

Biosecurity Exemption Information

Overview

The Otago Regional Council (ORC) pest management plan for Otago is set out in the Regional Pest Management Plan 2019-2029 (RPMP). Section 78 of the Biosecurity Act 1993 (the Act) provides for exemptions from rules in a Plan (such as the RPMP). Rule 8.3 of the RPMP provides for the power to issue exemption to plan rules and summarises the matters in section 78.

Exemption

The Law:

Section 78 of the Act: Exemption from Rules provides

- (1) The council may exempt a person from a requirement in a rule, without conditions or on conditions that the council considers appropriate.
- (2) The council may grant an exemption under subsection (1) only if—
 - (a) the council is satisfied that granting the exemption will not significantly prejudice the attainment of the plan's objectives; and
 - (b) the council is satisfied that 1 or more of the following applies:
 - (i) the requirement has been substantially complied with and further compliance is unnecessary;
 - (ii) the action taken on, or provision made for, the matter to which the requirement relates is as effective as, or more effective than, compliance with the requirement;
 - (iii) the requirement is clearly unreasonable or inappropriate in the particular case;
 - (iv) events have occurred that make the requirement unnecessary or inappropriate in the particular case.
- (3) The council may exempt all persons, a specified class of persons, persons in a specified place, or persons responsible for specified goods or things from a requirement in a rule, without conditions or on conditions that the council considers appropriate.
- (4) The council may grant an exemption under subsection (3) only if the council is satisfied that events have occurred that make the requirement unnecessary or inappropriate.
- (5) Conditions on which the council grants an exemption must be consistent with the purpose of this Part (Act Part 5, Pest Management | Pest Management Plans | Regional Pest Management Plans) and must be no more onerous than the requirement from which the exemption is granted.
- (6) The council must determine the period of an exemption that the council grants.
- (7) The council must provide a register that—
 - (a) records, for each exemption granted,—
 - (i) a description of the exemption; and
 - (ii) the reasons for the exemption; and
 - (iii) the period of the exemption; and
 - (b) is available for the public to read free of charge—
 - (i) at the council's offices during the council's normal office hours; or
 - (ii) on an Internet site maintained by or on behalf of the council.
- (8) The following apply to the extension of the period of an exemption:
 - (a) the council may grant an extension of the period; and
 - (b) the extension must be granted before the end of the period; and
 - (c) the extended period becomes the period of the exemption; and
 - (d) the council may exercise the power in paragraph (a) more than once.

Exemption Application and Assessment

Application

1. An application for an exemption must be made in writing on the ORC Biosecurity Exemption Application Form. Completed applications should be accompanied by supporting evidence to substantiate the grounds for exemption.
2. Applications can be submitted at any time during the Biosecurity Compliance Process.
3. An application for an exemption does not stop the Biosecurity Compliance Process which continues unless an exemption is granted.

Completed ORC Biosecurity Exemption Application forms can be submitted to the ORC either by:

- Email to biosecurity@orc.govt.nz (with the subject heading **Exemption Application**);
- Post to Manager Environmental Implementation, Otago Regional Council, Private Bag 1954, Dunedin 9054; or
- Handed to ORC Customer Services, Philip Laing House, Level 2, 144 Rattray Street, Dunedin 9016 (marked 'Attention: Manager Environmental Implementation')

An 'Acknowledgement of Receipt' will be sent to the applicant by the Compliance Support Coordinator Biosecurity by email (or post) within three working days of the application being received by the ORC.

Assessment and Approval

Applications for exemption are processed as follows:

- Application received.
- Acknowledgement of receipt is sent (within three working days of receipt of the application).
- The Delivery Lead Biosecurity* for the relevant region of Otago will review the application, consult with the applicant and inspect the property before preparing a written report. The report will provide background context about the property, pest/s, surrounding area, current infestation level/s, any other pertinent facts, and may make a recommendation on the application.
- Those documents (the application and written report) are then reviewed by the Team Leader Environmental Implementation*, who may add notes and/or a recommendation before the documentation is provided to the Manager Environmental Implementation.
- The Manager Environmental Implementation will then review the exemption application, written report, and any assessment notes and/or recommendations, and may request:
 - further documentation from the applicant which the applicant is to provide within five working days (of the request for further documentation);
 - further information from the Biosecurity team;
 - further inspection of the property and/or neighbouring properties;
 - investigation into the specific pests and/or biodiversity of the area;
 - anything else necessary to make an informed decision.
- If the Manager Environmental Implementation requests further documentation, information, inspection, investigation, or anything else then the applicant will be advised of the steps to be taken and any extended timeframe for determination of the application.

- The Manager Environmental Implementation will then:
 - Review the exemption application, written report, and any assessment notes and/or recommendations alongside anything further obtained (documentation, information, inspection, investigation, or anything else sought); and
 - Decide on the application for an exemption within ten working days of receipt of the application or three working days of the receipt of anything further that was requested.
- The decision will be noted on the application form and formally documented in an Exemption Decision Letter, prepared by the Compliance Support Coordinator Biosecurity*, and signed by the Manager Environmental Implementation.
- The Exemption Decision Letter will be sent to the applicant by email (or post), within three working days of the date of the decision of the Manager Environmental Implementation.

Where an Exemption is Approved

If the exemption is approved, the Exemption Decision Letter will include any conditions of the exemption (if any), and the period of the exemption.

The terms of an approved exemption override any previously communicated compliance deadlines.

Note that the details of the approved exemption (including a description of the exemption; the reasons for the exemption; and the period of the exemption) will be made publicly available by the ORC on its Exemptions Register.

Extension of Approved Exemption Period

The period of an approved exemption may be extended (one or more times) if an application is made (and approved) prior to the end of the current exemption period.

Requests for extension of an approved exemption may be submitted to the ORC by email to biosecurity@orc.govt.nz. Email requests for extension must include:

- Applicant's Name
- Property details
- Terms of the original Exemption
- Original Period of Exemption
- Requested Extension Period
- Justification for Extension
- Any relevant current Information

Requests for an extension of an approved exemption will be reviewed by the relevant Delivery Lead Biosecurity* in consultation with the Team Leader Environmental Implementation* before being determined by the Manager Environmental Implementation within ten working days of receipt of the request for an extension. The Exemption Extension Decision Letter will be sent to the applicant by email (or post) within three working days of the date of the extension decision of the Manager Environmental Implementation.

Details of an approved exemption that is extended (including a description of the exemption; the reasons for the exemption; and the (extended) period of the exemption) will be made publicly available by the ORC on its Exemptions Register.

Breach

If the terms or conditions of any exemption are breached, the ORC may revoke the exemption and reinstate the compliance process.

Where an Exemption is Declined

If the application for an exemption is declined, the Exemption Decision Letter will outline the grounds on which the exemption was declined. Once declined, the compliance process continues, and the applicant and the property will need to comply with the requirements of the rule and any compliance deadlines previously communicated to the applicant by the ORC.

Exemption Register

A register of the exemptions granted – and any extensions thereof (including a description of the exemption; the reasons for the exemption; and the period of the exemption (and any extension)) will be maintained by the Compliance Support Coordinator Biosecurity* and made available to the public on the ORC website Pest Hub portal at <https://www.orc.govt.nz/pest-hub>.

The register is updated onto the Pest Hub within five working days of the date of the Exemption Decision.

Applications which have been declined are not included in the register.

*If staff are unavailable, the Manager Environmental Implementation may appoint alternative staff to complete that part of the process to ensure timely processing of an application.