Biosecurity (Process for Establishing Independent Review Panel) Notice 2015

Pursuant to section 24 of the Biosecurity Act 1993, the Director-General for Primary Industries gives the following notice.

Title

This notice is the Biosecurity (Process for Establishing Independent Review Panel) Notice 2015.

2 Commencement

This notice comes into force on 26 June 2015.

3 Purpose

The purpose of this notice is to set out the process by which an independent review panel is to be established to review whether, in developing an import health standard, there has been sufficient regard to the scientific evidence about which a person consulted under section 23(3)(b) of the Biosecurity Act 1993 has raised a significant concern.

4 Interpretation

In this notice, unless the context otherwise requires—

Act means the Biosecurity Act 1993

chief technical officer means a person appointed a chief technical officer under section 101 of the Act

Director-General means the Director-General of the Ministry for Primary Industries

import health standard includes an amendment to an import health standard

independent review panel means an independent review panel appointed under clause 11

request means a request made under clause 6.

5 Establishment of an independent review panel

(1) The Director-General may establish an independent review panel for the purposes of section 24 of the Act as a result of accepting a request.

(2) An independent review panel may be established:

(a) after a chief technical officer has completed his or her consultation under section 23(3)(b) of the Act, but before making his or her recommendation to the Director-General; or

(b) after a chief technical officer has made his or her recommendation, but before the Director-General issues the import health standard concerned.

6 Request for review

(1) A person consulted under section 23(3)(b) of the Act may request the establishment of an independent review panel to review whether, in developing an import health standard, a chief technical officer has had sufficient regard to the scientific evidence, if:

(a) the person raised a significant concern about the scientific evidence when consulted under section 23(3)(b) of the Act; and

(b) the person notifies the Director-General of his or her intention to request a review under clause 7(2).

(2) A request must be made in writing to the Director-General and must:

(a) identify the part of the person's submission that explains the person's significant concern with the chief technical officer's consideration of the scientific evidence;

(b) explain why the person considers that there has been insufficient regard to the scientific evidence; and

(c) include any additional scientific information related to the concern that was not provided to the chief technical officer during consultation.

7 Timing of request

(1) After consultation on the proposed import health standard has been completed, the Director-General must give a provisional version of the import health standard to persons consulted under section 23(3)(b) of the Act who have made a submission.

(2) A person, who intends to request a review, must notify the Director-General in writing of the person's intention to make a request no later than 10 working days after the Director-General gives the provisional version of the import health standard to the person.

(3) A person, who notifies his or her intention to request a review in accordance with subclause (2), may make a request no later than 20 working days after the Director-General gives a provisional version of the import health standard to the person.

8 Extension of time

(1) A person, who intends to request a review, may ask the Director-General for an extension of the time for making a request at the same time as the person notifies his or her intention to make a request under clause 7(2).

(2) The Director-General may waive or extend any time period specified in this notice if he or she considers that it is reasonable to do so in the circumstances.

9 Decision on request for review

(1) In considering whether to accept a request for review, the Director-General must take into account:

(a) the extent to which the scientific evidence is or may be material to the measures in the proposed import health standard;

(b) the extent to which the request for review appears to be based on credible scientific evidence;

(c) whether the evidence has been the subject of an earlier review; and

(d) any other relevant matter.

(2) If the Director-General accepts more than one request for review in relation to an import health standard, he or she may treat the requests that are accepted as one request.

(3) If the Director-General refuses a request for review, he or she must give the reasons for the refusal to the persons consulted under section 23(3)(b) of the Act.

10 Director-General to ask for nominations for panel

(1) The Director-General must ask persons consulted under section 23(3)(b) of the Act to nominate persons to be appointed to an independent review panel.

(2) The Director-General must have regard to any nominations received, but need not appoint a person nominated under subclause (1).

11 Appointment of independent review panel

(1) If the Director-General decides to appoint an independent review panel, he or she may appoint 1 or more persons up to a maximum of 5 to be the panel.

(2) The Director-General must appoint one member of the panel as chair.

(3) In appointing persons to a panel, the Director-General must have regard to the need for the panel collectively to have the knowledge, skill, and experience relevant to:

(a) the area of science that is the subject of the review;

(b) risk analysis; and

(c) the conduct of a review.

(4) The Director-General may appoint to the panel a person who has knowledge, skill, or experience in an area other than those listed in subclause (3), if the Director-General considers that the person's expertise would assist the panel in the review.

12 Terms of reference

(1) The Director-General must set terms of reference for an independent review panel's conduct of a review.
(2) Before finalising the terms of reference, the Director-General must give a draft of the terms of reference to persons consulted under section 23(3)(b) of the Act for comment.
(3) The persons must send any comments on the draft of the terms of reference to the Director-General no later than the date specified by the Director-General.
(4) Terms of reference may specify:
(a) the scope of the review;
(b) questions to be addressed;
(c) a timetable for the review and report to the Director-General; and
(d) any other matter the Director-General considers appropriate.

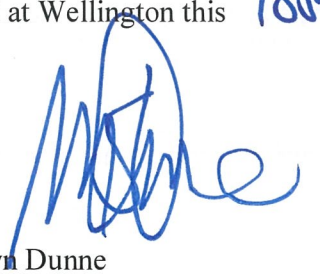
13 Information and assistance to be provided to independent review panel
(1) The Director-General must provide to an independent review panel:
(a) the request for review;
(b) the submissions of those consulted under section 23(3)(b) of the Act to the extent that the submissions are relevant; and
(c) all other relevant information held by the Director-General.
(2) The Director-General must provide administrative support to the panel.

14 Conduct of review
(1) An independent review panel must comply with the terms of reference set by the Director-General under clause 12.
(2) The members of the panel may meet with each other in person or communicate by telephone or any other means that allows the panel to fulfil its function effectively and efficiently.
(3) The panel may seek advice or information relevant to the review from any person.
(4) The panel must consider:
(a) the request for review;
(b) the submissions of all those consulted under section 23(3)(b) of the Act and any summary of submissions prepared by the Director-General to the extent that the submissions or the summary is relevant;
(c) other relevant information provided by the Director-General; and
(d) all relevant new information received under subclause (3).
(5) Subject to this clause, a panel may regulate its own procedure.

15 Reporting
(1) An independent review panel must report its findings and recommendations to the Director-General as soon as is reasonably practical but no later than the date set in the terms of reference.
(2) The Director-General may allow the panel to report by a later date than that set in the terms of reference.
(3) The report must be in writing and:
(a) include reasons for the panel's findings and recommendations;
(b) indicate whether the recommendations are unanimous or agreed to by a majority of the panel; and
(c) identify any person who advised the panel and state the nature of his or her advice.

16 Publication of report
The Director-General must give a copy of the independent review panel's report to the person who requested the review and make copies available to the public on request.

Dated at Wellington this 18th day of June 2015.



Martyn Dunne
Director-General for Primary Industries

Explanatory Note

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

This notice which, comes into force on 26 June 2015:

(a) replaces the Biosecurity (Process for Establishing Independent Review Panel) Notice 2012 (which was published in the NZ Gazette and which has been revoked as Gazette notification is no longer required under the Biosecurity Act 1993) to make minor amendments to clause 7 to clarify that the Director-General is only required to give a provisional version of the import health standard to persons consulted under section 23(3)(b) of the Act who have made a submission; and

(b) specifies:

- how a person can seek a review of the scientific evidence considered in relation to a proposed import health standard:
- the process and criteria for establishing an independent review panel:
- the information and assistance the Director-General must provide to a panel:
- provision for terms of reference:
- how a panel must conduct the review:
- a requirement for a panel to report its findings and recommendations to the Director-General.