

**Reprint
as at 7 August 2020**



**State-Owned Enterprises (AgriQuality Limited and Asure
New Zealand Limited) Act 2007**

Public Act 2007 No 21
Date of assent 26 June 2007
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Treasury.

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1 Title

This Act is the State-Owned Enterprises (AgriQuality Limited and Asure New Zealand Limited) Act 2007.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

3 Interpretation

In this Act, unless the context otherwise requires,—

animal material has the same meaning as in section 4(1) of the Animal Products Act 1999

animal products has the same meaning as in section 4(1) of the Animal Products Act 1999

Board means the board of directors of AgriQuality Limited

examination services means services involving routine examinations of animal material or animal products by official assessors, appointed under section 79 of the Animal Products Act 1999, for the purpose of, amongst other things, enabling official assurances to be given under that Act

official assurances has the same meaning as in section 61(2) of the Animal Products Act 1999

shareholding Ministers means the shareholding Ministers of AgriQuality Limited, being—

- (a) the Minister of Finance; and
- (b) the Minister of the Crown for the time being responsible for AgriQuality Limited.

4 Act binds the Crown

This Act binds the Crown.

Part 2

Matters concerning AgriQuality Limited and Asure New Zealand Limited

Subpart 1—Power to direct AgriQuality Limited

5 Directions and advice to AgriQuality Limited by shareholding Ministers

- (1) The shareholding Ministers may, by written notice to the Board, give to the Board—
 - (a) a direction that AgriQuality Limited must not provide the examination services specified in the notice;
 - (b) a direction that revokes a direction given under paragraph (a).
- (2) The shareholding Ministers—
 - (a) may, at any time, by written notice to the Board, advise the Board of their intentions or expectations with regard to directions to be given under subsection (1); and
 - (b) must advise the Board, by written notice to the Board, of the matters to be referred to in a direction to be given under subsection (1) at least 14 days before the direction is given; and
 - (c) must consider any comments relating to the direction that the Board makes to them within 10 days of the date on which the Board receives the advice under paragraph (b).
- (3) The shareholding Ministers may give a direction under subsection (1) or advice under subsection (2) despite anything to the contrary in sections 4 to 7 of the State-Owned Enterprises Act 1986, the Companies Act 1993, the Commerce Act 1986, or any other Act or rule of law.

- (4) The giving of a direction under subsection (1) or advice under subsection (2) is specifically authorised for the purpose of section 43 of the Commerce Act 1986.
- (5) The Minister for State Owned Enterprises must—
 - (a) present a copy of the direction to the House of Representatives within 12 sitting days after a direction is given to the Board under subsection (1); and
 - (b) publish a copy of it in the *Gazette* as soon as practicable after the giving of the direction.

6 Consequences of directions and advice given under section 5

- (1) The Board must comply with a direction given to it under section 5(1) despite anything to the contrary in the State-Owned Enterprises Act 1986, the Companies Act 1993, the Commerce Act 1986, or any other Act or rule of law.
- (2) Neither the Crown nor any shareholding Minister is in breach of, or liable to any person under, sections 4 to 7 of the State-Owned Enterprises Act 1986, the Companies Act 1993, the Commerce Act 1986, or any other Act or rule of law by reason of the giving of a direction under section 5(1) or advice under section 5(2).
- (3) No director of AgriQuality Limited is in breach of, or liable to any person under, the State-Owned Enterprises Act 1986, the Companies Act 1993, the Commerce Act 1986, or any other Act or rule of law by reason of any act or omission reasonably believed by the director to be necessary or desirable—
 - (a) to give effect to, or as a consequence of, a direction given under section 5(1); or
 - (b) as a result of any advice given under section 5(2).

Subpart 2—Merger of AgriQuality Limited and Asure New Zealand Limited

[Expired]

Subpart 2: expired, on 27 June 2009, by section 11.

7 Interpretation

[Expired]

Section 7: expired, on 27 June 2009, by section 11.

8 Amendments and repeals to enactments resulting from merger of AgriQuality and Asure

[Expired]

Section 8: expired, on 27 June 2009, by section 11.

9 Part 3 of Commerce Act 1986 does not apply to merger of AgriQuality and Asure

[Expired]

Section 9: expired, on 27 June 2009, by section 11.

10 Certain matters not affected by merger of AgriQuality and Asure

[Expired]

Section 10: expired, on 27 June 2009, by section 11.

11 Expiry of subpart 2 of Part 2

[Expired]

Section 11: expired, on 27 June 2009, by section 11.

Subpart 3—Commerce Commission investigation and report

12 Investigation and report by Commerce Commission on examination services

- (1) The Commerce Commission must, within 3 years after the commencement of this Act,—
 - (a) investigate the prices charged for examination services; and
 - (b) report to the Minister of Commerce on whether it is necessary or desirable for examination services to be controlled under Part 4 of the Commerce Act 1986.
- (2) The Commission must not commence its investigation under subsection (1) earlier than 2 years after the commencement of this Act.
- (3) However, subsections (1) and (2) do not apply if—
 - (a) the Minister of Commerce and the Meat Industry Association of New Zealand (Incorporated) agree that an investigation and a report under subsection (1) are not necessary; and
 - (b) the Minister of Commerce gives written notice to the Commission to that effect within 2 years after the commencement of this Act.

13 Commerce Commission process

The Commerce Commission must carry out its investigation and report to the Minister of Commerce under section 12(1) as if that section was a request from the Minister under section 56 of the Commerce Act 1986, and Part 4 of that Act applies accordingly with all necessary modifications.

14 Levy of Asure New Zealand Limited or merged company

- (1) Asure New Zealand Limited or, if there has been a merger of AgriQuality and Asure (as defined in section 7), the new company formed as a result of the

- merger must pay to the Crown the levy prescribed by regulations made under subsection (2).
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister of Commerce, make regulations—
- (a) specifying the amount of levies, or method of calculating or ascertaining the amount of levies, on the basis that the actual costs of performing or exercising the Commerce Commission's functions, powers, and duties under this subpart, and of collecting the levy money, should be met fully out of levies:
 - (b) including in levies, or providing for inclusion in levies of, any potential or likely shortfall in recovering those actual costs:
 - (c) refunding, or providing for refunds of, any over-recovery of those actual costs:
 - (d) providing for the payment and collection of those levies.
- (3) The amount of any unpaid levy is recoverable in any court of competent jurisdiction as a debt due to the Crown.

Subpart 4—Ongoing negotiations and obligations concerning examination services

15 Obligations concerning examination services

- (1) The Crown will continue to negotiate with New Zealand's international trading partners for the acceptance of international guidelines on meat hygiene as set out in the Codex Alimentarius's Code of Practice, "Code of Hygienic Practice for Meat" (CAC/RCP 58-2005) (the **Code**).
- (2) If more than 66.6% of the total value of New Zealand's post-mortem red meat exports (of both ovine and bovine origin) are made to international trading partners of New Zealand who have agreed to accept the international guidelines on meat hygiene as set out in the Code, the Executive Government of New Zealand must permit—
- (a) competitive tendering for the provision of examination services to occur; and
 - (b) examination services to be provided by persons who are not employed under the Public Service Act 2020.

Section 15(2)(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Reprints notes

1 *General*

This is a reprint of the State-Owned Enterprises (AgriQuality Limited and Asure New Zealand Limited) Act 2007 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Public Service Act 2020 (2020 No 40): section 135

State-Owned Enterprises (AgriQuality Limited and Asure New Zealand Limited) Act 2007 (2007 No 21): section 11