

**Reprint  
as at 12 December 2012**



**Commodity Levies (Maize) Order  
2012**  
(SR 2012/163)

Jerry Mateparae, Governor-General

**Order in Council**

At Wellington this 2nd day of July 2012

Present:  
His Excellency the Governor-General in Council

Pursuant to section 4 of the Commodity Levies Act 1990, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister for Primary Industries given in accordance with sections 5 and 6 of that Act, makes the following order.

**Contents**

		Page
1	Title	3
2	Commencement	3

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This order is administered by the Ministry for Primary Industries.**

3	Interpretation	3
	<i>Levy imposed</i>	
4	Levy imposed	4
	<i>Payment of levy</i>	
5	Growers primarily responsible for paying levy	4
6	Exemption from levy	4
7	Collection agent must pay levy and recover it from growers	4
8	When levy payable	5
9	Combined levy payments	5
10	Penalty for late payment	6
	<i>Rate of levy</i>	
11	Levy calculation	6
12	Maximum rate of levy	6
13	Fixing of levy rate	6
14	Information to be supplied to FAR	6
15	Notification of levy rate	7
	<i>Expenditure of levy money</i>	
16	Levy money to be spent by FAR	7
17	Purposes for which levy money may be spent	7
18	Consultation on spending levy money	7
	<i>Record-keeping requirements and confidentiality of information</i>	
19	Records	7
20	Confidentiality of information	8
	<i>Miscellaneous</i>	
21	Returns	9
22	Conscientious objectors	9
23	Remuneration of persons conducting compliance audit	9
	<i>Mediation of disputes</i>	
24	Appointment of mediators	9
25	Remuneration of mediators	10
26	Conferences under control of mediator	10
27	Conferences to be held in private	10
28	Representatives	10
29	Right to be heard	10
30	Evidence	11
31	Mediator may resolve dispute in certain cases	11

32	Costs of mediation	11
33	Appeal to District Court	11
34	Revocation	12

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## **Order**

### **1 Title**

This order is the Commodity Levies (Maize) Order 2012.

### **2 Commencement**

This order comes into force on 31 July 2012.

Order: confirmed, on 12 December 2012, by section 8(f) of the Subordinate Legislation (Confirmation and Validation) Act 2012 (2012 No 97).

### **3 Interpretation**

In this order, unless the context otherwise requires,—

**Act** means the Commodity Levies Act 1990

**collection agent** means a person whose business is or includes selling maize seed to growers for sowing

**FAR** means Foundation for Arable Research Incorporated

**grower** means a person whose business is or includes growing maize in New Zealand

**GST** means goods and services tax under the Goods and Services Tax Act 1985

**levy** means the levy imposed by clause 4

**levy money** means the money paid under this order as a levy

**levy rate** means the rate fixed under clause 13

**levy year** means,—

- (a) for the first year, the period—
  - (i) starting on the commencement of this order; and
  - (ii) ending with the close of 30 June 2013; and
- (b) for each later levy year, the period starting on 1 July and ending with the close of 30 June

**maize** means maize that is grown for grain, seed, silage, or grazing

**mediator** means—

- (a) a person appointed under clause 24; and

- (b) for a particular dispute, the mediator appointed to resolve the dispute.

*Levy imposed*

**4 Levy imposed**

- (1) A levy is imposed on maize seed sold for sowing.
- (2) The levy is payable to FAR.

*Payment of levy*

**5 Growers primarily responsible for paying levy**

Growers are primarily responsible for paying the levy.

**6 Exemption from levy**

- (1) This clause applies to a grower if, in any levy year,—
  - (a) a maize crop sown in that levy year fails to establish and the grower sows a crop of maize in the same levy year to replace the failed crop; or
  - (b) a maize crop cannot be harvested or fed to stock as a standing crop as a result of a natural disaster.
- (2) If subclause (1) applies, the grower is exempt from paying the levy on maize seed used to sow a replacement crop.
- 3 However, if the grower has already paid the levy in relation to a maize crop described in subclause (1), FAR must refund the amount of the levy paid.

**7 Collection agent must pay levy and recover it from growers**

- (1) A collection agent who sells maize seed to a grower for sowing must pay the levy (including any GST payable on it).
- (2) The collection agent may recover the levy (including any GST payable on it) from the grower by invoicing the grower for the levy at the same time as the collection agent invoices the grower for the maize seed.
- (3) The collection agent may charge a collection fee of not more than 5% of the amount of levy collected (excluding GST) plus the GST payable on the fee by deducting the amount before paying the levy to FAR.

**8    When levy payable**

- (1) Levies must be paid monthly.
- (2) The due date for payment of an amount of levy on any quantity of maize seed is the date on which the grower pays for the maize seed or the date on which payment of the invoice for the maize seed is due (whichever is earlier).
- (3) The latest date for payment of the levy is the 21st day of the month following the due date for payment.

**9    Combined levy payments**

- (1) Despite clause 8, if an amount of levy payable for any month is less than \$2,000 plus GST, payment of that amount may be made with levy payments for 1 or more subsequent months of a relevant quarter (**combined levy**).
- (2) The latest date for payment of a combined levy described in the first column of the following table is the date specified opposite that combined levy in the second column of the table:

<b>Combined levy</b>	<b>Latest date for payment</b>
Combined levy comprising payments for the first and second months of a relevant quarter and that is \$2,000 or more plus GST	21st day of the third month of the relevant quarter
Combined levy comprising payments for the first and second months of a relevant quarter and that is less than \$2,000 plus GST	21st day of the month following the close of the relevant quarter
Combined levy comprising payments for the second and third months of a relevant quarter	21st day of the month following the close of the relevant quarter
Combined levy comprising payments for the first, second, and third months of a relevant quarter (regardless of the amount)	21st day of the month following the close of the relevant quarter

- (3) To avoid doubt, the latest date for payment of a levy relating to the third month of a relevant quarter (regardless of the amount and whether it is part of a combined levy) is the 21st day of the month following the close of the relevant quarter.

- (4) In this clause, **relevant quarter** means (as applicable) the following periods:
- (a) 1 July to 30 September:
  - (b) 1 October to 31 December:
  - (c) 1 January to 31 March:
  - (d) 1 April to 30 June.

**10 Penalty for late payment**

If any amount of levy has not been paid by the close of the latest date for payment, 5% of the amount of the unpaid levy (excluding additional levies owing under this clause) must be paid to FAR in addition to the amount otherwise payable.

*Rate of levy*

**11 Levy calculation**

The levy payable in a levy year is to be calculated on the basis of the number of maize seeds a grower buys from a collection agent in the levy year.

**12 Maximum rate of levy**

The maximum rate of the levy is \$1.40 per 10 000 seeds (excluding GST) purchased by a grower.

**13 Fixing of levy rate**

- (1) For the first levy year, the levy on maize is \$0.90 per 10 000 seeds (excluding GST) bought by a grower.
- (2) For each later levy year, FAR must fix the levy rate or rates before the start of the levy year in accordance with its decision-making rules.
- (3) If FAR does not fix the levy rate before the start of a levy year, the levy rate for that year is the rate most recently fixed under this clause.

**14 Information to be supplied to FAR**

Every grower and collection agent must supply to FAR any information that FAR requests in writing for the purpose of calculating the levy.

**15    Notification of levy rate**

As soon as practicable after fixing a levy rate for a levy year, FAR must notify the rate—

- (a)    in its newsletter to growers and collection agents; and
- (b)    in the *Gazette*; and
- (c)    on its Internet site.

*Expenditure of levy money*

**16    Levy money to be spent by FAR**

FAR must—

- (a)    spend all the levy money paid to it; and
- (b)    invest all levy money until it is spent.

**17    Purposes for which levy money may be spent**

- (1)    FAR may spend levy money for all or any of the following purposes relating to maize:
  - (a)    research and development;
  - (b)    education and training;
  - (c)    collection, collation, and publication of information;
  - (d)    day-to-day administration of FAR.
- (2)    FAR must not spend levy money on commercial or trading activities.

**18    Consultation on spending levy money**

- (1)    FAR must consult growers on how it proposes to spend levy money.
- (2)    FAR may use the following methods to consult growers:
  - (a)    discussions with local arable research groups and grower research committees;
  - (b)    annual meetings, seminars, and field days.

*Record-keeping requirements and confidentiality  
of information*

**19    Records**

- (1)    A grower who buys maize seed must, in each levy year, keep records of—
  - (a)    each quantity of maize seed bought; and

- (b) the name and address of the seller of each quantity of maize seed.
- (2) A collection agent must, in each levy year, keep records of—
  - (a) each quantity of maize seed bought by a grower from the collection agent; and
  - (b) the name and address of the grower.
- (3) FAR must, in each levy year, keep records of—
  - (a) the amount of every levy paid to it; and
  - (b) the date on which the levy was received; and
  - (c) the person who paid the levy; and
  - (d) how (if at all) amounts of levy were invested; and
  - (e) how and when amounts of levy were spent.
- (4) The records required by this clause must be kept for at least 2 years after the levy year to which the records relate.

## **20 Confidentiality of information**

- (1) No officer or employee of FAR, or any person involved in collecting levy money, may disclose (except to an officer or employee of FAR) any information obtained—
  - (a) under or because of this order; or
  - (b) under the Act in relation to this order.
- (2) Subclause (1) does not affect or prevent—
  - (a) the production of records or accounts under section 17(1) of the Act; or
  - (b) the production of any statement under section 25 of the 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 Act.
- (3) Subclause (1) does not prevent FAR from disclosing or using any information—
  - (a) for statistical or research purposes, if the information is in a form that does not identify any individual; or
  - (b) for the purposes of invoicing or collecting the levy; or
  - (c) with the consent of every identifiable person to whom it relates; or
  - (d) as required by law.



*Miscellaneous*

**21 Returns**

- (1) FAR may request, in writing, from each grower and collection agent any information that FAR reasonably requires for the purpose of determining the amount of levy payable by the grower or collection agent.
- (2) Each grower and collection agent must, as soon as is reasonably practicable after receiving a request from FAR, supply FAR with a written return of the information requested.

**22 Conscientious objectors**

- (1) A grower who objects on conscientious or religious grounds to the manner of recovery of levy money by FAR may pay the amount concerned to the chief executive of the Ministry for Primary Industries.
- (2) The chief executive must pay the amount to FAR.

**23 Remuneration of persons conducting compliance audit**

A person appointed as an auditor under section 15 of the Act is to be remunerated by FAR at a rate determined by the Minister for Primary Industries after consultation with FAR.

*Mediation of disputes*

**24 Appointment of mediators**

- (1) This clause applies to a dispute concerning—
  - (a) whether a person is required to pay the levy; or
  - (b) the amount of levy payable.
- (2) Any party to the dispute may ask the President of the Arbitrators' and Mediators' Institute of New Zealand Incorporated to appoint a person to resolve the dispute by mediation.
- (3) If asked, the President or a person authorised by the President may appoint a person to resolve the dispute by mediation.
- (4) The mediator's appointment ends if—
  - (a) the parties to the dispute resolve the dispute by agreement; or
  - (b) the mediator resolves the dispute under clause 31.

**25 Remuneration of mediators**

- (1) A mediator must be paid remuneration (by way of fees and allowances) as agreed by the parties to the dispute.
- (2) If the parties to a dispute cannot agree on the mediator's remuneration, the President of the Arbitrators and Mediators Institute of New Zealand Incorporated, or a person authorised by the President, must—
  - (a) fix an amount or several amounts that must be paid to the mediator as remuneration; and
  - (b) specify the amount (if any) that each party must pay.
- (3) Each party must pay to the mediator the amount or amounts fixed and specified under subclause (2).

**26 Conferences under control of mediator**

A mediator must—

- (a) organise the date, time, and place for each conference to be held by the mediator; and
- (b) notify the parties by post or email; and
- (c) preside at the conference.

**27 Conferences to be held in private**

Unless clause 28 applies, only the parties to a dispute may attend a conference with the mediator.

**28 Representatives**

A mediator may allow a representative of a party to a dispute to attend a conference if the mediator is satisfied that it is appropriate to do so in all the circumstances.

**29 Right to be heard**

The following persons may be heard at a conference with a mediator:

- (a) each party to the dispute; and
- (b) each representative of a party allowed by the mediator to attend the conference.

**30 Evidence**

- (1) A mediator may hear and take into account any relevant evidence or information, whether or not it would be admissible in a court of law.
- (2) A mediator may, on the mediator's own initiative,—
  - (a) seek and receive any evidence that the mediator thinks desirable to resolve the dispute; and
  - (b) make any investigations and inquiries that the mediator thinks desirable to resolve the dispute.
- (3) A mediator may require a person giving evidence at a conference of the parties to a dispute to verify the evidence by statutory declaration.

**31 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 resolved; or
  - (b) the mediator believes that the parties are unlikely to resolve the dispute, whether or not they confer directly.
- (2) A mediator who resolves a dispute under subclause (1) must give each of the parties written notice of the mediator's decision and the reasons for that decision.
- (3) The parties must comply with the mediator's decision.

**32 Costs of mediation**

Each party must pay the party's own costs in relation to the mediation.

**33 Appeal to District Court**

- (1) A party to a dispute who is dissatisfied with the mediator's decision under clause 31 may appeal to a District Court against the decision.
- (2) The appeal must be brought by filing a notice of appeal—
  - (a) within 28 days after the date on which the mediator makes the decision; or
  - (b) within any longer time that a District Court Judge allows.
- (3) The Registrar of the court must—

- (a) fix the date, time, and place for the hearing of the appeal; and
  - (b) notify the appellant and the other parties to the dispute of the date, time, and place; and
  - (c) serve a copy of the notice of appeal on every other party to the dispute.
- (4) Each party to the dispute may appear and be heard at the hearing of the appeal.
- (5) The District Court may confirm, vary, or reverse the mediator's decision.
- (6) The filing of a notice of appeal does not operate as a stay of process for the enforcement of the mediator's decision.

### **34 Revocation**

- (1) The Commodity Levies (Maize) Order 2006 (SR 2006/206) is revoked.
- (2) Despite subclause (1), amounts of levy that became payable to FAR before the commencement of this order under the Commodity Levies (Maize) Order 2006 continue to be due and payable as if that order had not been revoked.

Rebecca Kitteridge,  
Clerk of the Executive Council.

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### **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 31 July 2012, replaces the Commodity Levies (Maize) Order 2006, which expires with the close of 30 July 2012.

This order imposes a levy on maize seed bought by growers from retailers (defined as collection agents in the order). The levy is payable to the Foundation for Arable Research Incorporated.

This order expires 6 years after it is made, by virtue of section 13(1) of the Commodity Levies Act 1990, unless it is revoked or extended before then.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 3 July 2012.

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## **Contents**

- 1     General
  - 2     Status of reprints
  - 3     How reprints are prepared
  - 4     Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5     List of amendments incorporated in this reprint (most recent first)
- 

## **Notes**

### ***1     General***

This is a reprint of the Commodity Levies (Maize) Order 2012. The reprint incorporates all the amendments to the order as at 12 December 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

### ***2     Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### ***3     How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4     *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)



- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5     *List of amendments incorporated in this reprint  
(most recent first)***

Subordinate Legislation (Confirmation and Validation) Act 2012 (2012 No 97):  
section 8(f)

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