



National Animal Identification and Tracing (Levies) Regulations 2012

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 5th day of June 2012

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 62 of the National Animal Identification and Tracing Act 2012, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

- 1 Title**
These regulations are the National Animal Identification and Tracing (Levies) Regulations 2012.
- 2 Commencement**
These regulations come into force on 28 June 2012.
- 3 Interpretation**
In these regulations,—
animal means a NAIT animal
cattle animal means a NAIT animal that is cattle
collection agent means—
 (a) a meat processing facility that slaughters an animal (**slaughter agent**):
 (b) a manufacturer or supplier of NAIT devices that sells a NAIT device for a cattle animal (**tag agent**)
deer means a NAIT animal that is a deer

levy means—

- (a) a slaughter levy imposed under regulation 5(1):
- (b) a tag levy imposed under regulation 5(2):
- (c) an impracticable to tag levy imposed under regulation 5(3)

levy year means a period of 12 months starting on 1 July and ending on 30 June

owner means a person who—

- (a) owns an animal; and
- (b) is in the business of farming livestock whether or not in conjunction with another business.

4 GST

A reference in these regulations to the payment or recovery of a levy must be read as including the payment or recovery of any GST payable on the levy.

5 Levies imposed

- (1) A slaughter levy is imposed on an owner of a cattle animal slaughtered at a meat processing facility.
- (2) A tag levy is imposed on a buyer of a NAIT device for a cattle animal from a manufacturer or supplier of NAIT devices.
- (3) An impracticable to tag levy is imposed on an owner of an animal if—
 - (a) the PICA for the animal has decided under regulation 16(4)(c) of the National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012 that it is not practicable to fit a NAIT device to the animal; and
 - (b) the animal is slaughtered at a meat processing facility.

Responsibility for payment

6 Primary responsibility

- (1) An owner described in regulation 5(1) is primarily responsible for paying the slaughter levy.
- (2) A buyer described in regulation 5(2) is primarily responsible for paying the tag levy.

- (3) An owner described in regulation 5(3) is primarily responsible for paying the impracticable to tag levy.
- (4) No person described in regulation 5 is exempt from paying the applicable levy.

7 Collection agent actually pays levies

- (1) A slaughter agent must pay the slaughter levy or the impracticable to tag levy to the Director-General.
- (2) A tag agent must pay the tag levy to the NAIT organisation.
- (3) A collection agent may charge a collection fee of not more than 0.25% of the levy payable (exclusive of GST) plus the GST payable on the fee by deducting the fee plus GST before paying the levy under subclause (1) or (2).
- (4) A slaughter agent that wishes to recover the slaughter levy or the impracticable to tag levy must,—
 - (a) if the slaughter agent buys the animal from its owner,—
 - (i) deduct the amount of the levy from the payment made to the owner for the animal; and
 - (ii) supply the owner with information about the amount of levy deducted; or
 - (b) if the slaughter agent slaughters the animal on its owner's behalf, recover the amount of the levy as a debt due from the owner.

8 Collection agent operates trust account

- (1) A collection agent must—
 - (a) keep a trust account to hold payments of the levy; and
 - (b) ensure that the trust account is identified as a trust account kept by the collection agent for the purposes of these regulations; and
 - (c) take all practicable steps to ensure that the trust account is used for holding payments of the levy.
- (2) The amount in the trust account—
 - (a) is held on trust for payment under regulation 7(1) or (2); and
 - (b) is not available for the payment of any other creditor of the collection agent; and

- (c) is not liable to be attached or taken in execution at the instance of any other creditor of the collection agent.
- (3) The collection agent must, for each payment of levy, deposit an amount of money equal to it in the trust account within 15 days after receiving it.
- (4) The collection agent must take all practicable steps to ensure that the balance in the trust account on any day is not less than the difference between—
 - (a) the total of all levy paid by the collection agent under regulation 7(1) or (2) before that day; and
 - (b) the total of all amounts required to be deposited in the trust account by the collection agent up to and including the previous day.
- (5) A person who ceases to be a collection agent must continue to maintain the trust account until all the money payable under regulation 7(1) or (2) for the period during which the person was a collection agent has been paid.

Amount

9 Basis of calculation

The NAIT organisation must calculate the amounts of levy payable using a funding calculation model designed to recover proportional contributions from the beef, dairy, and deer sectors.

10 Maximum rates

- (1) The maximum rate for the slaughter levy in a levy year is \$2.25 (exclusive of GST) per animal.
- (2) The maximum rate for the tag levy in a levy year is \$1.35 (exclusive of GST) per NAIT device.
- (3) The maximum rate for the impracticable to tag levy for a cattle animal is,—
 - (a) for 1 July 2012 to 30 June 2013, \$13 per animal (exclusive of GST);
 - (b) for 1 July 2013 to 30 June 2014, \$16.75 per animal (exclusive of GST);
 - (c) for 1 July 2014 to 30 June 2015, \$21.50 per animal (exclusive of GST).

- (4) The maximum rate for the impracticable to tag levy for a deer is,—
- (a) for 1 March 2013 to 30 June 2013, \$13 per animal (exclusive of GST);
 - (b) for 1 July 2013 to 28 February 2014, \$13 per animal (exclusive of GST);
 - (c) for 1 March 2014 to 30 June 2014, \$16.75 per animal (exclusive of GST);
 - (d) for 1 July 2014 to 28 February 2015, \$16.75 per animal (exclusive of GST);
 - (e) for 1 March 2015 to 30 June 2015, \$21.50 per animal (exclusive of GST);
 - (f) for 1 July 2015 to 28 February 2016, \$21.50 per animal (exclusive of GST).

11 Actual rates

- (1) The NAIT organisation must set the actual rates of the levies.
- (2) Before the NAIT organisation sets the actual rates, it must consult with those affected by the payment or collection of the levies.

12 Notification

The NAIT organisation must notify the actual rates—

- (a) in the *Gazette*; and
- (b) in any other place that the NAIT organisation considers appropriate, including, for example, its website; and
- (c) by direct mail to all collection agents known to the NAIT organisation.

Payment

13 When payable

- (1) The due date for payment of the slaughter levy or the impracticable to tag levy is the date on which the animal is slaughtered at the meat processing facility.
- (2) The latest date for payment of the slaughter levy or the impracticable to tag levy is—
 - (a) 18 days after a demand is made by the Director-General;or

- (b) a date after the 18 days set by the Director-General.
- (3) The due date for payment of the tag levy is the date on which the NAIT device is bought.
- (4) The latest date for payment of the tag levy is 20 days after the end of the month in which the NAIT device is bought.

14 Weekly returns

- (1) A slaughter agent must make a return—
 - (a) to—
 - (i) the Director-General; or
 - (ii) an agent of the Director-General; and
 - (b) for each week; and
 - (c) within 10 days after the end of the week; and
 - (d) in a form specified by the Director-General; and
 - (e) containing any information that the Director-General reasonably requires in order to determine the amounts of levy payable.
- (2) A tag agent must make a return—
 - (a) to—
 - (i) the NAIT organisation; or
 - (ii) an agent of the NAIT organisation; and
 - (b) for each week; and
 - (c) within 10 days after the end of the week; and
 - (d) in a form specified by the NAIT organisation; and
 - (e) containing any information that the NAIT organisation reasonably requires in order to determine the amounts of levy payable.

Expenditure

15 Purposes

The NAIT organisation must spend levies on performing functions under the National Animal Identification and Tracing Act 2012, including—

- (a) administering, managing, and operating the NAIT scheme; and
- (b) governing, managing, and administering the NAIT organisation on a day-to-day basis.

*Records***16 Keeping and supplying**

- (1) A collection agent must, in each levy year, keep records of—
 - (a) the name, contact details, and GST numbers of the owner or buyer from whom the collection agent collects or recovers levy money; and
 - (b) the amount of levy paid to the Director-General or the NAIT organisation and the date of payment; and
 - (c) either,—
 - (i) for a slaughter agent, the number of animals slaughtered, whether they were cattle animals or deer, and whether they were fitted with a NAIT device; or
 - (ii) for a tag agent, the number of NAIT devices sold for cattle animals.
- (2) A collection agent must—
 - (a) retain the records for at least 2 years after the date of payment to the Director-General or the NAIT organisation of the levy to which the records relate; and
 - (b) supply the Director-General or the NAIT organisation with a copy of the records within 20 working days after receiving a written or electronic request to do so.

*Disputes***17 Arbitration**

- (1) This regulation applies to a dispute about—
 - (a) whether a levy is payable; or
 - (b) the amount of levy payable.
- (2) The parties to a dispute may agree to submit the dispute to arbitration.
- (3) The parties may agree on the person to be appointed as the arbitrator.
- (4) The Arbitration Act 1996 (**Act**) applies to the resolution of a dispute submitted to arbitration.
- (5) For the purposes of the Act,—
 - (a) an agreement under subclause (2) is an arbitration agreement; and

- (b) if the parties do not agree under subclause (3), the arbitrator is appointed under Schedule 1 of the Act; and
- (c) whether appointed by the parties or under the Act, the arbitrator is an arbitral tribunal; and
- (d) the arbitrator follows the procedures for an arbitral tribunal specified in the Act; and
- (e) the costs of the arbitration, including the arbitrator's remuneration, are determined—
 - (i) by agreement between the parties; or
 - (ii) if the parties do not agree, under Schedule 2 of the Act.

18 Appeal

- (1) A party to a dispute who is dissatisfied with the decision made by an arbitrator 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 after the making of the decision concerned or within any longer time that 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 all parties to the dispute.
- (4) Any party to the dispute 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.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations impose levies on owners of animals covered by the national animal identification and tracing scheme. The levies contribute to the funding of the scheme.

The regulations come into force on 28 June 2012.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 7 June 2012.
These regulations are administered by the Ministry for Primary Industries.
