

Reprint
as at 2 March 2018



**Biosecurity (National American Foulbrood Pest
Management Plan) Order 1998**
(SR 1998/260)

Order name: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 7th day of September 1998

Present:

The Right Hon Jenny Shipley presiding in Council

Pursuant to section 68 of the Biosecurity Act 1993, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and on the recommendation of the Minister of Agriculture, makes the following order.

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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 order is administered by the Ministry for Primary Industries.

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Order

1 Title and commencement

- (1) This order may be cited as the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998.
- (2) This order comes into force on 1 October 1998.

Clause 1(1): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

2 Interpretation

- (1) In this order, unless the context otherwise requires,—

Act means the Biosecurity Act 1993

American foulbrood case means a honey bee colony displaying any of the clinical symptoms of American foulbrood

apiary means a place to which clause 16 applies or a place notified as an apiary in accordance with clause 17

appliance means any beehive, comb, extractor, or other object, that is being or has been used in connection with beekeeping

authorised person means a person appointed under section 103(1)(b) of the Act for the purposes of the plan

bee product means honey, honeydew honey, beeswax, venom propolis, pollen, or royal jelly; and includes any other product collected by honey bees, derived from honey bees, or derived from a bee product

beehive means a thing constructed for the keeping of honey bees and that is being used or has been used for that purpose; but does not include an introduction cage or a mailing cage

beekeeper means a person who owns beehives

Certificate of Inspection Exemption means an exemption granted under clause 36

Disease Elimination Conformity Agreement means the document signed in accordance with clause 37

honey means the fluid, viscous, or crystallised substance produced by honey bees from the nectar of blossoms or from secretions of, or on, living parts of plants other than blossoms, which honey bees collect, transform, or combine with substances of their own, and store in combs

honey bee means *Apis mellifera*; and includes its eggs, larvae, pupae, and semen

honey bee colony means a group of honey bees living in a beehive; but does not include a queen honey bee and attendant worker honey bees for the time being held in a mailing cage or an introduction cage

identification code means the code given to or used by a beekeeper in accordance with clause 19

introduction cage means a cage used for introducing a queen honey bee to a beehive

mailing cage means a cage used for transporting a queen honey bee and attendant worker honey bees

moveable-frame hive means a beehive from which any frame or comb (as the case may be) that forms part of the beehive may be easily removed for visual inspection without causing damage to that frame or comb.

- (2) Unless the context otherwise requires, terms and expressions used in this order have the same meaning as in the Act.

Clause 2(1) **authorised person**: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 2(1) **moveable-frame hive**: replaced, on 5 September 2013, by clause 4 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Plan

Heading: replaced, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

3 National American Foulbrood Pest Management Plan

This order makes the National American Foulbrood Pest Management Plan.

Clause 3 heading: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 3: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

4 Pest

The organism *Paenibacillus larvae larvae*, also known as *Bacillus larvae*, the cause of the disease known as American foulbrood, is the pest to be managed in accordance with the plan.

Clause 4: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

5 Objectives of plan

- (1) The primary objective of the plan is to manage American foulbrood so as to reduce the reported incidence of American foulbrood by an average of 5% each year.
- (2) The secondary objectives of the plan are—
 - (a) to locate all places where beehives are situated and ensure that each honey bee colony is inspected at least once each year for American foulbrood; and
 - (b) to identify American foulbrood cases in beehives; and
 - (c) to eliminate American foulbrood in beehives by destroying any American foulbrood cases and associated bee products, and destroying or sterilising associated appliances.
- (3) For the purposes of this clause, **reported incidence** means, for each period of the 12 months beginning on 1 July in any year, the number of American foulbrood cases expressed as a percentage of the total number of honey bee colonies notified to the management agency.

Clause 5 heading: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 5(1): replaced, on 5 September 2013, by clause 5 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 5(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

6 Management agency

- (1) The management agency responsible for implementing the plan is the Apiculture New Zealand Incorporated.
- (2) The management agency must, in implementing the plan, work towards achieving the objectives of the plan.

Clause 6(1): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 6(2): inserted, on 5 September 2013, by clause 6 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

6A Overview of obligations of management agency and beekeeper

- (1) The management agency's obligations are to—
 - (a) implement the plan in accordance with the plan rules (clauses 6 and 9):
 - (b) work towards achieving the objectives of the plan (clauses 5 and 6):
 - (c) keep a register of apiaries (clause 23):
 - (d) monitor American foulbrood disease levels (clause 40):

- (e) audit beekeepers' compliance with their obligations (clause 40):
 - (f) audit the accuracy of statements regarding American foulbrood made in documents required to be submitted to the management agency (clause 40):
 - (g) approve methods of inspection for American foulbrood (clause 35).
- (2) A beekeeper's obligations are to—
- (a) ensure that bees owned by that beekeeper are not situated in a place for more than 30 consecutive days except as provided in clause 15 (clause 15):
 - (b) comply with requirements to notify a place as an apiary (clauses 15 and 17):
 - (c) comply with information and notification requirements under clauses 10, 17, 21, 24, 27, and 32:
 - (d) notify any American foulbrood case to the management agency within 7 days of becoming aware of the case (clause 26):
 - (e) ensure, where American foulbrood is discovered in a beehive owned by that beekeeper, that all honey bees, bee products, and appliances associated with that honey bee colony are destroyed unless otherwise directed (clause 28):
 - (f) ensure that materials associated with American foulbrood are not used and not accessible to honey bees (clause 29):
 - (g) ensure that drugs concealing American foulbrood symptoms are not used in apiaries, honey bees, appliances, or bee products (clause 14):
 - (h) ensure that beehives owned by that beekeeper are inspected for American foulbrood by an authorised person (clause 32).
- (3) This clause—
- (a) is an overview of the obligations of the management agency and the beekeeper under this order and is not an exhaustive statement of those obligations:
 - (b) is for guidance only, and if any other provision of this order conflicts with a provision of this clause, the other provision prevails.

Clause 6A: inserted, on 5 September 2013, by clause 7 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

7 Term of plan

The plan remains in force until 1 April 2023.

Clause 7 heading: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 7: amended, on 5 September 2013, by clause 8 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 7: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

8 Powers used to implement plan

- (1) The powers conferred on a management agency under sections 128, 131, 135, and 136 of the Act may be exercised to implement the plan.
- (2) The powers conferred on an authorised person under sections 106, 109, 119, 121, 122, and 130 of the Act may be exercised to implement the plan.

Clause 8 heading: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 8(1): amended, on 5 September 2013, by clause 9 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 8(1): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 8(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

9 Plan rules

Clauses 10 to 40 contain the plan rules.

Clause 9 heading: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 9: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

General obligations

10 Obligation to supply information

- (1) This clause applies to—
 - (a) beekeepers:
 - (b) persons who own or occupy land or have owned or occupied land on which a honey bee colony, bee product, or appliance is or has been located:
 - (c) persons who are or have been in charge of a honey bee colony, bee product, or appliance:
 - (d) persons who are or have been in charge of the keeping of honey bees:
 - (e) persons who are or have been in charge of a diagnostic laboratory.
- (2) An authorised person may require a person to whom this clause applies to provide information held by that person that the authorised person believes, on reasonable grounds, is necessary for the purpose of monitoring the presence, former presence, absence, or distribution of *Paenibacillus larvae larvae* or the honey bee.
- (3) A person required to provide information in accordance with this clause must provide that information within the time specified by the authorised person.

- (4) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 10(4): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

11 Obligation to keep honey bees in moveable-frame hives

- (1) A person who keeps honey bees must keep those honey bees in moveable-frame hives.
- (2) A person who keeps honey bees and who has an exemption in accordance with clause 12 is exempt from the obligation in subclause (1) of this clause if those honey bees are kept in accordance with the exemption.
- (3) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 11(3): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

12 Exemption from obligation to keep honey bees in moveable-frame hives

- (1) An authorised person may exempt a person from the obligation in clause 11(1) if that person has applied in writing for an exemption and the exemption is required for 1 or more of the following purposes:
- (a) scientific research:
 - (b) rearing of queen honey bees:
 - (c) packages of honey bees for stocking beehives:
 - (d) public display.
- (2) The exemption must be given in writing and must specify the period of time for which the exemption applies and may specify conditions on which the exemption is granted.

13 Access to beehives

- (1) Every person in charge of the keeping of honey bees must ensure the normal access to honey bees, bee products, and appliances is kept free from vegetation that would impede or prevent inspection.
- (2) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 13(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

14 Restrictions on use of drugs

- (1) No person may use any drug, substance, or mixture of substances in relation to apiaries, honey bees, appliances, or bee products that has the effect of masking, obscuring, or concealing symptoms of American foulbrood or increasing the difficulty of detecting the disease or *Paenibacillus larvae larvae*.
- (2) The provisions of subclause (1) do not apply where a drug is used in accordance with an approval granted under section 25(2) of the Apiaries Act 1969, or

with an animal product standard made under Part 4 of the Animal Products Act 1999 or a regulated control scheme made under Part 3 of that Act.

- (3) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 14(2): amended, on 2 March 2018, by section 255(2) of the Food Safety Law Reform Act 2018 (2018 No 3).

Clause 14(2): amended, on 1 November 1999, by section 8(2) of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94).

Clause 14(3): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Notification of places as apiaries

15 Prohibition on keeping bees in place other than apiary

- (1) No beekeeper may permit beehives owned by that beekeeper to be situated in a place for more than 30 consecutive days unless that place has been notified as an apiary, in accordance with clause 17, by that beekeeper.

- (2) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 15(1): replaced, on 5 September 2013, by clause 10 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 15(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

16 Transitional provision for notification of apiaries

[Revoked]

Clause 16: revoked, on 5 September 2013, by clause 11 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

17 Place may be notified as apiary

- (1) A place may be notified as an apiary by a beekeeper if—

- (a) 1 beehive or a group of beehives owned by the beekeeper is situated in that place; and
- (b) in the case of a group of beehives, each beehive within that group is situated 200 metres or less from another beehive owned by the same beekeeper.

- (2) Where the beehives in a place are owned by more than 1 beekeeper, that place must be notified as a separate apiary by each beekeeper.

- (3) The notification of an apiary must be in writing and must include the full name and address of the beekeeper and the number of honey bee colonies in the apiary, the name and initial of the occupier of the place where the apiary is situated, the road name (if any) and address of the place where the apiary is situated, and a written description of the location of the apiary, including a Land Information New Zealand Topographic Map 260 Series grid reference, or a reference based on the Global Positioning System (GPS).

- (4) The notification must state whether the beehives are situated in the apiary for all of the calendar year or for specified months of the calendar year.

Clause 17(3): amended, on 5 September 2013, by clause 12 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

18 Seasonal apiaries

- (1) A place notified to the management agency as an apiary where the beehives are situated for specified months of the calendar year is a seasonal apiary.
- (2) Despite anything to the contrary in this order, a seasonal apiary continues to be an apiary as long as beehives owned by the beekeeper who notified the place to the management agency as an apiary are situated in that place for more than 30 consecutive days in any year beginning on 1 July.

19 Allocation of identification code

- (1) When a beekeeper first notifies a place to the management agency as an apiary, the management agency must give that beekeeper written notice of a code to be used as an identification code for that beekeeper.
- (2) Where a code number was allocated to a beekeeper under section 5 of the Apiaries Act 1969, the beekeeper may continue to use that code.

20 Marking of apiaries

- (1) Where the beekeeper does not have an identification code at the time that beekeeper notifies a place to the management agency as an apiary, the beekeeper must, within 30 days of the receipt of that identification code, mark the identification code on the outside of a beehive within that apiary or on a sign within that apiary.
- (2) Unless subclause (1) applies, a beekeeper must mark the beekeeper's identification code on the outside of a beehive within each apiary or on a sign within each apiary, where the beehives are owned by that beekeeper,—
 - (a) within 7 days of the date that apiary is notified to the management agency; or
 - (b) on or before 31 October 1998, if clause 16(1) applies.
- (3) The identification code must be marked on the beehive or the sign in such a manner that a person may, at any time, readily locate and read the identification code for that apiary.
- (4) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 20(4): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

21 Removal of identification code

- (1) Unless subclause (2) applies, no person other than the beekeeper may, without the written permission of the management agency, remove the beekeeper's

identification code marked on a beehive or in an apiary or alter it in such a way that the identification code no longer clearly applies to that beehive or apiary.

- (2) Where a beekeeper transfers the ownership of a beehive marked with identification codes, the beekeeper must—
 - (a) remove all the identification codes or alter all the identification codes in such a way as to make it clear that identification codes no longer apply to that beehive; and
 - (b) notify the management agency of the name and address of the transferee.
- (3) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 21(2)(b): replaced, on 5 September 2013, by clause 13 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 21(3): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

22 Use of marks similar to identification codes

- (1) No person may knowingly mark a beehive or an apiary or knowingly use a mark on a beehive or in an apiary where—
 - (a) that mark is likely to be mistaken for, or confused with, an identification code; or
 - (b) that mark is an identification code, and that identification code was not allocated to the person marking or using the code.
- (2) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 22(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

23 Register of apiaries

- (1) The management agency must keep a register of all apiaries notified to the management agency or registered under the Apiaries Act 1969, and may from time to time amend or delete any entry in the register.
- (2) The register must include all the information supplied to the management agency in accordance with clause 17 and all other relevant information supplied to the management agency or to an authorised person in accordance with the plan rules.

Clause 23(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

24 Place ceasing to be apiary

- (1) Unless that place is a seasonal apiary, a place notified to the management agency as an apiary ceases to be an apiary if no beehives owned by the beekeeper who notified that apiary are situated in that place.
- (2) Where an apiary has been notified to the management agency as a seasonal apiary, that place ceases to be an apiary if no beehives owned by the beekeeper

who notified that apiary have been situated in that place for more than 30 consecutive days in any year beginning on 1 July.

- (3) When a place ceases to be an apiary, the beekeeper must notify the management agency in writing within 30 days.
- (4) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 24(4): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

25 Destruction of beehives posing risk

- (1) Where—
 - (a) 1 or more beehives have been situated for more than 30 consecutive days in a place that has not been notified to the management agency as an apiary; and
 - (b) *[Revoked]*
 - (c) an authorised person has complied with subclause (2); and
 - (d) the beekeeper has not notified the management agency of that place as an apiary before the expiry of the time limit in subclause (2)(b),—

an authorised person may destroy the beehives and all honey bees, bee products, and appliances associated with those beehives (**associated matter**).
- (2) Before action is taken under subclause (1), an authorised person must make reasonable attempts to find the owner of the beehives by—
 - (a) making inquiries, including inquiries of the occupier of the place where the beehives are situated; and
 - (b) fixing 1 weatherproof notice to one of the beehives instructing the owner to notify the management agency of that place as an apiary within 30 days of the date of the notice.
 - (c) *[Revoked]*
- (3) An authorised person must maintain records of—
 - (a) all beehives and associated matter destroyed under subclause (1); and
 - (b) the actions taken to identify the owner of the beehives and associated matter before their destruction.

Clause 25(1): amended, on 5 September 2013, by clause 14(3) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 25(1)(b): revoked, on 5 September 2013, by clause 14(1) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 25(1)(d): amended, on 5 September 2013, by clause 14(2) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 25(2)(b): amended, on 5 September 2013, by clause 14(4) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 25(2)(c): revoked, on 5 September 2013, by clause 14(5) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 25(3): inserted, on 5 September 2013, by clause 14(6) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

26 Notification of American foulbrood

- (1) Where an American foulbrood case is discovered in a beehive,—
 - (a) the person in charge of the keeping of the honey bees must, within 7 days of becoming aware of the American foulbrood case, notify the management agency and the beekeeper in writing of the case; and
 - (b) an authorised person must, within 7 days of becoming aware of the American foulbrood case, notify the management agency in writing of the case.
- (2) A breach of the rule in subclause (1)(a) is an offence under section 154N(18) of the Act.

Clause 26(1): replaced, on 5 September 2013, by clause 15(1) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 26(2): amended, on 5 September 2013, by clause 15(2) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 26(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

27 Annual Disease Return

- (1) On or before 1 June in each year, every beekeeper must, for all beehives owned by that beekeeper, complete and send, whether electronically or otherwise, to the management agency an Annual Disease Return.
- (2) An Annual Disease Return must be in the form provided by or obtained from the management agency and must contain—
 - (a) the number of honey bee colonies in beehives owned by that beekeeper; and
 - (b) the location of each beehive where an American foulbrood case was found and the dates on which those cases were discovered; and
 - (c) the dates on which the ownership of any beehives was transferred to or from the beekeeper and, in each case, the number of beehives transferred and the name and address of the transferee and transferor; and
 - (d) any change to the information supplied to the management agency in accordance with clause 17.
- (3) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 27(1): amended, on 5 September 2013, by clause 16 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 27(3): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

28 Obligation of beekeeper to destroy honey bees and materials

- (1) Where an American foulbrood case is discovered in a beehive, the beekeeper who owns that beehive must, within 7 days of becoming aware of that case, destroy by burning all honey bees, bee products, and appliances associated with that honey bee colony unless directed otherwise by an authorised person.
- (2) The provisions of this clause do not apply to—
 - (a) a beekeeper who is acting in accordance with the relevant provision of a Disease Elimination Conformity Agreement between the beekeeper and the management agency; or
 - (b) a person acting in accordance with a permission, regulation, or authorisation provided for in sections 52 or 53 of the Act; or
 - (c) a person acting in accordance with an exemption given under clause 30.

29 Prohibition on dealings with materials associated with American foulbrood

- (1) No person who suspects or knows that a honey bee colony is or was displaying any of the clinical symptoms of American foulbrood may use or expose—
 - (a) a bee product associated with that honey bee colony; or
 - (b) an appliance associated with that honey bee colony, other than an appliance sterilised by a method approved by the management agency,—
in a manner that allows honey bees access to that product or appliance.
- (2) The method approved by the management agency must be a method generally recognised by the scientific community as effective in sterilising appliances contaminated with American foulbrood.
- (3) The provisions of this clause do not apply to a person referred to in clause 28(2).
- (4) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 29(4): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

30 Exemptions for research, education, and training

- (1) The management agency may, by notice in writing, exempt any person from the obligations in clause 28, the prohibition in clause 29, or the prohibition in clause 31, for the purpose of research, education, or training relating to American foulbrood or *Paenibacillus larvae larvae* for such a time not exceeding 12 months and on such conditions as the management agency thinks fit.
- (2) The management agency may grant an exemption only if, in the opinion of the management agency, the exemption will not allow the exposure or spread of American foulbrood or *Paenibacillus larvae larvae* beyond the area specified in the exemption.
- (3) The management agency may at any time withdraw or amend the exemption—

- (a) if the management agency is satisfied on reasonable grounds—
 - (i) that the conditions on which the exemption was granted have been breached; or
 - (ii) that the exemption is resulting, is likely to result, or has resulted in the exposure or spread of American foulbrood or *Paenibacillus larvae larvae* beyond the area specified in the exemption; or
 - (b) at the request of the holder of the exemption.
- (4) American foulbrood may be communicated, released, or spread for the purposes of section 52(a) of the Act in the circumstances set out in an exemption given under this clause.

31 Dealing with products from honey bee colony with American foulbrood

- (1) No person may transfer ownership or possession to any other person, or remove from the place where they are situated, any honey bees, bee products, or appliances associated with any honey bee colony where that person knows or suspects that the honey bee colony is or was displaying any of the clinical symptoms of American foulbrood.
- (2) A person is exempt from the prohibition in subclause (1) if that person—
 - (a) is a person to whom clause 28(2) applies; or
 - (b) is acting in accordance with the written consent of an authorised person.
- (3) An authorised person may grant consent only if, in the opinion of that authorised person, there is unlikely to be any significant risk of exposure or spread of American foulbrood to any beehives or honey bee colonies caused by the actions authorised by the consent.
- (4) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 31(4): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Inspection

32 Certificate of Inspection

- (1) Every beekeeper must ensure that every honey bee colony in every beehive owned by that beekeeper is inspected for American foulbrood cases by an authorised person on or after 1 August and on or before 30 November each year commencing in 1999.
- (2) The inspection specified in subclause (1) may, if the beekeeper agrees, be carried out by a person named as a person responsible for disease management in a Disease Elimination Conformity Agreement between any other beekeeper and the management agency.
- (3) Within 14 days after the inspection is completed or before 15 December of each year, whichever is the earlier, every beekeeper must complete a Certificate of Inspection in a form provided by or obtained from the management agency

and forward to the management agency the Certificate of Inspection together with the statement made in accordance with clause 33.

- (4) The obligations in subclauses (1) and (3) do not apply to a beekeeper who holds a Certificate of Inspection Exemption from the management agency.
- (5) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 32(5): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

33 Statement by person inspecting honey bee colonies

- (1) Every authorised person, or person referred to in clause 32(2), who carries out an inspection under clause 32 must complete and sign a statement confirming—
 - (a) that the inspection of the honey bee colonies was carried out by that person; and
 - (b) the location (including the road name, if any, and the address of the place) of the honey bee colonies inspected; and
 - (c) the number of honey bee colonies inspected in each place; and
 - (d) the name and initial of the occupier of the place where the honey bee colonies are situated; and
 - (e) the date of the inspection; and
 - (f) the location and number of American foulbrood cases (if any) and the dates on which those cases (if any) were found; and
 - (g) a record of the actions taken (if any) by the person inspecting, in respect of each American foulbrood case found.

- (2) A breach of this rule is an offence under section 154N(18) of the Act.

Clause 33(2): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

34 Obligation to notify beekeeper of American foulbrood case

Where an authorised person, or person referred to in clause 32(2), discovers an American foulbrood case during any inspection carried out under this plan, the person who found that case must notify in writing the beekeeper who owns the beehive in which that case was found of the case.

Clause 34: amended, on 18 September 2012, pursuant to section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

35 Obligation to specify approved methods

- (1) The management agency must approve the methods by which an inspection under clause 32 must be carried out.
- (2) The methods approved by the management agency must be methods generally recognised by the scientific community as effective in the detection of American foulbrood.

Certificate of Inspection Exemption

36 Certificate of Inspection Exemption

- (1) The management agency must, from time to time, notify beekeepers of the opportunity to obtain a Certificate of Inspection Exemption.
- (2) The management agency must grant a Certificate of Inspection Exemption to any beekeeper in relation to beehives owned by that beekeeper if that beekeeper enters into a Disease Elimination Conformity Agreement with the management agency.
- (3) The management agency must, by notice in writing to the beekeeper, revoke a Certificate of Inspection Exemption if requested, in writing, at any time, by the beekeeper to do so, and the Disease Elimination Conformity Agreement is cancelled at the time of the revocation.

37 Disease Elimination Conformity Agreement

- (1) A beekeeper and the management agency may at any time enter into, or amend, a Disease Elimination Conformity Agreement if—
 - (aaa) the beekeeper has passed a course in American foulbrood case recognition; and
 - (a) the beekeeper agrees to implement the agreement by ensuring that the persons named in the agreement as the persons responsible for disease management supervise or carry out the procedures and practices specified in that agreement; and
 - (b) the management agency is satisfied—
 - (i) that the practices and procedures set out in the agreement are, if carried out, sufficient to reduce or maintain at zero the overall annual rate of American foulbrood cases in beehives owned by the beekeeper; and
 - (ii) the beekeeper is likely to implement the practices and procedures set out in the agreement; and
 - (iii) the persons named in the agreement as responsible for disease management are sufficiently familiar with and are suitable persons to supervise or carry out the practices and procedures specified in the agreement.
- (2) The Disease Elimination Conformity Agreement must specify—
 - (a) the methods to be used for the inspection of honey bee colonies for American foulbrood; and
 - (b) the number of inspections to be carried out each year; and
 - (c) the times during the year when the inspections will be carried out; and

- (d) the systems to be used to record the time of inspections, the results of inspections, and the actions taken in respect of American foulbrood cases and associated bee products and appliances; and
 - (e) the systems to be used to record movements of appliances and bee products in and out of an apiary; and
 - (f) the methods to be used to destroy American foulbrood cases and associated appliances and bee products, including, where necessary, the movement of such cases, appliances, and bee products; and
 - (g) the methods to be used to sterilise appliances salvaged in relation to any American foulbrood case; and
 - (h) the methods to be used to sterilise and disinfect appliances used in inspecting honey bee colonies for American foulbrood; and
 - (i) the name of the natural persons who are—
 - (i) responsible for disease management; and
 - (ii) responsible for liaising with the management agency in relation to the agreement.
- (3) The Disease Elimination Conformity Agreement must require the destruction of American foulbrood cases and associated bee products.
- (4) The methods specified by a Disease Elimination Conformity Agreement for inspection or sterilisation are not required to be methods approved under clause 29 or clause 35, but must be methods generally recognised by the scientific community as methods effective in detecting American foulbrood or in sterilising appliances contaminated with American foulbrood.

Clause 37(1)(aaa): inserted, on 5 September 2013, by clause 17 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

38 Amendment of Disease Elimination Conformity Agreement by management agency

- (1) The management agency may, at any time and by written notice to a beekeeper given in accordance with subclause (2), amend a Disease Elimination Conformity Agreement if, following consultation with the beekeeper, the management agency is satisfied on reasonable grounds that the overall annual rate of American foulbrood cases in the beehives owned by the beekeeper is—
- (a) not zero and is not decreasing; or
 - (b) not zero and is not likely to decrease unless the amendment is made.
- (2) If the management agency amends a Disease Elimination Conformity Agreement, it must give written notice to the beekeeper specifying the decision and the reasons for the decision.

39 Review of Certificate of Inspection Exemption

- (1AAA) The management agency must monitor on an annual basis the level of American foulbrood disease in beehives owned by beekeepers holding a Certificate of Inspection Exemption.
- (1) The management agency may at any time revoke a Certificate of Inspection Exemption by written notice to a beekeeper given in accordance with subclause (2) if, following consultation with the beekeeper, the management agency is satisfied on reasonable grounds that—
- (a) the beekeeper has breached the Disease Elimination Conformity Agreement; or
 - (b) the overall annual rate of American foulbrood cases is increasing in the beehives owned by that beekeeper.
- (2) If the management agency revokes a Certificate of Inspection Exemption, it must give written notice to the beekeeper specifying the decision and the reasons for the decision.
- (3) The Disease Elimination Conformity Agreement is cancelled at the time of the revocation.

Clause 39(1AAA): inserted, on 5 September 2013, by clause 18(1) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Clause 39(1): amended, on 5 September 2013, by clause 18(2) of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Inspections and audits

40 Inspections and audits

- (1) The management agency must—
- (a) audit a beekeeper's compliance with his or her obligations under this order if the management agency has reasonable grounds to suspect that—
 - (i) there has been a significant or recurring failure by the beekeeper to comply with any of those obligations; or
 - (ii) any statement made by the beekeeper in an Annual Disease Return, a Certificate of Inspection, or a notification of an American foulbrood case is inaccurate, misleading, or false in a material particular; and
 - (b) carry out surveillance of beehives to detect American foulbrood; and
 - (c) from time to time carry out work, other than the work specified in paragraphs (a) and (b), to enable the management agency to measure the success of the plan in achieving its primary objective.

- (2) The management agency may audit a beekeeper's compliance with his or her obligations under this order in any area that, in the management agency's opinion, has a high or persistent incidence of American foulbrood disease.

Clause 40: replaced, on 5 September 2013, by clause 19 of the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311).

Funding and compensation

41 Funding of plan

The plan is to be funded by the Apiculture New Zealand Incorporated from the levy paid under the Biosecurity (American Foulbrood—Beekeeper Levy) Order 2003.

Clause 41 heading: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 41: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 41: amended, on 20 November 2003, by clause 3 of the Biosecurity (National American Foulbrood Pest Management Strategy) Amendment Order 2003 (SR 2003/284).

42 Compensation

No compensation is payable by the management agency in respect of losses incurred as a direct result of the plan.

Clause 42: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Marie Shroff,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998 that incorporates all the amendments to that order 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*

Food Safety Law Reform Act 2018 (2018 No 3): section 255

Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013 (SR 2013/311)

Biosecurity Law Reform Act 2012 (2012 No 73): section 93

Biosecurity (National American Foulbrood Pest Management Strategy) Amendment Order 2003 (SR 2003/284)

Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94): section 8(2)