Version
as at 23 December 2023

Commodity Levies (Eggs) Order 2022

(SL 2022/228)

Cindy Kiro, Governor-General

Order in Council

At Wellington this 8th day of August 2022

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 after meeting the requirements of 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 (Eggs) Order 2022.

2 Commencement

This order comes into force on 19 September 2022.

Order: confirmed, on 23 December 2023, by section 8(a) of the Secondary Legislation Confirmation Act 2023 (2023 No 67).

3 Interpretation

In this order, unless the context otherwise requires,—

chick means a chicken, of a kind usually kept primarily for the production of eggs (rather than the production of poultry meat), that is less than 5 days old when sold for the first time

chicken means a member of the species *Gallus domesticus*

eggs means the commodity specified in clause 4(1)

Federation means the body known on the commencement of this order as the Egg Producers Federation of New Zealand Incorporated

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

hatchery means a person who produces chicks for sale

industry means the business of producing eggs in New Zealand for sale

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 that begins on 1 January and ends on 31 December; and

(b) includes the period that begins on the commencement of this order and ends on 31 December 2022

mediator—

(a) means a person appointed under clause 24(2); and

(b) in relation to a dispute, means a mediator appointed to resolve the dispute

producer means a person who, in a levy year,—

(a) buys more than 100 chicks; and

(b) does one or both of the following:

(i) produces eggs for sale:

(ii) rears chicks for the purpose of supplying them to persons who produce eggs for sale.

Imposition and payment of levy

4 Levy imposed

(1) A levy is imposed on chicken eggs produced in New Zealand for sale.

(2) The levy is payable to the Federation.

Responsibility for payment of levy

5 Producers to pay levy

A producer who buys chicks is primarily responsible for paying the levy.

6 Hatcheries to pay levy and recover it from producers

(1) A hatchery who sells chicks to a producer—

(a) must pay the levy payable on their sale; and

(b) may recover the levy (and any GST paid in respect of it) from the producer by including it in the price payable for the chicks.

(2) However, a hatchery is not required to pay the levy (or part of the levy) if—

(a) the hatchery has taken all reasonable measures to recover the levy (or part of the levy) from a producer; and

(b) the hatchery has been unsuccessful in recovering the levy (or part of the levy) from the producer because the producer is bankrupt or otherwise incapable of paying.

(3) A hatchery must not charge a collection fee for paying and recovering the levy.

Determination of levy by Federation

7 Basis of calculation of levy

The levy is to be calculated on the basis of the number of chicks sold to producers by hatcheries.

8 Hatcheries to provide chick sales figures

(1) A hatchery must provide monthly chick sales figures to the Federation.

(2) The sales figures must accompany the levy payments.

9 Levy to be paid at single rate

The levy is to be paid at a single rate.

10 Maximum rate of levy

The maximum rate of the levy is 50 cents per chick, exclusive of GST.

11 Federation to fix actual rate of levy

(1) For the levy year that begins on 19 September 2022, the actual rate of levy is either—

(a) 36 cents per chick exclusive of GST; or

(b) a different rate fixed by the Federation in accordance with its rules, before the start of that levy year.

(2) For subsequent levy years, the Federation must fix the actual rate of the levy at the annual general meeting of the Federation in accordance with its rules.

12 Rate if no rate fixed before beginning of levy year

If the Federation does not fix the actual rate of levy before 1 December in the year before 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 under clause 11, the Federation must notify it—

(a) in the *Gazette*; and

(b) in a Federation newsletter or in any other publication or document that is sent to all levy payers and hatcheries known to the Federation.

Payment levy

14 Levy payable monthly

The levy is to be paid monthly, in respect of each calendar month.

15 When levy payable

(1) The due date for payment of the levy is the date on which the hatchery who produced the chicks sells them to a producer.

(2) The latest day for payment of the levy is the 20th day of the month after the month in which the levy payment is due.

16 Returns

(1) A hatchery must, as soon as is reasonably practicable after the end of each quarterly period, inform the Federation in writing of the names of the producers who have paid the levy in that quarterly period.

(2) In this clause, a **quarterly period**—

(a) is the period that starts on 19 September 2022 and ends with the close of 30 September 2022; and

(b) after 30 September 2022, is a 3-month period that ends with the close of March, June, September, or December in any levy year.

Expenditure of levy money

17 Federation must spend levy money

The Federation must spend or (pending expenditure) invest all levy money paid to it.

18 Purposes for which levy money may be spent

The Federation may spend levy money for any or all of the following purposes:

(a) generic promotion and advertising in relation to eggs, including marketing and public relations:

(b) research and development relating to egg production:

(c) protection and improvement of the health of chickens:

(d) provision of education and information about eggs to producers and consumers:

(e) collation of industry statistics:

(f) development of codes of practice and industry standards:

(g) the day-to-day administration of the Federation:

(h) biosecurity.

19 Consultation on how levy money proposed to be spent

(1) Each levy year, the Federation must consult producers on how it proposes to spend its levy money, by—

(a) notifying producers, by Federation newsletter or any other means, of its general meetings; and

(b) circulating, before its annual general meeting or any other special meeting called to discuss the matter, a draft budget and plan that shows how the money is to be spent; and

(c) discussing the draft budget and plan with members of the Federation at its annual general meeting or any other special meeting called to discuss the draft budget and plan and approving them at the meeting.

(2) Subclause (1) does not apply to the levy year beginning on the commencement of this order.

Record-keeping requirements and confidentiality of information

20 Records

(1) The Federation must, for each levy year, keep records of—

(a) each amount of levy money paid to it and, in relation to each amount,—

(i) the hatcheries who collected the levy; and

(ii) the producers who were liable to pay the levy; and

(b) how levy money paid to it has been invested or spent.

(2) The Federation must retain the records for 2 years after the levy year to which the records relate.

21 Confidentiality of information

(1) No officer or employee of the Federation or any other person who gathers information may disclose (otherwise than to some other officer or employee of the Federation) any information obtained—

(a) under 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 Federation or a hatchery from disclosing or using information—

(a) for statistical or research purposes, if the information is in a form that does not identify any individual; or

(b) for the purposes of invoicing and collecting the levy; or

(c) with the consent of every identifiable person to whom it relates; or

(d) as required by law.

Miscellaneous

22 Conscientious objectors

(1) Any producer or hatchery who objects on conscientious or religious grounds to the manner of recovery by the Federation of an amount of levy money may pay the amount concerned to the Director-General of the Ministry for Primary Industries.

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

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 Federation at a rate determined by the Minister of Agriculture after consultation with the Federation.

Mediation in case of dispute

24 Appointment of mediators

(1) This clause applies to any dispute about—

(a) whether 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 Arbitrators and Mediators Institute of New Zealand Incorporated 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 Arbitrators and Mediators Institute of New Zealand Incorporated (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 such a party allowed by the mediator to attend a conference of the parties to the dispute, 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 a decision made by a mediator under clause 31 may appeal to the District Court against the decision.

(2) The appeal must be brought by the filing of a notice of appeal within 28 days of 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.

Revocation

33 Revocation

The Commodity Levies (Eggs) Order 2016 (LI 2016/210) is revoked.

Rachel Hayward,
Acting 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 19 September 2022, revokes and replaces the Commodity Levies (Eggs) Order 2016.

The order imposes a levy on chicken eggs produced in New Zealand for sale. The levy is payable to the Egg Producers Federation of New Zealand Incorporated. A person who buys more than 100 chicks and either produces eggs for sale or rears chicks for the purpose of supplying them to persons who produce eggs for sale is primarily responsible for paying the levy.

This order must be confirmed by an Act before the close of 31 December 2023. If it is not confirmed, it will be revoked on the close of that date. *See* subpart 3 of Part 5 of the Legislation Act 2019. If the order is confirmed, it will be revoked at the end of 18 September 2028 (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*: 11 August 2022.

Notes

1 General

This is a consolidation of the Commodity Levies (Eggs) Order 2022 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

Secondary Legislation Confirmation Act 2023 (2023 No 67): section 8(a)

Wellington, New Zealand:
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