

Version
as at 13 May 2025



Commodity Levies (Onions) Order 2019 (LI 2019/43)

Commodity Levies (Onions) Order 2019: revoked, on the close of 12 May 2025, pursuant to section 13(1) of the Commodity Levies Act 1990 (1990 No 127).

Patsy Reddy, Governor-General

Order in Council

At Wellington this 25th day of February 2019

Present:

Her Excellency the Governor-General in Council

This order is made under section 4 of the Commodity Levies Act 1990—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Agriculture made in accordance with sections 5 and 6 of that Act.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This order is administered by the Ministry for Primary Industries.

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Order

1 Title

This order is the Commodity Levies (Onions) Order 2019.

2 Commencement

This order comes into force on 13 May 2019.

Order: confirmed, on 20 December 2019, by section 12(i) of the Subordinate Legislation Confirmation Act 2019 (2019 No 82).

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Commodity Levies Act 1990

collection agent means a person whose business is or includes—

- (a) buying onions for resale, processing in New Zealand, or export:
- (b) selling, processing, or exporting onions on behalf of a grower

grower means a person whose business is or includes the commercial production of onions

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 money paid or payable under this order as a levy

levy year means,—

- (a) for the first levy year, the period starting on 13 May 2019 and ending on 30 June 2020:
- (b) for the last levy year, the period starting on 1 July 2024 and ending on 12 May 2025:
- (c) in every other case, a 1-year period starting on 1 July and ending on 30 June

mediator means—

- (a) a person appointed under clause 25; and
- (b) for a particular dispute, a mediator appointed to resolve the dispute

onions means the bulb of the onion plant *Allium cepa* (excluding the bulb of the shallot plant *Allium cepa* var *aggregatum*) grown in New Zealand for the domestic fresh market, processing, or export

ONZ means Onions New Zealand Incorporated

process, in relation to onions, means to perform any chemical or mechanical process.

Levy imposed

4 Levy on onions

- (1) This order imposes a levy on onions grown by a grower.
- (2) The levy must be paid to ONZ.

Paying levy

5 Growers primarily responsible for paying levy

- (1) Growers are primarily responsible for paying the levy.
- (2) No grower is exempt from paying the levy.

6 Collection agent must pay levy and recover it from growers

- (1) A collection agent must, at the first point of sale, pay the levy, and any GST payable on it, if the collection agent—
 - (a) buys onions from a grower for resale, processing, or export; or
 - (b) sells, processes, or exports onions on behalf of a grower.
- (2) A collection agent may recover the levy (and any GST payable on it) from a grower—
 - (a) by deducting the amount of the levy (and any GST payable on it) from the payment made to the grower; or
 - (b) by recovering the amount of the levy (and any GST paid in respect of it) as a debt due from the grower.
- (3) A collection agent must disclose to a grower the amount of levy money deducted under this order.
- (4) A collection agent who pays the levy to ONZ may deduct from the levy a collection fee of not more than 4% of the amount of levy collected (exclusive of GST) plus the GST payable on the fee.

7 Conscientious objectors

- (1) A grower or collection agent who objects on conscientious or religious grounds to paying an amount of levy in the manner provided for in this order may pay the amount to the Director-General of the Ministry for Primary Industries.
- (2) The Director-General must pay the amount to ONZ.

8 When levy payable by growers

- (1) If onions are sold directly to the public by growers, or processed by growers, or exported by growers, the due date for payment of the levy by growers is 30 November.
- (2) The levy payable by growers is to be paid annually for the preceding 12 months ending at the close of 30 June.
- (3) The last date for payment of the levy by growers is 20 December in the same calendar year.

9 When levy payable by collection agents

- (1) The due date for payment of the levy by a collection agent is the date on which the collection agent recovers the levy from the grower.
- (2) The last date for payment of the levy by the collection agent is the 20th day of the month after the month in which the levy is recovered from the grower.

10 Additional levy if levy not paid in time

- (1) If any amount of the levy (or GST payable on that amount) has not been paid by the close of the last day for payment, 5% of the amount of the levy not paid at the end of the first month must be paid to ONZ, in addition to the amount otherwise payable.
- (2) A further 2% of the amount owing (including any previous penalties) is payable at the end of each additional month in which the amount remains unpaid.

Setting levy rate

11 Basis for calculation of levy

The levy payable must be calculated on the basis of the weight of onions—

- (a) at the first point of sale, if the onions are sold by a grower or by a collection agent on the grower's behalf; or
- (b) before processing, if the onions are processed by a grower or by a collection agent on the grower's behalf; or
- (c) at the point of export, if the onions are exported by a grower or by a collection agent on the grower's behalf.

12 Levy must be paid at single rate

The levy must be paid at a single rate.

13 Maximum levy rate

- (1) The maximum rate of levy for onions is—
 - (a) \$4 per metric tonne; and
 - (b) in the case of a part metric tonne, \$4 pro-rated in proportion to the part metric tonne.

- (2) The maximum rate of levy is exclusive of GST.

14 Fixing of levy rate

- (1) For the first levy year, the levy on onions is \$2.50 per metric tonne plus GST.
- (2) For each subsequent levy year, the levy rate must be set by a vote at ONZ's annual general meeting.
- (3) If a levy rate is not set under subclause (2) before the beginning of a levy year, the levy for that year is payable at the rate last set under this clause.

15 Notifying levy rate

- (1) If any levy rate set under clause 14 differs from the levy rate applying in the previous year, ONZ must, as soon as practicable after setting the rate, notify the new levy rate—
- (a) in the *NZGrower*; and
 - (b) in the ONZ email newsletter; and
 - (c) by direct mail to all growers and collection agents known to ONZ; and
 - (d) in the *Gazette*.
- (2) If the *NZGrower* 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 that the Minister of Agriculture specifies for the purposes of this order by notice in the *Gazette*.

Spending levy money

16 ONZ must spend levy money

ONZ must—

- (a) spend all the levy money paid to it; and
- (b) invest all levy money until it is spent.

17 Purposes for which levy money may be spent

- (1) ONZ may spend levy money for any or all of the following purposes relating to onions:
- (a) research and development:
 - (b) market access and intelligence:
 - (c) communication:
 - (d) domestic promotion:
 - (e) grower representation:
 - (f) biosecurity activities:
 - (g) day-to-day administration of ONZ.

- (2) ONZ must not spend levy money on commercial or trading activities.

18 Consultation on spending levy money

Each levy year, ONZ must consult on how to spend levy money by consulting growers at ONZ's annual general meeting.

Returns, records, and confidentiality

19 Returns

- (1) A payment of levy money to ONZ by a grower or collection agent must be accompanied by a written return that states—
- (a) the weight of the onions to which the payment relates; and
 - (b) the name of the grower of the onions and the grower's contact details.
- (2) ONZ may request, in writing, from a grower or collection agent, any information that is required for determining the amount of levy payable and that is kept in accordance with clause 20 or 21, as applicable.
- (3) As soon as is reasonably practicable after receiving a request under subclause (2), a grower or collection agent must supply ONZ with a written return of the information requested.

20 Growers must keep records

- (1) A grower who pays levies directly to ONZ must keep records of—
- (a) the amount of the levy paid; and
 - (b) the weight of the onions sold, processed, or exported.
- (2) A grower whose levies are paid by a collection agent must keep a record of the name and address of the collection agent.

21 Collection agents must keep records

Collection agents must keep records of—

- (a) the amount of the levy paid; and
- (b) the weight of the onions bought from each grower; and
- (c) the name and address of the grower.

22 ONZ must keep records

ONZ must, each levy year, keep records of—

- (a) the amount of every levy paid to it; and
- (b) the date on which the levy was received; and
- (c) the person who paid the levy; and
- (d) how (if at all) amounts of levy money were invested; and
- (e) how and when amounts of levy were spent.

23 Records must be kept for 2 years

The records kept in accordance with clauses 20 to 22 must be kept for at least 2 years from the date of payment of the levy to which they relate.

24 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 ONZ 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 17(1) of the Act; or
 - (d) the production of any statement under section 25 of the Act.
- (3) ONZ may disclose information—
 - (a) for statistical or research purposes that do not require the disclosure of personal information; or
 - (b) for the purpose of invoicing or collecting the levy; or
 - (c) if every identifiable person to whom the information relates consents; or
 - (d) as required by law.

*Dispute resolution***25 Appointing mediators**

- (1) This clause applies to a dispute concerning—
 - (a) whether any person is required to pay the levy; or
 - (b) the amount of levy payable.
- (2) A party to the dispute may ask the President of the Arbitrators and Mediators Institute of New Zealand Incorporated to appoint a person to resolve the dispute by mediation.
- (3) If asked, the President, or a person authorised by the President, may appoint a person to resolve the dispute by mediation.
- (4) 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 32.

26 Remunerating mediators

- (1) A mediator must be paid remuneration (by way of fees and allowances) as agreed by the parties to the dispute.
- (2) If the parties to a dispute cannot agree on a mediator's remuneration, the President of the Arbitrators and Mediators Institute of New Zealand Incorporated, or a person authorised by the President, 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 must pay.
- (3) Each party must pay to the mediator the amount or amounts fixed and specified under subclause (2).

27 Conferences under control of mediator

A mediator must—

- (a) organise the date, time, and place for each conference to be held by the mediator; and
- (b) notify the parties by post or email; and
- (c) preside at the conference.

28 Conferences must be held in private

Unless clause 29 applies, only the parties to a dispute may attend a conference with the mediator.

29 Representatives

A mediator may allow a representative of a party to a dispute to attend a conference with the mediator if the mediator is satisfied that it is appropriate to do so in all the circumstances.

30 Right to be heard

Each person who attends a conference may be heard at the conference.

31 Evidence

- (1) A mediator may hear and take into account any relevant evidence or information, whether or not it would normally be admissible in a court of law.
- (2) A mediator may, on the mediator's own initiative,—
 - (a) seek and receive any evidence that the mediator thinks desirable to resolve the dispute; and
 - (b) make any investigations and inquiries that the mediator thinks desirable to resolve the 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.

32 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) A mediator who resolves a dispute under subclause (1) must give each of the parties written notice of the mediator's decision and the reasons for that decision.
- (3) The parties must comply with the mediator's decision.

33 Mediation costs

Each party must pay its own costs in relation to the mediation.

34 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the mediator's decision under clause 32 may appeal to the District Court against the decision.
- (2) The appeal must be brought by the filing of a notice of appeal—
 - (a) within 28 days of the making of the decision concerned; or
 - (b) 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
 - (b) notify the appellant and the other parties to the dispute; and
 - (c) serve a copy of the notice of appeal on every other party to the dispute.
- (4) Every party to the dispute may appear and be heard at the hearing of the appeal.
- (5) The District Court may confirm, vary, or reverse the mediator's decision.
- (6) The filing of a notice of appeal does not operate as a stay of any process for the enforcement of the mediator's decision.

*Compliance audits***35 Remuneration of persons conducting compliance audit**

ONZ must remunerate a person appointed as an auditor under section 15 of the Act at a rate determined by the Minister of Agriculture after consultation with ONZ.

Revocation

36 Order revoked

The Commodity Levies (Onions) Order 2013 (SR 2013/141) is revoked.

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 13 May 2019, imposes a levy on onions grown in New Zealand for processing, the domestic fresh market, or export. Onion growers are primarily responsible for payment of the levy. However, in some circumstances, collection agents are responsible for the payment of the levy on behalf of growers. The levy is payable to Onions New Zealand Incorporated.

This order replaces the Commodity Levies (Onions) Order 2013, which expires at the close of 12 May 2019.

The following changes are included in this order:

- the first levy year starts on 13 May 2019 and ends on 30 June 2020:
- the last levy year starts on 1 July 2024 and ends on 12 May 2025:
- other levy years start on 1 July and end on 30 June:
- the levy rate for the first levy year is \$2.50 per metric tonne plus GST (and for other levy years will be set by a vote at Onions New Zealand Incorporated's annual general meeting or the existing rate will continue to apply):
- the additional levy for late payment is reduced from 10% to 5% of the amount outstanding at the end of the first month that the payment is late.

This order is a confirmable instrument under section 47B of the Legislation Act 2012. It is revoked at the close of 30 June 2020, unless earlier confirmed by an Act of Parliament. That stated time is the applicable deadline under section 47C(1)(a) of that Act. If this order is confirmed, it will be revoked on 12 May 2025 (the day before the sixth anniversary of the date on which it came into force), unless it is extended under section 13(2) of the Commodity Levies Act 1990.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 28 February 2019.

Notes

1 *General*

This is a consolidation of the Commodity Levies (Onions) Order 2019 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Subordinate Legislation Confirmation Act 2019 (2019 No 82): section 12(i)
Commodity Levies Act 1990 (1990 No 127): section 13(1)