

Reprint
as at 18 November 2019



Commodity Levies (Harvested Wood Material) Order 2013

(SR 2013/454)

Commodity Levies (Harvested Wood Material) Order 2013: revoked, on 18 November 2019, by clause 35 of the Commodity Levies (Harvested Wood Material) Order 2019 (LI 2019/232).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 18th day of November 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 4 of the Commodity Levies Act 1990, His Excellency the Governor-General makes the following order, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Primary Industries given in accordance with sections 5 and 6 of that Act.

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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 (Harvested Wood Material) Order 2013.

2 Commencement

This order comes into force on 1 January 2014.

Order: confirmed, on 12 December 2014, by section 8(b) of the Subordinate Legislation (Confirmation and Validation) Act 2014 (2014 No 70).

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Commodity Levies Act 1990

FGLT means the incorporated society known as the Forest Growers Levy Trust Incorporated immediately before the commencement of this order

forest owner means the owner of trees in a plantation forest, whether or not—

- (a) that owner owns the land on which the trees are planted; or
- (b) cutting rights to the trees have been granted to another person

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

harvested wood material—

- (a) means any material that is, or is derived from, trees harvested from a plantation forest; and
- (b) without limitation, includes logs, woodchips, bin wood, posts, hogged material, and forest waste; but
- (c) does not include Christmas trees, tree bark sold directly from the forest, or firewood sold for household consumption

levy money means money paid under this order as a levy

levy payer means any person who is responsible for paying levy money

levy year means the 12 months beginning on 1 January

mediator means a person appointed under clause 25

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of the Commodity Levies Act 1990

Ministry means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Commodity Levies Act 1990

National Forest Health Surveillance Scheme means the programme of monitoring the pest and disease status of New Zealand forests administered by the

New Zealand Forest Owners Association immediately before the commencement of this order

New Zealand Forest Owners Association means the incorporated society known as The New Zealand Forest Owners Association Incorporated immediately before the commencement of this order

plantation forest—

- (a) means any forest (whether exotic or native) that has grown as a result of being planted; and
- (b) includes any regenerated planted forest

Strategic Action Plan means the *New Zealand Forest and Wood Products Industry Strategic Action Plan* published in March 2012 by the Wood Council of New Zealand, or the most recent strategic plan relating to forestry that is later published by the Wood Council of New Zealand

Wood Council of New Zealand means the incorporated society known as the Wood Council of New Zealand (Woodco) Incorporated immediately before the commencement of this order.

Levies imposed

4 Levy imposed

- (1) A levy is imposed on all harvested wood material from plantation forests in New Zealand.
- (2) The levy is payable to FGLT.

5 When levy becomes payable

The levy on harvested wood material becomes payable on the earliest of the following:

- (a) immediately before the material enters a mill or other processing plant;
- (b) immediately after the material enters a port;
- (c) when the material is sold.

6 Persons responsible for paying levy

- (1) The owner of harvested wood material at the time that the levy becomes payable is responsible for paying the levy and any GST payable on the levy.
- (2) Forest owners who produce harvested wood material from plantation forests in New Zealand are primarily responsible for paying the levy and any GST payable on the levy.
- (3) No forest owner who produces harvested wood material from plantation forests in New Zealand is exempt from paying the levy and any GST payable on the levy.

- (4) Any person who is not a forest owner and who pays the levy may recover the levy and any GST payable on the levy from a forest owner—
- (a) by deducting the amount of the levy from the payment for harvested wood material made to the forest owner; or
 - (b) as a debt due from the forest owner.

7 No collection fee

A person who is not a forest owner and who is responsible for paying the levy to FGLT may not deduct from the levy a collection fee for paying the levy.

Determination of levy

8 Rate of levy

The levy must be paid at a single rate.

9 Basis of calculating levy

The levy payable on any harvested wood material must be calculated on the basis of its weight in tonnes at the time that the levy becomes payable.

10 Initial levy rate

- (1) The levy payable for the first levy year (1 January 2014 to 31 December 2014) is 27 cents per tonne of harvested wood material.
- (2) The initial levy rate is exclusive of GST.

11 Maximum levy rate

- (1) The maximum levy payable is 30 cents per tonne of harvested wood material.
- (2) The maximum levy rate is exclusive of GST.

12 FGLT must set levy rate

- (1) The board of FGLT must set the levy rate for the first levy year using any means by which it can lawfully make decisions.
- (2) For every later levy year, the levy rate must be set by the board of FGLT, following consultation with current and potential levy payers.

13 Notification of levy rate

As soon as practicable after setting the levy rate for a levy year, FGLT must notify the levy rate—

- (a) in the *Gazette*; and
- (b) in the publication known as the *New Zealand Forestry Bulletin* immediately before the commencement of this order, or any equivalent publication later published by the New Zealand Forest Owners Association; and

- (c) in the publication known as the *New Zealand Forest Owners Association e-News* immediately before the commencement of this order, or any equivalent publication later published by the New Zealand Forest Owners Association; and
- (d) in 1 or more metropolitan newspapers; and
- (e) by email to all levy payers whose email addresses are known to FGLT.

Payment of levy

14 When levy payable by levy payers

- (1) At the beginning of each month, FGLT must send to each levy payer an invoice for the levy payable and any GST payable on the levy.
- (2) The due date for paying the levy and any GST payable on the levy is the date on which the invoice in subclause (1) is issued.
- (3) The latest date for payment of the levy and any GST payable on the levy is the 20th of the month after the month in which the invoice is issued.

Expenditure of levy money

15 FGLT must spend levy money

FGLT must—

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

16 Purposes for which levy money may be spent

- (1) FGLT may spend levy money for any or all of the following purposes relating to harvested wood material:
 - (a) research and development:
 - (b) forest biosecurity:
 - (c) the National Forest Health Surveillance Scheme:
 - (d) industry education and training:
 - (e) development of codes of practice and industry standards, including those relating to the health and safety of forestry workers:
 - (f) supporting implementation of the Strategic Action Plan:
 - (g) programme development and implementation costs:
 - (h) industry and product promotion:
 - (i) information dissemination:
 - (j) representing the interests of forest owners and the industry:
 - (k) administration costs.
- (2) FGLT must not spend levy money on commercial or trading activities.

- (3) Subclause (2) overrides subclause (1).

17 Consultation on spending levy money

Each year, FGLT must consult known actual and potential levy payers on how it will spend levy money in the year ahead.

Record-keeping requirements and confidentiality of information

18 Returns must be supplied to FGLT

- (1) FGLT may request in writing from a levy payer, port, mill, or other processing plant returns that contain any information that is reasonably required for determining the amounts of levy payable by levy payers.
- (2) Any person who receives a request from FGLT under subclause (1) must, as soon as is reasonably practicable after receiving the request, supply FGLT with a return containing any information requested in the manner (if any) specified by FGLT.

19 Records to be kept by FGLT

FGLT must keep records of the following for each levy year:

- (a) each amount of levy money paid to it; and
- (b) the date on which each amount of levy money was received; and
- (c) the name and contact details of each person who paid levy money; and
- (d) how levy money was spent or invested.

20 Records to be kept by levy payers

Every levy payer must keep records of the following for each levy year, as applicable:

- (a) the weight in tonnes of harvested wood material sold directly from plantation forests:
- (b) the name and contact details of the person from which harvested wood material was received:
- (c) the weight in tonnes of harvested wood material supplied to ports, mills, or other processing plants:
- (d) the name and contact details of every person to which harvested wood material was sold or supplied:
- (e) each amount of levy paid to FGLT, including the date on which the amount of levy was paid to FGLT.

21 Records must be kept for 5 years

The records kept under clauses 19 and 20 must be kept for at least 5 years from the date of payment of the levy to which they relate.

22 Confidentiality of information

- (1) No levy payer, port, mill, other processing plant, or officer or employer of FGLT may disclose (except to an officer or employee of FGLT) 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;
 - (b) the preparation of any statement under section 25 of the Act;
 - (c) the disclosure or use of information as required by law;
 - (d) the giving of evidence in any legal proceedings taken—
 - (i) under or in relation to this order; or
 - (ii) under the Act in relation to this order.
- (3) Subclause (1) does not prevent FGLT 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;
 - (b) for the purpose of collecting levies;
 - (c) with the consent of every identifiable person to whom the information relates.

*Miscellaneous***23 Conscientious objectors**

- (1) Any levy payer who objects on conscientious or religious grounds to the manner of recovery by FGLT of an amount of levy money may pay the amount concerned to the Director-General of the Ministry.
- (2) The Director-General must pay the amount to FGLT.

24 Remuneration of persons conducting compliance audits

A person appointed as auditor under section 15 of the Act must be remunerated by FGLT at a rate agreed by the auditor and FGLT, after FGLT has consulted the Minister.

*Mediation of disputes***25 Appointment of mediators**

- (1) This clause applies if a dispute arises about—
 - (a) whether a person is required to pay a levy; or
 - (b) the amount of levy money payable.

- (2) A party to the dispute may ask the President of the Arbitrators and Mediators Institute of New Zealand Incorporated (the **President**) to appoint a person to—
 - (a) organise and preside at a conference of the parties; and
 - (b) attempt to resolve the dispute by mediation.
- (3) On receiving a request under subclause (2), the President (or a person authorised by the President to do so) may appoint a person to resolve the dispute by mediation.
- (4) The mediator's appointment ends when—
 - (a) the parties resolve the dispute themselves; or
 - (b) the mediator resolves the dispute under clause 32.

26 Remuneration of mediators

- (1) A mediator must be paid remuneration (by way of fees and allowances) agreed to by the parties.
- (2) However, if the parties cannot agree on a mediator's remuneration, the President (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 amount (if any) that each party must pay.
- (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 organised by a mediator is to 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 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 a party to attend a conference of the parties organised by the mediator.

30 Right to be heard

Every party, and every representative of a party allowed by the mediator to attend a conference of the parties organised by a mediator, 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 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 resolve a dispute.
- (3) A mediator may require any person giving evidence at a conference of the parties 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 the mediator—
 - (a) has organised and presided at a conference of the parties but the dispute has not been resolved; or
 - (b) believes that the parties are unlikely to resolve the dispute, whether or not the parties confer directly.
- (2) If the mediator resolves a dispute, the mediator must give each of the parties written notice of the mediator's decision and the reasons for the decision.
- (3) The parties must comply with a decision of the mediator.

33 Costs of mediation

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

34 Appeal to District Court

- (1) A party who is dissatisfied with a decision made by a mediator under clause 32 may appeal against the decision to a District Court.
- (2) An appeal is to 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 that a District Court Judge allows.
- (3) The Registrar of the District Court must—
 - (a) serve a copy of the notice of appeal on every other party to the dispute; and
 - (b) fix the time and place for the hearing of the appeal; and
 - (c) notify the appellant and the other parties of the time and place for the hearing of the appeal.
- (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.

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 1 January 2014, imposes a levy on harvested wood material from plantation forests in New Zealand. Forest owners are primarily responsible for paying the levy. However, in some circumstances other persons are responsible for paying the levy on behalf of forest owners. The levy is payable to Forest Growers Levy Trust Incorporated.

Under section 12 of the Commodity Levies Act 1990, this order will be deemed to be revoked at the close of 31 December 2014 unless it is confirmed by an Act of Parliament passed on or before that date. If confirmed, the order will then be deemed to be revoked 6 years after it is made, by virtue of section 13(1) of the Commodity Levies Act 1990, unless the order is earlier revoked or extended.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 21 November 2013.

Reprints notes

1 *General*

This is a reprint of the Commodity Levies (Harvested Wood Material) Order 2013 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 (Harvested Wood Material) Order 2019 (LI 2019/232): clause 35

Subordinate Legislation (Confirmation and Validation) Act 2014 (2014 No 70): section 8(b)