

1998/80



THE COMMODITY LEVIES (EGGS) ORDER 1993

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 13th day of April 1993

Present:

THE RIGHT HON. D. C. MCKINNON 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 (Eggs) Order 1993.

(2) Clauses 3 to 6, and 10 to 28, of this order shall come into force on the 21st day of May 1993.

(3) Except as provided in subclause (2) of this order, this order shall come into force on the day after the date of its notification in the *Gazette*.

2. 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”, except in paragraph (a) of clause 3 of this order, means the commodity specified in that paragraph:

“The federation” means the body that, on the commencement of this order, was known as the Egg Producers Federation of New Zealand (Incorporated):

“Hatchery” means a person who or that produces chicks for sale:

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

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

“Mediator” means a person appointed under clause 16 (1) of this order; and, in relation to a dispute, means a mediator appointed to resolve that dispute:

“Person” includes a body corporate:

“Producer”, in any year, means a person who or that—

(a) Produces eggs for sale; and

(b) Has bought or intends to buy more than 100 chicks in that year;—

and, in relation to any chick, means the producer who buys (or, as the case may be, bought) the chick:

“Year” means a calendar year.

PART I

IMPOSITION AND PAYMENT OF LEVY

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) All chicken eggs produced in New Zealand for sale; and

(b) The federation.

4. Levy imposed on basis of chicks bought—The amount of the levy is to be calculated and ascertained on the basis of the sale of chicks to producers by hatcheries.

5. Producers to pay levy—A producer who buys chicks is primarily responsible for paying the levy payable on the basis of the sale of the chicks.

6. Hatcheries to pay levy and recover it from producers—The hatchery that sells chicks to a producer is to pay the levy payable on the basis of their sale; but may recover it from the producer by including it in the price payable for the chicks.

7. Levy to be paid at single rate—The levy is to be paid at a single rate.

8. Maximum rate of levy—The maximum rate of the levy is 5 cents per chick.

9. Federation to fix actual rate of levy—The actual rate of the levy for any year is to be fixed by the federation by notice published in the *Gazette* before the 1st day of December in the year before.

10. Previous year's rate to apply where new rate not fixed in time—Notwithstanding clause 9 of this order, where the federation has not set the actual rate of the levy for a year before the 1st day of December in the year before, the actual rate of the levy for that year shall be the actual rate of the levy most recently fixed by the federation for any year.

11. Notification of rate of levy—(1) As soon as is practicable after fixing a rate of levy for a year, the federation shall send to all hatcheries, and all producers whose address the federation knows, a copy of the federation's newsletter containing a notice of the rate fixed and the year to which it relates.

(2) As soon as is practicable after a hatchery receives a copy of the federation's newsletter containing a notice of a rate of levy fixed and year, the hatchery shall give each of its customers who or that is a producer written notice of the rate and year.

(3) Subclauses (1) and (2) of this clause shall have effect as if the period referred to in clause 29 of this order is a year.

12. Hatcheries not entitled to charge fee—A hatchery is not entitled to charge the federation a fee for paying and recovering the levy.

13. Levy payable monthly—The levy is to be paid monthly, in respect of periods commencing on the 21st day of a month and ending with the close of the 20th day of the next month.

14. When levy becomes payable—(1) The due day for the payment of the levy payable on the basis of the sale of any chicks is the day on which the hatchery that produced them sells them to a producer.

(2) The latest day for the payment of the levy payable on the basis of the sale of any chicks is the 20th day of the month after the month in which the due day for its payment occurs.

15. Conscientious objectors—(1) Any producer who objects on conscientious or religious grounds to the recovery by a hatchery of an amount of levy money may pay the amount concerned to the chief executive of the Ministry of Agriculture and Fisheries; and in that case, the chief executive shall cause it to be paid to the federation.

(2) Any hatchery (being an individual) who objects on conscientious or religious grounds to paying an amount of levy money to the federation may pay it to the chief executive of the Ministry of Agriculture and Fisheries; and in that case, the chief executive shall cause it to be paid to the federation.

PART II

MEDIATION

16. 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 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.

(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.

17. 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 party by which each amount is to be paid.

(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.

18. Time and place of conference—Every conference of the parties to a dispute 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.

19. Conference to be held in private—Except as provided in clause 20 of this order, only the parties to a dispute and the mediator shall attend a conference organised by the mediator.

20. 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 to the dispute organised by the mediator.

21. 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 organised by a mediator, may be heard at the conference.

22. 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 conference of the parties to a dispute to verify the evidence by statutory declaration.

23. Mediator may resolve dispute in certain cases—If—

(a) The mediator has organised and provided at a conference 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.

24. Appeal to District Court—(1) Any party to a dispute who is dissatisfied with the decision made by a mediator under clause 23 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 of 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.

PART III

OTHER MATTERS

25. Levy money to be spent by federation—The federation shall spend or (pending its expenditure) invest all levy money paid to it.

26. Consultation on how levy money to be spent—The federation shall, by—

(a) Publishing draft budgets in its newsletter; and

(b) Discussing those budgets at its annual general meeting,—
consult producers on how it is to spend levy money.

27. Confidentiality of information—(1) Subject to subclause (2) of this clause, no person involved in the management of the federation, or employed by the federation, shall disclose (otherwise than to some other person who is involved in the management of the federation, or employed by the federation) any information obtained, or obtained as a result of actions taken,—

(a) Under this order; or

(b) In relation to this order, under the Commodity Levies Act 1990.

(2) Nothing in subclause (1) of this clause affects or prevents—

(a) The production of records or accounts under section 17 (1) of the Commodity Levies Act 1990; or

- (b) 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.

28. General purposes for which levy money to be spent—The general purposes for which the federation is to spend levy money are—

- (a) The promotion of the egg industry; and
- (b) The promotion of quality assurance in relation to eggs; and
- (c) The promotion of the health of chickens; and
- (d) The provision of education and information to producers; and
- (e) Research relating to chickens or eggs.

29. 1993 levy—Notwithstanding clauses 9 and 10 of this order, the notice in the *Gazette* fixing the rate of the levy for the period commencing on the 21st day of May 1993 and ending with the 31st day of December 1993 may be published at any time before the 21st day of May 1993.

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, the operative provisions of which come into force on 21 May 1993, imposes on eggs a levy (calculated on the basis of the number of chicks bought by commercial egg producers) payable to the Egg Producers Federation of New Zealand (Incorporated).

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 15 April 1993.

This order is administered in the Ministry of Agriculture and Fisheries.