



FMD Court Order: *What it means*

What Changed

● BEFORE THE CASE

● AFTER THE CASE



RIGHT TO BUY AND ADMINISTER VACCINES?

NO.
(according to Dept. of Agri)
The Department insisted that only the State could control and administer or give permission for FMD vaccinations.

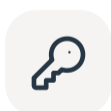
YES.
Owners and managers of cloven-hooved livestock may privately procure and administer FMD vaccines that are lawfully imported or manufactured, subject to the conditions in the order (see FAQ below).



STATE SUPPLY CHAIN INTERFERENCE?

YES.
(according to Dept. of Agri)
The Department insisted that only the State could lawfully supply FMD vaccines and that importation had to be channelled via OBP.

NO.
The Department may not interfere with private actors who lawfully import or supply FMD vaccines. (See FAQ below on what constitutes “lawful importation.”)



GUARANTEED ACCESS TO VACCINES?

NO.
Neither the Department's vaccination programme nor the section 10 scheme guarantees access to vaccines or timelines.
The State's vaccination programme centralises decision-making on vaccine distribution and allocation.
The envisaged section 10 scheme is a voluntary programme for participating owners under State veterinary oversight.

NO.
Farmers may, in addition to applying for State-supplied vaccines, seek to procure vaccines privately from lawful importers, manufacturers, or their lawful agents.



FAQ:

Importation & Procurement

01 **Does the Minister's section 10 scheme override the freedom to privately procure vaccines?**

No. The Court held that the section 10 scheme was, at most, a voluntary scheme and did not amount to a law prohibiting private FMD vaccination.

02 **Does the order give blanket permission to import or manufacture FMD vaccines?**

No. The order does not grant blanket permission to manufacture or import FMD vaccines, and does not create a right to obtain approval for manufacture or importation.

03 **What does “lawfully imported” or “lawfully manufactured” mean in practice?**

It means the vaccines must have entered South Africa or been made in South Africa through the legally required authorisation process. The court order does not legalise grey-market, unapproved, smuggled, or unauthorised vaccines.

04 **What is the position regarding SAHPRA section 21 vaccines?**

The judgment records that the FMD vaccines currently manufactured or imported are done so under section 21 of the Medicines and Related Substances Act, 101 of 1965.

The court order permits only the use of lawfully imported or manufactured vaccines. It does not waive SAHPRA or other legal requirements. Private importers and manufacturers would still need to obtain all necessary authorisations showing that the vaccine is safe, appropriate for South African FMD strains, and authorised for import into South Africa. The Department cannot, however, interfere with this under the Animal Diseases Act.

05 **What about ‘scripts’ or prescriptions for SAHPRA section 21 vaccines?**

A SAHPRA section 21 authorisation is not itself a “script”. It is an authorisation mechanism for access to an unregistered medicine, subject to the purposes, quantities, period, persons or institutions, and conditions determined by SAHPRA. The court order does not waive the section 21 requirements or convert an FMD vaccine into an ordinary over-the-counter product. Any prescription, dispensing, veterinary supervision, or other condition imposed by SAHPRA or applicable law must still be complied with.



FAQ:

Movement & Reporting Duties

06 Does the order change livestock movement controls or FMD reporting duties?

Movement and reporting controls for FMD remain in force.

The order expressly states that it does not amend current measures relating to livestock movement or reporting suspected FMD incidents. The Department still has an interest in reporting on FMD.

However, because the Department had treated private vaccination as impermissible, the order now provides a practical procedure for prior notice and post-vaccination reporting.

07 What must be included in the prior notice?

The notice must include the vaccination location and period, the number and details of the animals, the vaccinator's particulars, whether it is a first or booster shot, and how the cold chain will be maintained.

08 What must happen after vaccination?

Within 14 days after vaccination, the owner or manager must provide a sworn statement to the State Veterinarian or Provincial Director: Veterinary Services confirming compliance and giving details of the vaccination.

09 What information must the sworn statement include?

It must include the responsible person's details, cold-chain particulars, method of vaccination, date, dosage, vaccine brand, type and breed of livestock, gender, age, and identifying marks or tags of the animals.



FAQ:

Legal Status of the Interim Order

10

Is the order final?

No. The order is an interim order. Proceedings for final relief must be instituted within 20 court days of the order.

11

Is the order appealable, and what would be the effect of an appeal?

The Department may appeal the order. However, because it is an interim order, the order remains in force unless and until a court suspends or sets it aside. An appeal by itself does not suspend the interim order because section 18(2) of the Superior Courts Act provides that interlocutory orders without final effect are not automatically suspended.

12

Can farmers still rely on the order while an appeal is pending?

Yes, unless the Minister obtains a specific court order suspending the operation of the interim order.

13

Can the Department still run its own vaccination programme?

Yes.