



**THE COMMODITY LEVIES (FARMED DEER PRODUCTS)
ORDER 1995**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 30th day of October 1995

Present:

THE HON. WYATT CREECH PRESIDING IN COUNCIL

PURSUANT to section 4 of the Commodity Levies Act 1990, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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ORDER

1. Title and commencement—(1) This order may be cited as the Commodity Levies (Farmed Deer Products) Order 1995.

(2) This order shall come into force on the 28th day after the date of its notification in the *Gazette*.

2. Interpretation—In this order, unless the context otherwise requires,—

“The principal Act” means the Commodity Levies Act 1990:

“Antler in velvet” means antler removed in New Zealand from a farmed deer (living or dead) while still in the velvet stage; but does not include—

(a) Any antler removed from a farmed deer that, when the antler was removed from it, was a tuberculosis reactor carrying the official Ministry of Agriculture tuberculosis reactor tag; or

(b) Any antler removed from a slaughtered farmed deer whose carcass is wholly condemned after slaughter:

“The association” means the body (incorporated under the Incorporated Societies Act 1908) whose name immediately before the commencement of this order was the New Zealand Deer Farmers Association Incorporated:

“The deer concerned”, in relation to any deer product, means the farmed deer from which the product was derived:

“Deer product” means antler in velvet or venison, derived from farmed deer raised in New Zealand:

“Farmed deer” has the meaning for the time being given to that term by section 2 of the Meat Act 1981; and includes deer kept in captivity under the authority of section 12A of the Wild Animal Control Act 1977:

“GST” means goods and services tax under the Goods and Services Tax Act 1985:

“Levy” means levy imposed by clause 3 of this order:

“Levy money” means money paid under this order as levy:

“Liable buyer”, in relation to any deer product, means the product buyer who bought it (or the deer concerned) from the liable producer:

“Liable producer”, in relation to any deer product,—

(a) Where the deer concerned was owned by its producer (or 1 of its producers) when the product was produced, means that producer: and

(b) Where the deer concerned was not owned by its producer (or 1 of its producers) when the product was produced, means the producer who most recently owned it before then:

“Mediator” means person appointed under clause 20 of this order; and, in relation to a dispute, means mediator appointed to resolve that dispute:

“Month” means calendar month:

“Person” includes body corporate and, in relation to a body corporate,—

- (a) "Who" includes that; and
- (b) "Whom" includes which:

"Producer", in relation to any deer product, means person who raised the deer concerned (whether from birth or after purchase from another producer) for the purpose of producing from it deer product for sale or export:

"Product buyer" means person whose business is or includes—

- (a) Buying deer product for the purpose of reselling it in New Zealand or exporting it from New Zealand; or

- (b) Buying farmed deer for the purpose of the eventual sale in New Zealand or export from New Zealand (whether by that person or any subsequent buyer) of deer product derived from it:

"*Stagline*"—

- (a) Subject to paragraph (b) of this definition, means the newsletter that, before the commencement of this order, was from time to time published under that name by the association (under whatever name it may later be published); but

- (b) Where the newsletter referred to in paragraph (a) of this definition has ceased to be published, means a publication for the time being specified for the purposes of this order by the Minister of Agriculture by notice in the *Gazette*:

"Venison" means any part (other than antler) of a farmed deer slaughtered in New Zealand; but does not include—

- (a) Any part of a farmed deer that, when slaughtered, was a tuberculosis reactor carrying the official Ministry of Agriculture tuberculosis reactor tag; or

- (b) Any part of a farmed deer whose carcass is wholly condemned after slaughter:

"When the product was produced"—

- (a) In relation to any venison, means when the deer concerned was slaughtered; and

- (b) In relation to any antler in velvet, means when it was removed from the deer concerned.

3. Levy imposed—There is hereby imposed on the commodity specified in paragraph (a) of this clause a levy payable to the industry organisation specified in paragraph (b) of this clause; and for the purposes of this order there are hereby specified—

- (a) Deer product—

- (i) Sold in New Zealand by its liable producer to its liable buyer; or

- (ii) Derived from a farmed deer sold in New Zealand by its liable producer to the liable buyer of the product:

- (b) The association.

4. Producers primarily responsible for paying levy—The producer of deer product is primarily responsible for paying the levy on it.

5. Levy on deer product to be paid by liable buyers and recovered from liable producers—(1) Subject to subclause (2) of this clause, the liable buyer of any deer product shall pay the levy on it.

(2) Any person who pays the levy under subclause (1) of this order may recover it (and any GST paid in respect of it) from the liable producer of the deer product to which it relates—

- (a) By reducing the price otherwise payable to the producer for that product (or, as the case may be, for the deer concerned) or for any other deer product or farmed deer bought from the producer; or
- (b) As a debt due to that person.

6. Levy on antler imposed on basis of weight—The levy on antler in velvet is to be calculated—

- (a) On the basis of its weight when sold by its liable producer, in the case of antler sold unprocessed by its liable producer:
- (b) On the basis of its weight when removed from the deer concerned, in the case of antler sold processed by its liable producer.

7. Levy on venison imposed on basis of carcass weight—The levy on the venison is to be calculated on the basis of the hot clean carcass weight (after the removal of condemned parts) of the deer concerned.

8. Confidentiality of information—(1) This clause applies to every person who is—

- (a) An officer, employee, or agent of the association; or
- (b) A person required by clause 5 of this order to pay the levy on any deer product; or
- (c) An officer or employee of a body corporate required by clause 5 of this order to pay the levy on any deer product.

(2) Subject to subclause (3) of this clause, no person to whom this clause applies shall disclose (otherwise than to some other person to whom this clause applies) any information obtained, or obtained as a result of actions taken,—

- (a) Under this order; or
 - (b) In relation to this order, under the principal Act.
- (3) Nothing in subclause (2) of this clause affects or prevents—
- (a) The production of records or accounts under section 17 (1) of the principal Act; or
 - (b) The production of any statement under section 25 of the principal Act; 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 principal Act.

(4) Nothing in this clause prevents the association from disclosing or using any information (not being information relating to an identifiable producer), obtained from a ballot held before the commencement of this order.

9. Association to consult producers on purposes for which levy money to be spent—The association—

- (a) Shall at each annual general meeting consult producers as to how it is to spend levy money; and
- (b) Shall not spend any levy money for any purpose not for the time being approved by its members, on the recommendation of its executive, at an annual general meeting.

10. Association to spend levy money—The association shall spend or (pending its expenditure) invest all levy money paid to it.

11. Levy to be paid monthly—The levy payable in respect of any deer product shall be paid monthly.

12. Levy to be paid at 2 rates—The levy is to be paid at 2 rates, 1 for venison and 1 for antler in velvet.

13. Maximum rates of levy—(1) The maximum rate of the levy payable in respect of venison is 2 cents per kilogram.

(2) The maximum rate of the levy payable in respect of antler in velvet is 15 cents per kilogram.

14. Rate of levy to be set at annual general meeting of association—Subject to clause 13 of this order, the association may set a rate of levy at any annual general meeting of the association; and that rate shall apply to all deer product sold or exported by its producer during the period—

(a) Commencing 28 days after the final day of the meeting at which it was set; and

(b) Ending with the earlier of—

(i) The close of the 27th day after the final day of the next annual general meeting of the association at which the association sets a rate of levy; and

(ii) The expiry or revocation of this order.

15. Initial rate—Notwithstanding clause 14 of this order, the rates of the levy for the period commencing on the commencement of this order and ending with the earlier of—

(a) The close of the 27th day after the final day of the first annual general meeting of the association after that commencement at which the association sets a rate of levy; and

(b) The expiry or revocation of this order,—
shall be 1.5 cents per kilogram for venison and 10 cents per kilogram for antler in velvet.

16. Notification of rates of levy—The association shall publish in *Stagline* and the *Gazette*—

(a) As soon as is practicable after the fixing of any rate of levy; and

(b) In any event, before the day on which the period in respect of which it is payable commences—
a notice of that rate and day.

17. Due and latest days for payment—(1) The due day for the payment of any amount of levy money payable in respect of deer product under this order (and any GST payable in respect of it)—

(a) In the case of deer product bought by its liable buyer as deer product, is the day on which the buyer bought it:

(b) In the case of venison derived from a farmed deer bought by its liable buyer, is the day on which the deer is slaughtered:

(c) In the case of antler in velvet derived from a farmed deer bought by its liable buyer, is the day on which the antler is removed from the deer.

(2) The latest day for the payment of any amount of levy money payable in respect of deer product under this order (and any GST payable in respect of it) is the 20th day of the month after the month in which the due date for its payment falls.

18. Conscientious objectors—Any person who objects on conscientious or religious grounds to paying the levy in the manner provided for by this order may pay the amount concerned to the chief executive of the Ministry of Agriculture; and in that case the chief executive shall cause it to be paid to the association.

19. Appointment of mediators—(1) If a dispute arises as to—
(a) Whether or not any person is required to pay the levy; or
(b) The amount of levy money any person is required to pay,—
any party to the dispute may ask the President of the New Zealand Society of Chartered Accountants to appoint a person to resolve it by mediation; and in that case the President (or a person authorised by the President to do so) may appoint a person to do so.
(2) The mediator's appointment shall be determined if—
(a) The parties to the dispute have resolved it by agreement; or
(b) The parties to the dispute have not resolved it by agreement, and the mediator has resolved it by coming to one or more findings in relation to it.

20. Remuneration of mediators—(1) Subject to subclause (2) of this clause, a mediator shall be paid remuneration (by way of fees and allowances) agreed by the parties to the dispute concerned.

(2) If the parties to a dispute cannot agree a mediator's remuneration the President of the New Zealand Society of Accountants (or a person authorised by the President to do so) shall—

(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 shall pay to the mediator the amount fixed by the President (or authorised person) and specified as an amount to be paid by that party.

21. Time and place of general meeting—Every general meeting of the parties to a dispute organised by a mediator shall be held on a day and at a time and place fixed, and notified in writing to the parties, by the mediator.

22. General meeting to be held in private—Except as provided in clause 23 of this order, only the parties to a dispute and the mediator may attend a general meeting of those parties organised by the mediator.

23. 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 general meeting of the parties to the dispute organised by the mediator.

24. Right to be heard—Every party to a dispute, and every representative of such a party allowed by the mediator to attend a general meeting of the parties to the dispute organised by a mediator, may be heard at the general meeting.

25. 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, seek and receive any evidence, and make any investigations and inquiries, that the mediator thinks desirable to enable a dispute to be settled or resolved.

(3) A mediator may require any person giving evidence at a general meeting of the parties to a dispute to verify the evidence by statutory declaration.

26. Mediator may determine dispute in certain cases—If—

- (a) The mediator has organised and presided at a general meeting of the parties but the dispute has not been settled; or
- (b) The mediator believes that the parties are unlikely to settle the dispute, whether or not they confer directly,—
the mediator may resolve the dispute for them, and give each of them a written notice of the mediator's resolution of the dispute, and the mediator's reasons for determining that particular resolution.

27. Appeal to District Court—(1) Any party to a dispute who is dissatisfied with the decision made by a mediator under clause 26 of this order may appeal to a District Court against the decision.

(2) The appeal shall 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 shall—

- (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 shall not operate as a stay of any process for the enforcement of the decision appealed against.

28. Records—(1) Every record relating to a quantity of deer product required by this clause to be kept shall be kept by reference to the weight of that quantity.

(2) Every product buyer shall ensure that there are kept, and retained for at least 2 years after they are kept, records of—

- (a) The quantities of venison bought (whether from its producer or from some other person) and, in respect of each, the name and address of the vendor; and
 - (b) The quantities of antler in velvet bought (whether from its producer or from some other person) and, in respect of each, the name and address of the vendor; and
 - (c) The numbers of farmed deer bought (whether from the person who raised them or from some other person) and, in respect of each,—
 - (i) The name and address of the vendor; and
 - (ii) The quantity of venison derived from it; and
 - (iii) The quantity of antler in velvet derived from it; and
 - (d) The quantities of venison sold; and
 - (e) The quantities of antler in velvet sold.
- (3) Every producer who exports from New Zealand deer product derived from farmed deer raised by that producer shall ensure that there are kept, and retained for at least 2 years after they are kept, records of—
- (a) The quantities of venison exported; and
 - (b) The quantities of antler in velvet exported.

(4) Every producer who sells to a person in New Zealand who is not a product buyer deer product derived from farmed deer raised by that farmer shall ensure that there are kept, and retained for at least 2 years after they are kept, records of—

- (a) The quantities of venison sold, and, in respect of each, the name and address of the buyer; and
 - (b) The quantities of antler in velvet sold, and, in respect of each, the name and address of the buyer.
- (5) The association shall keep, and shall ensure that there are retained for at least 2 years after they are kept,—
- (a) Records of each amount of levy money paid to it, and, in relation to each amount,—
 - (i) The day on which it was received; and
 - (ii) The person who paid it; and
 - (b) Records of—
 - (i) How (if at all) levy money paid to it was invested; and
 - (ii) How and when all levy money spent by it was spent.

MARIE SHROFF,
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 28 days after notification in the *Gazette* (and unless earlier revoked expires 6 years after it was made), imposes on venison and antler produced from farmed deer a levy payable to the New Zealand Deer Farmers Association.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 2 November 1995.
This order is administered in the Ministry of Agriculture.