



Raw Milk for Sale to Consumers Regulations 2015

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 7th day of December 2015

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 9 and 166 of the Animal Products Act 1999 and sections 383(3)(d), (f), and (g), 390, 391, and 439 of the Food Act 2014, Her Excellency the Administrator of the Government makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Food Safety made after complying with the requirements in sections 9(2) to (4) and 39(3) and (4) of the Animal Products Act 1999 and sections 383(6) and (7), 390(3), 391(3), and 441 of the Food Act 2014.

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Regulations

1 Title

These regulations are the Raw Milk for Sale to Consumers Regulations 2015.

2 Commencement

These regulations come into force on 1 March 2016.

Part 1

Preliminary provisions

3 Overview

These regulations—

- (a) impose a regulated control scheme under the Animal Products Act 1999 in relation to the production and processing of raw milk intended for sale to a final consumer; and
- (b) impose restrictions under the Food Act 2014 on the sale and advertising of raw milk for human consumption.

4 Interpretation

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

acceptable outcome means an outcome of an assessment carried out under Part 6 that is specified as an acceptable outcome

critical non-conformance means a departure from a requirement of these regulations that is specified as a critical non-conformance

depot means a depot, refrigerated container unit, or other building or structure used for holding raw milk in a temperature-controlled environment until delivery to the final consumer

depot operator means the owner or other person in control of a business that holds raw milk in a depot

effective hygiene practices has the meaning given in regulation 39

essential services includes process gases, lighting, milking procedures, refrigeration, ventilation, vacuum, water, and waste management

farm dairy has the meaning given in section 4(1) of the Animal Products Act 1999 and, in relation to any RCS raw milk, means the farm dairy at which the milk was extracted

farm dairy address means—

- (a) land that contains a farm dairy used in the operations of a farm dairy business; and
- (b) other land used in the operations of the same farm dairy business that is contiguous to the land described in paragraph (a) or contiguous to land described in this paragraph (including land separated from the property in question only by a road, waterway, or railway line)

farm dairy business means a business undertaking that, for reward or for the purposes of trade, produces RCS raw milk

farm dairy operator has the meaning given in section 4(1) of the Animal Products Act 1999

final consumer—

- (a) means a person who buys raw milk for the purpose of personal consumption; but
- (b) does not include a person who buys or receives raw milk for the purpose of sale

fit for human consumption, in relation to RCS raw milk, means that, by reason of the RCS raw milk having had the relevant risk factors managed in accordance with the regulated control scheme, the RCS raw milk is suitable for human consumption in its raw state

hygiene practices has the meaning given in regulation 39

lot has the meaning given in standard 1.1.2—2(3) of the Australia New Zealand Food Standards Code

lot identification has the meaning given in standard 1.1.2—2(3) of the Australia New Zealand Food Standards Code

maintenance compound means any substance—

- (a) used for maintaining, repairing, servicing, cleaning, or sanitising equipment or surfaces, or air that may be the source of, or result in, contamination of RCS raw milk or associated things; or
- (b) used for treating water; or
- (c) used for pest control

major non-conformance means a departure from a requirement of these regulations that is specified as a major non-conformance

milking animal means an animal from which raw milk is intended to be extracted for the purposes of sale or trade, with or without further processing, during its milking life from commencement of first lactation, including non-lactating periods

minor non-conformance means a departure from a requirement of these regulations that is specified as a minor non-conformance

non-conforming raw milk means RCS raw milk that—

- (a) has not, or may not have, been stored in accordance with regulation 49; or
- (b) meets or may meet the criteria for critical non-conformance; or
- (c) does not comply with regulation 31

process has the meaning given in section 4(1) of the Animal Products Act 1999, which includes pack, transport, and store

produce has the meaning given in section 4(1) of the Animal Products Act 1999

raw milk—

- (a) means animal milk intended for human consumption in its raw state; but
- (b) does not include colostrum or speciality milk (as those terms are defined in regulation 3 of the Animal Products (Dairy) Regulations 2005)

raw milk farm dairy assessment report means a report from a recognised raw milk farm dairy assessor of a raw milk farm dairy assessment

raw state means not having been processed in a way intended to alter its quality or composition (such as by pasteurisation) or having had anything added to or removed from it

RCS raw milk means raw milk in relation to which the regulated control scheme is imposed under regulation 7

recognised laboratory means a laboratory recognised by the Director-General under section 101 of the Animal Products Act 1999

recognised raw milk farm dairy assessor means a person, class of person, or agency recognised under Part 8 of the Animal Products Act 1999 for the purposes of regulations 70 and 71

registered depot operator means a depot operator who is registered under regulation 18 to store RCS raw milk in a depot

registered farm dairy operator means a farm dairy operator who is registered under regulation 18 to produce and process RCS raw milk

regulated control scheme has the meaning given in regulation 5

residential address means an address in New Zealand where a final consumer lives

responsible verifier means, in relation to a registered farm dairy operator or a registered depot operator, a verifying agency or a verifier (if the verifier is not part of a recognised verifying agency) that—

- (a) is a recognised person or a recognised agency under the Animal Products Act 1999 for carrying out verification functions relating to the operations of a registered farm dairy operator or registered depot operator; and
- (b) carries out verification of the registered farm dairy operator or registered depot operator for the purposes of the regulated control scheme

sampling includes—

- (a) sample selection:
- (b) taking a sample:
- (c) safeguarding a sample:
- (d) despatching a sample to a laboratory:
- (e) transporting a sample:
- (f) gathering information about a sample:
- (g) any associated activities set out in specifications

scheme has the meaning given in regulation 5

significant change in circumstance—

- (a) means any change in—
 - (i) the name, trading name, physical address, or electronic address (if any) of an applicant for registration, a registered farm dairy operator, or a registered depot operator:
 - (ii) the physical address of a farm dairy or the physical address of a depot:
 - (iii) the name, position, designation, or area of responsibility of any individual nominated by the applicant for registration or registered farm dairy operator under regulation 30:
 - (iv) the verifier, if the verifier is not part of a verifying agency:
 - (v) the verifying agency (if applicable):

- (b) means any removal of the species whose milk an applicant for registration or a registered farm dairy operator is applying or is registered to produce and process as RCS raw milk:
- (c) means any change in the information that the applicant for registration, the registered farm dairy operator, or the registered depot operator has provided under regulation 16(3):
- (d) includes the death, bankruptcy, receivership, voluntary administration, or liquidation of an applicant for registration, a registered farm dairy operator, or a registered depot operator

specification means a matter specified by notice under section 167(1) of the Animal Products Act 1999 (in relation to provisions of the regulated control scheme) or section 405 of the Food Act 2014 (in relation to other provisions of these regulations), and **specified** means set by specification

specified person means a person specified in a specification

TB plan means the Biosecurity (National Bovine Tuberculosis Pest Management Plan) Order 1998

transport operator means the owner or other person in control of a business that delivers RCS raw milk to a depot or a final consumer

unacceptable outcome means an outcome of an assessment carried out under Part 6 that is specified as an unacceptable outcome

waste includes all solids, liquids, and gases that a registered farm dairy operator or a registered depot operator intends to dispose of as being unwanted

wholesome has the meaning given to wholesomeness in section 4(1) of the Animal Products Act 1999

withhold means exclude permanently from stocks intended for sale to a final consumer.

- (2) Any term or expression that is defined in the Animal Products Act 1999 or the Food Act 2014 and used, but not defined, in these regulations has the same meaning as in the Animal Products Act 1999 or the Food Act 2014 (as the case may be).

5 Meaning of regulated control scheme

- (1) In these regulations, **regulated control scheme** or **scheme** means these regulations (except the regulations listed in subclause (2)) and any associated specifications, specific requirement, and determinations given or made by the Director-General under the Animal Products Act 1999.
- (2) The following provisions are made under the Food Act 2014 and do not form part of the regulated control scheme:
 - (a) regulations 61 and 62 (which provide restrictions on the sale of raw milk):

- (b) regulation 63 (labelling and advertising requirements):
- (c) regulation 64 (raw milk to be collected on farm or delivered to final consumer's residential address):
- (d) regulation 85(1)(b) and (c), (2), and (3) (which relates to records relating to sale):
- (e) regulations 85(4)(s), 86(2)(o), 87(2)(m), 90, and 91 (which relate to record keeping and return requirements) to the extent that the records or returns concerned are required under the Food Act 2014:
- (f) regulations 93 and 94 (which relate to infringement offences under the Food Act 2014):
- (g) clauses 6 and 7 of Schedule 1 (which contain transitional arrangements for regulations made under the Food Act 2014):
- (h) Schedules 2 and 3.

6 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Part 2

Regulated control scheme imposed

7 Regulated control scheme imposed

A regulated control scheme is imposed in relation to raw milk intended for sale or delivery to a final consumer.

8 Prime purpose of scheme

The prime purpose of the scheme is to identify, monitor, evaluate, and manage the risks associated with—

- (a) the production and processing of RCS raw milk; and
- (b) other related activities or conditions affecting the fitness of RCS raw milk for human consumption.

9 Activities to which scheme applies

The scheme applies to—

- (a) all activities involved in producing and processing RCS raw milk up until the time when the milk is received by the final consumer; and
- (b) the collection and analysis of samples of RCS raw milk and associated things for monitoring under the scheme.

10 People to whom scheme applies

The scheme applies to the following persons:

- (a) farm dairy operators who produce and process RCS raw milk;
- (b) depot operators and transport operators who store or transport RCS raw milk on behalf of farm dairy operators;
- (c) people and agencies who carry out specialist functions in relation to RCS raw milk under the scheme, such as samplers, recognised persons, and animal product officers.

11 Relationship between scheme and other regulations and specifications

- (1) If there is any inconsistency between the scheme and a provision of any other regulations or specifications made under the Animal Products Act 1999 (including any risk management programmes), the scheme prevails over that provision.
- (2) These regulations do not limit Part 7 of the Food Regulations 2015.

Part 3 Registration

12 Only registered farm dairy operators and registered depot operators may produce and process raw milk

- (1) A person must not produce or process RCS raw milk unless—
 - (a) the person is registered as a farm dairy operator under regulation 18 (in which case the person may produce and process RCS raw milk produced at a farm dairy for which the person is registered); or
 - (b) the person is registered as a depot operator under regulation 18 (in which case the person may store RCS raw milk in a depot for which the person is registered).
- (2) However, despite subsection (1), a person who is only a transport operator may transport RCS raw milk without being registered.

Register of farm dairy operators and depot operators

13 Director-General to maintain registers of farm dairy operators and depot operators

- (1) The Director-General must keep and maintain—
 - (a) a register of farm dairy operators who are authorised under the scheme and the farm dairies for which they are authorised; and
 - (b) a register of depot operators who are authorised under the scheme and the depots for which they are authorised.
- (2) The purposes of the registers are—
 - (a) to facilitate the control of the production and processing of RCS raw milk;

- (b) to enable members of the public to know which farm dairy operators and depot operators are subject to the scheme:
 - (c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry for Primary Industries under the Act and the scheme.
- (3) The Director-General must—
- (a) keep the registers open for public inspection, without fee, during ordinary office hours at the head office of the Ministry for Primary Industries and any other places that the Director-General determines; and
 - (b) on request, supply to any person copies of all or part of the register on payment of a reasonable fee for the production of the copies.
- (4) The registers may be kept in any manner that the Director-General thinks fit.

14 Matters to be shown in registers

- (1) The register of farm dairy operators must contain the following particulars in relation to each registered farm dairy operator and each farm dairy for which the farm dairy operator is registered:
- (a) the name, trading name, and unique registration number of the farm dairy operator:
 - (b) the name, position, and designation of any individual nominated by the farm dairy operator under regulation 30:
 - (c) the date on which the farm dairy operator was registered, the date on which that registration expires, and whether registration is suspended:
 - (d) the species of animal or animals from which the farm dairy operator is registered to produce and process RCS raw milk:
 - (e) the name of the responsible verifier:
 - (f) the physical address of the farm dairy:
 - (g) any other particulars required by or under the scheme.
- (2) The register of depot operators must contain the following particulars in relation to each registered depot operator and each depot for which the depot operator is registered:
- (a) the name, trading name, and unique registration number of the depot operator:
 - (b) the date on which the depot operator was registered, the date on which that registration expires, and whether registration is suspended:
 - (c) the name of the responsible verifier:
 - (d) the physical address of the depot:
 - (e) any other particulars required by or under the scheme.

15 Registered operators to ensure information provided

A registered farm dairy operator or a registered depot operator must ensure that sufficient information is provided to the Director-General to enable the Director-General to maintain the registers.

*Application for registration***16 Application for registration**

- (1) An application for registration must be made in writing in a form or manner provided in specifications or approved by the Director-General, and be accompanied by all of the following:
 - (a) a preregistration assessment report that complies with the requirements of regulation 70(3):
 - (b) the name of the responsible verifier that has indicated it is prepared to undertake the verification functions in respect of the farm dairy operator or the depot operator:
 - (c) any further information or other material that may be required by the Director-General:
 - (d) the fee prescribed in regulations made under the Animal Products Act 1999 (if any).
- (2) The application must specify the matters to be shown on the register under regulation 14.
- (3) The Director-General may require an applicant to supply further information or other material before determining whether to register the farm dairy operator or the depot operator.
- (4) If the information or material is not supplied within 3 months after the date of the request, or within any additional time that the Director-General allows, the application for registration lapses.

17 Applicant for registration must notify Director-General of significant change in circumstances

- (1) An applicant for registration must give written notice to the Director-General of any significant change in circumstances.
- (2) The notice must be given—
 - (a) before the significant change in circumstances occurs; or
 - (b) if compliance with paragraph (a) is not practicable, as soon as practicable after the significant change in circumstances occurs but, in any case, not later than 10 working days after the change occurs.
- (3) If the significant change in circumstances is the death, bankruptcy, receivership, voluntary administration, or liquidation of the applicant, the person who assumes charge of operations of the farm dairy business or assumes ownership

or control of the business that holds raw milk at the depot must give the written notice required by subclause (1).

Decision by Director-General

18 Registration

- (1) Subject to subclause (2), the Director-General must register an applicant if satisfied that—
 - (a) the preregistration assessment report under regulation 70 confirms the suitability of the applicant's activities and associated equipment and procedures related to the production and processing of RCS raw milk (in the case of a farm dairy operator) or storage of RCS raw milk (in the case of a depot operator); and
 - (b) the applicant is resident in New Zealand within the meaning of section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007.
- (2) The Director-General may refuse to register an applicant if the Director-General considers that—
 - (a) there has in the past been a serious or repeated failure by the applicant to comply with the duties imposed by the scheme; or
 - (b) there are other good grounds for considering that the applicant is not likely to comply with those duties in future.
- (3) The Director-General may—
 - (a) impose conditions on the registration that the Director-General considers reasonable; and
 - (b) specify the period of registration.
- (4) If the Director-General does not specify a period, the period of registration is 24 months.
- (5) The Director-General must, as soon as practicable after registering a farm dairy operator or a depot operator, give the operator a notice stating—
 - (a) the registration identifier of the operator; and
 - (b) the period of registration; and
 - (c) any conditions imposed by the Director-General.
- (6) Registration of a farm dairy operator or a depot operator continues in force for the period stated in the notice, unless—
 - (a) the operator is deregistered under regulation 21; or
 - (b) the registration is surrendered under regulation 22; or
 - (c) the registration is suspended under regulation 24.

19 Refusal to register

- (1) If, after considering an application and any further information or material supplied under regulation 16, the Director-General proposes to refuse to register a farm dairy operator or a depot operator, the Director-General must give the applicant—
 - (a) a notice containing the reasons and the facts or assumptions on which the Director-General's proposed decision to refuse to register the applicant is based; and
 - (b) a reasonable opportunity to make written submissions or to be heard in respect of the matter.
- (2) If the Director-General finally determines to refuse to register a farm dairy operator or a depot operator, the Director-General must, as soon as practicable, notify that fact to the applicant in writing, giving reasons.

20 Conditions on registration

- (1) The Director-General may from time to time, by written notification, impose reasonable conditions on the registration of a farm dairy operator or a depot operator, or revoke or amend any conditions.
- (2) If the Director-General proposes to impose conditions on the registration of an operator or to amend any conditions imposed on the registration of an operator, the Director-General must give the operator—
 - (a) a notice containing the reasons and the facts or assumptions on which the Director-General's proposed decision to impose or amend the conditions is based; and
 - (b) a reasonable opportunity to make written submissions or to be heard in respect of the matter.
- (3) The imposition, revocation, or amendment takes effect on the date specified in the notification, which may not be before the date on which the notice is received.

21 Deregistration of farm dairy operators or depot operators

- (1) The Director-General may remove the registration of a farm dairy operator or a depot operator from the relevant register if satisfied that—
 - (a) there has been a serious or repeated failure by the operator to comply with the duties imposed by the scheme; or
 - (b) the operator has failed to comply with any condition imposed under regulation 18(3)(a) or 20, being a failure to comply that—
 - (i) arose after the condition was imposed; or
 - (ii) the Director-General became aware of after the operator's registration; or

- (c) the operator has failed to pay the registration fee or any other charge or fee prescribed under regulations made under the Animal Products Act 1999 within 31 days after the due date for payment; or
 - (d) the operator is no longer operating as a farm dairy operator or depot operator under the scheme.
- (2) If the Director-General proposes to remove a farm dairy operator or a depot operator from the relevant register, the Director-General must—
 - (a) notify the operator in writing of the Director-General's intention, giving the reasons for that intention and the facts and assumptions on which it is based; and
 - (b) give the operator a reasonable opportunity, within the time specified in the written notice, to provide evidence, information, and submissions as to why the operator should not be removed from the register.
- (3) After considering the material (if any) supplied by the farm dairy operator or the depot operator under subclause (2)(b), the Director-General must—
 - (a) make a final decision as to whether to remove the operator from the register; and
 - (b) as soon as practicable,—
 - (i) notify the operator of the decision in writing, giving reasons and the facts or assumptions on which the decision is based, in the case of a decision to remove the registration of the operator from the register; and
 - (ii) notify the responsible verifier of the decision to remove the registration of the operator from the register.
- (4) If the registration of a farm dairy operator or a depot operator is removed from the register under this regulation, the Director-General may direct the operator or the person in charge to take appropriate actions to deal with any affected raw milk and may exercise any of the Director-General's other powers under section 82 of the Animal Products Act 1999.

22 Surrender of registration

- (1) A registered farm dairy operator or a registered depot operator may at any time surrender the operator's registration by notice in writing to the Director-General.
- (2) If a registered operator ceases to be in charge of operations at a farm dairy or to own or be in control of a business that holds raw milk in a depot, that operator must, within 14 days of so ceasing,—
 - (a) notify the Director-General in writing of that fact; and
 - (b) if requested by the Director-General, surrender the notice of registration to the Director-General; and

- (c) notify the responsible verifier of that fact.
- (3) At the same time as an operator gives notice under subclause (1) or (2), the operator must also notify the Director-General of how the operator proposes to deal with any remaining RCS raw milk under the operator's control.
- (4) The Director-General's acceptance of the surrender of registration may be subject to any conditions that the Director-General thinks fit, and the operator must comply with those conditions.
- (5) On being notified of a surrender of registration under this regulation,—
 - (a) the Director-General must remove the registration of the operator for the farm dairy or depot from the register; and
 - (b) the surrender takes effect on and from the date determined by the Director-General, which must be on or after the date of the notice by the operator.

Renewal of registration

23 Renewal

- (1) If a registered farm dairy operator or a registered depot operator wishes to extend the operator's registration past the period stated in the notice of registration (or 24 months, if no period is stated), the operator must apply for renewal during the 30 days before the registration is due to expire.
- (2) Regulations 16 and 18 to 20, with all necessary modifications, apply to an application for renewal as if it were an application for registration, except that—
 - (a) a further preregistration assessment report is not required under regulation 16(1)(a); and
 - (b) the application must be accompanied,—
 - (i) for farm dairy operator applicants, by the most recent raw milk farm dairy assessment that complies with the requirements of regulation 71(1) and (2); and
 - (ii) for all applicants, by the most recent verification audit report under regulation 75.
- (3) If the Director-General fails to decide the application for renewal before the expiry date, the operator is deemed to be registered under the scheme until the date the Director-General notifies the operator of his or her decision.

Suspension

24 Suspension of registration

- (1) A registered farm dairy operator or a registered depot operator may suspend registration by giving the Director-General written notice stating—
 - (a) the period of the suspension; and

- (b) the date on which the suspension commences, which must be after the date of the notice.
- (2) The suspension must be for a period of at least 3 months, but no more than 12 months.
- (3) The farm dairy operator or the depot operator may extend the period of the suspension by giving the Director-General written notice stating the new period of the suspension, but the total period of the suspension must not exceed 12 months.
- (4) The Director-General must ensure that any suspension under this regulation is recorded on the register.

25 Suspension of operations imposed by Director General

- (1) The Director-General may suspend any or all operations of a registered farm dairy operator or a registered depot operator for up to 3 months if the Director-General is satisfied that—
 - (a) there has been a serious or repeated failure by the operator to comply with the duties imposed by the scheme; or
 - (b) the operator has failed to comply with any conditions imposed under regulation 18(3)(a) or 20.
- (2) The Director-General may impose conditions and requirements relating to the suspension and resumption of operations.
- (3) If the Director-General suspends operations, the Director-General must give written notice to the farm dairy operator or the depot operator stating—
 - (a) the reasons for the suspension; and
 - (b) the period during which operations are suspended; and
 - (c) the date or time that the suspension commences (which must not be earlier than the date or time of notification); and
 - (d) the operations that the suspension applies to; and
 - (e) any conditions or requirements imposed by the Director-General.
- (4) The Director-General may extend the suspension of operations for a further period not exceeding 3 months if the Director-General—
 - (a) considers the extension is necessary in the circumstances; and
 - (b) has notified the farm dairy operator or the depot operator of the proposed extension and the reasons for it before the expiry of the initial period of suspension; and
 - (c) has given the farm dairy operator or the depot operator a reasonable opportunity to be heard.
- (5) The Director-General—

- (a) must notify the responsible verifier of any suspension or any extension under this regulation; and
- (b) must ensure any suspension or any extension under this regulation is recorded on the register; and
- (c) may notify in the *Gazette* any suspension or any extension under this regulation.

26 Effect of suspension of registration or operations

- (1) If the registration or operations of a registered farm dairy operator or a registered depot operator are suspended under regulation 24 or 25,—
 - (a) the farm dairy operator must withhold all RCS raw milk not yet received by a final consumer, and the depot operator must not store RCS raw milk, on and from the date that the suspension commences; and
 - (b) the suspension does not affect any other actions that the Director-General may take under the scheme; and
 - (c) the suspension does not affect the date on which the operator's registration expires; and
 - (d) the Director-General may direct the farm dairy operator, the depot operator, or the person who assumes charge of the operations of the farm dairy business or assumes ownership or control of the business that holds raw milk at the depot to take appropriate action to deal with any affected raw milk, and may exercise any other powers under section 82 of the Animal Products Act 1999.
- (2) If the registration of a farm dairy operator or a depot operator is suspended under regulation 24, the operator is not required to comply with the testing and assessment requirements in Part 6 during the period of suspension.

Notification of significant changes

27 Duty to notify Director-General of significant change in circumstances

- (1) A registered farm dairy operator or a registered depot operator must give written notice to the Director-General of any significant change in circumstances.
- (2) The notice must be given—
 - (a) before the significant change in circumstances occurs; or
 - (b) if compliance with paragraph (a) is not practicable, as soon as practicable after the significant change in circumstances occurs but, in any event, not later than 10 working days after the change occurs.
- (3) If the significant change in circumstances is the death, bankruptcy, receivership, voluntary administration, or liquidation of the farm dairy operator or the depot operator, the person who assumes charge of the operations of the farm

dairy or control of the business that holds raw milk at the depot must give the written notice required by subclause (1).

- (4) If the significant change in circumstances in subclause (3) has resulted or will result in a new farm dairy operator assuming charge of the operations of the farm dairy or a new depot operator assuming control of the business that holds raw milk in the depot,—
- (a) regulation 22(2) applies, but the new farm dairy operator or the new depot operator must give the required notice; and
 - (b) the new farm dairy operator or the new depot operator must apply for registration under regulation 16 or cease producing and processing RCS raw milk at the farm dairy or storing RCS raw milk at the depot.

Review of exercise of delegated power

28 Right of review of certain decisions made under delegated authority

- (1) This regulation applies to any of the following decisions made under this Part by a person acting under the delegated authority of the Director-General:
- (a) a decision under regulation 19 to refuse to register a person as a farm dairy operator or a depot operator:
 - (b) a decision under regulation 20 to impose or amend any condition on the registration of a farm dairy operator or a depot operator:
 - (c) a decision under regulation 21 to remove the registration of a farm dairy operator or a depot operator:
 - (d) a decision under regulation 25 to suspend or extend the suspension of operations of a farm dairy operator or a depot operator.
- (2) The farm dairy operator or the depot operator (or, in the case of subclause (1)(a), the applicant) may seek a review of the decision under section 162 of the Animal Products Act 1999.

Part 4

Production and processing

Subpart 1—Responsibility for activities, people, places, and things

29 Responsibilities of people to whom scheme applies

- (1) For the purposes of the scheme, a person is **responsible** for the following matters:
- (a) a registered farm dairy operator is responsible for—
 - (i) all activities involved in the production and processing of RCS raw milk from the farm dairy; and

- (ii) the premises, places, facilities, equipment, and essential services used by the farm dairy operator in the production and processing of RCS raw milk; and
 - (iii) the staff of the farm dairy business involved in the production and processing of RCS raw milk; and
 - (iv) the activities, people, places, and things for which a registered depot operator, a transport operator, or any specified person is responsible under paragraph (b), (c), or (d), to the extent to which the farm dairy operator can reasonably be expected to exercise control over those activities, people, places, and things:
 - (b) a registered depot operator is responsible for—
 - (i) all activities involved in the storage of RCS raw milk at the depot; and
 - (ii) the premises, places, facilities, equipment, and essential services used by the depot operator in the storage of RCS raw milk; and
 - (iii) the staff of the business that holds raw milk in the depot involved in the storage of RCS raw milk:
 - (c) a transport operator is responsible for—
 - (i) all activities involved in the transporting of RCS raw milk by the transport operator; and
 - (ii) the premises, places, facilities, equipment, and essential services used by the transport operator to transport RCS raw milk; and
 - (iii) the staff of the transport operator:
 - (d) a specified person is responsible for—
 - (i) all activities specified as being the responsibility of that person; and
 - (ii) the premises, places, facilities, equipment, and essential services used by that person in carrying out the specified activities; and
 - (iii) the staff of the specified person.
- (2) In this regulation, **staff** means people who carry out work in any capacity for the relevant business, including work as—
- (a) employees; or
 - (b) contractors or subcontractors; or
 - (c) employees of a contractor or a subcontractor; or
 - (d) employees of a labour hire company who have been assigned to work in the business or undertaking; or
 - (e) apprentices or trainees; or
 - (f) people gaining work experience or undertaking a work trial; or

- (g) volunteers.

30 Primary contact in relation to day-to-day management

A registered farm dairy operator may nominate 1 or more individuals to be the primary contact for the Ministry for Primary Industries in relation to all or part of the day-to-day management of operations at a farm dairy, if the registered farm dairy operator obtains the consent of the individual or individuals.

Subpart 2—State of raw milk

31 Raw milk to be fit for human consumption, wholesome, and free of hazards

A registered farm dairy operator must ensure that RCS raw milk that the farm dairy operator produces and processes—

- (a) is fit for human consumption; and
- (b) is wholesome; and
- (c) does not contain any hazards at a level that may lead to an adverse health effect on humans.

Subpart 3—Production

Minimisation of contamination or deterioration of raw milk

32 Minimisation of contamination or deterioration of raw milk

A registered farm dairy operator, a registered depot operator, a transport operator, and any other specified person must ensure that all activities for which the operator or person is responsible that relate to the production or processing of RCS raw milk are carried out in a manner that minimises contamination, deterioration, or adulteration of the raw milk.

33 Specific obligations of farm dairy operators in minimising contamination of raw milk

- (1) A registered farm dairy operator must ensure that RCS raw milk from more than 1 species of animal is not combined.
- (2) If a farm dairy also extracts raw milk for any purpose other than sale to a final consumer and that milk does not comply with the scheme, the registered farm dairy operator must ensure that RCS raw milk—
 - (a) is stored separately from any other raw milk, milk, or milk products; and
 - (b) is—
 - (i) extracted before any milk that is extracted for other purposes; or
 - (ii) extracted after the milking equipment has been cleaned and sanitised.

*Requirements for premises, equipment, etc***34 Requirements for premises, places, facilities, equipment, and essential services**

A registered farm dairy operator, a registered depot operator, a transport operator, and any specified person must ensure that the premises, places, facilities, equipment, and essential services for which the operator or person is responsible are—

- (a) located, designed, and constructed in a way that—
 - (i) ensures that the RCS raw milk complies, and will continue to comply, with regulation 31; and
 - (ii) allows easy and thorough cleaning, disinfection, and inspection; and
- (b) operated in a way that minimises the exposure of raw milk and associated things to risk factors and manages those risk factors.

35 Further requirements for essential services

- (1) A registered farm dairy operator must ensure that—
 - (a) all essential services required for the farm dairy or the parts of the farm dairy address that relate to the production or processing of RCS raw milk are available in sufficient quantities and are suitable for their purpose; and
 - (b) all water that may come into contact with RCS raw milk during milking, including water used to clean the milking plant, is of suitable quality.
- (2) A registered depot operator must ensure that all essential services required for the depot that relate to the storage of RCS raw milk are available in sufficient quantities and are suitable for their purpose.
- (3) A transport operator must ensure that all essential services that relate to the delivery of RCS raw milk to a final consumer are available in sufficient quantities and are suitable for their purpose.

36 Requirements for milking plant

A registered farm dairy operator must ensure that the milking plant is designed so that materials and substances coming into contact with RCS raw milk do not contaminate the milk or cause it to deteriorate to such an extent that it no longer complies with regulation 31.

*Personnel***37 Competency requirements**

A registered farm dairy operator, a registered depot operator, and a transport operator must ensure that all people for whom the operator is responsible meet

specified minimum competency standards for the activities that the people undertake in the production or processing of RCS raw milk.

38 Resourcing, training, and supervision

A registered farm dairy operator, a registered depot operator, and a transport operator must ensure that all production and processing of RCS raw milk for which the operator is responsible are adequately implemented and resourced, including provision for the instruction, training, and supervision of personnel, to ensure that raw milk complies with regulation 31.

Hygiene

39 Hygiene of processing equipment

- (1) A registered farm dairy operator, a registered depot operator, a transport operator, and any specified person must carry out effective hygiene practices within the processing environment.
- (2) In this regulation,—

effective hygiene practices means hygiene practices that reduce to an acceptable level the exposure of RCS raw milk to risk factors

hygiene practices means procedures for—

- (a) ensuring appropriate and adequate maintenance, cleaning, and sanitation of processing premises, places, facilities, and equipment (including conveyances) and delivering essential services; and
- (b) managing waste; and
- (c) controlling pests; and
- (d) controlling hazards; and
- (e) ensuring that, in relation to premises or places used for production or processing, maintenance compounds and other hazards are stored, handled, and used in a manner that reduces to an acceptable level the exposure of raw milk to the maintenance compounds or other hazards.

40 Hygiene of people whose presence or actions may result in contamination of raw milk

A registered farm dairy operator, a registered depot operator, a transport operator, and any specified person must ensure that people, including visitors, whose presence or actions, at any premises or place for which the operator or specified person is responsible where RCS raw milk is produced or processed, may result in contamination of the raw milk—

- (a) wear appropriate protective clothing; and
- (b) follow an appropriate personal hygiene routine; and

- (c) behave in a manner that is necessary or desirable to minimise contamination of raw milk and associated things.

41 Infectious persons must be excluded from working areas and must not handle raw milk

- (1) A registered farm dairy operator, a registered depot operator, a transport operator, and any specified person must prevent an infectious person (including any visitor) from—
 - (a) being present in areas for which the operator or person is responsible in which RCS raw milk is produced or processed, if that may contaminate the raw milk; and
 - (b) handling RCS raw milk or associated things, if that may contaminate the raw milk.
- (2) In this regulation, **infectious person** means any person known to be, or suspected of being, infected by or a carrier of a disease or illness of public health concern (including a notifiable infectious disease listed in section A of Part 1 of Schedule 1 of the Health Act 1956) that is likely to be transmitted through raw milk or associated things.

Agricultural compounds

42 Requirements for use of agricultural compounds

A registered farm dairy operator must ensure that the use of agricultural compounds and similar substances in or near the farm dairy or the parts of the farm dairy address that relate to producing or processing RCS raw milk is controlled so that the RCS raw milk remains compliant with regulation 31.

Maintenance compounds

43 Requirements for use of maintenance compounds

A registered farm dairy operator, a registered depot operator, and a transport operator must ensure that, for the activities for which the operator is responsible,—

- (a) only those maintenance compounds approved by the Director-General are used for the purpose of cleaning, sanitising, or maintaining areas and equipment related to the production or processing of RCS raw milk; and
- (b) maintenance compounds are stored, handled, and used in a manner that minimises the risk of them contaminating the RCS raw milk.

*Measuring equipment***44 Required measuring equipment to be calibrated and to function as intended**

A registered farm dairy operator, a registered depot operator, a transport operator, and any specified person must ensure that measuring equipment that is used to carry out a specified critical measurement is properly calibrated and functions as intended.

*Animal health***45 Only healthy animals to be milked**

A registered farm dairy operator must ensure that animals are milked for RCS raw milk only if the animals appear outwardly healthy and the farm dairy operator has no reason to suspect the presence of injury or diseases capable of contaminating the raw milk.

46 Injured or diseased animals to be identified and isolated

A registered farm dairy operator and any specified person must identify and, if necessary, isolate animals that regulation 45 does not allow to be milked for RCS raw milk.

47 Animals undergoing treatment to be identified

A registered farm dairy operator must identify all animals undergoing treatment of any sort.

*Systems for compliance with applicable standards***48 Systems for compliance with standards adopted or issued under Food Act 2014**

A registered farm dairy operator must ensure that the farm dairy has systems or processes in place that enable compliance with any applicable standards adopted or issued under the Food Act 2014.

Subpart 4—Storage**49 Storage requirements**

- (1) A registered farm dairy operator must manage the storage of RCS raw milk to ensure that the milk remains compliant with regulation 31.
- (2) A registered farm dairy operator must ensure that raw milk is—
 - (a) filtered without delay; and
 - (b) cooled to 10°C or below within 4 hours of commencing milking; and
 - (c) cooled to 6°C or below within the sooner of—

- (i) 6 hours of commencing milking; and
 - (ii) 2 hours of completing milking; and
 - (d) held at or below 6°C without freezing until provided to the final consumer.
- (3) A registered depot operator and a transport operator must ensure that raw milk is held at or below 6°C without freezing until provided to the final consumer.

50 Extraction, storage, and handling of non-conforming raw milk

A registered farm dairy operator, a registered depot operator, and a transport operator must extract (if applicable), store, and handle any non-conforming raw milk in such a way that there is no possibility of it contaminating any RCS raw milk.

Subpart 5—Packing, packaging, and labelling

51 Raw milk must be packed at farm dairy address

- (1) A registered farm dairy operator must ensure that—
- (a) RCS raw milk is packed and labelled at the farm dairy address in the package in which it will be received by the final consumer; and
 - (b) if any form of dispensing or vending device is used to dispense RCS raw milk, the device is filled and labelled at the farm dairy address and dispensed only at the farm dairy address.
- (2) A registered depot operator and a transport operator must not receive, store, or transport RCS raw milk that has not been packed and labelled for receipt by the final consumer.

52 Packaging requirements

- (1) A registered farm dairy operator and any specified person must ensure that any packaging materials (including reusable packaging and inner and outer packaging of any kind) provided by the farm dairy operator that are used for RCS raw milk and associated things are designed, made, stored, and used in a manner that—
- (a) ensures that the RCS raw milk continues to be compliant with regulation 31; and
 - (b) minimises contamination or deterioration of the RCS raw milk; and
 - (c) complies with any specifications relating to packaging.
- (2) A registered farm dairy operator must ensure that any packaging materials provided by the farm dairy operator—
- (a) are suitable new packaging materials; or
 - (b) are suitable containers that have been cleaned and sanitised.

53 Packing areas and equipment

A registered farm dairy operator must ensure that all packing areas and equipment (including vending and dispensing devices) are fit for purpose and protect RCS raw milk from contamination, adulteration, and deterioration.

54 Labelling and identification requirements

- (1) This regulation applies to the labelling or presentation of RCS raw milk during, or for the purposes related to, the production or processing (but not sale) of the milk (for example, the labelling of the vats of RCS raw milk).
- (2) A registered farm dairy operator must ensure that—
 - (a) RCS raw milk is labelled or identified; and
 - (b) the labelling or identification—
 - (i) clearly relates to the raw milk to which it applies; and
 - (ii) contains information that accurately identifies the raw milk to which it applies, such as the lot identification, the species of animal from which the milk was extracted, that the milk is intended for human consumption in its raw state, and any other specified details.
- (3) A registered farm dairy operator must ensure that no false or misleading representation of the following information is made in relation to RCS raw milk:
 - (a) the farm dairy operator's name or the unique identifier of the farm dairy;
 - (b) the milk's lot identification;
 - (c) the milk's compliance with the matters listed in regulation 31;
 - (d) the milk's nature and physical condition;
 - (e) the milk's origin;
 - (f) the milk's composition.

Subpart 6—Transport**55 Transport requirements**

A registered farm dairy operator, a transport operator, and any specified person must, as far as practicable, ensure that the means of transport of RCS raw milk for which the operator or person is responsible are designed, made, maintained, and operated in a manner that—

- (a) ensures that the RCS raw milk continues to comply with regulation 31; and
- (b) ensures that risk factors associated with the transportation are managed; and
- (c) minimises contamination or deterioration of the RCS raw milk.

56 Identification system requirements

- (1) A registered farm dairy operator and any specified person must have a tracing system that—
 - (a) allows for the identification of individual lots of RCS raw milk; and
 - (b) for RCS raw milk received by a final consumer at the farm dairy address, enables the movement of raw milk to be traced from the point of its extraction to the point where the raw milk leaves the control of the farm dairy operator; and
 - (c) for RCS raw milk delivered to a final consumer's residential address, enables the movement of raw milk to be traced from the point of its extraction to its delivery to the final consumer and includes the name and contact details of any depot operators and transport operators used.
- (2) A registered depot operator and a transport operator must have a tracing system that enables the movement of RCS raw milk to be traced from the point it comes into the possession of the operator until the point it leaves the possession of the operator (and includes, for depot operators, the name and contact details of any transport operators used).

Part 5**Withholding requirements, labelling and advertising, and delivery**

Subpart 1—Circumstances in which raw milk must be withheld

57 Where assessments are not up to date

- (1) A registered farm dairy operator must withhold RCS raw milk unless all assessments required by Part 6—
 - (a) have been carried out with the required frequency; and
 - (b) have produced an acceptable outcome.
- (2) A registered depot operator must not release for delivery RCS raw milk unless all assessments required by Part 6—
 - (a) have been carried out with the required frequency; and
 - (b) have produced an acceptable outcome.

58 Non-conforming raw milk

- (1) A registered farm dairy operator must withhold non-conforming raw milk.
- (2) A registered depot operator and a transport operator must not deliver or release for delivery non-conforming raw milk if—
 - (a) the operator caused or allowed the raw milk to become non-conforming;
or

- (b) the operator knows, or should reasonably have known, that the raw milk is non-conforming.

59 Milk from injured or diseased animal

A registered farm dairy operator must withhold RCS raw milk extracted from an animal that regulation 45 does not allow to be milked for RCS raw milk.

60 Effect of bovine tuberculosis

- (1) A registered farm dairy operator must withhold RCS raw milk from a farm dairy unless the animals at the farm dairy address are considered to have been free of bovine tuberculosis for a specified period of time.
- (2) If a veterinarian or other authorised person under the TB plan suspects the presence of bovine tuberculosis in milking animals from which RCS raw milk is intended to be extracted, the registered farm dairy operator must, on notification by that veterinarian or other person,—
 - (a) withhold RCS raw milk from the farm dairy; and
 - (b) undertake the actions in regulation 76(1) as if the registered farm dairy operator has been notified of a critical non-conformance.

Subpart 2—Restrictions on sale

61 Only registered farm dairy operator may sell raw milk

A person must not sell RCS raw milk unless the person is a registered farm dairy operator.

62 Sale must be direct sale to final consumer

A registered farm dairy operator may sell RCS raw milk only if the farm dairy operator has a reasonable basis for being satisfied that the purchaser is the final consumer.

Subpart 3—Labelling and advertising

63 Labelling and advertising requirements

- (1) This regulation sets out safety requirements relating to the labelling and advertising of RCS raw milk, which are in addition to the requirements in the Australia New Zealand Food Standards Code relating to the labelling and advertising of raw milk.
- (2) A farm dairy operator who sells RCS raw milk must—
 - (a) ensure that packaged RCS raw milk is labelled; and
 - (b) ensure that the labelling for packaged RCS raw milk includes—
 - (i) the name of the product as raw (unpasteurised) milk; and
 - (ii) a specified use-by date; and

- (iii) the lot identification of the raw milk; and
 - (iv) specified directions for the storage of the raw milk; and
 - (v) specified warning information; and
 - (vi) any further specified information; and
- (c) ensure that RCS raw milk that is not in a package is accompanied by labelling that complies with paragraph (b) in the specified manner; and
 - (d) provide or display, at the time that RCS raw milk is offered for purchase and in the specified manner, any specified information; and
 - (e) ensure that the labelling of RCS raw milk (whether or not sold in a package) complies with any specified requirements relating to legibility.
- (3) A farm dairy operator who sells RCS raw milk must ensure that advertisements for RCS raw milk produced by the farm dairy operator—
 - (a) include specified warning information; and
 - (b) include any further specified information; and
 - (c) comply with any specified requirements relating to legibility.
 - (4) This regulation does not apply to the labelling or presentation of RCS raw milk during, or for the purposes related to, the production or processing of the RCS raw milk (*see* regulation 54).

Subpart 4—Delivery

64 Raw milk to be collected on farm or delivered to final consumer's residential address

- (1) A farm dairy operator must provide the final consumer with the RCS raw milk in compliance with regulation 51(1) and only—
 - (a) at the farm dairy address at which the milk was extracted; or
 - (b) by delivering packaged RCS raw milk, or arranging for packaged RCS raw milk to be delivered, to the final consumer's residential address.
- (2) A transport operator must deliver packaged RCS raw milk only to a residential address or a depot.

65 Raw milk to be transported after purchase

- (1) A registered farm dairy operator must ensure that RCS raw milk is transported from the farm dairy address only after a final consumer has agreed to purchase the raw milk.
- (2) A registered depot operator and a transport operator must not receive or store RCS raw milk unless the operator has a reasonable basis for being satisfied that a final consumer has agreed to purchase the raw milk.

66 Raw milk to be provided within 30 hours of commencement of milking

A registered farm dairy operator must ensure that RCS raw milk is provided or delivered to the final consumer within 30 hours after the commencement of extraction of the oldest milk in the lot to which the raw milk belongs.

67 Duties of transport operators

- (1) If a transport operator identifies or is notified of any potentially non-conforming raw milk delivered to a final consumer by the operator, the operator must notify the relevant registered farm dairy operator of the matter as soon as possible (if the transport operator is not also the relevant farm dairy operator) but, in any case, within 24 hours after identifying or being notified of the matter.
- (2) If a transport operator receives or is notified of a complaint of illness that could be associated with consumption of RCS raw milk delivered to a final consumer by the operator, the operator must notify the relevant registered farm dairy operator of the complaint as soon as possible (if the transport operator is not also the relevant farm dairy operator) but, in any case, within 24 hours after receiving or being notified of the complaint.

Part 6**Verification and assessments****68 Raw milk to be examined, sampled, and tested**

A registered farm dairy operator, a registered depot operator, and any specified person must ensure that—

- (a) RCS raw milk and associated things are examined, sampled, and tested in accordance with this Part; and
- (b) any necessary actions arising as a result of the examination, sampling, or testing are taken.

69 Access for recognised persons

A registered farm dairy operator, a registered depot operator, and a transport operator must give relevant recognised and specified persons such freedom and access as will enable them to carry out their functions and activities under the scheme.

*Required tests and assessments***70 Preregistration assessments**

- (1) A farm dairy operator must arrange for a preregistration assessment that assesses the suitability of the operator's activities and associated equipment and procedures related to the production and processing of RCS raw milk to be carried out and reported on by a recognised raw milk farm dairy assessor within the 6 months before an application for registration.

- (2) A depot operator must arrange for a preregistration assessment that assesses the suitability of the operator's activities and associated equipment and procedures related to the storage of RCS raw milk at the depot and related activities to be carried out and reported on by a responsible verifier within the 6 months before an application for registration.
- (3) In each case, the report must cover all activities and associated equipment and procedures related to the production and processing of RCS raw milk for which the operator is responsible under regulation 29 and must assess suitability against the requirements of the scheme.

71 Raw milk farm dairy assessments

- (1) A registered farm dairy operator must arrange for a raw milk farm dairy assessment that assesses compliance of the operations of the farm dairy business with the regulated control scheme to be carried out and reported on by a recognised raw milk farm dairy assessor with the specified frequency.
- (2) The report must be signed by the recognised raw milk farm dairy assessor.
- (3) If a registered farm dairy operator receives an unacceptable outcome from a raw milk farm dairy assessment, the farm dairy operator must—
 - (a) immediately cease all production and processing of RCS raw milk from the relevant farm dairy; and
 - (b) not recommence production and processing of RCS raw milk from the farm dairy until the responsible verifier—
 - (i) is satisfied that the root cause of the unacceptable outcome has been identified and corrected; and
 - (ii) has advised the farm dairy operator accordingly.

72 Self-monitoring assessments

- (1) A registered farm dairy operator must carry out or arrange for an appropriately qualified person to carry out, with the specified frequency, self-monitoring assessments of the plant and premises where RCS raw milk is handled at the farm dairy address to assess whether the day-to-day operations of the farm dairy business comply with the regulated control scheme.
- (2) A registered depot operator must carry out or arrange for an appropriately qualified person to carry out, with the specified frequency, self-monitoring assessments of the depot to assess whether the day-to-day operations of the business that holds RCS raw milk in a depot complies with the regulated control scheme.

73 Raw milk tests

- (1) A registered farm dairy operator must arrange for raw milk tests of the microbiological and chemical status of RCS raw milk to be carried out with the specified frequency.

- (2) If a registered farm dairy operator receives an unacceptable outcome from a raw milk test, the operator must take any required preventative or corrective action.
- (3) The RCS raw milk must be tested by a recognised laboratory.

74 Veterinary assessments

- (1) A registered farm dairy operator must arrange for assessments by a veterinarian of the health and condition of milking animals from which RCS raw milk is, or is intended to be, extracted to take place with the specified frequency or, if no frequency is specified, every 6 months.
- (2) A registered farm dairy operator must take any required preventative or corrective action identified by a veterinary assessment.

75 Verification audits

- (1) A registered farm dairy operator and a registered depot operator must arrange for a verification audit that assesses compliance of the operations of the farm dairy business or the depot with the regulated control scheme to be carried out by a responsible verifier—
 - (a) within 12 months after the date of registration; and
 - (b) following the audit under paragraph (a), with the specified frequency or, if no frequency is specified, every 12 months.
- (2) If a registered farm dairy operator or a registered depot operator receives an unacceptable outcome from a verification audit, the operator must—
 - (a) immediately cease all production and processing of RCS raw milk at the relevant farm dairy or depot; and
 - (b) not recommence the production and processing of RCS raw milk until the responsible verifier—
 - (i) is satisfied that the root cause of the unacceptable outcome has been identified and corrected; and
 - (ii) has advised the operator accordingly.

Non-conformance

76 Duties after identifying or being notified of non-conformance

- (1) A registered farm dairy operator must, after identifying or being notified of any critical non-conformance,—
 - (a) immediately cease all production and processing of potentially affected RCS raw milk; and
 - (b) as soon as possible, and in any case within 24 hours after the identification or notification, contact all final consumers who have received po-

- tentially affected raw milk and provide them with the relevant specified information; and
- (c) within 24 hours after the identification or notification, notify the responsible verifier of the details of the non-conformance; and
 - (d) not recommence production and processing of potentially affected RCS raw milk until the responsible verifier—
 - (i) is satisfied that the root cause of the non-conformance has been identified and corrected; and
 - (ii) has advised the farm dairy operator accordingly.
- (2) A registered depot operator must, after identifying or being notified of any critical non-conformance,—
- (a) immediately cease all release for delivery of potentially affected RCS raw milk; and
 - (b) within 24 hours after the identification or notification, notify the responsible verifier and the relevant registered farm dairy operator (if the registered depot operator is not also the relevant farm dairy operator) of the details of the non-conformance; and
 - (c) not recommence release for delivery of potentially affected RCS raw milk until the responsible verifier—
 - (i) is satisfied that the root cause of the non-conformance has been identified and corrected; and
 - (ii) has advised the depot operator accordingly.
- (3) A transport operator must, after identifying or being notified of any critical non-conformance,—
- (a) cease all delivery of potentially affected RCS raw milk to a final consumer; and
 - (b) within 24 hours after the identification or notification, notify the relevant registered farm dairy operator (if the transport operator is not also the relevant farm dairy operator) of the details of the non-conformance.
- (4) Any registered farm dairy operator or any registered depot operator who identifies or is notified under this Part of any major or minor non-conformance must—
- (a) take the required preventative or corrective action; and
 - (b) within 24 hours after the identification or notification, notify the responsible verifier of the details of the non-conformance.
- (5) A transport operator who identifies or is notified under this Part of any major or minor non-conformance must—
- (a) take the required preventative or corrective action; and

- (b) within 24 hours after the identification or notification, notify the relevant registered farm dairy operator (if the transport operator is not also the relevant farm dairy operator) of the details of the non-conformance.

Non-conforming raw milk

77 Duty of depot operators if non-conforming raw milk has been released for delivery

If a registered depot operator has released non-conforming raw milk for delivery to a final consumer, the depot operator must notify the relevant registered farm dairy operator (if the registered depot operator is not also the relevant farm dairy operator) of the release as soon as possible but, in any case, within 24 hours after identifying that the raw milk was non-conforming.

Reporting duties

78 Matters that must be reported to responsible verifier

- (1) A registered depot operator must report to the responsible verifier,—
 - (a) under regulation 76(2), any critical non-conformance within 24 hours after the operator identifies or is notified of the non-conformance;
 - (b) under regulation 76(4), any major or minor non-conformance within 24 hours after the operator identifies or is notified of the non-conformance.
- (2) A registered farm dairy operator must report to the responsible verifier,—
 - (a) under regulation 76(1), any critical non-conformance within 24 hours after the operator identifies or is notified of the non-conformance;
 - (b) under regulation 76(4), any major or minor non-conformance within 24 hours after the operator identifies or is notified of the non-conformance;
 - (c) the receipt of an unacceptable outcome on any raw milk farm dairy assessment or raw milk testing within 24 hours after the operator is notified of the outcome.
- (3) If a registered farm dairy operator or a registered depot operator identifies or is notified of any potentially non-conforming raw milk produced or processed by the operator that has been received by a final consumer, the operator must report the matter to the responsible verifier within 24 hours after the operator identifies or is notified of the matter.
- (4) If a registered farm dairy operator or a registered depot operator receives or is notified of a complaint of illness that could be associated with consumption of RCS raw milk produced or processed by the operator, the operator must report the complaint to the responsible verifier within 24 hours after the operator receives or is notified of the complaint.
- (5) If requested by the responsible verifier, a registered farm dairy operator must provide, within a reasonable time, any report of any raw milk farm dairy as-

assessment or raw milk test that produced an acceptable outcome for the operator.

- (6) A registered farm dairy operator must report to the responsible verifier, within the specified time, any information relating to a veterinary assessment under regulation 74.
- (7) A registered farm dairy operator must notify the responsible verifier of the name and contact details of the recognised raw milk farm dairy assessor, and any changes to those details.

79 Reporting duties of recognised raw milk farm dairy assessors

- (1) If a recognised raw milk farm dairy assessor identifies a critical non-conformance arising from a raw milk farm dairy assessment, the assessor must, as soon as practicable,—
 - (a) notify the farm dairy operator and advise the farm dairy operator to immediately cease all operations relating to the production or processing of RCS raw milk from the relevant farm dairy; and
 - (b) within 24 hours after the assessor notifies the farm dairy operator, ensure that the responsible verifier is notified of the details of the non-conformance.
- (2) If a raw milk farm dairy assessment has received an unacceptable outcome, the recognised raw milk farm dairy assessor must ensure that the responsible verifier is given a copy of the raw milk farm dairy assessment report.
- (3) If a recognised raw milk farm dairy assessor receives or is notified of a complaint of illness that could be associated with consumption of RCS raw milk from a farm dairy address for which the assessor undertakes assessments, the assessor must notify the relevant farm dairy operator of the complaint within 24 hours after the assessor receives or is notified of the complaint.

80 Reporting duties of verifiers

A responsible verifier must report the following events to the Ministry for Primary Industries within 1 business day after the event occurs:

- (a) the responsible verifier identifying, or being notified of, a critical non-conformance that could affect RCS raw milk;
- (b) a registered farm dairy operator or a registered depot operator receiving an unacceptable outcome on a raw milk farm dairy assessment or a verification audit;
- (c) the responsible verifier receiving, or being notified of, a complaint of illness that could be associated with consumption of RCS raw milk from a farm dairy address or depot for which the verifier conducts verification audits.

*Additional duties and powers of verifiers***81 Duties of verifiers in relation to non-conformance, unacceptable outcomes, and other matters**

- (1) If a registered farm dairy operator or a registered depot operator has ceased activities to which this scheme applies as a result of critical non-conformance, receiving an unacceptable outcome from a raw milk farm dairy assessment or verification audit, or being notified of the possibility of bovine tuberculosis or non-conforming raw milk, the responsible verifier must permit the operator to recommence their activities only when the verifier is satisfied that the root cause of the non-conformance, unacceptable outcome, or other matter has been identified and corrected.
- (2) If a responsible verifier identifies or is notified of a major or minor non-conformance, the responsible verifier must monitor any preventative or corrective action.

82 Verifiers may conduct further investigations

A responsible verifier may investigate, in addition to any required assessment under this Part, any matter the verifier considers relevant in relation to a farm dairy address, depot, or transport operator.

*Recognised agencies and recognised persons***83 Recognised agencies and recognised persons**

- (1) If a particular function or activity is required under the Animal Products Act 1999 to be carried out by a recognised agency or a recognised person, then the person who has responsibility for ensuring that the function or activity is carried out must ensure that the function or activity is carried out only by—
 - (a) an agency recognised under that Act to undertake responsibility for that function or activity; or
 - (b) a person recognised under that Act to undertake that function or activity.
- (2) If a particular function or activity is required under the Animal Products Act 1999 to be carried out by a recognised person under the management of a recognised agency, a recognised agency must offer and use for that function or activity only the services of a person recognised under that Act to carry out the function or activity.

84 Requirement to be recognised laboratory

A laboratory that conducts microbiological, chemical, or other types of analysis under the scheme must—

- (a) be a recognised laboratory; and
- (b) comply with requirements set out in specifications.

Part 7

Records and returns

Records

85 Records to be kept by farm dairy operator

- (1) A farm dairy operator must, for each lot containing RCS raw milk sold to a final consumer, keep a record of—
 - (a) the date and time and any other specified details relating to the milking in which the raw milk was extracted; and
 - (b) the total amount of raw milk sold to final consumers from that lot; and
 - (c) how each amount of raw milk from the lot was provided to the final consumer (for example, in person, by vending machine, or delivered to the final consumer's residential address).
- (2) A farm dairy operator must, for each sale of RCS raw milk delivered to a final consumer's residential address, keep a record of—
 - (a) the name and contact details of the final consumer; and
 - (b) the amount of raw milk supplied; and
 - (c) the time and date that the raw milk was supplied; and
 - (d) the lot identification of the raw milk supplied and any other specified details relating to the milking in which the raw milk was extracted.
- (3) A farm dairy operator must, for each sale of RCS raw milk provided to the final consumer on the farm dairy, keep a record of, or provide a means for the final consumer to provide details of,—
 - (a) the name and contact details of the final consumer; and
 - (b) the amount of raw milk supplied; and
 - (c) the time and date the raw milk was supplied; and
 - (d) how the raw milk was provided to the final consumer (for example, in person or by vending machine).
- (4) A registered farm dairy operator must keep records that demonstrate that the farm dairy operator has complied with the following regulations:
 - (a) regulation 30 (day-to-day management):
 - (b) regulation 33 (specific obligations of farm dairy operators in minimising contamination of raw milk):
 - (c) regulation 35(1) (further requirements for essential services):
 - (d) regulations 37 and 38 (which relate to competency, training, and supervision of people for whom the farm dairy operator is responsible):
 - (e) regulations 39 to 41 (which contain hygiene requirements):

- (f) regulation 42 (requirements for use of agricultural compounds):
- (g) regulation 43 (requirements for maintenance compounds):
- (h) regulation 44 (required measuring equipment to be calibrated and to function as intended):
- (i) regulations 45 to 47 (which relate to animal health):
- (j) regulation 48 (systems for compliance with standards adopted or issued under the Food Act 2014):
- (k) regulations 49(1) and (2) and 50 (which contain storage requirements):
- (l) regulations 51(1), 52, 53, and 54(2) (which contain packing, packaging, and labelling requirements):
- (m) regulation 56(1) (identification system requirements):
- (n) regulations 57(1), 58(1), 59, and 60 (which contain requirements to withhold milk in certain circumstances):
- (o) regulation 65(1) and 66 (which contain delivery requirements):
- (p) regulation 68 (raw milk to be examined, sampled, and tested):
- (q) regulation 76(1) and (4) (duties after being notified of non-conformance):
- (r) regulation 78(2) to (7) (matters that must be reported to responsible verifier):
- (s) regulation 91 (return requirements).

86 Records to be kept by depot operator

- (1) A registered depot operator must keep records of—
 - (a) each amount of RCS raw milk, by time and date received at the depot, quantity, lot identification, and transport operator:
 - (b) each amount of RCS raw milk released for delivery by time and date it leaves the depot, quantity, lot identification, and transport operator:
 - (c) any amount of non-conforming raw milk, by quantity, time and date and way the non-conformity was identified, type of non-conformity, lot identification, and method of final disposal.
- (2) A registered depot operator must keep records that demonstrate that the depot operator has complied with the following regulations:
 - (a) regulation 35(2) (further requirements for essential services):
 - (b) regulations 37 and 38 (which relate to competency, training, and supervision of people for whom the depot operator is responsible):
 - (c) regulations 39 to 41 (which contain hygiene requirements):
 - (d) regulation 43 (requirements for maintenance compounds):

- (e) regulation 44 (required measuring equipment to be calibrated and to function as intended):
- (f) regulations 49(3) and 50 (which contain storage requirements):
- (g) regulation 51(2) (raw milk must be packed at the farm dairy address):
- (h) regulation 56(2) (identification system requirements):
- (i) regulations 57(2) and 58(2) (which prohibit delivering or releasing for delivery milk in certain circumstances):
- (j) regulation 65(2) (raw milk to be transported after purchase):
- (k) regulation 68 (raw milk to be examined, sampled, and tested):
- (l) regulation 76(2) and (4) (duties after being notified of non-conformance):
- (m) regulation 77 (duty of depot operators if non-conforming raw milk has been released for delivery):
- (n) regulation 78(1), (3), and (4) (matters that must be reported to responsible verifier):
- (o) regulation 91 (return requirements).

87 Records to be kept by transport operator

- (1) A transport operator must keep records of—
 - (a) each amount of RCS raw milk collected for delivery to a final consumer or a depot, by time and date collected, quantity, lot identification, and farm dairy operator:
 - (b) each amount of RCS raw milk delivered to a final consumer or depot operator, by time and date delivered, quantity, lot identification, and final consumer or depot operator:
 - (c) any amount of non-conforming raw milk, by quantity, time and date and way the non-conformity was identified, type of non-conformity, lot identification, and method of final disposal.
- (2) A transport operator must keep records that demonstrate that the transport operator has complied with the following regulations:
 - (a) regulation 35(3) (further requirements for essential services):
 - (b) regulations 37 and 38 (which relates to competency, training, and supervision of people for whom the transport operator is responsible):
 - (c) regulations 39 to 41 (which contain hygiene requirements):
 - (d) regulation 43 (requirements for maintenance compounds):
 - (e) regulation 44 (required measuring equipment to be calibrated and to function as intended):
 - (f) regulations 49(3) and 50 (which contain storage requirements):

- (g) regulation 51(2) (raw milk must be packed at the farm dairy address):
- (h) regulation 56(2) (identification system requirements):
- (i) regulation 58(2) (which prohibits delivering or releasing for delivery milk in certain circumstances):
- (j) regulation 65(2) (raw milk to be transported after purchase):
- (k) regulation 67 (duties of transport operators):
- (l) regulation 76(3) and (5) (duties after being notified of non-conformance):
- (m) regulation 91 (return requirements).

88 Records to be kept by recognised raw milk farm dairy assessor

A recognised raw milk farm dairy assessor must keep—

- (a) records that demonstrate that the recognised raw milk farm dairy assessor has complied with regulation 79 (reporting duties of recognised raw milk farm dairy assessors); and
- (b) all records relating to assessments undertaken by the raw milk farm dairy assessor under regulations 70 (preregistration assessments) and 71 (raw milk farm dairy assessments).

89 Records to be kept by responsible verifier

(1) A responsible verifier must keep—

- (a) records that demonstrate that the responsible verifier has complied with regulations 80 (reporting duties of verifiers) and 81 (duties of verifiers in relation to non-conformance); and
- (b) all records relating to verification audits undertaken by the verifier under regulation 75.

(2) If a responsible verifier undertakes an investigation under regulation 82 (verifiers may conduct further investigations), the verifier must keep records of the investigation.

90 Requirements for all records

(1) All records required by these regulations must be kept for 4 years after the date on which they came into existence.

(2) The records must be—

- (a) complete; and
- (b) accurate; and
- (c) of sufficient quality; and
- (d) appropriately stored and readily accessible; and
- (e) available for inspection on request by the Director-General and the relevant recognised assessors or responsible verifiers.

*Returns***91 Return requirements**

A registered farm dairy operator, a registered depot operator, a transport operator, and any specified person must make any returns required by specifications, in the manner and by the time set out in the specifications.

**Part 8
Offences**

Subpart 1—Offences under Animal Products Act 1999

92 Offences under Animal Products Act 1999

- (1) Failure to comply, without reasonable excuse, with any of the following provisions is specified as an offence for the purposes of section 135(1)(b) of the Animal Products Act 1999:
 - (a) regulation 12 (only registered farm dairy operators and registered depot operators may produce raw milk):
 - (b) regulation 17(1) (which requires an applicant for registration to give written notice to the Director-General of any significant change in circumstances):
 - (c) regulation 27(1) (which requires a farm dairy operator or depot operator to give written notice to the Director-General of any significant change in circumstances):
 - (d) regulations 31 to 50 (which contain requirements relating to the state, production, and storage of raw milk):
 - (e) regulations 51 to 56 (which contain requirements relating to the packing, packaging, labelling, and transportation of raw milk):
 - (f) regulations 57 to 60 (which require raw milk to be withheld and prohibit raw milk from being delivered or released for delivery in certain circumstances):
 - (g) regulations 65 and 66 (which contain requirements relating to delivery of raw milk to a final consumer):
 - (h) regulation 67 (duties of transport operators):
 - (i) regulation 68 (raw milk to be examined, sampled, and tested):
 - (j) regulation 69 (access for recognised persons):
 - (k) regulations 71(3), 73(2), 74(2), and 75(2) (which contain actions required by registered farm dairy operators as a result of assessments undertaken under Part 6):

- (l) regulation 76 (duties after identifying or being notified of non-conformance):
 - (m) regulation 77 (duty of depot operators if non-conforming raw milk has been released for delivery):
 - (n) regulation 78 (matters that must be reported to responsible verifier):
 - (o) regulations 85(1)(a) and (4) and 86 to 90 (which contain record-keeping requirements):
 - (p) regulation 91 (return requirements), to the extent that it applies to returns required under the scheme.
- (2) *See* sections 135 and 136 of the Animal Products Act 1999 for defences and penalties.

Subpart 2—Infringement offences under Food Act 2014

93 Infringement offences

- (1) A breach or failure to comply with a requirement of a provision of these regulations that is specified in the first column of the table in Schedule 2 is an infringement offence.
- (2) The infringement fee for an infringement offence referred to in subclause (1) is the fee prescribed for that offence in the third column of the table in Schedule 2.

94 Infringement notices and reminder notices

- (1) An infringement notice for an infringement offence must be in form 1 of Schedule 3.
- (2) A reminder notice for an infringement offence must be in form 2 of Schedule 3.

Part 9

Miscellaneous

95 Director-General may carry out survey or conduct research on raw milk

- (1) The Director-General may carry out a survey of, or conduct any research, development, or investigatory work that relates to,—
 - (a) the presence, absence, extent, or distribution of hazards in RCS raw milk in New Zealand:
 - (b) the risk posed by those hazards:
 - (c) the authenticity or integrity of the RCS raw milk.
- (2) The Director-General must, as far as is reasonably practicable, consult the people likely to be substantially affected by a survey.

- (3) Despite subclause (2), consultation is not required if the Director-General considers that an urgent survey is desirable in the public interest.

96 Consequential amendment to Animal Products (Exemptions and Inclusions) Order 2000

- (1) This regulation amends the Animal Products (Exemptions and Inclusions) Order 2000.
- (2) In clause 7A, insert as subclause (2):
- (2) However, the exemption in subclause (1) does not apply to raw milk to which the regulated control scheme imposed by regulation 7 of the Raw Milk for Sale to Consumers Regulations 2015 applies.

Schedule 1

Transitional, savings, and related provisions

r 6

Part 1

Provisions relating to these regulations as made

Transitional arrangements for regulated control scheme

1 Transitional period for farm dairy operators who produced raw milk before 1 March 2016

During the period beginning on 1 March 2016 and ending on 31 October 2016, the regulated control scheme does not apply to a farm dairy operator who, at any time during the period beginning on 18 June 2015 and ending on 29 February 2016, produced or processed raw milk intended for sale to a final consumer.

2 Transitional period for depot operators who processed raw milk before 1 March 2016

During the period beginning on 1 March 2016 and ending on 31 October 2016, the regulated control scheme does not apply to a depot operator who, at any time during the period beginning on 18 June 2015 and ending on 29 February 2016, stored in a depot raw milk intended for delivery to a final consumer.

3 Transitional period for transport operators who delivered raw milk before 1 March 2016

During the period beginning on 1 March 2016 and ending on 31 October 2016, the regulated control scheme does not apply to a transport operator who, at any time during the period beginning on 18 June 2015 and ending on 29 February 2016, transported raw milk intended for delivery to a final consumer.

4 Transitional arrangements for verifiers and assessors

- (1) During the period beginning on 1 March 2016 and ending on 28 February 2017, a person who is a recognised person or a recognised agency in respect of farm dairy systems and stores and transports is treated as a responsible verifier for a farm dairy operator for the purposes of these regulations.
- (2) During the period beginning on 1 March 2016 and ending on 28 February 2017, a person who is a recognised person or a recognised agency in respect of stores and transports is treated as a responsible verifier for a depot operator for the purposes of these regulations.
- (3) During the period beginning on 1 March 2016 and ending on 28 February 2017, a person or an agency eligible to undertake farm dairy assessments under

the Animal Products Act 1999 is to be treated as a recognised raw milk farm dairy assessor for the purposes of these regulations.

5 Timing of initial applications for registration commencing on 1 October 2016

- (1) If a farm dairy operator or a depot operator applies before 1 September 2016 for registration under regulation 18 to commence on 1 November 2016, the Director-General must take all reasonable steps to register the farm dairy operator or the depot operator by 1 November 2016.
- (2) However, nothing in subclause (1) requires the Director-General to register a farm dairy operator or a depot operator by 1 November 2016 if—
 - (a) the application does not comply with the requirements of regulation 16; or
 - (b) a delay in registration is primarily attributable to an act or omission of the farm dairy operator or the depot operator.

Transitional arrangements for regulations made under Food Act 2014

6 Transitional period for farm dairy operators who sold raw milk before 1 March 2016

- (1) During the period beginning on 1 March 2016 and ending on 31 October 2016, the regulations listed in subclause (2) do not apply to a farm dairy operator who,—
 - (a) at any time during the period beginning on 18 June 2015 and ending on 29 February 2016, sold raw milk for personal consumption; and
 - (b) is in compliance with section 11A of the Food Act 1981 (as in force immediately before its repeal).
- (2) For the purposes of subclause (1), the regulations are—
 - (a) regulations 61 and 62 (which provide restrictions on the sale of raw milk):
 - (b) regulation 63 (labelling and advertising requirements):
 - (c) regulation 85(1)(b) and (c), (2), and (3) (which relates to records relating to sale):
 - (d) regulations 85(4)(s), 86(2)(o), 87(2)(m), 90, and 91 (which relate to record keeping and return requirements) to the extent that the records or returns concerned are required under the Food Act 2014:
 - (e) regulations 93 and 94 (which relate to infringement offences under the Food Act 2014).

7 Transitional period for transport operators who delivered raw milk before 1 March 2016

Regulation 64(2) does not apply during the period beginning on 1 March 2016 and ending on 31 October 2016 to a transport operator who delivered raw milk for personal consumption at any time during the period beginning on 18 June 2015 and ending on 29 February 2016.

Schedule 2

Infringement offences and fees

r 93

Infringement offences under Food Act 2014

Regulation	Description of offence	Fee (\$)
63(2)(b)(i)	Selling raw milk in a package that does not contain labelling that includes the name of the product as raw (unpasteurised) milk	450
63(2)(b)(ii)	Selling raw milk in a package that does not contain labelling that includes a specified use-by-date	450
63(2)(b)(iii)	Selling raw milk in a package that does not contain labelling that includes a lot identification	450
63(2)(b)(iv)	Selling raw milk in a package that does not contain labelling that includes specified storage directions	450
63(2)(b)(v)	Selling raw milk in a package that does not contain labelling that includes specified warning information	450
63(2)(b)(vi)	Selling raw milk in a package that does not contain labelling that includes further specified information	450
63(2)(c)	Selling raw milk that is not in a package without providing labelling that includes the name of the product as raw (unpasteurised) milk	450
63(2)(c)	Selling raw milk that is not in a package without providing labelling that includes a specified use-by date	450
63(2)(c)	Selling raw milk that is not in a package without providing labelling that includes a lot identification	450
63(2)(c)	Selling raw milk that is not in a package without providing labelling that includes specified storage directions	450
63(2)(c)	Selling raw milk that is not in a package without providing labelling that includes specified warning information	450
63(2)(c)	Selling raw milk that is not in a package without providing labelling that includes further specified information	450
63(2)(d)	Failing to provide or display specified information at the time that raw milk is offered for purchase and in the specified manner	450
63(2)(e)	Selling raw milk with labelling that does not comply with specified legibility requirements	300
63(3)(a)	Advertising raw milk without including specified safety warning information	450
63(3)(b)	Advertising raw milk without including further specified information	450
63(3)(c)	Advertising raw milk in a way that does not comply with specified legibility requirements	300

Schedule 3

Infringement notices and reminder notices

r 94

Form 1
Infringement notice
Section 218, Food Act 2014

Ministry for Primary Industries

Notice number:

Person served

Full name or company name:

Date of birth:*

Trading name (if different to company name):

Physical address:

Business address (if different to physical address):

Electronic address:

*Omit if the notice is to be served on a company.

Alleged infringement offence details

Date issued:

Fee payable: \$[*amount*]

This is an infringement offence against [*regulation number*] of the Raw Milk for Sale to Consumers Regulations 2015.

Charge text: [*narrative of events to which charge relates*]**Issuing details**

Issuing officer's warrant number:

Method of service:

Payment of infringement feeThe infringement fee is payable within 28 days after [*specify date*].

IMPORTANT: Please read the information about infringement offences printed on the back of this notice.

Infringement fees may be paid to the Ministry for Primary Industries by any of the following methods [*specify payment options*].

[*Deposit slip is printed here.*]

[Back of notice]

Information about infringement offences

Note: If, after reading this information, there is anything in it that you do not understand, you should consult a lawyer immediately.

1 Payment of infringement fee

If you pay the infringement fee within 28 days after the service of this notice, no further action in respect of the infringement offence will be taken. Payment should be made to the Ministry for Primary Industries in accordance with the instructions on the front page of this notice.

2 Further action

If you wish to raise any matter relating to the circumstances of the alleged offence, you should do so by writing to the Ministry for Primary Industries at the address shown in the note in paragraph 7 within 28 days after the service of this notice.

3 Defences

- (1) You have a defence against any proceedings for the offence alleged in this notice if you can prove that the infringement fee has been paid to the Ministry for Primary Industries by one of the payment methods specified on the front page of this notice within 28 days after you are served with a reminder notice in respect of the offence.

Note: Late payment, or payment by any other method, will not be a defence.

- (2) You may have a further defence (in addition to that indicated in subparagraph (1)) against proceedings relating to the alleged offence under section 251, 253, or 256 of the Food Act 2014. If you believe you have a defence, you should obtain a copy of the Act.

4 Right to request hearing

- (1) You have the right to request a hearing. A request for a hearing must be made in writing, be signed by you, and be delivered to the Ministry for Primary Industries at the address shown in the note in paragraph 7 within 28 days after you have been served with this notice. If you request a hearing, you may deny liability for the offence, or admit liability and make submissions as to penalty or any other matter.
- (2) If you deny liability for the offence, the Ministry for Primary Industries will serve you with a notice of hearing that sets out the place and time at which the matter will be heard by the court (unless the Ministry for Primary Industries decides not to commence court proceedings).

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any fine.

- (3) If you admit liability for the offence but want the court to consider your submissions, you should, in your request for a hearing,—

- (a) admit the offence; and
- (b) set out the written submissions that you want the court to consider. The Ministry for Primary Industries will then file your letter with the court (unless the Ministry for Primary Industries decides not to commence court proceedings). There will be no oral hearing before the court if you follow this course of action.

Note: Any costs will be imposed in addition to any fine.

5 Right to ask for cancellation

You have the right to ask, with your reasons, for cancellation of the notice on the basis of the interests of justice.

Note: An infringement notice cannot be cancelled if the particulars of a reminder notice or notice of hearing relating to the infringement notice have been filed in a District Court.

6 Consequences of taking no action

If you do not pay the infringement fee and do not request a hearing within 28 days after the service of this notice, you will be served with a reminder notice (unless the Ministry for Primary Industries decides otherwise).

If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay costs in addition to the infringement fee (unless the Ministry for Primary Industries decides not to commence court proceedings against you).

7 Questions and other correspondence

In any correspondence, please include—

- (a) the date of the infringement notice; and
- (b) the infringement notice number; and
- (c) the course of action you are taking in respect of the alleged offence; and
- (d) your full address for replies.

Note: All questions and all correspondence regarding this notice must be directed to the [*specify full address*]. Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Form 2
Reminder notice

Section 21(2), Summary Proceedings Act 1957

Ministry for Primary Industries

Notice number:

Person served

Full name or company name:

Date of birth:*

Trading name (if different to company name):

Physical address:

Business address (if different to physical address):

Electronic address:

*Omit if the notice is to be served on a company.

Alleged infringement offence details

Date issued:

Fee payable: \$[*amount*]

This is an infringement offence against [*regulation number*] of the Raw Milk for Sale to Consumers Regulations 2015.

Charge text: [*narrative of events to which charge relates*]

Service details (to be provided for filing in court)

Infringement notice served by [*method of service*] on [*date of service*].

Reminder notice served by [*method of service*] on [*date of service*].

The last day for payment is [*date*], being 28 days from the date of service recorded on this notice.

Payment of infringement fee

IMPORTANT: Please read the information about infringement offences printed on the back of this notice.

Infringement fees may be paid to the Ministry for Primary Industries by any of the following methods [*specify payment options*].

[*Deposit slip is printed here.*]

[Back of notice]

Information about infringement offences

Note: If, after reading this information, there is anything in it that you do not understand, you should consult a lawyer immediately.

1 Payment of infringement fee

If you pay the infringement fee within 28 days after the service of this notice, no further action in respect of the infringement offence will be taken. Payment should be made to the Ministry for Primary Industries in accordance with the instructions on the front page of this notice.

2 Further action

If you wish to raise any matter relating to the circumstances of the alleged offence, you should do so by writing to the Ministry for Primary Industries at the address shown in the note in paragraph 7 within 28 days after the service of this notice.

3 Defences

- (1) You have a defence against any proceedings for the offence alleged in this notice if you can prove that the infringement fee has been paid to the Ministry for Primary Industries by one of the payment methods specified on the front page of this notice within 28 days after you are served with a reminder notice in respect of the offence.

Note: Late payment, or payment by any other method, will not be a defence.

- (2) You may have a further defence (in addition to that indicated in subparagraph (1)) against proceedings relating to the alleged offence under section 251, 253, or 256 of the Food Act 2014. If you believe you have a defence, you should obtain a copy of the Act.

4 Right to request hearing

- (1) You have the right to request a hearing. A request for a hearing must be made in writing, be signed by you, and be delivered to the Ministry for Primary Industries at the address shown in the note in paragraph 7 within 28 days after you have been served with this notice. If you request a hearing, you may deny liability for the offence, or admit liability and make submissions as to penalty or any other matter.
- (2) If you deny liability for the offence, the Ministry for Primary Industries will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless the Ministry for Primary Industries decides not to commence court proceedings).

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any fine.

- (3) If you admit liability for the offence but want the court to consider your submissions, you should, in your request for a hearing,—
 - (a) admit the offence; and
 - (b) set out the written submissions that you want the court to consider. The Ministry for Primary Industries will then file your letter with the court (unless the Ministry for Primary Industries decides not to commence

court proceedings). There will be no oral hearing before the court if you follow this course of action.

Note: Any costs will be imposed in addition to any fine.

5 Right to ask for cancellation

You have the right to ask, with your reasons, for cancellation of the notice on the basis of the interests of justice.

Note: An infringement notice cannot be cancelled if the particulars of a reminder notice or notice of hearing relating to the infringement notice have been filed in a District Court.

6 Consequences of taking no action

If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay costs in addition to the infringement fee (unless the Ministry for Primary Industries decides not to commence court proceedings against you).

7 Questions and other correspondence

In any correspondence, please include—

- (a) the date of the infringement notice; and
- (b) the infringement notice number; and
- (c) the course of action you are taking in respect of the alleged offence; and
- (d) your full address for replies.

Note: All questions and all correspondence regarding this notice must be directed to the [full address]. Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on 1 March 2016,—

- impose a regulated control scheme under the Animal Products Act 1999 in relation to the production and processing of raw milk intended for sale or delivery to a final consumer (**RCS raw milk**); and
- impose restrictions under the Food Act 2014 on the sale and advertising of raw milk for human consumption.

The regulated control scheme is defined in *regulation 5* and imposed by *regulation 7*. The regulated control scheme is imposed in relation to RCS raw milk. It applies to all activities involved in producing and processing RCS raw milk and to farm dairy operators, depot operators, transport operators, and other specified persons involved in those activities.

The regulated control scheme requires registration of farm dairy operators who produce and process RCS raw milk at a farm dairy and of depot operators who store RCS raw milk in a depot. (A person who is only a transport operator may transport raw milk without being registered.) *Part 3* provides for matters related to registration.

The aim of the regulated control scheme is to manage the risks associated with the production and processing of RCS raw milk. To that end,—

- *Part 4* contains requirements relating to production and processing of RCS raw milk:
- *Subpart 1 of Part 5* contains requirements for raw milk to be permanently excluded from stocks intended for sale to a final consumer in certain circumstances:
- *Subpart 4 of Part 5* contains requirements relating to delivery of RCS raw milk:
- *Part 6* contains requirements for assessments, tests, and audits of RCS raw milk, farm dairy operators, and depot operators.

Subparts 2 and 3 of Part 5 are made under the Food Act 2014 and contain requirements relating to the sale, labelling, and advertising of RCS raw milk. Only a registered farm dairy operator may sell RCS raw milk, and the sale must be to a final consumer. The RCS raw milk must be provided to the final consumer at the farm dairy address on which the milk is produced or must be delivered to the final consumer's residential address.

Part 7 contains requirements relating to record keeping and returns. *Part 8* provides for offences (under the Animal Products Act 1999 and the Food Act 2014).

Schedule 1 contains transitional provisions.

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement on 11 June 2015 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.mpi.govt.nz/law-and-policy/legal-overviews/regulatory-impact-statements/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

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Date of notification in *Gazette*: 10 December 2015.

These regulations are administered by the Ministry for Primary Industries.