



Review of Decisions Made under Delegated Authority (Agricultural Compounds and Veterinary Medicines Act 1997)

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Right of review

Section 77A of the Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997 provides a right of review of specific decisions made under delegated authority. This means that, if the Director-General does not personally make the decision and leaves it to a person to whom the power to make the decision has been delegated, any person has the right to ask for that decision to be reviewed.

The right of review is not limited to the person most likely to be affected by the outcome of the review (i.e. the person to whom an authorisation, approval or recognition has been issued, or whose authorisation, approval or recognition is withdrawn or in jeopardy as a result of the decision). Any person can ask to have a decision made under delegated authority reviewed.

What decisions are subject to review?

To facilitate the administration of the ACVM Act, some decisions that must be made by the Director-General have been delegated to certain officials. The decisions relevant to the right of review are:

- An approval in special circumstances under section 8C
- Registration under section 21
- Provisional registration under section 27
- Suspension of a registration under section 30A
- Cancellation of a registration under section 32A
- A decision to refuse an application to recognise an agency under section 44C
- A decision to refuse an application to recognise a person under section 44E
- A decision to refuse an application to recognise a class of persons under section 44G

- A decision to exclude any member or category of members from the recognition of a class under section 44G(5)
- A decision to vary a condition of recognition under section 44M
- A decision to suspend or extend the suspension of recognition under section 44Y or 44Z
- A decision to withdraw recognition under section 44ZC or 44ZD.

Also, a person dissatisfied with the original decision may seek a review of the decision (section 77A(2)).

The outcome of a review of a decision made under delegated authority is not subject to review under section 77A. The decision on the review is final unless determined otherwise by a court of law of competent jurisdiction.

What can be reviewed?

Any of the decisions listed above can be reviewed. The review must be about a decision that has already been made.

The information that can be reviewed is limited to the information that was available at the time the decision was made. New information cannot be considered unless the claim is that MPI knew about the information at the time and should have taken it into consideration but did not.

The actions of any person who was involved in providing information, advice or assessment leading to the decision and the making of the decision itself can be reviewed.

Who does the review?

The review is done by either the Director-General personally or, more likely, by a person designated by the Director-General to carry out the review. Neither the Director-General nor the person designated will have been involved in any aspect of considering the matter or making the decision in question.

Will the request be made public?

The person who requests the review will be notified that the request has been received and whether or not found sufficient to prompt a review. The request will not be publically notified. However, any information held by a government department is subject to the Official Information Act 1982. That Act provides the context for withholding certain information (ref: section 9(2)(b), OIA). Consequently, in regard to information supplied in a request for review, commercially sensitive information will be handled in confidence, and will not be included in any public communication.

Information provided in a request for review may be subject to protections of confidential information under part 6 of the ACVM Act. This information will not be used for any other purpose or released except to other agencies or government departments under the same obligation of confidentiality. It will not be released to the public.

Will anyone else be notified of the request?

If the person who has requested the review is not the person to whom the decision applies, the affected party will be notified of the request and what action MPI is intending to take in regard to the request.

How do I ask for a review?

Your request must be sent to MPI within **20 working days** after the decision in question is notified to you (or publically notified). MPI will accept a request in the form of an email (preferred) or letter*. Your request must provide enough information to make it clear what you are asking for. The following is required:

1. Put **REQUEST FOR REVIEW OF DECISION MADE UNDER s77A ACVM ACT** in the email subject line or at the top of a letter.
2. State your full legal name and contact details (postal address, email address and phone number).
3. Give a detailed description of the decision you want reviewed, including the date of decision. For registration decisions, include the name of the product and its registration number.
4. State the grounds on which you believe the decision in question was inappropriate. The grounds must include an adequate presentation of the relevant matters along with supporting documents and/or references to the information that was available or provided at the time the matter was considered and the decision made. For requests to review decisions regarding suspensions, cancellations or withdrawals, grounds must include the information available or provided at the time compliance to requirements was being verified or non-compliance was being investigated.
5. Provide a list of any supporting documentation supplied.
6. Send your request by email to: approvals@mpi.govt.nz
or by post/courier to:
Approvals Operations | Regulation and Assurance Branch | Ministry for Primary Industries |
PO Box 2526 | Pastoral House 25 The Terrace | Wellington | New Zealand

* **NOTE:** All information provided to the Ministry for Primary Industries is official information and may be subject to a request made under the Official Information Act 1982. If a request is made under that Act for information you have provided in your email/letter, the Ministry for Primary Industries will consider any such request, taking into account its obligations under the Official Information Act 1982 and any other applicable legislation.

How long will the review take?

As soon as the request is received it will be examined to confirm that there is sufficient information to proceed with the review. If it does not contain the necessary information, you will be advised of the deficiency and asked if you wish to resubmit the request with the necessary information. If the necessary information is not provided, the review will not be conducted.

If the request is sufficient, the matter will be reviewed within 40 working days. If it cannot be done within that time you will be advised of an extended period that will not exceed an additional 20 working days.

If it is considered that there are insufficient grounds for a review, you will be advised accordingly.

Can I ignore the original decision while the review is in progress?

No, you cannot ignore the original decision. The decision remains valid unless or until it is altered. If the decision requires you to take some action or to stop some action, you must comply.

What is the outcome of a review?

The reviewer will consider whether or not the original decision was appropriate. There will be a review report.

If the reviewer comes to the conclusion that the decision in question was not appropriate, the review report will include directions for consequential action to be taken. Those directions are, in effect, directions from the Director-General and will be actioned as soon as practical, using the appropriate sections of the ACVM Act and in

accordance with normal business processes. For example, if the inappropriate decision was to decline an application to register a trade name product under section 21, a new decision will be made under section 21.

As the person who requested the review you will be notified of the outcome of the review, i.e. whether the decision was found to be appropriate or inappropriate. If you are not the person to whom the decision applies, you will not be notified of the consequential change in the decision unless the change is subject to public consultation (as is the case for a registration) and you have made a public submission.