

# GIA QUESTIONS AND ANSWERS

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## What is a GIA and why was it set up?

The Government Industry Agreement (GIA) was set up in 2013 when Parliament made a series of changes to the Biosecurity Act. The focus of the GIA is to get all affected parties around the table and have more influence over biosecurity priorities and responses. This enables the industry to be:

- More prepared
- Have a more strategic approach to responses
- Ensure there is fair and consistent cost-sharing across all sectors and with the Government

## Why should we be financially responsible for situations caused by people outside our industry?

Biosecurity is one of our industry's biggest risks, and while others may be the problem or cause of pests and diseases, the impact and cost to our industry is too great to leave it to others to manage on our behalf. By signing up to GIA we have a seat at the decision-making table in setting biosecurity priorities. Non-GIA signatory beneficiaries are still going to be required to pay, but they won't have any decision-making rights.

Also, GIA hasn't been designed to reduce government spending on biosecurity, nor will it lead to a lessening of focus at the border by the government.

## What happens if we don't sign a GIA?

Key risks from not signing a GIA include:

- Industry will have no decision-making rights in the event that an incursion.
- MPI will collect costs from industry regardless of whether we have a GIA in place or not. Relatively new powers under the Biosecurity Act allow this.
- Our industry can be declared a non-signatory beneficiary and then levied in the event of an incursion in another industry. For example, the Pipfruit sector.

## What is a biosecurity GIA (readiness or response) levy and how is it established?

Under the Biosecurity Act 1993 (the Act), a biosecurity GIA levy can be imposed by the Governor-General at the recommendation of the Minister to fund all or some of an industry organisation's commitments to the GIA. The Minister cannot recommend a levy unless he or she are satisfied that proposed levy payers have been consulted and their views considered.

## What about beekeepers who also own farms and may already covered by another industry GIA – why should they pay separately?

Industry contributions towards GIA are directly-related to the benefits they receive. For example, if a beekeeper financially benefits from activities covered by another primary industry signatory, such as dairy, they will benefit separately from activities undertaken to protect that industry. The benefits will be in proportion with the different levies they pay for each product.

## Why is a GIA needed when we already have an AFB Pest Management Plan?

The AFB levy funds New Zealand's AFB compliance monitoring and critical response. AFB is one of the most serious biosecurity threats currently in New Zealand. The GIA is designed to respond to new threats, not an existing pest or disease unless a change of significance occurs.

## Why can't all importers and exporters fund this work given that they carry the most risk?

Government policy is that the costs of incursion response are shared amongst all beneficiaries of biosecurity responses. The government has agreed to fund the unknown exacerbator factor which is set at 20% of every dollar spent.

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## **What is the industry doing about training/apprenticeships and recognising exotic pests?**

The Exotic Disease Pest Act is currently being developed to help ensure that industry is prepared for the identification and management of exotic pests.

The AFB Pest Management Plan runs training and refresher courses for all beekeepers relating to AFB recognition and management.

## **Does signing up to the GIA give the apiculture industry the ability to have input regarding the importing of risk goods such as honey?**

Signing a GIA does not change the ability to have input into the importing of risk goods. Current requirements to consult industry would remain. ApiNZ will remain strongly opposed to bee product and honey imports due to the biosecurity risk that these present.

## FINANCING

### **How does a biosecurity levy work?**

A biosecurity readiness or response levy can be paid to the Director-General of MPI or to the industry organisation (the payee). If paid to the industry organisation, it is to enable to the organisation to meet its GIA commitments. These provisions are described in 100ZC of the Act. Once a levy is established, payment is compulsory and legal action can be taken to recover unpaid levies.

### **How are the levy funds held?**

There are requirements for levy payments to be held in trust accounts. These are outlined in section 100ZE of the Act.

### **How are we protected from unlimited liabilities under the GIA?**

There is an obligation for GIA signatories to participate in 'good faith' and not to seek to free ride on the investment of others. Decisions about whether an industry is a beneficiary or not must be made in the context of alternative priorities rather than in the absolute. There are mechanisms that exist to protect industry GIA Signatories from overly burdensome costs, such as:

- In developing GIA Operational Agreements, Signatories are able to set 'fiscal caps' to limit their contribution to a response or readiness activity. Once reached, the limit can be exceeded, but only after the industry reviews its position and decides to make an additional investment in the activity.
- GIA signatories can decline to participate in if they consider that they are not beneficiaries. Industries outside of GIA do not have this option and, where other industries or MPI believe that they are likely to be beneficiaries, then cost recovery can apply.

### **What are the costs likely to be?**

Contributions to biosecurity readiness and response costs would depend on the significance of the pest or disease to our sector and a funding limit we choose to set as part of a GIA operational agreement. Industry participation in core activities such as surveillance may offset a portion of the levy cost through in-kind contribution.

Going forward there will be ongoing secretariat costs. These are estimated to be between \$25,000 to \$50,000 per year for signatories.

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Survey results showed that beekeepers considered that around \$447,000 per annum would be a reasonable investment for readiness activities. Health food and food manufacturers considered that around \$504,000 per annum would be a reasonable investment.

## **Clarify how the Government, as well as industry signatories, plan to recover costs from individuals?**

Cost-sharing arrangements are set out in the GIA Deed, agreed to by industry. This includes aspects such as the methods for paying for cost sharing, including the proportion of cost shares and whether a fiscal cap will be set. A readiness or response levy order must include key details such as:

- How the levy amount is set
- The rate of the levy, including whether there are multiple or single rates,
- What fees are paid for collecting the levy
- How disputes are settled.

## **Why can't cost recovery be worked out post the discovery of an incursion? That is, why do we have to do this now?**

Establishing cost recovery pre-incursion provides all players more certainty with/re the allocation and incidence of costs. Establishing cost allocation post-incursion creates uncertainty with respect to the quantum and allocation of costs. In addition to this, responses to incursions have to be timely and urgent, meaning it is better to have this discussion now. In the event that a GIA is not present when an incursion occurs, the Government will determine the mechanism for cost recovery. Having a GIA OA in place means that this information is known ahead of time and agreed to by industry in advance.

## ACCOUNTABILITY

### **Who will be accountable for outcomes under the GIA and how will the public be able to observe accountability?**

MPI has ultimate accountability for biosecurity in New Zealand. Signing a GIA means that planning for and responding to incursions takes place in partnership with key partners, giving us the opportunity to influence key decisions.

Members of the public can sign up to MPI's updates in order to stay informed of progress.

## THE ROLE OF MPI

### **Why do we need this when the real work takes place at border protection and pre-border risk assessment?**

The focus of GIA is a partnership between Government and industry. Government policy is that those who benefit from biosecurity responses must pay so there would be some costs associated with signing the GIA.

Signing the GIA minimises risk but there will always be a risk of an incursion taking place, regardless of the policy in place.

### **Isn't border security more effective and why aren't we looking to enhance this?**

Border security remains a strong focus of Government and has substantial funds allocated to it. In the event that a GIA is signed, decisions about activities before and at the border remain the direct

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responsibility of the Crown. These activities are, however, included within the scope of the GIA Deed, with industry partners having the right 'to engagement across the system'. GIA partners have developed a policy setting out how engagement across the system operates in practice, and this is set out here:

<http://www.gia.org.nz/Activities/Engagement-JWG>.

## **Why isn't this work already covered by MPI's funding and existing work programme?**

MPI considers that industry input is needed to successfully prevent and manage biosecurity incursions, which is why the GIA was set up in 2013.

The Government has indicated that it intends to use powers from the Biosecurity Act 1993 to recover costs from industries that benefit from readiness and response activities if they have not signed the GIA. That would be a poor outcome for our sector and we would lose the opportunity to work together with government and other industries under the GIA to manage fundamental risks to our industry.

## **MPI has failed to pick up on disease entering this country so shouldn't they be liable to cover the costs rather than the industries it affects?**

Government has a clear and direct responsibility for border security and has substantial funds allocated to it. The government are also signatories to the GIA and contribute financially as part of that.

The response to Question one outlines the rationale for this.

## WORK PROGRAMME

### **Can ApiNZ outline a likely programme that will be covered by an Operational Agreement?**

Programmes covered by an operational agreement will provide a framework for incursion response. For example, we may decide that the small hive beetle is a key risk for our industry and that we need to develop an OA for that purpose. While programme specifics can't be outlined ahead of time, signing a GIA does give industry certainty over key parameters, including costs. Without a GIA all aspects of an incursion response will be set by Government with limited input from industry.

### **What is the focus of GIA and what are the practical steps that will be followed to achieve this?**

The focus of the GIA is to get all affected parties around the table and have more influence over biosecurity priorities and responses.

Part 5A of the Act (sections 100X-100ZH) provides the framework for the GIA partnership, including a Deed. It enables government and industry to work together in partnership to achieve the best possible outcomes from readiness or response activities by:

- Making joint decisions on the activities
- Jointly funding the costs of the activities in shares that take into account the public benefits and industry benefits that the activities deliver.

### **How likely is the success of the programme?**

Success is more likely if all parties work together in the event of an incursion, which is one of the main aims of signing up to a GIA.

A unified industry has a higher likelihood of delivering improved outcomes by ensuring that the right partnerships and agreements are in place. Partnering with other primary sector organisations gives our sector a better chance of a successful outcome.

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## LEGAL INFORMATION

**What is the legal status of those signed up to a GIA? That is, the Minister has legal powers independent of a GIA. How does a GIA work, particularly in the instance where GIA signatories might “outvote” the Government?**

As a signatory to the GIA MPI is also a named beneficiary, with roles and responsibilities outlined in the operational agreement. This promotes a better chance of success.

GIA partners (which include MPI) have well-defined roles and powers as set out in the legislation, the Deed and any Operational Agreements signed. The Deed itself does not create an incorporated entity such as a company or an incorporated society – in other words, there is no separate legal entity that can enter into contracts and relationships with third parties. Operational Agreements set the parameters for the detail of readiness and response activities, obligations and liabilities. They create the legal framework under which the GIA partners are able to fulfil their rights and obligations under GIA.

**Will there be a legal entity of signatories with a set of rules/constitution and a voting procedure? Or is this more of a discussion group for the Minister?**

There is a very clear process and framework for the GIA partnership set out in the Terms of Reference Deed Governance Group (DGG). This creates the DGG as the ultimate decision-making body for GIA. More information on this can be found here on the GIA’s website.\*

**How does this relate to provisions of the Biosecurity Act 1993, s144 (2) and 150 (2) already cover how the Minister interacts with industry participants in the event of an incursion.**

There is a well-defined framework for the GIA partnership to operate within the biosecurity system. Partners operate within a mandate granted, in descending order, by:

- a) Part 5A of the Biosecurity Act 1993
- b) The Deed dated 20 May 2014 (Deed) and updated in late 2016
- c) Formal operational rules, when set under clause 4.1.6 of the Deed
- d) Operational agreements, providing for joint decision making between Deed signatories to achieve specific outcomes for enhanced readiness and response activities.

More detailed information on this can be found here: <http://www.gia.org.nz/About-GIA/The-Act-and-Deed>

## VOTING

**Please describe the voting process for the beekeeping sector. What other sectors might be involved?**

Each signatory has one vote, as per the deed. This helps ensure a swift response to incursions, which is critical to successfully responding to an incursion.

If this refers to how decisions are made within the Operational Agreement, then we would be advocating for the industry sector that has the mandated GIA agreement to have that responsibility, i.e. ApiNZ. Most OAs are operated in this way.

\* <http://www.gia.org.nz/Portals/79/Content/Documents/Resource-Library/Terms%20of%20Reference%20DGG%20May%202017.pdf?ver=2017-05-25-110541-283>

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Note: in limited instances, for example, NZ Pork, the signatory has to go to all their members if they want to make a major change to an OA and to sign an OA, but it should be noted that they only have 110 members, not 8000+ as is the case with the apiculture industry. Such numbers would potentially make decision making far more difficult and would likely slow critical outcomes in a time of urgency.

What other sectors would be involved would depend on the pest or disease we would be considering as part of an OA. However, if we look back in history to Varroa, we saw financial involvement from the Kiwifruit, Pipfruit, Stonefruit and the Arable Small Seed who acknowledged the value of pollination to their sectors, something they were keen to protect.