



Biosecurity (Costs) Regulations 2006

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 7th day of August 2006

Present:

The Right Hon Helen Clark presiding in Council

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

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Schedule
Costs payable for activities

Regulations**1 Title**

These regulations are the Biosecurity (Costs) Regulations 2006.

2 Commencement

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

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Biosecurity Act 1993

activity means the exercise, by a general inspector, a veterinary inspector, or a biosecurity adviser, of any function, power, or duty prescribed in the second column of the Schedule

agricultural compound has the same meaning as in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997

animal means anything that is—

- (a) a living stage of an organism that is a member of the animal kingdom; or
- (b) the carcass, egg, or semen of an organism that is a member of the animal kingdom

animal material—

- (a) means organic material that is derived from, or is an excretion or secretion of, an animal; but
- (b) does not include organic material if an inspector is satisfied that it has been treated so that it is free of any unwanted organism

biosecurity adviser means a person whose role includes—

- (a) issuing permits required under import health standards; or
- (b) approving transitional and containment facilities and their operators

cleared means given a clearance, under section 26 of the Act, for the entry of goods into New Zealand

consignment means all goods listed on the documentation accompanying the goods

general inspector means an inspector who is not a veterinary inspector

inspector means a person appointed under the Act as a general inspector or a veterinary inspector

machinery has the same meaning as in section 2(1) of the Health and Safety in Employment Act 1992

moped has the same meaning as in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986

motorcycle has the same meaning as in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986

motor vehicle has the same meaning as in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 but does not include—

- (a) machinery; or
- (b) agricultural vehicles (including tractors, combine harvesters, and other vehicles designed primarily for use on a farm)

offshore, in relation to a craft, means situated within the limits of the territorial sea (as described in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) and not berthed or moored at a wharf or similar structure

plant means a member of the plant kingdom

shipping container means a sea container, and includes a standardised device used to contain or hold goods while being—

- (a) loaded for carriage by sea; or
- (b) carried by sea; or
- (c) unloaded after carriage by sea

veterinary inspector means an inspector who is registered as a veterinarian or a specialist under the Veterinarians Act 2005

veterinary medicine has the same meaning as in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997.

- (2) A term or expression used in these regulations that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

General provisions

4 Costs payable to Director-General

Costs payable under these regulations must be paid, on demand, to the Director-General.

5 Costs inclusive of GST

Costs payable under these regulations are inclusive of goods and services tax.

6 Payment of costs

- (1) Costs are payable under these regulations—
- (a) for any activity prescribed in the second column of the Schedule; and
 - (b) at the rate specified for the activity in the third column of the Schedule; and
 - (c) by the person specified in the fourth column of the Schedule.
- (2) Costs are also payable for—
- (a) travel, under regulation 8;
 - (b) waiting time, under regulation 9;
 - (c) call-out time, under regulation 10.
- (3) Costs payable for the activities specified in items 16 and 18 of the Schedule are, if an inspector requires, payable in advance of the activities being carried out.
- (4) This regulation is subject to regulation 12.

Calculation of costs

7 Hourly rate costs

- (1) Costs specified in these regulations as payable at an hourly rate must be calculated by—

- (a) adding together the total number of 15-minute units spent by an inspector or a biosecurity adviser on an activity, travel, waiting, or a call out, as the case may be; and
 - (b) multiplying the total number of units by 25% of the applicable hourly rate.
- (2) For the avoidance of doubt, a minimum charge of 25% of the hourly rate is payable if the time spent by an inspector or a biosecurity adviser is 15 minutes or less.
- (3) In this regulation, **15-minute unit** means any period of 15 minutes or less.

8 Travel costs

- (1) Travel costs are payable for an activity that requires an inspector or a biosecurity adviser to leave his or her base or, in the case of a call out under regulation 10, any other place.
- (2) Travel costs are—
 - (a) \$45.00, for an activity at a site that is 10 km radius or less from the base (or an equal share of that cost if more than 1 activity is carried out at the same site);
 - (b) \$70.00, for an activity at a site that is more than 10 km radius, but not more than 25 km radius, from the base (or an equal share of that cost if more than 1 activity is carried out at the same site);
 - (c) \$140.00, for an activity at a site that is more than 25 km radius, but not more than 50 km radius, from the base (or an equal share of that cost if more than 1 activity is carried out at the same site);
 - (d) \$200.00, for an activity at a site that is more than 50 km radius, but not more than 75 km radius, from the base (or an equal share of that cost if more than 1 activity is carried out at the same site);
 - (e) to be calculated in accordance with subclause (3), for an activity at a site that is more than 75 km radius from the base.
- (3) Travel costs for an activity at a site that is more than 75 km radius from the inspector's or the biosecurity adviser's base must be calculated by adding together—
 - (a) costs calculated at the applicable hourly rate for the time that the inspector or biosecurity adviser has spent away from his or her base (or an equal share of that time

- if more than 1 activity is carried out at the same site); and
- (b) costs at the rate of 69 cents per kilometre for the distance travelled by the inspector or biosecurity adviser (or an equal share of that distance if more than 1 activity is carried out at the same site); and
 - (c) any actual and reasonable costs associated with the activity, including accommodation, airfares, and meals (or an equal share of those associated costs if more than 1 activity is carried out at the same site).
- (4) The hourly rates for travel costs are—
- (a) \$100.00 for a general inspector or a biosecurity adviser;
 - (b) \$96.10 for a veterinary inspector.
- (5) Travel costs are payable—
- (a) by the person, specified in the fourth column of the Schedule, responsible for paying the costs of the activity; and
 - (b) in addition to any other costs required to be paid under these regulations.

9 Waiting-time costs

- (1) Waiting-time costs are payable for an inspector or a biosecurity adviser who—
- (a) arrives at a site, at a designated time, to undertake an activity; and
 - (b) discovers that the goods that are to be the subject of the activity are not available.
- (2) Waiting-time costs are payable, at the applicable hourly rate,—
- (a) for each inspector or biosecurity adviser involved in the activity; and
 - (b) for the time each inspector or biosecurity adviser spends in waiting for the goods to become available.
- (3) The hourly rates for waiting-time costs are—
- (a) \$100.00 for a general inspector or a biosecurity adviser;
 - (b) \$96.10 for a veterinary inspector.
- (4) Waiting-time costs are payable—
- (a) by the person, specified in the fourth column of the Schedule, responsible for paying the costs of the activity; and

- (b) in addition to any other costs required to be paid under these regulations.

10 Call-out costs

- (1) Call-out costs are payable for an inspector or a biosecurity adviser who, having left his or her place of work, has been recalled to duty for the purpose of carrying out an activity.
- (2) Call-out costs are payable, at the applicable hourly rate,—
 - (a) for each inspector or biosecurity adviser that has been recalled; and
 - (b) for the duration of the recall period.
- (3) The hourly rates for call-out costs are—
 - (a) \$100.00 for a general inspector or a biosecurity adviser;
 - (b) \$96.10 for a veterinary inspector.
- (4) Call-out costs are payable—
 - (a) by the person, specified in the fourth column of the Schedule, responsible for paying the costs of the activity; and
 - (b) in addition to any other costs required to be paid under these regulations.

Other provisions

11 General inspector to decide whether goods imported for personal use of importer

- (1) A general inspector must decide whether, in his or her opinion, the goods specified in the second column of item 1 of the Schedule are being imported—
 - (a) for the personal use of the importer (in which case no inspection costs are payable); or
 - (b) for any other purpose (in which case the importer must pay the inspection costs specified in the third column of item 1 of the Schedule).
- (2) In forming his or her opinion, an inspector must take account of the following matters:
 - (a) the nature of the goods; and
 - (b) the quantity of the goods; and
 - (c) the intended use of the goods after importation; and
 - (d) the requirements of subclauses (3) and (4).
- (3) An inspector must treat the goods as being imported for the personal use of the importer, if the goods are—

- (a) unaccompanied personal baggage and effects:
 - (b) unaccompanied household goods that are not intended for any 1 or more of the uses specified in subclause (4)(a) to (c).
- (4) An inspector must treat the goods as being imported for a purpose other than for the personal use of the importer, if the goods are being imported for—
- (a) trade or reward;
 - (b) testing or analysis;
 - (c) distribution to other persons (unless the distribution is in the nature of a personal gift).

12 Waiver of costs

- (1) The Director-General may, if satisfied that either of the circumstances in subclause (2) exist,—
- (a) waive, in whole or in part, the payment of any costs required by these regulations to be paid; and
 - (b) if all or part of those costs have already been paid, refund all of the amount paid to the person who paid it.
- (2) The circumstances are—
- (a) the work actually done does not justify the payment (or full payment) of the costs concerned; or
 - (b) special circumstances that apply to the particular case.

13 Revocation

- (1) The Biosecurity (Costs) Regulations 2003 (SR 2003/77) are revoked.
- (2) However, despite the revocation of the Biosecurity (Costs) Regulations 2003, regulation 7 of those regulations continues in force until 1 October 2006.
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Schedule Costs payable for activities

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Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
<i>Inspection at International Mail Centre</i>			
1	Inspection of goods (other than goods imported for the personal use of the importer) at the International Mail Centre, for the purpose of ascertaining whether or not those goods should be cleared.	\$100.00 per hour for each general inspector involved.	Importer.
2	Tests, examinations, and treatments of imported goods, that harbour, or may harbour, an organism, that are— (a) carried out by the Ministry's Quarantine Service; and (b) necessary to identify the organism, so as to enable an inspector to decide whether the goods should— (i) be cleared; or (ii) be moved from a transitional facility to a containment facility; or (iii) continue to be held in a transitional or containment facility (as the case may be).	\$100.00 per hour for each general inspector involved; and actual and reasonable costs of the tests, examinations, and treatments.	Importer.

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
3	Surveillance of discharge of goods, for the purpose of ascertaining whether or not the goods should be cleared.	\$100.00 per hour for each general inspector involved.	Importer.
<i>Inspection of shipping containers and offshore craft</i>			
4	Inspection of a shipping container that does not meet entry requirements.	\$100.00 per hour for each general inspector involved.	Importer, or any other person (including the person's or importer's agent), who transports the shipping container by ship.
5	Inspection of a craft located offshore, for the purpose of determining whether the craft contains any organism that poses a threat to the biosecurity of New Zealand.	\$100.00 per hour for each general inspector involved.	Operator of the craft.
<i>Inspection of motorcycles, mopeds, and motor vehicles</i>			
6	Inspection, and each re-inspection after treatment, of a consignment, of a single used motorcycle or moped, for the purpose of ascertaining whether or not the consignment should be cleared.	\$15.00 per motorcycle or moped.	Importer.
7	Inspection, and each re-inspection after treatment, of a consignment, of a single used motor vehicle having a gross laden weight not exceeding 3 500 kg (other than a motorcycle or moped), for the purpose of ascertaining whether or not the consignment should be cleared.	\$25.00 per motor vehicle.	Importer.
8	Inspection, and each re-inspection after treatment, of a consignment, of a single used motor vehicle having a gross laden weight exceeding 3 500 kg, for the purpose of ascertaining whether or not the consignment should be cleared.	\$50.00 per motor vehicle.	Importer.

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
<i>Inspection of goods not prescribed elsewhere in Schedule</i>			
9	Inspection, and each re-inspection after treatment, of any goods that are required to be inspected under the Act for the purpose of ascertaining whether or not the goods should be cleared, and for which costs are not prescribed elsewhere in the Schedule.	\$100.00 per hour for each general inspector involved.	Importer.
<i>Monitoring controls on new organisms and inspection of animals or animal material</i>			
10	Monitoring controls on new organisms in containment facilities.	\$100.00 per hour for each general inspector involved; and \$96.10 for each veterinary inspector involved.	Person holding an approval (issued under the Hazardous Substances and New Organisms Act 1996) to import the organism into containment, or to hold the organism in containment; or (where there is no approval) the importer or owner of the organism or the goods that harbour the organism.
11	Inspection of an animal that is intended to be cleared, or directed to a transitional or containment facility, on arrival.	\$28.70 per animal.	Importer.
12	Inspection of an animal that— (a) is on board a craft within New Zealand territory; and (b) is not intended to be cleared.	\$100.00 per hour for each general inspector involved; and \$96.10 per hour for each veterinary inspector involved.	Operator of craft.
13	Inspection and monitoring of an animal held in a transitional or containment facility, for the purpose of ascertaining whether the animal should— (a) be cleared; or (b) be moved from a transitional facility to a containment facility; or	\$100.00 per hour for each general inspector involved; and \$96.10 per hour for each veterinary inspector involved.	Importer.

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
	(c) continue to be held in a transitional or containment facility, as the case may be.		
14	Inspection of a consignment of animal material (other than fish meal), for the purpose of ascertaining whether or not it should be cleared.	\$28.70 for each consignment of trade samples that are not veterinary medicines, biological products, or agricultural compounds; and \$57.40 for each consignment in every other case.	Importer.
<i>Inspection and monitoring of plant</i>			
15	Inspection and monitoring of a plant, held in a transitional or containment facility, for the purpose of ascertaining whether it should— (a) be cleared; or (b) be moved from a transitional facility to a containment facility; or (c) continue to be held in a transitional or containment facility, as the case may be.	\$100.00 per hour for each general inspector involved	Importer.
<i>Treatment, destruction, or disposal of risk goods</i>			
16	Treatment, before being cleared, of risk goods imported— (a) in a person's baggage (whether or not the baggage is accompanied); or (b) through the mail; or (c) among personal effects.	Actual and reasonable costs of the treatment; and any costs of packaging, storing, forwarding, and returning the goods before and after treatment.	Importer.
17	Treatment of imported risk goods, other than risk goods specified in item 16 of the Schedule.	Actual and reasonable costs of treatment; and any costs of packaging, storing, forwarding, and returning the goods before and after treatment.	Importer.

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
18	Destruction, transportation, reshipment, or other disposal of goods.	Actual and reasonable costs of destruction, transportation, reshipment, or other disposal.	Importer.
19	Supervising, or advising on, destruction, transportation, reshipment, or other disposal of goods.	\$100.00 per hour for each general inspector and biosecurity adviser involved; and \$96.10 per hour for each veterinary inspector involved.	Importer.
<i>Permits issued under import health standards</i>			
20	Processing an application for a permit under import health standards.	\$105.00 for each application processed.	Applicant.
21	Processing an application for an amendment to a permit issued under import health standards.	\$105.00 for each application processed.	Applicant.
<i>Transitional and containment facilities</i>			
22	Processing an application for approval of a transitional or containment facility.	\$100.00 per hour for each general inspector and biosecurity adviser involved; and \$96.10 per hour for each veterinary inspector involved.	Applicant.
23	Inspecting and compliance auditing of a transitional or containment facility, to ascertain whether or not it should be approved, or continue to be approved, under section 39 of the Act.	\$100.00 per hour for each general inspector and biosecurity adviser involved; and \$96.10 per hour for each veterinary inspector involved.	Applicant or facility operator (as the case may be).
24	Processing an application for approval as a facility operator.	\$100.00 per hour for each general inspector and biosecurity adviser involved; and \$96.10 per hour for each veterinary inspector involved.	Applicant.

Item	Function, power, or duty for which costs are payable	Costs	Costs payable by
25	Investigating and compliance auditing of a facility operator, or proposed operator, to ascertain whether or not the operator or proposed operator should be approved, or continue to be approved, under section 40 of the Act.	\$100.00 per hour for each general inspector and biosecurity adviser involved; and \$96.10 per hour for each veterinary inspector involved.	Applicant or facility operator (as the case may be).
<i>Functions, powers, and duties not prescribed elsewhere in Schedule</i>			
26	Performing a function, power, or duty— (a) required to be undertaken under the Act; and (b) not prescribed elsewhere in the Schedule.	\$100.00 per hour for each general inspector and biosecurity adviser involved; and \$96.10 for each veterinary inspector involved.	Person whose actions result in the function being required.

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, prescribe matters in respect of which costs are recoverable under the Biosecurity Act 1993.

These regulations replace the Biosecurity (Costs) Regulations 2003. However, regulation 7 of those regulations continues in force until 1 October 2006.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 10 August 2006.

These regulations are administered by the Ministry of Agriculture and Forestry.
