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1998/442



**BIOSECURITY (BOVINE TUBERCULOSIS—OTAGO LAND LEVY)
ORDER 1998**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 14th day of December 1998

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 90 of the Biosecurity Act 1993, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and on the recommendation of the Minister for Food, Fibre, Biosecurity and Border Control, makes the following order.

ANALYSIS

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ORDER

1. Title and commencement—(1) This order may be cited as the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Order 1998.

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

2. Interpretation—In this order, unless the context otherwise requires,—

“Board” has the same meaning as in the Biosecurity (National Bovine Tuberculosis Pest Management Strategy) Order 1998:

“Capital value” means—

(a) The capital value recorded in the district valuation roll on 1 July in the financial year in which the levy is payable, if that capital value is equal to or less than \$10,000 per hectare; or

(b) The value calculated by multiplying the area of the property (in hectares) by \$10,000 if the capital value recorded in the district valuation roll on 1 July in the financial year in which the levy is payable is more than \$10,000 per hectare:

“Common costs” has the same meaning as in the Biosecurity (National Bovine Tuberculosis Pest Management Strategy) Order 1998:

“District valuation roll” has the same meaning as in section 2 (1) of the Rating Valuations Act 1998; and includes a roll deemed to have been approved in accordance with section 59 (3) of that Act:

“Financial year” means a year commencing on 1 July and ending on 30 June in the following year:

“National vector control zone” has the meaning given to it in clause 10 (2) (a):

“Occupier” means the person who is recorded as the occupier in the district valuation roll on 1 January in the financial year in which the levy is payable, except for the levy payable on or before 31 March 1999, where the occupier is the person recorded as the occupier in the district valuation roll on the date this order comes into force:

“Otago Region” means the Otago Region as constituted by the Local Government (Otago Region) Reorganisation Order 1989, *Gazette* 1989, Vol. III, p. 2408:

“Regional vector control zone” has the meaning given to it in clause 10 (2) (b):

“Rural property” means a separately rateable property with a property category recorded by the territorial authority in accordance with rules made under the Rating Valuations Act 1998 that has, on 1 July in the financial year in which the levy is payable, a first character of A, D, P, S, H, L, or F:

“Separately rateable property” has the same meaning as in the Rating Powers Act 1988:

“Tuberculosis vector risk area” has the same meaning as in the Biosecurity (National Bovine Tuberculosis Pest Management Strategy) Order 1998:

“Vector control” has the same meaning as in the Biosecurity (National Bovine Tuberculosis Pest Management Strategy) Order 1998.

3. Levy imposed—This order imposes a levy payable to the Board for the purposes of partially funding the implementation of the National Bovine Tuberculosis Pest Management Strategy.

4. Occupiers responsible for paying levy—Each financial year the occupier of every rural property must pay a levy based on the capital value of that property in accordance with this order, if that property—

- (a) Is wholly or partially in the Otago Region; and
- (b) Has an area that is equal to or exceeds 4 hectares.

5. Basis for calculation of levy—(1) The levy is calculated by multiplying the rate of levy fixed in accordance with this order for a property by the capital value of the property.

(2) If the total area of a rural property is 4 hectares or more and part only of that property is within 1 or more of the following:

- (a) A national vector control zone; or
- (b) A regional vector control zone; or
- (c) The Otago Region but outside a vector control zone,—

the levy for each part of the property must be determined in accordance with the following formula:

$$CV \times P \times R$$

where—

CV is the capital value for the whole of the rural property whether inside or outside the Otago Region:

P is that part of the property for which the levy is being determined, expressed as a fraction of the whole of the area of the property, whether that property is inside or outside the Otago Region:

R is the rate of levy for the part of the property for which the levy is being determined.

6. Levy payable to Board—The levy payable by the occupier in accordance with clause 4 is payable directly to the Board.

7. Use of money raised by levy—The money raised by the levy must be spent on the common costs and vector control in the Otago Region.

8. Consultation—The Board must, before the end of each financial year,—

- (a) Send to each occupier of a rural property in the Otago Region, a document setting out the proposed vector control programme for the Otago Region for the next financial year;
- (b) Give each occupier the opportunity to express the occupier's views to the Board—
 - (i) In writing; or
 - (ii) At public meetings convened by the Board in the Otago Region.

9. Payment of levy—The levy must be paid in 1 annual payment on or before 31 March in each financial year.

10. Levy to be paid at different rates—(1) The levy is payable at the following 3 rates:

- (a) A rate for rural properties within a national vector control zone:
 - (b) A rate for rural properties within a regional vector control zone:
 - (c) A rate for rural properties that are not within either a national vector control zone or a regional vector control zone.
- (2) For the purposes of this order,—
- (a) “National vector control zone” means an area of the Otago Region classified by the Board for a financial year as an area where a vector control programme will be carried out for the purposes of preventing the spread of bovine tuberculosis infection beyond a tuberculosis vector risk area:
 - (b) “Regional vector control zone” means an area of the Otago Region classified by the Board for a financial year as an area where a vector control programme will be carried out for the purposes of reducing the level of bovine tuberculosis infection within a tuberculosis vector risk area.

11. Maximum rate of levy—The rates of levy fixed by the Board must not exceed—

- (a) 0.042% for a property within a national vector control zone:
- (b) 0.11% for a property within a regional vector control zone:
- (c) 0.03% for a property that is not within either a national or a regional vector control zone.

12. Board to fix actual rates of levy—The Board must, each financial year, fix the rates of levy payable in the following manner:

- (a) After consultation in accordance with clause 8, determine—
 - (i) The national vector control programme by classifying parts of the Otago Region into national vector control zones for that financial year; and
 - (ii) The regional vector control programme by classifying parts of the Otago Region into regional vector control zones for that financial year:
- (b) Determine the costs of carrying out the national vector control programme in the Otago Region and the regional vector control programme in the Otago Region in that financial year:
- (c) Fix rates for properties within national vector control zones, regional vector control zones, and areas outside vector control zones based on capital values of the rural properties subject to the levy, sufficient to recover the regional share of the vector control programmes for that financial year.

13. Notification of rates of levy—The rates of levy payable must be published by the Board in the *Gazette*, the *Otago Daily Times*, and the *Southland Times* on or before 1 February 1999 for the financial year ending on 30 June 1999, and thereafter on or before 15 September in each financial year.

14. Provision of district valuation rolls to Board—To enable the Board to determine the amounts of levy payable by each occupier, each territorial authority wholly or partially in the Otago Region must,—

- (a) On or before 15 July in each year, make a return to the Board containing the information in its district valuation roll on 1 July and the supporting information relating to property categories

that the territorial authority is required to maintain in accordance with rules made under the Rating Valuations Act 1998:

- (b) On or before 15 January in each year, make a return to the Board containing the information in its district valuation roll on 1 January and the supporting information relating to property categories that the territorial authority is required to maintain in accordance with rules made under the Rating Valuations Act 1998.

15. Payment of increased levy for late payment—(1) Any amount of levy payable that remains unpaid after the due date is increased once by 10%.

(2) Any amount of levy payable (excluding any increased levy payable in accordance with subclause (1)) that remains outstanding at the end of 1 month following the increase under subclause (1) is further increased by 2% at that time, and any amount of levy remaining outstanding at the end of every following month is further increased by 2% at the end of each month.

16. Auditor's remuneration—A person appointed as an auditor under section 95B of the Biosecurity Act 1993 must be remunerated by the Board at a rate determined by the Minister after consultation with the Board.

17. Appointment of arbitrator—(1) If a dispute arises as to—

(a) Whether or not any person is required to pay the levy; or

(b) The amount of levy money any person is required to pay,—

the parties may agree to submit the dispute to arbitration and that agreement is an arbitration agreement for the purposes of the Arbitration Act 1996.

(2) If the parties 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 and, whether by agreement or in accordance with the Arbitration Act 1996, the arbitrator is an arbitral tribunal for the purposes of the Arbitration Act 1996.

18. Procedures and other matters relating to resolution of disputes—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 all disputes submitted to arbitration in accordance with this order.

19. Payment of arbitration costs—The costs of the arbitration, including the arbitrator's remuneration, must, unless the parties agree otherwise, be determined in accordance with the Second Schedule of the Arbitration Act 1996.

20. Appeal to District Court—(1) Any 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 of the making of the decision concerned, or within any longer time as a District Court Judge allows.

