 be charged but only when a user no-shows an appointment (provides no notification at all of a cancellation).

### 1.2.6 Biosecurity and veterinary inspector fees outside of normal hours

Parliament's Regulations Review Committee queried two of MPI's after-hours call-outs rates. In response MPI reviewed all after-hours service fees. This preferred option corrects the two miscalculated fees and to adjusts other after-hours fees and related settings to ensure that overtime, call-outs, and work on public holiday rates are calculated and recovered in a consistent way across all biosecurity, animal product and animal welfare regulations.

### 1.2.7 Re-establishment of export eligibility

Situations sometimes occur where a product loses its export eligibility and has to be inspected by MPI to have export eligibility restored. The time for re-establishing eligibility is not currently chargeable in regulations. Charging direct beneficiaries (those who products have their export eligibility re-established) best meets the cost recovery principles, so the preferred option is to introduce a fee for this service.

The re-establishment of export eligibility and dairy quota certificate changes were opposed by some submitters, including Fonterra, because they are worried the services are not time-efficient. MPI is confident that the time taken to administer provide the service is reasonable and that users may misunderstand the level of work involved with investigating the cause of a loss of export eligibility and in re-establishing eligibility. MPI will, however, provide further information to industry so that it can test this. Any time efficiencies identified will result in lower cost to industry through the hourly fee.

One other submitter raised concerns about the cost on industry. The cost is about $24,000 per year.

MPI's preferred option is to recover costs from 1 July 2024 – Option (2). MPI considers that:

- the Transparency and Justifiability principles are sufficiently met such that cost recovery under Options (2) or (3) is allowed, but that Option (3) would result in a slightly better meeting of the principles as it would mean that cost recovery only occurs after the fuller information above is provided

- Option (2) is likely to best meet the Efficiency principle as it recovers costs from beneficiaries sooner, and
- the option that best meets the Equity principle is for the Government to decide, however, it's not clear that Option (3) would be a good way of addressing the concern raised by the submitter as financial support for struggling businesses is typically provided through other schemes rather than discounts on particular fees.

### 1.2.8 Frozen berries assurance

Ready-to-eat frozen berries are proposed to be re-classified as high regulatory interest food under the *Food Notice: Requirements for Registered Food Importers and Imported Food for Sale*, which means importers will have to submit food safety assurance certificates to MPI before the berries can be imported. MPI cannot currently charge because the regulations only allow charging for increased regulatory interest food, not high regulatory interest food. The preferred option is to introduce a fee for these certificates.

### 1.2.9 Dairy quota certificates

The cost of processing dairy export certificates (which allow exporters to sell products to foreign countries at beneficial tariff rates) is allocated to those who pay a dairy exporter levy, instead of those who directly benefit from the certificates. The preferred option introduces a fee for certificate processing to beneficiaries, with a corresponding reduction in the dairy levy.

Fonterra considered that the service could be more time-efficient and that the current charge structure (which does not vary by time) would encourage officials to find efficiencies. Additionally, officials consider that related fees also require review and that it would be prudent to consider this service within that review. As such, MPI's preferred option is to not progress with the consulted proposal.

# 2 Agency disclosure statement

This CRIS has been prepared by MPI. There have been no significant or unusual constraints in the preparation of this analysis.

## 2.1 Scope of analysis

The scope of analysis for the revenue and expenditure reviews is broad. Reviews of core fees and levies require not just reviewing fee and levy rates but whether the expenditure they fund is justified.

The scope of analysis for the design changes is narrower. Design changes are fixes to relatively small issues. As the change is small, there isn't the same need to do wider analysis as there is for revenue and expenditure reviews. A design change might tweak the way a fee is applied for a service with analysis supporting that tweak, but not have analysis supporting the service itself. The service is reviewed as part of other policy processes but taken as a given for the purposes of the design changes in this CRIS. If a full review of service levels and associated costs was required at the time of a design change, resource limitations would mean the design change would not happen, and problems would persist, until the next full review.

For instance, in this CRIS, there is a preferred option to correct the way work outside of normal hours such as call-outs is charged. The analysis is limited to the methods for calculating fees for work outside of normal hours but does not test the underlying cost of the service or the service level needed. Service levels and associated costs for work inside and outside of normal hours are reviewed as part of normal three-yearly (or more frequent) reviews instead.

## 2.2 Data

The analysis uses a lot of data. A few areas have limitations.

There are no data limitations around the causes of the deficits under the ACVM fees and the ACVM levy. There are limitations on available data to determine the level of turnover year to year for those using ACVM services. While the data show that the impact of the increased fees and levy will largely fall on a small number of businesses, data limitations around the wide range of sectors that use ACVM services means it is difficult to comprehensively estimate the impacts of the proposed increases at the individual business level.

There are no data limitations around the causes of the surplus under the Circuits fee, but data limitations around the variety of industries that use Circuits mean it is difficult to comprehensively estimate the impacts on different sectors. The CRIS produces cost estimates for different sized businesses and estimates the impact on the poultry industry where sufficient data is available to indicate that the impact of the change is expected to have a negligible impact on sectors.

The design changes have no notable data limitations except for the changes to fees for work outside of normal hours. The fee calculations here would ideally have been done as part of a review for the fee during normal hours. This would ensure consistency in data use between the calculation of the normal hourly fee and the fees for work outside of normal hours. The best available data has been used to calculate these fees and they will be reviewed the next time the normal time fee is reviewed.

## 2.3 Cost recovery principles and preferred options

Options have been developed and assessed in accordance with MPI's cost recovery principles.

MPI is confident in the factual analysis in this CRIS, though whether the principles have been sufficiently met involves a level of judgement. MPI considers that the Transparency, Justifiability, and Efficiency principles have been sufficiently met for each preferred option.

Additional judgement is required around the Equity principle. Equity involves consideration of fairness and, therefore, value judgements. As such, views about what is fair can differ and it is ultimately up to the Government (and Parliament) to decide.

## 2.4 Impact analysis

Estimates of the immediate financial impact of options on the market and at the business-level are presented. However, as the options are minor relative to the size of the industry, the CRIS does not contain a full analysis of the market impacts or of demand for MPI services over the longer term.

Bruce Arnold, Director Cost Recovery

[date]

## 3 Quality assurance

The Ministry for Primary Industries Regulatory Impact Analysis (RIA) Panel has met and reviewed the Cost Recovery Impact Statement (CRIS) *Cost Recovery Settings Annual Review 2024*. The panel consider the document meets the criteria of Complete, Convincing, Clear and Consulted. As such, the RIA panel considers that the *Stage 2 Cost Recovery Impact Statement - Cost Recovery Settings Annual Review 2024 C*RIS **meets** the RIA criteria.

# 4 Common terms

A list of common terms is provided in the table below.

**Figure 1: Common terms**

| Term | Description |
|---|---|
| Memorandum account | These accounts track revenue and expenditure. Cost recovery settings should lead to memo accounts tracking to a zero balance over the medium-term. |
| Verification | The application of methods, procedures, tests, and other checks to confirm:<br>• compliance with a risk-based measure (such as a risk management programme or regulated control scheme), including:<br>  o the applicability of the programme or scheme to the operations of the relevant animal product business, and<br>  o the effectiveness of the programme or scheme<br>• whether the animal material or animal products have been produced or processed in a way that meets the requirements for the official assurance<br>• whether a regulated person has complied with a requirement imposed by or under legislation. |
| Verifier | A recognised person whose specified functions and activities include carrying out verification functions and activities. |
| Establishment Verification | Any place or premises where the verification functions are performed by Ministry verifiers who are permanently or semi-permanently based at the place or premises. Involves staff being based at a premise (i.e. an establishment) due to the large amount of work. |
| Circuit Verification | Where the verification or advice functions are performed by Ministry staff who are not permanently or semi-permanently based at the place or premises.<br>Circuits involves MPI staff visiting businesses on a temporary, as-needed basis ('circuit' referring to an MPI verifier completing a circuit of leaving an MPI base and travelling to several premises before returning to base). |
| Supervising Veterinarian | A veterinary verifier who has prime responsibility for the verification functions at a place or premises. |

# 5 Background on cost recovery

## 5.1 Cost recovery in general

MPI provides a range of services across the Biosecurity, Food, Fisheries, Forestry and Animal Welfare systems. These services help protect New Zealand from biosecurity risks, ensure that food is safe to eat, and manage the sustainability of our natural resources. The exclusion of pests and diseases, a safety assurance, also improves trading partners willingness to accept New Zealand products. The improved market access enables the primary sector to grow the value of its production, including exports. Services include:

- biosecurity inspections to prevent pests entering the country
- developing and maintaining domestic and overseas standards for food and other products
- monitoring and testing products to ensure consumer safety
- gaining market access and providing assurances to overseas customers.

Cost recovery helps ensure the provision of these services. About 30% of MPI's departmental funding typically comes from cost recovered revenue.

## 5.2 Which systems are the subject of this CRIS?

This CRIS covers a number of issues affecting the food safety, biosecurity and animal welfare systems.

## 5.3 How are cost recovery changes regulated?

Legislation allows MPI to recover costs, with regulations setting out specific charges. The specific legislation is cited later in this CRIS as each issue is considered.

Most of MPI's legislation requires costs to be recovered in accordance with the cost recovery principles of Transparency, Justifiability, Efficiency, and Equity. These principles also appear in MPI's cost recovery guidance[2] and in the Office of the Auditor General's guidance[3]. The principles are discussed further below.

## 5.4 How are cost recovery regimes reviewed?

In line with best practice guidance, MPI generally undertakes a review of expenditure and revenue at least once every three years. Fees and levies may be updated outside of the normal three-year review cycle if a material surpluses or deficits arise, such as if:[3]

- accumulated deficit or surplus is more than four months (33%) of annual revenue
- the accumulated deficit or surplus is $1 million or more
- a deficit is due to be written-off (due to time limits in legislation on the recovery of deficits), or a surplus has existed for an equivalent amount of time such that it would be written-off if it was a deficit.

Frequent and timely reviews help ensure that revenue and expenditure are balanced and are preferred by industry as they help avoid large swings in charges.

Reviews of cost recovery settings will also be triggered if 'design' issues are identified. Design issues cover potential faults around:

- who should pay for services

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[2] *Ministry for Primary Industries Cost Recovery Policy Guidance*, MPI Information Paper No: 2018/08, https://www.mpi.govt.nz/dmsdocument/30855-Ministry-for-Primary-Industries-Cost-Recovery-Policy-Guidance
[3] *Setting and administering fees and levies for cost recovery: Good practice guide*, https://oag.parliament.nz/2021/fees-and-levies. [3] Triggers come from MPI's internal operational policy *Managing deficits and surpluses*.

- the scope of expenditure that is cost recovered
- the way in which costs are recovered
- the level of the charge.

An example of a design issue around the level of a charge would be an inconsistency in the amount charged for the same type of cost between different services.

MPI takes a principles-based approach to reviews, as set out in the ‘Cost Recovery Principles and overall approach to cost recovery’ chapter, to expenditure and revenue reviews and design issues.

On occasion, ‘first principles’ reviews are conducted to test whether MPI’s cost recovery frameworks and legislation remain fit for purpose.

## 5.5 Goods and Services Tax (GST)

The fees and levies in this CRIS are GST-exclusive.

# 6 Cost recovery principles and overall approach to cost recovery

This section summarises MPI's cost recovery principles and the overall approach to cost recovery.

## 6.1 MPI's cost recovery principles

MPI's cost recovery principles are as follows:

- Transparency – costs are transparent
- Justifiability – costs are reasonable
- Efficiency – costs are recovered in a way that net benefits are maximised
- Equity – costs are recovered in a way that is fair.

These principles are set out in MPI's cost recovery guidelines,[4] and most of MPI's legislation[5].

The principles build on each other with Transparency and Justifiability providing a foundation to the consideration of, and sometimes trade-offs between, Efficiency and Equity. MPI can only cost recovery if it has sufficiently met the Transparency and Justifiability principles.

Once the Transparency and Justifiability principles have been met, the Efficiency and Equity principles state that the beneficiaries of a service should generally pay for that service. That is, beneficiaries pay 100% of the costs unless there is a strong efficiency or equity reason why they should not.

A more comprehensive description of the principles and how they relate to each other can be found in Appendix A.

## 6.2 Overall approach to cost recovery

### 6.2.1 Beneficiaries generally pay

Beneficiaries should *generally* pay for the services they demand and use. If the costs of services are subsidised by others, beneficiaries would demand more and higher quality services without concern for how those services are funded. The higher demand is an inefficiency, as it leads to more resources being used in the provision of services than their beneficiaries actually value or are willing to pay for.

Charging beneficiaries helps ensure that the quality and volumes of MPI services are not higher than is economically efficient.

### 6.2.2 When beneficiaries might not pay

Beneficiaries *might* not pay full costs in four situations:

#### Transparency and Justifiability

The first is where MPI has not sufficiently demonstrated that it is doing all it reasonably should to keep costs low (i.e. that it cannot meet the Transparency and Justifiability principles).

If MPI has not sufficiently demonstrated that past expenditure is justified, then write-offs might occur. If the Ministry has not sufficiently justified expected future expenditure, it may be appropriate for MPI to:

- change the fees or levies to a level that can currently be justified, and
  - cover the remainder of costs, or
  - recover the deficit from a future time period after further work has been undertaken;

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[4] *Ministry for Primary Industries Cost Recovery Policy Guidance*, MPI Information Paper No. 2018/08

[5] This includes the Agricultural Compounds and Veterinary Medicines Act 1997 and the Animal Products Act 1999 which are relevant to the revenue and expenditure reviews, and to some design changes. The Animal Welfare Act 1999 and Biosecurity Act 1993, which are relevant to some design changes, name only equity and efficiency.

- guarantee that fees/levies will not exceed a certain level over the next period, or
- charge fees at a fixed level, rather than variable charges, to encourage efficient service delivery.

### Administration costs

The second is where the administrative costs of charging (e.g. invoicing, collection) are excessive compared to the revenue raised and the efficiency gain of precisely charging beneficiaries.

### Externalities

The third is where there are externalities. Externalities are positive or negative impacts on third parties that result from the demand and supply of a good or service. MPI primarily deals with negative externalities. An example of a negative externality is when consumers demand, and importers supply, overseas products that create a biosecurity risk from the pest incursions on domestic farmers. In this example, charging importers for MPI activities around managing the negative externality encourages importers to reduce risk at their end and, therefore, the need for MPI services.[6]

### Equity

The fourth is where the Government determines that there are equity (fairness) reasons as to why the Government, or some other party, should pay or contribute to costs. Equity involves value judgements. It will normally be considered fair that beneficiaries or exacerbators pay (in line with the Efficiency principle), but there may be reasons why the Government might want to make a contribution, e.g. because the Government wants to support small businesses or emerging industries, or because parties cannot afford to pay and the Government would rather not see parties stop operating.

[6] The administration costs of charging to account for externalities is also relevant.

# PART ONE:
# EXPENDITURE AND REVENUE REVIEWS

# 7 Overview of the ACVM regulatory regime

This chapter provides a general overview of MPI's regulatory regime for agricultural compounds and veterinary medicines (ACVM).

Detail on the proposed updates to the ACVM fees and levy, including assessment against available data and MPI's cost recovery principles, is set out in Chapters 8 and 9.

## 7.1 Agricultural compounds are fundamentally important to New Zealand

Agricultural compounds encompass a wide range of products that are critical to the success of New Zealand's primary sector. Agricultural compounds include veterinary medicines, agricultural chemicals, fertilisers, animal nutritional products including pet food, inhibitors, and vertebrate toxic agents.

Agricultural compounds make a significant contribution to the New Zealand economy. A 2019 report estimated the economic value of crop protection products in New Zealand at $350 million annual revenue at the wholesale level, and these products contribute up to $11.4 billion of value that would otherwise be lost from land-based cropping industries. A 2021 report estimated the economic value of the animal health industry at $430 million annual revenue, contributing an estimated $12 billion of economic value for New Zealand industries.[7] In addition to supporting New Zealand's primary sector, manufacturers export over $140 million dollars of animal health and crop protection products per year.[8]

ACVM industry participants report anecdotally on continued increases in business costs over the last few years. This is largely attributed to ongoing supply chain cost increases following COVID-19, higher inflation and the impact of borrowing costs as interest rates have risen.

### 7.1.1 The Agricultural Compounds and Veterinary Medicines Act 1997

Ensuring appropriate regulation of agricultural compounds is an important part of maintaining trade, food safety and biosecurity. MPI delivers regulatory services under the framework provided by the Agricultural Compounds and Veterinary Medicines Act 1997 (the Act). The purpose of the Act is to prevent or manage the following risks associated with the use of agricultural compounds:

- risks to public health
- risks to trade in primary produce
- risks to animal welfare
- risks to agricultural security. [9]

The Act aims to achieve its purpose by providing that no agricultural compound may be used (imported, manufactured, or sold) in New Zealand unless authorised by or under the Act. Under the Act, regulatory control of agricultural compounds focuses on avoiding or minimising the possible adverse effects that may result from their use.

MPI administers the Act in the context of no more regulatory intervention than is 'necessary and sufficient' to maintain acceptable levels of risk. MPI has developed a risk management framework aligned with AS/NZS Standard 31000:2009 Risk Management. This is used to determine the risk thresholds for each of the four risk categories above.

Under the Act, higher-risk products must be registered as Trade Name Products (TNPs) to ensure all risks are managed according to their intended use. Risks are managed by imposing conditions on registration.

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[7] Downloaded 10/23 from Animal Plant Health NZ. KPMG 2021: Report to Agcarm: Assessing the value of the Animal Health Industry to New Zealand; and NZIER 2019 Report to Agcarm July 2019: The Importance of Crop Protection Products for The New Zealand Economy

[8] Provided by industry representative organisation during March 2023 consultation on proposals to update the ACVM levy.

[9] See Risk Management under the ACVM Act Overview for an overview of how MPI defines and manages each of these risks (mpi.govt.nz)

The ACVM risk thresholds also provide the basis for determining what groups of agricultural compounds can be exempted from registration. Lower-risk products are not required to be registered (exempt), but still need to meet the applicable regulatory conditions to be used in New Zealand.

### 7.1.2 Ongoing changes to the ACVM regulatory system

Since the Act came into force in 2001, a range of social, economic and environmental changes have created a shift in how the use of agricultural compounds is perceived. This includes increased public interest in the safety of chemicals used in agricultural production, in New Zealand and globally, which can result in stricter market access requirements.

Other challenges for both the industry and MPI as regulator include the need to replace 'old chemistry' products as certain active ingredients become restricted, prohibited, or ineffective, both in New Zealand and globally and development of products using new scientific methods that test MPI's capacity and capability to assess, process and monitor new agricultural compounds.

To address this, MPI has made ongoing changes to maintain and future-proof the ACVM regulatory system. Changes to MPI's ACVM system over the last five years include:

- increases to the number of staff to meet demand for ACVM services and ensure the regulatory system manages risks appropriately
- restructuring of the ACVM teams to better align with the workload for different types of agricultural compounds
- dedicated resourcing for compliance activities
- ongoing improvements to processes, documentation, and the Quality Management System
- development of performance reporting functions.

These ongoing changes have required increased investment to deliver ACVM services. The main cost driver of this is for staff. Given the wide range and complexity of agricultural compounds, effective service delivery requires having enough staff with the right technical expertise to manage the workload efficiently. While the ACVM Teams have some very experienced staff, there is a level of natural attrition and the Team also faces an ongoing challenge to compete with the private sector for technical experts.

Forecast costs also include a multi-year IT project to replace a number of ageing and disparate systems. The ACVM Approvals Online (AOL) project aims to improve processes and overall business efficiency and transparency. The 'go live' for the first release, which will be for class determinations[10], is on track for July 2024 with core processes for the registration of TNPs aiming to be fully implemented by July 2025.

### 7.1.3 MPI works with the ACVM industry

ACVM staff engage regularly with industry. This includes through the Agricultural Compounds and Veterinary Medicines Advisory Council (AVMAC), a joint MPI-industry group that meets three times a year to share views and insights on issues related to the regulatory control of agricultural compounds (in 2023, AVMAC met in March, July and December).

While not a decision-making body, AVMAC is an important forum for engagement between MPI and industry representatives to discuss risk areas and the strategic and operational direction of regulatory system settings. MPI has also established an external reference group for the AOL project and an Inhibitor Operational Forum[11] to support industry to bring these new products safely into the market.

On top of these regular meetings MPI runs annual workshops and publishes monthly newsletters that provide updates and reporting, including on TNP registration performance, adverse events, and compliance.

[10] Class determinations confirm whether or not an agricultural compound requires TNP registration before it can be imported, manufactured, sold, or used in New Zealand.

[11] An inhibitor is an agricultural compound that is intended to decrease the harmful effects agricultural activity can have on the environment or mitigate the effects of climate change.

For cost recovery, industry generally recognise it is fair to pay a reasonable price for services to support a robust regulatory system, provided there is transparency around the cost of services and metrics to measure performance.

## 7.2 Cost recovery in the ACVM system

Current charges are prescribed in the Agricultural Compounds and Veterinary Medicines (Fees, Charges, and Levies) Regulations 2015. Costs are recovered using:

- fees for a range of services, and
- an annual levy payable for each registered TNP[12].

Fees were last updated on 1 July 2019, when the base hourly rate was reduced from $155 to $135, in part to return the surplus that had accrued for these services.[13] The surplus has since reduced, and a deficit has begun to accumulate for these services since 2022/23.

Chapter 8 sets out options to increase the ACVM fees base hourly rate[14] to recover future costs and an expected $0.8 million accumulated deficit (at June 2024).

Chapter 8 also includes a proposed update to one fee for an ACVM service provided by border biosecurity staff. Due to an oversight this was not increased from 1 July 2023 when the rate for other services provided by border biosecurity staff was updated.

The $540 annual levy has been in place since 1 July 2015. By 2021/22 a deficit had begun to accumulate for levied services. In March 2023, MPI consulted on options to increase the levy, and signalled that further work was being undertaken to review the accumulated deficit. Taking account of feedback received, the then Government decided to defer any change to the levy until that further work was completed. The proposals set out in this CRIS incorporate the results of the review.

Chapter 9 sets out options to increase the ACVM to recover future costs and an expected $2.7 million accumulated deficit (at June 2024).

Chapter 9 also proposes an administrative change, to remove the delegated authority of the Director-General to reset the levy rate up to the maximum prescribed in regulation.

[12] Schedule 2 of the Agricultural Compounds and Veterinary Medicines (Fees, Charges and Levies) Regulations 2015 sets out that the levy is also payable by persons who hold an exemption under section 8C of the Act, persons who have obtained approval of an operating plan and recognised persons. Currently levies are paid by TNP registrants.

[13] This change was made as part of a wider review of fees across the food system.

[14] Fees can vary by time or be fixed or a combination of fixed and variable. ‘Base hourly rate’ refers to the hourly cost of the relevant services which underpins all the related fees.

# 8 ACVM fees

## 8.1 Summary

A deficit has accumulated for ACVM fees. This is forecast to be $0.8 million in June 2024.

MPI consulted on a proposal to increase the base hourly rate from $135 to $247 per hour to recover future costs and the forecast deficit. While several submitters assessed MPI's performance and the current service level as reasonable, most considered MPI should look for efficiencies. The peak industry body considers the current level of service is reasonable but raised concern about forecast costs. All but one submitter were opposed to raising the fees to $247. A number proposed a graduated increase to fees.

In addition to the option consulted on, this CRIS includes an option to defer recovering the deficit for two years and increase the base hourly rate to $228, and to $252 from 2026/27.

MPI considers that the Transparency and Justifiability principles are sufficiently met such that cost recovery under both options is available. While the rate as consulted best meets the Efficiency principle, the choice of which option best meets the Government's preferences around Efficiency and Equity is for the Government to decide.

If the Government places a greater weight on Efficiency, recovering the deficit from July 2024 should be preferred. Deferring the recovery of the deficit would be preferred if the Government is willing to trade off Efficiency and higher cost from 2026/27 to assist fee payers in 2024/25 and 2025/26.

Under both options, the cost recovery increase per annum is equivalent to about 0.2% of estimated wholesale revenue across the sector. MPI does not expect the fee increases to lead to a material change in the market overall, though there may be a decrease in the number of agricultural compounds in the market.

It is recommended to also update one fee for an ACVM service provided by border biosecurity staff. Due to an oversight this was not increased from 1 July 2023 when the rate for other border services was updated.

## 8.2 Background

### 8.2.1 ACVM fee-related services

The ACVM Regulations prescribe fees for a range of services MPI provides. Around 65% of the revenue from fees is for services related to registration of TNPs. MPI processes approximately 2,500 applications related to TNP registrations each year.

MPI also provides discretionary services (non-regulated) to support the ACVM system. This includes class determinations that assist with clearing products entering New Zealand (approximately 4,400 per annum, representing around 25% of annual fee revenue).

Other services subject to fees includes inspections for Good Manufacturing Practice, monitoring compliance conditions, and providing various compliance certificates.

### 8.2.2 How are these services funded?

Under the ACVM Regulations, most of the fees include a fixed component, based on the standard minimum time it takes to perform the service with any additional time charged at the prescribed hourly rate. Discretionary fees are also charged using fixed and variable components.

Fees are currently charged on a base hourly rate of $135. This rate has been in place since 1 July 2019, when the rate was reduced from $155, in part to return the $1.6 million surplus that had accrued. The history of prescribed base hourly rates for the last ten years is set out in Figure 2 with years when rates were changed in bold. The $155 rate was implemented from 2015/16, with the previous $149.60 base hourly rate in place since 2008/09.

**Figure 2: History of the ACVM fees base hourly rate**

| Year | Base hourly rate |
|---|---|
| 2023/24 | $135.00 |
| 2022/23 | $135.00 |
| 2021/22 | $135.00 |
| 2020/21 | $135.00 |
| **2019/20** | **$135.00** |
| 2018/19 | $155.00 |
| 2017/18 | $155.00 |
| 2016/17 | $155.00 |
| **2015/16** | **$155.00** |
| 2014/15 | $149.60 |

### 8.2.3 Why are fees appropriate?

The services funded by the ACVM fees are private goods as they benefit private individuals or businesses rather than the industry or public as a whole.

## 8.3 Status quo and problem

Costs should be recovered to meet the reasonable costs of providing services. A deficit has accumulated under the ACVM fees. Deficits are an efficiency problem – either the fee is too low for the level of service, or expenditure is too high, or a combination of both.

### 8.3.1 What is the size of the problem?

Annual deficits have been occurring since 2020/21. This was an intended outcome from the reduction in fees in 2019 in order to eliminate the surplus. The surplus was eliminated in 2022/23 and MPI expects an accumulated deficit of $0.8 million by June 2024 rising to $4.9 million by June 2027. Figure 3 shows the revenue, expenditure and closing balance from 2018/19 to 2022/23 and the forecasts to 2026/27 based on the current fee.

**Figure 3: ACVM fee revenue, expenditure ($m) and volume (hours)**

| | Actual | | | | | Forecast | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 |
| Volume (hrs) | 11,308 | 13,828 | 13,566 | 11,419 | 9,869 | 13,758 | 14,458 | 14,658 | 14,708 |
| Revenue | $1.75m | $1.87m | $1.83m | $1.54m | $1.33m | $1.86m | $1.95m | $1.98m | $1.99m |
| Expenditure | $1.40m | $1.87m | $2.08m | $2.24m | $2.01m | $2.60m | $3.29m | $3.35m | $3.40m |
| Surplus/deficit | $0.35m | $0.00m | -$0.25m | -$0.69m | -$0.68m | -$0.74m | -$1.34m | -$1.37m | -$1.41m |
| Closing balance | $1.56m | $1.56m | $1.32m | $0.62m | -$0.05m | -$0.79m | -$2.13m | -$3.50m | -$4.86m |

Based on the forecast revenue and expenditure, the current $135 base hourly rate would need to increase to $247 from 1 July 2024 to cover future costs and recover the $0.8 million accumulated deficit over three years. Approximately $18 of this is to recover the deficit that is expected to have accumulated by June 2024, while $229 relates to recovering forecast costs.

### 8.3.2 What is the cause of the problem?

Expenditure for ACVM fee-related services in 2018/19 was approximately $1.4 million and is forecast to be approximately $2.6 million this financial year. The increase in expenditure is primarily driven by an increase in staff numbers. Full-time equivalents (FTEs) for these services have increased from 7.6 in 2018/19 to 12.5 in 2023/24. Higher than forecast inflation has also had an impact. The current hourly rate was set assuming 2% inflation (8.2% cumulative since 2019). Over this period inflation was 22%[15].

Forecast costs include those related to the first phase of the AOL project, increasing annual expenditure by approximately $0.5 million annually. Forecasts also include cost inflation in line with the consumers price index in Treasury's Pre-election Economic and Fiscal Update 2023.[16] Further detail on the cost drivers since 2018/19 is set out in Figure 4 with the increase in staff reflected in 'personnel' costs and an increasing share of 'overhead' costs, and the AOL project reflected in 'IT costs' and 'depreciation'.

**Figure 4: ACVM fee expenditure from 2018/19 to 2026/27 ($m)**

| | Actual | | | | | Forecast | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 |
| **Personnel** | $0.68m | $0.99m | $1.22m | $1.31m | $1.21m | $1.28m | $1.67m | $1.70m | $1.74m |
| Contracts | $0.30m | $0.42m | $0.28m | $0.37m | $0.23m | $0.45m | $0.34m | $0.34m | $0.35m |
| IT costs | $0.01m | $0.02m | $0.03m | $0.02m | $0.04m | $0.25m | $0.29m | $0.29m | $0.29m |
| Depreciation | $0.00m | $0.00m | $0.00m | $0.00m | $0.00m | $0.06m | $0.25m | $0.24m | $0.23m |
| Overhead | $0.31m | $0.36m | $0.51m | $0.49m | $0.45m | $0.47m | $0.62m | $0.63m | $0.65m |
| Other | $0.10m | $0.07m | $0.04m | $0.04m | $0.08m | $0.09m | $0.13m | $0.13m | $0.13m |
| **Total** | **$1.40m** | **$1.87m** | **$2.08m** | **$2.24m** | **$2.01m** | **$2.60m** | **$3.29m** | **$3.35m** | **$3.40m** |

Historic service volumes (hours) have been determined using total annual revenue divided by the current hourly rate. Figure 3 shows that volumes have been relatively flat since 2018/19, with a dip in 2020/21 and 2021/22. From 2023/24 the volume and consequent revenue are forecast to increase. The 2023/24 forecast is based on extrapolating the year-to-date volume. Increases in the following years assume ongoing reductions in the current queues for TNP-registration approval services and additional demand as the new product category of Inhibitors enters the market.[17]

If future costs and the accumulated deficit are to be recovered, the fee would need to increase to $247 per hour. Figure 5 below sets out the key cost components of this rate. The capacity and inflation component includes the increase in staff required for MPI to meet application processing timeframes. As set out above, this together with the ACVM Approvals Online (AOL) project are the key drivers of the increased costs.

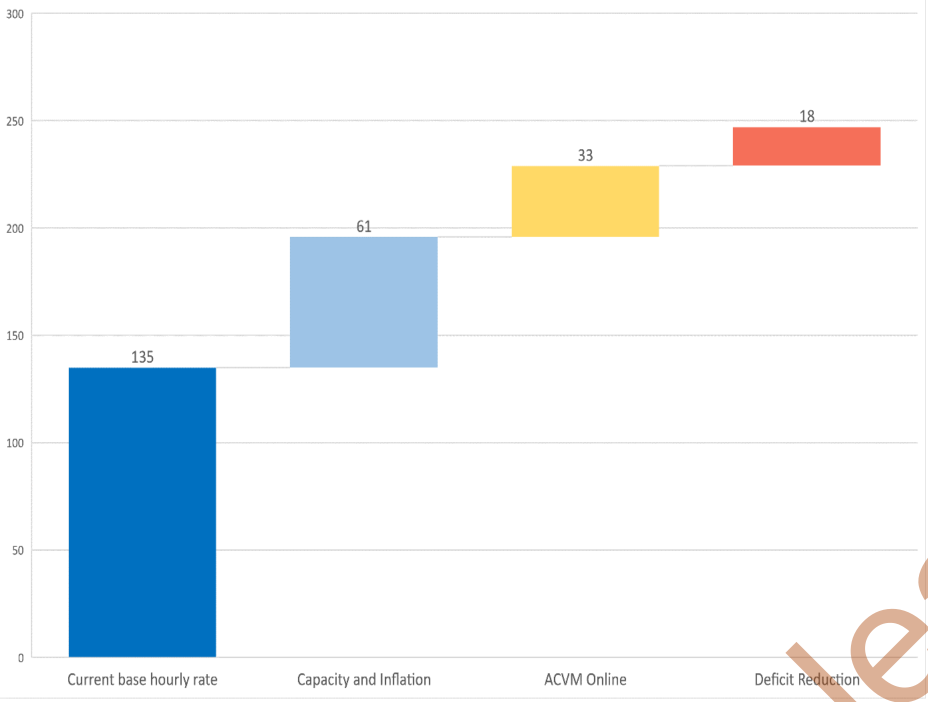


[15] RBNZ CPI inflation calculator

[16] 3.8% in 2023/24 and approximately 2.2% over the next three years.

[17] As of January 2024, MPI hasn't accepted any inhibitor applications for registration. MPI has approved 40 applications for research trials.

**Figure 5: Cost components($)**




## 8.4 How are these services performing?

### 8.4.1 Operational changes

As set out above MPI has invested in ACVM fee-related services over the last five years. As part of this MPI has made ongoing operational changes, intended to maintain and improve fee-related service delivery. This includes:

- establishment of separate Veterinary Medicine (VetMed) and Agricultural Chemicals (AgChem) assessment teams, and increases in staff numbers to meet the service demand, particularly for TNP registrations
- improvements to process documentation and quality management of applications, including moving to an entirely electronic application system
- changes to administrative practices, such as increasing the standard registration period from three to five years, and the recent removal of the pre-screening step for less complex applications (chemistry and manufacturing variations) in the Veterinary Medicine workstream.

MPI also seeks to avoid duplication with overseas jurisdictions where appropriate. For example, to the extent possible, making use of overseas field trial data that can substantially reduce costs for registration in New Zealand (field trials can cost several hundred thousand dollars). Other initiatives include:

- recognising other regulator's approval of Good Manufacturing Practice for veterinary medicines (a requirement for registration in New Zealand), meaning international travel for sight audits is not required
- working with other regulators on product assessment for the same product
- agreement with Australia for registration by reference for companion animals (a risk assessment is still undertaken).

In part to ensure the ongoing changes are effective, in 2021 MPI completed a regulatory review of TNP registration services.[18] The review states registrants commented that New Zealand's system is less burdensome than countries such as the United States and the European Union, but the small

[18] Agricultural Compounds and Veterinary Medicines Act 1997: A Regulatory System Review. MPI, June 2021.

market size relative to costs reduces the incentive to obtain approvals for some products, particularly for single crop TNPs.

The 2021 review also states that the efficiency and ease of registering ACVM products in New Zealand relative to other countries has been an incentive for some companies to register products here first. Against this, some industry representatives raised that MPI's registration process had become more burdensome over recent years relative to Australia's. MPI considered that the ongoing changes had been required to ensure risks are appropriately managed and that the registration process meets industry expectations for processing timeframes.

Although difficult to directly compare different jurisdictions, a comparison of fees for similar processes in Australia shows that costs in New Zealand are generally lower, sometimes significantly (see chapter 8.6.2). For example, a novel veterinary medicine registration in Australia can cost between $45,000-98,000, compared with a typical New Zealand approval cost of $16,500 NZD (around $5,500 ACVM registration plus $11,000 for EPA approval).[19] The 2021 review noted that compared to overseas regulators MPI's processing times are shorter. The process to register a novel veterinary medicine in Australia may take 18 to 24 months. In New Zealand, the average is approximately 12 months.

Following the release of the 2021 regulatory review, APHANZ publicly expressed support for the steps MPI was taking to improve performance of the ACVM regulatory system, including recruiting additional staff and updating the IT system.[20]

As part of the response to the 2021 review findings, an external assessment of the workflow processes for TNP registration was undertaken in 2022. This review found that significant improvements have been implemented and generally processes are working well.[21]

### 8.4.2 Level and efficiency of service delivery

Several submitters consider that the assessment of MPI's performance set out in the consultation document is reasonable. However, most raised that MPI should seek to find efficiency savings rather than increasing the fees to the proposed rate.

The two main cost drivers for fee-related services are personnel and the AOL project. As shown in Figure 5, costs for the AOL project contribute about $33 to the proposed fee. The system it is replacing is fully depreciated, so almost no operating costs were being incurred (IT and Depreciation). Animal and Plant Health NZ (APHANZ), the peak industry organisation, has previously supported updating the current system. In order to start, the project was approved by MPI's IT governance group (DDaT), based on the business case developed for the project. Once approved the project was commissioned through a competitive tender process. MPI is using a phased approach to ensure successful implementation of each phase before funding for the next phase is approved by DDaT. Overall, this suggests that the costs are not unreasonable.

The cost per FTE for fee-related services has increased by about 20% between 2018/19 and 2023/24. Over this same period, CPI inflation was about 24%, with wage inflation over 30%. Ensuring that MPI can attract and retain staff is important to provide consistent services. The increase in staff costs per FTE appears reasonable.

During consultation APHANZ submitted that they support the findings of the 2022 review on staffing levels. The review found that, for TNP registration processes, staffing levels across the two processing teams should be around 15 FTEs. As set out in 8.3.2, there are intended to be 14.5 FTEs for fee-related services in 2024/25. The current level of staff also appears reasonable and has explicitly been supported by the industry organisation.

MPI's regular performance reporting includes processing times for TNP applications. The reporting indicates that the overall percentage of applications completed within statutory timeframes has remained relatively flat over the last three years.[22] As set out above (Figure 3), as expenditure has increased since 2019/20 for fee-related services, the total annual volume of services provided has

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[19] In NZ, EPA does toxicology and environmental assessments, and MPI does do safety, efficacy and residue assessments. In Australia all assessments are completed by the single regulatory agency.

[20] https://animalplanthealth.co.nz/government-action-needed-to-future-proof-food-production/ downloaded November 2023

[21] ACVM Process and Resourcing Review. KPMG for Ministry for Primary Industries, December 2022.

[22] The 2021 regulatory review noted that compared to equivalent overseas regulators MPI's processing times are significantly shorter. ACVM newsletters with the reporting metrics can be found on www.mpi.govt.nz/agriculture/agricultural-compounds-vet-medicines/acvm-news-and-resources/acvm-newsletters/

remained relatively flat, with a decline in 2022/23. Together these suggest that further cost efficiencies may be possible for fee-related services.

The volume data in Figure 2 shows that staff time spent on chargeable activities in the three years prior to 2021/22 for ACVM fees was around 63%. For 2021/22 and 2022/23 it averaged around 55%. The especially lower volume in 2022/23 reflects a significant increase in staff turnover from the beginning of 2022 following COVID-19, particularly in the VetMed team. New recruits require significant training and peer support as they come up to speed in a complex regulatory environment. The unusually high turnover required senior staff to spend significantly more time than usual supporting new team members.

If revenue for 2021/22 and 2022/23 was based on the 63% of staff time on chargeable activity over the previous three years, it would have been approximately $0.6m higher, with a forecast deficit of $0.2m on 1 July 2024. This would reduce the proposed rate by about 5%.

As newer staff continue to develop technical and process expertise, ongoing improvements to processing timeframes and overall volumes are anticipated. This is reflected in the current year forecast (based on year to date data) which anticipates a return to 62% time spent on chargeable activity. While the percentage of chargeable hours in 2021/22 and 2022/23 was lower, MPI considers it is reasonable to recover the costs for required staff training.

Some submitters raised concern that there has been insufficient engagement on the cost of services with industry. Others, including Dairy NZ and APHANZ broadly agreed with the current level of fee-related services. APHANZ submitted that staffing levels and inflation costs are reasonable but that future changes in staff (compliance function, discussed in proposed levy) and costs for the AOL project have not been sufficiently consulted on.

ACVM teams work with industry to ensure that processes remain cost effective. This includes establishing an external reference group for the AOL project, which allows for input to the project. In response to feedback received during consultation, MPI has committed to inviting an industry representative to sit on the internal governance group for this project.

To improve understanding of the cost implications of service level changes, in addition to current performance reporting, MPI has also committed to provide annual reports that will include revenue and expenditure for cost recovered services, similar to current reporting to the dairy and red meat sectors (among others). This aims to improve transparency for ACVM services in future.

APHANZ and Horticulture New Zealand also raised they would like further engagement on efficiency improvements. This included whether there are opportunities for mutual recognition of overseas regimes, and whether there are opportunities for self-assessment for low-risk products. As set out above in 8.4.1, MPI has sought to avoid duplication with overseas jurisdictions where possible within the existing legislative framework. MPI is already reviewing proposed self-assessable changes from industry for manufacturing of veterinary medicines, and the current model of independent data assessment.

MPI will continue to engage with industry on potential operational improvements.

## 8.5 Options

### 8.5.1 How options are identified

Conceptually, there are infinite possible options for setting fees as fees can be increased or decreased to any value. As such, we need a way to reduce the full range of feasible fees to a smaller range of plausible fees.

MPI uses the cost recovery principles, including stakeholder views, to identify a range of options that are plausibly consistent with the cost recovery principles. This process typically results in a few options. Chapter 6.2.2 identified options that may be considered if the Transparency and Justifiability principles have not been sufficiently met, for example.

The ‘Assessment against the Cost Recovery Principles’ chapter then analyses the plausible options and identify a preferred option or options.

Other options may be considered during the policy development process, and ultimately discarded as not plausibly consistent with the Cost Recovery Principles.

### 8.5.2 Identifying options

MPI considers it has sufficiently met the Transparency and Justifiability principles. In combination with the Efficiency principle which says that beneficiaries should generally pay, full cost recovery is a potential option. If reasonable people could conclude that MPI had not sufficiently met the Transparency and Justifiability principles, then options that only partly recover costs would also be considered.

On Transparency and as detailed earlier, MPI has worked closely with industry to ensure that operational changes over the last few years are well understood at the time the changes were made including through engagement with AVMAC. There is also monthly performance reporting and updates on the work programme through the newsletters.

Through ongoing engagement with industry, the regular performance reporting and the information set out in the consultation document, including revenue and expenditure over time and analysis of changes to these, MPI considers that this principle is sufficiently met.

Saying that, feedback during consultation suggests that more explicit information on the cost implications of service level changes would increase transparency. As set out in 8.4.2, MPI has committed to strengthening financial reporting in future and committed to inviting an industry representative to sit on the internal governance group for the AOL project.

Justifiability requires that costs are reasonable. MPI has worked to ensure processes are robust and to make ongoing improvements to service delivery. This is supported by industry feedback on the 2021 review and the findings of the 2022 external review. As noted, APHANZ submitted that they agreed with the findings of the 2022 review. While expenditure for fee-related services has increased significantly over a number of years, MPI considers that the costs, including the forecast costs for the AOL project, are reasonable.

While the percentage of chargeable hours in 2021/22 and 2022/23 was lower, it is reasonable to recover the costs for required staff training. As noted in chapter 8.4.2, the current year forecast anticipates a return to 62% time spent on chargeable activity. MPI considers that the Justifiability principle is sufficiently met.

The Equity principle asks whether there are fairness reasons to depart from the most Efficient option. During consultation a number of submitters proposed that there should be a graduated increase to charges which would defer some cost recovery to later years. Recognising the current period of economic contraction and feedback from submitters, the Minister has been open to considering options that would defer some cost recovery. Option (3) below provides an option for a lower increase to the proposed fees over the next two financial years.

### 8.5.3 Identified options

Overall, we have identified the following options:

- Option (1) – The status quo. The current $135 base hourly rate.
- Option (2) – Increase the base hourly rate to $247 to recover future costs and the forecast June 2024 accumulated deficit over three years.
- Option (3) – Increase the base hourly rate to $228 for 2024/25 and 2025/26 to recover only forecast costs, with a further increase to $252 from 2026/27 to recover forecast costs and the accumulated deficit.

Under Option (2), once the deficit is recovered revenue from fees will likely begin to accumulate a surplus. MPI will monitor the fees and look to reduce them in line with future costs if necessary. Based on current projections once the deficit is recovered the base hourly rate would likely be reduced to approximately $230 from 2027/28.

Option (3) recovers forecast costs in each year while deferring recovery of the accumulated deficit to 2026/27. Compared to Option (2), fees are 7.7% lower in 2024/25 and 2025/26 and 2.0% higher from 2026/27.

**Figure 6: Base hourly rate under Options (2) and (3) ($m)**

| Option | 2024/25 | 2025/26 | 2026/27 |
|---|---|---|---|
| Option (2) – full cost recovery | $247 | $247 | $247 |
| Option (3) – only recover annual costs for two years | $228 | $228 | $252 |
| Variance between Options (2) and (3) | -$19 | -$19 | +$5 |

MPI also proposes to update the hourly rate for one fee[23], for services provided by biosecurity staff to clear agricultural compounds at the border, from the current $102.27 set in 2015 to $155.50. This proposal is set out in chapter 8.11.

A full list of fees this proposal applies to is set out in Appendix B.

### 8.5.4 Discarded options

An option, particularly in a period of economic contraction through rising interest rates, is to defer expenditure into the future when economic conditions are normal. This approach is discarded as industry demand has driven much of the service need and submitters did not question the timing of service delivery. This area has also not been flagged as a lower priority and candidate for reduction as part of MPI's restructure by either MPI or by Government.

## 8.6 Estimated financial and economic impacts

This section sets out the immediate financial impact of options at the industry and business-level, and then considers how the financial impact feeds through to changes in prices and volumes over the medium- to long-term.

### 8.6.1 Immediate industry-level impacts

Under Option (2), the fee increase amounts to about a $1.6 million per annum increase in cost across affected sectors. Under Option (3), the increase is about $1.4 million for the first two years, increasing to about $1.7 million from 2026/27.

Over the three years from 2024/25, Option (3) would recover approximately $0.5 million less but the total amount of money eventually recovered would be the same (just occurring beyond 2026/27).

**Figure 7: Total annual revenue under status quo and the increase proposed ($m)**

| Option | 2024/25 | 2025/26 | 2026/27 | Total |
|---|---|---|---|---|
| Option (1) – status quo | $1.95m | $1.98m | $1.99m | $5.92m |
| Option (2) – full cost recovery | +$1.62m | +$1.64m | +$1.65m | +$4.91m |
| Option (3) – recover future costs for two years | +$1.34m | +$1.37m | +$1.71m | +$4.41m |

[23] Item 1, Agricultural Compounds and Veterinary Medicines (Fees, Charges, and Levies) Regulations 2015: Schedule 1, Part 1

### 8.6.2 Immediate business-level impacts

Figure 8 shows the estimated annual costs, grouped by the number of hours charged to businesses in 2022/23.[24]

**Figure 8: Estimated financial impacts on fee payers (options (2) and (3) compared to status quo**

| Hours charged | % of customers | % of hrs charged | Option (1) status quo | Option (2) $247 rate | Option (3) $228 rate 2024/25 to 2025/26 | Option (3) $252 rate from 2026/27 |
|---|---|---|---|---|---|---|
| | | | Average charge | Average increase | Average increase | Average increase |
| 0-1 | 34.7% | 1.0% | $135 | +$112 | +$93 | +$117 |
| 2-10 | 31.8% | 4.3% | $622 | +$516 | +$428 | +$539 |
| 11-20 | 8.2% | 3.4% | $1,900 | +$1,576 | +$1,309 | +$1,647 |
| 21-30 | 4.5% | 3.2% | $3,338 | +$2,770 | +$2,300 | +$2,893 |
| 31-50 | 6.5% | 7.6% | $5,380 | +$4,463 | +$3,706 | +$4,663 |
| 51-100 | 4.1% | 8.5% | $9,613 | +$7,975 | +$6,622 | +$8,331 |
| 100+ (600 max) | 10.2% | 72.0% | $32,635 | +$27,075 | +$22,482 | +$28,284 |

Figure 8 indicates that in 2022/23, 10% of businesses paid over 70% of the fees. Around 88% of hours charged were to 20% of fee payers. Against this, around 35% of fee payers incurred around 1% of the fees charged.

While Figure 9 shows that most of the proposed fee increases will be paid by a small number of companies, data limitations around the wide range of sectors that use ACVM services means it is difficult to estimate the impact of the proposed increase across all individual businesses using these services.

A number of submissions raised that the proposed rate increase will lead to removal of some products from the market. The charges for these services have (if costs are reasonable) been too low for a number of years. Particularly for lower volume products, the proposed rate increase under Options (2) and (3) are likely to reduce demand for these services and may result in a number of products being discontinued and/or fewer new products coming to market.

Services that require more hours are mostly for TNP-registered products. Current and proposed rates for a range of TNP application types and a comparison with the Australian regulator are set out in Figure 9. In New Zealand, some components of the approval are undertaken by the Environmental Protection Authority (EPA) and some by MPI. The MPI costs are based on average processing times, which can vary, but provide an indication of the increased costs for typical applications. The costs for the EPA component can also vary. The table takes a conservative approach to these (higher cost options). Both the EPA and the Australian regulator have increased their prices in the last year.

While costs should primarily be justified in the context of the New Zealand regulatory regime, Figure 9 suggests that under both Option (2) and Option (3) the costs for these services remain reasonable.



[24] The estimates are based on an extract of total fees paid by each business, which has been sorted to remove possible duplications and coding errors. MPI considers that the sample is a reasonable representation of the distribution of fees by business.

**Figure 9: Costs for a selection of current and proposed fees and Australian equivalent ($NZ)**

| Application type | Australia | NZ (current) | | Option (2) ($247) | Option (3) ($228) | Option (3) ($252) |
|---|---|---|---|---|---|---|
| New product, new active ingredient: A1 (6-10 per year): Ag compounds | | MPI | 5500 | 10063 | 9289 | 10267 |
| | | EPA | 27000 | 27000 | 27000 | 27000 |
| | **98000** | Total | **32500** | **37063** | **36289** | **37267** |
| New product, new active ingredient: A1 (6-10 per year): Vet medicines | | MPI | 5500 | 10063 | 9289 | 10267 |
| | | EPA | 11000 | 11000 | 11000 | 11000 |
| | **45 – 98000** | Total | **16500** | **21063** | **20289** | **21267** |
| New product, generic: B2 (80-100 per year) | | MPI | 1150 | 2104 | 1942 | 2147 |
| | | EPA | 5500 | 5500 | 5500 | 5500 |
| | **8100** | Total | **6650** | **7604** | **7442** | **7647** |
| New use: C4-C8 (80-100 per year) | | MPI | 1375 | 2516 | 2322 | 2567 |
| | | EPA | 4400 | 4400 | 4400 | 4400 |
| | **6700+** | Total | **5775** | **6916** | **6722** | **6967** |
| Chemistry and manufacturing variations: C1-C3 (800-1000 per year) | | MPI | 1150 | 2104 | 1942 | 2147 |
| | | EPA | 0 | 0 | 0 | 0 |
| | **5800** | Total | **1150** | **2104** | **1942** | **2147** |
| Administrative variations: C9 (700-900 per year) | | MPI | 650 | 1189 | 1098 | 1213 |
| | | EPA | 0 | 0 | 0 | 0 |
| | **400-650*** | Total | **880** | **1189** | **1098** | **1213** |

*This includes registration renewals for one year. A five-year registration renewal, standard in NZ, is around $3900 in Australia. In NZ, the EPA does toxicology and environmental assessments, and MPI does safety, efficacy and residue assessments.

### 8.6.3 Medium- to long-term market-level impacts

Increased fees are changes in business costs. This feeds through to business margins and over the medium to longer term to market prices and quantities. If all of the increased cost was passed through, the approximately cost increases under Options (2) and (3) represent around 0.2% of the estimated wholesale revenue across the sector[25].

Data limitations around the variety of industries that use ACVM services means it is difficult to estimate the impacts on end users of agricultural compounds. Agricultural compounds are estimated to contribute around $23.0 billion to the New Zealand economy. The annual increase in costs for ACVM fee-related services under Options (2) and (3) represents approximately 0.007% of this.

While the increased price for these services under Options (2) and (3) could lead to a decrease in the number of agricultural compounds in the market, over the medium to long term MPI does not expect it to lead to a material change in the market overall.

## 8.7 Assessment against the cost recovery principles

### 8.7.1 Transparency and Justifiability

As discussed in chapter 8.5.2, based on the ongoing engagement with industry, the service reviews, regular performance reporting and the information provided in the consultation document and in this CRIS, including revenue and expenditure over time and analysis of changes to these, MPI considers that the Transparency and Justifiability principles have been sufficiently met. We do not replicate that assessment here.

[25] Total wholesale revenue across plant and animal health sectors of approximately $780 million. See section 4.1.

### 8.7.2 Efficiency

Fully recovering costs is economically efficient when those costs, including the cost of collection, are reasonable (justified). Economic efficiency is enhanced as businesses that create the demand for a service are encouraged to consider the cost of the service when deciding whether to use services. On this basis, the proposed base hourly rate increase under Option (2) is more efficient than the status quo.

MPI/taxpayer funding of a deficit is not economically efficient as it does not send accurate pricing signals about the cost of delivering a service to the market.

Option (1) has significant economic inefficiency, as the costs of the accumulated deficit will fall on taxpayers. This is forecast to have accumulated to approximately $0.8 million by June 2024 and $4.9 million by June 2027. Treasury estimates that the deadweight loss (inefficiency) from general taxation is 20%. Therefore, if the accumulated deficits are not recovered, the deadweight loss would be about $0.2 million to June 2024 and $1.0 million to June 2027.

Option (3) is less efficient than Option (2) as, while the accumulated deficit is eventually recovered, there is a financial cost of carrying the deficit for longer. Using the current Treasury capital charge rate of 5%, Option (3) costs around $80,000.

### 8.7.3 Equity

The Equity principle says that it will generally, but not always, be considered fair that beneficiaries pay.

A number of submitters suggested there should be a more gradual implementation of the proposed rate, or that the Crown should pay for some or all of the costs.

Deferring cost recovery under Option (3) may, by some peoples' views about Equity, be fairer as it increases costs less for the first two years, at a time of economic contraction. Other people may view Option (3) to be less equitable as future fee payers would have to pay more and, due to some businesses closing or leaving the sector and new businesses arriving, are less likely to be those who benefitted from the services and fees that resulted in the deficit.

Which option best meets the Equity principle is a matter of judgement which we leave for the Government to decide.

## 8.8 Consultation

Twenty submitters commented on this proposal, all but two opposing the proposed increase. Feedback has been incorporated into the analysis through this chapter as appropriate. Several submitters consider that MPI's service performance is reasonable. Generally, the current level of service was not questioned. Key feedback includes:

- MPI should seek to be more cost efficient rather than increase rates
- there has been insufficient industry engagement on the cost implications of the future service level changes, particularly the AOL project
- the proposed increases are too large; any increase should be gradual rather than the sharp increase proposed
- the increase will impact businesses and may lead to some products being withdrawn from the market.

## 8.9 Conclusion

MPI considers that:

- the Transparency and Justifiability principles are sufficiently met such that cost recovery under Options (2) or (3) are available options
- Option (2) best meets the Efficiency principle, and
- the option that best meets the Equity principle is ultimately for the Government to decide.

Overall, the choice of which option best meets the Government's preferences around Efficiency and Equity is for the Government to decide. If the Government places a greater weight on Efficiency, Option (2) should be preferred. Option (3) would be preferred if the Government is willing to trade off Efficiency and higher cost for fee-payers from 2026/27 to assist fee payers in 2024/25 and 2025/26.

## 8.10 Monitoring and review

MPI constantly monitors revenue and expenditure to ensure that significant deficits and surpluses do not arise. Monitoring and review is guided by an internal MPI policy which says that charges will be reviewed when any of the following conditions are met:

- accumulated deficit or surplus is more than four months (33%) of annual revenue[26]
- the accumulated deficit or surplus is $1 million or more
- a deficit is due to be written-off, or a surplus has existed for an equivalent amount of time such that it would be written-off if it was a deficit[27].

In this instance, for example, the first condition was met.

[26] Annual revenue is average annual revenue over the most recent three years.
[27] Typically, after four years.

## 8.11 Update to align fee for ACVM service provided by Biosecurity New Zealand

### 8.11.1 Background and service description

The ACVM Regulations include a fee for services provided by Biosecurity New Zealand staff at the border.[28] The fee is to recover the costs to clear agricultural compounds for entry into New Zealand. To be cleared, the goods must meet the requirements under section 6(3) of the ACVM Act, that—

- the importer has declared they will not sell or use the goods as an agricultural compound; or
- the goods are a registered trade name product; or
- the goods are exempt from registration as a trade name product under the Act, and
- there are no discrepancies that suggest that it may be unwise to rely on documentation accompanying the goods.

### 8.11.2 Status quo and problem

The prescribed fee for this service is a fixed minimum charge of $102.27 and an hourly rate after the first hour of $102.27. This rate was set in 2015, aligning with the update to the base hourly rate for similar services delivered by Biosecurity New Zealand.

The base hourly rate for other border services was updated to $155.50 from 1 July 2023, to ensure the increased costs for these services are fully recovered. Due to an oversight at that time the fee to clear agricultural compounds was not updated.

### 8.11.3 Options

We consulted on the following options:

- Option (1) – The status quo – A fixed minimum charge of $102.27 and an hourly rate after the first hour of $102.27
- Option (2) – Update the fee to align with the base hourly rate with other services provided by biosecurity staff – A fixed minimum charge of $155.50 and an hourly rate after the first hour of $155.50.

This fee is charged when consignments at the border are not cleared in the first instance. Biosecurity New Zealand advise that they generally charge for 15 minutes time for the second clearance, waiving the one hour minimum.

Option (2) as consulted would over-recover the costs of providing this service (a one-hour minimum charge). As the time to clear goods is generally 15 minutes, the preferred option is to update the hourly rate to $155.50 for this service and remove the fixed minimum charge.

### 8.11.4 Estimated financial and economic impacts

The increased cost per instance (at 15-minutes) would be $13.30. This is expected to have a negligible impact on businesses.

### 8.11.5 Assessment against the cost recovery principles

The consultation document referred to the full analysis in the 2023 cost recovery impact statement (CRIS) [29] for fee-related services delivered by Biosecurity New Zealand. MPI considers that consultation was sufficient to meet the Transparency principle.

The proposed rate increase ensures that the costs to provide these services are fully cost recovered (Efficiency). The fee was not increased from 1 July 2023 due to an oversight and so we do not

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[28] Item 1 in Schedule 1, Part 1 of the Agricultural Compounds and Veterinary Medicines (Fees, Charges, and Levies) Regulations 2015

[29] https://www.mpi.govt.nz/dmsdocument/58384/direct

conduct a full analysis of the proposed rate. Further information about the justification for the $155.50 rate can be found in the CRIS for the 1 July 2023 change.

The 2023 CRIS demonstrated that the costs are reasonable. Recovery of costs encourages service users to only demand this service when the value exceeds the costs (Justifiability and Efficiency). We have not identified any reasons under the Equity principle why service users should not pay the full cost of the services they use.

### 8.11.6 Consultation

One submitter supported this proposal and three opposed. Those opposed submitted that the proposed rate increase is not reasonable, and that the Government should pay for this service. As set out above, MPI considers that the $155.50 rate is Justified and there is no identified reason why users of the service should not pay.

### 8.11.7 Conclusion

MPI recommends updating the hourly rate for this service to $155.50 and removing the fixed minimum charge.

Fully recovering the costs for this service better meets the Efficiency and Equity principles.

### 8.11.8 Monitoring and review

Costs for this service will be monitored and reviewed as part of wider monitoring of border services provided by Biosecurity New Zealand.

# 9 ACVM levy

## 9.1 Summary

A deficit has accumulated under the ACVM levy, forecast to be $2.7 million by June 2024.

MPI consulted on a proposed to increase the ACVM levy from $540 to $1,233 per annum per trade name product to recover future costs and an expected $2.7 million accumulated deficit. All but two submitters were opposed to increasing the levy rate to $1,233. Most consider MPI should look for further efficiencies. Concern was raised that there had been insufficient previous consultation on the forecast costs for the new IT project and compliance function. Some said that a graduated increase would be preferred.

This CRIS considers two additional options, both of which reduce the overall cost by removing one of two new FTEs proposed for the compliance function during consultation. The two further options are:

- increase the levy rate to $1,182 to fully recover costs and the accumulated deficit,
- increase the levy rate to $985 in 2024/25, deferring recovering the deficit for a year, and increasing the levy to $1,199 from 2025/26.

MPI considers that the Justifiability and Transparency principles are sufficiently met. MPI considers that, due to the ability to manage compliance with one additional FTE in the short term, the two additional options above better meet the Justifiability principle than the option as consulted at this time.

The option that defers recovery of the deficit is less Efficient but may be considered more Equitable at a time of economic contraction. Overall, the choice of which option best meets the Government's preferences around Efficiency and Equity is for the Government to decide.

The cost recovery increase per annum as consulted is equivalent to about 0.3% of estimated wholesale revenue across the sector. MPI does not expect the proposed levy increase under the three options in this document to lead to a material change in business decisions or the overall market for these products. There may be a decrease in the number of agricultural compounds in the market, particularly products with low volumes or which are otherwise valued less by product users.

MPI also recommends to remove the ability for the Director-General to reset the levy rate in future up to a maximum. This administrative change will remove the uncertainty regarding this authority.

## 9.2 Background

### 9.2.1 ACVM Levy services

The ACVM Regulations prescribe an annual levy for a range of services. The levy is collected for each registered Trade Name Product (TNP). The services being provided are set out in Schedule 2 of the ACVM Regulations.

MPI's ACVM teams undertake a range of services that are funded through the levy, including:

- development and maintenance of standards, conditions and requirements related to TNPs
- monitoring and auditing activities in the ACVM regulatory system
- development of guidelines to assist industry compliance
- participation in international bodies on harmonising regulatory requirements.

Appendix C sets out further detail about the services funded by the levy. The scope of services under the levy is unchanged.

### 9.2.2 How are these services funded?

The ACVM levy is collected annually for each registered TNP. The current $540 levy rate was set in 2015.

### 9.2.3 Why is a levy appropriate?

The ACVM regulatory services covered by the levy are considered 'club goods'. A 'club good' is one where businesses across the industry benefit rather than just an individual business. Services where only individual businesses benefit are charged under fees. Crown funding would be appropriate if benefits accrued to wider society rather than particular businesses or industry as a whole.

The economically efficient way of recovering the costs of a club good is according to the share of benefits each business receives. The share of benefits can never be precisely known, so a proxy is used. In this case, the levy is charged per registered TNP. This means that parties that have more TNPs registered will pay more of the levy. This means that those that benefit more pay a greater share of the costs.

### 9.2.4 MPI consulted on proposed updates to the levy in 2023

In March 2023, MPI consulted on increasing the levy, noting that further work was being undertaken to review the costs attributable to the levied services and the deficit that had accrued.[30] The change would have taken effect during the financial year (i.e. after 1 July). Under the ACVM Act this required general industry support. While industry organisations provided caveated support for an increase, they sought greater transparency about the costs before expressing comfort. Some stakeholders did not support an increase. The Government decided to defer any change to the levy until the further work was completed.

The now completed review has resulted in updated cost allocation for both fee-related services and leviable services, informed by a project to assess costs and staffing levels for all functions across New Zealand Food Safety.

## 9.3 Status quo and problem

### 9.3.1 What is the size of the problem?

A deficit has accumulated for services provided under the levy. Annual deficits have contributed to an accumulated deficit of $0.8 million at June 2023, with forecast accumulated deficits of $2.7 million by June 2024 and $6.3 million by June 2027 (Figure 10).

**Figure 10: ACVM levy revenue, expenditure ($m) and volumes (registrations)**

| | Actual | | | | | Forecast | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 |
| Volume | 3,380 | 3,505 | 3,479 | 3,477 | 3,471 | 3,411 | 3,411 | 3,411 | 3,411 |
| Revenue | $1.88m | $1.90m | $1.89m | $2.01m | $2.27m | $2.07m | $2.08m | $2.08m | $2.09m |
| Expenditure | $2.10m | $2.13m | $2.24m | $2.42m | $2.81m | $3.92m | $3.51m | $3.57m | $3.62m |
| Surplus/deficit | -$0.22m | -$0.23m | -$0.35m | -$0.41m | -$0.54m | -$1.85m | -$1.43m | -$1.48m | -$1.53m |
| Closing balance | $0.73m | $0.50m | $0.15m | -$0.26m | -$0.80m | -$2.65m | -$4.08m | -$5.30m | -$6.29m |

### 9.3.2 What is the cause of the problem?

Expenditure in 2018/19 was approximately $2.1 million for ACVM levy services and is forecast to be approximately $3.9 million in 2023/24. Similar to fee-related services, the increase in expenditure is primarily driven by an increase in staff numbers. FTEs for these services have increased from 9.3 in 2018/19 to 14.0 in 2023/24.

Forecast expenditure also includes the cost for two additional staff from 2024 for the compliance functions (there is currently one FTE for this) and costs related to the first phase of the AOL project (IT costs and Depreciation).

Expenditure forecasts also includes cost inflation in line with the consumers price index in Treasury's Pre-election Economic and Fiscal Update 2023.[31] Revenue is forecast to be stable, based on the

[30] The March 2023 consultation document can be found at www.mpi.govt.nz

[31] 3.8% in 2023/24 and approximately 2.2% over the next three years.

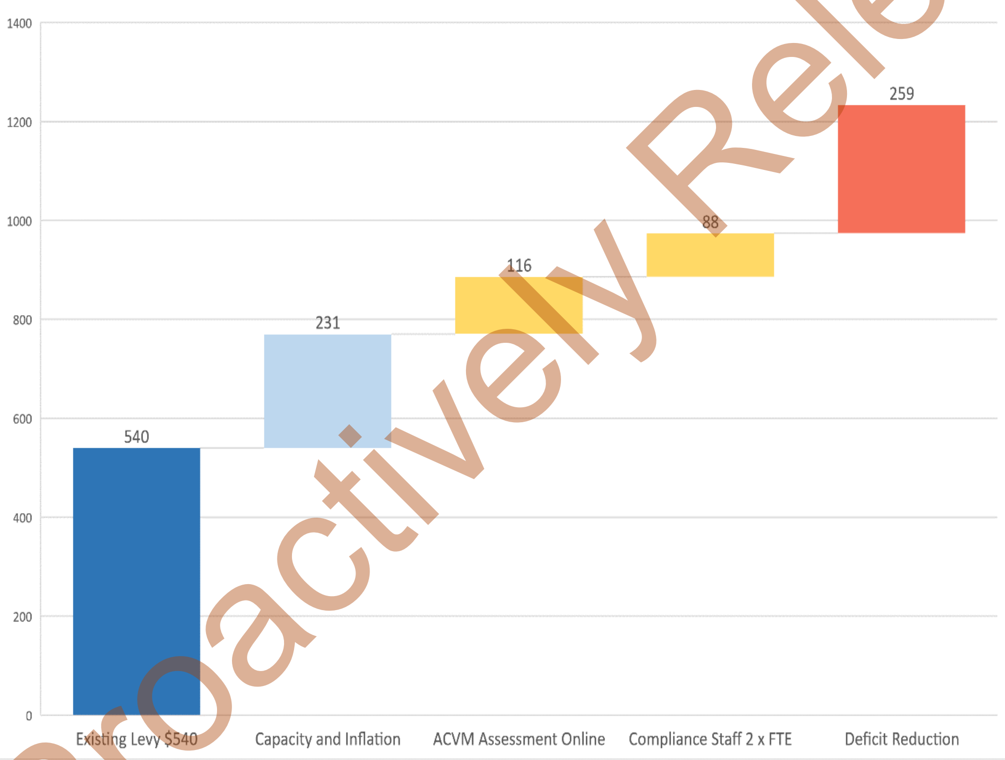
number of TNP registrations remaining flat. Further detail on the cost drivers from 2018/19 is set out in Figure 11.

**Figure 11: ACVM levy expenditure from 2018/19 to 2026/27 ($m)**

| | Actual | | | | | Forecast | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 |
| **Personnel** | $1.02m | $1.17m | $1.33m | $1.45m | $1.68m | $2.18m | $1.98m | $2.01m | $2.04m |
| Contracts | $0.43m | $0.43m | $0.27m | $0.36m | $0.33m | $0.55m | $0.32m | $0.32m | $0.33m |
| IT Costs | $0.02m | $0.02m | $0.03m | $0.02m | $0.04m | $0.21m | $0.24m | $0.24m | $0.24m |
| Depreciation | $0.00m | $0.01m | $0.00m | $0.01m | $0.00m | $0.06m | $0.20m | $0.20m | $0.19m |
| Overhead | $0.46m | $0.43m | $0.55m | $0.53m | $0.63m | $0.76m | $0.63m | $0.65m | $0.66m |
| Other | $0.16m | $0.08m | $0.05m | $0.05m | $0.13m | $0.17m | $0.14m | $0.14m | $0.15m |
| **Total** | **$2.10m** | **$2.13m** | **$2.24m** | **$2.42m** | **$2.81m** | **$3.92m** | **$3.51m** | **$3.57m** | **$3.62m** |

To fully recover future costs and the accumulated deficit, the annual levy would need to increase to $1,233 for each registered TNP. Figure 12 sets out the key cost components of this rate. The capacity and inflation component includes the increase in staff required for MPI to deliver levied services, including meeting industry expectations for increased compliance services and guidance documents. This, together with the ACVM Approvals Online project are the key drivers of the increased costs.

**Figure 12: Cost components ($)**




## 9.4 How are these services performing?

MPI has previously received industry support for the investment required to maintain and meet the need for increased levels of levied services. This includes support for recruiting additional compliance staff and implementing the AOL project from APHANZ.

During consultation APHANZ and Horticulture New Zealand submitted broad support for the overall level of investment, but raised that there hadn't been sufficient previous engagement on the cost implications of the AOL project and proposed increase to compliance staff. Submitters questioned whether there could be savings made in delivering these services.

For the AOL project, in addition to ongoing engagement through AVMAC, MPI has established an external reference group, which allows for input throughout the project. As shown in Figure 12, costs for the AOL project contribute about $116 to the proposed levy. The system it is replacing is fully depreciated, so almost no operating costs were being incurred (IT and Depreciation). Animal and Plant Health NZ (APHANZ), the peak industry organisation, has previously expressed support for updating the current system.[32]

In order to start, the project was approved by MPI's IT governance group (DDaT), based on the business case developed for the project. Once approved the project was commissioned through a competitive tender process. MPI is using a phased approach to ensure successful implementation of each phase before funding for the next phase is approved by DDaT. This suggests that the costs are not unreasonable.

As set out in 8.4.2, MPI has committed to strengthening financial reporting in future and inviting an industry representative to sit on the internal governance group for the AOL project.

The cost per FTE for levied services has increased by about 19% between 2018/19 and 2023/24. Over this same period, CPI inflation was about 24%, with wage inflation over 30%. Ensuring that MPI can attract and retain staff is important to provide consistent services. The increase in staff costs per FTE appears reasonable.

MPI currently has one person delivering the ACVM compliance function, to manage reports of non-compliant behaviour and products. Over the last four years this has resulted in the number of days to close an investigation reducing from 121 in 2020 to 26 in 2023, indicating that this function is performing effectively. The additional staff proposed for this are to support investigations, and to provide for monitoring activities which have largely been deferred. MPI is currently reviewing feedback from workshops conducted in late 2023 to update agreed performance metrics, including for compliance activities. MPI considers that the two additional staff are needed for the compliance function. However, as an expanded service there is some uncertainty about how much additional resource will be required. Acknowledging this and feedback from consultation this CRIS also considers options to increase the function by one additional person (below).

In addition to current performance reporting, MPI plans to develop annual reports that will include revenue and expenditure for cost recovered services, similar to current reporting to the dairy and red meat sectors (among others). This aims to improve transparency of cost implications of ACVM services in future.

## 9.5 Options

### 9.5.1 How options are identified

Conceptually, there are infinite possible options for setting fees as fees can be increased or decreased to any value. As such, we need a way to reduce the full range of feasible fees to a smaller range of plausible fees.

MPI uses the cost recovery principles, including stakeholder views, to identify a range of options that are plausibly consistent with the cost recovery principles. This process typically results in a few options. Chapter 6.2.2 identified options that may be considered if the Transparency and Justifiability principles have not been sufficiently met, for example.

The 'Assessment against the Cost Recovery Principles' chapter then analyses the plausible options and identify a preferred option or options.

Other options may be considered during the policy development process, and ultimately discarded as not plausibly consistent with the Cost Recovery Principles.

### 9.5.2 Identifying options

MPI considers it has sufficiently met the Transparency and Justifiability principles. In combination with the Efficiency principle which says that beneficiaries should generally pay, full cost recovery is a potential option. If reasonable people could conclude that MPI had not sufficiently met the Transparency and Justifiability principles, then options that only partly recover costs would also be identified.

On Transparency, MPI works with industry to ensure that the work programme is well understood, including through AVMAC. There is also monthly performance reporting and updates on the work

[32] https://animalplanthealth.co.nz/government-action-needed-to-future-proof-food-production/ downloaded November 2023

programme through the newsletters. Feedback during consultation shows that more explicit information on expenditure changes would increase transparency. As noted in chapter 9.4, MPI has committed to strengthening the financial reporting in future.

Through ongoing engagement with industry, the regular performance reporting and the information set out in the consultation document, including revenue and expenditure over time and analysis of changes to these, MPI considers that this principle is sufficiently met.

Justifiability requires that costs are reasonable. As set out in Figure 10, revenue has remained relatively constant since 2017/18, while expenditure has increased. This has created a deficit in the closing balance for these services since 2021/22.

MPI considers that the investment in the ACVM levy-related services is necessary to maintain and future-proof the regulatory system. Industry has previously supported this investment if services are cost effective, including for the AOL project and to increase compliance staff. From the analysis in chapter 9.4, MPI considers it has sufficiently met this principle.

The Equity principle asks whether there are fairness reasons to depart from the most Efficient option. During consultation a number of submitters sought a graduated increase to charges. Recognising the current period of economic contraction and feedback from submitters, the Minister has been open to considering options that would reduce costs or defer some cost recovery.

MPI has developed two options looking at this. Option (3) reduces the additional compliance FTEs from two to one. ACVM advises that reducing the proposed increase is manageable and less critical than other areas in the short term. MPI intends to monitor and review this in two years. Option (4) makes the same reduction in compliance FTEs and defers the start of recovery of the accumulated deficit 2025/26.

### 9.5.3 Identified options

Overall, we have identified the following options:

- Option (1) – The status quo. The current $540 levy rate.
- Option (2) – Increase the levy rate to $1,233 to recover future costs (including two more compliance FTEs) and the June 2024 expected accumulated deficit.
- Option (3) – Increase the levy rate to $1,182 to recover future costs (including one more compliance FTE) and the June 2024 expected accumulated deficit.
- Option (4) – Increase the levy rate to $985 in 2024/25 to recover only forecast costs (including one more compliance FTE), with a further increase to $1,199 from 2025/26 to recover forecasts costs and the June 2024 expected accumulated deficit.

Under Option (2), once the deficit is recovered, the levy would likely begin to accumulate a surplus. Based on current forecasts, the levy would reduce to approximately $975 from 2027/28 once the deficit component is recovered.

Option (4) recovers forecast costs in each year while deferring recovery of the accumulated deficit to 2025/26. Compared to Option (3), the levy is 16.7% lower in 2024/25 and 1.4% higher from 2025/26.

**Figure 13: Annual levy rate under Options (2) to (4)**

| Option | 2024/25 | From 2025/26 | Change from Option (2) consulted |
|---|---|---|---|
| Option (2) – full cost recovery as consulted (two additional compliance FTE) | $1233 | $1233 | No change |
| Option (3) – full cost recovery (one additional compliance FTE) | $1182 | $1182 | $51 less (4%) |
| Option (4) – one additional compliance FTE; deficit recovered from 2025/26 | $985 | $1199 | -$248 in 24/25 (20%)<br>-$34 from 26/27 (2.7%) |

### 9.5.4 Discarded options

An option, particularly in a period of economic contraction through rising interest rates, is to defer expenditure into the future when economic conditions are normal. This approach is discarded as industry demand has driven much of the service need and submitters did not question the timing of service delivery. This area has also not been flagged as a lower priority and candidate for reduction as part of MPI's restructure by either MPI or by Government.

## 9.6 Estimated financial and economic impacts

This section sets out the immediate financial impact of options at the industry and business-level, and then considers how the financial impact feeds through to changes in prices and volumes over the medium- to long-term.

### 9.6.1 Immediate industry-level impacts

Figure 14 shows the approximate increase in annual revenue for the levy. The annual increase ranges from about $1.3 million under Option (4) in 2024/25, to about $2.4 million under Option (2). From 2025/26 the increase compared to the status quo ranges from about $2.2 million for Option (3) to $2.4 million for Option (2).

**Figure 14: Total annual revenue under status quo and proposed levy change ($m)**

| Option | 2024/25 | 2025/26 | 2026/27 | Total |
|---|---|---|---|---|
| Option (1) – status quo | $2.08m | $2.08m | $2.09m | $6.25m |
| Option (2) – full cost recovery (as consulted) | +$2.36m | +$2.36m | +$2.36m | +$7.09m |
| Option (3) – full cost recovery (one less compliance FTE) | +2.19m | +$2.19m | +$2.19m | +$6.57m |
| Option (4) – defer recovering deficit until 2025/26 (one less compliance FTE) | +$1.28m | +$2.24m | +$2.24m | +$5.77m |

### 9.6.2 Immediate business level impacts

Figure 15 provides estimated annual costs, grouped by the number of TNP registrations businesses held in 2022/23.

**Figure 15: Estimated financial impacts on TNP registration holders**

| Registrations per business | No. of businesses | % of businesses | % of registrations | Option (1) | Option (2) | Option (3) | Option (4) 2024/25 | Option (4) 2025/26- |
|---|---|---|---|---|---|---|---|---|
| | | | | Average charge | Average increase | Average increase | Average increase | Average increase |
| 1 | 119 | 39% | 3% | $540 | +$693 | +$642 | +$445 | +$659 |
| 2 | 46 | 15% | 3% | $1,080 | +$1,386 | +$1,284 | +$890 | +$1,318 |
| 3 to 9 | 71 | 23% | 10% | $2,578 | +$3,309 | +$3,065 | +$2,125 | +$3,146 |
| 10 to 29 | 31 | 10% | 13% | $7,995 | +$10,261 | +$9,506 | +$6,589 | +$9,757 |
| 30 to100 | 29 | 10% | 42% | $26,423 | +$33,909 | +$31,414 | +$21,774 | +$32,246 |
| 100+ (214 max) | 7 | 2% | 29% | $76,294 | +$97,911 | +$90,705 | +$62,872 | +$93,107 |
| Total | 303 | | | $6,090 | +$7,815 | +$7,240 | +$5,018 | +$7,432 |

In 2022/23, there were 3,417 ACVM products registered as TNPs across 303 businesses. Approximately 12% of these businesses held 70% of the registrations (30 or more registered TNPs). Fifty-four percent of businesses held 6% of the registrations (one or two).

While the financial impact of the proposed levy increase will largely fall on a small number of companies, as with the fees proposal the diversity of the products and industries that hold registered TNPs means there is limited data to estimate the impact of the proposed levy increase under Options (2) to (4) across all businesses.

A number of submissions consider that the proposed rate will lead to removal of some products from the market. The levy has (if costs are reasonable) been too low for a number of years. Particularly for lower volume products, the proposed rate increases under Options (2) to (4) are likely to reduce demand for these services.

### 9.6.3 Medium- to long-term market-level impacts

The approximately $2.4 million cost increase per annum under Options (2) to (4) represent around 0.3% of the estimated wholesale revenue across the sector.[33]

In the medium to longer term, these costs are likely to at least partially pass through to market prices. Data limitations mean it is difficult to estimate the impacts on end users of agricultural compounds. Agricultural compounds are estimated to contribute around $23.0 billion to the New Zealand economy. The increase in the annual rate for the levy under Option (2) represents approximately 0.01% of this.

MPI does not expect the proposed levy increases under Options (2) to (4) to lead to a material change in business decisions or the overall market for these products, though there is expected to be a decrease in the number of agricultural compounds in the market, particularly products with low volumes or which are otherwise valued less by product users.

## 9.7 Assessment against the cost recovery principles

This section assesses the options against MPI's cost recovery principles.

### 9.7.1 Transparency and Justifiability

As discussed in chapter 9.5.2, based on feedback from industry representatives, the service reviews, regular performance reporting and the information provided in the consultation document and in this CRIS, including revenue and expenditure over time and analysis of changes to these, MPI considers that the Transparency and Justifiability principles have been sufficiently met.

We do not replicate that assessment here except to note that MPI has explored options that have one fewer FTE doing compliance work. MPI considers that, due to the ability to manage compliance with one additional FTE in the short term, Options (3) and (4) better meet the Justifiability principle at this time.

### 9.7.2 Efficiency

Fully recovering costs is economically efficient when those costs are justifiable. Economic efficiency is enhanced as businesses that create the demand for a service are encouraged to consider the cost of the service when deciding whether to use services.

As above, Options (3) and (4) are associated with costs that are most justifiable. Between these two options, Option (3) is the most efficient as it recovers the deficit in the immediate three-year period rather than deferring it. Deferring recovery of the deficit under Option (4) means MPI carries the $2.7 million accumulated deficit for one year which, at a 5% capital charge rate, costs $130,000.

Option (1) is the least efficient as the cost of the accumulated deficit will ultimately result in a cost to public funds. This is forecast to be approximately $6.3 million by June 2027 which, if covered by taxpayers, would result in a deadweight loss of about $1.3 million.

### 9.7.3 Equity

The Equity principle says that it will generally, but not always, be considered fair that beneficiaries pay.

A number of submitters suggested there should be a more gradual implementation of the new levy rate.

Deferring cost recovery under Option (4) may, by some peoples' views about Equity, be fairer as it increases costs less for the first two years, at a time of economic contraction. Other people may view Option (4) to be less equitable as future fee payers would have to pay more and, due to some businesses closing or leaving the sector and new businesses arriving, they are less likely to be those who benefitted from the services and lower fees that resulted in the deficit.

Which option best meets the Equity principle is a matter of judgement which we leave for the Government to decide.

[33] Total wholesale revenue across plant and animal health sectors of approximately $780 million. See section 4.1

## 9.8 Consultation

Nineteen submitters commented on this proposal, including four industry organisations. All but one opposed the rate increase consulted on. Several submitters agreed that the level of service is necessary and that MPI's performance is reasonable. Dairy NZ agreed the level of investment is necessary. Key themes of those opposed were:

- MPI should seek to be more cost efficient rather than increase the levy
- the proposed increase is large; any increase should be gradual rather than the sharp increase proposed
- the increase may lead to some products being withdrawn from the market
- there has been insufficient industry engagement on the cost implications of proposed service level changes.

## 9.9 Conclusion

MPI considers that:

- the Transparency and Justifiability principles are sufficiently met such that cost recovery under Options (2), (3) and (4) are available, but that Options (3) and (4) best meet the Justifiability principle
- Option (3) best meets the Efficiency principle, and
- whether Option (3) or (4) best meets the Equity principle is ultimately for the Government to decide.

Overall, the choice of which option best meets the Government's preferences around Efficiency and Equity is for the Government to decide. If the Government places a greater weight on Efficiency, Option (3) should be preferred. Option (4) would be preferred if the Government is willing to trade off Efficiency and higher cost for fee-payers from 2025/26 to assist fee payers in 2024/25.

## 9.10 Monitoring and review

MPI constantly monitors revenue and expenditure to ensure that significant deficits and surpluses do not arise. Monitoring and review is guided by an internal MPI policy which says that charges will be reviewed when any of the following conditions are met:

- accumulated deficit or surplus is more than four months (33%) of annual revenue[34]
- the accumulated deficit or surplus is $1 million or more
- a deficit is due to be written-off, or a surplus has existed for an equivalent amount of time such that it would be written-off if it was a deficit[35].

In this instance, for example, the first and second conditions were met.

[34] Annual revenue is average annual revenue over the most recent three years.

[35] Typically, after four years.

## 9.11 Removing the authority for the Director-General to reset the ACVM levy rate

### 9.11.1 Background and service description

The ACVM Regulations currently allow the Director-General, by notice in the *Gazette*, to set the rate of the levy up to the prescribed maximum of $590. [36]

### 9.11.2 Status quo and problem

This delegated authority has been in force since 1 July 2019.To date, it has not been used (the current annual levy has been in place since 2015).

The ACVM Act does not explicitly allow the regulations to delegate authority to the Director-General to set a levy. There is therefore some uncertainty regarding whether this authority is available.

### 9.11.3 Options

To address this uncertainty, MPI proposes the delegated authority be removed.

### 9.11.4 Estimated financial and economic impacts

This is a proposed change to the administrative process to reset the levy in future. This will not impact how levy-related service costs are monitored and any future proposed change to the rate determined.

### 9.11.5 Assessment against the cost recovery principles

Under this proposal, future changes to the levy rate will require amendment to the ACVM Regulations. As stated, how service costs are monitored and any future change is considered, including against the cost recovery principles, will not change.

### 9.11.6 Consultation

Two submitters supported this proposal, and three opposed.

### 9.11.7 Conclusion

MPI recommends removing the authority for the Director-General to set the levy from the ACVM Regulations.

### 9.11.8 Monitoring and review

This is a small change and does not require a specific review.

[36] See 4A(3) and 4A(5) of the Regulations.

# 10 Circuit verification fees

## 10.1 Summary

A surplus has arisen under the Circuit verification fees. The surplus was $0.8 million in June 2023 and is expected to rise to $2.0 million by June 2024 and to $3.5 million by June 2027.

MPI's preferred option is to reduce the Circuits fee from $230.50 to $206.70 to eliminate the surplus by June 2027. A further option of refunding the surplus has been considered, but is considered to not best meet MPI's cost recovery principles.

The fee reduction will reduce the annual cost for a typical business by about $220 per annum. Businesses with hours in the top 5% would see annual cost reductions of around $6,600 per annum.

These cost reductions are expected to have negligible impacts on households, businesses, markets and exports.

Submitters supported the preferred option.

## 10.2 Background

### 10.2.1 High-level service description

Circuit verifications are undertaken by verifiers travelling between businesses, i.e. on a 'circuit', for meat, dairy, fish/shellfish and other premises. They verify that the business is operating its internal systems (and for some aspects, its external supply chains) consistently with legal requirements and risk management plans. These differ from verifications of export meat processors, including slaughterhouses, where there are establishment verifiers located permanently on site and charge under a different set of fees.

Verification of some products is contestable – that is that verification can be done by MPI's Verification Services or by other providers such as AsureQuality New Zealand and Veritag. Meat is generally not contestable.

In some cases, private verifiers are unable or unwilling to provide the service to some businesses, so MPI does so as a 'verifier of last resort'. It is common for small operators in remote locations where it is challenging to fully recover costs to be rejected by private verification agencies.

Compared to Establishments where verifiers work full time at an operator, circuit verification work can be variable. Circuit verifiers work for multiple operators and demand can be seasonal.

To ensure that biosecurity and live animal operators are serviced, MPI's Circuit service has to operate in a highly flexible and responsive way and often at very late or with no notice. This is especially true when MPI is the verifier of last resort.

Verifiers must have the required qualifications and recognitions to perform a wide-ranging array of different verification functions. Each verification function requires the correct qualification and skill set, sometimes under multiple Acts.

### 10.2.2 How have these services performed?

MPI monitors service performance including metrics such as:

- how well industry is meeting compliance requirements
- how quickly MPI is completing verification
- how long it takes MPI to fill vacancies
- how much time is spent on billable/chargeable activities.

The first two metrics have been performing well, but the time it takes to fill vacancies is longer than target. This is due to an international veterinary shortage. The circuit team consists of veterinarians and technical staff so the impact is limited compared to establishment teams which are fully veterinary resourced.

The fourth metric – the percentage of chargeable time – indicates how productive MPI is. Circuit verification has maintained a consistent and high level of performance on this metric over recent years. The percentage of time that was charged was 76% in 2021/22, 73% in 2022/23, and 71% in the current 2023/24 financial year. These results compare to a target minimum of 60%[37] and are around the 75% levels achieved by other MPI services.

### 10.2.3 How are these services funded?

#### 10.2.3.1 Level of the charge

The current fee is $230.50 per hour.

The history of charges is set out in Figure 16 with years in which charges were changed in bold. Between 2008/09 and 2018/19, the total charge was made up of a 'verifier' component being the direct costs of the verifier's time and a 'basic' component being the indirect costs of verification services. These components were combined into a single charge from 2019/20.

The fee was increased from $176.00 to $230.50 on 1 July 2022. The increase was to address a deficit of more than $1 million per annum and an accumulated deficit which data at the time said was $3.3 million in June 2021 and expected to be $4.7 million in June 2022.

More information about the increase to $230.50 can be found in the 2022 cost recovery impact statement[38].

**Figure 16: Circuits fee history**

| Year | Circuits fee | Verifier component | Basic component |
|---|---|---|---|
| 2023/24 | $230.50 | | |
| **2022/23** | **$230.50** | | |
| 2021/22 | $176.00 | | |
| 2020/21 | $176.00 | | |
| **2019/20** | **$176.00** | | |
| 2018/19 | $165.00 | $120.10 | $44.90 |
| 2017/18 | $165.00 | $120.10 | $44.90 |
| 2016/17 | $165.00 | $120.10 | $44.90 |
| **2015/16** | **$165.00** | **$120.10** | **$44.90** |
| 2014/15 | $114.01 | $93.04 | $20.97 |
| 2013/14 | $114.01 | $93.04 | $20.97 |
| 2012/13 | $114.01 | $93.04 | $20.97 |
| 2011/12 | $114.01 | $93.04 | $20.97 |
| 2010/11 | $114.01 | $93.04 | $20.97 |
| **2009/10** | **$114.01** | **$93.04** | **$20.97** |
| 2008/09 | $111.38 | $87.25 | $24.13 |

[37] The 60% target is a historical target that was put in place so that revenue and expenditure at the time would break-even. While this may have been an appropriate target for the immediate problem at the time (a financial deficit), a better target would take into account the nature of the service including how much time should reasonably be spent on delivering direct services to users and how much time should be spent back-office functions. MPI intends to review the target.

[38] https://www.mpi.govt.nz/dmsdocument/51727-Package-of-cost-recovery-changes-2022-Regulatory-Impact-Statement

### 10.2.3.2 Regulation

Circuit fees are set out in the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015. Rates are the same under both sets of Regulations.

### 10.2.3.3 Why is a fee appropriate?

Verification services are a 'private good'[39] so fees are charged to individual businesses to recover costs. If industry as a whole benefitted rather than particular businesses, then a levy across industry would be appropriate instead. Crown funding would be appropriate if benefits accrued to wider society rather than individual businesses or industry as a whole.

## 10.3 Problem

### 10.3.1 How has revenue and expenditure tracked over time?

Figure 17 sets out current data for revenue and expenditure as far back as is available and for the forecast period through to 2026/27. Figure 17 also sets out how revenue and expenditure was expected to track when the Circuits fee was last set in 2022. The colours in the text of this section correspond to cells in Figure 17.

The 2022 forecasts were for the accumulated deficit to reduce to zero by 2024/25 following an increase in revenue from 2022/23 that would turn annual deficits into surpluses.

A zero balance was actually reached during the 2022/23 year. The accumulated deficit reduced from $3.1m by June 2021 and there was an $0.8m accumulated surplus by June 2023. Under the current fee, the surplus is expected to grow to $2.0m by June 2024 and reach $3.5m by June 2027.

The main cause of the early recovery of the deficit was a greater than expected use of staff time on COVID-19-related verification work which was partly Crown-funded rather than cost-recovered activity. This reallocation of effort saw lower than previously-expected expenditure in 2021/22 and 2022/23.

While time allocated to cost-recovered activity was substantially lower, volumes were only slightly lower. This was because verification during COVID-19 was done remotely, meaning less travel time which is normally a major component of cost.

While there is currently a surplus, there have been other factors that mean revenue is expected to be lower and expenditure is expected to be higher than previously forecast.

While recent volumes have been about the same as previously forecasted – only 0.1% lower than forecasted – forecast volumes for the next three years (2023/24 to 2025/26) are 3.0% lower than the previous forecast. This results in 3.0% lower revenue. Lower volumes are forecast as a continuation of the gradual decline in demand for Circuits over time from over 54,000 hours in 2017/18 to around 50,000 hours in 2022/23.

Expenditure is expected to be 2.7% higher than previous despite lower volumes.

Overall, the cost per hour is expected to be 5.9% higher than previously forecast.

Figure 18 provides a breakdown of expenditure.

The primary cause of higher expenditure since the last fee reset is higher salary and professional development (attendance at biennial conferences) costs for employees. This is reflected in Figure 18 through higher personnel costs which are expected to rise by 11.6% from $6.4 million in 2021/22 to $7.2 million in 2024/25 and in around a $150,000 increase in travel costs to attend professional development conferences.

The salary cost increase aligns salaries to appropriate industry benchmarks. Verification services require a highly skilled and talented workforce to deliver verification activity to industry operators. Continuous professional development is a requirement of accreditation as a recognised person or

[39] A private good is one where a person/business can be excluded (e.g. don't receive the service if they don't pay), and where the benefits accrue to the person/business (the benefits are 'non-rival') rather than to the whole industry or to society.

Verification services are a private good because they are only provided by MPI when paid for and the benefits accrue to the business that receives the service. For example, individual businesses receive benefits of higher revenue from being able to export when verified. Industry or society as a whole does not benefit from any individual business exporting.

agency in verification. Verifiers must maintain technical competency and capability to deliver the outcomes required by industry operators. Professional development conferences are one tool for helping achieve this objective.

**Figure 17: Total revenue and expenditure 2015/16 to 2026/27 ($m) under current fees**

**Data for the 2022 fee increase**

| | Actual | | | | | | Forecast | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 |
| Volumes | 48,667 | 51,422 | 54,332 | 52,341 | 50,882 | 49,668 | 49,349 | 49,695 | 49,943 | 50,143 | 50,344 | |
| Revenue | $8.0m | $8.5m | $9.0m | $8.6m | $9.0m | $8.7m | $8.7m | $11.5m | $11.5m | $11.6m | $11.6m | |
| Expenditure | $8.8m | $9.2m | $9.5m | $10.0m | $11.0m | $8.0m | $10.1m | $9.7m | $9.9m | $10.1m | $10.4m | |
| One-off changes | | | | | | | | | | | | |
| Surplus/deficit | -$0.8m | -$0.7m | -$0.5m | -$1.4m | -$2.0m | $0.7m | -$1.4m | $1.7m | $1.6m | $1.4m | $1.3m | |
| End balance | | | -$0.6m | -$2.0m | -$4.0m | -$3.3m | -$4.7m | -$3.0m | -$1.4m | $0.0m | $1.3m | |

**Current data**

| | Actual | | | | | | | | Forecast | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 |
| Volumes | 48,667 | 51,422 | 54,332 | 52,341 | 50,882 | 49,512 | 49,433 | 49,629 | 48,471 | 48,607 | 48,831 | 49,050 |
| Revenue | $8.0m | $8.5m | $9.0m | $8.6m | $9.0m | $8.7m | $8.7m | $11.4m | $11.2m | $11.2m | $11.3m | $11.3m |
| Expenditure | $8.8m | $9.2m | $9.5m | $10.0m | $11.0m | $7.8m | $7.7m | $8.5m | $10.0m | $10.6m | $10.6m | $11.0m |
| One-off changes | | | | | | $0.1m | -$0.1m | | | | | |
| Surplus/deficit | -$0.8m | -$0.7m | -$0.5m | -$1.4m | -$2.0m | $1.0m | $0.9m | $3.0m | $1.1m | $0.6m | $0.6m | $0.3m |
| End balance | | | -$0.6m | -$2.0m | -$4.0m | -$3.1m | -$2.1m | $0.8m | $2.0m | $2.6m | $3.2m | $3.5m |

**Figure 18: Expenditure breakdown**

| | Actual | | | Forecast | | | |
|---|---|---|---|---|---|---|---|
| | 2020/21 | 2021/22 | 2022/23 | 2023/24 | 2024/25 | 2025/26 | 2026/27 |
| Personnel | $6,409,817 | $6,423,040 | $7,065,099 | $6,854,394 | $7,165,485 | $7,315,960 | $7,462,280 |
| Contracts | $61,622 | $13,934 | $1,719 | $35,581 | $36,471 | $37,236 | $37,981 |
| Travel | $85,844 | $98,746 | $166,385 | $180,575 | $337,158 | $192,170 | $355,625 |
| Vehicle | $133,255 | $125,668 | $114,084 | $160,639 | $164,655 | $168,113 | $171,475 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Equipment | $1,534 | $1,240 | $1,413 | $3,334 | $3,417 | $3,489 | $3,559 |
| IT | $120,672 | $45,224 | $54,248 | $58,675 | $60,142 | $61,405 | $62,633 |
| Communications | $101,180 | $67,849 | $78,048 | $118,897 | $121,870 | $124,429 | $126,918 |
| Consumables | $64,530 | $74,361 | $66,284 | $69,326 | $71,059 | $72,551 | $74,002 |
| Financial & Legal | $47,919 | -$36,790 | $57,695 | $10,296 | $10,553 | $10,775 | $10,990 |
| Other Operating | $319 | $500 | $37,891 | $9,950 | $10,199 | $10,413 | $10,621 |
| Property | $5,852 | $4,327 | $4,754 | $2,265 | $2,321 | $2,370 | $2,417 |
| Interbranch charges[40] | -$1,045,700 | -$1,119,559 | -$1,276,202 | $216,545 | $221,958 | $226,619 | $231,152 |
| Depreciation & capital charge | $89,146 | $152,722 | $172,328 | $192,566 | $197,380 | $201,525 | $205,555 |
| **Total Direct Expenditure** | $6,075,989 | $5,851,261 | $6,543,747 | $7,913,042 | $8,402,668 | $8,427,056 | $8,755,208 |
| | | | | | | | |
| Corporate Overheads | $1,741,649 | $1,879,006 | $1,938,318 | $2,118,330 | $2,171,288 | $2,216,885 | $2,261,223 |
| **Total Expenditure** | $7,817,639 | $7,730,267 | $8,482,065 | $10,031,372 | $10,573,957 | $10,643,941 | $11,016,431 |

[40] 'Interbranch charges' cover where Circuits staff are used for other services. A negative value represents expenditure that was covered by other services. The change from -$1.2m in 2022/23 to $0.2m in 2023/24 reflects the end of reallocation of staff time.

### 10.3.2 What is the nature of the problem?

A surplus has arisen under the circuits fee. Surpluses are an efficiency problem – either the fee is too high for a desired level of service, or expenditure is too low, or a combination of both.

### 10.3.3 What is the size of the problem?

The accumulated surplus was $0.8 million as at June 2023. The accumulated surplus is forecast to grow to $2.0 million by June 2024 and $3.5 million by June 2027.

### 10.3.4 What is the cause of the problem?

The cause of the surplus has been the temporary reduction in expenditure in 2020/21 and 2022/23. The key trigger for this was COVID-19 which saw some staff working on partly-Crown funded COVID-19 verification activity (see chapter 10.3.1).

## 10.4 Options

### 10.4.1 How options are identified

Conceptually, there are infinite possible options for setting fees as fees can be increased or decreased to any value. As such, we need a way to reduce the full range of feasible fees to a smaller range of plausible fees.

MPI uses the cost recovery principles, including stakeholder views, to identify a range of options that are plausibly consistent with the cost recovery principles. This process typically results in a few options. Chapter 6.2.2 identified options that may be considered if the Transparency and Justifiability principles have not been sufficiently met, for example.

The ‘Assessment against the Cost Recovery Principles’ chapter then analyses the plausible options and identify a preferred option or options.

Other options may be considered during the policy development process, and ultimately discarded as not plausibly consistent with the Cost Recovery Principles.

### 10.4.2 Identifying options

In the case of surpluses, the starting point for options is not simply the status quo versus reducing the fee, or refunding the surplus, to eliminate the surplus. If expenditure was unjustifiably high and yet there was still a surplus, a reasonable option to consider would be to reduce the fee even further than the amount needed to eliminate the surplus.

MPI considers it has sufficiently met the Transparency and Justifiability principles and, as a result, there is no need to consider options that reduce fees or return revenue by more than that needed to eliminate the surplus.

On Transparency, MPI considers that the level of information in this CRIS and which was publicly consulted on – including detail about revenue and expenditure over time, an analysis of the causes of changes, the range of options and an impact assessment – means that the Transparency principle has been met.

Justifiability requires that costs are reasonable. Ongoing costs have increased due to higher employee costs in the form of salary increases and travel costs to conferences for professional development. The overall increase per employee is about 10% made up of about 8.5% in salary increases (phased in over two years to 2024/25) and 1.5% in travel costs. The last collective agreement was in force from July 2021. For comparison, general CPI has totalled 13.8% in the two years between June 2021 and June 2023[41] and is forecast to total 18.25 by June 2024[42], and inflation in consumer prices for vet services has been 19.0% in the two years to June 2023. Ensuring that MPI can attract and retain staff

[41] The June quarters.

[42] Using the Reserve Bank of New Zealand’s inflation forecast for 2023/24 from the August 2023 Monetary Policy Statement.

is important in being able to provide services. The increase in staff costs do not appear to be unreasonable.

The Equity principles asks whether there are any factors that might cause consideration of options other than the most efficient option. We have not identified any factors and none were suggested in consultation. As a result, no options have been identified under this principle.

### 10.4.3 Identified options

Overall, there are three options:

- Option (1): The status quo fee of $230.50 which is expected to see the surplus rise to $3.5 million by June 2027.
- Option (2): Reduce the fee to $206.70 which is expected to see the surplus reduce to zero by June 2027.[43]
- Option (3): Refund the surplus and a fee of $220.00 which would balance revenue and expenditure up to June 2027. The $220.00 fee covers forecast expenditure between 2024/25 and 2026/27. The refund for each customer would be calculated in line with the numbers of hours each customer used in the two years the $230.50 rate was in place (2022/23 and 2023/24).

### 10.4.4 Discarded options

There is one other option that we are discarding. This option reduces the fee to $206.20. This option recognises that the travel expenditure to conferences happens every two years. This means that each three-year fee period would alternate between have conferences occurring twice and conferences occurring once. This lumpiness in expenditure could be averaged out. Doing this, however, only results in a 50 cent reduction in the fee from $206.70 to $206.20. We have discarded this option as it results in only a 0.2% reduction, there is no permanent over-recovery of costs as the next three-year period would have only one year of conference travel costs, and we consider that the administrative simplicity and reduction in risk of costs being double-counted or not counted at all in future reviews, outweigh the benefits of smoothing this expenditure.

## 10.5 Estimated financial and economic impacts

### 10.5.1 Introduction

This section sets out the immediate financial impact of options at the industry and business-level, and then considers how the financial impact feeds through to changes in prices and volumes over the medium- to long-term.

### 10.5.2 Immediate industry-level impacts

Figure 19 shows the cost to industry under the status quo and how much the cost would change under each option. For example, circuit verifications are expected to cost industry a total of $11.2 million in 2025/26 under the current fee and this would reduce by $1.2 million under Option (2).

**Figure 19: Immediate industry-level impacts**

| Option | Pre-2024/25 | 2024/25 | 2025/26 | 2026/27 | Total |
|---|---|---|---|---|---|
| Option (1): $230.50 fee | | $11.2m | $11.2m | $11.3m | $33.6m |
| Option (2): $206.70 fee | | -$1.2m | -$1.2m | -$1.2m | -$3.5m |
| Option (3): Surplus refund and a $220.00 fee | -$2.0m | -$0.5m | -$0.5m | -$0.5m | -$3.5m |

[43] The fee to the nearest cent that would eliminate the surplus is $206.69. We have rounded this to $206.70 to make the fee cleaner/easier to read.

### 10.5.3 Immediate business-level impacts

MPI provided circuit verification to around 1,500 customers in 2022/23. The median number of hours provided was 9.3. The lower 25% received up to 4.5 hours with an average of 1.8 hours, while the upper 25% received more than 34.1 hours with an average of 109.1 hours. The highest 5% averaged 275.9 hours.

Figure 20 shows the impact on users by hours. The estimated surplus returns for Option (3) assume that a business used services in both 2022/23 and 2023/24.

The cost reduction under Option (2) for a median-hours business would be about $220 per annum.

**Figure 20: Immediate business-level impacts**

| Option | Pre-2024/25 | 2024/25 | 2025/26 | 2026/27 | Total |
|---|---|---|---|---|---|
| **Very large hours – top 5%** | | | | | |
| Option (1): $230.50 fee | | $63,600 | $63,600 | $63,600 | $190,800 |
| Option (2): $206.70 fee | | -$6,600 | -$6,600 | -$6,600 | -$19,700 |
| Option (3): Surplus refund and a $220.00 fee | -$11,000 | -$2,900 | -$2,900 | -$2,900 | -$19,700 |
| **Large hours – top 25%** | | | | | |
| Option (1): $230.50 fee | | $7,900 | $7,900 | $7,900 | $23,600 |
| Option (2): $206.70 fee | | -$810 | -$810 | -$810 | -$2,400 |
| Option (3): Surplus refund and a $220.00 fee | -$1,400 | -$360 | -$360 | -$360 | -$2,400 |
| **Median hours** | | | | | |
| Option (1): $230.50 fee | | $2,100 | $2,100 | $2,100 | $6,400 |
| Option (2): $206.70 fee | | -$220 | -$220 | -$220 | -$660 |
| Option (3): Surplus refund and a $220.00 fee | -$370 | -$100 | -$100 | -$100 | -$660 |
| **Small hours – bottom 25%** | | | | | |
| Option (1): $230.50 fee | | $410 | $410 | $410 | $1,230 |
| Option (2): $206.70 fee | | -$40 | -$40 | -$40 | -$130 |
| Option (3): Surplus refund and a $220.00 fee | -$70 | -$20 | -$20 | -$20 | -$130 |

### 10.5.4 Medium- to long-term market-level impacts

Changes in fees are changes in business costs. This feeds through to business margins and, over the medium- to longer-term, to market prices and quantities.

Data limitations including around the variety of industries that use circuit verification services means it is difficult to comprehensively estimate these impacts but the impacts on households, exports and industry is expected to be negligible. For example, around $790,000 was spent by poultry businesses on Circuits. This compares to about $3.7 billion in consumer spending[44]. The reduction in the Circuits fee from $230.50 to $206.70 would reduce consumer prices by 0.02%.

## 10.6 Assessment against the cost recovery principles

This section assesses the options using MPI's Cost Recovery Principles and approach set out in 'Cost Recovery Principles and the overall approach to cost recovery' chapter.

[44] A rough estimate using 222,764,000 kgs (year to June 2023 from Statistics New Zealand's primary production series) and assumes a $16.48 final consumer price (June 2023 price from Statistics New Zealand's food price index).

### 10.6.1 Transparency and justifiability

#### 10.6.1.1 Transparency

As already discussed in section 10.4.2, MPI considers that the level of information in this CRIS and which was publicly consulted on – including detail about revenue and expenditure over time, an analysis of the causes of changes, the range of options and an impact assessment – means that the Transparency principle has been met.

#### 10.6.1.2 Justifiability

Justifiability requires that costs are reasonable.

As already discussed in section 10.4.2, ongoing costs have increased due to higher employee costs in the form of salary increases and travel costs to conferences for professional development. The overall increase per employee is about 10% made up of about 8.5% in salary increases (phased in over two years to 2024/25) and 1.5% in travel costs. The last collective agreement was in force from July 2021. For comparison, general CPI has totalled 13.8% in the two years between June 2021 and June 2023[45] and is forecast to total 18.25 by June 2024[46], and inflation in consumer prices for vet services has been 19.0% in the two years to June 2023. Ensuring that MPI can attract and retain staff is important in being able to provide services. The increase in staff costs do not appear to be unreasonable.

### 10.6.2 Efficiency and equity

Keeping the fee unchanged under Option (1) would see the surplus continue to rise. Over-recovering costs denies businesses the use of their money for other purposes. Over-charging also distorts businesses decisions about how much of the service to demand – resulting in not using the service even when it would otherwise generate net benefits (that is, if the correct fee was charged). Option (1) does not meet the Efficiency principle. We have also identified no Equity reasons why we would over-recover costs.

Options (2) and (3) fully recover costs / do not over-recover costs through to 2026/27.

On the face of it, refunding the surplus under Option (3) can appear to better meet the Efficiency and Equity principles because it returns the surplus to businesses that contributed to the surplus.

There are a couple of reasons around Efficiency why this would be the wrong assessment. To help understand these reasons, we need to understand where the inefficiencies arise from deficits and surpluses.

#### 10.6.2.1 Inefficiencies around deficits and surpluses

Provided expenditure is reasonable, a deficit arises when the fee is too low. A fee that is too low causes greater use of the service than is efficient. Resources are used for services that, in some cases, do not provide net benefits, but instead net costs. This is called a ‘deadweight loss’.

Recovering the deficit in the next period requires fees that are higher than the cost in that period. A fee that is higher than true cost causes less use of the service than is efficient.

In the first period, the fee is too high resulting in less use of the service than is efficient. Eliminating the surplus in the second period requires a fee that is lower than true cost resulting in use of more use of the service than is efficient.

If the deficits and surpluses are small, the deadweight losses will be small. The bigger the deficit or surplus, the bigger the deadweight loss.[47]

For surpluses, MPI can refund the amount over-recovered. This does not correct the under-use of services in the first period because that has already happened, but it will result in a fee for the next period which matches actual cost and, so, not result in over-use.

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[45] The June quarters.

[46] Using the Reserve Bank of New Zealand’s inflation forecast for 2023/24 from the August 2023 Monetary Policy Statement.

[47] The deadweight loss also grows exponentially with higher deficits or surpluses.

There is no ability under legislation for MPI to recover deficits from past customers, so there is no way to avoid the future period deadweight loss without writing-off the deficit (which comes at a cost, and deadweight loss, to taxpayers).

#### 10.6.2.2 The deadweight loss in this case is small

Circuit costs are only one input in the production of food. From Section 10.5.4 for example, poultry producers incurred about $790,000 in Circuit costs relative to about $3.7 billion in consumer spending. If all of the surplus was refunded, the fee for the forecast period would be $220.00 instead of $206.70. The price under Option (2) is about $13.30 lower than the true cost. At current volumes, this amounts to about $45,600 per annum – equivalent to a 0.001% difference in final consumer prices. Consumer responses, then, are unlikely to drive much over-use of services.[48]

There are two methods by which deadweight loss could be estimated.

The first estimates the amount of distortion that the small difference in consumer prices would cause. Under this method, the estimate of deadweight loss is significantly less than one dollar per annum.

The second method is to treat difference in recovery as a tax and assume, as Treasury does in its cost-benefit analysis guidance, that 20% of revenue is soaked up as deadweight loss. Twenty percent of $45,600 is $9,100 per annum.

#### 10.6.2.3 Administration costs of a refund outweigh the deadweight loss

In 2022/23, about 1,500 businesses used Circuit services. A refund would need to be provided for the two years the $230.50 fee has been in place (2022/23 and 2023/24). We don't know how many new customers there will be in 2023/24, but if the pattern for 2022/23 to 2023/24 is the same as for 2021/22 to 2022/23, there would be about 1,900 unique businesses.

Assuming it takes half an hour to calculate and process each refund at $100 per hour, the total cost of processing refunds would be $95,700. This is much higher than the deadweight loss estimates of up to $9,100.

#### 10.6.2.4 It would not be appropriate to spread the surplus refund over just 2021/22 to 2022/23

A further complication is that the reason for the surplus is an unpredicted and rare event in COVID-19. If MPI was not obliged to address deficits and surpluses within the medium-term of three to four years, we would, in theory, look to spread the significant rare cost savings over a longer time period rather than have those benefits accrue to businesses that just happened to use services at the same time as those rare events. For instance, if major events like COVID-19 happen every 100 years or so, economic efficiency would suggest spreading the cost savings over 100 years. This is not practical.

Allocating the cost savings from rare events over the forecast three year period is better than spreading the cost savings over the two year period during which the $230.50 fee will have been in place. This means that, on this point, Option (2) is more efficient than Option (3).

Theoretically, spreading the cost over the five-year period of the forecast three years and recent two years, or even longer, would be better on this point. A longer period over which surplus is spread would, however, reduce the difference between the fee for the forecast period and the true cost fee of $220.00 thereby reducing the deadweight loss while at the same time increasing administration costs as the number of businesses receiving a refund would grow.

#### 10.6.2.5 Equity

The Equity principle asks whether, even if it is not economically efficient, whether it is fair to provide a refund.

One consideration is whether there are businesses that would have a significant permanent loss, e.g. because they are overcharged in 2022/23 to 2023/24 and then are not around from 2024/25 to enjoy the lower fee.

A rough analysis suggests that few businesses would be in this situation.

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[48] There may also be over-use as a weaker price signal provides less incentive for businesses to comply with regulations which Circuits verify compliance with.

Around a third would be less than $80 and a further third would be less than $400 assuming the surplus was spread over the 2022/23 to 2026/27 period.

Furthermore, around 83% of businesses are repeat customers meaning that a high number of refunds would go to businesses that would be indirectly refunded anyway under Option (2).

A stronger case for a refund could be made under the Equity principle if MPI had made a negligent error in setting the fee last time, or had let the fee remain in place for an unreasonable amount of time. In these situations, it could be reasonable to refund the surplus to those wrongly charged. In this situation, the cause of the surplus is an unforeseen rare event and MPI is acting to address the surplus as soon as it was identified, so these factors are not relevant.

## 10.7 Consultation

The New Zealand Food and Grocery Council and Apiculture New Zealand supported the fee reduction in Option (2).

## 10.8 Conclusion

We consider that all options sufficiently meet the Transparency and Justifiability principles.

Keeping the current fee and increasing the surplus does not meet the Efficiency or Equity principles.

Option (2) eliminates the surplus in a way most consistent with the Efficiency and Equity principles. Option (3) also eliminates the surplus but in a way that is less consistent with the Efficiency principle. There do not appear to be strong Equity reasons why Option (3) should be preferred.

Option (2) is our preferred option.

## 10.9 Monitoring and review

MPI constantly monitors revenue and expenditure to ensure that significant deficits and surpluses do not arise. Monitoring and review is guided by an internal MPI policy which says that charges will be reviewed when any of the following conditions are met:

- accumulated deficit or surplus is more than four months (33%) of annual revenue[49]
- the accumulated deficit or surplus is $1 million or more
- a deficit is due to be written-off, or a surplus has existed for an equivalent amount of time such that it would be written-off if it was a deficit[50].

In this instance, for example, the first and second conditions were met.

[49] Annual revenue is average annual revenue over the most recent three years.

[50] Typically, after four years.

# PART TWO:
# DESIGN ISSUES

# 11 Vet inspections for pets

## 11.1 Background and service description

Previously, non-veterinarian MPI staff inspected pets[51] after arrival in New Zealand for the purpose of ascertaining whether or not the animal could be cleared. Import health standards either explicitly require checks to be done by vets or the checks required implicitly need veterinary expertise (that is, vets are qualified to check that a pet is free from pests and disease). As such, MPI veterinarians always inspect pets.

## 11.2 Status quo and problem

Item 9 of the Biosecurity (Costs) Regulations 2010 sets out the fees around clearing animals. The fees are $49.61 per-animal “unless the animal requires veterinary inspection”. If a vet is required, the fee is charged at an hourly rate of $186.30.

The regulations do not clearly reflect current practice and may mislead people. The wording in the regulation is misleading because it implies that sometimes a non-vet inspector can inspect the pet despite veterinary expertise always being needed.

## 11.3 Options

We have identified the following options:

- Option (1): Status quo – the regulations continue to include a redundant fixed fee around non-vet inspectors
- Option (2): Amend the regulations to remove the redundant fee around non-vet inspector

## 11.4 Estimated financial and economic impacts

Option (2) clarifies the regulations so there are no financial impacts from that change itself.

MPI has, however, been wrongly using the fixed fee. MPI will be charging the correct fee under Option (2) or Option (1). While customers will notice a change in fees under Option (2), this would occur even without the clarification in regulations.

It takes about 1.25 to inspect the first animal in a consignment and 0.5 hours for each additional animal in the same consignment. Therefore, the costs will increase under either option from $49.61 to about $232.88 for a consignment with one pet and from $99.22 to about $326.03 for a consignment with two pets.

## 11.5 Assessment against the cost recovery principles

The information in this CRIS was provided during consultation. MPI considers that this is sufficient to meet the Transparency principle. Clarifying the regulations by removing redundant regulations also improves Transparency.

The Justifiability, Efficiency and Equity principles do not help to differentiate between Options (1) and (2) as the only change is to clarify the regulations (which is about Transparency).

## 11.6 Consultation

Submitters raised issues around the service itself, but made no comment around the proposal to clarify the fee in regulations.

[51] Pets in this case are companion animals such as cats and dogs, chinchillas, rabbits and guinea pigs.

## 11.7 Conclusion

The preferred option is Option (2) as it better meets the Transparency principle.

## 11.8 Monitoring and review

As Option (2) is a minor change, no specific review is necessary.

# 12 Live animal administration time

## 12.1 Background and service description

MPI's live animal team of veterinarians and non-veterinarians perform a variety of services which facilitate the importation of live animals and the export of live animals and germplasm.

## 12.2 Status quo and problem

Regulations record fees for particular functions including, for example, inspections of animals being imported into New Zealand. Sometimes it is unclear that the function covers the full set of tasks involved in providing the service.

As a typical example around imports, the Biosecurity (Costs) Regulations 2010 say that there is a $186.30 hourly fee for vets for the function of 'inspection of an animal after arrival for the purpose of ascertaining whether the animal should be cleared…'.

The tasks involved with completing an inspection involve processing the booking request (including entering it into the system, attaching documents, and allocating the appointment), inspecting/examining the animal, checking documentation and issuing the clearance, and filing documents. The administration tasks are performed by administration staff and the inspections are performed by vets. The cost of vets and of administrative staff are included in the $186.30 hourly rate.

The total cost of the inspection covers all these tasks – the actual inspection/examination, and the associated administration tasks. 'Inspection of an animal' however is unclear in scope whether it refers to all the tasks in undertaking the inspection or only the inspection/examination task. On occasion, MPI undertakes some of the tasks involved with completing an inspection, such as inspecting documentation in preparation for an inspection of an animal, but where the inspection/examination task is not ultimately done (e.g. because the importer ultimately decides not to import the animal).

Around exports, the Animal Products (Fees, Charges, and Levies) Regulations and the Animal Welfare (Cost Recovery) Regulations 2015 are also slightly unclear as they refer to staff undertaking 'specialist functions and activities necessary for the export of live animals…'. The inspection/examination task would be a specialist activity, but there may be uncertainty about whether the vet completing their paperwork is a specialist activity.

MPI currently interprets the regulations as providing for all tasks in providing the function/service as the intention of cost recovery is to fully recover reasonable costs where Crown-funding has not been provided. If the full reasonable costs were not recovered and Crown-funding was not provided, these services would not be available to users.

## 12.3 Options

We have identified the following options:

- Option (1): Status quo
- Option (2): Amend the Animal Welfare, Biosecurity, and Animal Products regulations to clarify that administration tasks required for the provision of the function/service are recoverable

## 12.4 Estimated financial and economic impacts

There would be no financial impacts if the regulations were amended as the fees already recover administration costs.

## 12.5 Assessment against the cost recovery principles

The preferred option does not change the amount of cost recover so both options meet the Justifiability and Efficiency principles. The costs are reasonable, and recovery of them encourages service users to only demand services when the value of those services exceed their costs. Additionally, we have not identified any reasons under the Equity principle why service users should not pay the full cost of the services they use.

By making it clearer what is being charged in the regulations, Option (2) improves transparency and so best meets the Transparency principle.

## 12.6 Consultation

Submitters said vet nurses and administration staff would be better suited for admin work than qualified vets. This is a misunderstanding of the design change proposal. Administration staff already do admin work – this cost is included in the hourly rate. The design change simply makes it clear that admin work is charged for under the regulations.[52]

## 12.7 Conclusion

MPI's preferred option is Option (2). Both options equally meet the Justifiability, Efficiency and Equity principles, but Option (2) better meets the Transparency principle.

## 12.8 Monitoring and review

As this is a minor design change, we do not intend to specifically review this change.



[52] Admin staff may include those with previous training / experience as vet nurses, but this is not a requirement.

# 13 Cat and dog exports

## 13.1 Background and service description

MPI vets inspect animals before they travel outside of New Zealand, including when households take their pets overseas.

Inspecting animals takes at least, and typically, an hour for the first animal and quarter of an hour for additional animals. A breakdown of the time spent inspecting animals for export is as follows:

- 0.25 hours taking the booking, entering it in the system, attaching documentation and allocating the appointment
- 0.25 hours per animal for examination
- 0.25 hours checking documentation
- 0.25 hours invoicing, filing, archiving and uploading the documents.

The minimum time for exporting one animal is one hour made up of taking the booking, examining the animal, checking documents, and final admin tasks. The minimum time for each additional animal is a quarter hour made up of examining the animal (the other process and administration time already being done in relation to the first animal).

Inspections can take longer when applicants haven't included all the required information in their application.

## 13.2 Status quo and problem

Households can export vets via a registered exporter or do it by themselves. Registered exporters pay a registration fee, then inspection fees for each consignment. Households exporting without using a registered exporter pay the inspection fees, but don't have to register as an exporter.[53]

**Figure 21: Verification service fees for cats and dogs**

| Activity type | Exporting fees | Reference |
|---|---|---|
| Registration | $135 for each application processed | Schedule 1, item 6 of the Animal Products (Fees, Charges, and Levies) Regulations 2007 (Animal Products Regulations) |
| Inspections | A minimum charge of $93.15 for the first 30 minutes plus $186.30 for each complete hour after the first half hour | Schedule 1, Part 8, Section 1 of the Animal Products (Fees, Charges, and Levies) Regulations 2007 (Animal Products Regulations) |

The problem relates to the inspections fee.

Minimum charges are useful because they give customers more information about the fees they will likely face than a straight hourly rate. If a service takes at least an hour, setting a fee that says the minimum charge is $186.30 provides more certainty to customers about the final fee than a $186.30 hourly rate which conceivably could result in a fee as low as $46.58 (being 15 minutes' time).

While commercial exporters should have some degree of comfort with uncertainty in charges, households taking pets overseas may worry about the uncertainty in fees they'll ultimately face.

As above, in practice, all inspections for cats and dogs take at least, and typically, an hour for a single animal (and half an hour for additional animals). The current minimum charge of 30 minutes does not provide accurate information to households about the actual minimum and typical charge that they will face.

[53] Pet exports also attract fees relating to market access work.

There are fixed unit charges of $114.44 per cat or dog to cover the costs of maintain market access (to ensure that certificates are accepted by overseas countries).

There are also charges for issuing an official assurance that the consignment meets market access requirements. These fees are made up of a minimum fee and hourly rate for assurance that takes longer than the minimum time.

Additionally, some households will look to transport multiple pets. To be a minimum, the current minimum fee would have to only relate to one animal, not multiple. As a result, the current minimum fee provides no confidence to households about the fee they would face if exporting multiple pets.

## 13.3 Options

### 13.3.1 Identified options

We have identified the following options:

- Option (1) – The status quo – A fixed minimum charge of $93.15 and an hourly rate after the first half hour
- Option (2) – The fees for a consignment comprise:
  - $186.30 for the first animal
  - plus $46.58 for each additional animal
  - plus $186.30 per hour for any additional time required to complete the inspection.

The minimum charges under Option (2) reflect the one hour minimum for the first animal and the quarter hour minimum for additional animals from section 13.1.

### 13.3.2 Discarded options

Some submitters suggested that a maximum fee would also increase confidence about what costs households would face.

Such an option does not plausibly achieve the cost recovery principles and Government objectives as we understand them to be.

Theoretically, there is no maximum level of time that could be spent inspecting an animal. A maximum fee could be set at the level of the highest time spent in, for instance, the last five years, but there is no guarantee that future exports would be less than this.

If a maximum fee is set and then the time spent on an export exceeds this, the undercharging would either be paid by other exporters or by the Crown. This does not achieve the Efficiency principle and Governments have not indicated any desire to subsidise the costs of pet exports. Ultimately, it is up to the Government to decide the best balance between Efficiency (charging beneficiaries for the service they receive) and Equity (providing additional confidence in charges) and this option could be revisited if the Government wished to provide funding to provide further confidence.

MPI is, however, able to publish information about fees people pay to give confidence to households instead of a maximum fee in regulations.

## 13.4 Estimated financial and economic impacts

Option (2) sets fixed correct minimum charges in order to provide accurate information and more certainty to households. The minimum fees are the same as the actual minimum time that would be spent and charged under the status quo. As such, there is no difference in cost between the options. Total costs under either option are up to around $320,000 per annum.

## 13.5 Assessment against the cost recovery principles

MPI considers that consultation on the information in this section is sufficient to meet the Transparency principle. Option (2) also provides more information about the fees that households will actually be charged thereby improving Transparency.

The Justifiability, Efficiency and Equity principles do not help to differentiate between Options (1) and (2) as the only change is to clarify the fees charged (which is about Transparency). Submitters on the consultation document agreed that greater confidence in the fees they'll be charge would be helpful.

## 13.6 Consultation

Submitters favoured minimum charges being included in regulations. Some submitters also suggested a maximum charge. This option is considered briefly, but discarded, in chapter 13.3.2.

## 13.7 Conclusion

The preferred option is Option (2) which sets a minimum fee which matches the minimum time of inspections as Option (2) better meets the Transparency principle.

In relation to some submitter's views around a maximum fee, MPI will look to publish more information on its website about the costs exporters can face including how frequently costs are more than the minimum and why.

## 13.8 Monitoring and review

As this is a minor design change, we do not intend to specifically review the regulatory change. MPI may need to occasionally update website information about costs.

# 14 Cat and dog imports

## 14.1 Background and service description

There are biosecurity requirements to prevent the spread of harmful pests and diseases when people bring cats or dogs to New Zealand. MPI's Verification Services ensure that these biosecurity requirements are met. Verification Services provides the following services associated with the import and import of cats and dogs:

- Border clearance inspections
- Veterinary inspections of cats and dogs

Inspecting animals takes at least, and typically, an hour and a half for the first animal and half an hour for additional animals. A breakdown of the time spent inspecting animals for export is as follows:

- 0.25 hours taking the booking, entering it in the system, attaching documentation and allocating the appointment
- 0.50 hours per animal for examination
- 0.50 hours checking the documentation and issuing the clearance
- 0.25 hours invoicing, filing, archiving, and uploading the docs.

The minimum time for exporting one animal is one and a half hours made up of taking the booking, examining the animal, checking documents, and final admin tasks. The minimum time for each additional animal is half an hour made up of examining the animal (the other process and administration time is already done in relation to the first animal).

Examinations and document checking takes longer for imports than exports as there are biosecurity checks in additional to animal welfare checks.

## 14.2 Status quo and problem

Cats and dogs (including assistance dogs) are inspected by an MPI veterinarian at the border and animals are given biosecurity clearance provided outlined conditions have been met.

The total fees for verification services for importing cats and dogs are set out in Figure 22.

**Figure 22: Verification service fees for cats and dogs**

| Activity type | Importing fees | Reference |
|---|---|---|
| Permit | $233.25 for each application processed, plus $155.50 per hour for each biosecurity adviser for processing beyond the first 1.5 hours | Item 17 of the schedule of the Biosecurity (Costs) Regulation 2010 |
| Inspections | $186.30 per hour if veterinary inspections are required | Item 9 and 11 of the schedule of the Biosecurity (Costs) Regulation 2010 |

The problem is the same as for exports. Minimum charges are useful because they give customers more information about the fees they will likely face than a straight hourly rate. If a service takes at least an hour, setting a fee with a minimum charge is $186.30 provides more certainty to customers about the final fee than a $186.30 hourly rate which conceivably could result in a fee as low as $46.58 (being 15 minutes' time).

While the permit cost has a fixed minimum charge at the typical time it takes to provide a permit, inspections are charged on a purely hourly basis. This may create uncertainty for households about how much it will cost to bring their pets to New Zealand.

Inspecting animals takes at least, and typically, an hour and a half for the first animal and half an hour for additional animals.

Inspections can take longer when applicants haven't included all the required information in their application.

## 14.3 Options

### 14.3.1 Identified options

We have identified the following options:

- Option (1) – The status quo – Biosecurity Regulations specify that importers pay an hourly rate for the veterinary inspector involved
- Option (2) – A fixed minimum charge of $279.45 for the first animal and $93.15 for additional animals, with an hourly rate for any additional time required to complete the inspection

The minimum charges under Option (2) reflect the one and a half hour minimum for the first animal and the half hour minimum for additional animals from section 14.1.

### 14.3.2 Discarded options

Some submitters suggested that a maximum fee would also increase confidence about what costs households would face.

Such an option does not plausibly achieve the cost recovery principles and Government objectives as we understand them to be.

Theoretically, there is no maximum level of time that could be spent inspecting an animal. A maximum fee could be set at the level of the highest time spent in, for instance, the last five years, but there is no guarantee that future exports would be less than this.

If a maximum fee is set and then the time spent on an import exceeds this, the undercharging would either be paid by other importers or by the Crown. This does not achieve the Efficiency principle and Governments have not indicated any desire to subsidise the costs of pet imports. Ultimately, it is up to the Government to decide the best balance between Efficiency (charging beneficiaries for the service they receive) and Equity (providing additional confidence in charges) and this option could be revisited if the Government wished to provide funding to provide further confidence.

MPI is, however, able to publish information about fees people pay to give confidence to households instead of a maximum fee in regulations.

## 14.4 Estimated financial and economic impacts

Option (2) sets a fixed minimum charge in order to provide more certainty to households. The minimum fees are the same as the actual minimum time that would be spent and charged under the status quo. As such, there is no difference in cost between the options. Total costs are up to around $820,000 per annum.

## 14.5 Assessment against the cost recovery principles

MPI considers that consultation on the information in this section is sufficient to meet the Transparency principle. Option (2) also provides more information about the fees that households will actually be charged thereby improving Transparency.

The Justifiability, Efficiency and Equity principles do not help to differentiate between Options (1) and (2) as the only change is to clarify the fees charged (which is about Transparency).

## 14.6 Consultation

Submitters favoured minimum charges being included in regulations. Some submitters also suggested a maximum charge. This option is considered briefly, but discarded, in chapter 14.3.2.

## 14.7 Conclusion

The preferred option is Option (2) which sets a minimum fee which matches the minimum time of inspections as Option (2) better meets the Transparency principle.

In relation to some submitter's views around a maximum fee, MPI will look to publish more information on its website about the costs exporters can face including how frequently costs are more than the minimum and why.

## 14.8 Monitoring and review

As this is a minor design change, we do not intend to specifically review the regulatory change. MPI may need to occasionally update website information about costs.

# 15 Cancelled vet appointments

## 15.1 Background and service description

MPI's live animal team of veterinarians and non-veterinarians perform a variety of activities around live animal imports and exports. The range of users includes farmers looking to import animals for commercial use to households looking to transport their pets when they move country. Service users also include intermediary businesses that specialise in handling the live animal export/import on behalf of their customer (e.g. farmer or household).

## 15.2 Status quo and problem

Cancellations can involve a cost as when they occur with little or no notice meaning MPI is unable to reallocate the vet's time to another user. These costs can include travel costs to remote locations and large costs particularly around public holidays where a vet receives a day in lieu for any time worked.

Around 50 bookings out of around 6,000 per year will be cancelled or no-showed with insufficient notice to reallocate the vet's time. It is difficult to reallocate time when less than 24 hours-notice is given.

Cancellations typically involve lost time of around one hour of time, but can be higher where there is travel time to remote locations or call-outs such as on public holidays. One cancellation, for example, involved a 3am call-out, but the importer did not alert MPI that the shipment was cancelled so that the call-out could be cancelled. In this case, the time that wasn't recovered was three hours at double time.

Other cancellations have involved importers scheduling time well in advance rather than calling-out staff as needed. For example, an importer booked multiple slots because they haven't yet got clarity on when an incoming shipment will arrive. The business then didn't cancel the times they didn't need once the shipment time becomes clear.

Late cancellations also involve a cost to other customers in terms of reduced availability of services.

The costs of cancellations are currently spread across users who proceed with services.

## 15.3 Options

### 15.3.1 Identifying options

We have identified a wide range of options. A key distinction between options is whether it is better to charge the costs of cancellations directly to those that cancel or to spread the costs across all users.

Cancellations will sometimes happen due to circumstances outside of the control of the user and sometimes they will be due to risks that can be anticipated and managed by the user. In either case, it is reasonable to expect that users would inform MPI of a cancellation as soon as possible.

Practices by private veterinary services do not, in general, charge cancellation fees. We surveyed the websites of 30 vets covering pets and farm and other animals. Only one had a routine cancellation fee (being a $45 charge if less than 24 hours-notice is given) and one had a cancellation fee which <u>may</u> be applied if less than 24 hours-notice is given (with no set dollar amount).

Private vets may generally opt not to have cancellation fees for a variety of reasons.

One reason may that vets view the kinds of risks that arise for households and farmers as being difficult to anticipate – i.e. the kind of thing that might arise that means a household cancels a pet appointment might happen to anyone. In this case, it could be fair and economically efficient to spread the risk of cancellations across all customers rather than bill the person cancelling for having the bad luck of something else coming up.

Vets may also be able to rely on long-standing relationships and community-expectations that people won't cancel without good reason and, if they do, that they will be notified without needing to provide a financial incentive. There may also be other actions private vets take like withholding service from customers that have repeatedly late-cancelled appointments, or withhold services without some upfront payment.

While MPI is providing services to the same types of customers including farmers and households, there are a few reasons why charging cancellation fees may be more appropriate for MPI.

First, importing and exporting animals takes planning and commitment and involves substantial other costs (for example, the cost of flying the animal overseas). While there are still risks that could make meeting a shipment more difficult, we would expect that people would take action to reduce the risks of cancellation and, having been mindful of risks, be aware enough to notify MPI as soon as possible when a cancellation is needed.

Second, in the case of households and some farmers, imports and exports of pets will be infrequent and the ability of MPI to rely on community expectations and softer powers is low.

Third, private veterinary work is typically booked during normal clinic hours when veterinarians are already rostered to work, unlike MPI live animal work which regularly have afterhours work pre-booked at higher call-out rates. The financial impact of late cancelled bookings is likely higher for MPI.

Fourth, the impact on other users may be greater with MPI services. There are usually multiple veterinary practices available meaning that clients can try another service if one is booked-up, whereas MPI is the only service provider for the work they perform. If an MPI slot is not available, there are not other providers to go to.

### 15.3.2 The options

There are two aspects to consider around identifying a preferred option: the range of situations a cancellation fee could be charged, and the amount of the charge.

The options we have identified for each of these are below. All options assume that an actual cost has been incurred and that staff time was unable to be reallocated:

#### Range of situations

(A) No situations (the status quo where the costs of late cancelled appointments cannot be recovered).

(B) A fee for all cancellations with less than 24 working hours' notice.

(C) A fee if the cancellation is made without 24 working hours' notice, but can be waived, or partly waived, at MPI's discretion. Discretion would depend on the circumstances, taking into consideration the cost that has been incurred by MPI, the reason for the cancellation, how long it took to inform MPI of the cancellation and the client's history of cancellations.

#### Fee amount

(1) No fee (the status quo).

(2) A small amount such as the $45 charged by one vet in our survey. This is close to 15 minutes time of an MPI vet and so we use that ($46.58) for this option.

(3) $186.30 equal to the cost the average time spent per booking of one hour.

(4) The actual time cost which can range from 0.75 hours ($139.73) to the minimum charge for public holiday call outs (currently $845.13, but proposed to reduce to $604.44 in section 16.4.2 of this CRIS).

## 15.4 Estimated financial and economic impacts

There are currently around 50 cancellations per year, but this is expected to reduce if a cancellation fee was brought in. The cost per cancellation depends on which of the above options which range between $46.58 and actual costs which could be up to $604.44.

## 15.5 Assessment against the cost recovery principles

At consultation, MPI did not yet have a strong view on which option best meets the cost recovery principles. The main reason for this was that there may be other perspectives that MPI had not identified and considered, and that there could be fairness reasons why users are happy to have the costs of cancellations included in the hourly rate.

In the consultation document, MPI identified that two the key aspects for determining the most efficient approach.

The first aspect was around whether MPI services were of a similar type to private vets. One way of judging whether MPI is being efficient is if its practices and charges are similar to those in competitive private markets. If MPI's services were of a similar type to private vets then it would be hard to differ from private vets' typical practices of not charging cancellation fees. MPI didn't' receive any submissions on this aspect and the analysis in section 15.3.1 suggests MPI services are different from typical private vets such that charging cancellation fees can't immediately be ruled out.

The second aspect was around the degree to which the risk of cancellations is within users' control.

If we think that managing the risk of cancellations and notifying MPI is strongly within users' control, this would push the preferred option towards having a cancellation policy with no exceptions and a fee set at the actual cost.

If we think that risk is only moderately within users' control, this would push the preferred option towards having exceptions to a cancellation fee.

If we think that risk of cancellations is something largely outside of users' control or that it would otherwise be considered unfair to charge them, but that there is still an issue around users not notifying MPI as soon as possible, then this might push us towards something like the $46.58 charge. Such a charge may act as a sufficient incentive to encourage people to contact MPI as soon as possible while avoiding the unfairness of the full cost of the booking.

MPI received submissions on this second aspect with submitters suggesting that there could be a range of causes of cancellations outside of users' control, especially since COVID-19. As a result, MPI considers that a cancellation policy with no exemptions is not appropriate.

MPI also considers that, given the concern among submitters about how MPI would apply a cancellation fee that fully recovers costs and that full costs can be substantial, MPI should develop and consult on a process and policy for how it would be implemented before such a fee could be implemented. Such a process and policy is required to give users confidence that costs are recovered in a way that best meets the Efficiency principle (times when risk was within the users' control) and is Equitable (gives users an opportunity so challenge the fee).

There are, however, situations where users have simply failed to contact MPI that a service was no longer required. Unless a user is incapacitated, it is reasonable to expect users to notify MPI when they no longer require a services. A small fee at about the level of time it takes to cancel an appointment would encourage users to notify MPI when scheduled services are no longer required. If a user is incapacitated, or other acceptable reasons are given, a waiver could be granted. Given the small size of the fee ($46.58) including relative to a full cost recovery fee, and the small range of situations where someone would not be able to cancel a booking, MPI does not consider that an implementation process and policy is necessary prior to making a policy decision. This option is a variation of (B)(2) from section 15.3.2 but only when a user provides no cancellation notification at all.

## 15.6 Consultation

Submitters were generally concerned that MPI would charge cancellation fees in situations that were outside of users' control. This concern is reflected in the above analysis. MPI's preferred option is a narrow and small cancellation fee. MPI may look to fully recover the costs of cancellations in future, but this would not happen until MPI has developed, and consulted on, an implementation process and policy.

## 15.7 Conclusion

MPI's preferred option is to, at this stage, implement a $46.58 fee where a user provides no cancellation notification at any time prior to the appointment.

## 15.8 Monitoring and review

How users will respond to cancellation fees is uncertain.

MPI considered options that would fully recover the costs of cancellations and determined that, if this option was to be pursued, an implementation process and policy would need to be developed and consulted on before policy decisions are made so that users could have confidence the fee was charged appropriately.

It may be that the $46.58 fee is sufficient to reduce un-notified cancellations and avoid the cost of late cancellations. MPI will monitor changes in notification behaviour and use this to inform whether to do further work on full cost recovery of late cancellations.

# 16 Biosecurity and veterinary inspector work outside of normal hours

## 16.1 Introduction and summary

The preferred options in this section:

- corrects the miscalculation of two biosecurity after-hours rates, and
- ensures consistency in the calculation and charging of all biosecurity and veterinary inspector[54] after-hour rates.

The proposals will result in no increase or decrease in revenue over the medium-term.

### 16.1.1 Miscalculated after-hours inspector rates

Parliament's Regulations Review Committee queried two fees following the increases in biosecurity fees in 2023.

MPI reviewed the two fees and found that the fees had been miscalculated. This miscalculation occurred as inspector rates comprise two components (direct inspector costs, and overhead and support costs). This miscalculation involved applying extra payments such as time and a half to both components, rather than only the inspector time component. It is only the inspector that receives additional payment to make themselves available for work outside of normal hours.

In response to the identification of the miscalculation, MPI reviewed fees outside of normal hours (public holidays, call-outs, overtime and penal rates) in all relevant regulations, not just the Biosecurity (Costs) Regulations 2010.

### 16.1.2 Outcome of the review

The review identified some inconsistency exists in the calculation of after hour rates. This is possibly partly due to different interpretations of charging policy, but some rates also appear to have not been updated following previous fees updates.

In response MPI is:

- improving internal guidance so that the methodology for calculating and updating fees is clear and readily accessible to all staff, and
- as part of this CRIS, proposing to update all after-hour rates to ensure they are all calculated on a consistent basis.

The current rates ranges from being up to around 50% too high to 50% too low compared to estimates of total costs. The changes, however, will not result in an increase or decrease in total revenue over the medium term as any increase/decrease in revenue will feed through to lower/higher normal time rates the next time normal time rates are reviewed. The review identified many problems around charging for work outside of normal hours by biosecurity inspectors and veterinary inspectors and across several regulations.

The range of issues, services and regulations means laying out the problems is not straightforward. Section 16.3 sets out the problems in detail, including calculations. Some readers may wish to skip the detail in the problem section and go straight to the options in section 16.3.10 for a summary of how options have been developed and why.

## 16.2 Background and service description

Biosecurity and veterinary staff can be called on to do work outside of normal working hours. This includes call-outs and working on public holidays.

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[54] Veterinarians can be veterinary inspectors and biosecurity inspectors depending on the regulation. To avoid confusion between terms, this section uses 'veterinary inspectors' or 'vets' to refer to work done by vets whether as veterinary inspectors and 'biosecurity inspectors' for work biosecurity inspection work done by staff who are not vets.

Biosecurity services covered by the fees in this section include such things as inspecting and clearing imported goods, issuing permits required under import health standard, and approving transitional and containment facilities.

Veterinary services covered by the fees in this section include the following:

- Establishments – Animal product verification services that are performed by MPI vets who are permanently or semi-permanently based at the operator's premises. Vets are based at a premise (i.e. an establishment) because of the large amount of work to be done.[55]
- Circuits – Animal product verification services that are performed by MPI vets who are not permanently or semi-permanently based at the operator's premises. Circuits involve MPI vets visiting an operator's premise on a temporary, as-needed basis ('circuit' refers to an MPI vets completing a circuit of leaving an MPI base and travelling to several premises before returning to base).[56]
- Inspecting and clearing imported animals and animal material, approving transitional and containment facilities, and other veterinary work around imports.[57]
- Processing animal welfare export certificates and other animal welfare veterinary work.

Higher than normal payments to staff are a common way across employment relationships to encourage staff to make themselves available for work outside of normal hours when needed. Such payments include:

- overtime rates for work such as early starts or late finishes
- penal rates for working particularly unsocial hours e.g. being called-out during an employee's personal time at short notice, work in early hours of the morning, work on public holidays
- a minimum number of hours paid in situations where the actual amount of work wouldn't be enough to make it attractive for someone to work outside of normal hours – e.g. paying a minimum of three hours if called-out at the request of a particular service user to compensate for the cost of getting ready, and travelling to and from, work and from cancelling whatever plans the employee had with their free time.

## 16.3 Status quo and problem

### 16.3.1 Background to the problem

On 1 July 2023, a wide range of biosecurity fees were updated in the Biosecurity (Costs) Regulations 2010. The driver of the fee updates was an increase in the 'base hourly rate' from $102.27 to $155.50 – a 52% increase.[58] The base hourly rate underpins fees for services with an hourly fee and services with fixed fees.

Services with an hourly fee had their fee increased from $102.27 per hour to $155.50 per hour while, for example, the fixed fee for inspecting a used motorcycle increased from $18.08 to $27.49 (a 52% increase in line with the increase in the base hourly rate).

On 14 August 2023, Parliament's Regulations Review Committee queried the increase in call-out fees which were increased from:

- $116.16 per hour to $233.25 per hour for staff working at time and half rates
- $130.05 per hour to $311.00 per hour for staff working at double time rates.

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[55] See the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015.

[56] See the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015.

[57] See the Biosecurity (Costs) Regulations 2010.

[58] This cost recovery impact statement covers the changes in fees: https://www.mpi.govt.nz/dmsdocument/58384/direct. The increase in the base hourly rate was the first increase since 2015 and due to higher personnel costs and ongoing change in the diversity and complexity of consignments entering New Zealand, and the new

The Regulations Review Committee noted that the time and a half rate approximately doubled, and the double time rate more than doubled.

The two call-out rates identified by the Regulations Review Committee are incorrect. MPI has reviewed the full set of fee changes made on 1 July 2023 and fees for services outside of normal hours more generally and found several other problems. These problems are set out in turn below

### 16.3.2 Problem 1: The normal time hourly rate for biosecurity inspectors

When charges are set in regulations, a decision needs to be made about how precisely to specify the charge. Charges have historically generally appeared in regulations to the nearest cent. Charges could be set to more decimal points (i.e. fractions of cents) or fewer (the nearest dollar). The right degree of rounding should consider the circumstances including the unit which is being charged, how big the fee is, how precise the modelling is, and whether there are benefits in rounding to the user by presenting a fee that is cleaner/easier to read.

For instance, MPI's charge for exporting bees is $0.32 per bee. It wouldn't make sense to round this down to the nearest ten cents as that would under-recover by 6%. Indeed, the GST-inclusive price goes a further decimal point to $0.368 per bee, which makes sense in the context of such a numerically small value.

So long as MPI consistently rounds up when rounding up is appropriate (for any values at or above 5) or rounds down when appropriate (values less than 5), then there shouldn't be systemic, significant over- or under-recovery. Charges that are rounded up will very slightly over-recover costs and charges that are rounded down will very slightly under-recover costs.

The normal hourly rate in regulations is $155.50 and has been rounded to a ten cent figure. Rounding to the nearest ten cents in the context of a $155+ fee may be considered appropriate as:

- the maximum over- or under-recovery that could result was around 0.03%[59]
- modelling gives a best estimate of the fee but, for this fee, cannot be accurate to the level of cents, and
- a rounded figure is easier for service users to read.

The problem with the $155.50 figure is that it was rounded up to the nearest ten cents from the number generated in MPI's modelling to the nearest cent of $155.43. Normally rounding would be down to $155.40.

It is not documented why the rate was rounded up. It is also unclear why rounding to ten cents happened for this fee but not the other fees which have been rounded to the nearest cent.

In any case, the impact is very small. Rounding down would have seen MPI under-recovering costs by 0.019%, or about $3,700 out of $19.0 million of expected revenue in 2023/24. Rounding up is expected to see over-recovery of about 0.045% or $8,500 out of the $19.0 million.

We do not propose to address this error in regulations at this time for several reasons in combination.[60]

First, the financial impact is negligible at 0.045%.

Second, that administration costs to government and businesses are likely to significantly exceed the level of over-recovery.

Third, MPI modelling is not sufficiently precise enough to be confident to the level of ten cents anyway – that is, there may be a case to round the fee even more (e.g. to the nearest 50 cents which would result in a $155.50 fee).

Fourth, MPI regularly reviews expenditure and revenue to ensure significant over- and under-recovery do not arise or persist. The next fee reset can ensure rounding happens when appropriate for all fees and in the right direction.

While we do not propose to address the rounding up in fees that don't otherwise need review at this moment, we are using the $155.43 rate in calculations of fees that do need to be reviewed. We

[59] The maximum over- or under-recovery would be 5 cents per hour compared to a $155+ hourly fee.

[60] If the hourly rate does change, all the fees in other than item 25 in Appendix 1 of the 2023 CRIS are likely to need to change.

propose not to round charges in the rest of this set of design changes until the next full review of biosecurity fees.

### 16.3.3 Problem 2: Hourly rates for biosecurity inspector call-outs

#### 16.3.3.1 What is the problem?

The method used for the 1 July 2023 call-out fee increases was to take the $155.50 normal hourly rate and multiply it by 1.5 to get the time and a half rate of $233.25, and by 2.0 to get the double time rate of $311.00.

This method is inappropriate for several reasons.

First, the $155.50 normal time rate includes the staff who directly do the biosecurity inspection and a share of MPI's overhead and support costs such as property costs, and HR, IT and manager costs, along with recovery of a deficit from the previous year.

As only the biosecurity inspector receives time and a half and double time rates in their employment agreement, only that share of costs that should be increased by 1.5 and 2.0.

This share includes a share of the deficit. The deficit arose in part because of increasing staff salaries since the last time the fee was set in 2015. The deficit is, therefore, in part due to under-recovery of staff costs during on-call activity. The share of costs that should be increased by 1.5 and 2.0 should include a share of the deficit.

As all staff salaries – inspectors and support staff – will have increased over time, a simple and reasonable assumption is to allocate the deficit in proportion to the share of inspector and other costs. $22.95 of the $155.43 is about deficit recovery.

Overhead and support costs should not be charged at time and a half or double time rates, but on an hourly basis. Overhead and support costs are not charged directly and assumed, in MPI's cost allocation model, to occur in line with service use. For instance, the more a service is used (on an hourly basis), the more IT resource it uses and the more management support it needs. The more hours are spent providing a service, the more staff are required. When more staff are required, more HR support is required to help fill vacancies and undertake other HR functions, and more property is required to house staff. The need for overhead and support costs varies with the number of hours, not the time of day, week or year services are provided.

Second, the $155.50 rate accounts for staff not working 100% on billable activities[61]. For instance, a biosecurity inspector may inspect the contents of one aircraft and then have time before the next aircraft arrives. This time may be spent doing other things that support the overall service, but cannot be *directly* charged to a particular service user. The time between billable activities is akin to an overhead cost.

Biosecurity and veterinary inspectors spend about 75% of their time on billable activities during normal shifts.

Call-outs, however, involve biosecurity and veterinary inspectors being called out to work because a service has been directly requested by a service user. Call-outs involve staff working 100% on billable activity, not 75%.

The method for calculating actual costs is:

- the normal hourly rate (including biosecurity inspector time at 75% billable time, and overhead and support costs)
- minus the biosecurity inspector time at 75% billable time (including the share of the deficit)
- plus the biosecurity inspector time at 100% billable time (including the share of the deficit) multiplied by 1.5 for time and half or by 2.0 for double time.

#### 16.3.3.2 How big is the problem?

The normal hourly rate is $155.50. As discussed in section 16.3.2 the $155.50 is rounded from $155.43.

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[61] 'Billable activities' are activities subject to a fee.

The KiwiSaver-inclusive average salary of biosecurity inspectors for the services in question is expected to be about $81,900 over the forecast three-year period.

After accounting for annual leave, typical sick days taken, etc, there are 1,736 available hours per year. Dividing the salary by the number of hours gives an hourly rate of $47.19.

To that we add 17.3%[62] covering a share of the deficit to get an hourly rate of $55.36. The $155.43 comprises $132.48 of forecast cost and $22.95 of deficit recovery. $22.95 divided by $132.48 is 17.3%.

The $55.36 is the 100% billable time.

The 75% billable time rate is $73.82 being $55.36 ÷ 0.75.

The proposed hourly rates for biosecurity inspectors, then, are:

- $164.66 for time and half [$155.43 - $73.82 + ($55.36 × 1.5)]
- $192.34 for double time [$155.43 - $73.82 + ($55.36 × 2.0)]

These rates can also be written as comprising:

- an amount that varies depending on whether the inspector is working during normal time ($55.36), time and a half ($83.04), or double time ($110.72)
- an amount ($81.61) [$155.43 - $73.82] relating to overhead and support costs that does not depend on whether the inspector is working during normal time, time and a half, or double time.

Figure 23 compares the proposed fees to the current and previous fees.

**Figure 23: Hourly call-out rates**

| | Time and a half | Double time |
|---|---|---|
| Proposed rate | $164.66 | $192.34 |
| Overhead and support component | $81.61 | $81.61 |
| Inspector component | $83.04 | $110.72 |
| Current rate | $233.25 | $311.00 |
| Previous rate | $116.16 | $130.05 |
| Proposed rate vs current rate | -29.4% | -38.2% |
| Proposed rate vs previous rate | +41.8% | +47.9% |
| Current rate vs previous rate | +100.8% | +139.1% |
| Current rate vs correct rate | +41.7% | +61.7% |

Instead of a 100.8% increase in the time and a half hourly rate and a 139.1% increase in the double time hourly rate, the two call-out rates should have increased by 41.8% and 47.9% respectively. The current rates are $68.59 (41.7%) and $118.66 (61.7%) higher than they should be.

Data from 2021/22 and 2022/23 shows that 55 hours per year at time and a half and 78 per year at double time. If this degree of use continued, the total over-recovery per year would be around $13,000 with $36,900 in revenue rather than $23,900 per annum.

MPI has put a partial waiver on these charges so that the correct amounts are charged and confirmed that the miscalculated rates have not been recovered since the 2023 increases.

#### 16.3.3.3 Which regulations are involved?

The biosecurity call-out rates appear in section 10 of the Biosecurity (Costs) Regulations 2010[63].

[62] The rate to recover future costs only was $132.51. The rate to recover future costs and the accumulated deficit was 17.3% higher at $155.43.

[63] https://www.legislation.govt.nz/regulation/public/2010/0135/33.0/DLM3000559.html.

## 16.3.4 Problem 3: Minimum time for biosecurity inspector call-outs

### 16.3.4.1 What is the problem?

MPI pays staff a minimum of three hours when called-out, even when the job takes less time. For example, if the work takes half an hour, inspectors are paid for three hours. This is a typical feature of employment agreements generally and encourages staff to make themselves available for call-outs. Staff may not do call-outs if they only end up doing, and being paid for, half an hour of work (even at time and half and double time rates) because there is cost involved with getting ready, and travelling to and from, work and from cancelling whatever plans they had for their free time.

The regulations do not specify a three-hour minimum for biosecurity call-outs meaning that MPI only recovers at actual hours worked at the regulated hourly rates (see problem 2).

The correct amounts would be:

- for call-outs of three hours or more, the correct time and half rates of $164.66 for time and half and $192.34 for double time multiplied by the actual number of hours
- for call-outs of less than three hours, $81.61 per hour relating to overhead and support costs multiplied by the actual number of hours plus $83.04 for time and a half or $110.72 for double time multiplied by 3 hours.

### 16.3.4.2 How big is the problem?

Data from 2021/22 and 2022/23 suggest that 90% of call-outs are less than three hours, and the average of those are only half an hour.

In total, there are about 270 hours paid to staff, but not cost-recovered under the three-hour minimum. About 189 of these hours are at time and a half and 81 at double time.

At the proposed hourly rates, the amount of recovery from call-outs under three hours would be $10,700 if only actual hours are charged. The cost of the three-hour minimum is $57,400, meaning under-recovery of about $46,800 per annum.[64]

**Figure 24: Three-hour minimum calculations**

| | Actual hours worked | Uncharged hours under the three-hour minimum[65] | Total |
|---|---|---|---|
| Time and a half | 39.750 | 189.050 | 228.8 |
| Double time | 21.375 | 81.325 | 102.7 |
| Total | 61.125 | 270.375 | 331.5 |

| Hourly rates | |
|---|---|
| Time and a half | $83.04 |
| Double time | $110.72 |
| Overheads and support | $81.61 |

| Current recovery[66] | | |
|---|---|---|
| Time and a half | $6,545 | Actual hours multiplied by the sum of $81.61 and $83.04 |
| Double time | $4,111 | Actual hours multiplied by the sum of $81.61 and $110.72 |
| Total | $10,656 | |

| Actual costs | | |
|---|---|---|
| Time and a half | $37,674 | Total hours (actual and uncharged hours) multiplied by the sum of $81.61 and $83.04 |
| Double time | $19,753 | Total hours multiplied by the sum of $81.61 and $110.72 |
| Total | $57,427 | |

[64] While the under-recovery is about $46,6000, if the three-hour minimum was charged, we would expect that many of the call outs would not happen and importers would wait until the next normal time period to have their goods inspected. This means that the actual additional amount that would be recovered is likely to be much less than the $23,000, though the under-recovery would cease.

[65] Some call outs may start in a period of time and a half and conclude in a period of double time. For these, the uncharged hours have been shared between these two periods in proportion to the actual time spent.

[66] Assuming the correct rates from problem 2 are used, rather than the current rates.

| Under-recovery | $46,770 | Actual costs minus current recovery |
|---|---|---|

#### 16.3.4.3 Which regulations are involved?

The biosecurity call-out rates appear in regulation 10 of the Biosecurity (Costs) Regulations 2010[67].

### 16.3.5 Problem 4: Public holiday call-outs

#### 16.3.5.1 What is the problem?

**Biosecurity inspectors and veterinary inspectors doing import, export and animal welfare work**

Biosecurity inspectors and veterinary inspectors call-out rates for public holidays are set out below. In summary, there is a daily fee charged no matter how many hours are actually worked and a charge relating to time spent. The fixed daily amount is intended to reflect that inspectors get a day in lieu if they work on public holidays.

**Figure 25: Fees for work on public holidays**

| Service and feature | Biosecurity (Costs) Regulations 2010 | Animal Welfare (Cost Recovery) Regulations 2015 | Animal Products (Fees, Charges, and Levies) Regulations 2007 | Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015 |
|---|---|---|---|---|
| **Biosecurity inspector** | | | | |
| Fixed daily amount | $337.97 | NA | NA | NA |
| Time variable amount per hour | Time and a half $233.25<br>Double time $311.00 | NA | NA | NA |
| **Veterinary inspector** | | | | |
| Fixed daily amount | $845.13 | $845.13 | $845.13 | NA |
| Time variable amount per hour | Time and a half $252.17<br>Double time $318.04 | $211.28 | $211.28 | NA |

The main problem with these fees is that the cost to MPI of an inspector working on a public holiday does not always include a full eight hours of a day in lieu.

The day in lieu is for an inspector to have the day off that they would have had if not called out.

If the inspector works eight hours on the public holiday and takes another day off, then the total hours worked are unchanged and the only additional cost to MPI is paying the inspector twice the inspector's normal hourly rate.

However, if an inspector works less than eight hours, MPI still has to pay eight hours meaning there is a cost to MPI of the day in lieu, but it is the difference between the eight hours and the hours actually worked.

Figure 26 illustrates the actual cost to MPI where different hours are worked in a scenario where Monday is a public holiday and the inspector either doesn't work the public holiday or does and takes Tuesday off instead.

If the inspector doesn't work on the public holiday, MPI would get 8 hours of work from an inspector across a normal day and a public holiday. Figure 26 shows the total hours actually worked and the

[67] https://www.legislation.govt.nz/regulation/public/2010/0135/33.0/DLM3000559.html.

number of hours paid (but not worked) compared to that normal 8 hours of work across the two days. Figure 26 then shows:

- the number of normal time hours paid to inspectors calculated as the hours actually worked plus the number of hours paid by not worked
- the number of hours that attract an extra penal rate because they were worked
- the number of hours that attract overhead and support costs (equal to the number of hours worked).

**Figure 26: Public holidays**

| | Monday (hours worked on the public holiday) | Tuesday | Total hours worked | Hours paid but not worked | Cost: Normal time hours paid | Cost: Penal hours | Cost: Hours attracting overhead and support costs |
|---|---|---|---|---|---|---|---|
| **Inspector doesn't work the public holiday** | 0 | 8 | 8 | 0 | 8 | 0 | 8 |
| **Inspector works the public holiday and takes Tuesday off in lieu** | 1 | 0 | 1 | 7 | 8 | 1 | 1 |
| | 5 | 0 | 5 | 3 | 8 | 5 | 5 |
| | 8 | 0 | 8 | 0 | 8 | 8 | 8 |
| | 10 | 0 | 10 | 0 | 10 | 10 | 10 |

As the inspector is being called-out for a specific service, the inspector's time should be charged at the 100% billable rates rather than 75% billable rates.

The method of calculating the cost of inspector's work on public holidays, then, is:

- a <u>minimum</u> of eight hours at the inspector's normal 100% billable rate
- plus actual hours worked multiplied by the sum of the <u>penal</u> rate (the amount <u>additional</u> to the normal time rate) and the overhead and support cost rate.

### Vets doing Establishments and Circuits work

The regulations provide for double time for time spent by vets doing Establishments and Circuits work on public holidays. An accurate calculation of costs would follow the structure above:: a charge at eight hours minimum and a per hour charge.

### Estimates of actual costs

#### Biosecurity inspectors

The biosecurity inspector daily rate of $337.97 is equivalent to an hourly rate of $42.25 ($337.97 divided by 8 hours). Multiplying this by the 1,736 working hours in a year gives an annual salary of $73,300 – close to current MPI salary (including KiwiSaver) data for biosecurity inspectors of $78,100. From section 16.3.3, the correct 100% billable hourly rate for biosecurity inspectors' time is $55.36.

The hourly rate in regulations for biosecurity inspectors can be time and a half or double time depending on the whether the inspector is entitled to time and a half or double time. Employment agreements say that double time should be paid. The time and a half provision is redundant.

The current double time hourly rate is $311.00 per hour. This figure is the incorrect double time call-out rate covered in section 16.3.3. In any case, the double time call-out rate is not appropriate for public holidays.

Using the calculated rates in section 16.3.3, the proposed hourly rate for public holidays is $136.98, equal to $55.36 (being the additional amount needed to get to a double time rate from the normal time rate of $55.36) plus $81.61 for overhead and support costs.

In line with the proposed method above, public holiday charges that reflect actual costs would be:

- a minimum of eight hours at $55.36 per hour – that is, $442.90 or actual hours worked at $55.36 per hour, whichever is highest
- plus $136.98 per hour worked.

### Veterinary inspectors

The veterinary inspector daily rate of $845.13 is equivalent to an hourly rate of $105.64 ($845.13 divided by 8 hours). Multiplying this by the 1,736 working hours in a year gives an annual salary of $183,400 – much higher than the current average vet salary of around $119,800.

Some of this hourly rate may have been about recovering deficits at the time.

The Circuits fee was increased from $176.00 per hour to $230.50 per hour in 2022 to address a deficit. As discussed in chapter 10, the deficit has been recovered early and the preferred option is to reduce the fee from $230.50 to $206.70 per hour to eliminate the surplus. The hourly rate that would recover forecast costs alone would be $220.00 per hour.

Establishment fees were increased in 2023 to address a deficit.

Given that the Establishment and Circuits fees have recently increased and the $186.30 hourly rate for other vet work has not been reset since 2015, it is unlikely that the $186.30 rate is fully recovering costs. The fee is likely to be reviewed next year.

Using MPI salary data and data from the Establishment and Circuits reviews, we can approximately estimate the public holiday rates should be.

Because there hasn't been a recent review of the normal time rate for other vet work, we cannot generate complete estimates for overtime, penal and public holidays. The best we can do is use current MPI salary to estimate what the inspector component should be.

### Establishments

For Establishments, vets are expected to have an average KiwiSaver-inclusive salary of around $115,000 per annum over the three-year period while supervisory vets have expected to have an average salary of $137,700 over the three-year period.

As earlier, 100% billable rates can be estimated as the $115,000 and $137,700 salaries divided by 1,736 hours in a year and scaled up by 1.5% to account for the share of the deficit[68]. This gives 100% billable rates of $67.22 per hour for a vet and $80.49 for a supervising vet.[69]

The rate for overhead and support costs is currently $51.40 per hour. However, as covered in section 16.3.8 below, these costs are currently only recovered from normal time. These costs should be recovered from work outside of normal time as well. Doing so would lower the hourly rate to $48.35.

Using the same calculation as for biosecurity inspectors, public holiday charges that accurately reflect actual costs would be:

- a minimum of eight hours at $67.22 per hour for vets and $80.49 per hour for supervising vets – that is, $537.77 for vets or actual hours worked at $67.22 per hour (whichever is highest), and $643.91 for supervising vets or actual hours worked at $80.49 per (whichever is highest)
- plus $115.57 per hour worked by a vet and $128.84 per hour worked by a supervising vet.

These charges compare to the current charges of $159.60 and $176.20 per hour, with no minimum charge, for vets and supervising vets respectively.

### Circuits

This section and the rest of the wider section, assumes that the $230.50 fee is reduced to $206.70 (see section 10).

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[68] When Establishment fees were previously set, they were set to recover future expected costs of about $34.5 million per annum and a $1.5 million accumulated deficit (an additional 1.5% on top of total expenditure over the three-year period).

[69] Normal time rates in regulations are $79.80 for vets and $88.10 for supervising vets. Comparing the $67.22 and $80.49 rates to the regulated rates implies around 85% billable time (84% for vets and 91% for supervising vets).

For Circuits, vets are expected to have an average KiwiSaver-inclusive salary $121,800 per annum over the three-year period to June 2027.

The 100% billable rate can be estimated as the $121,800 salary divided by 1,736 hours in a year and scaled down by 6.1%[70] to account for the share of the surplus. This gives a 100% billable rate of $65.88.

At a billable rate of 75%, the normal hourly rate is $87.84. This leaves $118.86 per hour of the $206.70 per hour as overhead and support costs.

Using the same calculation as for biosecurity inspectors, public holiday charges that more accurately reflect actual costs would be:

- a minimum of eight hours at $65.88 per hour – that is, $527.05 or actual hours worked at $65.88 per hour, whichever is highest
- plus $184.74 per hour worked.

These charges compare to the current charge of $462.00 per hour. The $462.00 rate is also wrong because it charges overhead and support costs at double time instead of just inspector costs and because it uses a 75% billable hour rate rather than 100%.

#### Import, export and animal welfare vet work

The hourly rate of $186.30 hasn't been reset since 2015 and is unlikely to be fully recovering costs. The rate is likely to be reviewed in 2024. Because there hasn't been a recent review, it is not possible to accurately estimate both the vet component and the overhead component. Only the vet component can be accurately estimated (using salary data).

Vets are expected to have an average KiwiSaver-inclusive salary $131,200 in the year before the likely review.

The 100% billable rate can, then, be estimated as $131,200 divided by 1,736 hours per year. This gives an hourly rate of $75.56.

At a billable rate of 75%, the normal time hourly rate is $100.74.

Until a full review of the normal time rate is done, the best approach to estimating overhead and support costs is assume that the $186.30 rate is still recovering costs. Taking the $186.30 rate and subtracting the vet component gives an estimate of $85.56 for overhead and support costs.

As above, the $85.56 is likely to be too low, but what is more important in estimating costs for work outside of normal hours is getting the vet component right as it is the vet component which is charged at double time and receives minimum payments.

Using the same calculation as for biosecurity inspectors, public holiday charges that more accurately reflect actual costs would be:

- a minimum of eight hours at $85.56 per hour – that is, $604.44 or actual hours worked at $85.56 per hour, whichever is highest
- plus $161.11 per hour worked.

These charges compare to the current charges of a fixed $845.13 rate plus either $318.04 for import work or $211.28 per hour for work on exports and animal welfare.

### 16.3.5.2 How big is the problem?

Data from 2021/22 and 2022/23 show a per annum average of 1.5 biosecurity inspector call-outs with 1.5 hours of time spent per annum, and an average of 8 vet call-outs on public holidays with 20 hours of time spent per annum.

None of the public holiday call-outs were greater than eight hours with the highest being 4.5 hours.

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[70] The reduction in the Circuits rate to $206.70 per hour recovers recover expected future costs and eliminates an accumulated surplus. If the surplus wasn't eliminated, the hourly rate would be $220.00. The 6.1% reduction is found by comparing the $220.00 rate which recovers future costs without eliminating the surplus to the $206.70 rate that recovers future costs and eliminates the surplus.

The current charges are estimated to over-recover costs by $100 per annum for biosecurity inspectors and $3,000 per annum for veterinary inspectors doing import, export and animal welfare work.

MPI holds data about Establishment and Circuit vet time which receives penal 1.0. Penal 1.0 includes public holidays as well as late night and early morning shifts. As a result, the difference between the amount recovered and actual costs is not easily estimated. In total there were 5,800 hours worked under Establishments and 56.75 under Circuits. In line with the few hours on public holidays by other vets, it is likely that the actual hours worked on public holidays is much lower.

The current Establishment rates will be under-recovering costs with the current charges under-recovering costs for any public holiday work up to 11.5 hours for vets and up to 12.8 hours for supervising vets. The current Circuit charges will be under-recovering costs for public holiday work up to 2.4 hours.

#### 16.3.5.3 Which regulations are involved?

The following regulations are involved:

- Biosecurity (Costs) Regulations 2010
- Animal Welfare (Cost Recovery) Regulations 2015
- Animal Products (Fees, Charges, and Levies) Regulations 2007
- Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015

### 16.3.6 Problem 5: Public holiday shift work

#### 16.3.6.1 What is the problem?

Biosecurity and veterinary inspectors also receive double time and a day in lieu for shift work on public holidays – that is, normal scheduled work as opposed to a call-out.

Vets doing Establishment and Circuits work have this covered by a penal rate and vets doing import, export and animal welfare work are only ever called out and never scheduled for a shift on a public holiday.

The only fees specifically for public holidays for biosecurity inspectors, however, is for call-outs.

Currently, shift work on public holidays can only be charged at the normal rate of $155.50 per hour. The actual cost is around $229.25 per hour, made up of $81.62 for overhead and support costs and twice the 75% billable rate of $73.82 (see section 16.3.3 above).[71]

#### 16.3.6.2 How big is the problem?

Between 2021/22 and 2022/23 there have been an average of 540 hours billed per annum on public holidays. The total amount under-recovered is around $39,800 per annum, with $83,900 recovered compared to around $123,700 in cost.

#### 16.3.6.3 Which regulations are involved?

The Biosecurity (Costs) Regulations 2010 are involved.

### 16.3.7 Problem 6: Ministry holidays

#### 16.3.7.1 What is the problem?

MPI staff receive three Ministry holidays a year in addition to other leave and holidays. These days are typically the days between Boxing Day and New Years.

[71] This assumes that shifts consist of eight hours or more. This means that the time in lieu effect from the public holiday call-out section is irrelevant and only double time is relevant.

Biosecurity inspectors who are scheduled to work a normal shift on that day receive their normal pay plus a day in lieu. Biosecurity inspectors who are called out on that day receive double time and a day in lieu.

Veterinary inspectors have the same clauses, but are never scheduled to work on public or Ministry holidays and are only ever called out.

The Ministry holidays provide time off for staff during a period of lower demand – that is, a benefit to staff at relatively low cost to MPI as an employer. If the three days were not provided, the total number of potential working hours would be around 1.4% higher, but the actual use of those hours would not be that high. Removing the Ministry holidays would likely result in salaries increasing by at least 1.4% to compensate and an increase in MPI charges across the board of close to that amount.

Overall, providing these three days is not considered an unreasonable feature of the employment agreements and is likely to keep charges lower than they would be otherwise.

The regulations do not, however, include rates to account for Ministry holidays.

#### 16.3.7.2 How big is the problem?

Additional costs for biosecurity inspections are expected to be negligible as biosecurity inspectors will typically be working normal shifts and so receiving normal pay rates with no hours lost from time in lieu.

There has been an average of around one vet being called out per Ministry holiday across 2021/22 and 2022/23. The average time per call out has been less than 1.5 hours with total time of 4.75 hours per annum. The difference between costs covered and actual costs is around $2,300 per annum with around $900 per annum being recovered compared to around $3,200 in cost.[72]

Data about time spent by Establishment and Circuit vets is not readily available but expected to be similarly negligible.

#### 16.3.7.3 Which regulations are involved?

The following regulations are involved:

- Biosecurity (Costs) Regulations 2010
- Animal Welfare (Cost Recovery) Regulations 2015
- Animal Products (Fees, Charges, and Levies) Regulations 2007
- Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015

### 16.3.8 Problem 7: Veterinary inspector call-out and overtime rates

#### 16.3.8.1 What is the problem?

MPI also reviewed veterinary call-out and overtime rates across cost recovery regulations. A wide range of problems have been identified. Figure 27 summarises vet rates by service across regulations.

The problems include (the colours in this list correspond to cells in Figure 27):

- The costs for Establishments are split into components for vet time which attract higher rates for overtime and call-outs and a 'base' component for overhead and support costs. This split is attractive as it potentially makes it easier to show overtime and call-out rates (e.g. double time during overtime is easy to see as being double the normal time vet rate, separate from the base rate).

  However, the base rate is only charged on normal time hours. Call-out hours also benefit from overhead and support costs and should have a base rate included. Not charging the base rate on all hours creates an odd situation where some overtime costs less than normal time work, e.g. $119.70 in time and a half compared to $131.20 for normal time ($51.40 base rate plus $79.80 vet rate).

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[72] Fully recovering costs would likely see many call-outs not happen and work deferred to a normal day as, on average, charges would increase by 216.4% from $252.84 to $799.85.

- The call-out rates for Establishments and Circuits are out of date.

  Initially it might seem like the call-out rates have accounted for the difference in billable hours between a call-out and normal shift work as, for instance, the $75.00 call-out time is less than the $79.80 normal rate. However, the call-out rates haven't changed in regulations even when the normal rates have changed, or when the fees switched from GST-exclusive to GST-inclusive.

  Additionally, the $125.00 rate is not half-way between $75.00 and $150, so must have been incorrect even when these call-out rates were originally set. Halfway between $75.00 and $150.00 is $112.50. The $125 may have been a typo.

- The overtime rates for circuits have not been updated to align with the most recent change to the normal time rate.

  However, even the overtime rates include a miscalculation. The last normal time rate was $176.00 per year. At $264.00, the time and a half rates are 1.5 the normal time rate. At $352.00, the double time rates are 2.0 the normal time rate.

  The time and a half and double time rates should only be on vet time, not on all costs, meaning that the rates should be lower than appear in regulations.

- Vets are entitled to three-hour minimums for overtime, but regulations do not generally provide for this.

**Figure 27: Veterinary rates**

| Service and feature | Biosecurity (Costs) Regulations 2010 | | | Animal Welfare (Cost Recovery) Regulations 2015 | | | Animal Products (Fees, Charges, and Levies) Regulations 2007 | | | Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Normal | Overtime | Call-out | Normal | Overtime | [73]Call-out | Normal | Overtime | Call-out | Normal | Overtime | Call-out |
| **Establishments** | | | | | | | | | | | | |
| Base hourly charge | | | | | | | $51.40 | | | $51.40 | | |
| Vet | | | | | | | | | | | | |
| Normal | | | | | | | $79.80 | | $75.00 | $79.80 | | $75.00 |
| Time and a half | | | | | | | | $119.70 | $125.00 | | $119.70 | $125.00 |
| Double time | | | | | | | | $159.60 | $150.00 | | $159.60 | $150.00 |
| Three-hour minimum | | | | | | | | No | Yes | | No | Yes |
| Supervising vet | | | | | | | | | | | | |
| Normal | | | | | | | $88.10 | | $75.00 | $88.10 | | $75.00 |
| Time and a half | | | | | | | | $132.10 | $125.00 | | $132.10 | $125.00 |
| Double time | | | | | | | | $176.20 | $150.00 | | $176.20 | $150.00 |
| Three-hour minimum | | | | | | | | No | Yes | | No | Yes |
| **Circuits** | | | | | | | | | | | | |
| Normal | | | | | | | $230.50 | | $75.00 | $230.50 | | $75.00 |
| Time and a half | | | | | | | | $264.00 | $125.00 | | $264.00 | $125.00 |
| Double time | | | | | | | | $352.00 | $150.00 | | $352.00 | $150.00 |
| Three-hour minimum | | | | | | | | No | Yes | | No | Yes |
| **Other** | **Imports** | | | **Animal welfare** | | | **Export of live animals or germplasm** | | | | | |
| Normal time | $186.30 | | | $186.30 | | | $186.30 | | | | | |
| Time and a half | | $252.17 | $252.17 | | $252.17 | $252.17 | | $252.17 | $252.17 | | | |
| Double time | | $318.04 | $318.04 | | $318.04 | $318.04 | | $318.04 | $318.04 | | | |
| Three-hour minimum | | No | Yes | | Yes | Yes | | [74]Unclear | Yes | | | |

[73] The regulations have 'charges for time working outside standard working hours', so both overtime and call-outs are covered.

[74] The 'callout charges' section of the regulations says it covers work 'outside of standard working hours' which potentially covers overtime as well as call-outs.

### 16.3.8.2 How big is the problem?

#### Call-outs

Veterinary call-outs are rare, with no call-outs[75] happening in the 2021/22 and 2022/23 years under the Biosecurity (Costs) Regulations 2010, Animal Welfare (Cost Recovery) Regulations 2015, Animal Products (Fees, Charges, and Levies) Regulations 2007, Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015.

Using the same calculation as for biosecurity inspectors, the actual costs per hour for vet call-outs, at time and a half and double time respectively, are:

- $198.89 and $236.67 instead of $252.17 and $318.04 for imports, exports and animal welfare work under the Biosecurity (Costs) Regulations 2010, Animal Products (Fees, Charges, and Levies) Regulations 2007 and Animal Welfare (Cost Recovery) Regulations 2015
- and under the Animal Products (Fees, Charges, and Levies) Regulations 2007 and Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015:
    - $100.83 and $134.44 instead of $125.00 and $150.00 for Establishment vets (plus the $48.35 base hourly rate)
    - $120.73 and $160.98 instead of $125.00 and $150.00 for Establishment supervisory vets (plus the $48.35 base hourly rate)
    - $217.68 and $250.62 instead of $125.00 and $150.00 for Circuit vets.

#### Overtime

#### Establishments

Establishment fees were last updated in 2023. There is no problem with the way overtime has been calculated for time and a half and double time components, but charging the base rate only to normal hours rather than all hours (normal, overtime and call-outs) means that service users during normal time are cross-subsidising non-standard time service users. If non-standard time was also charged for overheads and support costs through the base rate, the base rate would reduce from $51.40 to $48.35.[76]

Normal time is effectively overcharged $3.05 per hour to subsidise overtime by $48.35 per hour. The value of this subsidy varies depending on whether the staff member is a vet or supervising vet and whether they are working time and a half or double time. The total amount of the cross-subsidy is around $600,700 per annum.[77]

#### Circuits

Assuming the Circuit rate is reduced from $230.50 to $206.70, the time and a half and double time rates that reflect actual costs are $250.62 and $294.54 per hour respectively, rather than the current $264.00 and $352.00 rates. The current rates are over-recovering by about 5.3% and 19.5% respectively. If the Circuit rate remains at $230.50, the overtime rates would be $281.53 and $332.56.

In 2022/23, there were 206.25 hours at time and a half and 98.50 hours at double time. Overall, there is about $8,400 of over-recovery per year.

#### Import, export and animal welfare vet work

The fee for other vet work was last reset in 2015. From section 16.3.5, the 75% billable rate is $100.74 per hour and the overhead and support rate is $85.56 per hour.

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[75] Other than the call-outs on public holidays in the section 16.3.5.

[76] The calculation takes the revenue to be recovered of $10,113,734 per annum and divides by the sum of expected normal time hours of 196,765 per annum and overtime hours of 12,424 per annum.

[77] 12,242 overtime hours at $48.35 per hour.

Until a fuller review of $186.30 fee is done, likely in 2024/25, the time and a half and double time rates that most accurately reflect actual costs are $236.67 and $287.04 per hour respectively, rather than the current $252.17 and $318.04 rates. Time and a half rates and double time rates are too high by about 6.5% and 10.8% respectively.

With about 50 hours at time and a half and 150 hours at double time on average between 2021/22 and 2022/23, the total over-recovery would be around $5,500, with $60,400 recovered compared to actual costs of $54,900.

#### Three-hour minimum

Data for vets doing import, export and animal welfare overtime work suggests about half the instances of overtime are less than three hours and average around 1.5 hours. This amounts to about $11,300 of under-recovery at the $236.67 and $287.04 rates. We have not obtained equivalent data for Establishments and Circuits, but if the patterns are similar, there would be under-recovery of around $455,400 for Establishments and $31,700 for Circuits.

#### 16.3.8.3 Which regulations are involved?

Figure 27 above shows which regulations are involved for each aspect.

### 16.3.9 Problem 8: Vet penal rates

#### 16.3.9.1 What is the problem?

There are two problems with penal rates and shift work on public holidays.

#### Penal rates for vets are not included in some regulations

Vet inspectors receive penal rates for working particularly unsocial times including late night and early morning shifts, and public holidays. Penal rates encourage staff to make themselves available for such work.

The settings for penal rates in the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015 were updated in 2023.[78]

[78] The new full set of penal rates section of the regulations is:

*penal rate 0.5 means—*

*(a) if a shift starts before midnight and continues after midnight, the rate per hour of penal time worked by an employee during the period between midnight and 2 am Monday to Friday (on a day other than a statutory holiday) if a shift starts before midnight and continues after midnight, the rate per hour of penal time worked by an employee during the period between midnight and 2 am Monday to Friday (on a day other than a statutory holiday); and*

*(b) the rate per hour of the first 3 hours of penal time worked by an employee during the period between—*

*(i) midnight at the end of Friday; and*

*(ii) midday Saturday; and*

*penal rate 1.0 means—*

*(a) if a shift starts before midnight and continues after midnight, the rate for every hour of penal time worked by an employee during the period between 2 am and 6 am Monday to Friday; and*

*(b) the rate for every hour of penal time worked by an employee during the period midnight at the end of Friday to midnight at the end of Sunday other than hours to which penal rate 0.5 applies; and*

*(c) the rate for every hour of penal time worked by an employee on a statutory holiday; and*

*(d) if a shift starts after midnight but before 6 am, the rate for every hour of penal time (other than the first hour) worked by an employee during the period between midnight and 6 am Monday to Friday; and*

*(e) if a shift starts after midnight but before 6 am, the rate for the first hour (or part-hour) of penal time worked by an employee during a period of double time that falls between midnight at the end of Friday and midnight at the end of Sunday*

*penal rate 2.0 means, if a shift starts after midnight, the rate for the first hour (or part-hour) of penal time worked by an employee during the period between midnight and 6 am Monday to Friday (other than a statutory holiday)*

Vets also do work under the Biosecurity (Costs) Regulations 2010 and the Animal Welfare (Cost Recovery) Regulations 2015, but these regulations do not specify penal rates meaning they cannot be recovered for.[79]

#### Circuit penal rates do not reflect actual costs

Circuit penal rates appear in the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015.

The current penal rates are penal rate 0.5 of $88.00 per hour, penal rate 1.0 of $230.50 per hour, and penal rate 2.0 of $352.00.

Penal 1.0 matches the normal time hourly rate, but penal rates should only be paid on the inspector's time, not overhead and support costs. Penal rates for Establishments are, correctly, only charged on the inspector's time.

While, at $352.00, penal 2.0 is four times penal 0.5's $88.00, penal 1.0's $230.50 is not double penal 0.5 and half penal 2.0. Penal rates should scale perfectly.

Penal 0.5 and penal 2.0 are half and double, respectively, of $176.00. $176.00 is the previous normal time circuit rate. As the $176.00 included inspector time and overhead and support costs, penal 0.5 and penal 2.0 were also not set correctly at the time.

Actual costs of penal time should be in line with the inspector cost at 75% billable normal time.

Assuming that the normal time Circuit fee is reduced from $230.50 to $206.70, the 75% billable normal time rate from section 16.3.5 is $87.84. Penal rates that reflect actual cost are $43.92 for penal 0.5, $87.84 for penal 1.0, and $175.68 for penal 2.0.

If the Circuit fee remains at $230.50, the 75% billable rate is $102.05 and penal rates that are $51.03 for penal 0.5, $102.05 for penal 1.0, and $204.11 for penal 2.0.

#### 16.3.9.2 How big is the problem?

The 2021/22 and 2022/23 financial years have averaged 19 hours at penal 0.5, 109 hours at penal 1.0 and 34 hours at penal 2.0. From section 16.3.5, the 75% billable rate for vets doing import, export and animal welfare work is $100.74. This gives penal rates of $50.37 for penal 0.5, $100.74 for penal 1.0, and $201.48 for penal 2.0. The cost of penal time is around $18,800 per annum.

There were 56.75 Circuit hours at penal 1.0 in 2022/23 and none at penal 0.5 and penal 2.0. At $230.50 instead of $87.84 per hour, the total amount over-recovered would be around $8,100 ($13,100 being recovered instead of $5,000).

#### 16.3.9.3 Which regulations are involved?

The Biosecurity (Costs) Regulations 2010 and the Animal Welfare (Cost Recovery) Regulations 2015 are relevant to the extent of application of penal rates.

The Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015 are relevant to the Circuit penal rates.

### 16.3.10 Problem 9: References to 'employment contracts' and implications for overtime and casual verifiers

#### 16.3.10.1 What is the problem?

Permanent employees receive compensation for working extra and unsociable hours in the form of overtime and penal rates. Casual employees, who fill in for permanent employees from time to time, do not receive penal and overtime rates as they are already on-demand and typically receive higher payment than permanent employees for that.

Under the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015, penal and overtime rates can only be

[79] The penal rate for public holidays is less of an issue as vets doing import and animal welfare work do not do shift work on public holidays, only call-outs and there are fees for call-outs (see section 16.3.5 ).

charged where a verifier is entitled by their employment contract. The Biosecurity (Costs) Regulations 2010 indirectly refer to employment contracts by saying that time and a half and double time is payable when the verifier is 'working at 1.5 times or 2 times his or her hourly rate'.

In contrast, overtime periods are specified in the Animal Welfare (Cost Recovery) Regulations 2015.[80]

References to employment contracts have, in the past, been common in MPI's cost recovery regulations as a way of easily providing the ability to recover costs around hours outside of normal hours. More recently, reference to employment contracts have been removed from regulations and replaced by detail about when overtime and penal rates apply. This has been done because employment agreements are generally not publicly-available. Specifying when an employee is entitled to overtime and penal rates in the regulations enhances transparency, including to service users.

Additional problems arise around casual verifiers.

First, casual verifiers are used to fill in for permanent employees. Their casual / on demand status typically means that their hourly rate will be higher than the normal rate for permanent employees, but permanent employees are entitled to penal and overtime rates outside of normal hours. If MPI was to precisely charge according to employment contract status, it would need to charge a normal time rate for permanent staff and a higher normal time rate for casual staff, and overtime and penal rates for permanent staff and a lower rate for casual staff during those same hours.

This differentiation in charges would not reflect how permanent and casual staff are actually used. Casual verifiers are used to fill in for permanent employees, for example when permanent employees are on sick leave or when there's a temporary spike in demand. Service users cannot, in order to minimise cost, demand that work during normal time be done by a permanent employee and work outside of normal hours be done by a casual employee.

Rather than viewing verifiers as separate groups of permanent and casual, it is better to think of verifiers as a single group of verifiers made up of permanent employees and, on occasion, casual employees. It is from this pool of employees that work is done, costs should be budgeted, and fees charged.

Second, MPI incurs administration/time costs checking whether an employee is permanent or casual before billing.

Third, the billing or not of penal and overtime reveals information to the customer about the employment status of the employee. This risks breaching employee privacy.

#### 16.3.10.2 How big is the problem?

About 200 hours a year of overtime is provided by vets doing import, export and animal welfare work.

Casual verifiers are used on rare occasions where fulltime verifiers are fully utilised.

#### 16.3.10.3 Which regulations are involved?

The following regulations are involved:

- Biosecurity (Costs) Regulations 2010
- Animal Products (Fees, Charges, and Levies) Regulations 2007
- Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015

## 16.4 Options

### 16.4.1 Developing the options

Broadly, the options for each problem include either keeping the current rates or increasing or decreasing rates to match estimated actual costs.

[80] Section 3 defines standard working hours as 8am to 5pm weekdays (other than public holidays). On weekdays, overtime rates are time and half between 5pm and 10pm and double time from 10pm to 8am. On weekends, overtime is, for Saturday, double time from 12am to 8am, time and half from 8am to midday, and double time again from midday to midnight, and double time for Sunday. Section 3 matches as closely as possible to collective employment agreements.

The proposed options are developed using the approach in section 16.3.3 which has the following key features:

- Charges are made up of direct inspector time, and overhead and support costs.[81]
- It is only the inspector time that receives time and half or double time, minimum hours, and time in lieu.
- 75% of hours worked at normal and overtime are usually billable.[82]
- 100% of worked hours during call-outs are billable.
- All hours worked have overhead and support costs added.

Figure 28 presents the key estimates from the problem section that are used to calculate the proposed options in one place.

**Figure 28: Key estimates for developing options**

| Hourly rate | Biosecurity inspectors | Veterinary inspectors | | | |
|---|---|---|---|---|---|
| | | Imports, exports and animal welfare | Establishments | | Circuits |
| | | | Vet | Supervising vet | |
| Overhead and support rate | $84.99 | $89.43 | $48.35 | $48.35 | $128.45 |
| 100% billable inspector rate | $52.83 | $72.65 | $65.72 | $78.69 | $76.54 |

## 16.4.2 The options

### 16.4.2.1 Rates

Figure 29 presents the status quo and alternative rates. The alternative options are the same rates for the estimated actual costs in the problem sections and follow the method in section 16.4.1. Figure 30 shows the percentage change in hourly and daily rates.

A variation on these rates is to round them to the nearest ten cents as current rates generally are. This would make fees simpler to read and result in only small differences from the estimated actual cost rates with the biggest percentage increase being 0.06% from $50.37 to $50.40 for penal 0.5 for vets doing import, export and animal welfare work and the biggest percentage decrease being 0.10% from $48.35 (actually $48.347) to $48.30 for the Establishments base rate.

[81] Both components are usually covered under a single fee, but Establishment fees separates these components so that vets and supervisory vets can be distinguished.

[82] Around 85% of Establishment time appears to be billable.

**Figure 29: Rate options**

| | Biosecurity inspectors | | Veterinary inspectors | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Imports | | Exports | | Animal welfare | | Establishments<br>Vet | | Supervising vet | | Circuits | |
| | Status quo | Alternative | Status quo | Alternative | Status quo | Alternative | Status quo | Alternative | Status quo | Alternative | Status quo | Alternative | Status quo | Alternative |
| **Normal time** | $155.50 | $155.50 | $186.30 | $186.30 | $186.30 | $186.30 | $186.30 | $186.30 | $51.40 base rate<br>plus $79.80 vet rate | $48.35 base rate<br>plus $79.80<br>vet rate | $51.40 base rate<br>plus $88.10<br>vet rate | $48.35 base rate<br>plus $88.10<br>vet rate | $230.50 | [83]$206.70 |
| **Overtime** | | | | | | | | | | | | | | |
| Time and a half | | | $252.17 | $236.67 | $252.17 | $236.67 | $252.17 | $236.67 | $119.70 | $168.05 | $132.10 | $180.50 | $264.00 | $250.62 |
| Double time | | | $318.04 | $287.04 | $318.04 | $287.04 | $318.04 | $287.04 | $159.60 | $207.95 | $176.20 | $224.55 | $352.00 | $294.54 |
| **Call-outs** | | | | | | | | | | | | | | |
| Normal time | | | | | | | | | $75.00 | Remove as it doesn't apply | $75.00 | Remove as it doesn't apply | $75.00 | Remove as it doesn't apply |
| Time and a half | $233.25 | $164.66 | $252.17 | $198.89 | $252.17 | $198.89 | $252.17 | $198.89 | $125.00 | $149.18 | $125.00 | $169.08 | $125.00 | $217.68 |
| Double time | $311.00 | $192.34 | $318.04 | $236.67 | $318.04 | $236.67 | $318.04 | $236.67 | $150.00 | $182.79 | $150.00 | $209.32 | $150.00 | $250.62 |
| Public holiday call outs | $337.97 per day<br>plus $233.25 at time and a half or $311.00 at double time | $442.90 per day<br>plus $136.98 | $845.13 per day<br>plus $252.17 at time and a half or $318.04 at double time | $604.44 per day<br>plus $161.11 | $845.13 per day<br>plus $211.28 | $604.44 per day<br>plus $161.11 | $845.13 per day<br>plus $211.28 | $604.44 per day<br>plus $161.11 | $159.60 | $537.77 per day<br>plus $115.57 | $176.20 | $643.91 per day<br>plus $128.84 | $461.00 | $527.05 per day<br>plus $184.74 |
| **Public holiday shifts for** | $155.50 | $229.25 | | | | | | | | | | | | |

[83] This is the preferred option from section 10.8.

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **biosecurity inspectors** | | | | | | | | | | | | | | |
| **Ministry holidays (call-outs)**[84] | $155.50 | $442.90 per day plus $136.98 | $186.30 | $604.44 per day plus $161.11 | $186.30 | $604.44 per day plus $161.11 | $186.30 | $604.44 per day plus $161.11 | $51.40 base rate plus $79.80 vet rate | $537.77 per day plus $115.57 | $51.40 base rate plus $88.10 vet rate | $643.91 per day plus $128.84 | $230.50 | $527.05 per day plus $184.74 |
| **Penal rates for vets** | | | | | | | | | | | | | | |
| 0.5 | | | | $50.37 | | $50.37 | | $50.37 | $39.90 | $39.90 | $44.00 | $44.00 | $88.00 | $43.92 |
| 1.0 | | | | $100.74 | | $100.74 | | $100.74 | $79.80 | $79.80 | $88.10 | $88.10 | $230.50 | $87.84 |
| 2.0 | | | | $201.48 | | $201.48 | | $201.48 | $159.60 | $159.60 | $176.20 | $176.20 | $352.00 | $175.68 |

### Figure 30: Change in hourly and daily rates

| | | Biosecurity inspectors | Veterinary inspectors | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | Imports | Exports | Animal welfare | Establishments[85] | | Circuits |
| | | | | | | Vet | Supervising vet | |
| **Normal time** | | No change | No change | No change | No change | -3% | -2% | -10% |
| **Overtime** | | | | | | | | |
| Time and a half | | NA | -6% | -6% | -6% | +40% | +37% | -5% |
| Double time | | NA | -10% | -10% | -10% | +30% | +27% | -16% |
| **Call-outs** | | | | | | | | |
| Normal time | | NA | NA | NA | NA | Remove | Remove | Remove |
| Time and a half | | -29% | -21% | -21% | -21% | +19% | +35% | +74% |
| Double time | | -38% | -26% | -26% | -26% | +22% | +40% | +67% |
| Public holiday call-outs | Daily rate | +31% | -28% | -28% | -28% | New rate | New rate | New rate |

[84] Double time and a day in lieu is payable for biosecurity and veterinarian inspectors whether the work is called-out or part of a scheduled shift. While Ministry holidays are paid at double time and a day in lieu for veterinary inspectors for shifts and call-outs, they are only ever worked as call-outs due to the infrequency of work. For biosecurity inspectors, Ministry holidays are paid at double time and a day in lieu for call-outs, but at normal time and a day in lieu for shifts. If shifts are normally eight hours, then the cost of normal time and a day in lieu is the same as a normal day's work so no specific charge is needed in regulations and the regulations can be kept tidier by specifying rates for Ministry holidays only for call-outs.

[85] The time and a half and double time for overtime and call-outs percentages compare total hourly rates – that is, the base rate and the vet rate.

| | | Biosecurity inspectors | Veterinary inspectors | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | Imports | Exports | Animal welfare | Establishments[85] | | Circuits |
| | | | | | | Vet | Supervising vet | |
| | Hourly rate | -56% | -49% | -24% | -24% | -28% | -27% | -60% |
| Public holiday shifts for biosecurity inspectors | Hourly rate | +47% | NA | NA | NA | NA | NA | NA |
| Ministry holiday call-outs | Daily rate | New rate | New rate | New rate | New rate | New rate | New rate | New rate |
| | Hourly rate | -12% | -14% | -14% | -14% | -12% | -8% | -20% |
| Penal rates for vets | | | | | | | | |
| 0.5 | | NA | New rate | New rate | New rate | No change | No change | -50% |
| 1.0 | | NA | New rate | New rate | New rate | No change | No change | -62% |
| 2.0 | | NA | New rate | New rate | New rate | No change | No change | -50% |

#### 16.4.2.2 Three-hour minimums

Under the status quo, three-hour minimums are charged for veterinary call-outs but not biosecurity call-outs or for veterinary overtime.

The alternative option is to extend the three-hour minimum to biosecurity inspector call outs and veterinary overtime.

This relates to problems in sections 16.3.4 and 16.3.8.

#### 16.4.2.3 Penal rates for veterinary inspectors

Under the status quo, the specific times when penal rates are payable are set out in the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies), but not the Biosecurity (Costs) Regulations 2010 or the Animal Welfare (Cost Recovery) Regulations 2015.

The alternative option extends penal rates to the Biosecurity (Costs) Regulations 2010 or the Animal Welfare (Cost Recovery) Regulations 2015.

This relates to the problem in section 16.3.9.

#### 16.4.2.4 References to 'employment contracts'

Under the status quo, the Animal Products (Fees, Charges, and Levies) Regulations 2007 and the Animal Products (Dairy Industry Fees, Charges, and Levies) directly refer to 'employment contracts' and the Biosecurity (Costs) Regulations 2010 indirectly refers to employment contracts. The Animal Welfare (Cost Recovery) Regulations 2015 do not.

The alternative option looks to remove direct and indirect references to employment contracts and, for vets, specify periods of overtime in line with the Animal Welfare (Cost Recovery) Regulations 2015.

This relates to the problem in section 16.3.10.

### 16.4.3 Discarded options

#### 16.4.3.1 The normal time hourly rate for biosecurity inspectors

As discussed in problem 1 (section 16.3.2), the $155.50 normal time rate for biosecurity inspectors was rounded up from $155.43 when, if it was to be rounded, it should have been rounded down to $155.40. Section 16.3.2 sets out several reasons why we don't propose to fix this now and leave it to the next full review of the hourly rate. These reasons are replicated here:

First, the financial impact is negligible at 0.045% (compared to other fee changes above which are frequently around 20% to 40%).

Second, that administration costs to government and businesses are likely to significantly exceed the level of over-recovery.

Third, MPI modelling is not reliably precise enough the level of ten cents anyway – that is, there may be a case to round the fee even more (e.g. to the nearest 50 cents which would result in a $155.50 fee).

Fourth, MPI regularly reviews expenditure and revenue to ensure significant over- and under-recovery do not arise or persist. The next fee reset can ensure rounding happens when appropriate for all fees and in the right direction.

#### 16.4.3.2 Public holidays

The alternative options in Figure 29 have a flat daily rate for public holidays plus an hourly rate. The flat daily rate is derived from the problem analysis which found this rate should be a minimum amount plus a variable amount if the inspector works more than eight hours.[86] For example, the $442.90 daily

[86] This variable component in addition to the hourly rate.

rate for biosecurity inspectors was more accurately $442.90 plus $55.36 per hour beyond the first eight hours.

None of MPI's public holiday call-outs were greater than eight hours with the highest being 4.5 hours.

An option was to specify the variable component, but we discarded this option given the variable component is unlikely to be used. We consider it better to keep this part of the fee simple.

## 16.5 Estimated financial and economic impacts

Figure 31 summarises the change in cost recovery under the alternative options. The calculations assume no change in demand from increases or decreases in the rates. The calculations for these can be found in the problem sections.

Some changes are likely to see a noticeable change in demand.

First, the introduction of a three-hour minimum is likely to see many current biosecurity call-outs no longer happen as many call-outs are considerably less than three hours (see section 16.3.4) and users may prefer to wait until the next day to avoid the minimum charge.

Second, the extension of the base hourly rate for Establishments may also see users wait until the next day. While call-outs are rare, overtime makes up 6.3% of all time by Establishment vets. This time is currently charged at between $119.70 and $176.20 per hour depending on whether the work is done by a vet or a supervising vet and whether the work is done at time and half or double time. The rates would increase by between 27% and 40% to between $168.05 and $224.55 per hour.

Third, many of the rates for call-outs including on public holidays would reduce by between around 20% and 50%. This may see some increased use of call-outs.

Fourth, work on Ministry holidays are currently only charged at normal time rates. This would increase to public holiday rates for veterinary inspections – a more than 200% increase in charges for the typical call-out. It is likely that many call-outs would no longer happen, with demand for work being deferred to normal days instead.

None of the over- or under-recoveries create deficits or surpluses for the Crown over the medium-term. Where users of services outside of normal hours are paying more than actual costs, this revenue has cross-subsidised services provided during normal hours. The normal hour rates will be adjusted at their next reviews to account for increases or decreases in revenue from after-hours fees.

Most of the amounts are small and any impact on services overall balance of revenue and expenditure will be accounted for in the next review of those normal time rates. At $600,700 per annum (5.9% of expenditure on overhead and support costs), the impact of extending the Establishments base hourly rate to work outside of normal hours is not small. To account for this, the alternative option involves lowering the base hourly rate from $51.40 to $48.35 per hour.

**Figure 31: Change in revenue per annum**

| Area | Change in revenue |
|---|---|
| General call-outs | $13,000 decrease from biosecurity inspector call-outs.<br>Negligible from veterinary inspectors call-outs as there have been no call-outs in the last two years. Where a call-out happens, there would be a decrease in revenue from import, export and animal welfare call-outs, and an increase in revenue from Establishments and Circuits. |
| Public holiday call-outs | $100 increase from biosecurity inspectors. Any year may be an increase or decrease relative to the status quo as biosecurity inspectors involve some over-recovery and some under-recovery depending on the time an inspector is called out.<br>$3,000 increase from veterinary inspectors doing import, export and animal welfare work.<br>An unknown, but likely small, increase from Establishments.<br>An unknown, but likely small, change (unknown whether it is an increase or decrease) from Circuits. |
| Ministry holiday call-outs | A negligible increase from biosecurity inspectors.<br>$2,300 increase from veterinary inspectors doing import, export and animal welfare work.<br>An unknown, but likely small, increase from Establishments. |

| | |
|---|---|
| | An unknown, but likely small, increase from Circuits. |
| Over-time | $5,500 decrease from veterinary inspectors doing import, export and animal welfare work.<br>$600,700 increase from Establishment overtime and a $600,700 decrease from normal hours.<br>$8,400 increase from Circuit overtime and over-recovered from normal hours. |
| Three-hour minimum | $46,800 increase from biosecurity inspector call-outs.<br>$11,300 increase from veterinary inspectors doing import, export and animal welfare overtime work.<br>$455,400 increase from Establishments.[87]<br>$31,700 from Circuits. |
| Penal rates | $18,100 increase from veterinary inspectors doing import, export and animal welfare work. |

## 16.6 Assessment against the cost recovery principles

We consider that the alternative options sufficiently meet the Transparency and Justifiability principles, best meets the Efficiency principle, and is consistent with the Equity principle.

Consulting on the analysis above is expected to sufficiently meet the Transparency principle.

On Justifiability, it is reasonable that MPI offer inspectors inducements to make themselves available for overtime and call-outs. Time and half, double time, minimum payments, and penal rates are common inducements made in all sorts of employment agreements.

The status quo rates, however, do not match estimates of actual costs by as much as around 50% too low and 50% too high. It cannot be said that the status quo rates are reasonable.

The alternative options best meet the Efficiency principle because charging users actual costs ensures that users demand them when the benefits to them exceed the costs. This includes making more use of call-outs where the rates would reduce and less use Establishments overtime where rates would increase.

Under the Equity principle, we have not identified any reasons why the alternative options should not be preferred.

## 16.7 Consultation

The New Zealand Food and Grocery Council is in favour if the proposals.

One other submitter did not specifically support or oppose any of the options listed above. The submitter said they had been over-charged in the past, but the submission isn't clear whether this was an error rather or an example of the over-charging problems in this CRIS.

## 16.8 Conclusion

MPI's preferred option is currently to adopt all the alternative options as they best achieve the cost recovery principles.

## 16.9 Monitoring and review

This chapter has covered a wide range of charges. There may be other charges not identified that need to be brought into line with the methods used in this analysis. These will be picked up in future annual packages.

The extension of the base rate to overtime and call-outs for Establishments potentially generates a large amount of revenue ($600,700 per annum assuming no demand change). The alternative options

[87] This is a very rough estimate and we will endeavour to get better data. While the $600,700 (5.9%) is large relative to overhead and support expenditure, the $455,400 is smaller at 1.7% of total Establishment normal time expenditure. Because of the uncertainty and relatively small impact, we do not propose to adjust Establishment fees until the next full review.

account for this, by reducing the base hourly rate. The increase in charges for over-time will reduce demand for over-time. Some of reduced demand will be a shift in demand to normal-time hours. Some reduction in overtime hours will be a pure loss of hours. The normal times hours also attract the base hourly rate so no financial risk arises from the shift in demand from overtime to normal time, but a financial risk arises for any remaining hours that are lost. This risks opening up a financial deficit. This risk is addressed by MPI's normal constant monitoring and review.

The other rates result in fairly small increases or decreases in revenue and are unlikely to have a noticeable impact on the overall balance of revenue and expenditure for each service. To the extent that they do have an impact, this will be accounted for in the next review of the normal time rates for these services.

# 17 Re-establishment of export eligibility

## 17.1 Background and service description

Most importing countries require consignments of animal products exported to them to be accompanied by official government assurances. An official assurance confirms to the competent authority of an importing country that the consignment to which it relates meets New Zealand requirements as well as additional export requirements specifically agreed between the two countries. MPI issues official assurances in the form of export certificates.

To be eligible for official assurances, products must comply with New Zealand domestic and export requirements. These include the processing and handling of products within regulated premises and compulsory electronic traceability through the MPI electronic certification system (E-cert). Operators and exporters sometimes fail to comply with these requirements due to honest oversight or extenuating circumstances, which result in their products losing export eligibility.

New Zealand's official assurance requirements for animal products are primarily set out in the *Animal Products Notice: Official Assurance Requirements,* which came into force on 1 March 2024. Compliance with this requirement is tracked through E-cert. All operators sending or receiving consignments intended to have official assurances must register to use E-cert.

Examples of processing animal products within the regulatory chain include the following:

- animal material or products intended for official assurances must only be processed within premises that are registered by MPI under the Animal Products Act 1999. The word "process" includes manufacturing, packing, transport and storage
- any operator must raise a transfer document in E-cert for every consignment they transfer to another premises. The transfer document is proof that the consignment was only processed within the regulatory chain as it contains information such as the details of the sending and receiving premises, product description, processing information and confirmation of market eligibility
- honey must only be sourced from MPI-listed beekeepers or intermediaries
- consignments of New Zealand animal products returned from overseas and intended to be re-exported must go through the export eligibility confirmation process.

Operators sometimes fail to comply with such requirements either due to honest oversight or circumstances beyond their control. This means their products lose export eligibility and they must apply to MPI to have the eligibility reinstated.

To re-establish eligibility, MPI staff review the timeline of events (where, when, and why the product was moved) and consult with an independent verifier to check whether there is reason to believe that the product is fit-for-purpose. MPI staff then prepare a decision document including the corrective actions and preventive measures proposed by the operator/exporter to stop the situation from arising in future. The decision document is then presented to the person with delegated authority to approve re-establishment of export eligibility. For example, in the case of fitness-for-purpose of bee products, the Director General of MPI has the delegated authority.

In the case of returned products intended for re-export, MPI needs to do an export eligibility confirmation check. This involves checking various documentation, including non-manipulation certificates, from either an overseas competent authority or shipping company to trace where the product has been and to ensure the product has remained under acceptable control since it left New Zealand.

The process involves checking whether the product's container still has its original seals or, if they have been changed, checking that appropriate traceability has been provided from the right sources to demonstrate control and whether the container/product shows any signs of tampering or damage and whether the container/product remains fit for purpose. This is done by reviewing the Biosecurity Authority Clearance Certificate (BACC) which is issued on return of the product to New Zealand and may involve a verification check of the product by the RMP sites verifier.

The following table show the steps involved.

**Figure 32: Steps re-establishing export eligibility**

| Step | Approximate time (mins) |
|---|---|
| Made aware of issue through various pathways (e.g. dairy exception reporting, MPI Approvals team beekeeper listing expired) | 15 |
| Establish what happened (communications with various parties) | 75 to 90 |
| Receipt, collation of all supporting documentation | 30 |
| Check documentation | 30 |
| Follow-up communications | 75 to 90 |
| Draft decision document | 120 to 180 |
| Review of decision document | 30 to 45 |
| Finalisation of decision document | 30 to 45 |
| Consideration and approval/decline of application | 15 to 30 |
| Approval notification | 15 |
| IT tasks (e.g. saving all related documentation, updating tracking sheets etc.) | 30 |

## 17.2 Status quo and problem

MPI staff must process applications. The problem is that the costs of these services cannot currently be recovered because there is no provision to charge under the Animal Products Act.

Separately, another problem is that while there is a provision to charge for beekeeper listings, the charge currently used[88] does not explicitly refer to beekeeper listings so is not as transparent as it could be because it is a general charge rather than specific to the service.

## 17.3 Options

### 17.3.1 Identifying options

There were two options identified in the consultation document. These were the status quo and full cost recovery. Full cost recovery was identified as it would align with the principle of Efficiency and the general description of the Equity principle (that beneficiaries should pay).

One submitter expressed concern about the impact on industry at a time of economic difficulty. This falls under the Equity principle, and the Minister has been open to considering this concern. A further option, then, is to defer full cost recovery by a year when economic conditions will have improved.

### 17.3.2 Identified options

We have identified the following options:

- Option (1) – The status quo
- Option (2) – Amend the Animal Products (Fees, Charges, and Levies) Regulations 2007 to include an explicit charge from 1 July 2024 for:
  - all activities relating to re-establishment or assessment of fitness-for-purpose
  - beekeeper listing and renewal of listing
- Option (3) – Option (2) but starting from 1 July 2025

## 17.4 Estimated financial and economic impacts

The estimated annual financial impacts of fully recovering costs are listed in the table below.

[88] Matter 43 of the Animal Products (Fees, Charges, and Levies) Regulations 2007.

**Figure 33: Estimated financial impacts of export eligibility re-establishments**

| Option | Annual applications (average) | Number of hours to process | Proposed hourly fee | Estimated average cost charged | Estimated total revenue |
|---|---|---|---|---|---|
| Option (2) – OAR and beekeepers[89] | 12 | 8 to 10 (9 average) | $135 per application plus $33.75 per quarter hour beyond the first hour | $1,215 | $14,580 |
| Option (2) – returned products | 20 | 3.5 to 6 (3.5 average) | | $472.50 | $9,450 |

The variation in processing times (e.g. a range of 3.5 to 6 hours for returned products) is due to some applications being more complex and some which have limited data rather than variations in staff productivity.

## 17.5 Assessment against the cost recovery principles

On Transparency and Justifiability, MPI consulted on the above information with the exception of table specifying each step which has been put together since consultation. Some submitters queried whether costs could be more efficient and thought that re-establishing export eligibility could be a simple job. As detailed above, the job is not simple and involves investigation by MPI. Overall, MPI considers that consultation would have been improved by the addition of the table detailing the steps involved, but that this would only have reduced the industry misunderstandings around the scope of the service rather than affected the assessment about whether costs are reasonable. Overall, MPI considers that the Transparency and Justifiability principles have been sufficiency met such that cost recovery under either Option (2) or (3) is allowed, but Option (3) would have slightly higher achievement of these principles by providing all information prior to charging.

On Efficiency, Option (2) is likely to be the most efficient because it recovers costs from beneficiaries at the earliest opportunity and further information provision is unlikely to result in cost efficiencies being identified.

On Equity, one submitter asked Government to fund this service in order to reduce the costs to industry. Providing financial relief to businesses during economic downturns may be considered to be fair by some. The concern raised, however, was a generic concern about cost pressures on industry and the submitter did not raise a specific reason why this service should be subsidised and not other services. Deferring cost recovery under Option (3) may, by some views about Equity, be fairer as it provides some financial relief, but would raise questions of inequity elsewhere because the same relief if not available to users of other services that are in similar situations. It is for this reason that financial relief is typically provided through centralised schemes rather than discounts on individual charges (unless those charges are directly related to the economic problems facing businesses at the time).

## 17.6 Consultation

One submitter asked for this service to be Government-funded. This submission is covered in the Equity discussion above.

Two submitters, Fonterra and DCANZ, opposed the design change because they believed the processing times were excessive. This is covered in the discussion of the Transparency and Justifiability principles above.

## 17.7 Conclusion

MPI's preferred option is Option (2) – include an explicit charge in regulations for all activities relating to re-establishment or assessment of fitness-for-purpose, and for beekeeper listing and renewal of listing.



[89] This refers to re-assessment of fitness-for-purpose for honey. For beekeeper listings there are no additional charges introduced under Option (2) – the design change is simply to make the regulations more transparent. Between two and four applications per year relate to beekeeping listings.

MPI considers that:

- the Transparency and Justifiability principles are sufficiently met such that cost recovery under Options (2) or (3) is allowed, but that Option (3) would result in a slightly better meeting of the principles
- Option (2) is likely to best meet the Efficiency principle, and
- the option that best meets the Equity principle is for the Government to decide, however, it’s not clear that Option (3) would be a good way of addressing the concern raised by the submitter.

## 17.8 Monitoring and review

Options (2) are (3) would see the introduction of a narrow new fee with small volumes. As such, no specific review is proposed.

# 18 Frozen berries assurance

## 18.1 Background and service description

Ready-to-eat frozen berries are currently categorised as an increased regulatory interest (IRI) food that requires clearance for entry. This is to manage potential food safety risks from pathogens, such as hepatitis A virus, in these products.

New Zealand Food Safety (NZFS) consulted on bringing in new requirements to strengthen the rules for imported frozen berries. New requirements are proposed in the *Food Notice:* Requirements *for Registered Food Importers and Imported Food for Sale* (the Food Notice). The proposed Food Notice re-categorises imported frozen berries from IRI to high regulatory interest (HRI) food.

The proposed requirements will allow importers to use third-party certificates – specifically Global Food Safety Initiative (GFSI)-recognised certificates – issued to overseas manufacturers of frozen berries) as written assurance of compliance to requirements specified in the Food Notice and a means of satisfying clearance requirements for consignments of frozen berries. Most importers are likely to use this option to meet clearance requirements.

To use this clearance option, an importer of frozen berries will have to submit the GFSI-recognised certificate they wish to use and its accompanying manufacturer's declaration to NZFS for checking against the requirements specified in the Food Notice. After NZFS checks the documents (i.e. the certificate and the manufacturer's declaration), NZFS will notify the importer that the certificate and declaration may be used to satisfy clearance requirements for consignments of frozen berries that are imported within the validity period stated in the certificate. NZFS will then keep copies of these documents, and make them available to border Food Safety Officers, so that the importer does not need to provide them repeatedly for each consignment of frozen berries.

## 18.2 Status quo and problem

NZFS will need to spend time checking the documentation, yet they cannot currently charge importers for the time they will expend due to the wording in the existing regulations.

The Food (Fees and Charges) Regulations 2015 set a fee for clearing food that needs clearance (HRI food and IRI food). The regulations also include a fee for 'administration activity' for each consignment of IRI food, but not for HRI food.

Documents from the time the regulations were put in place suggest that all activity including reviewing assurances such as third-party certificates around HRI would fall within the clearance fee, but more recent legal advice is that these certificates need to be reviewed and accepted takes place before the clearance itself and is an administration activity.

As HRI food does not appear in the administration activity fee, the costs of the admin work cannot be recovered.

## 18.3 Options

We have identified the following options:

- Option (1) – Status quo. No provision for charging the costs of the new frozen berries notice
- Option (2) – Amend Fee 46 in the Food (Fees and Charges) Regulations 2015 to include high regulatory interest foods, allowing NZFS to charge for the time it takes to undertake administration activities for HRI food.

NZFS has consulted in October 2023 to January 2024 on changing the Food Notice to make the imported food category of frozen berries HRI instead of IRI.

NZFS will consider the submissions and make any necessary changes to the draft Food Notice, and anticipates that the new Food Notice will be issued in March-April 2024. Option (2) has been developed early in case the re-categorisation does go ahead. If for whatever reason the re-categorisation of frozen berries does not proceed and its IRI status is retained, then Option (2) will not be implemented.

## 18.4 Estimated financial and economic impacts

Option (2) would result in $14,175 per annum being recovered from frozen berry importers.

Figure 34 below shows how this sum was calculated.

**Figure 34: Financial implications of Option (2)**

| Number of importers | Number of manufacturers per importer | Number of certificates issued per year[90] | Number of hours it takes to process a certificate | Proposed fee | Estimated cost charged per certificate | Estimated total annual revenue |
|---|---|---|---|---|---|---|
| 35 | 3 | 105 | 1 | $135 per hour | $135 | [91]$14,175 |

The analysis in Figure 34 is based on the information provided by importers who were interviewed by NZFS. Importers said they each had around 3 to 4 manufacturers. It takes NZFS staff up to an hour to process a certificate but can be as low as 25 minutes. The tasks involved in processing a certificate consist of evaluation, uploading to a digital filing system, recording the certificate and relevant data centrally, and communicating the decision with the importer.

## 18.5 Assessment against the cost recovery principles

MPI considers that consultation on the information in this section is sufficient to meet the Transparency principle.

On Justifiability, the proposed charge is the same rate for administration time for IRI imported frozen berries. It is justifiable to charge the same amount because the expertise involved for HRI food is no less than for IRI food.

Option (2) promotes greater Efficiency because it ensures those who directly benefit from the certificates (in the sense that it allows them to import goods to sell) are paying for the cost of administering them, meaning that importers only use the service when worthwhile.

On Equity, importers are already paying for administering IRI frozen berries, so it could be considered equitable for them to continue paying when frozen berries are re-categorised as HRI food. We have not identified any other reasons why it would be inequitable for the beneficiaries to pay, however we are open to feedback.

## 18.6 Consultation

One submitter did not support Option (2) as they were concerned that introducing cost recovery in this area would result in a 'domino-effect' fees would automatically apply to other food products. Option (2) is intended specifically for frozen berries given their high regulatory interest status, so implementing Option (2) will not automatically result in other foods having similar charges placed upon them.

United Fresh – a peak body for fruit and vegetable growers, wholesalers, and retailers – submitted a response which supported Option (2), as they believed charging for administration of HRI frozen berries is an efficient way to cover the costs of verifying the safety of imported frozen berries.

## 18.7 Conclusion

As it best meets the cost recovery principles, MPI's preferred option is Option (2) – amending the Food regulations to allow NZFS to charge for the time it takes to process certificates relating to imports of frozen berries.

## 18.8 Monitoring and review

As this is a minor change, no specific review is necessary.

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[90] Number of importers multiplied by the number of manufacturers.

[91] $135 multiplied by 105.

# 19 Dairy quota certificates

## 19.1 Background and service description

MPI allocates quota for dairy products exported to the United States of America, the European Union, the United Kingdom, Japan, and the Dominican Republic. Quotas allow certain quantities of New Zealand dairy products to receive beneficial tariff rates when exported to these countries.

There are certain requirements dairy exporters must meet before they are eligible to be allocated quota. For example, one of the requirements is that an exporter must collect at least 0.1 percent of total milk solids produced by all New Zealand dairy farmers.

If a dairy exporter meets the requirements, then they are allocated export licences for these countries. Export licences indicate what share of the quota an exporter has for each country. The process involved with working out quota shares is a 'club good' as the benefit of it is shared among the group of exporters, rather than any individual exporter.

Dairy exporters can receive preferential tariff rates when exporting to the above countries once they obtain their quota licence. For this to occur, the importing country requires a certificate stating that the consignment is: (a) being shipped under the quota licence, and (b) meets certain dairy product standards.[92] MPI issues these certificates to the exporters. Certificates are a 'private good', because they give an individual exporter direct commercial benefits by authorising them to sell their dairy products to these markets. Other exporters are not receiving those same commercial benefits because the certificate only confers authorisation to the individual exporter, not the club as a whole.

Due to differing overseas requirements, it takes anywhere between a quarter of an hour to four hours to process a certificate depending on the country being exported to. It takes 15 minutes to process a certificate for the Dominican Republic, Japan, and the USA; 60 minutes for the United Kingdom; and 240 minutes for the European Union.

The following tables show the steps involved with issuing certificates depending on the country being exported to.

**Figure 35: European Union**

| Step | Approximate time (minutes) |
|---|---|
| Receipt, collation of all supporting documentation | 15 |
| First check | 75 |
| Communications | 10 |
| Second check | 75 |
| IT tasks | 5 |
| Approving application | 5 |
| Manually preparing draft certificate | 20 |
| Review of certificate | 15 |
| Printing and signing certificate | 10 |
| Photocopying the certified copy | 5 |
| Scanning certificate electronically for record keeping | 10 |
| Complete and print approval checklist | 10 |
| Collate all documents and save in MPI's electronic document management system | 10 |
| Collate all printed documents for filing | 5 |
| Collate certificate for dispatch | 5 |
| Inform exporter that certificate has been issued | 2 |

**Figure 36: United Kingdom**

| Step | Approximate time (minutes) |
|---|---|

92 For example, the EU's standards require butter to be at least six weeks old and have a fat content of no less than 80%. The certificate confirms both that the consignment of butter meets these standards and is within the quota allocation.

| | |
|---|---|
| Making sure all correct information has been provided for approval | 20 |
| Making sure the template form is filled in correctly | 20 |
| Review and approval; matching with corresponding documents | 20 |

**Figure 37: Dominican Republic, Japan, and USA**

| Step | Approximate time (minutes) |
|---|---|
| Making sure all correct information has been provided for the system; approval | 15 |

## 19.2 Status quo and problem

Under cost recovery guidelines and the Efficiency principle, the costs of private goods should be recovered from the individual exporter than benefits while the costs of club goods should be recovered from exporters in proportion to the share of benefits they receive.

Charging under the levy means that the cost of certificates is being cross-subsidised with those who infrequently export larger volumes paying too much and those who frequently export smaller volumes paying too little.

The Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015 regulates cost recovery in this area. The problem is that the regulations recover the cost of certificates (the private goods) using the dairy quota levy[93] (which is meant to cover the cost of club goods). This means the dairy quota levy is cross-subsidising the cost of issuing certificates. The total cost of processing certificates makes up about $42,795 of the $100,000 levy per year.

## 19.3 Options

We have identified the following options:

- Option (1): Status quo – the approximate $42,795 annual cost of processing certificates continues to be cross-subsidised by the dairy quota levy
- Option (2): Amend the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015 to ensure the costs of processing certificates are charged separately from the dairy quota levy. In line with similar services, the hourly rate would be $135 per hour.
- Option (2) would be accompanied by a corresponding reduction in the dairy quota levy from $100,000 to about $57,205.

The proposed options only relate to a change in how the cost of issuing certificates is recovered. We are not proposing broader changes to the dairy quota system or the Quota Compliance Programme framework under the Animal Products Act 1999.

## 19.4 Estimated financial and economic impacts

Option (1) over-recovers via the dairy quota levy by about $42,795 per annum. This cross-subsidises export certificates.

Option (2) would introduce a $135 per hour charge for export certificates. This is expected to raise around $42,795 per annum based on average annual applications of 317 and an average processing time of one hour.[94]

With the cost of certificates now being recovered directly, the dairy quota levy would reduce from $100,000 to about $57,205.

[93] The levy is the charge under Part 6 of the Schedule to the Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015. The regulations set the formula with the amount to be recovered set by MPI via an Animal Products Notice. MPI would implement the levy reduction by issuing a new Notice.

[94] Applications have numbered 344 in 2020, 313 in 2021, and 296 in 2022

## 19.5 Assessment against the cost recovery principles

On Transparency and Justifiability, Fonterra considered that the service could be more time-efficient and that the current charge structure (which does not vary by time) would encourage officials to find efficiencies. While the proposed charge in Option (2) is the same as the rate charged for official assurance certificates and this rate if regularly reviewed to ensure they reflect reasonable costs, there are system costs that MPI could have been more transparent about. MPI considers that further consultation would be warranted to sufficiently meet the Transparency and Justifiability principles.

Additionally, officials consider that related fees also require review and that it would be prudent to consider this service within that review.

## 19.6 Consultation

One business supported reducing the ‘over-recovery’ on the levy. This is Option (2). The New Zealand Food and Grocery Council also supported the preferred option.

Fonterra preferred the status quo saying quota owners are the ones requesting certificates and, as beneficiaries of the certificates, pay for them through the levy. This is true, however, the cost of certificates is being cross-subsidised with those who infrequently export larger volumes paying too much and those who frequently export smaller volumes paying too little. MPI could have made this point clearer in the discussion document.

As discussed earlier, Fonterra also raised questions about the efficiency of the service.

## 19.7 Conclusion

While the best way of recovering justifiable costs would be through Option (2), MPI’s preferred option is to not progress the consulted proposal at this stage.

## 19.8 Monitoring and review

MPI will be doing a wider review of related fees and will return to this proposal as part of that.

# 20 Appendix A: MPI's cost recovery principles

MPI's four Cost Recovery Principles are:

- Transparency – costs are transparent
- Justifiability – costs are reasonable
- Efficiency – net benefits are maximised
- Equity – costs are fair.

These four principles appear in much of MPI's legislation.[95]

The legislative definition and interpretations of each principle are set out below.

## 20.1 Transparency

### 20.1.1 Legislation

'Costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.'

### 20.1.2 Policy interpretation

**'**Transparency' means providing adequate information to people such that they can understand charges and have an opportunity to input into their calculation and setting.

'Identified and allocated…' means presenting the costs in a way that people can see what services generate what costs, and when. 'Allocated' does not mean 'charged'. How costs are charged is a result of consideration of all the principles.

## 20.2 Justifiability

### 20.2.1 Legislation

'Costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service.'

### 20.2.2 Policy interpretation

'Reasonable costs' are those necessary to deliver the service at the demanded quantity and quality[96], acknowledging that small inefficiencies may occur from time to time. Large, persistent inefficiencies would not be justifiable costs.

## 20.3 Efficiency

### 20.3.1 Legislation

'Costs should generally be allocated and recovered to ensure that maximum benefits are delivered at minimum cost.'

[95] https://www.legislation.govt.nz/act/public/1999/0093/latest/whole.html#DLM35716
https://legislation.govt.nz/act/public/2003/0114/latest/DLM223236.html

[96] The quality of service is sometimes determined by overseas requirements, sometimes by New Zealand Government requirements (e.g. to address public health risks), and sometimes by users (e.g. how much effort to expend to maintaining market access to countries). The use/quantity of those services is determined by users when deciding how much to produce and export and whether to operate in particular markets.

### 20.3.2 Policy interpretation

Efficiency is about how to recover the justified costs and is made up of several elements:

- Costs should be charged to:
  - Those who benefit from the service – if the customer pays, they have the incentive to demand only those services that provide them benefit compared to other things they might purchase. If parties other than the beneficiary pays, then the beneficiary will demand more services than otherwise
  - Those whose behaviour can reduce the need and cost of the service – this factor covers situations where there are externalities. In these cases, it may be efficient to charge the third party as well, or instead of, charging the customer/beneficiary.
- Charges should account for administrative costs – for instance, sometimes it will be administratively prohibitive to charge according to precisely charge those that benefit or those that can reduce costs, so a simplified approach is warranted.
- Charges should be competitive neutral – MPI should not use any dominant market position to charge inflated prices and make more than a fair economic return.

### 20.3.3 Efficiency and the type of costs

All relevant costs are potentially recoverable, including:

- direct costs associated with services, such as staff time, travel costs, systems and equipment used in delivering the specific service, and
- support costs associated with delivery of the service, such as training and development costs for staff, administrative support costs, management costs, project costs and capital costs, and
- a proportion of wider business support or common costs, for example costs associated with corporate functions like finance, human resources management, information technology, and costs of property and utilities.

It is administratively impractical to precisely allocate wider business support or common costs to the wide range of MPI services. Instead, staff hours are used as a proxy on the assumption that the more staff hours are part of a service, the more property, human resources and other wider support and common costs the service will use.

### 20.3.4 Efficiency and type of services

If costs are to be recovered from beneficiaries, the appropriate type of charge to use depends on whether the service is a private good or club good.[97]

Fees are used for private goods – services that are of direct benefit to individual businesses. Levies pay for club goods – services that benefit sectors or groups of businesses as a whole.

If costs are to be recovered from exacerbators, the appropriate type of charge is a levy on the activity, or proxy for the activity, that causes the risk.

## 20.4 Equity

### 20.4.1 Legislation

'Funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power or service at a level commensurate with their use or benefit from the function, power, or service.'

[97] There is also a category of merit goods – services which the community as a whole desires more of than would be provided if charged for at full cost.

### 20.4.2 Policy interpretation

The Government will usually deem it fair that beneficiaries pay.

On other occasions, the Government will determine that other fairness considerations mean that another party contributes to the costs. For example, sometimes industry will be happy to support parts of its industry. Other times, Governments will want to provide additional support.

## 20.5 Relationship between the Cost Recovery Principles

The principles build on each other with Transparency and Justifiability providing a foundation to the consideration of Efficiency and Equity.

Figure 38 summarises the relationship between the principles.

### 20.5.1 Transparency and Justifiability come before considering Efficiency and Equity

Around Justifiability, MPI legislation says that MPI can only recover reasonable costs.

While the Transparency principle itself doesn't have a similarly strong statement, the very next clause says that costs should not be recovered unless there's been adequate consultation with affected parties including 'sufficient time and information to make an informed contribution'. Adequate consultation can only happen if MPI has been transparent.

With language of 'should not' and 'only', Transparency and Justifiability require[98] some minimum standard to be met. In contrast, Efficiency and Equity are to be achieved 'generally'.

This sequential approach to the principles, rather than considering the principles simultaneously, makes sense. It is not possible to be confident that the efficient way of cost recovering has been identified if costs have not been sufficiently justified, or affected parties have not had a reasonable opportunity to test the costs.

### 20.5.2 There will sometimes be trade-offs between Efficiency and Equity

The 'generally' in the Equity principle means that a Government might decide to charge someone other than the beneficiary. The 'generally' in the Efficiency principle means that cost recovery settings will not always maximise benefits and minimise costs.

This also makes sense. If the Government determines that it is more equitable to pay for a service through Crown funding rather charging beneficiaries or those whose behaviour can reduce the need for the service, then the cost recovery setting will not be maximising net benefits.

The two 'generally' allow for trade-offs to be made between Efficiency and Equity.



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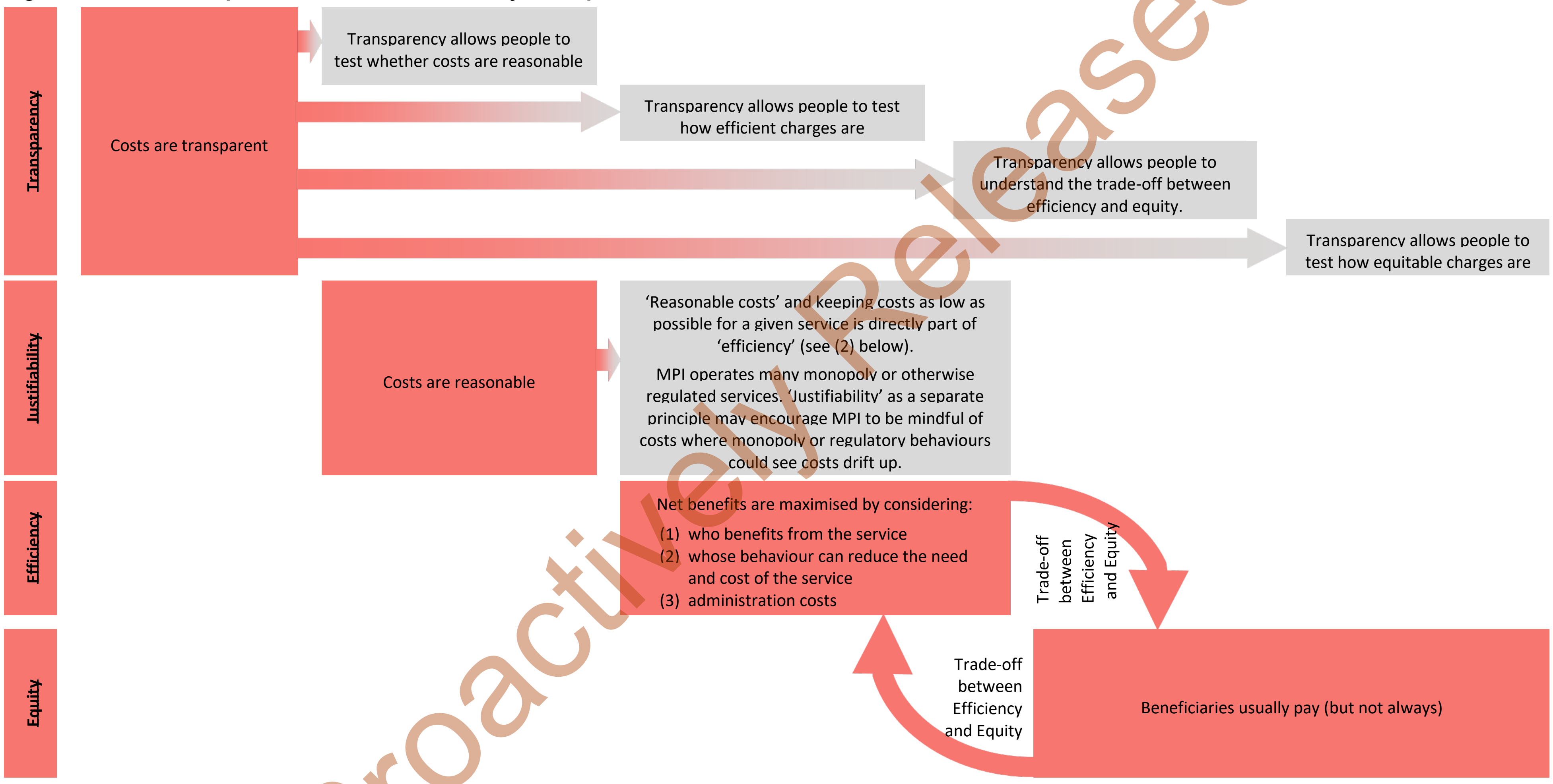
[98] Legislation, such as the Animal Products Act 1999, however, also say that failure to consult sufficiently does not affect the validity of cost recovery charges.

**Figure 38: Relationship between the Cost Recovery Principles**



# 21 Appendix B: Current fees for ACVM services

| Item | Service | Current fee |
|---|---|---|
| 1 | Consideration by an ACVM officer whether to give authority or clearance under section 5 or 6 of the Act, including determining which of the categories in section 6(1) of the Act goods fall under | $102.27 per authority or clearance<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 2 | Application under section 8C of the Act for approval of the importation, manufacture, sale, or use of an agricultural compound without registration | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 3 | Assessing whether an application to register a trade name product complies with section 10 of the Act | $67.50 per application<br>Plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2 |
| 4 | Responding to inquiries about form and content of applications under section 10 of the Act | $135 per inquiry<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 5 | Application under section 9 of the Act to register a trade name product or to vary 1 or more conditions on a registered trade name product | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 6 | Considering waiver of notice under section 15 of the Act | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 7 | Registering in the register of trade name products, in accordance with section 21(1)(d) of the Act, a trade name product or a variation of 1 or more conditions on a registered trade name product | $405 per registration or variation |
| 8 | Inspecting the register of registered trade names in accordance with section 24(5) of the Act | $135 per inspection<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 9 | Application to provisionally register a trade name product of an agricultural compound under section 26 of the Act | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |

| | | |
|---|---|---|
| 10 | Application for approval of an operating plan under section 28 of the Act, or Director-General giving notice of an amendment to, or revocation of, an approval of an operating plan | $135 per application or notice<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 11 | Monitoring compliance with conditions imposed (whether on the registrant, importer, manufacturer, seller, purchaser, or user) under the Act or regulations made under the Act | $135<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 12 | Suspension under section 30A of the Act of the registration of a trade name product registered under section 21 or 27 of the Act | $135 per suspension<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 13 | Application under section 35C of the Act for the Director-General to issue a certificate of compliance under section 35A of the Act | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 14 | Recall of an agricultural compound under section 35G of the Act | $135 per recall<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 15 | Application for recognition under section 44C, 44E, or 44G of the Act | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 16 | Recognition of a person under section 44F of the Act without an application | $135 per recognition<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 17 | Application for renewal of recognition under section 44Q of the Act | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 18 | Application under section 44S of the Act for a new notice of recognition in substitution for an existing notice of recognition | $135 per application<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 19 | For each year for which an agency or a person is recognised in accordance with section 44T of the Act | $135, payable annually<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |

| | | |
|---|---|---|
| 20 | Inspection in accordance with section 64 of the Act for the purpose of enforcing provisions of the Act | $135 per inspection<br>Plus assessment charge on hourly basis after the first hour, as specified in Part 2 |
| 21 | Performance or exercise of a function, duty, or power that is—<br>(a) required to be undertaken under the Act, including under any regulations or notices; and<br>(b) not prescribed elsewhere in these regulations | $67.50 per application<br>Plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2 |
| **Discretionary services (non-regulated) Base hourly rate of $135** | | |
| **Certificates** | | |
| Certificates of Compliance<br>Certificate of Origin for Pharmaceutical Veterinary<br>Products<br>Good Manufacturing Practice Certificate | | $135 per certificate<br>Plus charge on hourly basis after the first hour. |
| **Class determinations** | | |
| One application | | $135.00 |
| Multiple applications | | Charge on hourly basis |
| **Data assessment service (DAS)** | | |
| Initial estimated cost provided | | Charge on hourly basis |
| **Deviation from information specified in ACVM Information Requirements** | | |
| Initial estimate provided | | Charge on hourly basis |
| **Import approvals** | | |
| Special circumstances | | $135.00 |
| Additional time over one hour | | Charge on hourly basis |
| **Premises inspections** | | |
| HGP distributor inspection<br>GMP inspection | | Charge on hourly basis |
| **Other discretionary services** | | |

| | |
|---|---|
| Meetings with parties on request (non- Trade Name Products) | Charge on hourly basis |
| Disbursements (such as travel, courier) | Actual and reasonable cost |
| Photocopying/scanning | Charge on hourly basis |

# 22 Appendix C: Services under the ACVM annual levy

| Service type | Key activities |
| --- | --- |
| Standards and guidelines (TNPs) | • Development of standards, conditions, and requirements, that apply to:<br>○ applications for registration of trade name products or specified classes of trade name products; or<br>○ registered trade name products or specified classes of registered trade name products<br>• Development and maintenance of guidelines to support TNP registration<br>• Participation in international forums to support the New Zealand industry, including OECD, CODEX, VICH. |
| Administration for TNPs | • Maintaining the IT platform<br>• Updating the public registers<br>• Providing written and web-based information and guidance material<br>• Providing advice<br>• Responding to information requests |
| Monitoring and auditing | • Auditing and reporting on system performance<br>• Receiving, investigating and actioning non-compliant products and behaviour (registered and exempt)<br>• Slice-of-life audits<br>• Routine monitoring and auditing inspections<br>• Development of guidance materials on reporting of non-compliance and conducting product recalls<br>• Running the adverse event programme<br>• GMP guidance and support |
| Operational support | • Development and maintenance of guidance for border biosecurity staff, particularly to assess self-determining class determinations. |