



ANALYSIS

Title	1. Short Title 2. Restrictions on making of orders
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1993, No. 151

An Act to amend the Commodity Levies Act 1990

[29 September 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Commodity Levies Amendment Act 1993, and shall be read together with and deemed part of the Commodity Levies Act 1990 (hereinafter referred to as the principal Act).

2. Restrictions on making of orders—(1) Section 5 (2) of the principal Act is hereby amended by repealing paragraphs (a) to (f), and substituting the following paragraphs:

“(aa) That—

“(i) Within the previous 12 months; or

“(ii) Within the previous 18 months, and before the commencement of the Commodity Levies Amendment Act 1993,—

the organisation has held a support referendum in relation to a proposal that the levy, payable to the organisation, should be imposed on the commodity; and

“(ab) That the support referendum was competently devised; and

“(ac) That the ballot paper described the proposal clearly, specifying in relation to it all the matters required by section 6 (1) of this Act to be specified in a levy order, and (in particular) indicated that the imposition of the levy was proposed to be on the basis of 1 of the following:

“(i) Production of the commodity:

- “(ii) The value of the commodity produced:
- “(iii) The area of land devoted to the production of the commodity:
- “(iv) The number, quantity, or capacity, of a thing or things of a specified kind used in connection with the production of the commodity, for example,—
 - “(A) The number of breeding stock, chicks, embryos, hives, or trees; or
 - “(B) The quantity of electricity; or
 - “(C) The capacity of plant or buildings; and
- “(ad) That the support referendum was so publicised that potential levy payers had a reasonable opportunity to be adequately informed about its holding, nature, and possible consequences; and
- “(ae) That the support referendum was so held that potential levy payers were given a reasonable opportunity to participate in it; and
- “(af) That the voting in the support referendum was conducted on the basis of 1 of the matters specified in subparagraphs (i) to (iv) of paragraph (ac) of this subsection (but not necessarily the matter that the ballot paper indicated was the proposed basis of the levy’s imposition); and
- “(ag) That more than half of the participants in the support referendum were supporters; and
- “(ah) Where voting in the support referendum was conducted on the basis of production of the commodity, that during the 12 months before the support referendum was held the total amount of the commodity produced by supporters was more than half of the total amount of the commodity produced of all participants; and
- “(ai) Where voting in the support referendum was conducted on the basis of the value of the commodity, that during the 12 months before the support referendum was held the value of the total amount of the commodity produced by supporters was more than half of the value of the total amount of the commodity produced of all participants; and
- “(aj) Where voting in the support referendum was conducted on the basis of the area of land devoted to the production of the commodity, that during the 12 months before the support referendum was held the total area of land devoted to the production of the commodity by supporters was more than half of the

total area of land devoted to the production of the commodity by all participants; and

- “(ak) Where voting in the support referendum was conducted on the basis of the number, quantity, or capacity, or a thing or things of a specified kind used in connection with the production of the commodity, that during the 12 months before the support referendum was held the total number of those things, quantity of that thing, or capacity of those things, used in connection with the production of the commodity by supporters was more than half of the total number, quantity, or capacity of that thing or those things so used by all participants; and
- “(al) Where the basis on which voting in the support referendum was conducted was not the proposed basis of the levy’s imposition, that the impact of imposing the levy on that proposed basis will be substantially similar to the impact of imposing it on the basis on which voting was conducted; and
- “(am) That the matters specified in the order pursuant to section 6 (1) of this Act do not differ in any material way from those specified in the ballot paper pursuant to paragraph (ac) of this subsection; and
- “(a) That the organisation has consulted adequately persons (other than persons entitled to participate in the support referendum) likely to be affected by the payment or collection of the levy; and”.

(2) Section 2 (1) of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Hold’ includes cause to be held:

“ ‘Participant’, in relation to a support referendum, means a potential levy payer who returned, in accordance with the requirements of the organisation holding the referendum, a ballot paper—

“(a) Whether completed or not; and

“(b) If completed, whether completed validly or invalidly,—

distributed or made available for the purpose by or on behalf of that organisation:

“ ‘Potential levy payer’, in relation to a support referendum, means a person who, when the referendum is held, would be one of the persons primarily responsible for paying the proposed levy to

which the referendum relates if there were then in force a levy order imposing that levy:

“‘Supporter’, in relation to a support referendum, means a participant who returned a valid ballot paper supporting the imposition of the levy concerned:

“‘Support referendum’ means a referendum on whether to approve a proposal that a levy, payable to an organisation, should be imposed on a commodity:”.

This Act is administered in the Ministry of Agriculture and Fisheries.
