

Questions and answers about unlawful exports of infant formula

Q: What is the Ministry for Primary Industries (MPI) doing about unlawful exporting of infant formula?

A: Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) have become aware of an increasing amount of infant formula exports from New Zealand that appears to be occurring outside of legal requirements. The two agencies have begun action to stop any such unlawful exports of infant formula and to ensure exporters operate within the regulated export supply chain.

New Zealand enjoys an enviable reputation as a trusted supplier of foods. Dairy exports are very important to the New Zealand economy. We have a system of requirements for people involved in the supply chain – from dairy farmers through to exporters – that ensures the integrity of our dairy products. When these requirements are not being met we act to retain the integrity of our regulatory system.

Under New Zealand law (Animal Products Act 1999 ('APA')) only registered exporters can export dairy material, including products such as infant formula.

If anyone posts or ships infant formula from New Zealand without following the regulations for exporting dairy material, then they are operating unlawfully and outside the regulated export supply chain.

MPI is working to ensure anyone involved in exporting infant formula from New Zealand understands the rules around such trade.

MPI appreciates some people may not be aware they have been operating outside the law. Our approach will be to ensure people understand their responsibilities and then take appropriate action if those responsibilities are still not being met.

Q: What are the responsibilities for people exporting dairy product?

A: The APA requires exporters to be registered with MPI, to follow the rules for exporters and to notify MPI if there are problems.

Q: Who is an exporter?

A: The APA defines an exporter as anyone who exports any animal material or product from New Zealand, whether for money or not. This means people initiating internet orders or sending infant formula overseas as a gift are both classed as exporters. Where a registered exporter is based overseas, the definition of exporter includes their New Zealand agent or representative.

Q: What are the obligations of an exporter?

A: An exporter must register with MPI, follow the rules for exporters, only export product that meets the importing country requirements, and notify MPI if anything goes wrong with the product that has been or is about to be exported.

Q. Can people or companies in New Zealand still export infant formula to China?

A. Yes, if they are a registered exporter and work within the regulated export supply chain.

Under New Zealand law, an Export Certificate (also commonly called a Health Certificate) is required to export dairy material to China. This includes infant formula. MPI issues such Export Certificates. To receive an Export Certificate from MPI, the infant formula must meet MPI requirements for export to China and the infant formula must stay with a registered Risk Management Programme (RMP) holder continually from the farm up to export. If infant formula leaves the RMP chain it is no longer eligible for export and MPI cannot issue an Export Certificate.

Q: Will people in New Zealand be able to post infant formula to their relatives overseas?

A: No. If someone buys infant formula from a supermarket and posts it from New Zealand without following the regulations for exporting dairy products then they are operating unlawfully and outside the regulated export supply chain. This has always been the case under the APA. The law has not changed.

Under New Zealand law, any infant formula that is sent to anyone in China needs an Export Certificate (also commonly called a Health Certificate). MPI issues such Export Certificates. To receive an Export Certificate from MPI, the infant formula must meet MPI requirements for export to China and the infant formula must stay with an MPI approved Risk Management Programme (RMP) holder continually from the farm up to export. If infant formula leaves the RMP chain it is no longer eligible for export and MPI cannot issue an Export Certificate.

These rules apply to all dairy materials and products.

Q: So how can overseas consumers get access to New Zealand infant formula?

A: A number of New Zealand made infant formulas are available overseas through the legitimate supply chain. MPI understands the New Zealand supply chain will respond to demands where possible and make product available within the regulatory system.

Q. Is New Zealand infant formula safe?

A. Yes. This action has nothing to do with the food safety of New Zealand infant formula. In fact, New Zealand infant formula is highly regarded and sought after in our export markets because of its high quality and safety. The integrity of the product is in turn dependant on the system of controls New Zealand has in place around the production, processing, export and traceability of such products. These controls depend on operators within the supply chain understanding their responsibilities and meeting them.

This action is about protecting the confidence New Zealand's international trading partners have in our systems of export standards and the agreements we have made with those partners, while at the same time ensuring a level playing field applies for all exporters of animal products in New Zealand.

Q: Why hasn't MPI acted sooner?

A: It has taken MPI and Customs some time to get a picture of this unlawful export trade, to establish how it may be happening, who might be involved, and to what scale. The unlawful trade is estimated to be valued in excess of NZ\$150 million and growing.

MPI appreciates some people may not be aware they have been operating outside the law.

MPI is working to ensure anyone involved in exporting infant formula from New Zealand understands the rules around such trade and is given information to enable them to comply.

Guidance material is available in English as well as simplified Chinese at www.foodsafety.govt.nz

Q: When will MPI have this sorted out?

A: As we are still working out the scale of the situation and who might be involved, it is too early to put a time frame on this work.

Q: Will MPI prosecute anyone?

A: MPI prosecutes offences under the Acts we administer when it is in the public interest to prosecute and there is sufficient evidence to bring a case. There are provisions under the APA to prosecute people that breach the rules for dealing in dairy material, including products such as infant formula.

Q. What kind of penalties might people face if they operate outside export rules?

A. The penalties for not following the rules are significant: The offence for exporting infant formula without registration has a penalty of up to \$300,000 for corporations and \$50,000 for individuals. There are also significant penalties for failing to comply with a RMP under the APA: Fines for doing so are up to \$100,000 for corporations and \$25,000 for individuals