

**Biosecurity (American Foulbrood—Apiary and Beekeeper Levy) Order 2003**  
(SR 2003/283)

**Note**

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

Pursuant to section 90 of the Biosecurity Act 1993, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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1 Title

- This order is the Biosecurity (American Foulbrood—Apiary and Beekeeper Levy) Order 2003.

2 Commencement

- This order comes into force on the 28th day after the date of its notification in the Gazette.

### 3 Interpretation

- In this order, unless the context otherwise requires,—
  - 1998 Order** means the Biosecurity (National American Foul brood Pest Management Strategy) Order 1998
  - Act** means the Biosecurity Act 1993
  - apiary** has the same meaning as in clause 2(1) of the 1998 Order
  - apiary levy** means the apiary levy calculated in accordance with clause 7(3) and (4)
  - base levy** means the levy referred to in clause 7(2)
  - bee** means the honeybee (*Apis mellifera*) including its eggs, larvae, pupae, and semen
  - beehive** means a thing constructed and being used to keep bees; but does not include an introduction cage or a mailing cage
  - beekeeper** means a person who owns beehives
  - introduction cage** means a cage used for introducing a queen bee to a beehive
  - levy** means the levy imposed by clause 4
  - levy money** means money paid under this order as levy
  - levy year** —
    - (a) means a period of 12 months beginning on 1 June and ending on 31 May; and
    - (b) includes the period beginning on the commencement of this order and ending on 31 May 2004
  - mailing cage** means a cage used for transporting a queen bee and attendant worker bees
  - management agency** means the body that on the commencement of this order was known as the National Beekeepers' Association of New Zealand Incorporated
  - Minister** means the Minister of the Crown who recommended the making of the 1998 Order
  - National American Foulbrood Pest Management Strategy** means the strategy made under the 1998 Order
  - registered apiary**—
    - (a) means an apiary that is entered on the register of apiaries maintained by the management agency under clause 23 of the 1998 Order; and
    - (b) includes an apiary that should be notified to the management agency under clause 15(1)(b) of the 1998 Order.

### 4 Levy imposed

- (1) A levy is imposed on all beekeepers in New Zealand.
- (2) The levy is payable to the management agency.

### 5 Beekeepers responsible for paying levy

- Each levy year, all beekeepers are responsible for paying the levy.

### 6 Management agency must collect levy

- (1) The management agency, or its agent, must collect the levy from beekeepers.
- (2) The management agency, or its agent, is entitled to recover the cost of collection.

## **Determination of levy**

### 7 Basis of calculation of levy

- (1) The levy must be calculated on the basis of—
  - (a) a base levy; plus
  - (b) an apiary levy.
- (2) The base levy for each beekeeper is a fixed amount.
- (3) The apiary levy for each beekeeper is the sum of the number of registered apiaries owned by the beekeeper, as at 31 March of the previous levy year, multiplied by a fixed amount.

- (4) For the purposes of subclause (3), the sum of the number of registered apiaries owned by a beekeeper must be treated as 1 if, as at 31 March of the previous levy year, the beekeeper—
- (a) owned fewer than 11 beehives; and
  - (b) had fewer than 4 apiaries.

#### 8 Maximum rate of levy

- The maximum rate of the levy (excluding goods and services tax) is—
  - (a) \$20 per beekeeper for the base levy; plus
  - (b) \$15.17 per apiary for the apiary levy.

#### 9 Payment of levy

- The levy must be paid at a single rate.

#### 10 Management agency must fix actual rate

- The management agency must fix the actual rate of levy—
  - (a) for the levy year ending on 31 May 2004, by any means by which it may lawfully make decisions:
  - (b) for each subsequent year, after consulting with bee keepers under clause 16.

#### 11 Rate if no rate fixed before beginning of levy year

- If the management agency does not fix the actual rate of levy before 20 January of the previous levy year, the levy for that year is payable at the rate last fixed under clause 10.

#### 12 Notification of levy rate

- (1) For the levy year ending on 31 May 2004, the management agency must, as soon as practicable after fixing the rate of levy, notify it in the Gazette.
- (2) For each subsequent year, the management agency, on or before 20 January of the previous levy year,—
  - (a) must notify the rate of levy—
    - (i) on the management agency's website; and
    - (ii) by notice in *The New Zealand Beekeeper*; and
    - (iii) by notice in the *Gazette*; and
  - (b) may notify the rate of levy in the newsletters of groups or associations of hobby and commercial beekeepers that are known to the management agency.
- (3) If *The New Zealand Beekeeper* ceases to be published, the levy rate must be notified in—
  - (a) any publication that replaces it; or
  - (b) if no publication replaces it, a publication specified for the purposes of this order by the Minister by notice in the *Gazette*.

### **Payment of levy**

#### 13 When levy payable

- (1) For the levy year ending on 31 May 2004, the due date for payment of the levy is the date—
  - (a) specified by the management agency in an account, to be sent no later than 20 working days after the commencement of this order, to each beekeeper; and
  - (b) that is not less than 14 days after the date on which the account in paragraph (a) is sent.
- (2) For each subsequent year,—
  - (a) the levy must be paid in a lump sum, on or by 1 June; and

- (b) the management agency must send an account, not less than 28 days before 1 June, to each beekeeper.

#### 14 Penalty for late payment

- If any amount of the levy has not been paid by the close of the due date, the following amounts must be paid to the management agency in addition to the amount otherwise payable:
  - (a) 10% of the amount of the unpaid levy; plus
  - (b) for each month that the amount is outstanding, 2% of the amount of the unpaid levy (including additional levies owing under this clause).

#### 15 Purposes for which levy must be spent

- The management agency must spend all levy money paid to it on the administration and operation of the National American Foulbrood Pest Management Strategy.

#### 16 Consultation on how levy spent

- (1) The management agency must, before the start of each levy year, consult with beekeepers on how the levy money is to be spent.
- (2) The management agency must use the following process to consult beekeepers:
  - (a) it must send to every beekeeper a proposed budget for the levy year's expenditure; and
  - (b) it must give every beekeeper an opportunity to make submissions to it on the proposed budget; and
  - (c) it must send to every group or association of hobby and commercial beekeepers known to it a copy of the proposed budget.

### **Miscellaneous**

#### 17 Records

- (1) The management agency, or its agent, must, for each levy year, keep records of—
  - (a) the rate at which the levy was collected; and
  - (b) each amount of levy money paid to it and the person who paid the amount; and
  - (c) how the levy money paid to it was spent.
- (2) The management agency must ensure that the records referred to in subclause (1) are retained for 7 years after the close of the levy year to which they relate.

#### 18 Conscientious objectors

- (1) A beekeeper 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 Director-General of the Ministry of Agriculture and Forestry.
- (2) The Director-General must pay the amount to the management agency.

#### 19 Remuneration of Auditors

- A person appointed as an Auditor under section 95B of the Act must be remunerated by the management agency at a rate determined by the Minister after consultation with the management agency.

### **Arbitration in case of dispute**

## 20 Appointment of arbitrator

- (1) This clause applies to any dispute about—
  - (a) whether or not a person is required to pay the levy; or
  - (b) the amount of levy payable.
- (2) The parties to a dispute may agree to submit the dispute to arbitration.
- (3) If the parties to a dispute are unable to agree on the appointment of an arbitrator, the arbitrator must be appointed in accordance with Schedule 1 of the Arbitration Act 1996.
- (4) For the purposes of the Arbitration Act 1996,—
  - (a) an agreement under subclause (2) is an arbitration agreement; and
  - (b) the arbitrator (whether appointed by agreement or under subclause (3)), is an arbitral tribunal.

## 21 Application of Arbitration Act 1996 to dispute

- Except as provided in clause 20, the provisions of the Arbitration Act 1996 (including the provisions for procedures to be followed by an arbitral tribunal) apply to the resolution of a dispute submitted to arbitration under this order.

## 22 Payment of arbitration costs

- The costs of the arbitration (including the arbitrator's remuneration) must, unless the parties agree otherwise, be determined under the Schedule 2 of the Arbitration Act 1996.

## 23 Appeal to District Court

- (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.

Diane Morcom,  
Clerk of the Executive Council.