

# *Mycoplasma bovis* Compensation Guide for farmers

Prepared by the DairyNZ, Beef + Lamb New Zealand Compensation Assistance Team (DBCAT)

The DairyNZ Beef + Lamb New Zealand Compensation Assistance Team (DBCAT) is available to assist with preparing compensation claims under the Biosecurity Act 1993 (the Act) as a result of powers exercised in the *Mycoplasma bovis* Programme.

### **DBCAT Process**

On receipt of a referral for the DBCAT service, a team member will be in contact with the farmer, gain an understanding of their situation and help identify potential compensation claims. From that point they will work with the farmer to gather the necessary information and prepare draft claim(s) for review and confirmation.

Once the claim is finalised by the farmer it will be submitted to MPI Compensation by DBCAT along with the supporting information for assessment. Should further information be required by MPI Compensation they will contact DBCAT, as the Agent, who will action the request.

# FAQs

## Frequently asked questions



### **How can DBCAT help me with my claim?**

The team can assist you with:

- Understanding whether you are eligible for compensation.
- Clarifying what losses you can claim for.
- Working 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 are the types of compensation I can claim for?**

There are six types of claims, each with their own form:

- [Stock destruction claim form](#)
- [Beef production claim form](#)
- [Loss of milk production claim form](#)
- [Grazing claim form](#)
- [Loss of Income claim form](#)
- [Repopulation claim form](#)



## **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).

However, it cannot be paid for a loss that occurred without MPI exercising powers.

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

A financial loss must be incurred before it can be claimed for.

You may not be eligible for compensation if losses were incurred:

- because you have failed to comply with the 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).
- when selling or culling animals while your property is under restrictions but have not been directed to by an Exercise of Powers.
- ‘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.

Note. A separate claim must be made for each type of loss you’re claiming for.



## **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.



## **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. Lists outlining the documentation needed for each type of claim can be found in the information within each claim form.

If you don’t have the required documentation, there may be alternative information to help you verify your claim. If you don’t have all of the information to support your claim, then we will work with you to find other means to verify the claim amount.



## How long will it take before I get paid?

MPI aims to process your claim and issue decision letters (accept or decline) as quickly as possible once it has received your completed claim form with all supporting information. DBCAT ensure all necessary information is included in the claim, which leads to faster processing and payment of DBCAT claims. 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 35 working days.
- DBCAT claims are paid on average 5 days faster – 30 working days.
- Processing time is dependent on the type and complexity of the claim.



## Am I eligible for compensation for non-directed culling?

Compensation is only payable for losses occurring as a result of MPI exercising powers. So, if you choose to cull your animals 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 for non-directed culling. This should be done in conjunction with the ICP Manager and Recovery Team. Common situations where this could be considered would be when movement restriction impacts outweigh keeping the animals on farm.

In either case, you will need to provide supporting information that shows this course of action was necessary and was a result of MPI exercising powers. We strongly suggest that where any animal welfare issues are suspected and before you make any decision to voluntarily cull animals that you discuss this with your ICP manager and Recovery.



## How do valuations work?

Currently the programme has contracts in place with PGG Wrightsons Limited, Carrfields Limited and Progressive Livestock Limited to carry out all required stock valuations. These valuers are used to independently verify and obtain valuations of stock.

Values are determined based on the current market value for an animal as it stands on the date of valuation. Each valuation company have internal process checks to determine value of the animals. These values do not take into consideration any future value of an animal.



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

**GST** - GST registered businesses must use GST exclusive prices. Private individuals may use GST inclusive prices for their claims.

- MPI has confirmed with the Inland Revenue Department in September 2017 that compensation payments to farmers are not a taxable supply as defined by the GST Act
- Compensation is not a taxable supply, as it is a one-sided transaction and there has not been an exchange of goods and or services.
- Compensation is not a grant or a subsidy, (as confirmed with Inland Revenue Department).

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

For further info we recommend that you obtain specific advice from your accountant or financial advisor.



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

If after going through the compensation process you still do not agree with the final outcome of your claim (either eligibility for, or the amount of compensation paid), you can request a reassessment of your claim by emailing Compensation Coordinator and requesting a Claim Review Form to complete. Failing that; you can submit your dispute to arbitration (under the Arbitration Act 1996). For more information refer to [www.aminz.org.nz](http://www.aminz.org.nz). MPI cannot fund this process as this is a private process that you choose and must fund yourself.



### ***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, give us a call and one of our team will happily talk through your situation.



### ***What should I be doing for future claims?***

Identify and discuss potential future claims with your DBCAT Team member and understand what information is required to verify the loss. For example this may include weigh files and market data.

# Common Claims

## Stock Destruction Claim

Once a valuation of your animals has been completed, the animals will be sent to slaughter. If animals are sent to the meat processors you will receive a payment as you would with any normal animal you send during the year. From there either yourself and/or the DBCAT team will calculate the loss by subtracting the amount received (GST registered business using exclusive amount) from the meat company from the value provided on the valuation. That is market value less price received.

Accepting the assessed amount does not prevent you submitting future claims relating to the same animals if they can be verified.

If you are unhappy with your valuation, you are entitled to get your own valuation 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.

NB: This option is only recommended when you are unhappy with this valuation and not planning on repopulating with comparable animals.

## Loss of Beef Production Claim

This claim type accounts for weight gain and its value which would have occurred had the animals not been directed to slaughter minus any costs not incurred due to not having the animals on the property. To complete this claim, losses must be verified via use of historic weight records which verifies weight gain unable to be obtained this season due to legal restrictions. If you don't have all the supporting information to support your claim, then we will work with you to find other means to verify the claim amount.

## Loss of Income Claim

If it can be justified that it was not possible to repopulate due to timing of the cull or availability of animals, then there is the potential to do a loss of income claim. To complete this claim, losses must be verified to match the net position expected if trading had occurred according to business as usual (BAU). This is a loss adjustment process and requires detailed records to verify expected income such as previous trading, contracts and sales data and will factor in savings such as feed, animal health and any other expenses that would have been incurred to achieve the lost income.

NB: In this situation, other costs such as the cost of transporting your stock from your farm to the meat processing plant for slaughter or Levy Payments (only if these would not normally be incurred), will be covered by operational costs.

## Loss of Milk Production Claim

You can claim for lost net margin experienced as a result of reduced milk volumes/sales (while still incurring some of the costs of production).

Milk is currently being paid analysing your baseline year milk production and expenses to work out a net position. For full herd depopulations this will be a monthly payment that excludes direct costs, and for partial depopulations or trace animals these claims are completed at the end of the season. Any variable costs which prove to be fixed costs this season will be retrospectively altered from variable to fixed e.g. electricity.

## Repopulation Claim

If the depopulated animal costs more to replace with a 'like for like animal', then the difference between the valuation and the cost of restocking can be claimed. This will require verification of actual amounts paid and detailed descriptions of the replacement animals.

# Is there anything else I should be aware of?

## Sharemilkers

If you 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 into consideration whether or not you are:

- An owner of the farm and/or the dairy herd; or
- In a contractual arrangement that entitles you to a share of the milk production loss.

To verify this information, 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 Owing Sharemilking Agreement (HOSM).

## National Standard Cost Scheme Valuations

Note: Federated Farmers would like to hear from any farmers whose dairy or beef breeding cows have been, or are going to be, compulsory depopulated (partially or fully) because their cattle tested positive to *M. bovis* and their cattle are valued under the National Standard Cost scheme.

Farmers in these situations who replace their breeding animals may be liable for a significant tax bill as the cows they buy in will be valued at their purchase price and cannot be written down to the same value as the cows they replaced. While the extra tax will be clawed back over the next 5-6 years, as the replacement animals come onto the books at National Standard Cost, there could be significant cash flow and interest implications over that period.

## Key definitions and terms:

There are many terms which are used within the *M. bovis* programme which aren't always easy to understand. To assist in understanding these please see the below key terms and definitions:

**Exercise of powers:** Any formal direction given by an authorised person under the Biosecurity Act 1993

**Verifiable:** Able to be checked or demonstrated to be true. Providing verifiable supporting information means providing supporting information 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 supporting information 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—supporting information of stock numbers, depopulation of stock, kill-sheets.

Lost production—monthly sales/statements, financial statements (as prepared by your accountant).

**Direct and indirect costs:** In a milk production loss claim costs must be split out into two categories direct costs and indirect costs.

**Direct costs:** previously called variable costs, these are costs that specifically relate to milk production eg feed, grazing, electricity, dairy shed expenses. Costs such as these must be deducted from any claimed milk production as when animals are killed the business will not be incurring these any longer.

**Indirect costs:** previously called fixed costs these are costs that occur regardless of whether a farm is milking or not, therefore cannot be deducted from the claim. Examples of these are: insurance, admin, rates, repair and maintenance costs.

**Avoided costs:** Costs that the business has not incurred due to an exercise of power.

**Mitigations:** These are actions taken to reduce the loss to your business as a result of exercise of powers.

**Baseline year:** This refers to the last full production year for your farm prior to the exercise of powers.

**Operational costs:** These costs are separate to compensation and are paid through a separate division within MPI and cannot be applied for through DBCAT.

Operational costs are additional costs incurred as a result of adhering to a legal notice. You may be able to request financial assistance for these costs if there is an urgent need, or to meet *M. bovis* Programme requirements.

Examples include additional transport costs, mustering and feed supplies when feed requirements are greater due to legal restrictions.

You will need pre-approval for operational costs by working directly with your Incident Control Point (ICP) Manager and the MPI Regional Recovery team.

For all queries on operational costs please email [MBovis2017\\_ART@mpi.govt.nz](mailto:MBovis2017_ART@mpi.govt.nz)

*We're here to help*