COMPENSATION GUIDE FOR
NEW ZEALAND FARMERS AFFECTED
BY MYCOPLASMA BOVIS RESPONSE
Navigating Ministry for Primary Industries Compensation Claims Process

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PURPOSE OF THE GUIDE

Beef + Lamb New Zealand (B+LNZ) and DairyNZ prepared this Compensation Guide in consultation with the Ministry for Primary Industries (MPI) to help New Zealand farmers affected by the *Mycoplasma bovis* (*M. bovis*) Response.

Here you will find information to help you:

- Prepare and make a compensation claim after you have suffered a financial loss stemming from an ‘exercise of powers’ by the Ministry for Primary Industries under the Biosecurity Act 1993.
- Understand general information, terms and frequently asked questions
- Understand a number of common ‘real life’ scenarios that will help provide a guide line to:
  - what you can claim for,
  - what documentation you need to provide to support your claim, and
  - additional ‘need to know’ information specific to each scenario.
CONTENTS

01. PURPOSE OF THIS GUIDE

03. KEY DEFINITIONS AND TERMS

04. FREQUENTLY ASKED QUESTIONS

09. CONTACT INFORMATION

09. COMPENSATION CLAIMS PROCESS

10. COMMON ‘REAL LIFE’ SCENARIOS
   - Depopulation—direction to cull stock
   - Lost sales—unable to buy or sell stock
   - Milk production loss—disruption to normal farming
   - Movement controls—limitation of grazing

15. COMMONLY MADE MISTAKES

16. APPENDICES
   - Section 162a—assessment checklist
   - Formal disclaimer

KEY
The symbols direct you to the ‘real life’ scenario section relevant to beef farming, dairy farming, or graziers.

BEEF

DAIRY

GRAZIERS

DISCLAIMER
This is a guide only and does not guarantee the outcome of your compensation claim. Each claim is unique and assessed by MPI on a case-by-case basis. The information provided in this guide is to give general assistance on the compensation process and is not to be regarded as legal advice. It does not constitute in any way an indemnity, guarantee, endorsement or any form of undertaking, either real or perceived by B+LNZ, DairyNZ or MPI. Information is correct at time of preparation, November 2018.
KEY DEFINITIONS AND TERMS

The Biosecurity Act 1993 (the Act) provides the legal framework for MPI and others to help keep harmful organisms out of New Zealand and the framework for how we respond, and manage them, if any do make it into the country.

It covers (amongst other things):
- Pre-border risk management and standard setting
- Border management
- Readiness and response

Compensation is payable under section 162A of the Act where a person has suffered a loss as a result of MPI’s exercise of powers under the Act. (The Act can be accessed at www.legislation.govt.nz). Some of the definitions below are defined in the Act, others are MPI definitions taken from response documents.

<table>
<thead>
<tr>
<th>Exercise of powers under the Act</th>
<th>Refers to specific powers exercised by MPI to eradicate or manage a harmful organism. Examples are set out below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of Direction (NOD)</td>
<td>An ‘exercise of power’ by an inspector or an authorised person (usually under section 121 or 122 of the Act) who considers that movement of stock or other goods from a property pose risk of spreading <em>M. bovis</em>, for example, when:</td>
</tr>
<tr>
<td></td>
<td>- Animals from infected areas have moved to that property but testing has not yet taken place; or</td>
</tr>
<tr>
<td></td>
<td>- Specific directions need to be given for example to cull stock.</td>
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<td></td>
<td>A NOD may restrict movement of stock or risk goods onto or off the farm or property.</td>
</tr>
<tr>
<td></td>
<td>A permit from an inspector or an authorised person is required for restricted movements.</td>
</tr>
<tr>
<td></td>
<td>Other steps such as cleaning and disinfection of vehicles, equipment and other property may be also required.</td>
</tr>
<tr>
<td></td>
<td>You will always receive a NOD in writing. It will provide details of the property under restrictions, and it will be signed by an authorised person or inspector.</td>
</tr>
<tr>
<td>Restricted Place notice (RP)</td>
<td>An ‘exercise of power’ by an inspector or an authorised person, under section 130 of the Act, who considers that movement of stock or other goods from a property pose risk of spreading <em>M. bovis</em>.</td>
</tr>
<tr>
<td></td>
<td>For example: A farm may be placed under an RP where the property is believed to have, or is suspected of having, <em>M. bovis</em> present, i.e. infected properties and other restricted properties.</td>
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<tr>
<td></td>
<td>An RP prohibits all unauthorised movements of stock and other risk goods on to and off the farm.</td>
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<tr>
<td></td>
<td>- Any movement of stock requires a permit from an MPI inspector or authorised person.</td>
</tr>
<tr>
<td></td>
<td>- Transport vehicles are required to follow a thorough cleaning and disinfection process when leaving.</td>
</tr>
<tr>
<td>Infected property (IP)</td>
<td>A farm where MPI has confirmed <em>M. bovis</em> through a thorough testing process. Currently, all stock (in the infected stock) will be culled from these farms under the phased eradication approach in the Response. IP’s are under the legal controls of an RP.</td>
</tr>
<tr>
<td>Tracefarm</td>
<td>Tracing is the process of tracing the movements of animals and risk materials to and from a property. The National Animal Identification and Tracing scheme (NAIT) is an important tool for cattle tracing.</td>
</tr>
<tr>
<td></td>
<td>- Forward trace is tracing the movement from a property to other destinations.</td>
</tr>
<tr>
<td></td>
<td>- Back trace is tracing the movement of cattle on to a property from other destinations.</td>
</tr>
<tr>
<td>ELISA (Enzyme Linked Immune Sorbent Assay)</td>
<td>A test that detects antibodies in blood and is typically used on stock to screen suspect properties. It is useful for determining a property’s infection status, particularly for stock that are not milking.</td>
</tr>
<tr>
<td>PCR (Polymerase chain reaction)</td>
<td>DNA testing that detects the presence of the <em>M. bovis</em> bacteria itself. This testing is typically used when swabbing individual animals or when performing bulk milk samples as part of stock testing.</td>
</tr>
<tr>
<td>Goods and property</td>
<td>Property refers to tangible real or personal property that the claimant ‘owns’ e.g. a building, trees, machinery, vehicles or stock. Goods are moveable items of property.</td>
</tr>
</tbody>
</table>
FREQUENTLY ASKED QUESTIONS

When am I eligible to claim for compensation?

You can claim compensation when MPI has exercised legal powers under the Act that have caused you a verifiable loss, as a result of:

– Damage to, or destruction of your property; or
– Restrictions imposed on the movement or disposal of your goods (e.g. animals).

You must lodge your claim within ONE YEAR of the loss incurring and demonstrate that you have taken reasonable steps to mitigate (or reduce) your loss. However, in some cases after one year if the person was unable to make a claim due to circumstances beyond their control (see criteria 10, of 162A—Assessment Checklist), they may still be able to submit a claim.

How does the ‘timing of loss’ affect compensation?

The Act compensates for a loss that has occurred as a result of MPI exercising legal powers. Compensation cannot be paid under the Act for a loss that occurred prior to MPI’s exercise of powers.

What does ‘verifiable’ mean?

In this context, verifiable means providing evidence that supports the loss you have incurred as a result of the exercise of powers by MPI to manage M. bovis. In other words, you will need to provide evidence that supports the loss, such as—stock valuations, kill sheets, paid invoices, statements, farmland accounts, milk docket, pasture records, contracts and anything else that is relevant to support your claim. For example:

– Stock destruction—evidence of stock numbers, depopulation of stock, asset register, transportation schedules, kill-sheets.
– Lost production—monthly sales/statements, financial statements (as prepared by your accountant).

What does it mean to take reasonable steps to mitigate my loss?

The Act requires you to take reasonable steps to reduce or avoid your loss in order to be eligible for compensation. Depending on the situation, this may be an explanation of the actions you took to reduce or avoid your loss and what steps were considered. It may involve including supporting documents such as quotes, invoices and contracts.

You may be entitled to payment for compensation of a loss that you have been unable to reduce or for unavoidable costs, by taking every step that is reasonable in the circumstances.

To meet the requirements of a Notice issued by MPI, I have incurred direct costs. Do I include these in my compensation claim?

Normally, the costs of complying with a direction issued under the Act are to be met by the claimant. However, in certain circumstances, you may be able to claim back response costs when you have assisted with response-related activities on behalf of MPI in order to assist with the control, containment and eradication of M. bovis.

However, first you must discuss and agree on actions prior and obtain approval from MPI to response-related activities by working directly with your Incident Control Point (ICP) Manager.

Some examples of response costs may include:

– Contracting casual labour to remove or destroy infected property.
– Please note the costs associated to clean and disinfect your property can be claimed for through your ICP manager
– Purchasing animal feed where restrictions prevent you from bringing feed onto your property.
– Normally, feed requests are for those farmers carrying extra stock outside of their business as usual, such as being unable to sell due to restrictions or unable to send animals to a grazing block due to restrictions.
– Hiring farm equipment where existing equipment is not accessible due to restrictions. For example, a farmer has multiple blocks and some of the blocks are under restrictions and other blocks are non-restricted. Then the hired (clean) machinery will be used on the non-restricted blocks, and the farmer’s own equipment used on the restricted blocks to contain in one area.
– Additional fencing where existing fencing is not adequate to contain animals. For example, adding extra fencing materials and hiring additional contractors to ensure the boundary fences are double fenced with a buffer zone to protect the farmer’s own property and their neighbours.
– Damage caused to paddocks by MPI as a result of cleaning and disinfecting or overstocking due to restrictions over and above their business as usual. For example, if a farmer normally cultivates 20 ha per year and has damaged 30 ha while under restrictions, then the application should be for 10 ha.

If you believe that you have an outstanding Response costs, consult with your ICP Manager, fill out the response cost form along with proof of purchase and an invoice to MPI. You can send this either to your ICP Manager or, if you no longer have an ICP Manager, send to the Response Team at MBovis2017_ART@mpi.govt.nz with all necessary evidence needed for approval.

Please note: Response costs are paid by MPI’s Response team, so please do not include response costs as part of your compensation claim. Send any GST tax invoices for response costs that have been agreed to be paid as part of the response to your ICP Manager.
What losses can I claim for as compensation?

Each compensation claim will be assessed on a case-by-case basis; however, to be eligible for compensation, loss needs to have occurred as a result of MPI’s exercise of powers. For example, if exercise of powers by MPI resulted in:
- Destruction of your stock; or
- Disruption to your milk production as a consequence of this.

See common ‘real life’ scenarios for more information.

You are not eligible for compensation if losses were incurred:
- Before MPI’s exercise of powers.
- More than one year from the date of loss has passed before the claim was submitted. (However, in some circumstances beyond the person’s control a claim may be made where the losses occurred more than a year prior. See Section 162 criteria 5 on the Assessment Checklist).
- Because you have failed to comply with the Biosecurity Act in a serious or significant way, or in a way that contributed to the presence or the spread of the organism
- Due to your voluntary, precautionary steps taken when you are not subject to a Notice (e.g. self-testing performed by a private vet).
- By voluntarily culling your own animals when your property is not subject to a RP or NOD. In exceptional circumstances these types of claims may be considered on a case by case basis, where the cull may have been as an indirect result of MPI exercising its powers, where you can demonstrate sound reasons.
- Due to other farmers not purchasing your stock because of geographical proximity or association with a suspected infected property.
- ‘No NAIT tag’ penalties imposed at slaughter are not a compensable loss as they are not caused by MPI’s exercise of powers. These are caused by not complying with the NAIT Act 2012 and associated regulations. NAIT is an important tool for tracing and is normally used by the MPI Response team for tracing.

Does MPI pay for the cost of preparing a claim?

MPI is not able to pay for this service because preparing a claim is not a loss caused by MPI exercising powers under the Act for the eradication of M. bovis. Employing financial or legal advice services is at your own expense. This also applies to hiring external consultants.

However, you can contact the DairyNZ and Beef + Lamb New Zealand Compensation Assistance Teams to help you:
- Understand whether you are eligible for compensation.
- Clarify what losses you can claim for.
- Work through the compensation claim forms.
- Through the compensation claim process.

This is a free service supported by the Ministry for Primary Industries (MPI) and run independently by DairyNZ and Beef + Lamb New Zealand.

What do I need to support my claim?

You must provide documentation to verify your loss and, where possible, to demonstrate that you have taken reasonable steps to reduce your loss. In general, you will need to provide the following documentation:

1. Loss from the destruction of your stock
   Your completed claim form and signed statutory declaration form, along with:
   - PGG Wrightson stock valuation and/or valuation from other valuer
   - Electronic ID scan list
   - Load-out records of the animals removed from your farm:
     - Person-in-charge form (PIC)
     - Animal Status Declaration (ASD)
     - Meat Processor Invoices (Abattoir) to show the number and value/ payment of the animals processed.
     - RFID/NAIT/Electronic ID scan (if not provided elsewhere).
   - Any other supporting evidence specific to your claim.

2. Milk production losses
   Your completed claim form and signed statutory declaration form, along with:
   - Monthly milk statements for the last year and the period since exercise of powers.
   - Monthly cash flow reports for the last year and the period since exercise of powers.
   - Numbers of milking cow by month for the last year and the period since exercise of powers.
   - Financial statements for the previous three years showing ‘business as usual’ activities compared to activity for the time you were affected.
   - Any other supporting evidence specific to your claim.

Claims for milk losses during the milk year will be assessed on an initial basis and subject to ‘wash up’ assessment in October, when your final claimant summary is available from the suppliers. You will need to provide your supplier’s payment summary for the last year and for the claim year to enable the ‘wash up’ assessment to be made.
Why does MPI use PGG Wrightson valuations?

PGG Wrightson Ltd is a leading provider of farm services and a recognised valuer throughout New Zealand. MPI uses PGG Wrightson services to independently verify and obtain valuations of stock. This helps to ensure accurate information and valuation methodology is used across the response.

Can I submit my own stock valuation?

You may wish to have an alternative valuation for your stock to be considered with your claim. Any other valuations that you wish to provide are at your own expense. When providing an alternative valuation, it is helpful to provide as much detailed information as possible for e.g. what information the valuer considered and whether an onsite inspection was conducted.

What if I don’t have all the documentation to support my claim?

The Act requires you to submit documentation to support your claim. Your claim and the evidence you provide must satisfy the eligibility criteria set-out in the Act. If you don’t have the required documentation, there may be alternative forms to help you verify your claim. For example providing your bank statements to prove payment.

If you don’t have all of the evidence to support your claim, then MPI will make contact with you seeking further information. If you are unable to provide further evidence, it will result in your claim taking longer to assess. MPI can only begin processing your claim with all supporting information. It is recommended you keep good financial and business records (accounts, receipts, invoices etc.)

Can I make more than one claim?

Yes. You can combine your like with like losses into one claim, or make separate claims for particular losses. MPI would prefer to receive claims for loss of milk production on a quarterly basis. If you incur further losses after being paid compensation, you can make additional claims. All claims must be received by MPI within one year of incurred loss.

Will I receive more than one payment?

MPI will consider all claims on their merits. As noted above, accepting any payment for a claim does not preclude you from making future additional claims and receiving any future payments where only an initial or partial payment has been made. In some cases, you may receive a partial payment for a claim in advance of a full assessment having been completed. Accepting a payment does not prevent you from seeking a review of your claim or going to arbitration should you disagree with the assessment.

How long will it take before I get paid?

MPI aims to process your claim and issue outcome letters (accept or decline) as quickly as possible once it has received your completed claim form, signed statutory declaration and all supporting evidence. If all data is present and correct, then most claims can be assessed promptly. It is difficult to provide definitive timing for all compensation processes.

- Average claim process is 25–30 working days.
- For a depopulation claim, MPI aims to make an initial payment of 75% of the compensable amount within 10 working days. Although, if MPI has all of the information, it will endeavour to assess the full claim and make a full payment.

Each claim is different and some are complex and require more time. To help MPI progress your claim quickly, you must provide all relevant documentation and evidence verifying your losses along with your complete claim form and signed statutory declaration form.

Why do some farmers get paid quicker than others?

Some claims are relatively straight forward to process so take less time. Other claims can be unique and require a more thorough assessment and review.

Depending on the value of the claim and how much compensation you may have been paid previously can also impact on the time it takes to process a claim. There are also different levels of authorisation of payment including external sign offs in some cases.

Other examples of claims that have taken longer to work through include:
- Animals being culled voluntarily (whilst under RP, or without a NOD directing the cull of stock).
- Actions being taken that are not under any formal regulatory control.
- Insufficient verifiable evidence (contracts have been verbal agreements and are not written down).
- Where you have received a verbal direction but have no evidence to validate this.
MPI directed me to slaughter my stock earlier than usual. Do I get compensation for future loss?

Slaughter of stock earlier than usual (and at a lesser weight) causing future loss is under active consideration by MPI.

You should submit a claim and provide verifiable evidence of consequential losses due to earlier than normal slaughter. Supporting information may include:
- Contracts (past and future);
- Background information about business as usual practices;
- Details of any costs that would have been incurred in rearing, fattening or finishing the stock;
- Stock valuations;
- Financial statements; or
- Anything else you believe supports the claim.

MPI may request further information or explanation about certain aspects of the claim or evidence provided.

How is compensation calculated?

There are a number of ways in which compensation is calculated. It depends on the type of loss that you are claiming for.

Loss from destruction of stock is calculated using the following formula:

\[
\text{Total value of animals} - \text{meat value received} - \text{Less } M. \text{ bovis Response levies (if these have been included)} = \text{Total value of loss}
\]

Milk production losses are calculated using the following formula:

\[
\text{Reduced quantity of milk} \times \text{sales price per kg of milk solids} - \text{Less production costs per kg of milk solids} = \text{Total value of loss}
\]

I’ve lost my grazing contract for the winter with other farmers with cows. Do I get compensation?

Claims for loss of grazing income have a number of variables that need to be taken into account, consequently they can only be assessed on a case by case basis.

The evidence needed will differ according to each claim:
- exercise of powers that limited grazing;
- grazing contracts; and
- evidence of payments in the past as often farmers only have a verbal agreement (copies of invoicing and receipts in bank account).

After MPI receives a claim an acknowledgement is sent to the claimants. The claims are then assigned to an assessor and the assessment process commences. The time-frame to assess a claim will vary, depending on the nature of the claim, the quality of the information provided and the complexity of the compensation being sought.

Any _M. bovis_ levies should be submitted by way of a tax invoice to MPI and will be paid by the Response.

The milk loss resulting from _M. bovis_ response is calculated by comparing the milk production of the affected year with the milk production of the previous year the baseline year.

More information about milk production losses is available on the MPI website.

Before MPI can assess your claim, you will need to:
- Describe how the loss was incurred as a direct result if MPI’s exercise of power.
- Calculate the total amount (value) you wish to claim. GST registered businesses must use GST exclusive prices. Private individuals may use GST inclusive prices in their claims.
- Provide supporting information and documentation evidence such as paid invoices, agreements, financial statements. The Compensation claim form (October 2018) has a more detailed supporting evidence list to help you with the process.
■ What if I have a sharemilking agreement?

You should claim for your loss of milk production, but the overall process varies, depending on your business arrangement. The compensable loss will take in to consideration whether or not you are:
- An owner of the farm and/or the dairy herd; or
- Owner of the dairy herd; or
- In a contractual arrangement that entitles you to a share of the milk production loss.

You will also be required to provide MPI with a copy of your business arrangement and any other information that supports this, for example a Variable Order Sharemilking Agreement (VOSM) or a NZ Herd Owning Sharemilking Agreement (HOSM). We will be in touch if there is any further information that we need.

Any compensation assessed as being due will be paid to each party directly and in accordance with the contractual agreements.

■ Am I eligible for compensation for voluntary culling?

Compensation is only payable for losses occurring as a result of MPI exercising powers. So, if you choose to cull your animals voluntarily without direction from MPI (i.e. under a RP and without a NOD to cull), you may not be eligible for compensation. Only in very specific circumstances, compensation may be payable under such a scenario.

The same applies if animal welfare concerns arose as a result of MPI putting movement restrictions on your property and you chose to voluntarily cull your stock for animal welfare reasons, then your compensation claim may be considered.

In either case, you will need to provide evidence that shows this course of action was necessary and was a result of MPI exercising powers. MPI strongly suggests that where any animal welfare issues are suspected that you discuss these with your ICP manager and that before you make any decision to voluntarily cull animals that you also discuss these with your ICP manager. You should submit a claim if you think you are eligible.

■ What are the tax implications when I receive my compensation funds I receive from a compensation claim?

The taxation consequences relating to the receipt of compensation can be complex.

The two primary considerations are:
- GST—GST registered businesses must use GST exclusive prices. Private individuals may use GST inclusive prices for their claims.
- Income tax—considerations are fact specific and need to be considered on a case-by-case basis.

We strongly recommend that you consider obtaining specific advice to confirm the GST and income tax implications of any compensation you apply for and receive, and confirm with your financial adviser that you have no other tax or other consequences to consider from the receipt of the compensation.

■ What do I do if I want to dispute the outcome or amount of my compensation claim?

If your claim was declined and you have or later obtain additional or new information that you believe might change the assessed amount payable, you can request a review of your claim with the additional information and an explanation of why your claim should be reviewed.

If after going through this process and you still do not agree with the final outcome of your claim (either eligibility for, or the amount of compensation paid), you can submit your dispute to arbitration (under the Arbitration Act 1996). For more information refer to www.aminz.org.nz. MPI cannot fund this process as this is a private process that you choose and must fund yourself.

■ Is there anything else I can do if my compensation claim is unsuccessful?

If you have private insurance, you may wish to submit a loss claim to your private insurance company.

■ What should I do if my loss situation is uncommon or unusual?

If you experience a verifiable loss that is not covered by the scenarios in this guide, you should work with your ICP Manager and/or Farm Adviser to complete your compensation claim and gather supporting documentation.

Alternatively, you may also seek assistance from the DairyNZ, Beef + Lamb Compensation Assistance Team: 0800 32 22 81.
CONTACT INFORMATION

The MPI Compensation Coordinator can provide you with the compensation form or more FAQs on compensation in hard copy or via email if required.
To receive your claim form or for general information, please contact:

📞 0800 00 83 33
✉️ compensationcoordinator@mpi.govt.nz
🌐 www.mpi.govt.nz/bovis

If you require assistance with preparation of your compensation claim or have a specific enquiry, you can contact:
DairyNZ, Beef + Lamb New Zealand Compensation Assistance Team (DBCAT):

📞 0800 32 22 81
✉️ dbc@Beeflambnz.com
dbc@Dairynz.co.nz

What should I be doing for future claims?

To ensure you are prepared for any future eventualities, you should retain all documentation associated with the operations of your farm and take action to ensure your farm accounts and records are accurate, complete and current.

Specifically, this means:
- Keeping your financial records complete, up-to-date and reconciled
- Retaining all documentation provided by MPI
- Retaining all (current and historical) source documentation such as invoices, receipts
- Retaining all stock valuation documentation
- Retaining Animal Status Declaration (ASD) forms
- Updating and maintaining National Animal Identification and Tracing (NAIT) and LIC MINDA (herd management) records
- Updating and maintaining EID (electronic animal identification) tags and lists
- Keeping your milk production data and records complete and up-to-date
- Keeping your beef production records complete and up-to-date
- Ensuring you have copies of (or easy access to):
  - historical legal documentation such trust deeds (for family trusts)
  - property deeds
  - sharemilking agreements
  - grazing contracts and other contracts
- Ensuring you have the information required to compile a brief summary of your business i.e. a description of your operation, size, stock numbers, farming policy etc.

You may even wish to consider adopting new practices that you haven’t previously felt necessary—for example: measuring and recording your levels of grass cover—in case you should need to claim for future damage to your pastures.

PROCESS

Once MPI has received your application form and all the supporting evidence they will begin the process of assessment, and seeking approval of the decision to pay you. You will be contacted as soon as the decision has been made.

In some instances, MPI might need to contact you for further information if this is missing.
COMMON REAL LIFE SCENARIOS

These are some typical scenarios. However, please note that you may not necessarily be entitled to compensation if you fit within these scenarios. Conversely, you may still be entitled to compensation even if your situation is not referred to here. If you consider you are eligible, put in a claim even if you do not fit within these scenarios. Remember that each claim is assessed on its merits considering the particular facts and circumstances.

I had to depopulate my stock

■ My situation.

I am a dry stock farmer currently in the process of fattening my stock in preparation for slaughter. Having been identified as a ‘trace farm’, my farm was put under a Notice of Direction (NOD) restricting the movement of animals off my property, while MPI conducted testing. Both the ELISA and PCR tests have returned a positive result, which means my property has now been reclassified as an Infected Property (IP). My property is now under a Restricted Place Notice (RP) and I have received a specific NOD to depopulate my stock.

My ICP Manager worked with me to develop a plan for depopulation. At the time the NOD was issued, MPI arranged for PGG Wrightson to conduct and value my stock, which were assessed as healthy enough to be slaughtered at an abattoir. After agreement from MPI, I organised and paid a transport company to take my stock away for culling. The abattoir that culled my stock also charged me an additional M. bovis levy. After the stock were taken away, MPI brought in a team to clean and disinfect my property. Throughout the process, I have followed the directions of the NOD.

■ I’ve incurred additional costs and losses— what can I claim for?

The costs and losses you have incurred typically fall into two categories: a Response Cost (1) and a Compensation Loss (2).

A Response Cost should not be included in your compensation claim as MPI may reimburse this cost directly if you make pre-arrangements or are under direct instructions from MPI. In your situation, the following would be considered a cost of response:
- The cost of transporting your stock from your farm to the abattoir for slaughter.
- The M. bovis Response levy—specific sanitation at the meat processor (unless this is already paid by MPI).

To have Response Costs that you directly incurred reimbursed, send an itemised GST tax invoice first to your ICP Manager or MPI Response team at MBovis2017_ART@mpi.govt.nz

For a Compensation Loss, you can claim for a ‘verifiable loss’ that has occurred as a result of directions given to you by MPI under the Act to manage or eradicate M. bovis. In your situation:
- You will receive payment from the meatworks for the meat price of slaughtered animals directly from the abattoir.
- As such, the amount you can claim is the total market value of the slaughtered stock, less the total meat value that you may have received.

■ What documentation do I need for my claim?

To verify your costs and losses and receive reimbursement/compensation, you will need to provide the following documentation to MPI:
- Invoice for cost of transporting stock to the abattoir
- Invoice for M. bovis specific sanitation fee

■ Is there anything else I should be aware of?

Market valuation is based on age, weight, health, genetics and productivity at the time of MPI’s exercise of powers. Infected animals can only be sold to an abattoir. The value of infected animals is therefore the meat price obtainable from an abattoir.

You may also wish to claim for other production losses experienced as a direct result of an exercise of powers. Any such claims will be assessed on a case by case basis.
I’ve lost milk production

My situation

I am a dairy farmer. Having been identified as a ‘trace farm’, my farm was put under a Notice of Direction (NOD) restricting the movement of animals while MPI conducted testing. Both ELIZA and PCR testing returned a positive result, which meant my property was classified as an Infected Property (IP). The NOD was replaced by a Restricted Place (RP) notice, and I received a specific NOD to depopulate my dairy herd.

I have now been through the process of depopulating my dairy herd and have been compensated for that loss. However, during the period of restrictions and subsequent depopulation, milk production losses have been incurred.

I’ve incurred additional costs and losses—what can I claim for?

The costs and losses you have incurred typically fall into two categories: a Response Cost and a Compensation Loss.

A Response Cost should not be included in your compensation claim as MPI may reimburse this cost directly if you make pre-arrangements or are under direct instructions from MPI. In your situation the following may be considered a cost of response: The additional cost of feed you bought in to feed your stock while your farm was under NOD or RP.

To have Response Costs, that you have incurred directly, reimbursed, send an itemised GST tax invoice first to your ICP Manager or MPI Response team at MBovis2017_ART@mpi.govt.nz.

For a Compensation Loss, you can claim for any ‘verifiable loss’ that has occurred as a result of directions given to you by MPI under the Act to manage or eradicate M. bovis. In your situation, you can claim: Lost net margin experienced as a result of reduced milk volumes/sales (while still incurring some of the costs of production).

What documentation do I need for my claim?

To verify your costs and losses and receive reimbursement/compensation, you will need to provide the following documentation to MPI:

Response cost
- Invoices for the cost of additional feed.
- You may be required to provide a quote from other suppliers.

Compensation loss
- Your completed claim form and signed statutory declaration form.
- Monthly milking statements for the last year and the period since exercise of powers.
- Monthly cash flow reports for the last year and the period since exercise of powers.
- Number of milking cow by month for the last year and the period since exercise of powers.
- Financial statements for the previous three years showing ‘business as usual’ activities compared to activity for the time you were affected.
- Description of what happened as a direct result of MPI’s exercise of power. This could include what time of year, how the event occurred and any seasonal impact.
- Copy of Sharemilking agreement (if relevant) such as Variable Order Sharemilking Agreement (VOSM) or NZ Herd Owning Sharemilking Agreement (HOSM).
- Any other supporting evidence specific to your claim.

Is there anything else I should be aware of?

Claims for milk losses during the milk year will be assessed on an initial basis and subject to a ‘wash up’ (final) assessment in October, when your final milk summary is available from your dairy company. You will need to provide your supplier’s payment summary for the last year and for the claim year to enable the ‘wash up’ assessment to be made.

If you have a sharemilking arrangement on your farm, you must provide MPI with a copy of the whole contract and can only claim compensation for your share of losses. Where there is a Sharemilking Agreement, each party should claim for their own losses and ensure that they submit their own signed statutory declaration. MPI will assess claims for all parties in a sharemilking arrangement at the same time.
My milk production is lower

■ My situation

I am a dairy farmer. Having been identified as a ‘trace farm’, my farm was first put under a Notice of Direction (NOD) restricting the movement of animals by MPI who were conducting tests. MPI testing showed a positive PCR result, which means my property has now been reclassified as an Infected Property (IP) and the NOD has been replaced by a Restricted Place Notice (RP).

Normally, I move my cows to the neighbouring farms for grazing, but the RP meant that I was unable to move my cows. In an effort to retain the condition of my cows, I have been buying in feed and supplements—but my cows just don’t do as well on this diet and their milk production has reduced as a result.

I have followed the directions of the NOD and RP. When I purchased feed and supplements, I obtained quotes from a handful of local suppliers before choosing appropriate and cost-effective options.

■ I’ve incurred additional costs and losses—what can I claim for?

The costs and losses you have incurred typically fall into two categories: a Response Cost and a Compensation Loss.

A Response Cost should not be included in your compensation claim as MPI may reimburse this cost directly if you make pre-arrangements or are under direct instructions from MPI. In your situation, the following may be considered a cost of response: the additional cost of feed you bought in to feed your stock while your farm was under NOD or RP.

To have Response Costs, that you have incurred directly, reimbursed, send an itemised GST tax invoice first to your ICP Manager or MPI Response team at MBovis2017_ART@mpi.govt.nz.

For a Compensation Loss, you can claim for any ‘verifiable loss’ that has occurred as a result of directions given to you by MPI under the Act to manage or eradicate M. bovis. In your situation, you can claim: Lost net margin experienced as a result of reduced milk volumes/sales (while still incurring some of the costs of production)

Note: In order to be eligible for compensation, the claimed loss of milk production must have been caused as a consequence of MPI’s exercise of powers i.e. the loss of milk production was caused by MPI’s:

- Direction to cull your dairy herd (NOD); or
- Movement controls imposed on the farm or dairy herd (RP), which disrupted your milk production.

■ What documentation do I need for my claim?

To verify your costs and losses and receive reimbursement/compensation, you will need to provide the following documentation to MPI:

Response cost
- Invoices for the cost of additional feed.
- You may be required to provide a quote from other suppliers.

Compensation loss
- Your completed claim form and signed statutory declaration form.
- Monthly milk statements for the last year and the period since exercise of powers.
- Monthly cash flow reports for the last year and the period since exercise of powers.
- Numbers of milking cow by month for the last year and the period since exercise of powers.
- Financial statements for the previous three years showing ‘business as usual’ activities compared to activity for the time you were affected.
- Description of what happened as a result of MPI’s exercise of power. This could include what time of year, how the event occurred and any seasonal impact. Any other supporting evidence specific to your claim.
- Copy of Sharemilking agreement (if relevant).

■ Is there anything else I should be aware of?

Claims for milk losses during the milk year will be assessed on an initial basis and subject to ‘wash up’ (final) assessment in October, when your final milk summary is available from your dairy company. You will need to provide your supplier’s payment summary for the last year and for the claim year to enable the ‘wash up’ assessment to be made.

If you have a Sharemilking arrangement on your farm, you must provide MPI with a copy of the whole contract and can only claim compensation for your share of losses. Where there is a Sharemilking Agreement, each party should claim for their own losses and ensure that they submit their own signed statutory declaration. MPI will assess claims for all parties in a sharemilking arrangement at the same time.
I can’t move my stock to grazing

My situation

I am a stock farmer currently in the process of fattening my stock in preparation for sale. Forward tracing suggests my stock may be at risk of M. bovis infection and my farm has been put under a Notice of Direction (NOD) restricting the movement of the animals by MPI who are conducting tests.

The NOD means I can’t move my stock to graze on a neighbouring farm as I usually do, and I’ve had to buy in additional feed. The NOD has also required me to purchase extra cleaning supplies and protective clothing that I wouldn’t normally use. Because I’ve had to keep my stock confined to my own pastures over the winter rather than grazing them on the neighbouring farm, my pastures are damaged and less productive. I’ve also engaged an external consultant to advise me on farming techniques to minimise the damage to my pastures. I’ve followed the directions of the NOD. When I purchased cleaning supplies and feed, I obtained quotes from a handful of local suppliers before choosing appropriate and cost-effective options.

I’ve incurred additional costs and losses— what can I claim for?

The costs and losses you have incurred typically fall into two categories: a Response Cost and a Compensation Loss.

A Response Cost should not be included in your compensation claim as MPI should reimburse this cost directly if you make pre-arrangements or are under direct instructions from MPI. In your situation, the following may be considered a cost of response:

- The additional cost of feed you bought in to feed your stock while your farm was under notice.
- The cost of cleaning supplies and protective clothing to comply with the notice.

To have Response Costs, that you have incurred directly, reimbursed, send an itemised GST tax invoice first to your ICP Manager or MPI Response team at MBovis2017_ART@mpi.govt.nz.

For a Compensation Loss, you can claim for any ‘verifiable loss’ that has occurred as a result of directions given to you by MPI under the Act to manage or eradicate M. bovis. In your situation, you may be able to claim: The cost of repairing/regenerating your damaged pastures (which may include the cost of additional equipment required to repair the damage).

Note: You are unable to claim for paying an external consultant as this is a business decision made you to seek that advice. Employing financial or legal advice services is at your own expense. This also applies to hiring external consultants.

For advice on preparing your claim you can seek help from your ICP Manager or DairyNZ, Beef + Lamb Compensation Adviser who may be able to help you prepare the claim.

What documentation do I need for my claim?

To verify your costs and losses and receive reimbursement/compensation, you will need to provide the following documentation to MPI:

Response cost
- Invoices for the cost of cleaning supplies and protective clothing.
- Invoices for the cost of additional feed.
- You may be required to provide a quote from other suppliers.

Compensation loss
- Your completed claim form and signed statutory declaration form.
- Financial statements for the previous three years showing your ‘business as usual’ expenses with respect to the standing grazing contract/arrangement history, compared to activity for the time you were affected by the NOD.
- Evidence of product or operating costs associated with the lost grazing.
- A copy of grazing contract with your neighbour to whose paddock you were planning to move your animals.
- Paid invoices for the cost of repairing pastures.
- Description of what happened as a result of MPI’s exercise of power. This could include what time of year, how the event occurred and any seasonal impact.

Claims of this nature can be complex and are assessed on a case-by-case basis. Each claim has its own circumstances that will determine the outcome of any assessment.
I’ve lost income from not being able to graze my land

- **My situation**

I am a beef farmer. I have a standing contract with my neighbour where he sends his dairy herd of 200 animals to my property to graze. Unfortunately, forward tracing suggests my stock may be at risk of *M. bovis* infection and my farm has been put under a Notice of Direction (NOD) restricting movement of all susceptible animals onto or off my property by MPI who are conducting tests.

As a result of the NOD, my neighbour is no longer comfortable to send his dairy herd to graze on my land even though test results have not been confirmed, and I have lost the grazing income as a result. This has impacted me financially as this was a revenue stream that I relied on. I have followed the directions of the NOD. I have also taken steps to reduce my loss by seeking alternative buyers of my grazing contract.

MPI testing showed a positive PCR result, which means my property has now been reclassified as an Infected Property (IP) and the NOD has been replaced by a Restricted Place Notice (RP).

- I’ve incurred additional costs and losses—what can I claim for?

The costs and losses you have incurred typically fall into two categories: a Response Cost and/or Compensation Loss.

A Response Cost should not be included in any compensation claim as MPI may reimburse this cost directly via the Response where you have already pre-agreed that MPI will reimburse these costs or are under direct instructions from MPI. In your situation, there are no specific response costs.

For a Compensation Loss, you may claim for any ‘verifiable loss’ that has occurred as a result of directions given to you by MPI under the Act to manage or eradicate *M. bovis*. Any claim of this nature will be assessed on a case-by-case basis.

- What documentation do I need for my claim?

Noting the above, in order to verify your costs and losses and to be considered to receive reimbursement/compensation, you will need to provide the following documentation to MPI:

*Loss of grazing income claims have a degree of complexity and include multiple variables that means that MPI cannot pre-determine any outcome.*

- **Response cost**
  - None in this situation

- **Compensation loss**
  - Your completed claim form and signed statutory declaration form.
  - Financial statements for the previous three years showing your ‘business as usual’ activities with respect to the standing grazing contract/arrangement history, compared to activity for the time you were affected by the NOD.
  - Evidence of product or operating costs associated with the lost grazing.
  - Evidence to support the amount of your loss by providing the grazing contract or standing arrangement via bank statements.
  - Description of what happened as a direct result of MPI’s exercise of power—this could include what time of year, how the event occurred and any seasonal impact.

Claims of this nature are assessed on a case-by-case basis as each claim has its own circumstances which will determine the outcome of any assessment.

- **Is there anything else I should be aware of?**

In this type of scenario, it is important to demonstrate that you have taken reasonable steps to reduce or avoid loss. If you suffer a loss of grazing income (or similar) as a result of an exercise of powers by MPI you should work with your ICP Manager to identify suitable alternative buyers for your grazing contract who will not be negatively impacted by the NOD on your property—examples of possible alternative buyers include:

- Sell excess grass, hay or silage.
- Farmers who are fattening stock in preparation for culling.
- Other farmers under NOD who are looking for available pastures to graze their cows (where MPI provide permission to move the cows).
- Sheep farmers who are looking for available pastures to graze their sheep.

Further, MPI may ask you to prove that you own the property. If this occurs, you will need to provide MPI with a copy of the deed/s to the property. You will also be required to describe and provide evidence of any other legal interests in the property such as co-owners, bank interests, personal securities register interests or if the property is subject to an existing insurance claim.
# COMMONLY MADE MISTAKES

Here are just a few examples of mistakes received by MPI, which unfortunately slows down the claim assessment and approval process.

<table>
<thead>
<tr>
<th>Mistakes</th>
<th>Explanations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not signing the statutory declaration at the same time as your authorised witness.</td>
<td>The declaration must be signed and dated in the presence of an authorised witness, such as a Justice of the Peace, a Barrister or Solicitor. This declaration must be signed by the Claimant who is the legal owner of the goods and/or property or has the Claimant’s authority to sign (for a company a current Director must sign).</td>
</tr>
<tr>
<td>Your business manager or agent lists themselves as the claimant.</td>
<td>The claimant is a person or business who is the legal owner of the property or goods that were destroyed or damaged, or goods that were affected by movement restrictions, as a result of powers exercised by MPI. You can authorise an agent to act on your behalf or nominate a preferred contact person for any enquiries about the compensation claim. For companies, only a current director of the company can legally act on behalf of the company and sign the statutory declaration.</td>
</tr>
<tr>
<td>Including professional fees such as hiring an agent or accountant or lawyer to prepare your claim.</td>
<td>MPI is not able to pay for this service because preparing a claim is not a loss caused by MPI exercising powers under the Act for the eradication of M. bovis. Employing financial or legal advice services is at your own expense. This also applies to hiring external consultants.</td>
</tr>
<tr>
<td>Not including your bank account details with your claim form.</td>
<td>MPI requires these details in order to set you up in their accounts payable system in advance of any compensation being paid. This means that MPI can make a payment to you as soon as your claim has been authorised for payment.</td>
</tr>
<tr>
<td>Not providing a detailed, itemised value for what you are claiming for.</td>
<td>MPI needs evidence of each loss that you are claiming for, i.e. actual costs as shown in financial statements, invoices etc., (rather than estimated or average costs) to support your claim.</td>
</tr>
<tr>
<td>Not providing a total value of what you are claiming for.</td>
<td>Your claim should include a total dollar value of loss for what you are claiming for in compensation. Note, GST registered businesses must use GST exclusive prices. Private individuals may use GST inclusive prices for their claims.</td>
</tr>
<tr>
<td>Claiming for your own time and labour.</td>
<td>Only additional costs can be claimed for extra contract labour brought on board as a result of MPI’s direction. Costs for salaried staff are not compensable as they are a business expense not attributable to the exercise of powers.</td>
</tr>
<tr>
<td>Claiming for loss after ONE year of MPI’s exercise of powers.</td>
<td>MPI will only consider a claim submitted more than one year after loss is incurred if you are unable to make a claim due to circumstances beyond your control.</td>
</tr>
<tr>
<td>Not fully describing your situation as to what happened as a result of MPI’s exercise of powers.</td>
<td>By explaining the exact circumstances of what happened will help give MPI a better understanding of your claim—and help speed up the process.</td>
</tr>
<tr>
<td>Not filling out the section in your claim form on how you tried to mitigate (reduce or avoid) losses.</td>
<td>The Act requires you to take reasonable steps to mitigate losses. Provide details of all steps which you considered, what actions were taken and actual quotes for the steps which you took.</td>
</tr>
<tr>
<td>Including potential response costs (such as meat levies) in your calculations.</td>
<td>Response costs may be reimbursed directly when you have assisted with a response-related activity, agreed with your ICP Manager or authorised person. You will need to provide MPI with a GST tax invoice in order to be reimbursed. Invoices can be sent to your ICP Manager or MPI Response at <a href="mailto:mbovis2017_art@mpi.govt.nz">mbovis2017_art@mpi.govt.nz</a>.</td>
</tr>
<tr>
<td>You’ve put in a claim but have not provided evidence to support your claim.</td>
<td>Your claim assessment cannot progress as MPI can only proceed with all the necessary supporting information.</td>
</tr>
</tbody>
</table>
APPENDICES

SECTION 162A – ASSESSMENT CHECKLIST
Legal criteria application to claim

SUMMARY TABLE

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Summary of Test in the Biosecurity Act 1993</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>Powers under The Act are exercised for the purpose of eradicating or managing an organism</td>
</tr>
<tr>
<td>2.</td>
<td>These powers were not exercised to implement a pest management plan or pathway management plan</td>
</tr>
<tr>
<td>3.</td>
<td>The exercise of The Act powers has caused loss to a person—because either there has/have been: 3(a)—Damage or destruction of the person’s property, or 3(b)—Restrictions imposed on the movement or disposal of the person’s goods</td>
</tr>
<tr>
<td>4.</td>
<td>The loss is verifiable</td>
</tr>
<tr>
<td>5.</td>
<td>The person has been unable to mitigate (reduce or avoid loss) by taking every step reasonable in the circumstances</td>
</tr>
<tr>
<td>6.</td>
<td>The loss does not relate to unauthorised or uncleared goods</td>
</tr>
<tr>
<td>7.</td>
<td>The loss was not suffered before the exercise of powers commenced—e.g. if the animals/plants in question were already affected/infected by the pest or disease</td>
</tr>
<tr>
<td>8.</td>
<td>The claimant did not fail to comply with The Act  — In a serious or significant way, or that  — Contributed to the presence, or  — Spread of the organism</td>
</tr>
<tr>
<td>9.</td>
<td>The amount of compensation paid puts the claimant in a position of being no better or worse on than a person whose property or goods are not directly affected by the exercise of the powers</td>
</tr>
<tr>
<td>10.</td>
<td>The claim for compensation submitted is made:  — Within one year of date that the loss incurred ought reasonably to have been verifiable; or  — After one year if the person was unable to make a claim due to circumstances beyond their control</td>
</tr>
</tbody>
</table>

FORMAL DISCLAIMER

This document is intended to be used a guide only and does not represent MPI’s position of any individual claim for Compensation. Each claim will be assessed by MPI on a case-by-case basis.

This document is provided at the request of affected parties and does not constitute in any way an indemnity, guarantee, endorsement or any form of undertaking, either real or perceived by MPI.

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This document does not provide any legal and/or financial advice. Any party affected may wish to seek their own independent legal and/or financial advice.
Compensation Guide for Mycoplasma bovis November 2018

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