



Department of  
Primary Industries and  
Regional Development

*We're working for  
Western Australia.*

# Industry Funding Scheme regulations

A review of operation and effectiveness

May 2021



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## Executive Summary

Section 147 of the *Biosecurity and Agriculture Management Act 2007* requires the Minister for Agriculture and Food to carry out a review of the operation and effectiveness of any regulations made for the purposes of establishing an Industry Funding Scheme (IFS) every five years. In 2010, regulations establishing three IFSs commenced to address pest and disease threats relevant to Western Australia's broadacre and pastoral cropping and livestock sectors. This report documents the second fifth-year anniversary statutory review of the following regulations:

- Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010
  - Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010; and
  - Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010
- (referred to, collectively, as the IFS Regulations).

The review consisted of three parts:

1. Desktop review to identify, for each IFS, the level of participation, financial costs and income generated from voluntary financial contributions made by Western Australian cattle, sheep and goat producers and grain, seed and hay growers
2. Issues identification – the capturing and collating of internal and external stakeholder feedback on anomalies and areas in which the operation/ effectiveness of the IFS Regulations might be improved, and exploring these with key informants; and
3. Stakeholder consultation to gather feedback on the pre-identified issues and provide stakeholders with an opportunity to raise other issues and comments on the operation and effectiveness of the IFS Regulations.

## **There have been no major regulatory impediments to delivering the three IFSs over the past five years**

The review found that there have been no major regulatory impediments to delivering the three IFSs over the past five years – the remittance of IFS contributions was at an appropriate level; participation in these voluntary Schemes was high; administrative costs were minimal; and funds were used to address seven priority pests, with approximately \$26 million expended on these during the five years relevant to this review.

Nevertheless, a number of recommendations are made that, when implemented, are anticipated to improve the operation and effectiveness of the IFS Regulations.

It is recommended that:

1. The Department of Primary Industries and Regional Development (DPIRD) coordinate the process of making regulatory provisions to:
  - a. Ensure the deduction and remittance of IFS contributions by registered receivers will occur as originally intended
  - b. Deliver an IFS compensatory mechanism that does not duplicate payments but, where a 'like benefit' is available, can cover the gap where the like benefit does not fully cover the extent of the loss/costs/expenses
  - c. Distinguish between 'eradication' and 'management' pests, with only 'eradication pests' being compensable
  - d. Enable the State Administrative Tribunal (SAT) to review decisions made by the Industry Management Committee, instead of the Review Panel – if the SAT is confirmed as a viable option; and
  - e. Enable a committee member to continue to serve on an Industry Management Committee, once their term has expired, until a new appointment (or reappointment) has been confirmed.
2. DPIRD, over the next 12 months, undertake investigations to determine the extent of non-compliance with the requirement to remit IFS contributions within 14 days when an animal/carcass is sold to someone other than a processor or via a stock agent. This information can be used to inform appropriate actions to address non-compliance and provide data on the enforceability of the regulations.
3. DPIRD, over the next 12 months, determine whether limits can legally be placed on the minimum amount of IFS contributions that will be refunded and, using this information, engage with the relevant IFS stakeholders to determine and implement an appropriate course of action to address the decreasing cost-effectiveness of processing IFS refunds.
4. The Industry Management Committees:
  - a. Investigate implementing a collaborative biosecurity communications campaign within the current regulatory framework, with the aim of raising awareness and understanding of the IFSs and the vital role the IFSs play in the biosecurity of the industries; and
  - b. Review the committee's internal approval procedures to determine if there is scope for enacting a simplified process to approve expenditure below a certain amount.



# Introduction

## Background

### Industry Funding Schemes

In May 2010, regulations establishing three Industry Funding Schemes (IFSs or Schemes) commenced to address pest and disease threats relevant to Western Australia's (WA) cattle, sheep, goat, grains/seeds and hay industries – a Cattle IFS, a Sheep and Goat IFS and a Grains, Seeds and Hay IFS. The Schemes use funding arrangements authorised under the *Biosecurity and Agriculture Management Act 2007* (the Act), whereby producers can identify pest and disease priorities at a whole-of-industry level and raise funds for activities to address these priorities.

### **IFSs are industry-driven, with industry deciding if, when, where and to what extent the Schemes are used in practice**

Funds are raised through a producer contribution payable on each 'chargeable sale' of cattle/sheep/goats (in the case of the livestock-related IFSs) or 'chargeable transaction' of grain/seed/hay (Grains, Seeds and Hay IFS). These payments are forwarded to the Department of Primary Industries and Regional Development (DPIRD). In accordance with the regulations, DPIRD maintain and administer the Industry Declared Pest Control and Compensation Accounts (IFS Accounts) in consultation with the industry. There is one Account for each IFS.

A seven-member Industry Management Committee (IMC) oversees each IFS. The Minister for Agriculture and Food (the Minister) appoints the IMC members after inviting industry nominations and receiving advice from an industry-based Appointments Committee. As required by regulation, the majority of the IMC are IFS participants – that is, producers.

The IMCs are responsible for approving payments made from the IFS Accounts and approving the biosecurity-related programs funded through the Schemes. The IMCs also provide advice to the Minister on each Scheme's area of operation and contribution rate.

Producers do not have to participate in the IFSs – there is a mechanism that allows them to opt out. Opting out does not remove the legal requirement to deal with the pests and diseases to which the Schemes relate, but does disqualify the producer from any benefits provided by the Schemes such as on-ground assistance and compensation.

### Regulatory reviews

Since inception in 2010, the regulations governing the three IFSs have undergone review a number of times:

- 2011/12. As required by regulation, the IMCs commissioned an independent consultant to review: i) the regulations governing the three IFSs, ii) the operation of the schemes; and iii) the benefits to the industry of payments made from the IFS Accounts. This report was provided to the Minister and made available to the IFS participants.

- 2014/15. As required by regulation, consultation was undertaken to determine the benefits of the IFSs to the WA cattle, sheep, goat, grain, seed and hay industries. This information was used to inform decisions on whether the IFSs would continue to operate post June 2015.
- 2015/16. As required by section 147 of the Act, the first fifth-year anniversary statutory review of the operation and effectiveness of the regulations governing the three IFSs was undertaken. The report was tabled in Parliament and made available to the Scheme participants.

This report details the process and findings from the second fifth-year anniversary statutory review of the operation and effectiveness of the regulations. Recommendations are made that, when approved and implemented, are anticipated to improve the operation and effectiveness of the regulations governing the three IFSs.

### Scope of the review

Section 147 of the Act requires the Minister to carry out a review of the operation and effectiveness of any regulations made for the purposes of establishing an IFS every five years. The review considered the following regulations:

- a) Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010 (Cattle regulations)
- b) Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010 (Grains regulations); and
- c) Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010 (Sheep regulations)

(which collectively, will be referred to hereon as the IFS Regulations).

In accordance with the requirements of section 147 of the Act, the purpose of the review was to examine the operation and effectiveness of the IFS Regulations. The delivery aspects of the Schemes that the IMCs are responsible for were not within the scope of this review. This area is addressed by the IMCs as part of the annual industry consultation that is undertaken to understand industry views on: i) the operation of the schemes; and ii) the performance of the IMCs in delivering their functions under the IFS Regulations.

Given that the IFS Regulations have been reviewed a number of times since they commenced in 2010, and that industry (via the IMCs) has been closely involved in monitoring the implementation, a targeted review was undertaken in 2021. The targeted review focused on key aspects of the IFS Regulations, including matters raised by stakeholders.



## Operation of the IFS Regulations: Overview

### Purpose of the IFSs and IMCs

The *Biosecurity and Agriculture Management Act 2007* provides the enabling framework for regulations to establish 'industry funding schemes'. As described previously, IFSs enable funds to be collected from agricultural producers for activities that address pests and diseases. Before any regulations are made to establish an IFS, the Minister must consult with, at the minimum, organisations that represent the interests of the affected agricultural industry.

The IFS Regulations establish a 'declared pest control and compensation account' (IFS Account) for each IFS and an IMC for each Account. The Director General of DPIRD, in consultation with the IMCs, maintains and administers the IFS Accounts.

Each IMC has between five and seven members. The Minister appoints the members based on advice from an industry-based Appointments Committee. The majority of the IMC are 'full participants' of the IFS – that is, they are producers that pay contributions to the Scheme. The regulations allow for up to two members of the IMC that are not full participants – although people that opt out of the Scheme ('non-participants') are not eligible for IMC membership. The IMC are remunerated from the IFS Account.

The role of an IMC, as documented in the IFS Regulations, is to:

- Advise the Director General of DPIRD on the administration of the relevant IFS Account
- Recommend to the Minister, each year, the area/s of the State in which the Scheme should operate
- Recommend annually to the Minister the rate/s at which IFS contributions are to be paid
- Approve programmes and other measures to be implemented under the Scheme
- Approve payments from the IFS Account
- Consult with the industry each year for the purpose of ascertaining industry views on the operation of the Scheme and the performance by the IMC of its functions
- Report to the Minister at least annually on the operation and effectiveness of the Scheme, and any matters relating to the operation of the relevant regulations as the Minister specifies (and make these reports available to Scheme participants); and
- Undertake other functions related to the operation of the Scheme as required.

**The industry, via the IMC, determine which pests and/or disease threats are the priorities requiring action**

The industry, via the IMC, determine which pests and/or disease threats are the priorities requiring action. These are specified under the regulations ('specified pests'). Only pests that have been declared under the Act ('declared pests') can be specified under the IFS Regulations. The funds collected from producers through the IFS mechanism can only be used to address these specified pests.

The IFSs can be terminated at any time based on the advice of the industry, via the IMC. The IFS Regulations contemplate how this is to occur, but any residual balance standing to the credit of the IFS Account must be used to benefit the IFS participants.

## Contributions to the IFS Accounts

### Remittance of IFS contributions

Each year, the Minister declares the area/s of the State in which the IFS is to operate and the rate/s at which IFS contributions are to be paid. The declaration is made based on recommendations from the IMC.

There is flexibility within the regulations in that IFS contribution rates:

- can be a fixed sum or a percentage of the sale price (Sheep and Cattle regulations)
- may vary between different classes of produce (Grains regulations)
- can vary between different areas in which the Scheme operates; and
- can be changed at any time during the year.

Every cattle/sheep/goat owner and grain/seed/hay grower who completes a 'chargeable sale' or 'chargeable transaction'<sup>1</sup> pays an IFS contribution. Table 1 outlines the IFS contribution rates and areas of operation that are currently in effect.

Table 1. IFS areas of operation and contribution rates at May 2021

IFS	Area of operation	Contribution rate
Cattle	Whole of WA	20 cents per head/carcass
Sheep/goat	Whole of WA	17 cents per head/carcass
Grain/seed/hay	Agricultural area*	25 cents per tonne (grain/seed) 12.5 cents per tonne (hay)

\* Defined as all local government districts excluding Broome, Halls Creek, West Kimberley, Wyndham-East Kimberley Ashburton, Carnarvon, Coolgardie, Cue, Dundas, East Pilbara, Exmouth, Laverton, Leonora, Kalgoorlie-Boulder, Meekatharra, Menzies, Mount Magnet, Murchison, Ngaanyatjaraku, Port Hedland, Roebourne, Sandstone, Shark Bay, Upper Gascoyne, Wiluna and Yalgoo

<sup>1</sup> As defined by the regulations.

For the livestock IFSs, when animals are sold via a livestock agent or to a processor, the agent/processor is required to deduct and forward IFS contributions to DPIRD on behalf of the owner. The owner of any animals sold to someone other than a processor or via a livestock agent (for example, to an exporter or to another producer) is responsible for paying the required contributions.

For the Grains, Seeds and Hay IFS, growers pay their IFS contributions via 'registered receivers'. All produce receivers that purchase or receive 500 tonne or more of grain/seed/hay in a financial year are required to register with the Director General of DPIRD. For each chargeable transaction, the registered receiver deducts and remits the IFS contributions to DPIRD on behalf of the grower. IFS contributions are not payable on produce sold to someone other than a registered receiver.

### **Opting out**

At present, growers/owners can opt out of one or more of the IFSs for a financial year by sending a notice to DPIRD. These 'non-participants' lose all entitlements to assistance and compensation provided via the Scheme. They are also required under the Act to manage the pests and diseases to which the Scheme relates wholly at their own expense.

## **Producers do not have to participate in the Schemes – there is a mechanism that allows them to opt out**

After opting out, producers need to contribute to the Scheme/s for at least two consecutive years before they can regain eligibility for any Scheme assistance. Scheme participants that are in this situation are known as 'contributing participants'. The regulations require a producer who has opted out for one year but wishes to again participate in the Scheme, to contribute for two consecutive years before regaining 'full participant' status; a producer who opts out for two or more consecutive years must contribute for three consecutive years.

Producers wanting to opt out must do so each year during the June immediately prior to the financial year for which they want to opt out (for example, opt out in June 2020 for the 2020/21 financial year).

At the end of the financial year, the non-participants can receive a full refund of any contributions paid during the year. To receive the refund, they must complete the appropriate paperwork and send this to DPIRD along with evidence of the IFS contributions they have paid. These must be received by 31 July each year (for example, the form must be received by 31 July 2021 for a refund of IFS contributions paid during 2020/21).

### **Payments from the IFS Accounts**

The IFS Regulations allow the IFSs to fund programmes and other measures to control specified pests, with 'control' defined under the Act to include 'eradicate, destroy, prevent the presence or spread of, manage, examine or test for, survey for or monitor the presence or spread of, and treat'. The IFS Regulations also allows IFS funding to be used for programmes/measures that will advance and improve

control measures for specified pests. In accordance with the IFS Regulations, the IMC must formally approve the programmes, including the programme budget.

The IFS Regulations also allow for compensation to be paid to owners/growers who have: i) suffered loss; or ii) incurred costs and expenses to destroy produce/animals (or related thing) as a result of:

- their produce/animals (or related thing) being infected or infested with a specified pest; or
- actions taken under the Act to control a specified pest.

Payments cannot be made in respect of indirect, incidental or consequential loss; and the amount of the payment cannot exceed the amount of the loss, costs or expenses.

Payments cannot be made to anyone that is not a full participant of the Scheme. However, the IFS Regulations allow payments to be made to someone that is not an owner/grower if the IMC is satisfied that it is in the best interest of the industry to make the payment.

Additionally, payments cannot be made to a person who has:

- failed to pay any IFS contributions that they were obliged to pay
- been convicted of an offence of failing to comply with laws to report the presence/suspected presence of the specified pest; or
- failed to comply with any pest control requirement, or conditions made by the IMC.

The IFS Regulations require the IMC to specify the amount of payments made (or the basis upon which the amount is determined), and allows for different amounts to be paid to owners/growers compared to those who are not owners/growers.

Any applicants who are dissatisfied with the outcome of their application for a payment can request a review by the IFS Review Panel. The Review Panel must deliver its decision within three months, and the Review Panel's decision is final.

In addition to the above, money held in the IFS Accounts can be used to:

- purchase capital assets that are required in connection with approved programmes, compensation or destroying animals/produce
- remunerate IMC, Appointments Committee and Review Panel members; and
- for the costs/expenses of administering the IFS Account.

The IMC has an obligation under the IFS Regulations to consider the anticipated expenditure from the IFS Account when making its recommendation to the Minister on the IFS contribution rate.

*Note: the above information summarises how funds from the IFS Accounts can be used. The IFS Regulations provide accurate and detailed information on how IFS funds can be used.*

## Method

### Desktop review

The purpose of the desktop review was to identify the following for each IFS:

- Non-participants – the number of producers opting out of each IFS over the past five years
- Financial costs – the annual programme and IMC costs for each IFS over the past five years; and
- Contributions – the financial value of the producer contributions paid to each IFS every year, over the past five years.

These areas were identified through the first five-year review as strategic indicators of the operation and effectiveness of the IFS Regulations.

### Issue identification

Identifying issues is a fundamental stage in reviewing regulations. Over the past five years, as the regulations continued to be tested in real life, DPIRD captured internal and external stakeholder feedback on anomalies and areas in which the operation/effectiveness of the IFS Regulations might be improved. These were used as the basis for the stakeholder consultation (see Appendix 1). Key informants were engaged to further frame the issues and explore potential solutions including the benefits and challenges.

### Stakeholder consultation

There were three objectives of the stakeholder consultation:

1. To gather feedback from stakeholders on the pre-identified issue areas
2. To provide stakeholders with an opportunity to raise other issues with the IFS Regulations; and
3. To enable stakeholders to consider the operation and effectiveness of the IFS Regulations, in general.

### Data collection

All stakeholders affected by the IFS Regulations were encouraged to participate in the review. These included:

- IFS participants (i.e. producers that pay IFS contributions) – participation in the review as individuals or via cattle, sheep, goat, grain, seed and hay industry and producer organisations
- IFS-related Committees/Panels established by regulation
- Those with obligations under the IFS Regulations (for example, livestock processors, livestock agents, grain/seed/hay receivers); and
- Relevant government bodies/agencies.

Online, written submissions were requested from stakeholders via the publically accessible 'Talking Biosecurity' consultation platform.

DPIRD developed a discussion paper to guide stakeholder discussion and feedback on the operation and effectiveness of the IFS Regulations (Appendix 1). The discussion paper was informed by the issues identification work that was undertaken after the first five-year review of the IFS Regulations.

An online questionnaire, which reflected the structure of the discussion paper, was used as a framework for the written submissions (Appendix 2). There were four sections to the questionnaire:

- Personal information and consent to publish the submission
- Demographics (sector, individual/organisation)
- Pre-identified issues; and
- A section to identify other issues.

Submissions were open for four weeks from 1 April until 30 April 2021. A total of 11 submissions were received (Table 2, Appendix 3). Of these, nine were received from organisations/groups and two were received from individuals. Table 3 identifies the sectors that provided submissions to the review. It must be noted that some submissions were made by individuals/organisations that have an interest across different sectors.

Table 2. Submissions received to the IFS Regulation Review

	Submitter
1	Cattle IFS Management Committee
2	Department of Primary Industries and Regional Development
3	Grains, Seeds and Hay IFS Management Committee
4	IFS Appointments Committee
5	Kimberley Pilbara Cattlemen’s Association
6	Pastoralists and Graziers Association of WA
7	Sheep and Goat IFS Management Committee
8	Stud Merino Breeders Association of WA
9	WAFarmers
10	Individual 1
11	Individual 2

Table 3. Level of participation in the IFS Regulation Review by the different sectors

Sector	No. of submissions (total)	No. of industry organisation/group submissions
Cattle	5	4
Sheep/goat	6	4
Grain/seed/hay	4	3
Government	2	N/A

*Note: numbers are not mutually exclusive as some submissions were made by individuals/organisations that have an interest across different sectors.*

*Note: Although the IFS-related committees are Government committees, for the purposes of the review the IFS Management Committees were categorised as ‘industry organisation/groups’ and according to the relevant sector that they service; and the IFS Appointments Committee was categorised as ‘Government’.*

## Communications and engagement

A dedicated engagement platform was used for the stakeholder consultation ([Talking Biosecurity](#)). As well as enabling stakeholders to make online submissions, stakeholders could ask questions via the site and access supporting information.

An array of communications activities were undertaken to encourage stakeholder submissions to the consultation. These included media, newsletter articles, social media, direct emails and other activities. An overview of the communications and engagement undertaken is provided at Appendix 4.

## Limitations

Although only a small number of responses were received, it is believed that the IFS participants (i.e. producers) were adequately represented through the submissions made by the industry/producer organisations and the IFS Management Committees.

The key stakeholders that did not engage with the consultation were livestock processors, livestock agents and grain/seed/hay receivers. There is one area of the IFS Regulations affecting these entities – remitting IFS contributions. All have obligations under the IFS Regulations to deduct and remit IFS contributions on behalf of the producers. The first five-year review of the IFS Regulations also had limited input from this group of stakeholders. One-on-one feedback from representatives within these groups suggests the provisions within the IFS Regulations relating to remitting IFS contributions are appropriate.



## Findings

### Income, expenditure and participation

#### Cattle IFS

During the five years relevant to this review, the Cattle IFS was used to raise funds for surveillance programs targeting three specified pests:

1. enzootic bovine leucosis (*Bovine leucosis virus*)
2. Johne's disease (cattle strain) (*Mycobacterium avium* subspecies *paratuberculosis*); and
3. bovine tuberculosis (*Mycobacterium tuberculosis*).

Each year, the Cattle IMC made recommendations to the Minister on the Scheme's contribution rate (to cover the costs of the annual surveillance programs) and its area of operation. The contribution rate and area of operation remained consistent over the five years, with the contribution rate set at 20 cents per head/carcass across the whole of WA.

The number of cattle producers opting out of the Cattle IFS was very low (Figure 1). Of the nine opt outs over the last five years, only one applied for a refund of the contributions they paid to the Scheme. This amounted to \$14, which equates to 0.001% of 'foregone' IFS revenue over the five-year period.

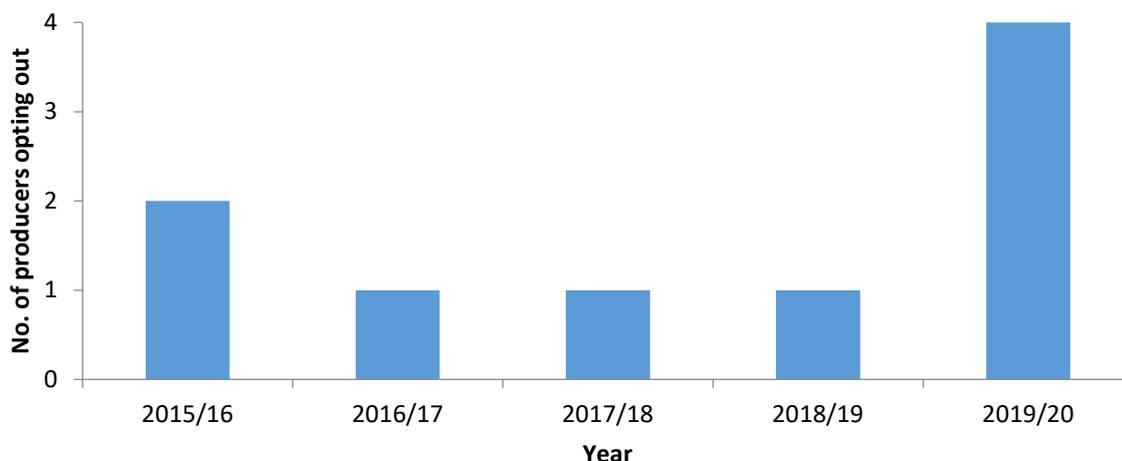


Figure 1. Number of producers opting out of the Cattle IFS each year since 2015/16

The annual income generated through producer contributions to the Cattle IFS in the five years from 1 July 2015 until 30 June 2020 ranged from \$172 000 to \$226 000 (average = \$193 609 per year; Figure 2). Although the contribution rate remained stable at 20 cents per head/carcass, the annual income fluctuated as it was dependent upon the number of cattle sold in chargeable sales.

To help the Cattle IMC understand the level of compliance with the remittance requirements, it analysed the collection rate for Cattle IFS contributions at the end

of each financial year. This was done using data from the Australian Bureau of Statistics, Department of Primary Industries and Regions South Australia, and the WA Meat Industry Authority to estimate the number of chargeable sales. From these analyses, the Cattle IFS collection rate was 123% of cattle sales each year, averaged over the five years relevant to this review. It must be stressed that there were important limitations to the IMC’s analyses – for example, data were not available for private sales or interstate sales whereby cattle are moved out of WA via Kununurra or the Tanami Road.

In all years, the Cattle IFS income was greater than expenditure (Figure 2). The IFS-funded disease surveillance programmes implemented during the timeframe were always delivered well below the budgeted amounts. Indeed, an additional \$660 000 would have been spent on the approved programmes over the five years if the programmes had required the full funding (or, on average, an additional \$130 000 per year). The reason for the under-spend was because the programme budgets included i) base funding to undertake the surveillance; and ii) contingency funding for the work required when an animal was suspected of harbouring one of the priority diseases. The contingency funding was rarely required.

The Committee costs have slowly declined over the last five years (Figure 2). In addition to these administrative costs, ‘in kind’ support to administer the Cattle IFS was provided by DPIRD. This included executive officer, communication, technical and policy support to the IMCs, financial management, coordination and administration of the opt out and refund process, and processing IFS remittances.

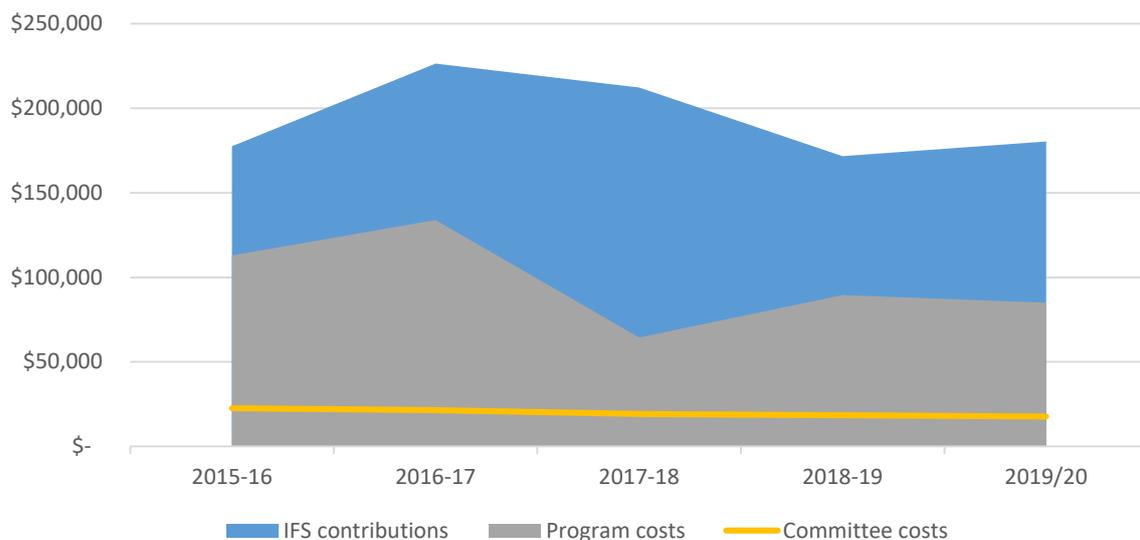


Figure 2. Income and expenditure of the Cattle IFS since 2015/16.

The percentage of funding applied to each specified pest and the costs of delivering the Scheme are shown at Figure 3 (excludes in-kind support provided by DPIRD). Forty percent of the funds collected from industry were not used during the five-year period. One-third of the funding was used to address Johne’s disease (cattle strain) (Figure 3).

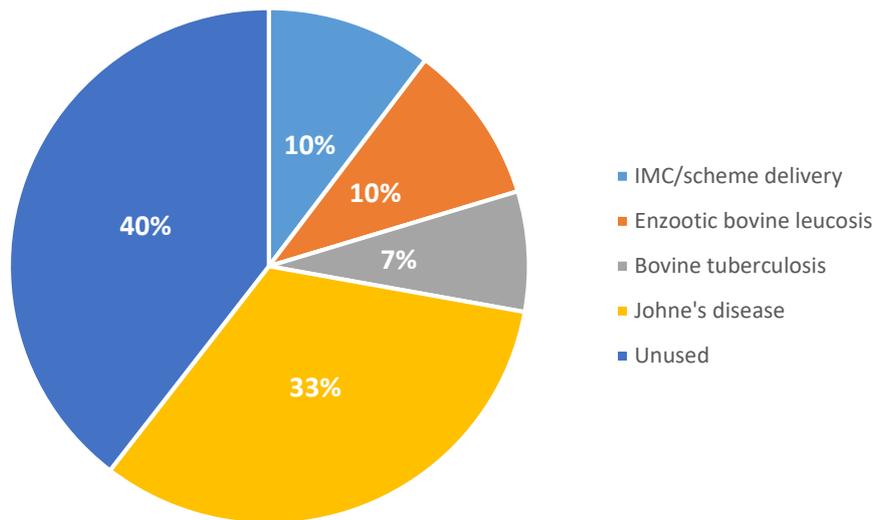


Figure 3. Proportion of the Cattle IFS funds collected from 1 July 2015 until 30 July 2016 allocated to each specified pest and for delivering the IFS (including IMC costs)

At the end of the five-year period the net cost of the Cattle IFS was -\$382 709. At 30 June 2020, the IFS Account balance was just under \$450 000.

The Cattle IFS Account also includes funds previously held in the Cattle Industry Compensation Fund (CICF), a fund established under the *Cattle Industry Compensation Act 1965*. This money was transferred to the Cattle IFS Account in 2010. Although held in the IFS Account and managed by the IMC, the use of these funds are governed by different legislation – the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*. Consequently, the use of these funds is beyond the scope of this review.

### Sheep and Goat IFS

The Sheep and Goat IFS was used to raise funds for a program to control virulent footrot in WA's sheep and goat flocks during the five years relevant to this review. In December 2017, at the IMC's request, wild dogs were specified under the Sheep regulations. Sheep and Goat IFS funding targeting wild dogs began in 2018/19.

As required by the regulations, the Sheep and Goat IMC made annual recommendations to the Minister on the Scheme's contribution rate and its area of operation. Although the Scheme's area of operation remained consistent over the five years, operating across the whole of WA, changes were made to the contribution rate (Table 4).

The number of sheep and goat producers opting out of the Sheep and Goat IFS was low (Figure 4). Of the 49 opt outs over the last five years, only 23 (47%) applied for a refund of the contributions they paid to the Scheme. These amounted to \$14 857, which equates to 0.37% of 'foregone' IFS revenue over the five-year period.

Table 4. Sheep and Goat IFS annual contribution rate from 2015/16

Year	Contribution rate (per head/carcass)
2015/16	12 cents
2016/17	10 cents
2017/18	10 cents
2018/19	10 cents
2019/20	15 cents

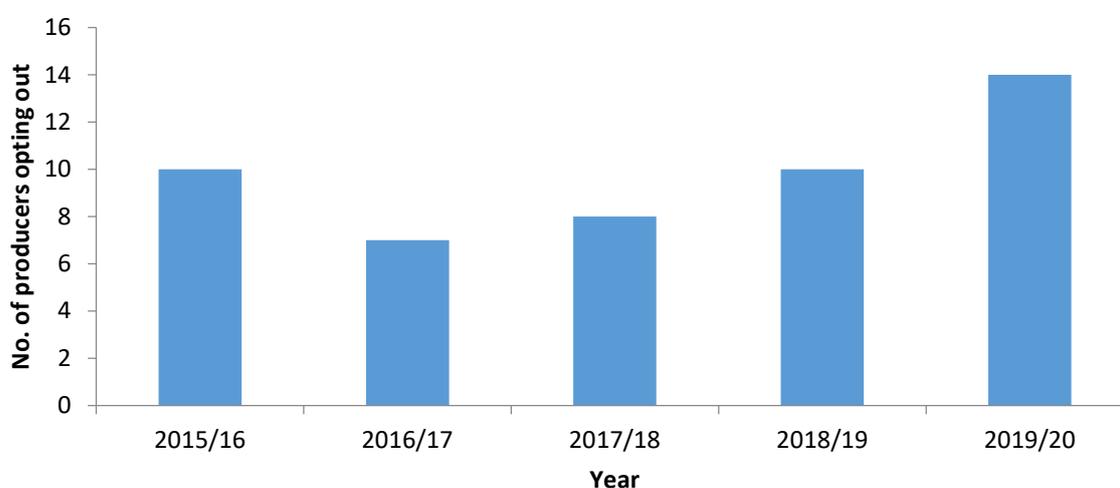


Figure 4. Number of producers opting out of the Sheep and Goat IFS each year since 2015/16

The annual income generated through producer contributions to the Sheep and Goat IFS in the five years from 1 July 2015 until 30 June 2020 ranged from \$662 000 to \$885 000 (average = \$801 657 per year; Figure 5). Similar to the Cattle IMC, the Sheep and Goat IMC also investigated the collection rate for Sheep and Goat IFS contributions at the end of each financial year. From these analyses, the Sheep and Goat IFS collection rate was 114% of sheep/goat sales each year, averaged over the five years relevant to this review. Again, there were important limitations to the IMC’s analysis – for example, data were not available for private sales and information on goat sales was limited.

From 2017/18, the Sheep and Goat IFS expenditure was greater than the income (Figure 5). The five-year trend is increasing programme costs with relatively static income. This is despite changes to the contribution rate. Similar to the Cattle IFS, the Sheep and Goat IFS income was dependent upon the number of sheep/goats sold in chargeable sales.

At the end of the five-year period, the net cost of the Sheep and Goat IFS was \$335 310. However, the IMC were able to draw on financial reserves held in the IFS Account. At 30 June 2020, the IFS Account balance was just over \$1.5 million.

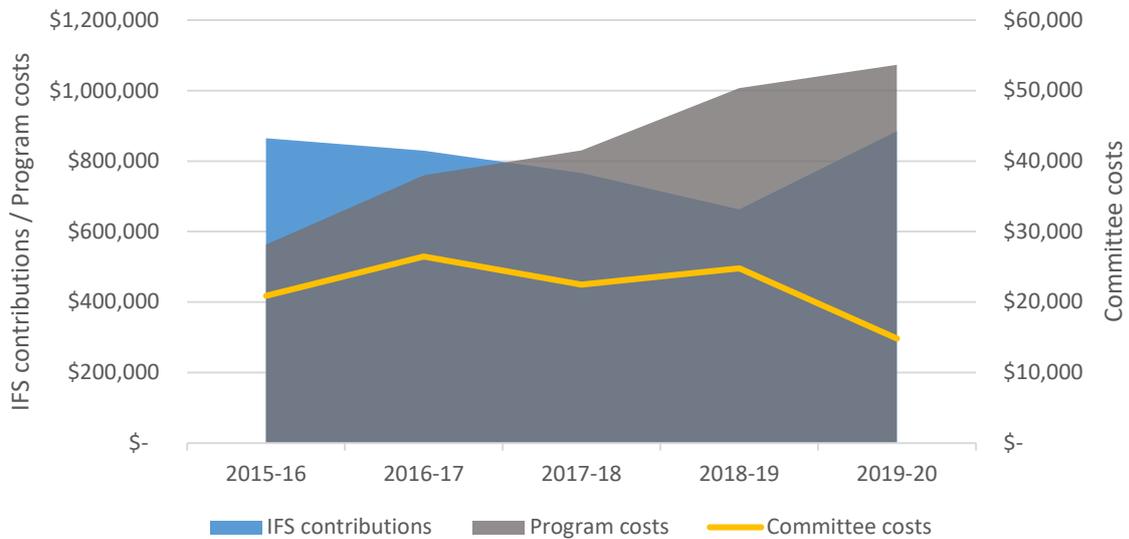


Figure 5. Income and expenditure of the Sheep and Goat IFS since 2015/16

The percentage of funding applied to each specified pest and the costs of delivering the Scheme are shown at Figure 6. The in-kind support provided by DPIRD to administer the Sheep and Goat IFS, similar to that for the Cattle IFS, is not reflected in Figure 6. Ninety-one percent of the funds collected from industry were used to control virulent footrot, whilst 6% was used to address wild dogs (Figure 6). It must be remembered that the Sheep and Goat IFS only started to fund wild dog-related activities in 2018/19.

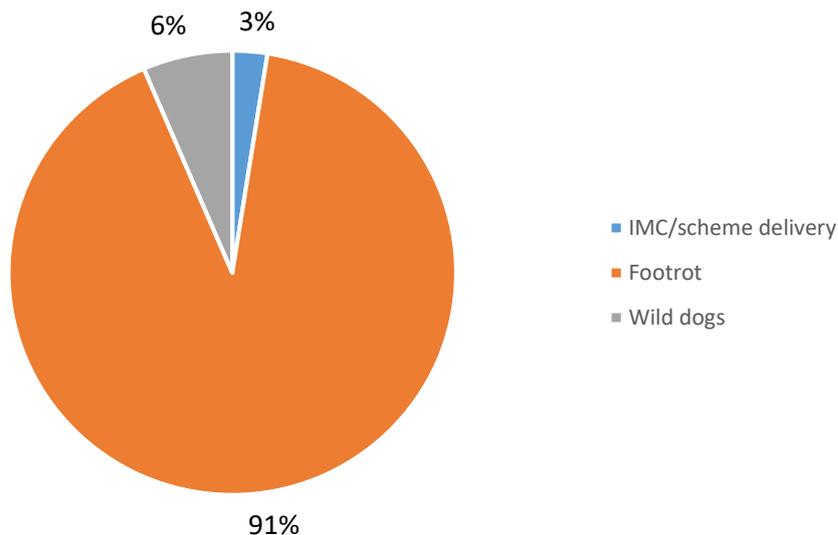


Figure 6. Proportion of the Sheep and Goat IFS funds collected from 1 July 2015 until 30 July 2016 allocated to each specified pest and for delivering the IFS (including IMC costs)

## Grains, Seeds and Hay IFS

During the five years relevant to this review, the Grains, Seeds and Hay IFS was used to raise funds to eradicate three-horned bedstraw from WA and control skeleton weed.

Each year, the Grains, Seeds and Hay IMC made recommendations to the Minister on the Scheme's contribution rate (to cover the costs of the annual programs) and its area of operation. During the five years, the Grains, Seeds and Hay IFS operated in the agricultural region of WA. The rates at which IFS contributions were payable differed between grain/seed and hay, with the rate for hay being half that of grain/seed. In 2015/16 and 2016/17, the contribution rates were 30 cents and 15 cents per tonne for grain/seed and hay, respectively. From 2017/18 onwards, the rates were 25 cents (grain/seed) and 12.5 cents (hay), per tonne.

Considering there are approximately 4000 grain producers in the WA agricultural region, the number of grain/seed/hay growers opting out of the Grains, Seeds and Hay IFS was very low (Figure 7). Of the ninety-three opt outs over the last five years, thirty-seven (40%) applied for a refund of the contributions they paid to the Scheme. These amounted to \$93 215, which equates to 0.44% of 'foregone' IFS revenue over the five-year period.

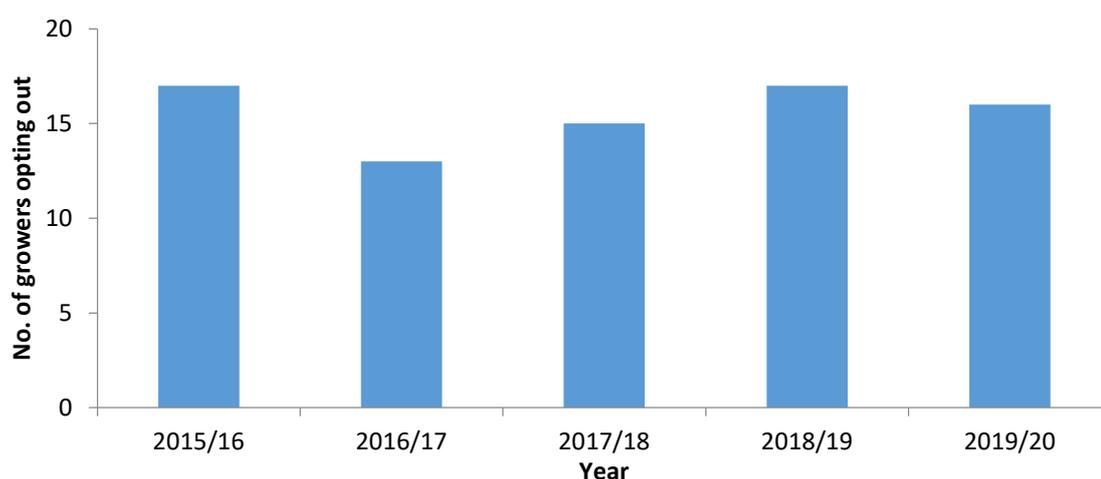


Figure 7. Number of growers opting out of the Grains, Seeds and Hay IFS each year since 2015/16

The annual income generated through grower contributions to the Grains, Seeds and Hay IFS in the five years from 1 July 2015 until 30 June 2020 ranged from \$3.2 million to \$5.2 million (average = \$4.2 million per year; Figure 8). Income was heavily dependent upon the tonnage of produce grown, noting that weather conditions play a critical role in amount of crop that is produced each year.

To help the Grains, Seeds and Hay IMC understand the level of compliance with the remittance requirements, it analysed the collection rate for IFS contributions at the end of each financial year. This was done using harvest data published by the Grains Industry Association of WA, and Australian Bureau of Statistics data on the tonnage of WA hay exports. From these analyses, each year the Grains, Seeds and Hay IFS collected IFS contributions on an average of 99% of the grain/seed crop and 79% of the hay crop over the five years relevant to this review.

From 2018/19, the Grains, Seeds and Hay IFS expenditure was greater than the income (Figure 8). At the end of the five-year period, the net cost of the Grains, Seeds and Hay IFS was \$252 315. However, the IMC were able to draw on financial reserves held in the IFS Account. At 30 June 2020, the IFS Account balance was just over \$7.5 million.

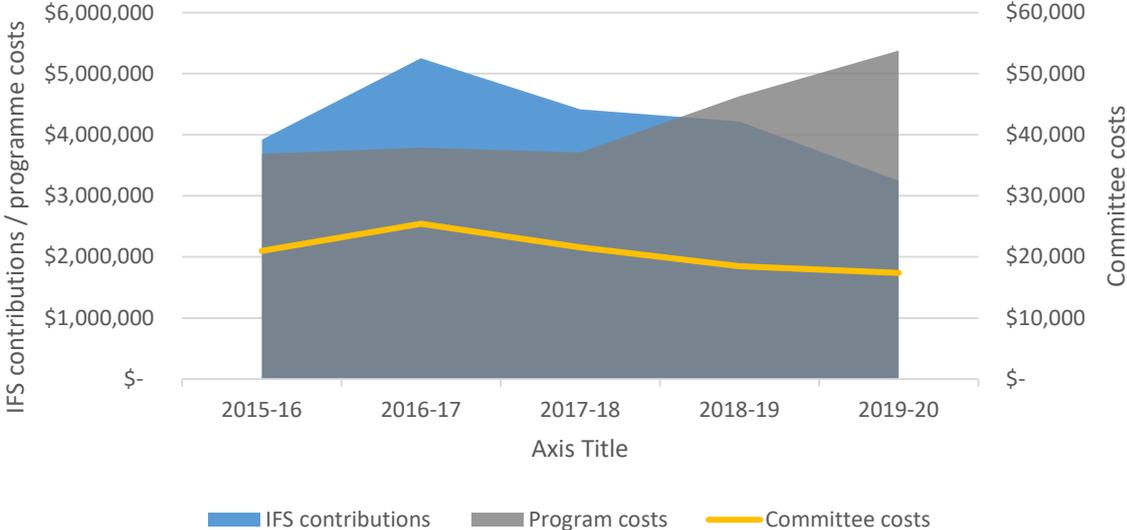


Figure 8. Income and expenditure of the Grains, Seeds and Hay IFS since 2015/16

The percentage of funding applied to each specified pest and the costs of delivering the Scheme are shown at Figure 9. Eight-nine percent of the funds collected from industry were used to control skeleton weed, with only 1% required to deliver the Scheme and run the IMC (Figure 9). As with the other two IFSs, DPIRD provided in-kind support to administer the Grains, Seeds and Hay IFS, which is not reflected in Figure 9.

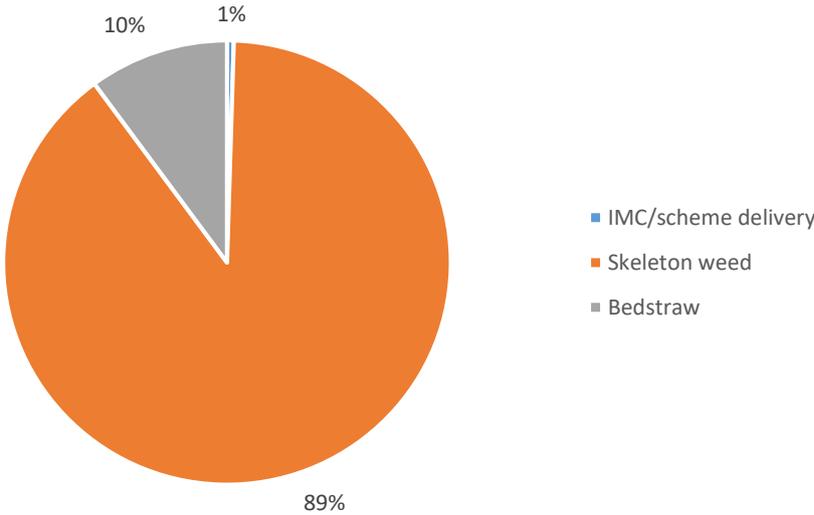


Figure 9. Proportion of the Grains, Seeds and Hay IFS funds collected from 1 July 2015 until 30 July 2016 allocated to each specified pest and for delivering the IFS (including IMC costs)

## Opt out provisions

The 2015/16 review of the IFS Regulations recommended that ‘allowing producers to opt back into a Scheme in the situation where a new programme is offered by the Scheme should be considered in future reviews of the Regulations’. At that time, there were mixed views on whether such a change would be beneficial. It was recommended that the potential for ‘opting in’ be revisited during the next five-year review.

Stakeholders were asked to provide their views on whether a person who opts out of a Scheme should be allowed back into the Scheme as a full participant when a new pest/disease is targeted by the Scheme, without initially being a ‘contributing participant’. This would enable the producer to be immediately eligible for Scheme assistance and compensation. Ten responses were received.

Two industry groups and one Government stakeholder supported this idea because it was seen to:

- Encourage maximum participation in (and therefore funding for) priority industry programmes
- Support producers who undertake actions for whole-of-industry benefit
- Encourage pest and disease reporting; and
- Support industry recovery if there was a pest/disease outbreak.

One of the above respondents suggested that it would be appropriate to require the ‘opt ins’ to first repay any IFS refunds they had received for the preceding two years before they can gain full participant status. Another suggestion was that the producers that opt back in to a Scheme are only immediately eligible for benefits relating to the new pest.

One industry group supported the change as they believed flexibility should be afforded to enable opt-ins to occur in the event of a new pest/disease being added to a Scheme. However, this respondent suggested that the ‘opt in’ would first need to be a contributing participant for a shorter timeframe, such as six months, before regaining full participant status.

The remaining six respondents (four industry groups and two individuals) did not support the change. The following reasons were put forward:

- The change does not encourage ongoing commitment and participation in the Schemes
- The change does not align with the intent of the IFSs (driven by industry to address industry risk). It was suggested that, if someone opts out, it is a decision consciously made at the individual level with the individual business in mind rather than the industry as a whole
- Opt out numbers would likely increase. It was thought that producers would likely opt out if they were not affected by the pest/s being addressed by the IFS, knowing that there is no penalty for them to ‘opt in’ if the Scheme addresses a pest that is affecting their business. The flow-on effect would be less funding to address the industry priorities, leading to increased IFS contribution rates which may, in turn, lead to more opt outs

- The change would likely make IFS administration more difficult on several fronts, including for the Management Committees as it would be increasingly difficult to predict the level of funds coming in to the IFS.

It was recognised that allowing opt-ins to occur, in response to a new pest being included in an IFS, may encourage pest/disease reporting. This is because producers can access support (including compensation) through the IFS to help address pests/diseases. A person who opt outs and then is affected by a new IFS pest, may be disinclined to report the presence of the pest as they would not be eligible for IFS support. This may have serious repercussions for the industry as a whole. However, it was suggested that the risk of this occurring was low, given the small number of opt outs and the ability to implement actions to combat non-reporting.

Figure 10 shows the respondent views in relation to changing the opt out provision of the IFS Regulations.

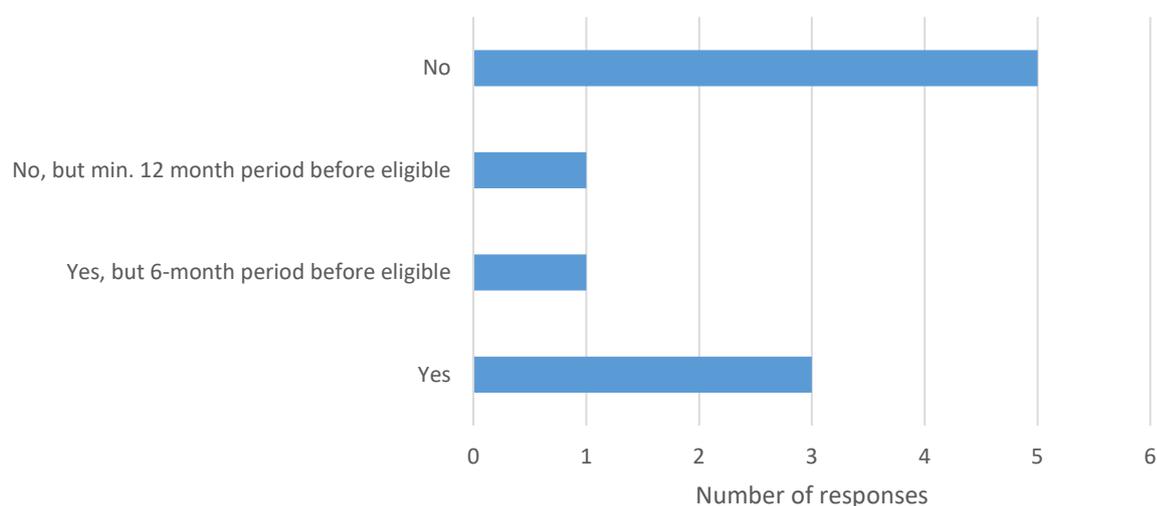


Figure 10. Responses to the question asking whether a person that opts out of a Scheme should be given the option to opt back into the Scheme immediately as a full participant, without first being a contributing participant, when a new pest/disease is targeted by the Scheme

### Opting out – notice requirements

The IFS Regulations require that producers wanting to opt out of one or more Schemes give an opt out notice during the month of June in the immediately preceding financial year (e.g. send in an opt out notice in June 2021 to opt out for the 2021/22 financial year).

Stakeholders were asked to provide their views on whether the timeframe for opt out notices should be changed. Ten responses were received.

Three industry groups supported a change to allow opt out notices to be submitted at any time during the immediately preceding financial year. The reason for this was

the flexibility that the change would deliver. One of these groups noted that, if the change was to be made, the onus would be on the producer to be aware that they were, essentially, opting out of a scheme that had not yet been confirmed.

Four respondents (three groups/organisations and one individual) believed the provisions should remain as they are. There were several reasons for this position:

- One month is a reasonable timeframe for completing the opt out paperwork
- Extending the opt out timeframe would decrease administrative efficiencies
- Extending the opt out timeframe may increase the number of opt outs, which would impact on IFS revenue and may lead to increased contribution rates
- Producers should not be given an option to opt out of something that is not confirmed – that is, opt out notices should not be accepted if the IFS contribution rate, area of operation and pests that the Scheme is to address are not formalised (published in the *Government Gazette*).

One industry group felt that the opt out timeframe should be reduced to improve administrative efficiencies.

One respondent (an individual) felt that participation in the IFS should be compulsory – that is, there should not be an option to opt out.

One industry group believed once a person opts out, it should be permanent, rather than having to opt out each year. The suggestion here was that, once opted out, a producer would need to formally opt back into the Scheme/s. This respondent noted that, if permanent opt outs were not implemented, the one-month timeframe currently in place is a sufficient opt out timeframe.

Figure 11 shows the respondent views in relation to the opt out notice period.

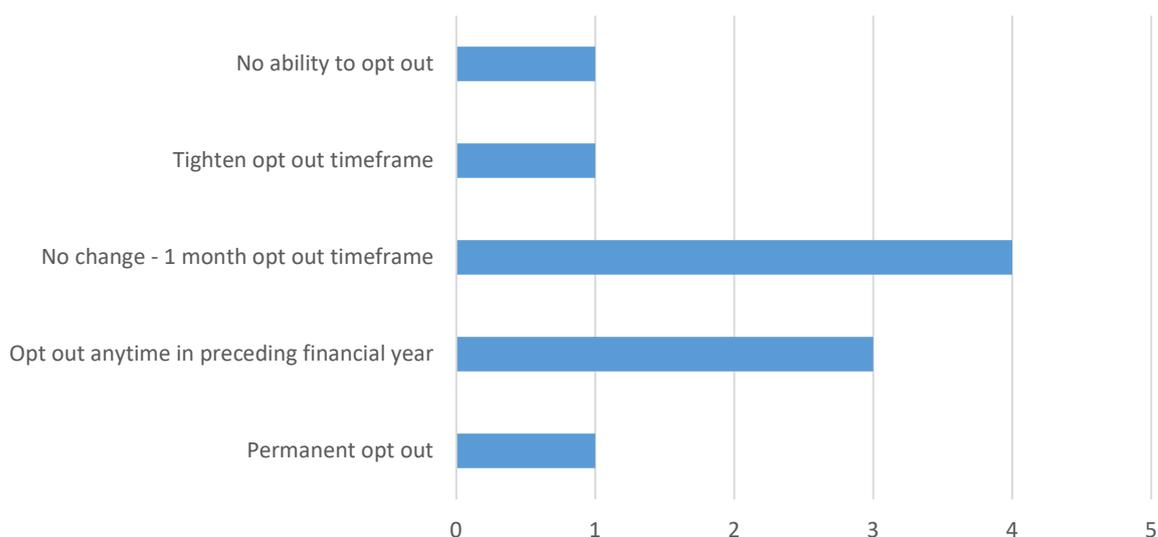


Figure 11. Stakeholder feedback on the timeframe in which producers should be able to opt out of an IFS

## Remittance of contributions

Under the livestock IFS regulations, when cattle, sheep or goats are sold in a chargeable sale to someone other than a processor or through a stock agent, the owner of the animals being sold is responsible for remitting the required IFS contributions. These contributions must be remitted within 14 days of the sale. In contrast, stock agents and processors are required to remit IFS contributions within 30 days from the end of each calendar month.

Stakeholders were asked to provide their views on the remittance timeframe for private sales. Nine responses were received.

Two stakeholder groups/organisations believed that the current 14-day timeframe was appropriate. The following points were made in support of this position:

- The existing requirements are appropriate given a producer would rarely sell to someone other than via a livestock agent or to a processor
- A 14-day timeframe does not impose additional burden on the producer
- Extending the remittance timeframe may lead to increased non-compliance if producers forget that they are required to send remittances in. For example, if the sale occurred at the beginning of a month, they wouldn't be required to remit until the end of the following month
- There is no evidence of non-compliance with the 'within 14 days' timeframe.

Four respondents (three industry groups and one individual) felt that the 14-day timeframe should be extended. This was to give producers more flexibility for completing the remittance, and to provide consistency with the timeframe applied to livestock agents and processors.

One respondent (an individual) felt that private sales should not be required to remit IFS contributions. It was suggested that the small amount of stock that are sold privately are not worth the administrative expense associated with making and processing these payments. It was suggested that only sales made to (or via) agents, processors and exporters be charged the IFS contribution.



Two industry stakeholders did not have a firm position either way. However, one noted that it seemed sensible to have uniform remittance timeframes; the other suggested that a constant point in time (e.g. at the end of a calendar month) is an easy reminder for producers to address their debt obligations, particularly for irregular transactions.

Figure 12 shows the respondent views in relation to the remittance timeframe.

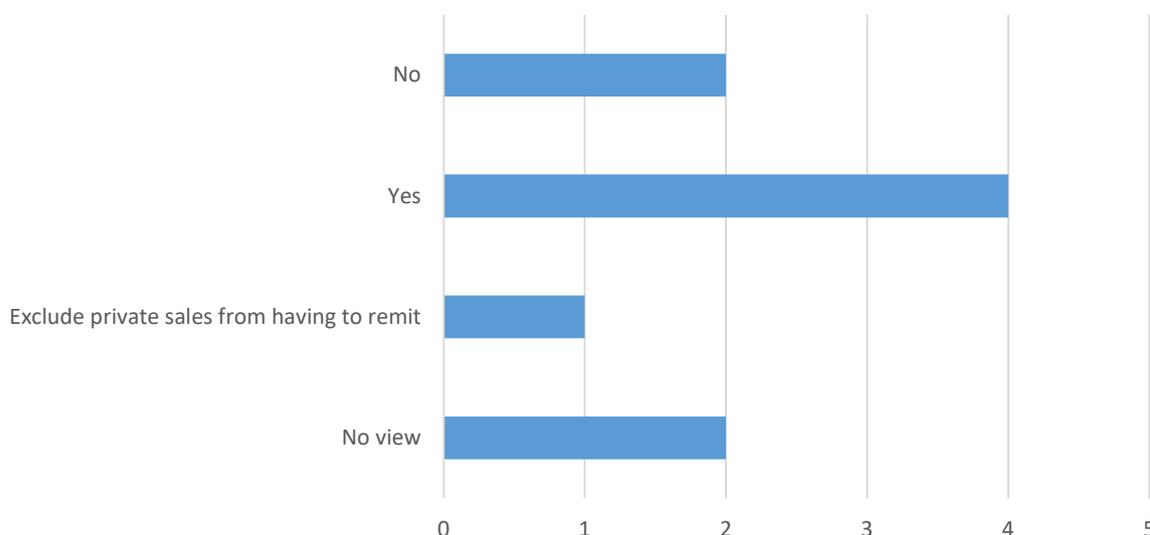


Figure 12. Responses to the question asking whether the remittance timeframe for producers that sell animals to someone other than a processor or through a stock agent should be extended to ‘within 30 days of the end of each calendar month’

### Focus on specified pests

Funds from the IFS Accounts can be used for<sup>2</sup>:

- programmes and other measures to control a specified pest, including work to advance or improve control measures
- compensation for loss that has occurred as a result of a specified pest; and
- the costs/expenses of destroying produce/animals (or other related thing) because of a specified pest.

In short, funds from the IFS Accounts can only be used to address declared pests that have been specified under the IFS Regulations (‘specified pests’).

Stakeholders were asked to provide feedback on whether the remit of the IFSs should be broadened to enable IFS funds to be used for general, non-pest-specific biosecurity-related activities. Ten responses were received.

<sup>2</sup> Refer to the IFS Regulations for detailed information on how funds from the IFS Accounts can be used.

Eight of the ten respondents did not support broadening the remit of the IFSs for the following reasons:

- The intent of the IFSs is to prevent, eradicate and/or control the industry’s priority declared pests, as specified under the IFS regulations (i.e. the intent is to be pest-specific)
- There are other fund sources that can be used for broad biosecurity activities
- A broader scope may reduce the effectiveness of IFS-funded programmes, as it may lead to lots of ‘little’ projects rather than targeted on-ground control programmes
- Opt outs may increase if producers do not see that their funds are being used on the ground to control/eradicate priority pests
- It may lead to government cost-shifting to the IFS or government accessing IFS funds to use for broader purposes.

The position of two industry groups was unclear. One group suggested that a percentage of each IFS budget should be used for biosecurity-related education, communication and awareness activities; however, the group thought that this could be done under the current regulatory framework, noting *‘this is somewhat limiting but could be made to work’*. The key message in the response was that the IFSs, individually or in collaboration, could be strong advocates for proactive biosecurity management, preparedness and awareness but the regulations were *‘somewhat limited’* for this to occur.

The other ‘unclear’ group believed the industry should be able to determine how its money was to be spent and, as such, industry should make the call as to whether the IFS remit should be broadened. This group suggested that further investigation in this space was required, particularly because there are various avenues that may be better suited than the IFS for funding ‘broad biosecurity’.

Figure 13 shows the respondent views in relation to broadening the IFS remit.

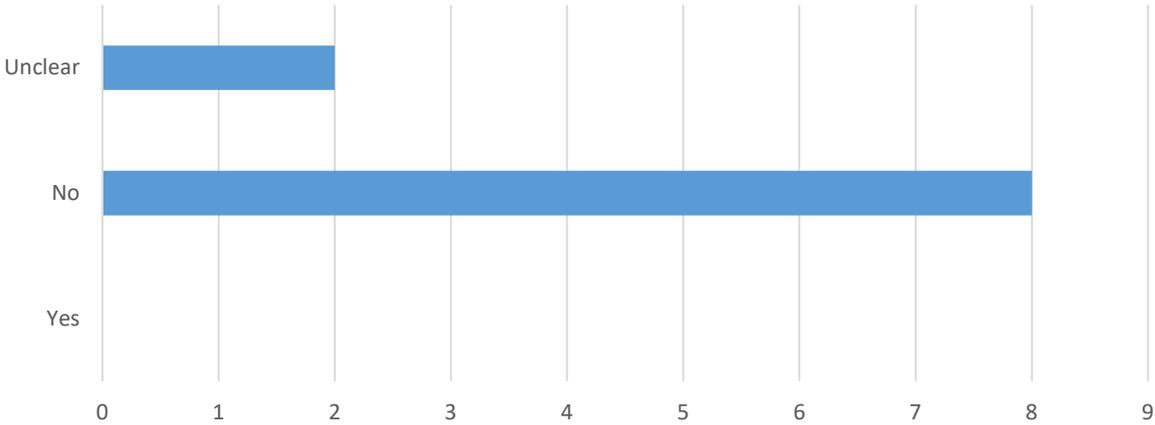


Figure 13. Responses to the question asking whether the remit of the IFSs should be broadened to enable IFS funds to be used for general, non-pest-specific biosecurity-related activities

## Compensation

The Act states that the IFS Regulations may exclude a person from receiving compensation and costs and expenses from an IFS Account if a like benefit is payable under another prescribed written law. Currently the IFS Regulations do not address this situation.

There was mixed feedback on whether the IFS Regulations should exclude a person from receiving compensation if a like benefit is payable elsewhere (Figure 14).

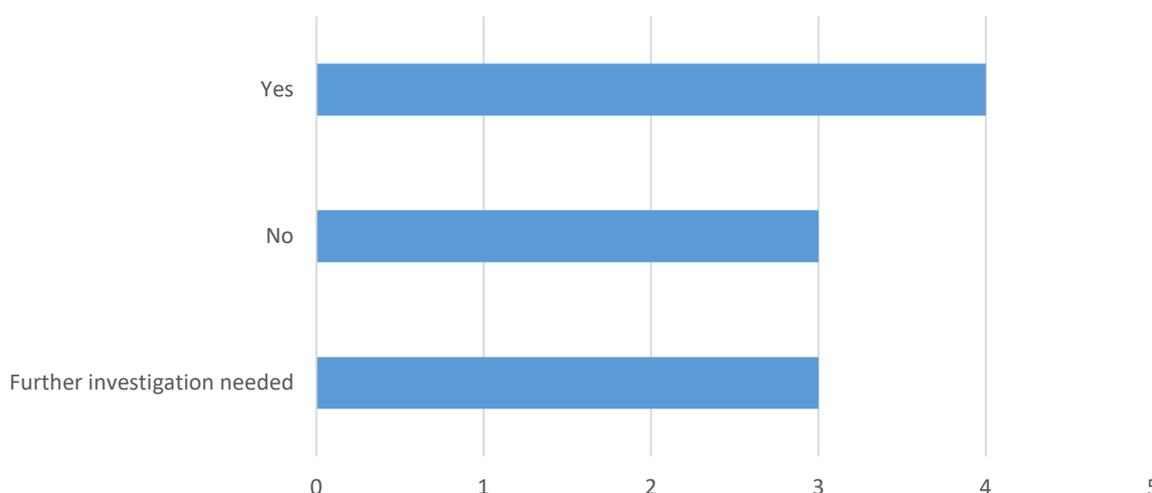


Figure 14. Responses to the question asking whether a person should be excluded from receiving compensation from the IFS Account if a like benefit is available under another written law

Four industry organisations felt that the IFS should not pay compensation if similar payments were available through another source. The main reason was to reduce the potential for ‘double-dipping’ – that is, the IFS should not be duplicating what is available elsewhere.

Three respondents (two individuals and one industry organisation) believed the IFS Regulations should not exclude a person from accessing IFS compensation even if a like benefit was available elsewhere. Respondents had different reasons for their position:

- The industry organisation felt the IFS should contribute to ‘top up’ compensation from those other sources, not duplicate; but highlighted the need to identify which source had precedence to avoid a standoff where each expect the other to pay
- One individual felt that if a producer had paid their IFS contributions, then they should be able to receive the benefits
- One individual felt that they should not be excluded but, once the other money was received (e.g. from the Commonwealth), then the IFS compensation payment should be repaid to the IFS.

The remaining three industry groups/organisations felt further investigation was warranted. The following points were made:

- Further consideration needs to be given to what other non-IFS compensatory mechanisms provide for, noting that an important compensation principle was that producers should be left no better or worse off
- There may be cases where the different compensation sources make payments based on different calculations, or where the timing means that compensation is available at a later date through another mechanism. It was thought that, in these situations, the IFS compensation could cover the gap (not duplicate)
- Limits should not be applied to the IFS Regulations without first exploring the potential consequences
- Duplication should be avoided, if it can.

## Review Panel

The IFS Regulations allow for payments to be made from the IFS Accounts for costs of approved programmes, compensation for loss and costs/expenses associated with destroying produce/animals. An applicant who is dissatisfied with the outcome of their application for a payment is able to request a review. Currently, the IFS Review Panel is the body that undertakes such a review. The Review Panel is a formal body appointed for the sole purpose of reviewing these disputed decisions. The Review Panel has never had to convene since the inception of the IFSs in 2010.

Stakeholders were asked whether the State Administrative Tribunal (SAT) should be utilised to review disputed decisions made by the IMC, rather than creating and maintaining the IFS Review Panel. Eight responses were received (Figure 15).

Two respondents (one industry organisation and one individual) felt that the SAT should be used to reduce the burden and cost by taking advantage of an existing mechanism.

Two industry groups and one individual felt that the current process should remain because:

- Review Panel costs were minimal (or assumed to be minimal)
- There was a preference for disputed payments, being payments made from industry funds, to be reviewed by industry (as is currently the case via the Review Panel)
- The SAT process may be slow and cumbersome.

One industry organisation did not have a view on this issue; however, they were opposed to utilising the SAT if the IFS would be required to fund the SAT to undertake this role.

The remaining two respondents felt that further investigation was required, particularly with regard to the following points:

- The cost of using the SAT
- The timeliness of decisions made by the SAT

- The ability of the SAT to deal with a large number of disputes in a timely manner; and
- The potential for disbanding the Review Panel until such time as it is required.

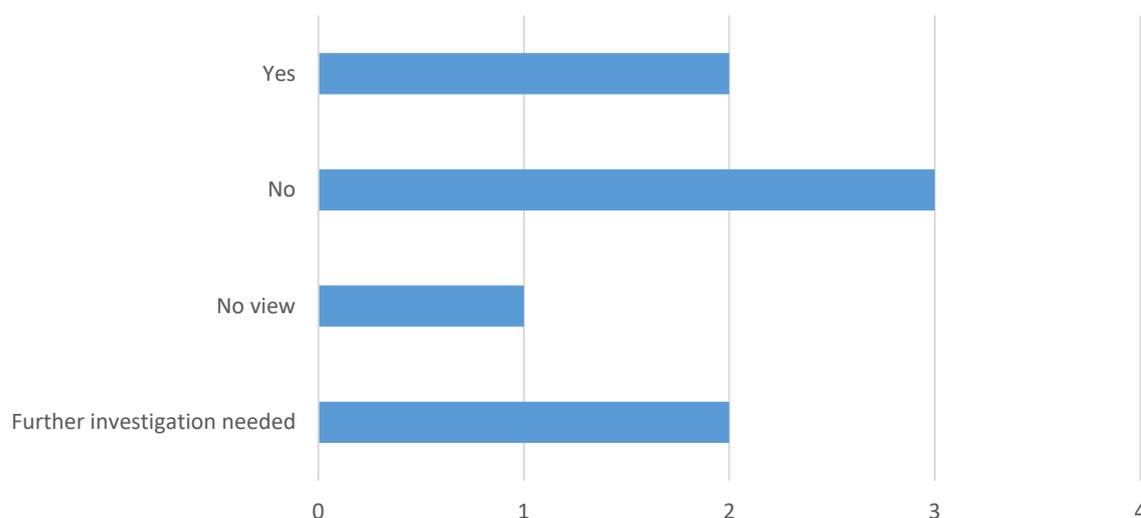


Figure 15. Responses to the question asking whether the State Administrative Tribunal should be used to review disputed applications for payment under the IFS regulations

## Other

Feedback on the operation and effectiveness of a number of other aspects of the IFS Regulations was received from stakeholders. It was noted that, in general, the regulations were working well to provide industry-driven schemes that benefit the biosecurity of the WA cattle, sheep/goat and grain/seed/hay industries.

## The regulations are working well to provide industry-driven schemes that benefit the biosecurity of the WA industries

### Administrative efficiencies

Two stakeholders raised the issue of cost-effectiveness of the regulatory provisions relating to the refund of IFS contributions. The review was advised that there are always relatively high numbers of IFS opt out refund applications relating to small amounts (e.g. less than \$100, with some being less than \$20). The basic process required to pay these refunds involves:

- Reviewing each application to ensure it meets the regulatory requirements (e.g. received in correct timeframes, appropriate and correct evidence provided to show that the IFS contributions were paid during the financial year etc.)

- Preparing and presenting information to get formal approval from the IMC to pay each refund application (plus the costs associated with IMC deliberation and decision-making processes); and
- Applying Government procurement/payment processes to each application (e.g. data entry, internal approvals, generating payments etc.).

Stakeholders indicated that this was not a cost-effective process for applications relating to small amounts. It was suggested that, in the future, the costs of processing IFS refunds may need to be recouped from each IFS; or that consideration could be given to applying a minimum value for refund applications (e.g. \$100).

Three stakeholders raised the requirement for the IMCs to approve all payments made from the IFS Accounts as an area of regulatory inefficiency. The review was advised that, at present, the IMCs must approve all expenditure from the IFS Accounts before payments can be made. This includes payments for small expenditures such as printing, catering and stationery, as well as IMC remuneration, travel expenses etc.

IMC approval is a formal process set out within each committee's 'decision-making framework', requiring a formal motion and majority support from IMC members to make the payment. Stakeholders indicated issues with the timeliness of approvals, increased administrative workload in terms of preparing the information for the IMC's consideration and approval, as well as the impost on IMC members to engage in decision-making outside the quarterly meeting schedule (noting that IMC members are not paid for out-of-session work).

Another area raised for consideration was requiring all opt out and refund applications to be made electronically. The review was advised that lost mail is an issue each year and, given the regulatory requirement for these applications to be received by DPIRD within a certain time, an electronic submission process would ensure non-compliance to be clearly identified.



## **IFS Committees**

Several points were raised regarding the operation and effectiveness of regulations relating to the IFS-related committees. Two stakeholders highlighted the issue of IMC members not being appointed prior to members retiring, leaving the committees short of members. To avoid this situation, it was suggested that member terms should continue until the new appointment is made – as is the case for other Government committees/boards.

One stakeholder group suggested that IMC appointment terms should be for three years, rather than ‘up to three years’ as is currently stated in the regulations. This stakeholder group highlighted the fact that the IMCs only meet quarterly, which influences the time it takes for new members to develop a strong understanding of how the IFS and IMC operates. The stakeholder noted that a change to three-year terms would also support staggered membership to ensure knowledge is retained within the committee structure when new appointments are being made, but will not mean that the Minister (or IMC member) is locked into that term.

It was also highlighted that the regulations provide the framework for well-constructed committees, in terms of the membership. Enabling people that are not full participants to participate on the IMCs was believed to give a much-valued added dimension to the skillset and perspectives on the committees, but it was important to continue the current limitations of having no more than two people on the IMC that fit that category. IMCs with a majority of IFS participants were thought to provide a more appropriate level of governance over the industry funds as they will have paid IFS contributions themselves and, therefore, have *‘skin in the game’*.

One stakeholder group suggested that the regulatory requirement for the IFS Review Panel to include at least two full participants on a panel of three may stifle the skill/experience base of the Panel as a whole. This point is noted here but is outside the scope of this review as the composition of the Review Panel is contemplated in the Biosecurity and Agriculture Management Regulations 2013, not the IFS Regulations.

## **Compensation**

Two stakeholder groups suggested the regulations should categorise specified pests into those that are and are not compensable under the IFS Regulations. The review was advised that some of the IFS-funded programmes are implemented to help landholders deal with the specified pest by providing services and incentives (e.g. financial payments to undertake surveillance, free laboratory testing etc.) – not compensation.

It was suggested that only pests/diseases targeted for eradication at the State level should be compensable as it is more likely that strong actions will be required to achieve the eradication objective, such as destroying animals or produce; and that ‘management pests’ should not be compensable. In the case of management pests, it was thought that the IFSs could provide incentives and support to help landholders manage these pests, to the benefit of the industry as a whole.

## **Industry engagement**

Two stakeholder groups identified a need for improved industry engagement/consultation processes by the IMCs. Both stakeholders recognised this is unlikely to be addressed via regulatory change; however, it was suggested that the effectiveness and operation of the IMCs affect the operation and effectiveness of the regulations.

One of these stakeholders noted stagnation of the IFSs, in terms of the pests being addressed. It was highlighted that, with the exception of wild dogs via the Sheep and Goat IFS, all the other IFS-funded programmes had been in place for the past 10 years. The stakeholder acknowledged that this may reflect what the industry want the IFS funds to be used for. Nevertheless, it questioned whether these were truly the industry's highest priorities; and highlighted the importance of the IMCs to take an impartial position, using the best-available science alongside industry input, to ensure value for industry investment.

The other stakeholder questioned the consultation processes employed to determine 'majority of/whole-of-industry positions' – specifically, the Cattle IMC's consultation process on the future management of Johne's disease (cattle strain) in WA. It was suggested that, when using a submission process, weightings were critical to provide a true industry position. This stakeholder suggested that the way the Cattle IMC operated the consultation process had jeopardised the future of the northern WA/Australian cattle industry.

## **Remittances**

Two stakeholders felt the regulations relating to registered receivers may not be operating as intended (Grains regulations). It was suggested that these provisions be reviewed to ensure:

1. The definition of 'registered receivers' is clear; and
2. The timing for when registered receivers are to remit IFS contributions is unambiguous.

One stakeholder noted that monitoring compliance, in terms of remitting IFS contributions, is difficult (if at all possible) for private sales of cattle/sheep/goats. The practicality of having '*un-monitorable*' regulated requirements was questioned.

## **Program delivery**

One submission from an individual suggested that increased accountability from the deliverers of the IFS-funded programmes was required. It is noted that this is not an issue related to the operation and effectiveness of the regulations, but rather an area to be raised with the IMCs.



## Discussion and recommendations

### General operation of the IFS Regulations

The findings suggest that there have been no major regulatory impediments to delivering the three IFSs over the past five years – the remittance of IFS contributions was at an appropriate level; participation in these voluntary Schemes was high; administrative costs from the IFS Accounts were minimal; and funds were used to address seven priority specified pests, with approximately \$26 million expended on these during the five years relevant to this review.

It is, however, noted that over the five-year period the Cattle IFS had over-collected funds, with 40% of the income unused, whilst the Sheep and Goat IFS and the Grains, Seeds and Hay IFS had under-collected (i.e. the collected contributions were not enough to cover the IFS costs). At first glance, the over- and under-collection of IFS contributions may point to difficulties operationalising the relevant regulations. Indeed, the IMCs advised that it is not in the best interest of the industry to change the contribution rate each year for several reasons including:

- The impost on the entities responsible for deducting/remitting IFS contributions on behalf of producers (e.g. having to make changes to systems each year)
- Potential confusion within the industry around the correct contribution rate
- Rates that are regularly changing may reduce producer confidence in the IFS and increase the number of opt outs
- Increased administrative workloads and costs associated with communicating rate changes to the industry
- The difficulties of predicting the anticipated chargeable sales/transactions each year because of the unknown influence of seasonal conditions. As any identified contribution rate is only ever a 'best guess' based on seasonal averages, there is little benefit to making minor adjustments to the contribution rates every year.

Nevertheless, rate changes had occurred in both the Sheep and Goat IFS and the Grains, Seeds and Hay IFS during the five-year period. The industry position is that the IFS funds are to be used 'on the ground' and not to build excessive levels of financial reserves – a position that is reflected in the IFS Regulations. After a period of over-collection, these IMCs made the strategic recommendation that the rates be reduced in order to manage the level of reserves. The intent was for these IFS Accounts to retain 1-2 years worth of programme funding.

With the introduction of wild dogs into the Sheep and Goat IFS's scope, additional funds were required to enable appropriate levels of industry investment in this space. This resulted in the IFS contribution rates being increased.

For the Grains IFS, several years of record harvests saw the IFS reserves maintained, despite reducing the contribution rate. To address this, the IMC approved additional assistance to help IFS participants address skeleton weed – thus, increasing the programme costs. The IMCs are tracking expenditure to ensure financial reserves are reduced to an appropriate level whilst continuing to invest in the industry's priority pest/disease programmes.

For the Cattle IFS, in addition to the point raised earlier regarding the under-spend because of the contingencies built into the programme budgets, the five-year period addressed via this review was a time of uncertainty. The Cattle IMC made the strategic decision to maintain the 20-cent contribution rate until there was clarity from the WA cattle industry on how it would utilise the IFS to address Johne's disease (cattle strain). If the industry wanted to maintain a regulated approach to Johne's disease (cattle strain), then the IFS would need to fund an ongoing active surveillance program for the disease.

For the Cattle IMC, there was little to be gained by reducing the IFS contribution rate only to, potentially, increase it to ensure adequate funding was available to cover the costs of a Johne's disease surveillance programme.

In short, the under- and over-spends were tactical decisions made by the IMCs. These decisions were made with the industry in mind, in terms of balancing the practical challenges of implementing the change with the anticipated benefits.

## **Decisions were made with the industry in mind, in terms of balancing the practical challenges of implementing the change with the anticipated benefits**

### **Potential improvements**

The issues identification work highlighted several areas for potential improvement and, in some cases, potential solutions to address the issues. The Findings section further explored these ideas, including stakeholder feedback on how these may improve the operation and effectiveness of the IFS Regulations. This section critically analyses these against three key evaluation questions that were developed and applied during the first five-year statutory review:

- Why is the change needed?
- Will the benefit/s of the change outweigh the effort in making/implementing the change?
- How will the change affect the operation and effectiveness of the Schemes?

### **Contributions to the IFS Accounts**

#### *Remittance of IFS contributions*

Feedback received by DPIRD was that consistent timeframes for remitting livestock IFS contributions may make it easier for remitters to understand their obligations and, therefore, improve compliance. At present, the chargeable sale of cattle, sheep or goats to someone other than a processor or through a stock agent requires the owner of the animals being sold to remit the mandatory IFS contributions within 14 days of the sale. In contrast, stock agents and processors are required to remit IFS contributions within 30 days from the end of each calendar month.

There is currently no evidence of non-compliance with the 14-day timeframe. Indeed, analyses undertaken by the livestock-related IMCs indicate appropriate

levels of compliance in terms of the levels of remittances received to the Schemes compared to the number of chargeable sales. On that basis, there is no justification for changing the regulated requirements at this point in time.

It is noted, however, that the analyses undertaken by the IMCs are limited by the available data sources – meaning private sales are unlikely to be captured. Further, it was suggested that enforcing the regulations around the remittance of IFS contributions, where the chargeable sale is to someone other than a processor or via a stock agent, was difficult. This was because there are no systems to monitor these ‘private’ sales. It was suggested that the National Livestock Identification System (NLIS) may provide the necessary information; however, the NLIS data are confidential and not able to be utilised for this purpose.

## **Actions should be taken to determine the extent of non-compliance with the 14-day remittance requirement**

Actions should be taken to determine the extent of non-compliance with the 14-day remittance requirement. This will provide appropriate information on which to base decisions. For example, if high levels of non-compliance are identified, work should be done to identify the barriers to compliance and strategies put in place to address these barriers. It may be that strategies other than regulatory changes will be more appropriate; or it may be that consistent remittance timeframes will assist, as suggested by some stakeholders. This work will also enable the enforceability of the regulations to be evaluated.

It is recommended that DPIRD, over the next 12 months, undertake investigations to determine the extent of non-compliance with the requirement to remit IFS contributions within 14 days when an animal/carcass is sold to someone other than a processor or via a stock agent.

There was also uncertainty around the operation of the provisions relating to registered receivers (Grains regulations). Registered receivers deduct and forward remittances to the Scheme on behalf of the grower – this act is fundamental to the success of the Grains, Seeds and Hay IFS. If registered receivers are not undertaking their obligations because of ambiguity in the regulations, then it is possible that the Scheme is not receiving the full amount of IFS contributions.

The provisions of the Grains regulations relating to registered receivers should be reviewed from legal and practical perspectives to ensure the deduction and remittance of IFS contributions will occur as originally intended.

It is recommended that DPIRD coordinate the process of making regulatory provisions to ensure the deduction and remittance of IFS contributions by registered receivers will occur as originally intended.

## *Opting out*

The inability of the IFS Regulations to allow non-participants to re-enter an IFS when a new pest or disease is being targeted has been challenged by some stakeholders for a number of years. This review once again saw mixed views on this issue from the stakeholders. Two key questions require consideration:

1. Should a non-participant have the option to opt back into a Scheme when a new pest/disease is targeted?
2. If yes, should the non-participant regain full participant status immediately?

With regard to the first question, half of the stakeholder groups/organisations believed non-participants should be able to opt back into a Scheme. This was seen to better support the biosecurity of the industry. The other half felt that opting in should not be an option as it would change the intent of the Schemes from being about the industry's biosecurity to being about pest/disease risk at the individual business level.<sup>3</sup>

Of the four groups/organisations that believed 'opt ins' should be allowed, two felt that there should be some type of penalty before full participant status was granted, two did not suggest any penalty, and two suggested full participant status should be granted only in relation to the new pest/disease. With regard to the latter point, it is likely that the effort to implement a pest-specific opt out/in would outweigh any benefits that may be gained – for example, this would require different contribution rates based on each pest, which is not currently contemplated by the IFS Regulations and will be challenging to administer.

This review did not identify significant industry support for this direction; and the first five-year statutory review of the IFS Regulations did not support this idea for similar reasons. Consideration should, however, be given to the suggestion of a penalty as there has been, in general, ongoing industry support for some sort of penalty to apply to people that opt out of an IFS.

The two 'penalty' suggestions were: i) the owner/grower re-entering the Scheme would be subject to a shorter timeframe as a contributing participant (e.g. six months); and ii) the owner/grower re-entering the Scheme would be required to repay any contributions that were refunded. Of these suggestions, the first does not align as well as the second suggestion in terms of better supporting the biosecurity of the industry – which is the basis for making any change to the opt out provision. The second suggestion enables the opt in to, essentially, immediately deliver on their obligations as a contributing participant by repaying to the Scheme any IFS refunds received during the preceding two-to-three years.

Given the rationale for the proposed change, it is suggested that the ability to re-enter a Scheme be extended to include those with 'contributing participant' status.

Taking into account the above information, for the purposes of this review the proposed change being considered is: to allow non-participants to re-enter the Scheme when a new pest or disease is being targeted, and for those non-participants and contributing participants to regain full participant status if they

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<sup>3</sup> It should be noted that the two submissions from individuals did not support the suggestion that non-participants should be able to opt back into a Scheme when a new pest/disease was targeted.

repay to the Scheme any IFS refunds received in the preceding two-to-three financial years (depending on the number years that the person had opted out).

The change would require additional administrative effort compared to what is currently in place. Indeed, even without the proposed penalty described above there would still be increased administrative costs associated with processing opt ins. But would this outweigh the benefits of the change? It is anticipated that the administrative burden would be relatively minor; however, the benefits may be quite significant. The change was believed to better support the biosecurity of the industries by:

- Encouraging maximum participation in (and therefore funding for) priority industry programmes
- Supporting producers who undertake actions for whole-of-industry benefit
- Encouraging pest and disease reporting; and
- Supporting industry recovery if there was a pest/disease outbreak.

These are critical areas but they must be put in context. During the five years relevant to this review, the maximum number of non-participants and contributing participants in any given financial year was (Table 5):

- Four (Cattle IFS)
- 18 (Sheep and Goat IFS)
- 33 (Grains, Seeds and Hay IFS); and
- 37 (across all three IFSs).

## **The relatively small number of non-participants/ contributing participants means relatively small gains from implementing the change**

The financial benefits of implementing the change, in terms of IFS revenue, are minimal (less than 0.5% of total revenue); and the 'opt ins' would have access to IFS support, meaning potentially increased expenditure from the IFS Accounts. Nevertheless, the change would uphold the 'industry supporting industry' philosophy of the IFSs (though some will argue that by opting out these people did not subscribe to that philosophy).

There are, potentially, important industry-wide biosecurity benefits associated with this but, again, the relatively small number of non-participants/contributing participants brings into question whether it is worth the effort. As an example, enabling opt ins may reduce the likelihood of non-reporting of pests/diseases – just one person not reporting the presence of a serious pest/disease may have significant industry-wide consequences. However, because of the low numbers of non-participants/contributing participants, the risk of a serious pest/disease outbreak occurring as a result of a non-participant/contributing participant not reporting the presence of the pest/disease is low. This is because various actions can be implemented to minimise the risk.

Table 5. Number of non-participants and contributing participants to the three IFSs from 2015/16 to 2019/20

Year		Cattle IFS	Sheep and Goat IFS	Grains, Seeds and Hay IFS	Total*
2015/16	Non-participant	2	10	17	<b>20</b>
	Contrib. participant	2	3	5	<b>7</b>
2016/17	Non-participant	1	7	13	<b>16</b>
	Contrib. participant	3	6	6	<b>9</b>
2017/18	Non-participant	1	8	15	<b>17</b>
	Contrib. participant	3	5	10	<b>11</b>
2018/19	Non-participant	1	10	17	<b>19</b>
	Contrib. participant	1	2	10	<b>11</b>
2019/20	Non-participant	4	14	16	<b>18</b>
	Contrib. participant	0	4	17	<b>19</b>

\* This is the total number of non-participating/contributing owners/growers. The numbers are not mutually exclusive as an owner/grower may opt out of more than one Scheme

It is also important to consider how the change might affect the operation and effectiveness of the Schemes. The suggested 'opt in option' may encourage participation in the Schemes when a new pest/disease is targeted, but it will likely also stimulate opt outs as there will be no incentive to participate in the IFS if the pests/diseases being targeted by the Scheme are not affecting the individual business. The suggested change does include a penalty; however, the value of this as a deterrent to opting out is questionable given the frequency in which new pests/diseases are added to the IFS Regulation schedules (only one new pest has been added in the ten years in which the Schemes have been operating).

As the level of opt outs are the crux of the success of the IFSs, regulatory change that may jeopardise this should not be implemented at this point in time. If the number of owners/growers opting out of the IFSs increases to such a level that the ongoing biosecurity of the industries is at risk, the reasons why people are opting not to participate should be explored and solutions to address these identified – which may include regulatory change to enable non-participants and contributing participants to opt in.

Amending the IFS Regulations to enable non-participants to re-enter the Scheme when a new pest or disease is being targeted, and for those non-participants and contributing participants to regain full participant status if they repay to the Scheme any IFS refunds received in the preceding two-to-three financial years (depending on the number years that the person had opted out) is not recommended.

DPIRD also received feedback that there should be flexibility in the opt out timeframe. At present, the IFS Regulations require that growers/owners wanting to opt out of one or more Schemes give an opt out notice during the month of June in the immediately preceding financial year (e.g. send in an opt out notice in June 2021 to opt out for the 2021/22 financial year). The suggestion was that opt out notices be accepted at any time during the preceding financial year.

The IFS Regulations require the Minister 'to declare, on the recommendation of the Management Committees, by notice published in the *Gazette* before the start of the financial year, the area/s of the State in which the schemes are to operate and the rate at which the contributions are to be paid'. The declaration is usually published in the *Gazette* in May each year, to enable producers to make informed decisions on their participation in the IFSs during the June opt out period.

The benefits of the change (increased flexibility) are relatively minor, particularly as most industry stakeholders felt that the current one-month timeframe was adequate. Furthermore, the effort of implementing the change and the potential impacts of the change on the operation and effectiveness of the IFSs may be substantial.

There is risk in allowing people to opt out of any scheme that has not been formalised. This would need to be addressed before allowing opt out notices to be accepted at any time of the year. Accordingly, the IFS contribution rate/s and area/s of operation would need to be declared before 1 July of the preceding financial year (i.e. the 2022/23 rates and areas declared before 1 July 2021). This would enable producers to make informed opt out decisions; however, it also creates a two-year timeframe from when the declaration is made to its end date. This is not an ideal situation, as much can change in a two-year timeframe in the biosecurity space.

## **There is risk in allowing people to opt out of any scheme that has not been formalised**

The changes have implications for the IMCs in a number of areas but are particularly pertinent to the IMC decision-making process around recommendations on each Scheme's contribution rate/s. In accordance with the IFS Regulations, these recommendations must consider the estimated costs from the IFS Accounts – that is, the IMCs need to understand the anticipated programme costs in order to identify the appropriate contribution rates. Appropriate rates are critical to ensure adequate funds are collected from the industry to cover these costs without overburdening the IFS participants. This will be a much less rigorous process if such decisions are made 12-months ahead of time.

One stakeholder suggested permanent opt out. Again, this means people would be opting out of a scheme that has not been formalised. However, the suggestion was that the 'permanent opt outs' would be required to make formal application to opt in – and these decisions would be based on the annual declaration made by the Minister. There is the risk that this option may inadvertently increase the number of producers opting out of the Scheme. To overcome this, extra administrative and communication effort and resources would be necessary to remind the permanent opt outs to consider opting in. There would be little-to-no benefit, in terms of the operation and effectiveness of the IFSs, by enabling permanent opt outs.

Other suggestions put forward were reducing the opt out timeframe and making participation in the IFSs compulsory. For the latter, there is currently no legal option for this to occur and little appetite for such a change within the affected industries. In terms of reducing the opt out timeframe, this change would likely be seen as tightening regulatory controls. A balance is required and, in general, industry stakeholders believe the one-month timeframe is appropriate.

Amending the IFS Regulations to enable owners/growers to submit opt out notices at any time during the preceding financial year is not recommended.

## **Payments from the IFS Accounts**

### *Focus on specified pests*

Feedback to DPIRD suggested that the focus of the IFSs on specified pests is too rigid and a more flexible approach that is not pest-specific should be considered. As an example, industry may want to fund broad biosecurity-related activity such as biosecurity awareness-raising campaigns, produce traceability work or general pest/disease surveillance – but the IFS Regulations don't allow IFS funds to be used for these non-pest-specific activities<sup>4</sup>.

Through this review, there was no outright support for broadening the scope of the IFSs. As highlighted by a number of stakeholders, the IFSs are in place to fund programs to address the industry's priority declared pests, including compensation to aid the recovery of the industry from the impacts of those priority pests. That is, it is the intent of the IFS mechanism to be pest-specific. Other sources were seen to be more appropriate for funding broad biosecurity-related activities.

Broadening the scope of the IFSs to enable IFS funding for non-pest-specific activities is not recommended.

One industry organisation felt that each IFS should allocate a percentage of its budget for biosecurity-related education and other communication activities. The idea here was that the IMCs, individually or in collaboration, could be advocates for proactive biosecurity management, preparedness and awareness. Indeed, building and reinforcing biosecurity messaging across WA's livestock and cropping sectors is essential to support the ongoing effectiveness of the State's biosecurity system.

The IMCs should investigate the ability to implement a collaborative biosecurity communications campaign within the current regulatory framework. Communication is an important component of administering the IFSs to ensure the industry is aware of the IFSs and the requirements under the IFS Regulations. There is opportunity to incorporate broad biosecurity messaging into these activities and any communications/extension that is undertaken as part of the approved programmes.

It is recommended that the IMCs investigate implementing a collaborative biosecurity communications campaign within the current regulatory framework, with the aim of raising awareness and understanding of the IFSs and the vital role the IFSs play in the biosecurity of the industries.

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<sup>4</sup> The Cattle IFS is able to fund non-pest-specific activities using funds from the CICF that were transferred to the Cattle IFS Account, as described previously; however, any money collected from cattle producers via the IFS mechanism can only be used to address specified pests.

## Compensation

The IFS Regulations allow for compensation to be paid to a person that has suffered a loss as a result of a specified pest; and for payments toward the costs/expenses of destroying produce/animals (or other related thing) because of a specified pest (referred, collectively, as ‘compensation’). Compensation is payable only under certain circumstances (refer to the IFS Regulations for full details). The IFS Regulations do not explicitly exclude a person from receiving compensation from the IFS even if a like benefit is payable under another written law.

## IFS-funded compensation should not duplicate benefits that are payable through other sources

Stakeholder feedback was clear that IFS-funded compensation should not duplicate benefits that are payable through other fund sources. However, the IFS Regulations should not unequivocally exclude a person from receiving compensation from the IFS if a like benefit is payable elsewhere. An important compensation principle applied to the IFSs is that producers should be left no better or worse off because of actions taken to control a specified pest. With this in mind, there may be situations in which the ‘like benefit’ does not fully cover the loss/costs/expenses, leaving the producer worse off. In these situations, the IFS should be able to pay compensation to cover this gap.

Further investigation is required to determine appropriate regulatory provisions that:

- ensure IFS compensation payments do not duplicate payments made through other avenues
- enable compensation payments via the IFS to cover any gap where the ‘like benefit’ does not fully cover the extent of the loss/costs/expenses; and
- if required, prescribe the non-IFS compensatory mechanisms applicable to the provisions (as required by the Act).

It is important that the IFS Regulations address the above, as they point to the industry values that support these industry-funded schemes – fair and equitable schemes that meet the needs and expectations of the industry whilst delivering value for its investment. Implementing the change, assuming change is required to address the above, will better support the operation and effectiveness of the IFSs by eliminating potential duplication whilst remaining true to the principles underpinning IFS compensation.

It is recommended that DPIRD coordinate the process of making regulatory provisions to deliver an IFS compensatory mechanism that does not duplicate payments but, where a ‘like benefit’ is available, can cover the gap where the like benefit does not fully cover the extent of the loss/costs/expenses.

Also in relation to compensation, there was a suggestion for the IFS Regulations to allow specified pests to be categorised into those that are and are not compensable. A fundamental principle of biosecurity in WA (and across Australia) is that it is a shared responsibility. This is reflected in the Act, where landholders have a legal obligation to control declared pests on their land. The IMCs also subscribe to this position – that is, landholders have a responsibility to control the IFS

specified pests on their land, noting that all specified pests are declared pests under the Act. To this end, not all specified pests are considered compensable by the IMCs.

There are a number of specified pests for which IFS-funded programmes have been approved by the IMCs, on the advice of the industry, to help IFS participants undertake their obligations under the Act. These programmes provide IFS participants with free services and incentives (e.g. financial payments to undertake surveillance, free laboratory testing, expert advice, on-ground assistance etc.), not compensation. The suggestion is to allow compensation only for situations in which strong actions that severely disadvantage the IFS participant are required to control a specified pest.

There are advantages to formalising this change. For example, it will reduce the risk of large numbers of applications for payments under the IFS Regulations relating to specified pests that have established in WA. Although there are no guarantees that the IMC would approve such payments, if payments were made there is significant risk that IFS contributions rates would have to increase to cover these costs. Alternatively, the IMCs may request the removal of these pest/diseases as specified pests and, therefore, cease all IFS support to landholders in relation to these. Both of these potential consequences have severe ramifications for the operation and effectiveness of the IFSs and for the biosecurity of the industries.

## **Landholders have a responsibility to control the IFS specified pests on their land**

It seems logical for compensation payments to apply only in relation to specified pests that are targeted for eradication at the State level. These 'eradication pests' are more likely to require severe actions to achieve the eradication objective, such as destroying animals or produce. In these situations, compensation is justified and critical to support recovery. On the other hand, the IFS should not offer compensation in relation to specified pests where eradication from the State is not a feasible option (i.e. 'management pests'). The IFS can provide support and incentives to IFS participants to reduce pest distribution/numbers or prevent further spread of the specified management pest, to the benefit of the industry as a whole.

It will be important that actions to address a management pest do not severely disadvantage the producers. If producers feel that they will be disadvantaged, there is a risk that they will not report the presence of the declared pest. The IMC must approve all IFS-funded programmes. As the majority of the IMC are IFS participants themselves, it is unlikely that the IMC would approve a programme tackling a management pest that will severely disadvantage the affected producers – rather, the IMC may require the approved programme to have 'softer' actions, or provide financial incentives in lieu of compensation.

It is recommended that DPIRD coordinate the process of making regulatory provisions to distinguish between 'eradication' and 'management' pests, with only 'eradication pests' being compensable.

## *Review Panel*

Previous feedback suggested that there may be administrative efficiencies to be gained if the State Administrative Tribunal (SAT) is utilised to review disputed decisions relating to payments under the IFS Regulations, rather than creating and maintaining a separate review body (the IFS Review Panel). The SAT is an independent body that makes and reviews a range of administrative decisions, including those relating to the Act.

It is not an effective use of industry resources to have a statutory body (i.e. IFS Review Panel) with functions that can be delivered by another established entity (i.e. the SAT). Utilising the SAT to review disputed decisions will improve, albeit in a relatively minor way, the operation and effectiveness of the IFS Regulations. However, before such a change is made it is necessary to confirm whether it is appropriate to use the SAT to review decisions made by the IMC and understand the timings for SAT decision-making.

Some stakeholders did have reservations about using the SAT to review disputed applications for payments. The main reason for these reservations was the belief that decisions made by an industry-based panel (in effect, a panel of peers) would be fairer, or at least perceived to be fairer, than decisions made by the SAT. However, it must be recognised that, no matter who makes the final decision, it is the decision-making process that is key. Aggrieved parties may look for fault, whether that is directed at an industry-based panel or the SAT, but if the process was fair and proper there is little scope for recourse.

It is recommended that DPIRD coordinate the process of making regulatory provisions to enable the SAT to review decisions made by the IMC, instead of the Review Panel – if the SAT is confirmed as a viable option.

## *Administration*

The cost-effectiveness of processing IFS refund applications was raised as an issue. A review of the number of IFS refund applications during the five years relevant to the review identified a total of 63 applications. Of these, 11 (18%) were for amounts below \$100, including three that were for amounts of less than \$10 (one non-participant applied for a refund of \$1.95). There does appear to be an increasing trend toward refund applications for smaller amounts. In the first two years relevant to this review (2015/16 and 2016.17), there was one refund application (or 4%) that was for an amount of less than \$100. Over the last two financial years relevant to this review (2018/19 and 2019/20), one-third of all IFS refund applications were for amounts of less than \$100.

## **Administering the IFSs needs to be efficient and cost-effective**

Administering the IFSs needs to be efficient and cost-effective, so this is a worrying trend. Indeed, DPIRD have indicated that it cannot continue to provide this service 'in-kind' to the IMCs (it cost DPIRD \$4000 to process \$4000 of refunds for the 2019/20 financial year).

To address this issue, the IFSs could reimburse DPIRD the costs of undertaking this work. Indeed, the IFS Regulations already include provisions to allow such

payments. The alternative would be to disallow refund applications below a certain value. The legalities of this regulatory change will require investigating.

It is recommended that DPIRD, over the next 12 months, determine whether limits can legally be placed on the minimum amount of IFS contributions that will be refunded and, using this information, engage with the relevant IFS stakeholders to determine and implement an appropriate course of action to address the decreasing cost-effectiveness of processing IFS refunds.

A number of stakeholders also noted inefficiencies in requiring the IMCs to approve all expenditure relating to administering the IFS Accounts. Indeed, the requirement does seem overly bureaucratic and inappropriate for minor expenditures. As previously noted, the provisions have had unintended consequences on the timeliness of payments, increased administrative workloads, as well as the impost on IMC members to engage in decision-making outside the quarterly meeting schedule.

It is noted, however, that it is section 145(4) of the Act that requires the IMC to approve this type of expenditure, not the IFS Regulations. The issue is therefore unable to be addressed via regulatory amendment. The IMCs could review its approval procedures to determine if there is any scope for enacting a simplified process in relation to approving expenditure below a certain amount (e.g. \$500). Indeed, the Act does allow the IMC to determine its own procedures (s.143(3)).

It is recommended that the IMCs review the internal IMC approval procedures to determine if there is scope for enacting a simplified process to approve expenditure below a certain amount (e.g. \$500).

One stakeholder suggested requiring opt out notices and refund applications to be submitted online as a way to improve the delivery of the IFS Regulations. Indeed, online submissions would likely provide an efficient way to receive, process and monitor each opt out and associated refund application. It would also negate the issue of lost or delayed mail.

There is the potential to regulate the process by which opt out notices and refund applications are submitted. However, this would likely exclude segments of the farming population from the process. It is important to cater to the diverse producer-base, which (at this point in time) means providing a variety of options for producers to submit opt out notices and refund applications.

With regard to lost/delayed mail, the IFS Regulations are clear that the onus is on the producer to ensure that the opt out notice or refund application is received by DPIRD within the regulated timeframe. The regulations here are unambiguous. It is DPIRD's responsibility to ensure it uses an appropriate process for mail arriving at the department (for example, mail is clearly marked with the date that it is received and directed to the appropriate area in a timely manner). However, if the notice/application does not arrive at DPIRD within the timeframe dictated by the IFS Regulations, it cannot be accepted.

Amending the IFS Regulations to require only online submissions of opt out notices and IFS refund applications is not recommended.

## Industry Management Committees

### *Industry consultation and engagement*

Comments were made on the processes used by the IMC to engage with / consult the industry. The delivery aspects of the IFSs that the IMCs are responsible for were not within the scope of this review. This area is addressed by the IMCs as part of the annual industry consultation that is undertaken to understand industry views on i) the operation of the schemes; and ii) the performance of the IMCs in delivering their functions under the IFS Regulations. The information provided through the review will be given to the IMCs to address.

It is, however, acknowledged that how the IFS Regulations are operationalised by the IMCs can have implications for the operation and effectiveness of the IFS Regulations. If the industry has concerns about the way the IMCs are governing the IFSs, it is important that these are raised with the IMCs so the IMC can make changes to its policies and procedures.



### *Committee appointments*

Functioning IMCs are critical to the effective delivery of the IFSs. It was suggested that regulatory provisions be made to ensure the situation does not arise where an IMC does not have its full complement of members due to member terms expiring. Indeed, it was highlighted that this situation has occurred in the past.

## **Functioning Industry Management Committees are critical to the effective delivery of the IFSs**

The simple solution is for regulatory amendments that enable an IMC member to continue with the IMC until a new appointment (or reappointment) is made. These are standard statutory provisions used by a number of other Government boards/committees, and there does not appear to be any reasons as to why the IFS Regulations could not incorporate such provisions. The change will ensure fully functional IMCs are always in place to provide effectiveness governance over the IFSs and associated industry funds.

It is recommended that DPIRD coordinate the process of making regulatory provisions to enable a committee member to continue to serve on an IMC, once their term has expired, until a new appointment (or reappointment) has been confirmed.

There was also a suggestion that IMC appointment terms should be set at three years, rather than 'up to three years' as is currently stated in the IFS Regulations. The reason for this change was to facilitate IMCs with ongoing, collective capacity to make well-informed decisions.

It is acknowledged that it can take time for new IMC members to develop a strong understanding of how the IFS and IMC operates, especially given the fact that these committees meet quarterly. However, it must be made clear that each IMC member has an important duty to perform – the IMCs govern, at present, millions of dollars of industry funds. Appointment to an IMC is a serious responsibility. Having a thorough understanding of the IFS and IMC are critical, and the onus is on the member to ensure they are in the best position to fairly and impartially represent the interests of the IFS participants.

With this in mind, regulatory amendments to address perceived IMC capacity issues are unnecessary. A set three-year term for IMC appointments will also reduce flexibility, which may complicate things in the event that a shorter term is necessary or justified.

Amending the IFS Regulations so that IMC appointment terms are set at three years is not recommended.

## Summary of recommendations

It is recommended that:

1. DPIRD coordinate the process of making regulatory provisions to:
  - a. Ensure the deduction and remittance of IFS contributions by registered receivers will occur as originally intended [see p. 36]
  - b. Deliver an IFS compensatory mechanism that does not duplicate payments but, where a 'like benefit' is available, can cover the gap where the like benefit does not fully cover the extent of the loss/costs/expenses [see p. 42]
  - c. Distinguish between 'eradication' and 'management' pests, with only 'eradication pests' being compensable [see pp. 42-43]
  - d. Enable the SAT to review decisions made by the IMC, instead of the Review Panel – if the SAT is confirmed as a viable option [see p. 44]; and
  - e. Enable a committee member to continue to serve on an IMC, once their term has expired, until a new appointment (or reappointment) has been confirmed [see p. 47].

These amendments are anticipated to improve the operation and effectiveness of the IFS Regulations.

2. DPIRD, over the next 12 months, undertake investigations to determine the extent of non-compliance with the requirement to remit IFS contributions within 14 days when an animal/carcass is sold to someone other than a processor or via a stock agent. This information can be used to inform appropriate actions to address non-compliance and provide data on the enforceability of the regulations [see pp. 35-36].
3. DPIRD, over the next 12 months, determine whether limits can legally be placed on the minimum amount of IFS contributions that will be refunded and, using this information, engage with the relevant IFS stakeholders to determine and implement an appropriate course of action to address the decreasing cost-effectiveness of processing IFS refunds [see pp. 44-45].
4. The IMCs:
  - a. Investigate implementing a collaborative biosecurity communications campaign within the current regulatory framework, with the aim of raising awareness and understanding of the IFSs and the vital role the IFSs play in the biosecurity of the industries [see p. 41]; and
  - b. Review the IMC internal approval procedures to determine if there is scope for enacting a simplified process to approve expenditure below a certain amount (e.g. \$500) [see p. 45].

The following suggested regulatory changes are not recommended:

1. Amending the IFS Regulations to enable non-participants to re-enter the Scheme when a new pest or disease is being targeted, and for those non-participants and contributing participants to regain full participant status if they repay to the Scheme any IFS refunds received in the preceding two-to-three financial years (depending on the number years that the person had opted out) [see pp. 37-39].
2. Amending the IFS Regulations to enable owners/growers to submit opt out notices at any time during the preceding financial year [see pp. 39-41].
3. Broadening the scope of the IFSs to enable IFS funding for non-pest-specific activities [see p. 41].
4. Amending the IFS Regulations to require only online submissions of opt out notices and IFS refund applications [see p. 45].
5. Amending the IFS Regulations so that IMC appointment terms are set at three years [see p. 47].



## Glossary of terms / acronyms

the Act

The *Biosecurity and Agriculture Management Act 2007*

Appointments Committee

Committee established by the Biosecurity and Agriculture Management Regulations 2013 regulation 129B(1). The role of this committee is to provide advice to the Minister for Agriculture and Food on appointments to the Industry Management Committees and Review Panel

Cattle regulations

Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010

Chargeable sale

A sale of cattle/sheep/goats on which IFS contributions are payable. These are further defined in the IFS Regulations

Chargeable transaction

The delivery or sale of grain/seed/hay on which IFS contributions are payable. These are further defined in the IFS Regulations

CICF

Cattle Industry Compensation Fund. A fund established under the *Cattle Industry Compensation Act 1965*. Funds in the CICF were transferred to the Cattle IFS Account in 2010

Contributing participant

An owner/grower that is participating in an IFS but does not yet have 'full participant' status because they had previously opted out of the scheme. The owner/grower must participate in the scheme for two-to-three consecutive financial years (depending on the number of years they were a 'non-participant') before regaining 'full participant' status

Contribution rate

The rate at which IFS contributions are payable. For 2020/21, this is 20 cents per head/carcass (cattle), 17 cents per head/carcass (sheep and goats), 25 cents per tonne (grain and seed), and 12.5 cents per tonne (hay)

Declared pest

An organism for which a declaration under section 22(2) or section 12 of the *Biosecurity and Agriculture Management Act 2007* is in force

DPIRD

Department of Primary Industries and Regional Development

Full participant

An owner/grower who, for that financial year, has not opted out of the IFS or, since opting out, has been a contributing participant for two-to-three consecutive financial years (depending on the number of years that they opted out of the scheme)

- Grain regulations  
Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010
- IFS  
Industry Funding Scheme. Established by regulation using funding arrangements authorised under Part 6, Division 2 of the *Biosecurity and Agriculture Management Act 2007*, whereby producers can identify pest and disease priorities at a whole-of-industry level and raise funds for activities to address these priorities
- IFS Account  
Account established by regulation for the purpose of the IFS. The current IFS Accounts are formally known as the Cattle Industry Declared Pest Control and Compensation Account, the Sheep and Goat Industry Declared Pest Control and Compensation Account, and the Grains, Seeds and Hay Industry Declared Pest Control and Compensation Account
- IFS Regulations  
The Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010, Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010, and the Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010
- IMC  
Industry Management Committee. Committee established by regulation to provide effective governance over the IFS
- Livestock regulations  
The Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010, and the Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010
- Minister  
Minister for Agriculture and Food
- NLIS  
National Livestock Identification System
- Non-participant  
An owner/grower who, for that financial year, opts out of an IFS
- Opt out  
An owner/grower who opts out of an IFS
- Registered receiver  
An individual/entity that purchases or receives 500 tonnes or more of grain/seed/hay (in combination) in a given year that registers with the Director General of DPIRD. These registered receivers are responsible for deducting and forwarding IFS contributions, on behalf of growers.

**Review Panel**

Panel established by the Biosecurity and Agriculture Management Regulations 2013 regulation 129D(1). The role of this panel is to review and make a final decision on disputed applications for payment under the IFS Regulations, where the applicant requests a review

**SAT**

State Administrative Tribunal

**Sheep regulations**

Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010

**Specified pest**

A declared pest that is specified in Schedule 1 of the IFS Regulations

**WA**

Western Australia

## List of appendices

1. Discussion paper
2. Questionnaire
3. Submissions
4. Communications and engagement activities