



Commodity Levies (Wool) Order 2004

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 19th day of April 2004

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 4 of the Commodity Levies Act 1990, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

Contents

1	Title	12	Rate if no rate fixed before beginning of levy year
2	Commencement	13	Notification of levy rate
3	Interpretation		<i>Payment of levy</i>
4	Levy imposed	14	When levy payable
	<i>Responsibility for payment of levy</i>	15	Demands for estimated amounts of levy money
5	Sheep farmer primarily responsible for paying levy	16	Penalty for late payment
6	Collection agent to pay levy on wool and recover it from sheep farmer	17	Refunds
	<i>Determination of levy by company</i>		<i>Expenditure of levy money</i>
7	Basis of calculation of levy	18	Company or subsidiary must spend levy money
8	Returns must be supplied to company	19	Purposes for which levy money may be spent
9	Levy may be fixed at different rates		<i>Recordkeeping requirements and confidentiality of information</i>
10	Maximum rate of levy	20	Records
11	Company must fix actual rate of levy		

21	Confidentiality of information <i>Miscellaneous</i>	26	Time and place of conference
22	Conscientious objectors	27	Conference to be held in private
23	Remuneration of persons conducting compliance audits <i>Mediation in case of dispute</i>	28	Representatives
24	Appointment of mediators	29	Right to be heard
25	Remuneration of mediators	30	Evidence
		31	Mediator may resolve dispute in certain cases
		32	Appeal to District Court

Order

1 Title

This order is the Commodity Levies (Wool) Order 2004.

2 Commencement

This order comes into force on 1 July 2004.

3 Interpretation

In this order, unless the context otherwise requires,—
assessed wool pull means,—

- (a) for wool on sheep slaughtered at licensed premises, the weight of the wool on the sheep as estimated by the operator of the licensed premises before slaughter and set out on the operator's invoice; or
- (b) for wool on skin, the weight of the wool as estimated by the purchaser at the time the skin is purchased

collection agent means any of the following persons:

- (a) a person whose business is, or includes, processing or exporting wool or manufacturing woollen goods;
- (b) a wool or skin buyer, including a meat processing or meat exporting company;
- (c) a wool broker or wool exchange operator who receives wool directly from a sheep farmer or an organisation that is not a collection agent for selling, processing, or exporting

commercial purposes include sale, processing, and export

company means the company that is known on the commencement of this order as Meat and Wool New Zealand Limited

dags means wool containing at least 60% solid material (by weight), such as dried mud, faeces, or other impurities

Director-General means the chief executive of the department for the time being responsible for the administration of this order

levy means the levy imposed by clause 4

levy money means money paid or payable under this order as levy

levy year—

- (a) means a period of 12 months that begins on 1 October and ends on 30 September; and
- (b) includes the period that begins on 1 July 2004 and ends on 30 September 2005

licensed premises means—

- (a) a licensed abattoir or licensed export slaughterhouse (within the meaning of the Meat Act 1981);
- (b) the premises of an animal product business within the meaning of the Animal Products Act 1999 in which livestock are slaughtered under a risk management programme registered under Part 2 of that Act or a regulated control scheme made under Part 3 of that Act

mediator means a person appointed under clause 24(2); and, in relation to a dispute, means a mediator appointed to resolve it

processing includes—

- (a) for shorn wool and wool on skins other than dags, blending, carbonising, carding, combing, fellmongering, felting, knitting, needle-punching, scouring, slipping, sliver-knitting, spinning, tanning, tufting, washing, and weaving; and
- (b) for dags, crushing

sheep farmer means a person who is in the business of farming sheep and growing wool for commercial purposes, whether or not in conjunction with another business

shorn wool includes wool that is removed from a dead sheep

wool means the wool of sheep and includes shorn wool, wool on sheep at slaughter, and dags

wool on sheep at slaughter includes wool on skins

wool on skins includes wool removed with the skin from sheep slaughtered on a farm.

4 Levy imposed

- (1) A levy is imposed on all wool produced in New Zealand by sheep farmers and used for commercial purposes.
- (2) The levy is payable to the company.

Responsibility for payment of levy

5 Sheep farmer primarily responsible for paying levy

- (1) A sheep farmer is primarily responsible for paying the levy.
- (2) No sheep farmer is exempt from paying the levy.

6 Collection agent to pay levy on wool and recover it from sheep farmer

- (1) A collection agent who receives wool from a sheep farmer (except through another collection agent)—
 - (a) must pay the levy on the wool (and any goods and services tax payable in respect of it); and
 - (b) may recover the levy (and any goods and services tax paid in respect of it) from the sheep farmer—
 - (i) by deducting the amount of the levy from the payment made to the sheep farmer for the wool, if the collection agent buys the wool from the farmer; or
 - (ii) by recovering the amount of the levy as a debt due from the sheep farmer; if the collection agent sells, processes, or exports wool on the farmer's behalf.
- (2) If subclause (1)(b)(i) applies, the collection agent must provide the sheep farmer with information regarding the amount of levy deducted.
- (3) A collection agent may charge a collection fee of not more than 16 cents per tonne of wool on which the levy is collected (exclusive of goods and services tax) plus the goods and services tax payable on the fee by deducting the amount of the fee before paying the levy to the company.

Determination of levy by company

7 Basis of calculation of levy

- (1) The levy is to be calculated on the basis of,—
 - (a) for shorn wool, the quantity of wool sold, processed, or exported; and

- (b) for wool on sheep at slaughter, the assessed wool pull; and
 - (c) for dags, the quantity of dags sold.
- (2) No wool is to be levied more than once.

8 Returns must be supplied to company

- (1) Every collection agent must supply to the company, in a form of return specified by the company, any information that the company reasonably requires including—
- (a) the category and quantity of wool purchased by the agent or sold, processed, or exported by the agent on the sheep farmer's behalf; and
 - (b) the amount paid for the wool; and
 - (c) the collection fee.
- (2) Returns must be supplied,—
- (a) in the case of wool sold at auction, within 18 days after the auction; and
 - (b) in any other case, within 18 days after the end of the month in which the payments to which the return relates are due.

9 Levy may be fixed at different rates

A different rate of levy may be fixed for—

- (a) shorn wool; and
- (b) wool on sheep at slaughter; and
- (c) dags.

10 Maximum rate of levy

The maximum rate of the levy before deduction of any costs and charges is (exclusive of goods and services tax)—

- (a) for shorn wool, 6 cents per kilogram of wool sold, processed, or exported; and
- (b) for wool on sheep at slaughter, 6 cents per kilogram of assessed wool pull; and
- (c) for dags, 6 cents per kilogram of dags sold.

11 Company must fix actual rate of levy

The company must fix the actual rates of the levy,—

- (a) for the levy year beginning on 1 July 2004, by any lawful means:

- (b) for any subsequent levy year, in accordance with its constitution and after consulting sheep farmers on the rate of the levy at an annual round of farmer meetings.

12 Rate if no rate fixed before beginning of levy year

If the company does not fix the actual rate of levy before the beginning of a levy year, the levy for that year is payable at the rate last fixed under clause 11.

13 Notification of levy rate

As soon as practicable after the rate of levy for a levy year has been fixed, the company must notify it—

- (a) in the *Gazette*; and
- (b) in a publication sent to all levy payers known to the company; and
- (c) by direct mail to all collection agents known to the company.

Payment of levy

14 When levy payable

- (1) The due date for payment of the levy to the company is the earlier of—
 - (a) the date that the wool is sold by a sheep farmer to, or through, a collection agent;
 - (b) the date that the wool is received by a collection agent for processing;
 - (c) the date that the wool is exported from New Zealand by a sheep farmer or collection agent.
- (2) The latest date for payment of the levy is 18 days after the last day of the month in which the levy falls due or, in the case of wool sold at auction, 18 days after the auction.
- (3) Clause 15(4) overrides subclause (2) if a demand for an estimated amount of levy is made.

15 Demands for estimated amounts of levy money

- (1) The company may estimate the levy money payable and provide a levy demand for that estimated amount if—
 - (a) a return has not been supplied within the time specified in clause 8(2); or

- (b) the company is not satisfied that the information contained in a return is complete and correct.
- (2) A collection agent who receives a demand under subclause (1) may dispute the estimated amount demanded within 10 days of the demand being made; however, this applies only to the initial demand and not to a substitute demand made under subclause (3)(c)(i).
- (3) Within 15 days of receiving a notice of dispute, the company must—
 - (a) consider the matters raised in it; and
 - (b) undertake any audit of the operations of the collection agent concerned that the company thinks appropriate and the collection agent allows; and
 - (c) by written notice to the collection agent—
 - (i) withdraw the demand, and substitute another for it; or
 - (ii) withdraw the demand, and indicate that no other demand will be substituted for it; or
 - (iii) confirm the demand.
- (4) The latest date for payment of the levy is,—
 - (a) 18 days after the demand is made or any longer period that the company allows, unless the collection agent has, within those 18 days, disputed the estimate under subclause (2) or clause 24; or
 - (b) if the estimate has been disputed under subclause (2) or clause 24, within 18 days after the demand is confirmed or substituted.

16 Penalty for late payment

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

17 Refunds

- (1) The company must refund levy money found to have been overpaid or paid in error to the appropriate person unless that person has already received reimbursement of the amount.
- (2) However, before paying a refund under subclause (1), the company may—

- (a) require the person to be refunded to provide the company with the relevant levy returns and any other information justifying the refund and allowing the company to determine or check the amount of the refund; and
- (b) verify the returns and any information provided under paragraph (a) in any way it thinks fit.

Expenditure of levy money

18 Company or subsidiary must spend levy money

The company or a subsidiary of the company must spend or (pending expenditure) invest all levy money paid to it.

19 Purposes for which levy money may be spent

- (1) The company or a subsidiary of the company may spend levy money for the following purposes relating to the wool industry:
 - (a) research including production related research, genetic research, research addressing new market threats, research into differentiated fibres and new uses for wool, environmental research, and animal welfare research:
 - (b) the supply of technical advice to users of New Zealand wool:
 - (c) information collection and transfer:
 - (d) skills development and education, including workforce development:
 - (e) crisis management, particularly relating to animal health:
 - (f) trade access, industry representation and improving the profile of the industry:
 - (g) the day-to-day administration of the company.
- (2) The company must consult sheep farmers on how it proposes to spend levy money at an annual round of farmer meetings in accordance with its constitution held before each levy year.
- (3) The company must not spend any levy money on commercial or trading activities.
- (4) Subclause (2) does not apply in respect of the levy year beginning on 1 July 2004.

*Recordkeeping requirements and confidentiality
of information*

20 Records

- (1) Every sheep farmer who grows wool that is used for commercial purposes must, in each levy year, keep records of—
 - (a) the name and address of each person to whom wool was sold by the sheep farmer or by whom it was received for sale, processing, or export on behalf of the sheep farmer; and
 - (b) the quantity of wool (in kilograms) sold, processed, or exported by or on behalf of the farmer and the dates on which the wool was sold by the farmer or sold, processed, or exported by or on behalf of the farmer.
- (2) Every collection agent must, in each levy year, keep records of—
 - (a) the name and address of each sheep farmer from whom wool was bought or on whose behalf wool was sold, processed, or exported; and
 - (b) the quantity of wool (in kilograms) bought from each sheep farmer, or sold, processed, or exported on behalf of the sheep farmer and the dates on which it was sold, processed, or exported (as applicable); and
 - (c) the amount of levy collected from each sheep farmer and paid to the company and the date on which it was collected.
- (3) The company must, in each levy year, keep records of—
 - (a) each amount of levy money paid to it; and
 - (b) the name and address of each sheep farmer or collection agent who paid each amount of levy money and the date on which it was received; and
 - (c) how levy money was spent or invested.
- (4) The records required by this clause must be retained for at least 2 years after the end of the levy year to which they relate.

21 Confidentiality of information

- (1) No officer or employee of the company or a collection agent or any other person who gathers information may disclose (except to some other officer or employee of the company or collection agent or other person) 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 the company or a collection agent or other person 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; or
 - (d) disclosing or using any information as required by law.

Miscellaneous

22 Conscientious objectors

- (1) A sheep farmer or collection agent who objects on conscientious or religious grounds to the manner of recovery by the company of an amount of levy money may pay the amount concerned to the Director-General.
- (2) The Director-General must pay the amount to the company.

23 Remuneration of persons conducting compliance audits

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

Mediation in case of dispute

24 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, including a dispute about a demand for an estimated amount under clause 15.
- (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 31.

25 Remuneration of mediators

- (1) A mediator must be paid the remuneration (by way of fees and allowances) 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.

26 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.

27 Conference to be held in private

Only the parties to a dispute and the mediator may attend a conference organised by the mediator.

28 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.

29 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.

30 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.

31 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.

32 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the decision made by a mediator under clause 31 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 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 1 July 2004, imposes a levy on wool produced in New Zealand by sheep farmers and used for commercial purposes. The levy is payable to Meat and Wool New Zealand Limited. Sheep farmers are primarily responsible for paying the levy but a collection agent who buys wool from a sheep farmer or sells, processes, or exports wool on behalf of a sheep farmer must pay the levy to the company and may recover it from the sheep farmer.

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

Date of notification in *Gazette*: 22 April 2004.

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