

Reprint  
as at 1 July 2018



## Commodity Levies (Cereal Silage) Order 2012

(SR 2012/162)

Commodity Levies (Cereal Silage) Order 2012: revoked, on 1 July 2018, by clause 34 of the Commodity Levies (Cereal Silage) Order 2018 (LI 2018/83).

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.

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

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## Order

### 1 Title

This order is the Commodity Levies (Cereal Silage) Order 2012.

### 2 Commencement

This order comes into force on 31 July 2012.

Order: confirmed, on 12 December 2012, by section 8(e) 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

**cereal silage** means whole cereal or pulse crops grown and harvested for silage or processed and stored for animal feed

**FAR** means the industry organisation known on the commencement of this order as the Foundation for Arable Research Incorporated

**grower** means a person who grows cereal silage for commercial purposes

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

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

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

**levy rate** means the rate fixed under clause 10

**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 31 December 2012; and
- (b) for each later levy year, the period of 12 months starting on 1 January and ending with the close of 31 December

**mediator** means—

- (a) a person appointed under clause 21; and
- (b) for a particular dispute, the mediator appointed to resolve the dispute.

#### *Levy imposed*

### 4 Levy imposed

- (1) A levy is imposed on cereal silage.
- (2) The levy is payable to FAR.

#### *Payment of levy*

### 5 Growers primarily responsible for paying levy

- (1) A grower of cereal silage is primarily responsible for paying the levy.
- (2) However, a grower is exempt from paying the levy in a levy year in respect of an area of land from which cereal silage is harvested if—
  - (a) the grower uses the cereal silage in the grower's farming operation; and

- (b) the amount of levy that would otherwise be payable on the cereal silage in that levy year does not exceed \$25 excluding GST.

## **6 When levy payable**

- (1) The due date for payment of the levy on cereal silage harvested from an area of land is the date on which the cereal silage on that land is harvested.
- (2) The latest date for payment of the levy is the 21st day of the month following the due date for payment.

## **7 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*

## **8 Levy calculation**

The levy payable in a levy year is to be calculated on the basis of the area of land from which cereal silage is harvested.

## **9 Maximum levy rate**

The maximum rate of the levy is \$25 per hectare of land from which cereal silage is harvested (excluding GST).

## **10 Fixing of levy rate**

- (1) For the first levy year, the levy on cereal silage is \$10 per hectare of land from which cereal silage is harvested (excluding GST).
- (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.

## **11 Information to be supplied to FAR**

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

## **12 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
- (b) in the *Gazette*; and
- (c) on its Internet site.

*Expenditure of levy money*

**13 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.

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

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

**15 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*

**16 Records**

- (1) A grower who harvests cereal silage must, in each levy year, keep records of—
  - (a) the area of land from which cereal silage is harvested; and
  - (b) the amount of levies paid.
- (2) 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.
- (3) The records required by this clause must be kept for at least 2 years after the levy year to which the records relate.

**17 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***18 Returns**

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

**19 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.

**20 Remuneration of persons conducting compliance audit**

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

*Mediation of disputes*

**21 Appointment of mediators**

- (1) This clause applies to a dispute concerning—
  - (a) whether or not any person is required to pay the levy; or
  - (b) the amount of levy payable.
- (2) A 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 it by agreement; or
  - (b) the mediator resolves the dispute under clause 28.

**22 Remuneration of mediators**

- (1) A mediator is to 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 a 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 to 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).

**23 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 of the matters specified in paragraph (a) by post or email; and
- (c) preside at the conference.

**24 Conference to be held in private**

Subject to clause 25, only the parties to a dispute and the mediator may attend a conference organised by the mediator.

**25 Representatives**

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

**26 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.

**27 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,—
  - (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 any person giving evidence at a conference of the parties to a dispute to verify the evidence by statutory declaration.

**28 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.

**29 Cost of mediation**

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

**30 Appeal to District Court**

- (1) A party to a dispute who is dissatisfied with the mediator's decision under clause 28 may appeal to a District Court against the decision.
- (2) The appeal must be brought by the filing of a notice of appeal—
  - (a) within 28 days of the making of the decision concerned; or

- (b) 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
  - (b) notify the appellant and the other parties to the dispute; and
  - (c) serve a copy of the notice of appeal on every other party to the dispute.
- (4) Every 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 any process for the enforcement of the mediator’s decision.

Rebecca Kitteridge,  
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 31 July 2012, imposes a levy on cereal silage harvested by growers. 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.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 3 July 2012.

## Reprints notes

### **1** *General*

This is a reprint of the Commodity Levies (Cereal Silage) Order 2012 that incorporates all the amendments to that order as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Commodity Levies (Cereal Silage) Order 2018 (LI 2018/83): clause 34

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