

Version  
as at 12 April 2022



## Wheat Industry Research Levies Act 1989

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Date of assent      17 August 1989  
Commencement      see section 1(2)

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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 Act is administered by the Ministry of Business, Innovation, and Employment.**

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**An Act to provide money for research into the growing of wheat and the manufacture of wheat into flour, bread, and other products by imposing levies on per-**

**sons and organisations engaged in wheat growing, flourmilling, baking, and related industries**

**1 Short Title and commencement**

- (1) This Act may be cited as the Wheat Industry Research Levies Act 1989.
- (2) This Act shall come into force on 1 September 1989.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**auditor** means a person who is qualified for appointment as auditor of a company under the Companies Act 1993

**Bakers Association** means the New Zealand Association of Bakers Incorporated

**Baking Industry Research Trust Account** means the account established pursuant to section 17(3)

**Committee** means the Wheatgrowing, Flourmilling, and Baking Research Liaison Committee established by section 28

**document** has the meaning given to it by section 2(1) of the Official Information Act 1982

**feed manufacturer** means a person whose business or part of whose business is the processing of grain for the production of stock food

**financial year** means the period of 12 months ending on 30 June

**flour** means flour derived from wheat

**Flourmillers Association** means the New Zealand Flourmillers Association Incorporated

**Flourmilling Industry Research Trust Account** means the account established pursuant to section 17(2)

**grain merchant** means a person whose business or part of whose business is the buying and selling of wheat and who purchases more than 30 tonnes of wheat in any year

**importer** has the meaning given to it by section 5(1) of the Customs and Excise Act 2018

**Industry Association** means—

- (a) United Wheatgrowers:
- (b) the Flourmillers Association:
- (c) the Bakers Association

**Minister** means the Minister of Science and Technology

**purchaser of wheat** means a person (other than a flourmiller, grain merchant, or feed manufacturer) who purchases more than 30 tonnes of wheat in any year

**referendum** means a referendum held pursuant to section 9

**Research Trust Account** means a bank account established pursuant to section 17

**United Wheatgrowers** means United Wheatgrowers (N.Z.) Limited, a company formed and registered under the Companies Act 1933

**Wheatgrowing Industry Research Trust Account** means the account established pursuant to section 17(1)

**working day** means any day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- (ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (b) a day in the period beginning with 25 December in any year and ending with 15 January in the following year.

Compare: 1974 No 5 s 2; 1981 No 106 s 2

Section 2 **auditor**: amended, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 2 **importer**: substituted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 2 **importer**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2 **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section 2 **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

### 3 Act to bind the Crown

This Act binds the Crown.

#### *Wheat industry research levies*

### 4 Levies for research purposes

- (1) Subject to the provisions of this Act, levies calculated in accordance with section 6 are imposed on, and shall be payable by, the following persons:
  - (a) the producers of any wheat grown in New Zealand and sold or delivered to a flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat:
  - (b) persons carrying on business as flourmillers:

- (c) the purchasers or other persons taking delivery of flour or wheatmeal from a flourmill:
  - (d) the purchasers or other persons taking delivery, from any importer of flour or wheatmeal, of flour or wheatmeal imported into New Zealand.
- (2) Where, in respect of any flour or wheatmeal imported into New Zealand, no levy would, apart from this subsection, be payable under subsection (1)(d) because that flour or wheatmeal is imported into New Zealand by an importer for that importer's own use, that importer shall be deemed, for the purposes of this Act, to be a purchaser taking delivery of that flour or wheatmeal from an importer, and the levy imposed by subsection (1)(d) shall be imposed on, and payable by, that importer accordingly.

Compare: 1974 No 5 s 3(1)

## **5 No levy payable where flour or wheatmeal rejected by purchaser**

- (1) No levy shall be payable, under section 4(1)(a), in respect of any wheat that is sold or delivered to any person (being a flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat) if that wheat is subsequently rejected by that person and is returned to, or disposed of (other than by sale) at the direction of, the producer of the wheat.
- (2) No levy shall be payable, under section 4(1)(b) or (c), in respect of any flour or wheatmeal that is delivered by a flourmiller from that flourmiller's flourmill if that flour or wheatmeal is subsequently rejected by the purchaser or other person taking delivery of that flour or wheatmeal from that flourmill and is returned to, or disposed of (other than by sale) at the direction of, that flourmiller.
- (3) No levy shall be payable, under section 4(1)(d), in respect of any flour or wheatmeal imported into New Zealand if that flour or wheatmeal is subsequently rejected by the purchaser or other person taking delivery of that flour or wheatmeal from the importer of that flour or wheatmeal and is returned to, or disposed of (other than by sale) at the direction of, that importer.
- (4) Where any wheat, flour, or wheatmeal is rejected by any person in any of the circumstances specified in subsection (1) or subsection (2) or subsection (3), and that wheat, flour, or wheatmeal is subsequently dealt with in circumstances in which a levy would be payable under section 4, nothing in subsection (1) or subsection (2) or subsection (3) exempts that wheat, flour, or wheatmeal from any levy payable under section 4 in those latter circumstances.

## **6 Determination of rates of levies**

- (1) Subject to subsection (2), the levy imposed by section 4(1)(a) shall be at such rate as may from time to time be determined by United Wheatgrowers.
- (2) No rate of levy shall be determined by United Wheatgrowers under subsection (1) except on the recommendation of the Electoral Committee of that company, and any such recommendation may be made only if it is supported by at least

75% of the persons present and voting at the meeting of the Electoral Committee at which the recommendation is considered.

- (3) Subject to sections 8 and 9, the levy imposed by section 4(1)(b) shall be at such rate as may from time to time be determined by the Flourmillers Association.
- (4) Subject to sections 8 and 9, the levy imposed by section 4(1)(c) shall be at such rate as may from time to time be determined by the Bakers Association.
- (5) Subject to section 9, the levy imposed by section 4(1)(d) shall be at the same rate as is from time to time determined for the purposes of section 4(1)(c).
- (6) Any notice under this section may be in like manner amended or revoked at any time.
- (7) A notice, amendment, or revocation under this section—
  - (a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
  - (b) comes into force on a date specified in it, being not less than 28 days after the notice, amendment, or revocation is published under that Act.

Compare: 1974 No 5 s 3(1)

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 6(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 6(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 7 Computation of levies

The levies imposed by section 4 shall be computed as follows:

- (a) in respect of the levy payable by any producer of wheat, it shall be computed by reference to the quantity of wheat sold or delivered by that producer to any grain merchant, flourmiller, feed manufacturer, or other purchaser of wheat:
- (b) in respect of the levy payable by a flourmiller, it shall be computed by reference to the quantity of flour or wheatmeal delivered by the flourmiller from that flourmiller's flourmill:
- (c) in respect of the levy payable by a purchaser or other person taking delivery of flour or wheatmeal from a flourmill, it shall be computed by reference to the quantity of that flour or wheatmeal:

- (d) in respect of the levy payable by a purchaser or other person taking delivery of flour or wheatmeal imported into New Zealand, it shall be computed by reference to the quantity of that flour or wheatmeal.

Compare: 1974 No 5 s 3(2)

## **8 Maximum rates of levies**

The amount of the levies imposed by section 4 shall not exceed,—

- (a) in the case of a flourmiller, \$4 for every tonne of flour or wheatmeal delivered from the flourmill:
- (b) in the case of a purchaser or other person taking delivery of flour or wheatmeal from a flourmill, \$4 for every tonne of that flour or wheatmeal.

Compare: 1974 No 5 s 3(3); 1983 No 100 s 2(1)

## **9 Referendum on rates of certain levies**

- (1) Where, in accordance with clauses 1 and 2 of the Schedule, any person or persons demand that a referendum be held with respect to the rate of the levy imposed by paragraph (b) or paragraph (c) of subsection (1) of section 4, a referendum shall be held—
  - (a) in the case of the levy imposed by paragraph (b) of that subsection, by the Flourmillers Association:
  - (b) in the case of the levy imposed by paragraph (c) of that subsection, by the Bakers Association.
- (2) Where a referendum is required to be held with respect to the rate of any levy, that referendum shall be held in relation to the rate that is in force in respect of that levy on the date on which the demand for the referendum is made.
- (3) If a referendum rejects the rate of any levy, the following provisions shall apply:
  - (a) the levy shall be deemed to be imposed at the rate of 0 cents for a period of 12 months beginning on the 28th day after the date on which the result of the referendum is published in the *Gazette*, and no amendment made to the rate of the levy (whether made before or after that date) shall come into force until the expiry of that period:
  - (b) no referendum shall be held with respect to that levy before the expiry of the period referred to in paragraph (a):
  - (c) subject to the power conferred by section 6 to alter the rate of the levy at any subsequent time, at the expiry of the period referred to in paragraph (a) the levy shall be imposed at the rate at which that levy was imposed immediately before the commencement of that period unless, before the expiry of that period, a different rate has been determined in accordance with section 6, in which case the levy shall be imposed at the latter rate.

- (4) Where a referendum is held under this Act in respect of any levy, and the rate of that levy is not rejected at that referendum, no demand for a referendum in respect of that levy shall be made before the expiry of the period of 12 months beginning on the date on which the demand for the first-mentioned referendum was made, unless the rate of that levy is increased during that period.
- (5) The provisions of the Schedule shall apply with respect to the holding of a referendum.

## **10 Notification of rates of levies**

*[Repealed]*

Section 10: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **11 Recovery of levies**

All levies imposed by section 4 shall be recoverable in any court of competent jurisdiction as a debt due,—

- (a) in the case of the levy imposed by section 4(1)(a), to United Wheatgrowers:
- (b) in the case of the levy imposed by section 4(1)(b), to the Flourmillers Association:
- (c) in the case of the levies imposed by paragraphs (c) and (d) of section 4(1), to the Bakers Association.

Compare: 1974 No 5 s 4(1)

## **12 Collection of levies**

- (1) Every person (being a flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat) who buys from a producer any wheat in respect of which a levy is payable under section 4(1)(a) shall, when making payment to the producer for the wheat, deduct from that payment the levy payable in respect of that wheat by the producer, and shall from time to time, as required by United Wheatgrowers, pay the proceeds of the levy into the Wheatgrowing Industry Research Trust Account.
- (2) The amount of any levy payable under section 4(1)(c) by a purchaser or other person taking delivery of any flour or wheatmeal from a flourmill may be recoverable in the first place from the flourmiller.
- (3) The amount of any levy payable under section 4(1)(d) by a purchaser or other person taking delivery of any flour or wheatmeal imported into New Zealand may be recoverable in the first place from the importer of that flour or wheatmeal into New Zealand.
- (4) On payment, by a flourmiller or an importer, of the amount of any levy on behalf of any other person, that flourmiller or importer shall be entitled to recover the amount of that levy from the person on whose behalf the levy was



so paid, as a debt due to that flourmiller or importer, and may deduct the amount so paid from any money at any time owing by the flourmiller or importer to any such person.

Compare: 1974 No 5 s 4(1)

### **13 Bakers Association may arrange for collection of levy by New Zealand Customs Service**

- (1) The chief executive of the New Zealand Customs Service may from time to time, on behalf of the Crown, enter into an arrangement with the Bakers Association for the collection, by the New Zealand Customs Service, of the levy imposed by section 4(1)(d).
- (2) Any arrangement under subsection (1) may be made on such terms and conditions as may be agreed between the chief executive of the New Zealand Customs Service and the Bakers Association.

Section 13: substituted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

### **14 New Zealand Customs Service to supply Bakers Association with information on imports of flour and wheatmeal**

- (1) The New Zealand Customs Service shall, at the request of the Bakers Association, and on payment by the Bakers Association of such reasonable fee (if any) as the chief executive of the New Zealand Customs Service may determine, supply to the Bakers Association such information relating to the importation into New Zealand of flour and wheatmeal as is held by the New Zealand Customs Service and is necessary to enable the Bakers Association to collect the levy imposed by section 4(1)(d).
- (2) No person shall communicate to any other person, except for the purpose of collecting or recovering the levy imposed by section 4(1)(d) or in respect of any prosecution under this Act or for some other purpose authorised by law, any information relating to the importation into New Zealand of flour or wheatmeal, where that information comes to the knowledge of the first-mentioned person pursuant to subsection (1).
- (3) Nothing in subsection (1) limits or affects the Official Information Act 1982.

Section 14: substituted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

### **15 Liability of producer to cease when levy deducted from purchase price**

Where, pursuant to section 12(1), any flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat deducts, from any payment made to any producer of wheat, the amount of the levy payable, under section 4(1)(a), by that producer in respect of any wheat, that producer shall cease to be liable for the payment of that levy in respect of that wheat, notwithstanding that the flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat—

- (a) fails to account to United Wheatgrowers for that levy; or
- (b) is unable to pay that levy to United Wheatgrowers, whether on account of insolvency or for any other reason.

Compare: 1987 No 197 s 7

## **16 Invoice to be issued**

- (1) Subject to subsection (4), where any person (being a flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat, or an importer of flour or wheatmeal into New Zealand),—
  - (a) pursuant to subsection (1) or subsection (4) of section 12, deducts from any payment made to any other person; or
  - (b) includes, in any account rendered to any other person,—  
the amount of any levy payable, under section 4, by that other person in respect of any wheat, flour, or wheatmeal, the first-mentioned person shall, on making that payment or rendering that account, provide that other person with an invoice containing the particulars specified in subsection (2).
- (2) The following particulars shall be included in every invoice issued pursuant to subsection (1):
  - (a) the name and address of the person issuing the invoice:
  - (b) the name and address of the person to whom the invoice is issued:
  - (c) the date on which the invoice is issued:
  - (d) the quantity of wheat, flour, or wheatmeal to which the payment or account relates:
  - (e) the total amount of the levy deducted from the payment or, as the case may require, included in the account.
- (3) Every person who issues any invoice required to be issued by subsection (1) shall retain a copy of that invoice for a period of not less than 5 years.
- (4) An invoice is not required to be issued under subsection (1) to any person if the information required to be included in any such invoice is included in a goods and services tax invoice supplied to that person by the person who would otherwise be required to issue the invoice.

Compare: 1987 No 197 s 9

## **17 Research Trust Accounts**

- (1) For the purposes of this Act, United Wheatgrowers shall establish at a bank an account to be known as the Wheatgrowing Industry Research Trust Account, and all levies imposed by section 4(1)(a) shall be collected and paid into that account in such manner as United Wheatgrowers may from time to time approve.
- (2) For the purposes of this Act, the Flourmillers Association shall establish at a bank an account to be known as the Flourmilling Industry Research Trust

Account, and all levies imposed by section 4(1)(b) shall be collected and paid into that account in such manner as the Flourmillers Association may from time to time approve.

- (3) For the purposes of this Act, the Bakers Association shall establish at a bank an account to be known as the Baking Industry Research Trust Account, and all levies imposed by section 4(1)(c) or (d) shall be collected and paid into that account in such manner as the Bakers Association may from time to time approve.
- (4) All interest from time to time accruing from the investment of any levies collected pursuant to this Act and paid into a Research Trust Account shall be paid into that account, and section 21 shall apply to that interest as if it were levies collected pursuant to this Act.
- (5) The expenses involved in the administration of a Research Trust Account, including any expenses incurred in connection with the preparation and auditing of the accounts and statements of financial position required by section 25 or the preparation of the reports required by section 26, shall be payable out of the money required by this section to be paid into that account.

Compare: 1974 No 5 s 4(2)

Section 17(5): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

## **18 Investment of levies**

Any money in a Research Trust Account that is not immediately required to be expended pursuant to section 21 may be invested in accordance with the Trusts Act 2019.

Section 18: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

## **19 Collection fees**

- (1) Any person authorised by United Wheatgrowers or the Flourmillers Association or the Bakers Association may deduct from any levies collected pursuant to section 12 by that person a collection fee of such amount (being not less than 2.5%, and not more than 5%, of any levy so collected) as may be agreed between that person and United Wheatgrowers or, as the case may require, the Flourmillers Association or the Bakers Association.
- (2) Where agreement on the amount of the collection fee cannot be reached between an Industry Association and any person who collects levies pursuant to section 12, the amount of the collection fee that may be deducted by that person shall be determined by an arbitrator appointed by agreement between that person and that Association, or, if no agreement can be reached on that appointment, by an arbitrator appointed by the Minister.
- (3) The fees and expenses of any arbitrator appointed pursuant to subsection (2) shall be paid out of the appropriate Research Trust Account.

Compare: 1974 No 5 s 4(3)

**20 Trust in relation to levies**

Notwithstanding any rule of law to the contrary, but subject to section 19, the amount of any levy collected or purported to have been collected by any flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat, or by any importer of flour or wheatmeal into New Zealand, pursuant to section 12(1) or (2) or (3) shall be deemed to be money held in trust for the Industry Association entitled in the particular case to recover the levy pursuant to section 11 by that flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat, or by that importer, as the case may be, until that amount has been paid into the appropriate Research Trust Account pursuant to section 17.

Compare: 1957 No 100 s 3(8A); 1978 No 133 s 2(2)

**21 Expenditure of levies**

- (1) The money received by United Wheatgrowers in respect of the levy imposed by section 4(1)(a) shall be expended by that company for the purpose of promoting and conducting research and other scientific work that, in the opinion of that company, is of benefit, whether directly or indirectly, to the wheat growing industry.
- (2) The money received by the Flourmillers Association in respect of the levy imposed by section 4(1)(b) shall be expended by that Association for the purpose of promoting and conducting research and other scientific work that, in the opinion of that Association, is of benefit, whether directly or indirectly, to the flourmilling industry.
- (3) The money received by the Bakers Association in respect of the levies imposed by section 4(1)(c) and (d) shall be expended by that Association for the purpose of promoting or conducting research and other scientific work that, in the opinion of that Association, is of benefit, whether directly or indirectly, to the baking industry or other flour-using industries, or both.

Compare: 1974 No 5 s 5

**22 Power to inspect documents and obtain information**

- (1) Subject to subsection (3), for the purposes of ensuring that any levy imposed by section 4 is collected, any person (being an auditor) specifically or generally authorised in writing in that behalf by the Minister may, from time to time, at the request of any Industry Association,—
  - (a) require any person (being a flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat, or an importer of flour or wheatmeal into New Zealand) to produce for inspection, within such reasonable period as the authorised person may specify, any document in the possession or under the control of that person, and may take copies of or extracts from any such document:

- (b) require any such person to furnish, within such reasonable period as the authorised person may specify, any information or particulars relevant to the collection of any levy payable under section 4.
- (2) Every authorisation given under subsection (1) shall contain—
  - (a) a reference to this section; and
  - (b) the full name of the authorised person; and
  - (c) a statement of the powers conferred on the authorised person by subsection (1).
- (3) No person shall be required, pursuant to any provision of subsection (1), to produce any document, or to furnish any information or particulars, if the production of that document, or the furnishing of that information or those particulars, as the case may require, would or could tend to incriminate that person, and that person shall be informed of that right before any person exercises the power conferred by any of the provisions of subsection (1) to require the production of any document, or the furnishing of any information or particulars.
- (4) Where, at the request of an Industry Association, any person authorised to do so exercises any of the powers conferred by paragraph (a) or paragraph (b) of subsection (1), the expenses incurred by that person in exercising any such power shall be met out of the appropriate Research Trust Account by that Industry Association.

Compare: 1987 No 197 s 14

### **23 Report on exercise of powers to inspect documents and obtain information**

Where any person authorised to do so exercises any of the powers conferred by paragraph (a) or paragraph (b) of section 22(1), that person shall, as soon as practicable, make a report to the Minister.

Compare: 1987 No 197 s 15

### **24 Disclosure of information obtained pursuant to power to inspect documents and obtain information**

- (1) Except in respect of a prosecution under this Act or an action for the recovery of any amount due under this Act, no person who exercises any of the powers conferred by paragraph (a) or paragraph (b) of section 22(1) shall disclose to any other person (other than the Minister or any person authorised in that behalf by the Minister) any information obtained by that person as a result of the exercise of any such power.
- (2) Notwithstanding anything in subsection (1), the provisions of the Official Information Act 1982 shall apply in respect of any information that is held by the Minister and that was obtained pursuant to section 22(1).

Compare: 1987 No 197 s 16

**25 Auditing of Research Trust Accounts**

- (1) At the end of each financial year, there shall be prepared in respect of each Research Trust Account an income and expenditure account showing the financial transactions relating to the account during that year, together with a statement of financial position as at the last day of the financial year.
- (2) The income and expenditure accounts and statements of financial position required by subsection (1) shall be caused to be prepared as follows:
  - (a) in respect of the Wheatgrowing Industry Research Trust Account, by United Wheatgrowers:
  - (b) in respect of the Flourmilling Industry Research Trust Account, by the Flourmillers Association:
  - (c) in respect of the Baking Industry Research Trust Account, by the Bakers Association.
- (3) As soon as practicable after the end of each financial year, each Industry Association shall submit the income and expenditure account and statement of financial position caused to be prepared for that year under subsection (1) by that Association to an auditor for audit.
- (4) On receiving the auditor's report on the statement of financial position and account prepared under subsection (1), each Industry Association shall send a copy of that report, and of the statement of financial position and account to which it relates, to the Minister.

Section 25(1): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 25(2): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 25(3): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 25(4): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

**26 Report on expenditure of levies**

- (1) There shall be appended to every income and expenditure account prepared under section 25(1) a report, caused to be prepared by the Industry Association responsible for the preparation of that account, indicating, in relation to the Research Trust Account to which the account relates, the purposes for which the money in that Research Trust Account was expended during the financial year to which the income and expenditure account relates.
- (2) Every such report shall—
  - (a) indicate the total amount paid out of the Research Trust Account during that financial year to fund research and other scientific work:
  - (b) in relation to each research project or scientific work so funded,—
    - (i) give details of the nature and purposes of that project or work; and

- (ii) indicate the total amount paid out of the Research Trust Account during that financial year to fund that project or work.

**27 Copies of audited accounts, statements of financial position, and auditor's report to be made available on request**

- (1) A copy of—
  - (a) an auditor's report prepared under section 25(3); and
  - (b) the statement of financial position and account to which the report relates; and
  - (c) the report appended to that account pursuant to section 26—shall be made available, by the Industry Association that is required by section 25 or section 26 to cause that statement of financial position, account, or report to be prepared, to any person who requests such a copy and pays the fee (if any) determined by that Association.
- (2) Any fee charged under subsection (1) for a copy of any report, statement of financial position, or account shall be no more than is reasonably required to recover the costs of making the copy.

Section 27 heading: amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 27(1): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 27(1)(b): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 27(2): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

*Wheatgrowing, Flourmilling, and Baking Research Liaison Committee*

**28 Wheatgrowing, Flourmilling, and Baking Research Liaison Committee**

- (1) For the purposes of this Act there is hereby established a committee to be known as the Wheatgrowing, Flourmilling, and Baking Research Liaison Committee.
- (2) The Committee shall comprise—
  - (a) 2 persons appointed by United Wheatgrowers to represent wheatgrowers:
  - (b) 2 persons appointed by the Flourmillers Association to represent flourmillers:
  - (c) 2 persons appointed by the Bakers Association to represent bakers and related industries.

Compare: 1974 No 5 s 6

**29 Functions of Committee**

The functions of the Committee shall be—

- (a) to receive and consider proposals for research and other scientific work that is, or may be, of benefit, whether directly or indirectly, to the wheat-growing, flourmilling, baking, and other flour-using industries, or any of those industries:
- (b) to be a forum in which the problems of the wheatgrowing, flourmilling, baking, and other flour-using industries, and possible solutions to those problems, can be discussed:
- (c) to consider whether opportunities exist for research and other scientific work that is, or may be, of benefit, whether directly or indirectly, to the wheatgrowing, flourmilling, baking, and other flour-using industries, or any of those industries, to be carried out on a co-operative basis, and to try to arrange financial support from those industries for such research or work:
- (d) to review the operation of this Act in accordance with section 30.

### **30 Review of operation of Act**

As soon as practicable after the expiry of the period of 3 years beginning on the date of commencement of this Act, and then at intervals of not more than 3 years, the Committee shall—

- (a) review the operation of this Act since—
  - (i) the date of its commencement (in the case of the first review carried out under this paragraph); or
  - (ii) the date of the last review carried out under this paragraph (in the case of every subsequent review); and
- (b) consider—
  - (i) whether the Committee should be retained or abolished; and
  - (ii) whether any amendments to this Act are necessary or desirable; and
  - (iii) whether or not this Act should be repealed; and
- (c) report its findings to the Minister.

Compare: 1986 No 1 s 35(1)

### **31 Members of Committee to hold office during pleasure**

Each member of the Committee shall hold office during the pleasure of the Industry Association by which that member is appointed.

### **32 Substitutes**

If any member of the Committee is unable, by reason of illness, absence from New Zealand, or other sufficient cause, to attend any meeting of the Committee, that member may, by writing signed by that member, authorise any person



to attend the meeting in the place of that member, and the person so authorised shall for all purposes be deemed to be a member of the Committee.

### **33 Procedure of Committee**

- (1) Subject to this section, the Committee may regulate its own procedure.
- (2) The Committee may appoint subcommittees, which may comprise or include persons who are not members of the Committee.
- (3) The Committee shall elect its own presiding member and deputy presiding member.

Compare: 1974 No 5 s 6

### **34 Operating expenses of Committee**

The operating expenses of the Committee shall be met, in accordance with such terms as are from time to time agreed among the Industry Associations, out of the Research Trust Accounts.

## *Offences*

### **35 Offences**

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who—
  - (a) fraudulently avoids or attempts to avoid paying any levy payable by that person under section 4; or
  - (b) refuses or fails, without reasonable excuse, to collect any levy required to be collected by that person under section 12; or
  - (c) subject to section 19, being a person who is required by section 12 to collect any levy, refuses or fails, without reasonable excuse, to pay the amount of any levy collected by that person into the appropriate Research Trust Account in accordance with section 17; or
  - (d) being a person who is required by section 16 to issue an invoice to any other person,—
    - (i) fails to issue an invoice when so required; or
    - (ii) issues any invoice required by that section that to that person's knowledge is in any material aspect erroneous or incomplete; or
    - (iii) fails to retain for a period of not less than 5 years a copy of any invoice issued by that person in accordance with that section; or
  - (e) makes any statement knowing that it is both incorrect and material in any information or particulars furnished (whether in writing or not) under section 22; or
  - (f) knowingly makes any material omission from any information or particulars so furnished; or

- (g) refuses or fails, without reasonable excuse, to comply with any requirement made under paragraph (a) or paragraph (b) of section 22(1).
- (2) Every person commits an offence and is liable on conviction—
  - (a) in the case of an individual, to a fine not exceeding \$1,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$5,000—
 who acts in contravention of section 14(2) or section 24(1) or of subclause (1) or subclause (2) of clause 17 of the Schedule.
- (3) Any offence against this section committed by any employee or agent in the course of employment or agency shall be deemed to have been also committed by the employee's or agent's employer or principal if it is proved that the act or omission constituting the offence occurred with that employer's or principal's authority, permission, or consent.

Compare: 1974 No 5 s 4(5)

Section 35(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 35(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### *Repeals, revocation, and transitional provisions*

#### **36 Repeals and revocation**

- (1) The following enactments are hereby repealed:
  - (a) the Wheat Research Levy Act 1974;
  - (b) the Wheat Research Levy Amendment Act 1981;
  - (c) the Wheat Research Levy Amendment Act 1983.
- (2) The Wheat Research Levy Notice (No 2) 1986 (SR 1986/303) is hereby revoked.

#### **37 Transitional provisions relating to levies collected or payable on commencement of this Act**

- (1) All levies imposed under section 3 of the Wheat Research Levy Act 1974 standing to the credit of the separate account referred to in section 4(2) of that Act on the date of the commencement of this Act shall be paid into the Research Trust Accounts as follows:
  - (a) the amount in the account known as the Number 1 Account shall be divided equally between the Flourmilling Industry Research Trust Account and the Baking Industry Research Trust Account;
  - (b) the amount in the account known as the Number 2 Account shall be paid into the Wheatgrowing Industry Research Trust Account.

- (2) The following provisions shall apply in relation to all levies imposed under section 3 of the Wheat Research Levy Act 1974 that were payable immediately before the commencement of this Act:
- (a) all such levies imposed under section 3(1)(a) of that Act shall, on the commencement of this Act, become payable to and be recoverable by United Wheatgrowers, and shall be paid into the Wheatgrowing Industry Research Trust Account:
  - (b) all such levies imposed under section 3(1)(b) of that Act shall, on the commencement of this Act, become payable to and be recoverable by the Flourmillers Association, and shall be paid into the Flourmilling Industry Research Trust Account:
  - (c) all such levies imposed under section 3(1)(c) of that Act shall, on the commencement of this Act, become payable to and be recoverable by the Bakers Association, and shall be paid into the Baking Industry Research Trust Account.

**38 Transitional provisions relating to rates of levies**

Until such time as a different rate comes into force, in respect of a particular levy, in accordance with the provisions of this Act, the rates of the levies imposed by section 4 shall be as follows:

- (a) in the case of the levy imposed by subsection (1)(a) of that section on each producer of wheat grown in New Zealand and sold or delivered to a flourmiller, grain merchant, feed manufacturer, or other purchaser of wheat, 50 cents for every tonne of wheat so sold or delivered by that producer:
- (b) in the case of the levy imposed by subsection (1)(b) of that section on each person who carries on business as a flourmiller, \$1 for every tonne of flour or wheatmeal delivered by that person from that person's flourmill:
- (c) in the case of the levy imposed by subsection (1)(c) of that section on each purchaser or other person who takes delivery of flour or wheatmeal from a flourmill, \$1 for every tonne of that flour or wheatmeal:
- (d) in the case of the levy imposed by subsection (1)(d) of that section on each purchaser or other person who takes delivery, from any importer of flour or wheatmeal, of flour or wheatmeal imported into New Zealand, \$1 for every tonne of that flour or wheatmeal.

## Schedule

### Provisions relating to holding of referendum

s 9

#### 1 Persons who may demand referendum

A demand for a referendum may be made—

- (a) in the case of a demand for a referendum in respect of the levy imposed by section 4(1)(b), by any person or persons—
  - (i) who has or have paid that levy at any time during the period of 12 months immediately preceding the date on which the demand is made; and
  - (ii) whose total payments of that levy during that period whether individually or collectively, amount to not less than 15% of the total amount received by the Flourmillers Association in respect of that levy during that period:
- (b) in the case of a demand for a referendum in respect of the levy imposed by paragraph (c) of subsection (1) of section 4, by any person or persons—
  - (i) on whom that levy, or the levy imposed by paragraph (d) of that subsection, or both, are imposed; and
  - (ii) who has or have paid either or both of those levies at any time during the period of 12 months immediately preceding the date on which the demand is made; and
  - (iii) whose total payments of either or both of those levies during that period, whether individually or collectively, amount to not less than 15% of the total amount received by the Bakers Association in respect of both levies during that period.

#### 2 Form and contents of demand

A demand for a referendum shall—

- (a) be made in writing; and
- (b) be signed by every person who is making the demand, who shall state against the signature—
  - (i) the person's name and address; and
  - (ii) the total amount of the relevant levy or levies paid by that person during the period specified in paragraph (a)(i) or paragraph (b)(ii) of clause 1, as the case requires; and
- (c) be accompanied by such evidence of the payment of the amount or amounts stated in accordance with paragraph (b)(ii) as will enable the

Industry Association to which the demand is made to satisfy itself that the person or persons making the demand are entitled to do so; and

- (d) be delivered or sent to the principal office of—
  - (i) the Flourmillers Association, in the case of a demand for a referendum in respect of the levy imposed by paragraph (b) of subsection (1) of section 4:
  - (ii) the Bakers Association, in the case of a demand for a referendum in respect of the levy imposed by paragraph (c) of that subsection.

### **3 Advertising of referendum**

- (1) Where—
  - (a) the Flourmillers Association or the Bakers Association receives a demand for a referendum; and
  - (b) the requirements specified in clauses 1 and 2 with respect to the demand are met,—

the Industry Association receiving that demand shall, not later than 14 working days after the date on which that demand was so received, publish, once in each week for 2 successive weeks, a notice setting out the matters specified in subclause (3).

- (2) The notice required by subclause (1) shall be published in the *Gazette* and in the main daily newspapers circulating in New Zealand.
- (3) The notice required by subclause (1) shall—
  - (a) state that a referendum is to be held pursuant to this Act, and specify—
    - (i) the levy in respect of which the referendum is to be held; and
    - (ii) the rate of that levy for the purposes of that referendum; and
  - (b) state the qualifications for voting in the referendum; and
  - (c) invite persons entitled to vote in that referendum to request voting papers for that referendum, and give details of how those voting papers may be obtained; and
  - (d) state the date by which voting papers must be received by the returning officer, which date shall be not earlier than the 56th working day after the date on which the demand for the referendum was received by the relevant Industry Association and not later than the 70th working day after that date.

### **4 Appointment of returning officer**

Where an Industry Association is required to hold a referendum, that Association shall, as soon as practicable after receiving the demand for that referendum, appoint a suitable person to be the returning officer for that referendum.

**5 Persons qualified to vote in referendum**

- (1) Every person is qualified to vote in a referendum held in respect of the levy imposed by section 4(1)(b) who has paid that levy at any time during the period of 12 months immediately preceding the date on which the demand for the referendum was made.
- (2) Every person is qualified to vote in a referendum held in respect of the levy imposed by paragraph (c) of subsection (1) of section 4 who has paid that levy, or the levy imposed by paragraph (d) of that subsection, or both, at any time during the period of 12 months immediately preceding the date on which the demand for the referendum was made.

**6 Votes to be allocated to voter in accordance with amount of levy paid**

- (1) Every person who is qualified to vote in a referendum held in respect of the levy imposed by section 4(1)(b) shall be entitled to 1 vote for every \$1 paid by that person in respect of that levy during the period referred to in clause 5(1).
- (2) Every person who is qualified to vote in a referendum held in respect of the levy imposed by paragraph (c) of subsection (1) of section 4 shall be entitled to 1 vote for every \$1 paid by that person in respect of that levy, or the levy imposed by paragraph (d) of that subsection, or both, during the period referred to in clause 5(2).

**7 Provisions applicable to partnerships, joint tenants, etc**

Where any amount paid in respect of the levy imposed by section 4(1)(b) or (c) or (d) is paid on behalf of 2 or more persons (whether as partners, joint tenants, tenants in common, or otherwise), that amount shall not be taken into account more than once, in respect of a particular referendum, in determining—

- (a) for the purposes of paragraph (a)(ii) or paragraph (b)(iii) of clause 1, the total amount of the levies paid by the person or persons demanding the referendum:
- (b) for the purposes of clause 6, the allocation of votes to persons qualified to vote in that referendum.

**8 Referendum to be held by postal vote**

Every referendum shall be conducted by postal vote.

**9 Requests for voting papers**

Every request for a voting paper for a referendum shall—

- (a) be made in writing; and
- (b) state the name and address of the person requesting the voting paper; and
- (c) be signed by that person; and

- (d) state the total amount of the relevant levy or levies paid by that person during the period specified in subclause (1) or subclause (2) of clause 6, as the case requires; and
- (e) be accompanied by such evidence of the payment of the amount or amounts stated in accordance with paragraph (d) as will enable the returning officer—
  - (i) to satisfy himself or herself that the person requesting the voting paper is entitled to vote in the referendum; and
  - (ii) to determine the number of votes to which the person is entitled; and
- (f) be delivered or sent to the returning officer at the principal office of the Flourmillers Association or, as the case requires, the Bakers Association.

#### **10 Returning officer to issue voting papers**

- (1) On receiving a request for a voting paper in accordance with clause 9, the returning officer shall,—
  - (a) if that request is so received no later than 7 days before the date by which voting papers for the referendum must be received by the returning officer; and
  - (b) if the returning officer is satisfied that the person requesting the voting paper is entitled to vote in the referendum,—

forward a voting paper to that person by posting it to the address given by that person.
- (2) Every voting paper shall—
  - (a) be in the form of the Appendix; and
  - (b) bear on its face a number, with the first voting paper bearing the number 1 and all succeeding voting papers bearing consecutive numbers, so that no 2 voting papers for the same referendum bear the same number; and
  - (c) specify the number of votes to which the voter is entitled.
- (3) With the voting paper sent to the voter shall be sent an envelope addressed to the returning officer and bearing on its face the consecutive number of the voting paper.
- (4) If the returning officer is satisfied that a voting paper has been lost or not delivered, the returning officer may issue another in its place; and in any such case the returning officer shall take all reasonable steps to ensure that whichever voting paper is returned, only one is included in the count of votes.
- (5) The returning officer shall keep a list of voters on which the returning officer shall enter in consecutive order the consecutive number printed on each voting paper issued by the returning officer and against that number the name of the voter and the number of votes to which the voter is entitled.

**11 Return of votes to returning officer**

- (1) No voting paper shall be valid unless it is received by the returning officer—
  - (a) in the envelope sent to the voter with it; and
  - (b) by noon on the day by which voting papers must be received by the returning officer.
- (2) No voting paper shall be valid—
  - (a) if anything not authorised by this schedule is so written or marked on it that the voter may be identified; or
  - (b) if it does not, in the opinion of the returning officer, clearly indicate the proposal for which the voter desired to vote.

**12 Procedure after close of voting**

- (1) Forthwith after noon on the day by which voting papers must be received by the returning officer, the returning officer shall, in respect of the envelopes received by the returning officer in connection with the referendum and that purport to contain voting papers, compare the numbers on the envelopes with the numbers entered on the list of voters kept pursuant to clause 10(5), and shall reject any envelope not appearing to be issued in connection with the referendum or not appearing to contain the genuine voting paper of a person entitled to vote.
- (2) The returning officer shall then—
  - (a) open the envelopes not rejected under subclause (1); and
  - (b) reject any voting paper the returning officer considers invalid; and
  - (c) ascertain the number of votes received for each proposal.
- (3) In respect of every valid voting paper, votes shall be allotted to the proposal for which the voter has voted, according to the number of votes appearing beside the voter's name on the list of voters kept pursuant to clause 10(5).

**13 Declaration of result of referendum**

As soon as practicable after ascertaining the number of votes recorded for each proposal, the returning officer must—

- (a) publish the result of the referendum—
  - (i) in the *Gazette*; and
  - (ii) in the main daily newspapers circulating in New Zealand; and
- (b) lodge a notice of the result with the Parliamentary Counsel Office.

Schedule clause 13: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).



**14 Majority required to reject rate of levy**

If the majority of the total number of valid votes recorded at the referendum is in favour of the proposal against the rate of any levy, then, and not otherwise, the rate of that levy shall be deemed to be rejected.

**15 Expenses incurred in holding referendum to be paid out of Research Trust Account**

All expenses incurred by the Flourmillers Association or the Bakers Association in connection with the holding of a referendum shall be payable out of the appropriate Research Trust Account.

**16 Disposal of voting papers, lists of voters, etc**

- (1) As soon as practicable after the completion of counting of the votes at a referendum, the returning officer shall enclose in separate packets the following material:
  - (a) all requests received by the returning officer for voting papers:
  - (b) all the used voting papers (with the valid votes being kept separate from the votes rejected as invalid):
  - (c) the list kept by the returning officer pursuant to clause 10(5).
- (2) The returning officer shall keep the packets made up under subclause (1) for 1 year after the publication of the result of the referendum in the *Gazette*, and shall not open them or permit them to be opened except on the order of some court of competent jurisdiction.
- (3) Subject to any order of any court, the returning officer shall destroy the packets at the end of the period specified in subclause (2).

**17 Maintenance of secrecy in relation to levy payments and voting**

- (1) No person shall communicate to any other person, except for some purpose authorised by law, any information relating to the amount of any levy paid by any person, where that information comes to the knowledge of the first-mentioned person pursuant to clause 2 or clause 9.
- (2) No returning officer shall communicate to any person, except for some purpose authorised by law, any information as to the proposal for which any vote is given in any particular voting paper.

## Appendix

cl 10(2)(a)

### *Voting paper at a referendum under the Wheat Industry Research Levies Act 1989*

#### ***Directions to voter***

(Read carefully before voting)

- 1 If you support the rate of the levy, write “X” in the square at the end of the line “I vote for the rate of the levy”. If you oppose the rate of the levy, write “X” in the square at the end of the line “I vote against the rate of the levy”.

**(Note:** If the majority of the votes cast in this referendum is against the rate of the levy, the rate of the levy will be set at 0 cents for a period of 12 months. If the majority of the votes cast in this referendum is for the rate of the levy, the rate of the levy will remain the same (until it is changed in accordance with the procedures set out in the Wheat Industry Research Levies Act 1989).)

- 2 After completing this voting paper, send or deliver it to the returning officer, in the enclosed addressed official envelope, so as to be received by noon on [date].

A voting paper not sent in the official envelope is invalid.

#### *Voting paper*

The rate of the levy under section 4(1)(b or c) of the Wheat Industry Research Levies Act 1989 is [state the rate of the levy].

I vote for the rate of the levy	
I vote against the rate of the levy	

## Notes

### **1** *General*

This is a consolidation of the Wheat Industry Research Levies Act 1989 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*

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Secondary Legislation Act 2021 (2021 No 7): section 3

Trusts Act 2019 (2019 No 38): section 161

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Criminal Procedure Act 2011 (2011 No 81): section 413

Financial Reporting Amendment Act 1997 (1997 No 17): section 6(1)

Customs and Excise Act 1996 (1996 No 27): section 289(1)

Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16): section 2