



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

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 5th day of August 2013

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 66 of the Biosecurity Act 1993, Her Excellency the Administrator of the Government makes the following order, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Primary Industries made after being satisfied of the matters in section 65 of the Biosecurity Act 1993 and in accordance with section 83(16) and (17) of the Biosecurity Law Reform Act 2012.

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Order

1 Title

This order is the Biosecurity (National American Foulbrood Pest Management Plan) Amendment Order 2013.

2 Commencement

This order comes into force 28 days after the date of its notification in the *Gazette*.

3 Principal order

This order amends the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998 (the **principal order**).

4 Clause 2 amended (Interpretation)

In clause 2(1), replace the definition of **moveable-frame hive** with:

“**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.”

5 Clause 5 amended (Objectives of plan)

Replace clause 5(1) with:

“(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.”

6 Clause 6 amended (Management agency)

In clause 6, insert as subclause 2:

“(2) The management agency must, in implementing the plan, work towards achieving the objectives of the plan.”

7 New clause 6A inserted (Overview of obligations of management agency and beekeeper)

After clause 6, insert:

“**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.”

8 Clause 7 amended (Term of plan)

In clause 7, replace “30 September 2008” with “1 April 2023”.

9 Clause 8 amended (Powers used to implement plan)

In clause 8(1), after “128,”, insert “131,”.

10 Clause 15 amended (Prohibition on keeping bees in place other than apiary)

Replace clause 15(1) with:

- “(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.”

11 Clause 16 revoked (Transitional provision for notification of apiaries)

Revoke clause 16.

12 Clause 17 amended (Place may be notified as apiary)

In clause 17(3), after “reference”, insert “, or a reference based on the Global Positioning System (GPS)”.

13 Clause 21 amended (Removal of identification code)

Replace clause 21(2)(b) with:

- “(b) notify the management agency of the name and address of the transferee.”

14 Clause 25 amended (Destruction of beehives posing risk)

- (1) Revoke clause 25(1)(b).
- (2) In clause 25(1)(d), replace “limits in subclause (2)(b) or (c), whichever is the later” with “limit in subclause (2)(b)”.
- (3) In clause 25(1), after “those beehives”, insert “(associated matter)”.
- (4) In clause 25(2)(b), replace “the notice; and” with “the notice.”
- (5) Revoke clause 25(2)(c).
- (6) After clause 25(2), insert:

“(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.”

- 15 Clause 26 amended (Notification of American foulbrood)**
- (1) Replace clause 26(1) with:
- “(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) In clause 26(2), replace “this rule” with “the rule in subclause (1)(a)”.
- 16 Clause 27 amended (Annual Disease Return)**
- In clause 27(1), after “send”, insert “, whether electronically or otherwise,”.
- 17 Clause 37 amended (Disease Elimination Conformity Agreement)**
- In clause 37(1), before paragraph (a), insert:
- “(aaa) the beekeeper has passed a course in American foulbrood case recognition; and”.
- 18 Clause 39 amended (Review of Certificate of Inspection Exemption)**
- (1) In clause 39, before subclause (1), insert:
- “(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.”
- (2) In clause 39(1), replace “must review each Certificate of Inspection Exemption annually and may at any time revoke it” with “may at any time revoke a Certificate of Inspection Exemption”.
- 19 Clause 40 replaced (Inspections and audits)**
- Replace clause 40 with:

“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.”

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force 28 days after the date of its notification in the *Gazette*, amends the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998 (the **principal order**).

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Explanatory note

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The amendments made by this order, among other things,—

- redefine moveable-frame hive to mean a beehive from which any frame or comb that forms part of the beehive may be easily removed for visual inspection without causing damage to that frame or comb:
- provide a new primary objective of the plan, which is to manage American foulbrood so as to reduce the reported incidence of the disease by an average of 5% each year:
- provide an overview of the obligations of the management agency and beekeepers under the principal order:
- require, as one of the conditions that must be met before a beekeeper and the management agency enter into or amend a Disease Elimination Conformity Agreement, the beekeeper to have passed a course in American foulbrood recognition:
- require the management agency to monitor on an annual basis the level of American foulbrood in beehives owned by beekeepers holding a Certificate of Inspection Exemption:
- require the management agency to audit a beekeeper's compliance with his or her obligations if the agency has reasonable grounds to suspect that the beekeeper has submitted misleading, inaccurate, or false statements to the agency or there is a significant or recurring failure by the beekeeper to comply with an obligation (previously the agency was required to audit beekeepers' compliance on an annual basis):
- enable the management agency to audit a beekeeper's compliance with his or her obligations in any area that the agency considers has a high or persistent incidence of American foulbrood.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 8 August 2013.
This order is administered by the Ministry for Primary Industries.
