



Commodity Levies (Farmed Deer Products) Order 2001

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 17th day of September 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to section 4 of the Commodity Levies Act 1990, Her Excellency the Governor-General, acting on the recommendation of the Minister of Agriculture and 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 Commodity Levies (Farmed Deer Products) Order 2001.

2 Commencement

This order comes into force on 30 October 2001.

3 Interpretation

In these regulations, unless the context otherwise requires,—
collection agent means a person whose business is or includes—

- (a) operating a deer slaughterhouse; or
- (b) operating a velvet pool; or
- (c) operating a velvet packing house; or
- (d) velvet trading

deer means deer that are farmed or raised in New Zealand to produce deer product

deer farmer means a person who owns deer and is also in the business of farming or raising deer (whether in conjunction with any other business or not)

deer product means—

- (a) venison derived from deer that are slaughtered at a deer slaughterhouse; and
- (b) velvet derived from deer that is—
 - (i) sold by an operator of a velvet pool; or
 - (ii) purchased by a person acting for an operator of a velvet packing house; or
 - (iii) received at a velvet packing house; or
 - (iv) purchased by a velvet trader.

deer slaughterhouse means premises that—

- (a) are licensed as deer slaughtering premises under the Meat Act 1981; or

- (b) operate under a risk management programme registered under the Animal Products Act 1999 for the purpose of slaughtering deer

GST means goods and services tax under the Goods and Services Tax Act 1985

levy means the levy imposed by clause 4

levy money means money paid under this order as levy

mediator means a person appointed under clause 22; and, in relation to a dispute, means the mediator appointed to resolve that dispute

NZDFA means the New Zealand Deer Farmers' Association Incorporated

velvet packing house means premises where velvet is received for preserving and packing

velvet pool means a pooled collection of velvet owned by deer farmers who receive the net proceeds from the sale of velvet in accordance with the weight and grade of velvet they supplied to the pool

velvet trader means a person who is in the business of purchasing and collecting and holding velvet prior to delivering it to a velvet packing house.

4 Levy imposed

- (1) A levy is imposed on the following deer products:
- (a) venison derived from deer that are slaughtered at a deer slaughterhouse;
 - (b) velvet derived from deer that is—
 - (i) sold by an operator of a velvet pool on behalf of a deer farmer; or
 - (ii) purchased from a deer farmer by a person acting for an operator of a velvet packing house; or
 - (iii) received at a velvet packing house from a deer farmer; or
 - (iv) purchased from a deer farmer by a velvet trader.
- (2) The levy is payable to the New Zealand Deer Farmers' Association Incorporated.

5 Basis of calculation of levy

- (1) In the case of venison, the levy is to be calculated by reference to the weight in kilograms of the hot clean carcass weight of the slaughtered deer.
- (2) In the case of velvet, the levy is to be calculated by reference to its frozen weight in kilograms at the time it is—
 - (a) received by an operator of a velvet pool from a deer farmer; or
 - (b) purchased from a deer farmer by a person acting for an operator of a velvet packing house; or
 - (c) received at a velvet packing house from a deer farmer; or
 - (d) purchased from a deer farmer by a velvet trader.
- (3) No deer product is to be levied more than once. Velvet is to be levied at the earliest of the occurrences referred to in sub-clause (2).
- (4) In this clause, **hot clean carcass weight** refers to the weight of a deer after it has been slaughtered and after removal of—
 - (a) its head, skin, internal organs, and lower legs; and
 - (b) any dirt or contaminants; and
 - (c) condemned parts, including bruised or damaged meat and those parts affected by disease or defects.

6 Deer farmers primarily responsible for payment of levy

- (1) Deer farmers are primarily responsible for paying the levy on venison or velvet derived from deer farmed or raised by them.
- (2) No deer farmer is exempt from paying the levy.

7 Collection agents to pay levy on deer products

- (1) A collection agent who is the operator of a deer slaughterhouse must pay the levy (and GST payable on the levy) on deer slaughtered at that slaughterhouse.
- (2) A collection agent who is the operator of a velvet pool must pay the levy (and GST payable on the levy) on velvet sold on behalf of deer farmers who supplied velvet to the pool.
- (3) A collection agent who is the operator of a velvet packing house must pay the levy (and GST payable on the levy) on velvet that is—
 - (a) purchased from a deer farmer by a person acting for that operator; or

- (b) received at that packing house from a deer farmer.
- (4) A collection agent who is a velvet trader must pay the levy (and GST payable on the levy) on velvet purchased by the trader from a deer farmer.
- (5) A collection agent may recover the levy (and any GST paid in respect of it) from the deer farmer, either as a debt due or by reducing the amount otherwise payable to the deer farmer for the deer or velvet purchased from the deer farmer.
- (6) A collection agent is not entitled to charge a collection fee for paying and recovering the levy.

8 Levy to be paid at single rate for venison and single rate for velvet

The levy is to be paid—

- (a) at a single rate for venison; and
- (b) at a single rate for velvet.

9 Maximum rates of levy

- (1) The maximum rate of levy is—
 - (a) 3 cents per kilogram of venison (hot clean carcass weight, as defined in clause 5(4));
 - (b) 20 cents per kilogram of velvet (frozen weight at time of purchase or receipt)
- (2) The maximum rates are exclusive of GST.

10 Actual rates of levy

- (1) The actual rates of levy are to be fixed by resolution at any annual general meeting, or special general meeting called for the purpose, of NZDFA.
- (2) The levy rates first fixed after the making of this order take effect on and from the later of—
 - (a) the day on which this order comes into force; or
 - (b) the day after the date of the meeting at which the levy rates are fixed;—and apply until new levy rates fixed by any further resolution come into effect.
- (3) Subsequent levy rates take effect on and from the later of—
 - (a) the 28th day following the date of notification of the fixing of the levy rates in the *Gazette*; or

- (b) such other date as may be specified in the resolution fixing the levy rates;—
and apply until new levy rates fixed by any further resolution come into effect.
- (4) For the purposes of subclause (2), NZDFA may set different rates to apply—
 - (a) for the days 30 and 31 October 2001; and
 - (b) on and after 1 November 2001;—and these rates apply accordingly until new levy rates fixed by any further resolution come into effect.

11 Notification of levy rates

- (1) As soon as practicable after the fixing of any levy rate, NZDFA must publish in the *Gazette* a notice of—
 - (a) the rate of levy, and what it applies to; and
 - (b) the date on and from which the levy takes effect.
- (2) NZDFA must also advise these matters—
 - (a) by its newsletter, to all levy payers and collection agents known to it; and
 - (b) in a farming publication with a national circulation.

12 Levy to be paid monthly

The levy is payable on a monthly basis.

13 Due date and latest date for payment

- (1) The due date for payment of the levy to NZDFA is—
 - (a) in the case of venison, the day on which the deer is slaughtered at a deer slaughterhouse;
 - (b) in the case of velvet, the earliest of—
 - (i) the day on which the velvet is sold by an operator of a velvet pool; or
 - (ii) the day on which the velvet is purchased from a deer farmer by a person acting for an operator of a velvet packing house; or
 - (iii) the day on which the velvet is received at a velvet packing house from a deer farmer; or
 - (iv) the day on which the velvet is purchased from a deer farmer by a velvet trader.
- (2) The latest date for payment of the levy is the 20th day of the month following that in which the due date occurs.

14 Penalty for late payment

If any levy money (or GST payable on that money) has not been paid on or before the latest date for payment, then NZDFA may charge to the collection agent an additional amount of up to 10% of the amount unpaid at that date.

15 Levy money to be spent by NZDFA

NZDFA must spend all levy money paid to it, but levy money may be invested pending its expenditure.

16 Purposes for which levy money is to be spent

- (1) The general purposes for which the levy money is to be spent by NZDFA are—
 - (a) research:
 - (b) industry promotion:
 - (c) dissemination of information to deer farmers:
 - (d) representation of the interests of deer farmers:
 - (e) the governance and day-to-day administration of NZDFA.
- (2) At each annual general meeting, and at any special general meeting called for the purpose, NZDFA must consult with persons who may be liable to pay the levy on how the levy money is to be spent. It may not spend levy money for any purpose (other than an incidental purpose) not for the time being approved by levy payers, on the recommendation of the council of NZDFA, at an annual general meeting or special general meeting.

17 Conscientious objectors

- (1) A person who objects on conscientious or religious grounds to the manner of recovery by NZDFA of an amount of levy money may pay the amount concerned to the chief executive of the Ministry of Agriculture and Forestry.
- (2) The chief executive must pay the amount to NZDFA.

18 Returns

Every deer farmer and every collection agent must supply to NZDFA, in writing and as soon as reasonably practicable after receiving NZDFA's written request to do so, any information

reasonably required by NZDFA to determine the amounts of levy payable.

19 Records

- (1) Deer farmers must keep records of the following matters:
 - (a) the number of deer sent for slaughter and the date they were sent:
 - (b) the number of kilograms of deer product levied.
- (2) Collection agents must keep records of the following matters:
 - (a) the number of kilograms of—
 - (i) venison from deer slaughtered, in the case of a deer slaughterhouse:
 - (ii) velvet purchased from a deer farmer, in the case of velvet traders and velvet packing houses and their agents:
 - (iii) velvet received from a deer farmer and sold on the farmer's behalf, in the case of an operator of a velvet pool:
 - (iv) velvet received at a velvet packing house from a deer farmer:
 - (b) the number of deer slaughtered, where appropriate:
 - (c) the dates on which the deer were slaughtered or the velvet purchased or received or (in the case of a velvet pool) sold:
 - (d) the name and contact details of every deer farmer or velvet pool involved in each of the above transactions (whether slaughter of deer or purchase or delivery or sale of velvet):
 - (e) the amount of levy paid to NZDFA and the date of payment.
- (3) NZDFA must keep records of the following matters:
 - (a) amounts of levy money paid to it, and the dates of payment:
 - (b) names and contact details of every person from whom it received levy money.
- (4) The records required by this clause in respect of any leviable deer product must be retained for at least 2 years from the date the levy on the product became due.

20 Confidentiality of information

- (1) No officer or employee of NZDFA or other person involved in collection of the levy may disclose (except to some other officer or employee of NZDFA or person involved in collection of the levy) any information obtained—
 - (a) under or because of this order; or
 - (b) under the Commodity Levies Act 1990 in relation to this order.
- (2) Subclause (1) does not affect or prevent—
 - (a) the production of records or accounts under section 17(1) of the Commodity Levies Act 1990; or
 - (b) the production of any statement under section 25 of the Commodity Levies Act 1990; or
 - (c) the giving of evidence in any legal proceedings taken—
 - (i) under or in relation to this order; or
 - (ii) in relation to this order, under or in relation to the Commodity Levies Act 1990.
- (3) Subclause (1) does not prevent NZDFA from—
 - (a) disclosing or using any information (not being information relating to an identifiable person) for statistical or research purposes; or
 - (b) disclosing or using any information for the purposes of invoicing and collecting the levy; or
 - (c) disclosing or using any information with the consent of every identifiable person to whom it relates.

21 Remuneration of persons conducting compliance audits

A person appointed as auditor under section 15 of the Commodity Levies Act 1990 must be remunerated by NZDFA at a rate determined by the Minister of Agriculture after consultation with NZDFA.

*Mediation in case of dispute***22 Appointment of mediators**

- (1) This clause applies to any dispute about—
 - (a) whether or not any person is required to pay the levy; or
 - (b) the amount of levy payable.
- (2) Any party to the dispute may ask the President of the Institute of Chartered Accountants of New Zealand to appoint a person to resolve the dispute by mediation; and, in that case, the

President (or a person authorised by the President to do so) may appoint a person to resolve the dispute by mediation.

- (3) The mediator's appointment ends if—
- (a) the parties to the dispute resolve it by agreement; or
 - (b) the mediator resolves the dispute under clause 29.

23 Remuneration of mediators

- (1) A mediator is to be paid remuneration (by way of fees and allowances) as agreed to by the parties to the dispute.
- (2) If the parties to a dispute cannot agree on a mediator's remuneration, the President of the Institute of Chartered Accountants of New Zealand (or a person authorised by the President to do so) must—
- (a) fix an amount or several amounts to be paid to the mediator as remuneration, and
 - (b) specify the amount (if any) that each party is to pay.
- (3) Each party must pay to the mediator the amount fixed by the President (or authorised person) and specified as an amount to be paid by that party.

24 Time and place of conference

Every conference organised by a mediator of the parties to a dispute is to be held on a day and at a time and place fixed by the mediator and notified in writing to the parties.

25 Conference to be held in private

Except as provided in clause 26, only the parties to a dispute and the mediator may attend a conference organised by the mediator.

26 Representatives

If satisfied that in all the circumstances it is appropriate to do so, a mediator may allow a representative of any party to a dispute to attend a conference of the parties organised by the mediator.

27 Right to be heard

Every party to a dispute, and every representative of a party allowed by the mediator to attend a conference of the parties organised by a mediator, may be heard at the conference.

28 Evidence

- (1) A mediator may hear and take into account any relevant evidence or information, whether or not it would be admissible in a court of law.
- (2) A mediator may, on the mediator's own initiative, seek and receive any evidence, and make any investigations and inquiries, that the mediator thinks desirable to resolve a dispute.
- (3) A mediator may require any person giving evidence at a conference of the parties to a dispute to verify the evidence by statutory declaration.

29 Mediator may resolve dispute in certain cases

- (1) A mediator may resolve a dispute for the parties if—
 - (a) the mediator has organised and presided at a conference of the parties, but the dispute has not been resolved; or
 - (b) the mediator believes that the parties are unlikely to resolve the dispute, whether or not they confer directly.
- (2) If subclause (1) applies, the mediator must give each of the parties written notice of the mediator's decision and the reasons for the decision.
- (3) The parties must comply with the decision of the mediator.

30 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the decision made by a mediator under clause 29 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 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 every other party to the dispute.
- (4) Every party 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.

31 Revocation

- (1) The Commodity Levies (Farmed Deer Products) Order 1995 (SR 1995/239) is revoked.
- (2) Despite subclause (1), amounts of levy that become payable before the commencement of this order to the New Zealand Deer Farmers' Association Incorporated under the Commodity Levies (Farmed Deer Products) Order 1995 continue to be due and payable as if that order had not been revoked.

Martin Bell,
Acting for 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 30 October 2001, imposes a levy on certain deer products derived from deer farmed or raised in New Zealand. The products are—

- (a) venison derived from deer slaughtered at a deer slaughterhouse; or
- (b) velvet that is—
- (i) sold by an operator of a velvet pool on behalf of a deer farmer; or
 - (ii) purchased from a deer farmer by a person acting for a velvet packing house operator; or
 - (iii) received at a velvet packing house from a deer farmer; or
 - (iv) purchased from a deer farmer by a velvet trader.

The levy is payable to the New Zealand Deer Farmers' Association Incorporated. The persons primarily responsible for paying the levy are deer farmers, but the levy will in practice be paid by velvet traders or by the operators of deer slaughterhouses, velvet packing houses, or velvet pools and recovered from the farmer.

This order revokes and replaces the Commodity Levies (Farmed Deer Products) Order 1995. Unless earlier revoked, it will expire 6 years after it is made.

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

Date of notification in *Gazette*: 20 September 2001.

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