



**Ministry of Agriculture and Forestry**  
Te Manatu Ahuwhenua, Ngaherehere

**MAF PUBLIC DISCUSSION PAPER No.14**

**REVIEW OF THE DAIRY INDUSTRY (FEES)  
REGULATIONS 1990**

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New Zealand  
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# TABLE OF CONTENTS

<b>1. INTRODUCTION.....</b>	<b>1</b>
1.1 REASONS FOR REVIEW .....	1
1.2 PURPOSE OF THE PAPER .....	1
1.3 PROPOSALS ARE INTERIM.....	1
1.4 THE PROCESS OF REVIEW.....	1
1.5 SCOPE OF THE PAPER.....	2
<b>2 BACKGROUND.....</b>	<b>3</b>
2.1 LEGISLATIVE FRAMEWORK.....	3
2.2 FEES REGULATIONS UNDER THE DAIRY INDUSTRY ACT .....	3
2.3 THE OPTIMAL REGULATORY MODEL .....	3
<b>3 SERVICES PROVIDED .....</b>	<b>5</b>
3.1 MAF DAIRY AND PLANTS GROUP .....	5
3.2 STANDARDS SETTING .....	5
3.3 APPROVALS.....	6
3.4 COMPLIANCE MONITORING AND ENFORCEMENT ACTIVITIES .....	6
<b>4 COSTS OF PROVIDING SERVICES .....</b>	<b>7</b>
4.1 CURRENT SITUATION .....	7
4.2 ALLOCATION OF COSTS TO SERVICES.....	8
4.3 ANNUAL OPERATING BUDGET .....	8
4.4 FUTURE MAF DAIRY GROUP STAFFING REQUIREMENTS.....	8
<b>5 STAKEHOLDER CONTRIBUTIONS TO MAF DAIRY COSTS.....</b>	<b>11</b>
5.1 WHO SHOULD PAY?.....	11
5.2 CURRENT CROWN/INDUSTRY CONTRIBUTIONS .....	13
5.3 PROPOSED CROWN/INDUSTRY CONTRIBUTIONS.....	14
<b>6 PROPOSED FEES AND CHARGES .....</b>	<b>15</b>
6.1 CHARGING REGIME SHOULD NOT BE OVERLY COMPLEX .....	15
6.2 BASIS OF CHARGING FOR SERVICES.....	15
6.3 PROPOSED CHARGING MECHANISM.....	15
6.4 COST RECOVERY PROPOSAL .....	17
6.5 PROPOSED REGULATORY FEES AND CHARGES.....	18
<b>7 BUSINESS RULES .....</b>	<b>19</b>
7.1 CREDIT POLICY.....	19
7.2 TIMING FOR PAYMENT OF FEES AND CHARGES .....	19
7.3 DEBT MANAGEMENT .....	20
7.4 ANNUAL CHARGES .....	20
7.5 FEE WAIVERS.....	20
7.6 MINIMUM CHARGE FOR HOURLY CHARGES .....	20
7.7 REFUNDS .....	21
<b>8 DEVELOPMENT AND IMPLEMENTATION ISSUES .....</b>	<b>22</b>
8.1 IMPACT OF THIS REVIEW .....	22
8.2 TIMETABLE.....	22

**9 CONSULTATION TO BE UNDERTAKEN AND GUIDANCE ON ISSUES THAT MIGHT BE CONSIDERED BY STAKEHOLDERS MAKING SUBMISSIONS.....23**

9.1 GUIDANCE FOR SUBMITTERS ..... 23

9.2 KEY ISSUES MAF SEEKS COMMENTS ON ..... 23

9.3 REQUIREMENTS FOR AND INFORMATION ON SUBMISSIONS ..... 23

9.4 CLOSING DATE FOR SUBMISSIONS ..... 24

9.5 PROCESS FOLLOWING CLOSING DATE FOR SUBMISSIONS ..... 24

*APPENDIX 1 - FEE CALCULATION WORKINGS.....25*

*APPENDIX 2- ADMINISTRATIVE FEES.....30*

# **1. INTRODUCTION**

## **1.1 Reasons for Review**

The MAF Food Assurance Authority (Dairy) is moving towards the greater implementation of the optimal regulatory model in the New Zealand dairy industry. This will involve a change in the relationship between MAF and the dairy industry, including the nature and type of services MAF will provide. This change therefore necessitates a review of how MAF will resource the services it is to provide, including both continuing and new services. However, full implementation of the model is not possible without legislative change.

## **1.2 Purpose of the Paper**

The key purpose of this discussion paper is to present a proposal for consideration to determine what services are to be fully or partly cost recovered and what level and type of fees are required.

The discussion takes account of two major constraints:

- the Dairy Industry Act 1952 (which is under review) is outdated and provides limited provisions for cost recovery; and
- the implementation of some parts of the optimal regulatory model are not fully supported by the Dairy Industry Act. Therefore some services and the funding of them will need to be handled administratively.

## **1.3 Proposals are Interim**

These proposals should be considered as an interim arrangement. In the longer term, changes may result from the review MAF is undertaking of food safety and standards in the dairy industry.

In the short term, amendments to the Dairy Industry Act 1952 contained in the Dairy Industry Restructuring Act 1999 may require additional services to be provided by MAF, some of which will need to be cost recovered. Additional services may include export certification, export assurance, technical market access and residue monitoring. Consultation on any cost recovery for these services will occur separately.

## **1.4 The Process of Review**

The next steps in this review process will be to analyse submissions, provide a summary to submitters, draw on these to put forward a proposal to Government and to implement Government decisions that result. The aim is to have new regulations in place early next year.

## 1.5 Scope of the Paper

This discussion paper covers the following matters:

- ***Section 2 - Background:*** covers the legislative framework and the optimal regulatory model;
- ***Section 3 - Services to be provided:*** covers the key activities in the main areas of service to be provided;
- ***Section 4 - Costs of providing services:*** covers revenue and costs, annual operating budget and staffing requirements;
- ***Section 5 - Stakeholder Contributions to MAF Dairy Group costs:*** includes an analysis of who should pay, incorporating Government cost recovery guidelines;
- ***Section 6 - Proposed fees and charges:*** covers objectives and principles and details the proposed fees and charges for each service to be provided;
- ***Section 7 - Business rules:*** covers the business rules to apply to the operation of the MAF Dairy Group's fees and charges for the provision of services;
- ***Section 8 - Development and implementation issues:*** including proposed timetable; and
- ***Section 9 - Consultation to be undertaken and guidance on issues that stakeholders making submissions might consider.***

## **2 BACKGROUND**

### **2.1 Legislative Framework**

The Dairy Industry Act 1952 generally provides for the inspection of dairies and the manufacture, sale and export of dairy produce. It provides for appointment of officers, inspection and sanitation requirements, sale, manufacture and export of dairy produce, some general statistical information requirements and penalties, regulations, fees and fines. The Act is subject to a separate review process. As part of that review, a discussion paper published in July 1999 presented options for consideration to determine the appropriate level of government intervention in the future, if any, and the most effective way of implementing the regulatory framework necessary to support that.

Section 32 (1)(y) of the Act provides regulation making powers for prescribing the matters in respect of where fees are payable, and fixing the amounts of those fees.

### **2.2 Fees Regulations under the Dairy Industry Act**

The Dairy Industry (Fees) Regulations 1990 provide for inspection fees, specific cost fees and test fees. Most regulatory cost recovery is achieved through the basic inspection fee of \$22.50 for every 15 minutes or part thereof for the time taken to provide the service to which the fee relates.

### **2.3 The Optimal Regulatory Model**

The optimal regulatory model, as applied in the food industry, is intended to deliver the following outcomes:

- continued food safety, wholesomeness and truth in labelling;
- improved food safety as technology develops;
- greater flexibility for industry to tailor business requirements to meet outcome based standards; and
- reduced direct government compliance costs for industry.

In its most general form, the optimal regulatory model comprises three key players with three separate roles/functions/responsibilities. These are:

- government setting the parameters of the system including outcome based standards, approving or registering product safety/risk management/food safety programmes, accrediting third party verifiers etc, providing overall system audit, compliance and enforcement;
- third party verifiers etc providing assessment, evaluation and performance based

inspection/verification and accredited individuals technically competent and approved to perform verification functions; and

- businesses developing, implementing and demonstrating regulatory compliance through operation under product safety/risk management programmes.

For the dairy industry, the optimal regulatory model:

- defines the roles of participants;
- provides for consistency in application;
- clarifies regulatory requirements;
- recognition to international accreditation levels and standards;
- moves to performance based assessment;
- more clearly defines the sanction process and dispute resolution mechanisms; and
- reduces assessment duplication.

The current regulatory framework operated by MAF under the Dairy Industry Act and the Dairy Industry Regulations already separates out the roles and functions of the regulator, verifiers and manufacturers. It is currently being proposed that the optimal regulatory model be more fully implemented in the dairy industry. If this proceeds it will involve a further redefining of responsibilities at the regulator, verification and manufacturer levels. This proposal has been subject to a separate discussion paper and consultation process.

### **3 SERVICES PROVIDED**

This section details the services that are to be provided by the Dairy and Plants Group of the MAF Food Assurance Authority.

#### **3.1 MAF Dairy and Plants Group**

The Dairy and Plants Group is headed by the Director of Dairy and Plant Products and is the section of the MAF Food Assurance Authority with the responsibility (delegated from the Director-General) for the operational administration of the Dairy Industry Act.

There are three key service areas or responsibilities to be provided to stakeholders (Government/public and industry):

- standards setting;
- approvals; and
- enforcement, monitoring and compliance.

MAF, through the MAF Dairy Group, will be required to provide a number of services within each of the three primary service areas. These are summarised below. It should be noted that MAF supplies some services to the industry which are outside of the scope of the Dairy Industry Act. In such cases the costs of supplying such services will not be cost recovered under the Dairy Industry Act provisions and are therefore not covered in the proposals in this discussion document.

#### **3.2 Standards Setting**

Key activities:

- provide technical policy advice to government policy makers;
- contribute to the development of international standards;
- negotiate technical access conditions;
- set product safety standards
- set operational standards and develop operational policy;
- clarify and interpret standards;
- set verification requirements according to performance;
- communicate with stakeholders; and
- overall review of the dairy programme.

Technical policy advice includes advising the Minister, and assisting with legislation development. Product safety standards relate to domestic New Zealand food safety. Regulatory standards relate to operational activities.

### **3.3 Approvals**

Key activities:

- approve Product Safety Programmes;
- approve Third Party Verification Agencies;
- approve industry Codes of Practice; and
- register dairy manufacturing premises, laboratories and product stores.

### **3.4 Compliance Monitoring and Enforcement Activities**

Key activities:

- monitor and assess verification agencies (in conjunction with the accreditation body<sup>1</sup>);
- resolve regulatory compliance disputes;
- impose regulatory sanctions when non-compliance is not corrected;
- respond proactively to prevent food safety being compromised;
- respond to signals and information that indicate potential problems;
- fulfill international obligations to other Governments for provision of assurances;
- provide product certification activities to meet international authority requirements; and
- investigate and prosecute (as appropriate) illegal activity (enforcement).

The term enforcement for the purpose of the paper relates only to investigations and prosecution of illegal activity

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<sup>1</sup> International Accreditation New Zealand (IANZ) and Joint Accreditation Service for Australia and New Zealand (JASANZ)

## 4 COSTS OF PROVIDING SERVICES

This section details the current and future costs of the MAF Dairy and Plants Group of providing services to its major stakeholders (industry and Government). The current situation is summarised. Budget information is provided on the proposed allocation of direct and indirect costs to each area of service, along with the staffing requirements. This paper does not discuss the costs of providing services by other parts of MAF, for example, export certification by the Verification Agency.

### 4.1 Current Situation

The following provides information on the estimated resources required to perform MAF Dairy Group operations. The MAF Dairy Group's consolidated operating budget, the operating budgets for specified service areas, and staffing requirements are set out in the schedules on pages 12 and 13. The consolidated operating budget is based on the best estimates of the cost of providing services for a 12-month period.

MAF is currently collecting about \$1m per annum from industry to fund the services provided by the MAF Dairy Group to industry. In 1998/99, total revenue fell \$30,000 short of the costs of providing services. A summary of MAF's revenue and costs for services provided to industry in the last 3 years is set out in the table below.<sup>2</sup>

#### SUMMARY OF MAF DAIRY GROUP REVENUE AND COSTS 1996/97 - 1998/99

REVENUE AND EXPENDITURES	1996/97	1997/98	1998/99
	<i>\$m GST excl</i>	<i>\$m GST excl</i>	<i>\$m GST excl</i>
Revenues	1.27	1.42	1.62
MAF Reg (Dairy) Group costs	1.42	1.43	1.65
Surplus/Deficit of revenue over costs	(0.148)	(0.01)	(0.03)

The reasons for the cost increases from the 1997/98 to the 1998/99 financial year were:

- increased corporate charges due to the restructuring associated with the merger between the Ministries of Agriculture and Forestry;
- increased costs related to standards development (\$100,000); and
- the need for an additional staff member (\$85,000 including associated costs).

The main reasons for under-recovery in the last three years include:

- the market access work was not cost recovered;
- actual costs exceeded the regulated hourly rate (\$80 per hour); and

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<sup>2</sup> Providing policy advice to Government, including developing and amending regulations, or reviewing and making changes to legislation is a MAF Policy function and is funded by the Crown.

- in addition, in 1998/99 the development and review of standards was not fully cost recovered.

## **4.2 Allocation of Costs to Services**

The MAF Dairy Group is organised around three core functions: standards, approvals, and enforcement, monitoring and compliance. The key activities involved in each of these areas are detailed in section 3 of this paper.

The MAF Dairy Group will incur direct and indirect costs in delivering services to stakeholders. Direct costs include personnel and operating costs (including fixed and variable costs). Indirect costs include MAF Dairy Group management, a share of MAF Food Assurance Authority management and support services and MAF Corporate overhead costs which include accommodation, equipment and communications.

In developing the MAF Dairy Group's annual operating budgets, all direct costs have been fully charged to the services to which they relate. Indirect costs have been apportioned across all activities to which the three core functions of the MAF Dairy Group contribute, on the basis of personnel costs.

## **4.3 Annual Operating Budget**

The MAF Dairy Group's annual operating budget, on the following page, is based on past experience of the costs of providing services. Total costs for providing services in a 12 month period are projected to be \$1.78m. This is projected to comprise:

- \$0.95m for delivering standard setting services;
- \$0.33m for delivering approvals services; and
- \$0.49m for delivering monitoring and compliance services.

The budget includes projected cost increases on the 1998/99 figures due to:

- increased corporate information technology charges (for upgrading the platform to ensure Y2K compliance); and
- increased indirect management costs resulting from the recent establishment of the MAF Food Assurance Authority.

## **4.4 Future MAF Dairy Group Staffing Requirements**

The MAF Dairy Group has also estimated the expected staffing resources that will be required to deliver the necessary functions and services.

It is projected that 9.5 full time equivalents (FTEs) will be required to deliver the services. About four FTEs will be required to deliver services relating to standards setting, about 1.8 FTEs will be required in the approvals area and 3.5 FTEs will be required to deliver monitoring and compliance services.

## MAF DAIRY GROUP ANNUAL BUDGET

Service Area:	STANDARD SETTING			APPROVALS				COMPLIANCE			GRAND TOTAL
Activity Centre:	Policy Advice	Standards	SUB-TOTAL	Codes/ PSPs	Premises & Labs	TPVAs	SUB-TOTAL <sup>3</sup>	Regulated Parties	TPVAs	SUB-TOTAL <sup>4</sup>	
<b>PERSONNEL</b>	<b>48,000</b>	<b>256,920</b>	<b>304,920</b>	<b>44,064</b>	<b>44,064</b>	<b>44,064</b>	<b>133,515</b>	-	-	-	<b>438,435</b>
Fixed Operating	26,632	139,818	<b>166,450</b>	4,703	4,703	4,703	<b>14,250</b>	-	-	-	<b>180,700</b>
Variable Operating	7,500	85,000	<b>92,500</b>	6,105	6,105	6,105	<b>18,500</b>	-	-	-	<b>111,000</b>
Consultants	-	92,000	<b>92,000</b>	-	-	-	-	-	-	-	<b>92,000</b>
Enforcement	-	-	-	-	-	-	-	-	-	<b>50,000</b>	<b>50,000</b>
Compliance	-	-	-	-	-	-	-	75,000	200,000	<b>275,000</b>	<b>275,000</b>
<b>TOTAL DIRECT</b>	<b>82,132</b>	<b>573,738</b>	<b>655,870</b>	<b>54,872</b>	<b>54,872</b>	<b>54,872</b>	<b>166,265</b>	<b>75,000</b>	<b>200,000</b>	<b>325,000</b>	<b>1,147,135</b>
Corporate costs	12,886	67,652	<b>80,538</b>	15,187	15,187	15,187	<b>46,022</b>	23,011	23,011	<b>46,022</b>	<b>172,582</b>
DG costs	5,848	30,706	<b>36,554</b>	6,893	6,893	6,893	<b>20,888</b>	10,444	10,444	<b>20,888</b>	<b>78,330</b>
Director Op. Costs	16,960	89,036	<b>105,996</b>	19,982	19,982	19,982	<b>60,552</b>	30,276	30,276	<b>60,552</b>	<b>227,100</b>
Director Support	6,200	32,554	<b>38,754</b>	7,308	7,308	7,308	<b>22,145</b>	11,073	11,072	<b>22,145</b>	<b>83,044</b>
MAF Food Generic	5,346	28,070	<b>33,416</b>	6,301	6,301	6,301	<b>19,095</b>	9,548	9,548	<b>19,095</b>	<b>71,606</b>
<b>TOTAL INDIRECT</b>	<b>47,240</b>	<b>248,018</b>	<b>295,258</b>	<b>55,671</b>	<b>55,671</b>	<b>55,671</b>	<b>168,702</b>	<b>84,352</b>	<b>84,352</b>	<b>168,702</b>	<b>632,662</b>
<b>TOTAL EXPENDITURE</b>	<b>129,372</b>	<b>821,756</b>	<b>951,128</b>	<b>110,543</b>	<b>110,543</b>	<b>110,543</b>	<b>334,967</b>	<b>159,352</b>	<b>284,350</b>	<b>493,702</b>	<b>1,779,797</b>

<sup>3</sup> Includes approvals of Sanitisers and Detergents of \$3,338

<sup>4</sup> Includes Enforcement costs of \$50,000

The following table illustrates a breakdown of costs (and corresponding FTEs) for each of the three main areas of services provided by the MAF Dairy Group.

<b>Service Area:</b>		<b>Budget</b>	<b>FTEs</b>
<b>Standard Setting</b>			
	Provide technical advice to policy makers	129,372	0.70
	Develop NZ Product Safety Standards	163,293	0.80
	Develop operational Standards	282,446	1.00
	Contribute to the development of international standards	225,300	1.00
	Market access standards	150,717	0.70
		<b>951,128</b>	<b>4.20</b>
<b>Approvals</b>			
	Approval of Product Safety Programmes and Codes	110,543	0.55
	Register dairy manufacturers, laboratories and product stores	110,543	0.55
	Assess and accredit Third Party Verification Agencies	110,543	0.55
	Approve sanitisers and detergents	3,338	0.15
		<b>334,967</b>	<b>1.80</b>
<b>Compliance</b>			
	Monitor compliance of regulated parties	159,352	0.50
	Monitor and assess independent verification agencies	284,350	2.50
	Enforcement	50,000	0.50
		<b>493,702</b>	<b>3.50</b>
<b>Total</b>		<b>1,779,797</b>	<b>9.50</b>

## 5 STAKEHOLDER CONTRIBUTIONS TO MAF DAIRY COSTS

This section proposes criteria for determining the Crown and industry contributions to the costs of providing services. Based on those criteria, the relative Crown and industry contributions are proposed.

### 5.1 Who Should Pay?

The Crown and the dairy industry, as the major stakeholders, will be contributing to the cost of services provided by the MAF Dairy Group. In determining respective contributions of the Crown and industry, the Treasury document *Guidelines for Setting Charges in the Public Sector* has been taken into account.

In general, services provided by the MAF Dairy Group can be characterised as being public, private, or club goods, or a combination of any of these three categories. A *public good* has the property that excluding people from its benefits is either difficult or costly, and its use by one person does not detract from its use by another, e.g. contributions to international standards. A *private good* has the property that people can be excluded from its benefits at low cost and its use by one person conflicts with its use by another, e.g., approval of a product safety programme. *Club goods* sit in between public and private goods. People can be excluded from the benefits of a club good at low cost, but its use by one person does not detract from its use by another, for example, market access standards.

In proposing who should pay, the following guidelines were applied:

- *public goods* should be funded by the Crown or risk exacerbators (those whose actions create the risk);
- *private goods* should be funded by the users or beneficiaries or risk exacerbators; and
- *club goods* should be funded by groups of the users or beneficiaries and/or risk exacerbators.

When applying the guidelines to the question of who should pay, the following factors were considered.

Services such as providing technical policy advice, setting New Zealand product safety standards, contributing to international standards and enforcement are considered to have public good characteristics and, to varying degrees, significant public interest components. Their provision results in benefits to the New Zealand public and it would be difficult to exclude any person from them. Also, their provision cannot be directly attributed to risk exacerbators. Therefore, on that basis it is proposed that these services be Crown funded.

However, an alternative argument is that setting New Zealand product safety standards and technical policy advice are club goods and should be cost recovered from the dairy industry. The dairy industry would appear to be an efficient “club” to charge for these services as the industry is in the best position to monitor the quality and quantity of the services, to change its behaviour

to influence the nature of the services, and potentially to pass some of the costs onto the other main beneficiary of these services – consumers of dairy products.

Domestic product safety standards could also be viewed as the price for access to the domestic market. Using the same justification as that applied to international market access standards, which are considered to be a club good that benefits either the whole industry or certain groups within it, the cost of domestic standards could be recovered from the industry.

The benefits from the provision of approval services can be directly attributed to those persons requiring a particular approval. Further, users of approvals to contribute to their funding would place an additional economic incentive on them to ensure approval activities, and costs, are minimised. On that basis, it is proposed that approvals be funded by the users of them.

It is possible there are elements of public good involved with compliance functions (other than enforcement activities that are Crown funded). Certain compliance functions could also be considered to be private goods (such as audits). However, there is a case for risk exacerbators to pay for compliance services. This is because compliance activity is directly related to the degree of risk posed. Further, requiring risk exacerbators to contribute to compliance funding would place an additional economic incentive on them to ensure compliance activity, and costs, are minimised.

Services such as setting market access standards and setting operational standards benefit either the whole industry or certain groups within the industry (for example, exporters). Accordingly, it is proposed that the costs of providing such services should be spread amongst the beneficiaries of them.

## **5.2 Current Crown/Industry Contributions**

Under the current regime the Crown pays for:

- technical policy advice
- domestic product safety standards
- international standards; and
- enforcement.

### 5.3 Proposed Crown/Industry Contributions

Service Area	Crown (%)	Industry (%)	Crown (\$)	Industry		Total Budget (\$)
				Regulatory Fees (\$)	Admin Charges (\$)	
<b>Standard Setting</b>						
Technical Policy Advice	100%		129,372	-	-	129,372
Domestic Product Safety Standards	100%		163,293		-	163,293
Operational Standards		100%		282,446		282,446
International Standards	100%		225,300	-	-	225,300
Market Access Standards		100%	-	-	150,717	150,717
<b>Sub-total</b>			<b>517,965</b>	<b>282,446</b>	<b>150,717</b>	<b>951,128</b>
<b>Approvals</b>						
Codes/PSPs		100%	-	110,543	-	110,543
Premises & Labs		100%	-	110,543	-	110,543
TPVAs		100%	-	-	110,543	110,543
Sanitisers & Detergents		100%	-	3,338	-	3,338
<b>Sub-total</b>			<b>0</b>	<b>224,424</b>	<b>110,543</b>	<b>334,967</b>
<b>Compliance</b>						
Regulated Parties		100%	-	159,352	-	159,352
TPVAs		100%	-	-	284,350	284,350
Enforcement	100%		50,000	-	-	50,000
<b>Sub-total</b>			<b>50,000</b>	<b>159,352</b>	<b>284,350</b>	<b>493,707</b>
<b>GRAND TOTAL</b>			<b>567,965</b>	<b>666,222</b>	<b>545,610</b>	<b>1,779,797</b>

## **6 PROPOSED FEES AND CHARGES**

This section outlines the policy used for determining the basis for charging, including mechanisms for methods of calculating fees and charges. It also lists the proposed fees and charges to be covered by the Regulations. The proposed amounts are exclusive of GST, however, in the final regulations they will be converted to GST inclusive amounts.

### **6.1 Charging Regime should not be Overly Complex**

Total costs to be recovered by regulation are around \$670,000. Providing a cost recovery system where small units of service are individually calculated for each client would be costly to set up and administer in comparison with the estimated costs to be recovered. In some cases the costs of obtaining the necessary information and keeping track of various components may outweigh the direct cost of providing the service.

### **6.2 Basis of Charging for Services**

It is proposed for functions and services that can be divided into homogeneous units and where there is little variation in the cost of provide the unit of service, they will be charged at an average cost (direct and indirect) per unit of output. Fixed fees and annual charges are proposed. This will assist in minimising transaction costs and providing certainty over fees and charges.

Where there is a large variation in the cost of individual outputs, for example, in the time taken to perform the service, average costing through fixed fees is not an appropriate charging option. In these circumstances it is proposed that hourly rates be used. Where hourly rates are used, disbursements covering items such as travel, accommodation, and communication will be charged at cost.

### **6.3 Proposed Charging Mechanism**

The proposed basis for charging for services provided under the Dairy Industry Act:

- attaches fees and charges to specific units of service provided;
- uses mainly fixed fees and annual charges, as these are simpler to apply and therefore have a lower administrative cost;
- sets fixed fees and charges based on the average full and reasonable costs of providing the services;
- sets annual charges on the basis of the costs of performing these functions allocated amongst the persons that will be paying the charge;
- sets time-based charges on the basis of fixed and variable costs (e.g. salaries and operating costs); and
- sets other charges (disbursements) on the basis of actual and reasonable costs incurred

in providing the service.

## 6.4 Cost Recovery Proposal

The table below identifies the sectors and clients from whom it is proposed the costs of services be cost recovered under the Dairy Industry Act.

Service Area	Who Pays	Proposed Cost Recovery
<b>Standards Setting:</b>		
Technical policy advice	Crown	Crown
NZ Product Safety Standards	Crown	Crown
Operational Standards	Industry	Annual charge on manufacturers
International Standards	Crown	Crown
Market Access Standards	Industry (Dairy Board)	Administrative charge
<b>Approvals:</b>		
Codes of practice	Applicant	Fixed fee per approval plus time based charge(\$/hr)
Product Safety Programmes	Applicant	Fixed fee per approval plus time based charge(\$/hr)
Registration of laboratories/Premises/Stores	Applicant	Fixed fee per approval plus time based charge(\$/hr)
Third Party Verification Agency	Applicant	Administrative charge
Sanitisers and Detergents	Applicant	Fixed fee
<b>Compliance and Monitoring:</b>		
Regulatory Performance Programme Monitoring	Industry	Annual charge on manufacturers
Third Party Agency	Third Party Agencies	Administrative charge
Verification Audits (MAF)	Industry	Time based charge(\$/hr)
Non compliance intervention (MAF)	Industry	Time based charge(\$/hr)
<b>Enforcement:</b>	Crown	Crown

## 6.5 Proposed Regulatory Fees and Charges

Service Area	Type of Fee/Charge	Proposed Fee/Charge (excl GST)
<b>Standard Setting:</b>		
Operational standards	Annual charge	\$665 per annum for each registered premises, laboratory and store
<b>Approvals:</b>		
Codes of Practice and Product Safety Programmes Premises, Laboratories and Stores	Approval fee	\$115 per approval plus \$115 per hour plus disbursements in excess of one hour
Sanitisers and Detergents	Evaluation and decision fee	\$222 per approval
<b>Compliance:</b>		
Regulatory Programme Performance Monitoring	Annual monitoring charge	\$187 per annum for each registered premises, laboratory and store
Verification Inspection and Audits	Inspection and Audit charge	\$115 per hour plus disbursements

Fees and charges for administrative services are detailed in appendix 2 for information purposes. These are costs that the MAF Dairy Group proposes to recover by way of administrative arrangements with industry, as appropriate. These fees are for services that are not cost recovered under the Dairy Industry Act and are therefore not subject to this particular consultation process.

## 7 BUSINESS RULES

This section sets out the business rules to apply to the operation of the MAF Dairy Group's fees and charges for the provision of services.

The business rules, below, cover the following matters:

- credit policy;
- timing for payment of fees and charges;
- debt management;
- annual charges;
- fee waivers;
- minimum charges; and
- refunds.

### 7.1 Credit Policy

This credit policy relates to those applicants who will be required to pay application fees in advance of approvals being given.

Where an applicant has, for a period of 6 months, paid their invoices on time, they will be able to seek approval to be put on a list of approved creditors. This will give the applicant the ability to pay on invoice for the application fees that would normally be required in advance. Approval will be considered following written request to the Executive Officer at the MAF Dairy Group.

### 7.2 Timing for Payment of Fees and Charges

The following fees and charges are payable as indicated:

Approval charges      Payment to be received to initiate approval process (except where the company is an approved creditor)

Hourly charges      Payment to be received within one month of from the date of the invoice

Annual charges      Payment to be received within one month from the date of the invoice

### 7.3 Debt Management

Hourly/time based charges:

- When invoices for time based charges are 2 months overdue from the date of issue, a letter will be sent to the applicant stating that a penalty charge of 10% will be added to the outstanding amount if it is not paid within 20 working days (as per the Ministry of Agriculture and Fisheries (Restructuring) Act 1995).
- If payment of the invoice is not received within a further 2 months, a debt collection agency will be brought in to recover the outstanding amount. The organisation or person will also be listed with the debt collection agency as being a credit risk.

Removal from the approved creditors list:

- Where a person or organisation that is an approved creditor fails to pay their invoices on time on three occasions, they will lose their approved creditor status and will be required to pay all application fees in advance.

### 7.4 Annual Charges

Full annual charges will be payable on 1 July in each year.

If an applicant has their premises registered after 1 July each year, they will be charged the full or a proportion of the annual charges, dependant on the time of the year as follows:

July to September	full annual charges
October to December	75% of annual charges
January to March	50% of annual charges
April to June	25% of annual charges

### 7.5 Fee Waivers

If a person applies for multiple approvals and/or the actual time taken to process the applications is significantly reduced due to the applications being processed together, the actual costs will be charged.

### 7.6 Minimum Charge for Hourly Charges

Where the time spent on a service is less than 15 minutes in any one working day, there will be no charge.

Where the time spent on a service is greater than 15 minutes in one working day, a minimum charge of \$57.50 plus GST will apply. Every additional 15 minutes, after the first 30 minutes, will be charged at \$115/hour plus GST.

## **7.7 Refunds**

An applicant may withdraw an application for approval at any time. If an application is withdrawn the applicant may request a refund of fees paid for functions that have not been performed.

Applications for refunds of fees will need to be submitted at the time of withdrawal of the application to the National Manager, Approvals, for consideration.

## 8 DEVELOPMENT AND IMPLEMENTATION ISSUES

### 8.1 Impact of this Review

The review of cost recovery under the Dairy Industry Act is likely to lead, in addition to updated fees regulations, to administrative and systems reform of the MAF Dairy Group. MAF Dairy recognises that cost recovery must deliver sufficient resources to maintain technical expertise and capability within the Group, a strong client/cost awareness focus and contestability in the delivery of services where appropriate and cost effective.

It should also be noted that the limitations of the Dairy Industry Act mean that some arrangements for cost recovery of services provided by the MAF Dairy Group will continue to be handled administratively. The impact of the Dairy Industry Restructuring Bill 1999 and MAF's review of food safety and standards in the dairy industry also need to be taken into account, and may lead to further changes to cost recovery regulations later in 2000.

### 8.2 Timetable

<b>Key activity</b>	<b>Timing</b>
Closing date for submissions on this discussion paper	mid November 1999
Analysis of submissions received	mid - late November 1999
Finalisation of fees, including any further consultation	December 1999
Prepare new Regulations and submit them to Cabinet for approval	January – February 2000
Implementation of new regulatory fees	March 2000

## **9 CONSULTATION TO BE UNDERTAKEN AND GUIDANCE ON ISSUES THAT MIGHT BE CONSIDERED BY STAKEHOLDERS MAKING SUBMISSIONS**

### **9.1 Guidance for Submitters**

MAF seeks submissions from all interested parties on any aspect of the proposed fees and charges presented in this document. Clear concise comments on the principles and approaches proposed will greatly assist in ensuring that the significance of your comments is understood.

The following points may be of assistance in preparing comments:

- wherever possible, comments should be specific to a particular section of the document;
- comments on other matters should be clearly stated and indicated;
- comments should be to the point and, where possible, reasons and data to support comments are requested;
- the use of examples to illustrate particular points is encouraged; and
- as a number of copies may be made of your comments, please use good quality type, or make sure that your comments are clearly hand written in black or blue ink.

### **9.2 Key issues MAF seeks comments on**

While MAF seeks submissions on any aspect of the proposals, the key issues MAF seeks comments on are:

- the stakeholders' contributions to the costs of the MAF Dairy Group, in particular the proposed Crown/Industry split (section 5);
- the basis for charging for services (section 6.1);
- the charging mechanism and cost recovery proposal (section 6.3 and 6.4); and
- the proposed fees and charges (section 6.5).

### **9.3 Requirements for and Information on Submissions**

Submitters are asked to include the following information in submissions:

- the title of the discussion document;
- name and title of submitter;
- organisation's name (if applicable);
- submitter's address and contact details (phone, fax, E-mail if available); and

- the number(s) of the section(s) commented on beside each comment.

Submissions may be the subject of requests for information under the Official Information Act 1993 (OIA). The OIA specifies that information is to be made available unless there are grounds for withholding it, such grounds are set out in the OIA. Submitters may wish to indicate grounds for withholding specific information contained in their submission, such as that the information is commercially sensitive or they wish personal information (for example, name and contact details) to be withheld. Any decision to withhold information requested under the OIA is reviewable by the Ombudsman.

#### **9.4 Closing date for Submissions**

Submissions must be with MAF no later than 5pm on 19 November 1999. Submissions should be addressed to:

Emma Taylor  
Policy  
Ministry of Agriculture and Forestry  
PO Box 2526  
WELLINGTON

OR Fax 04-474 4206 OR [taylor@maf.govt.nz](mailto:taylor@maf.govt.nz)

#### **9.5 Process Following Closing Date for submissions**

The next steps in the review process will be to analyse submissions and develop a summary of submissions. It is intended that a copy of the summary of submissions will be provided to each submitter.

Interim options will then be prepared for consideration. It is likely that new regulations will be promulgated early in 2000.

## Appendix 1 - Fee Calculation Workings

### Hourly Rate Calculation: 1999/00

Costs:

Personnel	\$ 438,435
Operational	\$ 360,700 (excl travel and consultants)
Indirect	\$ 632,662
	_____
<b>Total</b>	<b>\$1,431,797</b>

Chargeable Hours:

FTEs: 9.5  
 9.5 Full Time Equivalents at 1313 chargeable hours = 12473 Chargeable Hours/Annum

Hourly Rate Calculation:

$$\begin{aligned} \text{Costs / Hour} &= \frac{\text{Costs}}{\text{Chargeable Hrs}} \\ &= \frac{1,431,797}{12473} \\ &= \mathbf{\$115/ hour} \end{aligned}$$

### CHARGEABLE HOURS PER FULL-TIME EQUIVALENTS

	Days	Hours
Working Year	261	1696.5
Statutory Holidays	-13	-84.5
Annual Leave	-21	-136.5
Sick Leave	-10	-65
Courses/Conferences	-5	-32.5
Technical Training	-10	-65
Annual Billable Days/Hours	202	1313

### **Standard Setting Charge:**

Cost = \$282,446

#### Proposed mechanism:

Annual charge on each registered premises.

Numbers of Registered Premises: (Estimate for 99/00)

= 425

#### Calculation of annual charge:

= \$282,446 / 425

= **\$665/premises + GST**

### **Approval of Codes and PSPs:**

Cost = \$110,543

#### Proposed mechanism:

Fixed fee of \$115 (+GST) per approval plus actual and reasonable costs for processing of applications involving more than one hour @ \$115/hour + disbursements (+GST).

### **Registration of Premises and Labs:**

Cost = \$110,543

#### Proposed mechanism:

Fixed fee of \$115 (+GST) per registration plus actual and reasonable costs for processing of applications involving more than one hour @ \$115/hour + disbursements (+GST)

### **Approval of Persons in TPVAs:**

Cost = \$110,543

#### Proposed mechanism:

Fixed fee of \$115 (+GST) per approved person plus actual and reasonable costs for processing of applications involving more than one hour @ \$115/hour + disbursements (+GST)

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### **Approval of Sanitisers and Detergents:**

Cost = \$3,338

#### Proposed mechanism:

Fixed fee / approval

Number of approvals (estimate for 99/00)

= 15

Calculation of fee / approval

= \$3,338 / 15

= **\$222 per approval + GST**

### **Compliance Monitoring of Regulated Parties:**

Cost = \$159,352

#### Proposed mechanisms:

- a) Fixed fee on registered premises for general programme monitoring (e.g. monitoring performance reports/trends/emerging issues etc). (Estimated to comprise 50% of costs related to compliance monitoring).

Cost = \$79,676 / 425 (number of registered premises)

= **\$187/premises (+GST)**

- b) Actual and reasonable for inspection/audit activities performed.

@ \$115 (+GST) / hour + disbursement

### **Compliance Monitoring of TPVAs:**

Cost = \$284,350

#### Proposed mechanism:

Actual and reasonable for assessment activities performed @ \$115 (+GST) hr + disbursements.

**Summary of charges applying to registered premises:**

Annual charges:

NZ Standard Setting Charge	\$665
Programme Performance Monitoring Charge	<u>\$187</u>
	<b>\$852 (+GST) per annum</b>

PSP Approval (incl. review) / Premise or Lab Registration:

Fixed fee of \$115 (+GST) per approval / registration plus actual and reasonable costs for processing of applications involving more than one hour @ \$115/hour + disbursements (+GST).

Compliance Verification (if required):

Inspection / Audit Activities: \$115/hour (+GST) + disbursements.

**Summary of Charges Applying to Approved TPVAs: (Recognised service providers)**

Approval Charge:

Fixed fee of \$115 (+GST) per approved person plus actual and reasonable costs for processing of applications involving more than one hour @ \$115/hour + disbursements (+GST)

Assessment Charge:

Assessment of Approved (or proposed) Individual's Competence: \$115/hour (+GST) + disbursements

## APPENDIX 2- ADMINISTRATIVE FEES

For information purposes, the table below identifies the sectors and clients from whom the costs of services are to be recovered administratively. These not regulatory services, and are therefore not covered by the proposed regulations.

Service Area	Who Pays	Proposed Cost Recovery
<b>Standards Setting:</b> Market Access Standards	Industry (Dairy Board)	By agreement
<b>Approvals:</b> Third Party Verification Agency	Approval Charge	\$115 per person approved and \$115 per hour for any time taken in excess of one hour, plus disbursements.
<b>Compliance:</b> Third Party Verification Agencies	Third Party Verification Agencies	\$115 per hour, plus disbursements.