



COMMODITY LEVIES (EGGS) ORDER 1999

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 4th day of March 1999

Present:

THE HON WYATT CREECH PRESIDING IN COUNCIL

PURSUANT to section 4 of the Commodity Levies Act 1990, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and on the recommendation of the Minister for Food, Fibre, Biosecurity and Border Control (being satisfied as to the matters required by section 5 of that Act), 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 1999.

(2) This order comes into force on 14 April 1999.

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” means the commodity specified in clause 3 (2):

“The federation” means the body specified in clause 3 (3):

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

“The industry” means the business of producing eggs in New Zealand for sale:

“Levy” means the levy imposed by clause 3:

“Levy money” means money paid under this order as levy; and includes any goods and services tax payable on it:

“Mediator” means a person appointed under clause 25 (2); and, in relation to a dispute, means a mediator appointed to resolve that dispute:

“Producer”, in any year, means a person who or that has bought more than 100 chicks in that year, and—

(a) Produces eggs for sale; or

(b) Rears chicks for the purpose of supplying them to persons who or that produce eggs for sale:

“Year” means a calendar year.

Imposition and Payment of Levy

3. Levy imposed—(1) There is imposed on the commodity specified in subclause (2) a levy payable to the industry organisation specified in subclause (3).

(2) The commodity on which the levy is imposed is all chicken eggs produced in New Zealand for sale.

(3) The industry organisation to which the levy is payable is the body that, on the commencement of this order, was known as the Egg Producers Federation of New Zealand (Incorporated).

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 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 their sale; but may recover it from the producer by including it in the price payable for the chicks.

7. Hatcheries to provide chick sales figures—(1) The hatchery must provide monthly chick sales figures to the federation.

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

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

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

10. 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 1 December in the preceding year.

11. Previous year's rate to apply where new rate not fixed in time—Despite clause 10, if the federation has not set the actual rate of the levy for a particular year before 1 December in the preceding year, the actual rate of the levy for that year is the actual rate of the levy most recently fixed by the federation for any year.

12. 1999 levy—Despite clauses 10 and 11, the rate of levy for 1999 is to be fixed by the federation at its annual general meeting, or by any means allowable under its rules.

13. Notification of rate of levy—As soon as is practicable after fixing a rate of levy for a year, the federation must 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.

14. Returns—Every hatchery must, as soon as is reasonably practicable after the end of each quarterly period (being the 3-monthly periods ending with the close of the months of March, June, September, and December in any year), inform the federation in writing of the names of the producers who have paid the levy.

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

16. Levy payable monthly—The levy is to be paid monthly, in respect of each calendar month.

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

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

Miscellaneous Matters

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

19. Consultation on how levy money to be spent—The federation must consult producers on how it is to spend its levy money, by—

- (a) Notifying producers, by federation newsletter or by other means, of its general meetings; and
- (b) Circulating a draft budget and plan as to how the money is to be spent before its annual general meeting or any other special meeting called to discuss the draft budget and plan; 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 such meetings.

20. Confidentiality of information—(1) Subject to subclause (2), no person involved in the management of the federation, or employed by the federation, may 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) affects or prevents—
- (a) The production of records or accounts under section 17 (1) of the Commodity Levies Act 1990, or the production of any statement under section 25 of that Act; 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.

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

- (a) Generic promotion and advertising in relation to eggs, including marketing and public relations; and
- (b) Research and development relating to egg production; and
- (c) Protection and improvement of the health of chickens; and
- (d) Provision of education and information in relation to eggs to producers and consumers; and
- (e) Collation of industry statistics; and
- (f) Development of codes of practice and industry standards; and
- (g) The day-to-day administration of the federation.

22. Records—The federation must keep, and retain for 2 years after the end of each year in which it was invested or spent, records of every amount of levy money paid to it that has been invested or spent, and, in relation to each amount,—

- (a) The hatcheries who collected the levy; and
- (b) The producers who were liable to pay the levy.

23. 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 department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the

Commodity Levies Act 1990; and, in that case, the chief executive must 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 department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Commodity Levies Act 1990; and, in that case, the chief executive must cause it to be paid to the federation.

24. Remuneration of persons conducting compliance audits—A person appointed as an auditor under section 15 of the Commodity Levies Act 1990 is to be remunerated by the federation at a rate determined by the Minister after consultation with the federation.

Mediation in Case of Dispute

25. Appointment of mediators—(1) This clause applies to any dispute concerning—

(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.

(2) Any party to such a dispute may ask the President of the Institute of Chartered Accountants of New Zealand 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 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 1 or more findings in relation to it.

26. Remuneration of mediators—(1) Subject to subclause (2), a mediator must 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 on a mediator's remuneration, the President of the Institute of Chartered Accountants of New Zealand (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 party by which each amount is to be paid.

(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.

27. Time and place of conference—Every conference of the parties to a dispute by a mediator must be held on a day and at a time and place fixed, and notified in writing to the parties, by the mediator.

28. Conference to be held in private—Except as provided in clause 29, only the parties to a dispute and the mediator may attend a conference organised by the mediator.

29. 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.

30. 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.

31. Evidence—(1) A mediator may hear and take into account any relevant evidence or information, whether or not it would normally be admissible in a court of law.

(2) A mediator may, on the mediator's own initiative, 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.

32. Mediator may resolve dispute in certain cases—(1) A mediator may resolve a dispute for the parties if—

(a) The mediator has organised and presided at a conference of the parties but the dispute has not been settled; or

(b) The mediator believes that the parties are unlikely to settle the dispute, whether or not they confer directly.

(2) In such a case, the mediator must give each of the parties a written notice of the mediator's resolution of the dispute, and the mediator's reasons for determining that particular resolution.

33. Appeal to District Court—(1) Any party to a dispute who is dissatisfied with the decision made by a mediator under clause 32 may appeal to a 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.

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 on 14 April 1999, 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). It replaces the Commodity Levies (Eggs) Order 1993, which expires on 13 April 1999.

Unless earlier revoked, this order will expire 6 years after it was made.

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

Date of notification in *Gazette*: 11 March 1999.

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