



Biosecurity (Varroa (South Island) Beekeeper Levy) Order 2005

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 7th day of March 2005

Present:

Her Excellency the Governor-General in Council

Pursuant to section 90 of the Biosecurity Act 1993, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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Order

1 Title

This order is the Biosecurity (Varroa (South Island) Beekeeper Levy) Order 2005.

2 Commencement

This order comes into force on the 28th day after the date of its notification in the *Gazette*.

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Biosecurity Act 1993

bee, beehive, and beekeeper have the same meanings as in the strategy order

levy means the levy imposed by clause 4

levy money means money paid under this order as levy

levy year means a period of 12 months beginning on 1 June and ending on 31 May

management agency means the body that on the commencement of this order was known as the Varroa Agency Incorporated

Minister means the Minister of the Crown who recommended the making of the strategy order

strategy order means the Biosecurity (National (South Island) Varroa Pest Management Strategy) Order 2005.

4 Levy imposed

(1) A levy is imposed on all beekeepers.

(2) The levy is payable to the management agency or its agent.

5 Beekeepers responsible for paying levy

Each levy year, all beekeepers are responsible for paying the levy.

6 Management agency must collect levy

(1) The management agency, or its agent, must collect the levy from beekeepers.

- (2) The management agency, or its agent, is entitled to recover the cost of collection.

Determination of levy

7 Basis of calculation of levy

- (1) The levy must be calculated on the basis of the sum of the number of beehives owned by the beekeeper, on 31 March before the commencement of the levy year, in accordance with information held by the management agency at that time, multiplied by a fixed amount.
- (2) The sum of the number of beehives owned by a beekeeper must be treated as 5 if the beekeeper owned fewer than 5 beehives on 31 March before the commencement of the levy year.

8 Maximum rate of levy

The maximum rate of levy (excluding goods and services tax) is \$2 per beehive.

9 Payment of levy

The levy must be paid at a single rate.

10 Management agency must fix actual rate

The management agency must fix the actual rate of levy—

- (a) for the levy year commencing on 1 June 2005, by any means by which it may lawfully make decisions;
- (b) for each subsequent year, after consulting with beekeepers under clause 16.

11 Rate if no rate fixed before beginning of levy year

- (1) If the management agency does not fix the actual rate of levy by 31 March before the commencement of the levy year, the levy for that year is payable at the rate last fixed under clause 10.
- (2) Subclause (1) does not apply in respect of the levy year commencing on 1 June 2005.

12 Notification of levy rate

- (1) The management agency must notify the rate of levy by notice in—
 - (a) *The New Zealand Beekeeper* as soon as practicable after the rate is fixed; and
 - (b) the *Gazette* by 1 May before the commencement of the levy year.
- (2) The management agency may notify the rate of levy—
 - (a) in the newsletters of groups or associations of hobby and commercial beekeepers that are known to the management agency; and
 - (b) on the management agency's website.
- (3) If *The New Zealand Beekeeper* ceases to be published, the levy rate must be notified in—
 - (a) any publication that replaces it; or
 - (b) if no publication replaces it, a publication specified for the purposes of this order by the Minister by notice in the *Gazette*.

*Payment of levy***13 When levy payable**

For each levy year,—

- (a) the levy must be paid in a lump sum, on or by 1 June; and
- (b) the management agency must send an account, not less than 28 days before 1 June, to each beekeeper.

14 Penalty for late payment

If any amount of the levy has not been paid by the close of the due date, the following amounts must be paid to the management agency in addition to the amount otherwise payable:

- (a) 10% of the amount of the unpaid levy; plus
- (b) for each month that the amount is outstanding, 2% of the amount of the unpaid levy (excluding additional levies owing under this clause).

15 Purposes for which levy must be spent

The management agency must spend all levy money paid to it on the administration and operation of the National (South

Island) Varroa Pest Management Strategy made by the strategy order.

16 Consultation on how levy spent

- (1) The management agency must, before the start of each levy year, consult with beekeepers on how the levy money is to be spent.
- (2) The management agency must use the following process to consult beekeepers:
 - (a) it must send to every beekeeper a proposed budget for the levy year's expenditure; and
 - (b) it must give every beekeeper an opportunity to make submissions to it on the proposed budget.
- (3) Subclause (1) does not apply in respect of the levy year commencing on 1 June 2005.

Miscellaneous

17 Records

- (1) The management agency, or its agent, must, for each levy year, keep records of—
 - (a) the rate at which the levy was collected; and
 - (b) each amount of levy money paid to it and the person who paid the amount; and
 - (c) how the levy money paid to it was spent.
- (2) The management agency must ensure that the records referred to in subclause (1) are retained for 7 years after the close of the levy year to which they relate.

18 Conscientious objectors

- (1) A beekeeper who objects on conscientious or religious grounds to paying the levy in the manner provided for by this order may pay the amount concerned to the Director-General of the Ministry of Agriculture and Forestry.
- (2) The Director-General must pay the amount to the management agency.

19 Remuneration of Auditors

A person appointed as an Auditor under section 95B of the Act must be remunerated by the management agency at a rate

determined by the Minister after consultation with the management agency.

Arbitration in case of dispute

20 Appointment of arbitrator

- (1) This clause applies to any dispute about—
 - (a) whether or not a person is required to pay the levy; or
 - (b) the amount of levy payable.
- (2) The parties to a dispute may agree to submit the dispute to arbitration.
- (3) If the parties to a dispute are unable to agree on the appointment of an arbitrator, the arbitrator must be appointed in accordance with the First Schedule of the Arbitration Act 1996.
- (4) For the purposes of the Arbitration Act 1996,—
 - (a) an agreement under subclause (2) is an arbitration agreement; and
 - (b) the arbitrator (whether appointed by agreement or under subclause (3)), is an arbitral tribunal.

21 Application of Arbitration Act 1996 to dispute

Except as provided in clause 20, the provisions of the Arbitration Act 1996 (including the provisions for procedures to be followed by an arbitral tribunal) apply to the resolution of a dispute submitted to arbitration under this order.

22 Payment of arbitration costs

The costs of the arbitration (including the arbitrator's remuneration) must, unless the parties agree otherwise, be determined under the Second Schedule of the Arbitration Act 1996.

23 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the decision made by an arbitrator may appeal to a District Court against the decision.
- (2) The appeal must be brought by the filing of a notice of appeal within 28 days after the making of the decision concerned, or within any longer time that a District Court Judge allows.

- (3) The Registrar of the Court must—
 - (a) fix the time and place for the hearing of the appeal and notify the appellant and the other parties to the dispute; and
 - (b) serve a copy of the notice of appeal on all parties to the dispute.
- (4) Any party to the dispute may appear and be heard at the hearing of the appeal.
- (5) On hearing the appeal, the District Court may confirm, vary, or reverse the decision appealed against.
- (6) The filing of a notice of appeal does not operate as a stay of any process for the enforcement of the decision appealed against.

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on the 28th day after the date of its notification in the *Gazette*, imposes an annual levy on South Island beekeepers. The levy is payable to the Varroa Agency Incorporated or its agent.

The levy is to be used by the Varroa Agency Incorporated to partially fund, in accordance with the Biosecurity (National (South Island) Varroa Pest Management Strategy) Order 2005, the national pest management strategy for varroa.

Under section 91(1) of the Biosecurity Act 1993, this order is deemed to have been revoked on 30 June 2006 unless it is confirmed by an Act of Parliament passed on or before that date.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 10 March 2005.

This order is administered in the Ministry of Agriculture and Forestry.
