

Reprint
as at 12 December 2020



**Biosecurity (Readiness and Response—Meat Levy) Order
2019**
(LI 2019/323)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 16th day of December 2019

Present:

Her Excellency the Governor-General in Council

This order is made under section 100ZB of the Biosecurity Act 1993—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Biosecurity made after being satisfied of the matter described in section 100ZB(6) of that Act.

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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 (Readiness and Response—Meat Levy) Order 2019.

2 Commencement

This order comes into force on 1 March 2020.

Order: confirmed, on 12 December 2020, by section 8(f) of the Subordinate Legislation Confirmation Act 2020 (2020 No 66).

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Biosecurity Act 1993

agreement—

- (a) means the deed; and
- (b) includes any operational agreement of the kind referred to in section 100Z(3) of the Act that is made between—
 - (i) the Director-General; and
 - (ii) BLNZ

beef cattle means cattle that are not dairy cattle

BLNZ means the company that is known on the commencement of this order as Beef + Lamb New Zealand Limited

cattle means any animals of the Bovidae family

collection agent means a person operating commercial slaughter premises

commercial slaughter premises means the premises of an animal product business within the meaning of the Animal Products Act 1999 in which live-stock 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

dairy cattle has the meaning given in clause 3 of the Biosecurity (Bovine Tuberculosis—Cattle and Deer Levy) Order 2016

deed—

- (a) means the Government Industry Agreement for Biosecurity Readiness and Response deed signed by BLNZ on 5 December 2018 (as may be revised or amended from time to time); and
- (b) includes a deed of the kind described in section 100Z(2) of the Act that replaces the deed referred to in paragraph (a)

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

levy means the levy imposed by clause 4

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

levy rate means the levy rate set under clause 9 or the levy rate varied under clause 10

levy year means,—

- (a) for the first levy year, the period that begins on 1 March 2020 and ends on 30 September 2020; and
- (b) for every subsequent levy year, the period of 12 months that begins on 1 October and ends on 30 September

livestock means any of the following:

- (a) cattle (not including bobby calves);
- (b) sheep

livestock farmer means a person who—

- (a) owns livestock; and
- (b) is in the business of farming livestock, whether or not in conjunction with another business

meat means beef or sheepmeat intended for human consumption

readiness activity has the meaning given in section 100Y(2) of the Act

response activity has the meaning given in section 100Y(3) of the Act

sheepmeat means meat derived from sheep.

4 Levy imposed

- (1) A levy is imposed on livestock slaughtered on commercial slaughter premises.
- (2) The levy must be paid to BLNZ.

5 How levy may be spent

- (1) BLNZ must spend all levy money paid to it to meet its commitments to readiness and response activities under the agreement.
- (2) BLNZ may invest levy money until it is spent.

Determining levy

6 Basis for calculating levy

BLNZ must calculate the levy on the basis of the number of livestock (per head) slaughtered at commercial slaughter premises.

7 Different levy rates apply

Different levy rates apply to—

- (a) sheep; and
- (b) dairy cattle; and
- (c) beef cattle.

8 Maximum levy rates

- (1) The maximum levy rates are—
 - (a) 0.05 cents per head for sheep slaughtered; and
 - (b) \$2.00 per head for dairy cattle slaughtered; and
 - (c) \$2.00 per head for beef cattle slaughtered.
- (2) The maximum levy rates are exclusive of GST.

9 Rates of levy payable

- (1) The levy rates for the first levy year are—
 - (a) \$0.00 per head for sheep slaughtered; and

- (b) \$0.00 per head for dairy cattle slaughtered; and
 - (c) \$1.80 per head for beef cattle slaughtered.
- (2) For each subsequent year, BLNZ must set the levy rates before the start of the levy year in accordance with its constitution and after consulting livestock farmers.
 - (3) If BLNZ does not set the levy rates before the start of a levy year, the levy for that year is the rate most recently set under this clause.
 - (4) The rates may be varied under clause 10.

10 Power to vary levy rates for response activity

- (1) BLNZ may vary a levy rate with the approval of its board if, under the agreement, BLNZ is required to contribute to the costs of a response activity.
- (2) When varying a levy rate under this clause, BLNZ must set a starting date for the varied rate that is after the date on which BLNZ gives notice under clause 11.

11 Notification

- (1) BLNZ must notify a levy rate and its starting date set under clause 9 or a varied rate and its starting date set under clause 10.
- (2) The earliest date that the levy rate or varied rate may come into effect is on the day after BLNZ notifies the new rate.
- (3) BLNZ must notify the levy rate or varied rate by publishing it—
 - (a) in the *Gazette*; and
 - (b) in a major rural publication; and
 - (c) by email or post to all livestock farmers and collection agents known to BLNZ; and
 - (d) on BLNZ's website.
- (4) Notification under subclause (3)(c) is treated as occurring at the time the notice would have been delivered in the ordinary course of post or at the time of transmission of the email, whichever is earlier.

Paying levy

12 Livestock farmers responsible for paying levy

- (1) Livestock farmers are responsible for paying the levy.
- (2) No livestock farmer is exempt from paying the levy.

13 Collection agents responsible for collecting levy

- (1) A collection agent is responsible for collecting the levy and paying it to BLNZ.
- (2) A collection agent may recover the levy from a livestock farmer,—

- (a) if the collection agent purchases the livestock from the farmer, by deducting the amount of the levy from the payment made to the livestock farmer for the livestock (including any GST payable); or
 - (b) if the collection agent slaughters the livestock on the farmer's behalf, by recovering the amount of the levy as a debt due from the livestock farmer (including any GST payable).
- (3) A collection agent must inform the livestock farmer of the amount of levy deducted under this order.
 - (4) A collection agent must hold levy money on trust in separate accounts in accordance with section 100ZE of the Act.

14 When levy payable

- (1) A collection agent must pay the levy to BLNZ or to the Director-General on the date on which the livestock is slaughtered at commercial slaughter premises.
- (2) The latest date for payment of the levy is 18 days after a demand is made by BLNZ or any longer period that BLNZ allows.

15 Penalty for late payment

- (1) If a livestock farmer or a collection agent does not pay an amount of levy money (or GST payable on that amount) by the latest date for payment, they must pay BLNZ—
 - (a) an additional levy of 10% of the amount of the unpaid levy money; and
 - (b) for each whole month that the amount (or part of the amount) remains unpaid after the latest date for payment, a further 2% of the unpaid amount.
- (2) BLNZ may waive, in whole or in part, the payment of an additional levy for late payment if BLNZ considers that the default arose because of exceptional circumstances beyond the control of the collection agent.

16 Collection fees

- (1) A collection agent may charge BLNZ—
 - (a) a fee of not more than 0.25% of the levy payable (exclusive of GST); and
 - (b) the GST payable on that fee before the levy is paid to BLNZ.
- (2)

17 Conscientious objectors

- (1) A livestock farmer or a collection agent who objects on conscientious or religious grounds to paying the levy in the manner provided for by this order may pay the levy to the Director-General.

- (2) The Director-General must pay the amount to BLNZ.

Records that must be kept

18 Livestock farmers must keep records

- (1) A livestock farmer must keep records, for each levy year, of the number of livestock sent to a commercial slaughter premises for slaughter and the dates on which they were sent.
- (2) Each livestock farmer must—
- (a) keep the records for 2 years after the levy year to which the records relate; and
 - (b) provide BLNZ with a copy of those records as soon as is reasonably practicable after receiving a written request from BLNZ.

19 Collection agents must keep records

- (1) A collection agent must keep records of the following for each levy year:
- (a) the name, contact details, and GST numbers of each livestock farmer from whom the collection agent collects or recovers levy money; and
 - (b) for each livestock farmer, the number of livestock slaughtered in each species and class within species, and the date of the slaughter; and
 - (c) the amount of levy paid to the Director-General or BLNZ and the date of payment.
- (2) Each collection agent must—
- (a) keep the records for 2 years after the levy year to which the records relate; and
 - (b) provide BLNZ with a copy of those records as soon as is reasonably practicable after receiving a written request from BLNZ.

20 BLNZ must keep records

- (1) BLNZ must keep records of the following for each levy year:
- (a) each amount of levy money paid to it and the date of payment; and
 - (b) the name and contact details of every person from whom BLNZ received levy money; and
 - (c) how the levy money was spent or invested.
- (2) BLNZ must keep the records for 5 years after the levy year to which the records relate.

21 Confidentiality of information

- (1) This clause applies to information obtained—
- (a) under or because of this order; or

- (b) under the Act in relation to this order.
- (2) A person must not disclose information to anyone other than an officer or employee of BLNZ unless the disclosure is—
 - (a) the giving of evidence in any legal proceedings taken in relation to this order; or
 - (b) required by law; or
 - (c) the production of records or accounts under section 100ZG of the Act.
- (3) BLNZ may disclose information—
 - (a) for statistical or research purposes that do not involve the disclosure of personal information; or
 - (b) for the purpose of invoicing or collecting the levy; or
 - (c) for communicating with and supporting a levy-paying livestock farmer, provided the information relates only to that farmer; or
 - (d) if every identifiable person to whom the information relates consents; or
 - (e) as required by law.

22 Remunerating auditor

- (1) An auditor appointed under section 100ZF of the Act is entitled to receive remuneration (as provided for under section 100ZF(8) of the Act) for the auditor's fees and allowances.
- (2) The fees and allowances are payable by BLNZ at a rate agreed by the Minister and BLNZ.

Arbitration in case of dispute

23 Appointing arbitrator

- (1) This clause applies to a dispute about—
 - (a) whether any person is required to pay the levy; or
 - (b) the amount of the 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.

24 Application of Arbitration Act 1996 to dispute

- (1) Subject to clause 26, 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.
- (2) However, the provisions of this order prevail if there is any inconsistency between those provisions and the provisions of the Arbitration Act 1996.

25 Paying 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.

26 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the arbitrator's decision may appeal to the District Court against the decision.
- (2) The appeal must be brought by filing a notice of appeal—
 - (a) within 28 days after the making of the decision concerned; or
 - (b) within any longer time that the District Court Judge allows.
- (3) The Registrar of the court must—
 - (a) fix the time and place for the hearing of the appeal; and
 - (b) notify the appellant and the other parties to the dispute; and
 - (c) 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.

Michael Webster,
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 March 2020, imposes a levy on beef and sheepmeat. Livestock farmers are responsible for paying the levy.

Beef + Lamb New Zealand (**BLNZ**) is the meat industry sector organisation under Part 5A of the Biosecurity Act 1993 (the **Act**). Part 5A concerns agreements between

government and industry organisations to deal with unwanted organisms, including agreements for jointly funding the costs of readiness and response activities.

BLNZ must spend the levy money to meet its commitments in contributing to the costs of readiness and response activities under the Government Industry Agreement for Biosecurity Readiness and Response deed signed by BLNZ on 5 December 2018 and any operational agreement of the kind referred to in Part 5A of the Act that is made between the Director-General and BLNZ.

Clause 9 sets a zero levy rate for sheep and dairy cattle slaughtered, and the rate of \$1.80 per head for beef cattle slaughtered. These rates may be varied under *clause 10* if BLNZ is required to contribute to a response activity.

This order is a confirmable instrument under section 47B of the Legislation Act 2012. It is revoked at the close of 31 December 2020, unless earlier confirmed by an Act of Parliament. That stated time is the applicable deadline under section 47C(1)(b) of that Act.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 19 December 2019.

Reprints notes

1 *General*

This is a reprint of the Biosecurity (Readiness and Response—Meat Levy) Order 2019 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*

Subordinate Legislation Confirmation Act 2020 (2020 No 66): section 8(f)