

ANNEXURE A2



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

SUBMISSION

Enquiries Dr. T. Bergh
Extension 7688

FILE NUMBER: 16/2/1/3/1
TO: MINISTER: AGRICULTURE, FORESTRY AND FISHERIES
FROM: ACTING DIRECTOR: VETERINARY PUBLIC HEALTH
SUBJECT: INDEPENDENT MEAT INSPECTION SERVICE IN SOUTH AFRICA

1. PURPOSE

- 1.1 To provide Minister with a brief history of meat inspection legislation in South Africa, illustrating shifts of meat inspection provision from Government to industry and presently to an independent entity monitored by government.
- 1.2 To request the Minister to approve the implementation of an assignee structure for independent meat inspection as proposed.
- 1.3 To request the Minister to approve the formation of the Independent Meat Inspection Forum with the proposed mandate and structure to regulate the functions of the assignee.

2. BACKGROUND

2.1 History

The delivery of meat hygiene services in South Africa has gone through various phases of change since the function was officially made the responsibility of the Department of Agriculture in the early 1960s.

The following Acts have been applicable:

- **Animal Slaughter, Meat and Animal Products Hygiene Act, 1967 (Act No. 87 of 1967)** published in 1967. – Meat inspection service was provided by government including municipalities.
- **Abattoir Hygiene Act, 1992 (Act 121 of 1992)** published in 1992. – made a revolutionary change by requiring abattoir owners to employ their own meat inspection staff including the veterinarian, in a bid to privatize these services.
- **Meat Safety Act, 2000 (Act No 40 of 2000)** published in 2000. – required all meat inspection personnel to be independent of the abattoir.

With the requirement of independence, the Meat Safety Act has introduced a new concept and ~~possibility of utilizing an assignee to ensure independent meat inspections at abattoirs.~~

The implementation of independent meat inspection presents a number of challenges requiring special consideration to arrive at a solution acceptable to all the stake holders. The requirement of the Meat Safety Act, that all meat inspection must be done independent of the abattoir could, for various reasons, not be attained throughout the country since the publishing of the Act in 2000.

2.2. A definition of independence

Stakeholders involved with meat inspection services should have clarity on what is meant by the concept of "independent" meat inspection. The danger in using a wide and universal definition of the word "independent" leads to a number of permutations of what people read into such a definition. It is of much more value to use a definition of "independence" that relates to the practicalities encountered around abattoirs. The Act itself does not give a definition of

independence but a definition has been suggested by DAFF Legal Services, for inclusion in the Act, which is in the process of being evaluated for amendment.

“Independently from an abattoir” means that a person, assignee or its employees, who renders meat inspection service at an abattoir –

- (1) may not be employed by the abattoir;
- (2) may not have been in the employment of the abattoir in any executive capacity;
- (3) may not in relation to the abattoir, be a supplier, customer or have a contractual relationship other than a contract for rendering of meat inspection services, and where the PEO deems practicable, may perform hygiene management and meat classification and, be a professional advisor but only in a capacity as a meat inspector;
- (4) may not have a representative of any abattoir in its management.

2.3. Abattoirs should not directly pay service providers:

- (a) The Act makes provision for service providers or assignees. The Act gives a clear indication that the costs involved in meat inspection are not forthcoming from the State [section 4(3)].

4.	(3)	Unless the Minister in a particular case directs otherwise, an assignee has no recourse against the State in respect of any expenses incurred in connection with the exercise of the powers or the performance of the duties in question.
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Industry has proposed a system whereby abattoirs will do all financial transactions relating to meat inspections through a Section 21 Company and not directly with the assignee or its service provider. This should contribute greatly to avoid irregularities occurring at grass roots level.

- (b) Service providers must provide services at such tariffs that cover salaries of inspection personnel and relief staff as well as administrative costs. Large

abattoirs are paying for these services but it is clear that rural abattoir owners cannot afford meat inspection by service providers.

A system is proposed where categories of abattoirs are identified, paying for meat inspection services according to a sliding scale, where the larger abattoirs contribute to the sustainability of rural abattoirs and therefore assisting in rural development and the safety of meat in these areas.

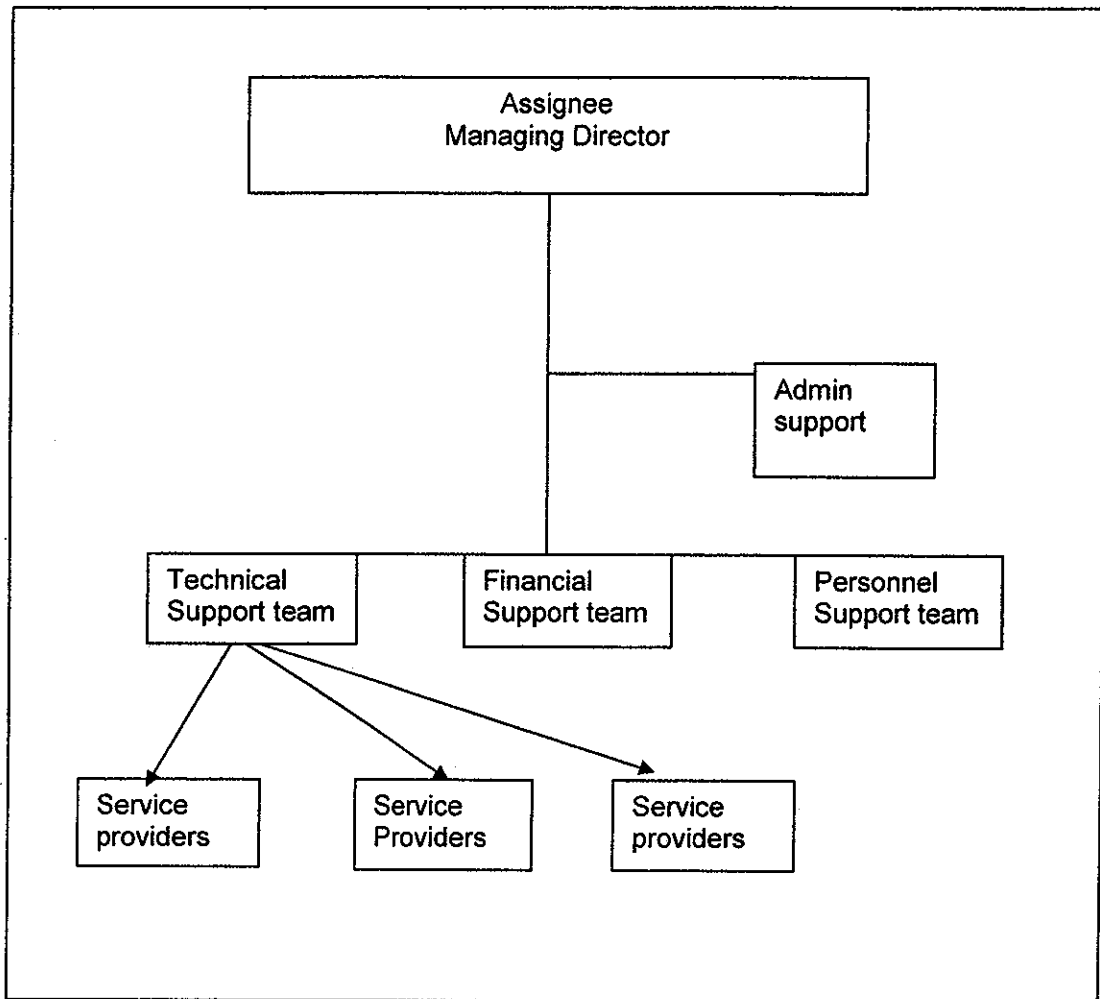
After extensive work shopping with industry and government structures it became clear that the assignee will be an administrative body with powers given to an assignee under the Act, and a mandate provided by the Minister. It will be expected of an assignee to arrange for meat inspection to be done at all abattoirs. The assignee may have its own inspection personnel but will probably also subcontract the services of meat inspection service providers in all parts of the country where the assignee personnel cannot be readily placed for various reasons.

- 2.4. Independence of the assignee must be maintained while its mandatory regulatory function should be performed without adding unnecessarily to the cost of meat. The decision was made to request that the assignee should be a non profit making entity (Section 21 Company) with a specific structure to ensure quality service delivery. This should eliminate secondary profit making goals at the expense of consumers. The Act makes provision for the interaction of assignee and National Executive Officer under the Act to determine appropriate tariffs for meat inspection services.

4.	(6)	Subject to subsection (3), an assignee may in consultation with the national executive officer determine a fee payable by the owner of an abattoir for the exercise of powers and the performance of duties by the assignee in terms of this Act.
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2.5. The assignee structure may be as follows:

2.5.1 Assignee structure:

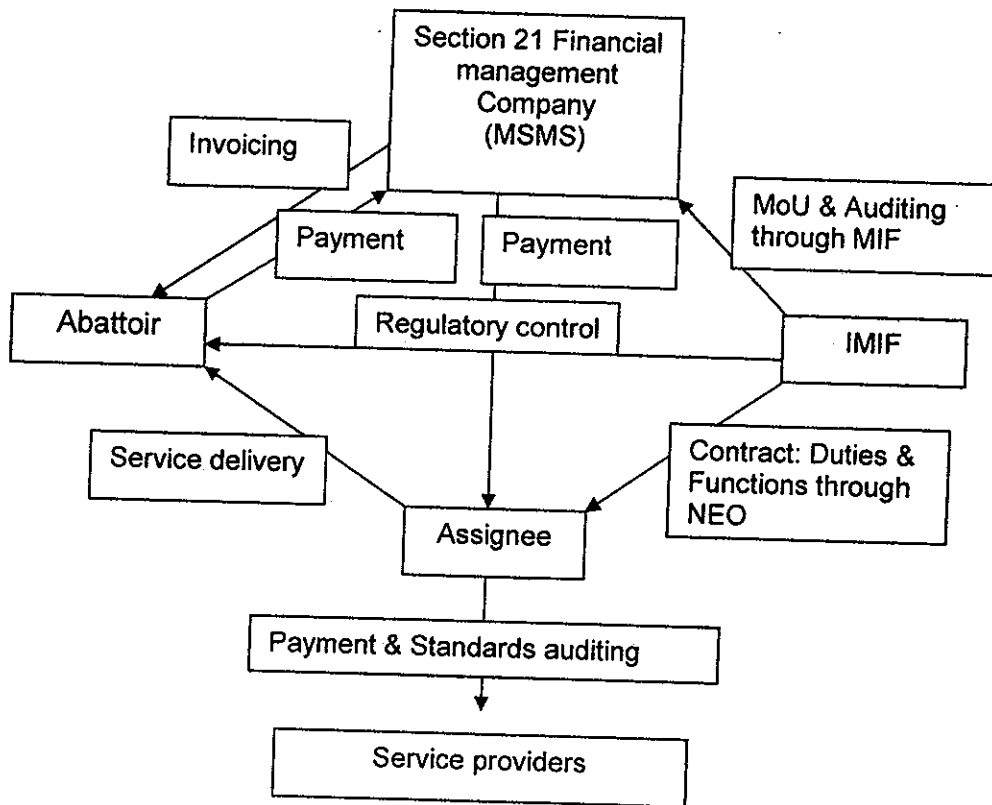


2.5.2 Relationship of assignee with abattoirs regarding funding provisions

National government through the National Executive Officer (NEO) stays in control of the Meat Inspection Service and designates relevant service functions to an assignee proposed by Industry and approved by NEO and Minister, who will arrange for inspection personnel through the assignee's own staff and service providers. As mentioned under 2.3, payment by abattoirs, for meat inspection services, will not pass directly from abattoirs to service provider. A Section 21 fund-collection company, agreed on by Industry, will receive funds from abattoirs and provide appropriate funds to assignee to pay service providers and staff. This section 21 fund-collection company will be subject to normal government controls and audit processes. It was suggested that the fund-collecting company that currently handles funding under the Agricultural

Products Act (MSMS) may be considered also in this case. Please see the financial control model below.

2.5.3 Financial control model:



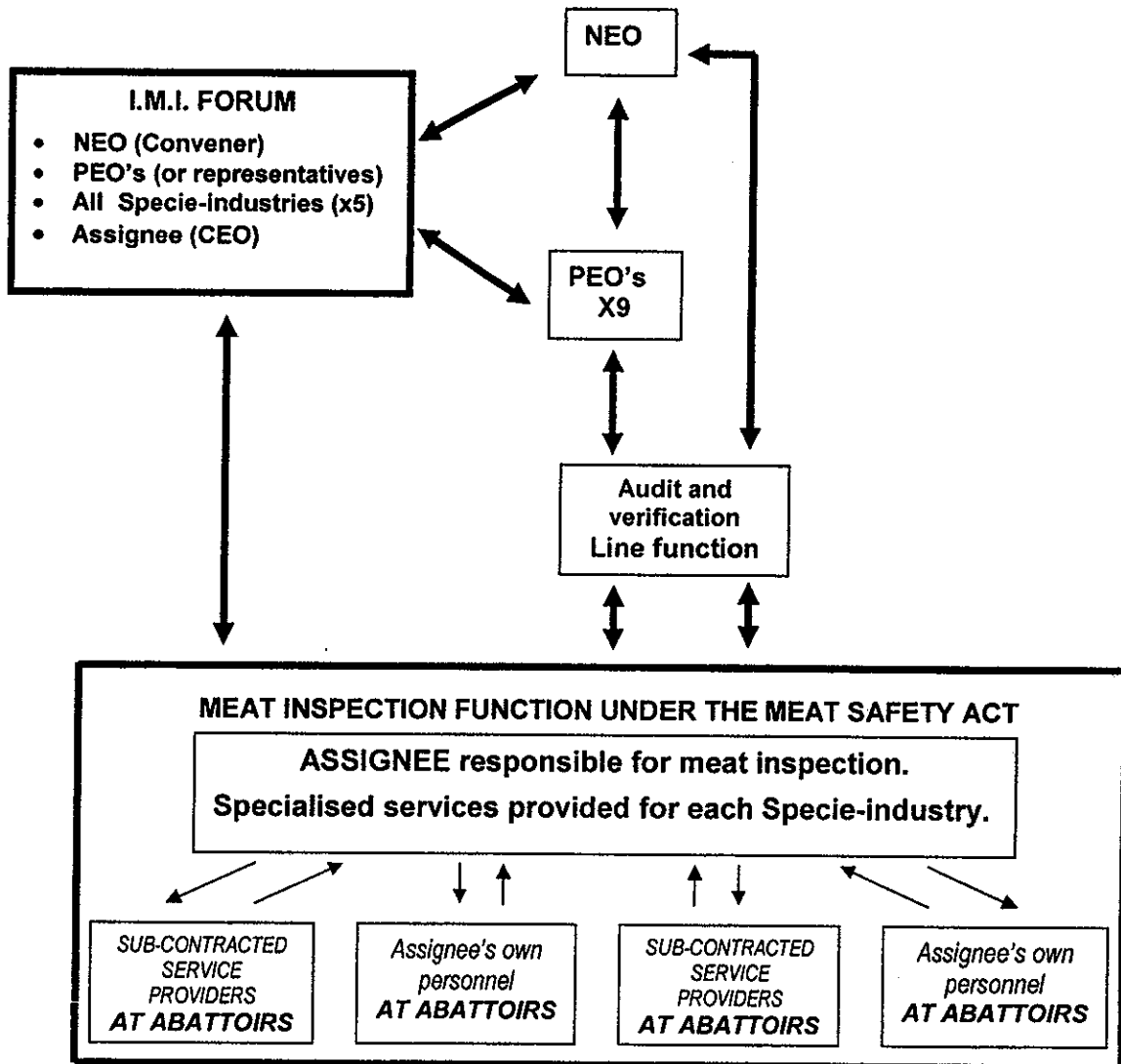
2.5.4 **Independent Meat Inspection Forum**

The forum was suggested as a facilitator to control and regulate the functions of the assignee and regulate matters pertaining to meat inspection service delivery primarily under the legal mandate of the National Executive Officer and the Provincial Executive Officers under the Meat Safety Act. To allow the provinces to give the necessary input in these matters and to align towards the mandate given under the constitution, the provinces will therefore be members of the forum. Membership will be extended to the various specie-meat industries as well as the assignee's Chief Executive Officer.

The Independent Meat Inspection Forum will commence with quarterly meetings within the following mandate:

1. All matters arising pertaining to meat inspection service delivery.
2. Consider and draft duties and functions of the assignee.
3. Draft and amend the **Contract** between the NEO and assignee as required.
4. Draft and amend the **Memorandum of Understanding** between the NEO and the financial collecting body (MSMS- Meat Statutory Measure Services) on an annual basis or as required.
5. Arbitrate disputes between assignee and Provinces.
6. Arbitrate disputes between abattoirs/ assignee.
7. Arbitrate appeals by Province/Assignee/Industry.
8. Consider and amend fees payable by abattoirs for services delivered by assignee.
9. Condone closure/"stop slaughter directives" of abattoirs not complying with payment of fees.

2.5.5 Interaction of the Independent Meat Inspection Forum (IMIF) with an Assignee and role players will be as follows:



3. DELIBERATION

The following options, have become apparent through discussions with stakeholders.

- 3.1. National government (DAFF through IMI Forum) assigns certain service functions to the assignee who will arrange meat inspection personnel, service providers and admin support.

- Pro's – uniform standards of meat inspection throughout the country
- Central control by NEO through one assignee
 - All meat inspection is independent
 - uniform salaries approaching Government salary structures
 - Cost for service structure with built in subsidization for small abattoirs, proposed by the industry.
 - Opportunities for service providers to be contracted by assignee.
- Con's – logistic problems, taking into account that the necessary staff need to be recruited from current service providers in the Industry, (calculated at an excess of a 1000 personnel which will include veterinarians, meat inspectors and meat examiners).

3.2 Discussion per specie:

3.2.1 Red Meat:

The model as proposed in this document favours the appointment of one assignee due to the fact that only one management structure will be needed for the one assignee. Multiple assignees will increase the total of management structures for each assignee. Further to this the convenience of communicating through one assignee instead of multiple assignees, as would be indicated from time to time, is a distinct advantage.

The Red Meat Industry Forum has made an Industry proposal for an independent meat inspection system for the entire country. This proposal includes an assignee chosen by industry as being capable of delivering consistently and sustainably to ensure success. It is mandatory that such assignee will be measured against the requirements of legislation in terms of independence. The assignee must be to the approval of the NEO and be designated by the Minister

as an assignee under the Act. The fact that one assignee is proposed does not imply that a monopoly is created as perceivably all current meat inspection service providers will be either absorbed by the assignee or sub-contracted. This fact is strengthened by the argument that Meat Inspection is a regulatory function and therefore enforceable according to a minimum standard and is not a "supply-and demand" Service. Competition in this regulatory environment has shown to have the opposite effect as in other competition spheres in that it has lowered the standards of service delivery due to "cheaper and inferior services" rendered by incompetent service providers.

Discussions revealed that the average remuneration structures of current service providers were forced down by competition to levels where staff turnover became a problem. The Industry proposal aims to standardise salary levels and increase it to approach government levels within a realistic five years. This will then also stabilise the current work force within the meat inspection environment.

Initially a concept of tariffs calculated per head or slaughter unit was proposed to facilitate some method of subsidising smaller abattoirs. Industry found that this would result in unacceptable disproportionate payment by large abattoirs as compared to small abattoirs. Industry proposes that an arbitrary cost of service be determined for meat inspection for abattoirs with different throughputs. Included in this cost structure, for high throughput abattoirs, is a percentage earmarked for subsidising meat inspection in rural abattoirs.

Industry proposes that all payments made by abattoirs for inspection services rendered should be received by a central body and not by any service provider. They suggest that the existing Meat Statutory Measures Services (MSMS), a section 21 body under the Companies Act, should receive all funds from abattoirs and in turn reimburse the assignee for services rendered. The mandate to recover fees from abattoirs should be built into the Memorandum of Understanding between DAFF and the financial collecting body – It is expected that funds recovered will be approximately R150-R200 million per year. This reasoning is sound as it will avoid a situation where abattoir owners are able to withhold funds from a service provider for some reason or cancel a contract to obtain a more lucrative deal with a competing service provider. It is not

uncommon for abattoir owners to cancel a contract in favour of a "less strict" law enforcing service provider. Abattoirs will, under this model, request a meat inspection service from the designated assignee. It may be possible for the abattoir, during initial stages or transition period, to request a particular service provider on condition that such service provider complies with the standards set by the assignee. This will make it possible for current workable arrangements to continue in the future under the assignee. Any problems perceived by abattoirs regarding meat inspection services will be addressed centrally with the assignee and/or forum and not between a specific service provider and abattoir.

Provision is made for a forum representing all role players under chairmanship of the NEO and representing all PEO's, assignee and industry. This is a positive aspect that will provide additional communicating possibilities over and above the normal day to day communications.

The system provides for other specie-industries to participate in the same structure. This requires the assignee to provide specie-specific services. The assignee will have a contractual commitment to training inspection personnel keeping them abreast of change.

Financial management within the financial collecting body will be done separately for different specie-industries and cross specie subsidisation will not occur under the system.

3.2.2 Poultry:

The Poultry Industry has indicated that a similar structure as proposed by the Red Meat Industry is required for the poultry industry. The Poultry Industry has indicated that, in principle, the industry may elect to make use of the same Assignee Model as proposed by the Red Meat Industry including the same Assignee and financial management agency (MSMS) with the understanding that a separate division for poultry will exist within the system.

3.2.3 Game:

The export abattoirs currently align with the red meat industry and plan to be included in the proposed Red Meat Industry assignee model. Currently only 5 abattoirs of note exist and most are export related and resort under the S.A. Ostrich Business Chamber

Should the Game Meat Scheme be implemented for the non-export industry, the independence of meat inspection can be rolled out as the industry builds capacity. With the scheme expected to be in place for at least 5 years, the growth pains of the red meat and poultry systems could be used to benefit the game industry and independence should not create a problem.

3.2.4 Ostrich:

S.A. Ostrich Business Chamber has indicated that it would participate in the proposed assignee model.

3.2.5 Crocodiles:

The crocodile industry is not large and has indicated that it will participate in the proposed assignee model.

3.3 **Final conclusion**

3.3.1 **This structure was approved by ITCA (VWG) for an independent meat inspection system in South Africa and requested that it should be recommended to the Minister for approval.**

3.3.2 That one industry-preferred assignee for red meat, poultry, ostrich, export game and crocodiles is appointed by the minister for a period of 5 years. The five year period is however a point of concern for Industry as it requires a considerable investment in time and funds to establish such an enterprise with such an uncertainty hanging over the project and it is suggested that termination of the contract should only be on grounds of non-compliance of service delivery and not a contractual end of the service at the end of the period. This will prevent that a multimillion company has to terminate and lay off an excess of a thousand personnel with dire financial consequences.

3.3.3 That the assignee should make use of the current service providers in the country through sub-contracting to prevent a monopolistic system or resulting in the loss of jobs.

3.3.4 That the financing of the service be done through Section 21 Company (MSMS) as proposed by the Red Meat Industry Forum.

3.3.5 That tariffs be calculated according to cost of service and described in the contract with the assignee which may be amended as needed. Industry is in process to determine which system of payment and fund handling they are able to adopt and need to decide on this method or other methods of payment i.e. a levy per head system.

3.3.6 Industry has discussed, at an industry forum, the full implication of the independent meat inspection service and is extremely serious regarding the success of such a venture. In the light of this, Industry requires certain aspects of this project to be confirmed by ITCA and guaranteed by the Minister to enable Industry to embark on proper planning and sound arrangements in this regard. Industry needs to negotiate all parties involved, including all specie industries, and anticipate that they may then provide the Minister with a sound proposal by the end of March 2011. The matters that industry needs to have certainty on are:

- a) The Minister is to designate an Industry proposed assignee that has been approved by the NEO according to the provisions of the Act. Given the magnitude of this venture, it is proposed that the five year term for such assignee be used only to assess the service delivery compliance of the assignee and that termination of the contract should only be on grounds of non-compliance of service delivery.
- b) Industry proposes to determine the most effective means of tariff determination to achieve the goal of providing meat inspection to all abattoirs. Industry therefore requires clear legal backing from the Act to enable them to determine the best funding mechanisms to ensure uninterrupted law enforceable fund collection. Industry will require a directive or Memorandum of Understanding between state and abattoirs to describe fund collecting procedures and the legal implications thereof under the Act.

3.3.7 Industry agrees to the concept of a forum under chairmanship of the NEO, with representation of all PEO's and all specie-industries to review ongoing service delivery issues on a regular basis i.e. quarterly or six monthly as decided.

3.3.8 The assignee must be able to subcontract service providers that comply with legal provisions.

3.3.9 That independent meat inspection is implemented on the same level for all specie industries concurrently.

4. ATTACHMENTS

- [a] Requirements and duties for the assignee.
- [b] Previous submission sent in January 2011.

5. FINANCIAL IMPLICATIONS

5.1 A budget under the NEO will have to be structured for the IMIF meetings.

6. LEGAL IMPLICATIONS

6.1 Amendments to the act have become necessary, for example the definition of independent meat inspection. This is currently being directed to DEXCO for permission to amend the Act according to the legislative flow path.

7. ORGANISATIONAL IMPLICATIONS

7.1 As the proposed independent meat inspection system, will be largely under control of Government (Controlling Authority), meat inspection at export abattoirs may be performed by the assignee. This will imply that all DAFF meat inspection personnel at export abattoirs (24 officers) will be withdrawn with the option to be absorbed by the assignee or provided with suitable posts within the Department as negotiated by HRM.

8. COMMUNICATION IMPLICATIONS

8.1 Once a proposal is approved by the Minister, details of such a system will be finalised with the industry and communicated to all abattoir owners by road shows, publication in the Gazette for inputs towards final implementation. Part of this process will be directives to all abattoirs as well as Memorandums of Agreement

with the assignee and the fund-collecting company on specific arrangements pertaining to implementation procedures, finance arrangements etc.

9. IMPLEMENTATION STRATEGY

Implementation will be as follows:

- 9.1 Approval of concept proposal by Minister
- 9.2 Activating the Independent Meat Inspection Forum to coordinate implementation.
- 9.3 Final planning by DAFF and the specie-industries to establish legal entities as described in this proposal i.e. Section 21 Company as assignee, legal arrangements regarding the proposed fund-collection company and proposed cost structures. This will include an invitation to all abattoirs for their inputs.
- 9.4 Submission of Industry proposed assignee and the funding structure to the Forum. These will be evaluated according to provisions of the Act in terms of independence of all abattoirs as well as viability to deliver the service as envisioned.
- 9.5 Designation of the assignee and approval of the fund structures by the Minister.
- 9.6 Informing all role players through publications in the Gazette and industry journals.
- 9.7 Implementation of independent meat inspection at all abattoirs of all species according to a programme that will be determined by the forum. Programme is expected to run over 2 years, starting with the large abattoirs, working towards smaller abattoirs including in rural areas.
- 9.8 Monitoring of implementation on a regular basis, addressing problems that may occur.

10. RECOMMENDATIONS

It is recommended that:

- 10.1. The Minister approves the structure of the independent Meat inspection services by an assignee with the proposed structure as described.
- 10.2. That through Oversight consideration is given to the guarantees required by Industry as set out in 3.3.6
- 10.3. That the Minister approves the formation of the forum to regulate the functions of the assignee as mentioned.

Author: Dr. T. Bergh
Rank: Acting Director: VPH
Date: _____

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Recommendation(s) supported/not supported.

Comments:

CHIEF DIRECTOR: APH

Date: _____

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Comments:

DEPUTY DIRECTOR-GENERAL: APHFS

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DECISION

Recommendations approved / not approved / approved as amended

Comments

MINISTER: AGRICULTURE, FORESTRY AND FISHERIES.

Date: _____

presented to Dis on 20/1/2011 and again in June, 2011.