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| **Q&A** What is the NAIT scheme? The NAIT scheme links people, property and livestock in New Zealand. The NAIT database contains information on cattle and deer locations and movements, and on the people in charge of those animals.  The NAIT scheme is vital for animal (cattle and deer) and disease tracing. It helps us identify where animals are and where they have been, which in turn helps identify potential disease and harm. The NAIT Scheme therefore helps us with timely and effective responses to biosecurity incursions, like *Mycoplasma bovis*.  The NAIT Act provides the legislative framework for the NAIT scheme.  It has become apparent over the course of the *Mycoplasma bovis* response that changes to the NAIT Act are required to support compliance with NAIT requirements. Amendments to the NAIT Act  1. ***Remove the requirement that a search warrant under the NAIT Act must be in a particular form***  What is the problem? There is a technical problem with a provision in the NAIT Act that means MPI cannot currently obtain a search warrant under the Act. What searches would MPI officers be doing? The NAIT Act allows warranted MPI officers to obtain a search warrant to gather evidence relevant to suspected offending. Why is this amendment needed? The existing provision was intended to mirror the provisions in the Search and Surveillance Act, where a search warrant is not required to be in a particular ‘form’ unless one is specified in regulations.  A drafting difference between the NAIT Act and the Search and Surveillance Act means that the NAIT Act requires a particular form to be used, but no form is currently specified. No search warrants can be obtained until this problem is fixed. This affects MPI’s ability to progress NAIT prosecutions. How is this change being done? The NAIT Bill includes a technical amendment to add the words “if any” to the current provision so that it is the same as the relevant Search and Surveillance Act provision. Why are the existing provisions different? This is simply a matter of timing. The NAIT Act was drafted in the same year but before the Search and Surveillance Act came into force. The NAIT Act was intended to align with the Search and Surveillance Act, however, some minor wording differences were not picked up at the time. Is this an extension of search powers for NAIT Officers? No. The power to undertake a warranted search already exists. The Bill simply means a warrant does not have to be in a prescribed form.  What a search warrant has to contain is specified in the NAIT Act and mirrors the Search and Surveillance Act requirements. The NAIT Act also already mirrors the safeguards that are in the Search and Surveillance Act, such as identification and notice requirements, and allowing a person to claim privilege over an item to be seized. There will be no change to these safeguards.   1. ***Align the NAIT Act powers under warrantless inspections and searches with those in the Search and Surveillance Act***  What is the problem? NAIT officers need to be able to enter and inspect a place and carry out certain actions (such as copying documents) without needing a search warrant.  The NAIT Act search powers available for warrantless inspections and searches were intended to be consistent with the provisions in the Search and Surveillance Act. However, a drafting difference in the NAIT Act limits certain activities to search warrants only. This needs to be corrected. Why are these provisions different to those in the Search and Surveillance Act? This is simply a matter of timing. The NAIT Act was drafted in the same year but before the Search and Surveillance Act came into force. The NAIT Act was intended to align with the Search and Surveillance Act. However, some minor wording differences were not picked up at the time. How is this change being done? The definition in the NAIT Act will be aligned with the definition of “search power” in the Search and Surveillance Act. What are the activities that would be able to be done without a warrant? The NAIT Act already authorises a NAIT officer to enter and inspect a place without a warrant, to determine whether a person is complying with the Act.  The change here will simply be to give the officer the ability to do the usual activities required once they have entered the place (the same actions as are permitted under the Search and Surveillance Act). Some examples of the sorts of things they need to do are:   * to request a person to assist with the entry and search * to copy documents * to take photos or video recordings * to access material from a computer and copy it * to seize anything that can be lawfully seized.  Is this an extension of search powers for NAIT Officers? No, the power to enter and inspect premises where appropriate, without a warrant, already exists.  The change is simply to fix a drafting error to make sure these powers can be fully exercised, consistent with powers under the Search and Surveillance Act. It will make sure that the original policy intent is implemented.  **3(i) Close a gap in the NAIT Act so that all animal movements from one place to another must be declared to NAIT, whether or not that place is a registered NAIT location**  **3(ii) Ensure there is a corresponding offence for not declaring movements of animals (cattle and deer) to another location, even if it is not a NAIT location**  These two amendments link together. What is the problem? A quirk of drafting has left a gap that means a person in charge of cattle and deer must declare movements to a registered NAIT location but it is not an offence if they don’t declare they have moved the animals to a non-NAIT location.  For tracking of these animals to be effective, it is essential that all cattle and deer movements off a property to another location are declared to NAIT. What is a ‘NAIT location’? All persons in charge of cattle and deer are required to register places where these animals are held as NAIT locations. However, it appears that some sites have not yet been registered as NAIT locations. For example, some small landholders have not registered their lifestyle blocks as NAIT locations; also some transit stops have not been registered as NAIT locations. Why is this amendment proposed? There is a misalignment between two provisions in the Act, which has led to this gap. These provisions should be aligned so that the obligations are very clear.  To help contain infections and eradicate *Mycoplasma bovis*,a person moving cattle off their property to another place should declare that movement to NAIT regardless of whether or not the site they are sending them to is registered with NAIT. What will these two amendments do? The first will clarify the provisions in the NAIT Act so that the movement declaration requirement is very clear.  The second will ensure that there is a corresponding offence. The existing offence provision will be amended to clearly cover the failure to declare movements of animals to another location even where it is not a registered NAIT location.  **Additional legislative amendments**   1. ***Mycoplasma bovis will be a notifiable organism under the Biosecurity Act***  What is the problem? Eradicating *Mycoplasma bovis* depends on the timely and accurate detection of the disease in dairy and beef herds. Early detection means that fewer animals will have been moved to other properties and the disease will be more effectively contained. What is a notifiable organism? Notifiable organisms are harmful organisms that are existing or potential serious pests of New Zealand’s plants and animals and are listed under the Biosecurity Act. Why is this amendment needed? For the eradication to be successful MPI needs to be able to identify the disease at new properties quickly. Imposing a reporting obligation will help ensure MPI is promptly informed of new cases of *Mycoplasma bovis*. How has this change been made? The organism “*Mycoplasma bovis”* has been added by an Order in Council to the list of notifiable organisms. The change takes effect from 10 September 2018. What would people have to do? Once an organism is declared to be a notifiable organism, every person who suspects the presence of the organism in New Zealand and does not believe that MPI is aware of its presence, is required to report its possible presence to MPI’s Chief Technical Officer.  If someone suspects *Mycoplasma bovis* is present, they can ring MPI’s 0800 exotic pest number. Will this change affect everybody? The people most likely to suspect the presence of *Mycoplasma bovis* are veterinarians, dairy and beef farmers, calf rearers, and staff at commercial testing laboratories. How will these people know the organism is present? *Mycoplasma bovis* is a difficult disease to identify and its symptoms can overlap with common diseases. MPI’s expectations of people to report its suspected presence will depend on the individual’s knowledge, experience and training. MPI will be issuing guidance to make it clear what is expected of people. The expectations for different groups are likely to differ (eg. farmers, vets, veterinary testing laboratories, dairy companies, meat processors). What happens if someone does not report? Non-compliance would be investigated and in serious cases could be prosecuted. In the event of a conviction, the maximum penalties are:   1. for an individual person, to imprisonment for a term not exceeding 5 years, a fine not exceeding $100,000, or both: 2. in the case of a corporation, to a fine not exceeding $200,000. 3. ***Creating three infringement offences under the Animal Products Act 1999 related to non-compliance with certain Animal Status Declaration requirements.***  What is the problem? The Mycoplasma bovis response has shown us that not all farmers are using Animal Status Declarations (ASD) correctly.  ASDs include information about the health of a herd and other important information helpful for biosecurity responses. Why is this amendment needed? Failing to use an ASD, complete it correctly, or keep the necessary records required by the Animal Products Act directly impacts the tracing of animals, which is critical for the phased eradication programme for *Mycoplasma bovis*. How has this change been made? Three infringement offences related to non-compliance with certain Animal Status Declaration requirements have been made under the Animal Products Act 1999. The infringement offences will take effect from 10 September 2018. What will this change mean? These infringement offences will provide MPI with another tool in the compliance toolbox. They will encourage compliance by sending a clear signal about the importance of ASD requirements, and deter non-compliance by enabling rapid sanction to drive behaviour change. What will the infringement offences be? There are three infringement fees. Each one is proportionate to the seriousness and impact of each type of non-compliance:   1. failing to use the Animal Status Declaration - $800 2. completing the Animal Status Declaration incorrectly - $400 and 3. failing to keep the necessary records - $800. |