

Reprint
as at 10 July 2020



**Biosecurity (American Foulbrood—Beekeeper Levy)
Order 2003**
(SR 2003/283)

Order title: amended, on 16 April 2020, by clause 4 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 20th day of October 2003

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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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry for Primary Industries.

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Order

1 Title

This order is the Biosecurity (American Foulbrood—Beekeeper Levy) Order 2003.

Clause 1: amended, on 16 April 2020, by clause 4 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

2 Commencement

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

Biosecurity (American Foulbrood – Apiary and Beekeeper Levy) Order 2003: confirmed, on 22 December 2004, by section 8(a) of the Subordinate Legislation (Confirmation and Validation) Act 2004 (2004 No 110).

3 Interpretation

In this order, unless the context otherwise requires,—

1998 Order means the Biosecurity (National American Foulbrood Pest Management Strategy) Order 1998

Act means the Biosecurity Act 1993

base levy means the levy referred to in clause 7(2)

bee means the honeybee (*Apis mellifera*) including its eggs, larvae, pupae, and semen

beehive means a thing constructed and being used to keep bees; but does not include an introduction cage or a mailing cage

beekeeper means a person who owns beehives

bee colony has the same meaning as honey bee colony in clause 2(1) of the 1998 Order

colony levy means the colony levy calculated in accordance with clause 7(3)

introduction cage means a cage used for introducing a queen bee to a beehive

levy means the levy imposed by clause 4

levy money means money paid under this order as levy

levy year—

- (a) means a period of 12 months beginning on 1 June and ending on 31 May; and
- (b) includes the period beginning on the commencement of this order and ending on 31 May 2004

mailing cage means a cage used for transporting a queen bee and attendant worker bees

management agency means Apiculture New Zealand Incorporated

Minister means the Minister of the Crown who recommended the making of the 1998 Order

National American Foulbrood Pest Management Plan means the plan made under the 1998 Order.

Clause 3 **apiary**: revoked, on 16 April 2020, by clause 5(1)(a) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 3 **apiary levy**: revoked, on 16 April 2020, by clause 5(1)(b) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 3 **bee colony**: inserted, on 16 April 2020, by clause 5(3) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 3 **colony levy**: inserted, on 16 April 2020, by clause 5(3) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 3 **management agency**: replaced, on 16 April 2020, by clause 5(2) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 3 **National American Foulbrood Pest Management Plan**: inserted, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 3 **National American Foulbrood Pest Management Strategy**: revoked, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 3 **registered apiary**: revoked, on 16 April 2020, by clause 5(1)(c) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Clause 3A: inserted, on 16 April 2020, by clause 6 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

4 Levy imposed

- (1) A levy is imposed on all beekeepers in New Zealand.
- (2) The levy is payable to the management agency.

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—
 - (a) a base levy; plus
 - (b) a colony levy.
- (2) The base levy for each beekeeper is a fixed amount.
- (3) The colony levy for each beekeeper is the sum of the number of bee colonies owned by the beekeeper, as at 31 March of the previous levy year, multiplied by a fixed amount.
- (4) *[Revoked]*

Clause 7(1)(b): replaced, on 16 April 2020, by clause 7(1) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 7(3): replaced, on 16 April 2020, by clause 7(2) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 7(3): amended, on 10 July 2020, by clause 4 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

Clause 7(4): revoked, on 16 April 2020, by clause 7(3) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

8 Maximum rate of levy

The maximum rate of the levy (excluding goods and services tax) is—

- (a) \$40 per beekeeper for the base levy; plus
- (b) \$2.55 per bee colony.

Clause 8(a): amended, on 16 April 2020, by clause 8(1) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 8(b): replaced, on 16 April 2020, by clause 8(2) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

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 for a levy year after consulting with beekeepers under clause 16.

Clause 10: replaced, on 16 April 2020, by clause 9 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

11 Rate if no rate fixed before beginning of levy year

If the management agency does not fix the actual rate of levy before 20 January of the previous levy year, the levy for that year is payable at the rate last fixed under clause 10.

Clause 11: amended, on 10 July 2020, by clause 5 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

12 Notification of levy rate

- (1) The management agency must notify the rate of levy for a levy year on or before 20 January of the previous levy year.
- (2) The management agency must notify the rate—
 - (a) on the agency’s Internet site; and
 - (b) by notice in *The New Zealand Beekeeper*; and
 - (c) by notice in the *Gazette*.
- (2A) The management agency may also notify the rate of levy in the newsletters of groups or associations of hobby and commercial beekeepers that are known to the agency.
- (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*.

Clause 12(1): replaced, on 16 April 2020, by clause 11 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 12(1): amended, on 10 July 2020, by clause 6 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

Clause 12(2): replaced, on 16 April 2020, by clause 11 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 12(2A): inserted, on 16 April 2020, by clause 11 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

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 of that levy year; and
- (b) the management agency must send an account, not less than 28 days before that 1 June, to each beekeeper.

Clause 13: replaced, on 16 April 2020, by clause 12 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Clause 13(a): amended, on 10 July 2020, by clause 7 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

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 (including 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 American Foulbrood Pest Management Plan.

Clause 15: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

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; and
- (c) it must send to every group or association of hobby and commercial beekeepers known to it a copy of the proposed budget.

Miscellaneous

17 Management agency must keep 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.

Clause 17 heading: replaced, on 1 June 2020, by clause 13 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

17A Beekeepers must keep records

- (1) A beekeeper must, for each levy year, keep the following records:
 - (a) a record of the number of bee colonies owned by the beekeeper on 31 March;
 - (b) if ownership of a bee colony is transferred to or from the beekeeper, a record of—
 - (i) the date of the transfer; and
 - (ii) the name and address of the person to or from whom the colony was transferred;
 - (c) a copy of any declaration about bee products intended for export that the beekeeper makes to comply with export requirements specified under section 60 of the Animal Products Act 1999.
- (2) A beekeeper must keep the records for 2 years.
- (3) A beekeeper must provide the management agency with any of the records it requests as soon as practicable after receiving the request.

Clause 17A: inserted, on 1 June 2020, by clause 14 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

17B Beekeepers must file returns on request

- (1) The management agency may, in a levy year, request in writing that a beekeeper file a return setting out the number of bee colonies owned by the beekeeper on 31 March of that levy year.

- (2) The beekeeper must—
- (a) file the return as soon as practicable after receiving the request; and
 - (b) file the return in the form (if any) provided to the beekeeper by the management agency; and
 - (c) include the beekeeper’s name and contact details in the return.

Clause 17B: inserted, on 1 June 2020, by clause 14 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

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 100P of the Act must be remunerated by the management agency at a rate determined by the Minister after consultation with the management agency.

Clause 19: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

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 Schedule 1 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 Schedule 2 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.

Schedule 1

Transitional, savings, and related provisions

cl 3A

Schedule 1: inserted, on 16 April 2020, by clause 15 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Part 1

Provisions relating to Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020

Schedule 1 Part 1: inserted, on 16 April 2020, by clause 15 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

1 Levy rate for levy year ending on 31 May 2021

- (1) The rate of levy for the levy year ending on 31 May 2021 is—
 - (a) \$40 per beekeeper for the base levy; plus
 - (b) \$1.35 per bee colony for the colony levy.
- (2) The rate of levy fixed by this clause applies instead of any rate fixed for the same levy year before this clause came into force.

Schedule 1 clause 1: inserted, on 16 April 2020, by clause 15 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Schedule 1 clause 1 heading: amended, on 10 July 2020, by clause 8(1) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

Schedule 1 clause 1(1): amended, on 10 July 2020, by clause 8(2) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

2 How clauses 11 and 12 apply to levy rate fixed by clause 1 of this schedule

The rate of levy fixed by clause 1 of this schedule—

- (a) must, for the purposes of clause 11, be treated as if it were fixed under clause 10; and
- (b) does not need to be notified under clause 12.

Schedule 1 clause 2: inserted, on 16 April 2020, by clause 15 of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43).

Part 2

Provision relating to Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020

Schedule 1 Part 2: inserted, on 10 July 2020, by clause 8(3) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

3 Payment of levy for levy year ending on 31 May 2021

- (1) In this clause, **relevant levy** means the levy calculated on the basis of the number of bee colonies owned by a beekeeper on 31 March 2020.
- (2) A beekeeper is to be treated as having paid the levy for the levy year ending on 31 May 2021 if they—
 - (a) paid the relevant levy by the close of 9 July 2020; or
 - (b) pay the relevant levy in accordance with subclause (3).
- (3) If a beekeeper has not paid the relevant levy by the close of 9 July 2020,—
 - (a) the management agency must, no later than 24 July 2020, send an account for the levy to the beekeeper; and
 - (b) the beekeeper must pay the levy in a lump sum no later than 10 working days after receiving the account.

Schedule 1 clause 3: inserted, on 10 July 2020, by clause 8(3) of the Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155).

Diane Morcom,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Biosecurity (American Foulbrood—Beekeeper Levy) Order 2003 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order (No 2) 2020 (LI 2020/155)

Biosecurity (American Foulbrood—Beekeeper Levy) Amendment Order 2020 (LI 2020/43)

Biosecurity Law Reform Act 2012 (2012 No 73): section 93

Subordinate Legislation (Confirmation and Validation) Act 2004 (2004 No 110): section 8(a)