

Reprint
as at 1 August 2016



Biosecurity (Bovine Tuberculosis–Otago Land Levy) Order 1998 (SR 1998/442)

Biosecurity (Bovine Tuberculosis–Otago Land Levy) Order 1998: revoked, on 1 August 2016, by clause 28 of the Biosecurity (Bovine Tuberculosis—Cattle and Deer Levy) Order 2016 (LI 2016/111).

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 14th day of December 1998

Present:

His Excellency the Governor-General in Council

Pursuant to section 90 of the Biosecurity Act 1993, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and on the recommendation of the Minister for Food, Fibre, Biosecurity and Border Control, 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 and commencement

- (1) This order may be cited as the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Order 1998.
- (2) This order comes into force on the 28th day after the date of its notification in the *Gazette*.

Biosecurity (Bovine Tuberculosis—Otago Land Levy) Order 1998: confirmed, on 9 September 1999, by section 2(a) of the Subordinate Legislation (Confirmation and Validation) Act 1999 (1999 No 112).

2 Interpretation

In this order, unless the context otherwise requires,—

common costs has the same meaning as in the Biosecurity (National Bovine Tuberculosis Pest Management Plan) Order 1998

district valuation roll has the same meaning as in section 2(1) of the Rating Valuations Act 1998; and includes a roll deemed to have been approved in accordance with section 59(3) of that Act

financial year means a year commencing on 1 July and ending on 30 June in the following year

land value means,—

- (a) if the land value recorded in the district valuation roll on 1 July of the financial year in which the levy is payable is not more than \$5,000 per hectare, the land value recorded in the district valuation roll; or

- (b) if the land value recorded in the district valuation roll on 1 July of the financial year in which the levy is payable is more than \$5,000 per hectare, a land value calculated by multiplying the total area of the property (in hectares) by \$5,000

occupier means the person who is recorded as the ratepayer in the district valuation roll on 1 July in the financial year in which the levy is payable, except for the levy payable on or before 31 March 1999, where the occupier is the person recorded as the occupier in the district valuation roll on the date this order comes into force

Otago Region means the Otago Region as constituted by the Local Government (Otago Region) Reorganisation Order 1989, *Gazette* 1989, Vol III, p 2408

rating unit has the same meaning as in section 5 of the Local Government (Rating) Act 2002

rural property means a rating unit with a property category recorded by the territorial authority in accordance with rules made under the Rating Valuations Act 1998 that has, on 1 July in the financial year in which the levy is payable, a first character of A, D, P, S, H, L, or F

TBfree New Zealand means TBfree New Zealand Limited

tuberculosis vector risk area has the same meaning as in the Biosecurity (National Bovine Tuberculosis Pest Management Plan) Order 1998

vector control has the same meaning as in the Biosecurity (National Bovine Tuberculosis Pest Management Plan) Order 1998.

Clause 2 **Board**: revoked, on 1 July 2013, by clause 4(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 2 **capital value**: revoked, on 1 July 2004, by clause 3(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 2 **common costs**: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 2 **land value**: inserted, on 1 July 2004, by clause 3(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 2 **national vector control zone**: revoked, on 1 July 2004, by clause 3(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 2 **occupier**: amended, on 1 July 2004, by clause 3(3) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 2 **occupier**: amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Clause 2 **rating unit**: inserted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Clause 2 **regional vector control zone**: revoked, on 1 July 2004, by clause 3(4) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 2 **rural property**: amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Clause 2 **separately rateable property**: revoked, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Clause 2 **TBfree New Zealand**: inserted, on 1 July 2013, by clause 4(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 2 **tuberculosis vector risk area**: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 2 **vector control**: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

3 Levy imposed

This order imposes a levy payable to TBfree New Zealand for the purposes of partially funding the implementation of the National Bovine Tuberculosis Pest Management Plan.

Clause 3: amended, on 1 July 2013, by clause 5 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 3: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

4 Occupiers responsible for paying levy

- (1) Each financial year the occupier of every rural property must pay a levy based on the land value of that property in accordance with this order, if that property—
 - (a) is wholly or partially in the Otago Region; and
 - (b) has an area that is equal to or exceeds 4 hectares.
- (2) However, if a levy calculated in accordance with clause 5 is less than \$10 (excluding goods and services tax), the occupier is not required to pay the levy.

Clause 4(1): amended, on 1 July 2004, by clause 4(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 4(2): added, on 1 July 2004, by clause 4(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

5 Basis for calculation of levy

- (1) The levy is calculated by multiplying the rate of levy fixed in accordance with this order for a property by the land value of the property.
- (2) If the total area of a rural property is 4 hectares or more and only part of the property is within the Otago region, the levy payable must be calculated in accordance with the following formula:

$$\left(\frac{a}{b} \times c\right) \times d$$

where—

- a is the area in hectares of the property that is within the Otago region; and
- b is the total area in hectares of the property; and
- c is the land value of the entire property; and
- d is the rate of levy fixed in accordance with clause 12.

Clause 5(1): amended, on 1 July 2004, by clause 5(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 5(2): substituted, on 1 July 2004, by clause 5(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

6 Levy payable to TBfree New Zealand

The levy payable by the occupier in accordance with clause 4 is payable directly to TBfree New Zealand.

Clause 6 heading: amended, on 1 July 2013, by clause 6(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 6: amended, on 1 July 2013, by clause 6(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

7 Use of money raised by levy

The money raised by the levy must be spent on the common costs and vector control in the Otago Region.

8 Consultation

TBfree New Zealand (or, before 1 July 2013, the Animal Health Board (Incorporated)) must, before the end of each financial year,—

- (a) send to each occupier of a rural property in the Otago Region, a document setting out the proposed vector control programme for the Otago Region for the next financial year:
- (b) give each occupier the opportunity to express the occupier's views to TBfree New Zealand (or, before 1 July 2013, the Animal Health Board (Incorporated))—
 - (i) in writing; or
 - (ii) at public meetings convened by TBfree New Zealand (or, before 1 July 2013, the Animal Health Board (Incorporated)) in the Otago Region.

Clause 8: amended, on 1 July 2013, by clause 7(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 8(b): amended, on 1 July 2013, by clause 7(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 8(b)(ii): amended, on 1 July 2013, by clause 7(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

9 Payment of levy

The levy must be paid in 1 annual payment on or before 31 March in each financial year.

10 Levy to be paid at different rates

[Revoked]

Clause 10: revoked, on 1 July 2004, by clause 6 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

11 Maximum rate of levy

The rate of levy fixed under clause 12 must not exceed 0.065% of the land value.

Clause 11: substituted, on 1 July 2004, by clause 7 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

12 TBfree New Zealand to fix actual rate of levy

- (1) In each financial year, TBfree New Zealand must fix the rate of levy payable.
- (2) TBfree New Zealand must not fix the rate of levy before complying with clause 8.
- (3) The rate of levy must be calculated by—
 - (a) determining the total costs of carrying out the vector control programme in the Otago region for the relevant financial year; and
 - (b) fixing the rate for properties, based on the land value of the rural properties to which the levy applies, at a level that is sufficient to recover (in aggregate) the regional share of the vector control programme in the Otago region for that financial year.

Clause 12: substituted, on 1 July 2004, by clause 8 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 12 heading: amended, on 1 July 2013, by clause 8(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 12(1): amended, on 1 July 2013, by clause 8(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 12(2): amended, on 1 July 2013, by clause 8(3) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

13 Notification of rate of levy

The rate of levy payable must be published by TBfree New Zealand in the *Gazette*, the *Otago Daily Times*, and *The Southland Times* not later than 1 December in each financial year.

Clause 13: substituted, on 1 July 2004, by clause 9 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

Clause 13: amended, on 1 July 2013, by clause 9 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

14 Provision of district valuation rolls to TBfree New Zealand

To enable TBfree New Zealand to determine the amounts of levy payable by each occupier, each territorial authority wholly or partially in the Otago Region must,—

- (a) on or before 15 July in each year, make a return to TBfree New Zealand containing the information in its district valuation roll on 1 July and the supporting information relating to property categories that the territorial authority is required to maintain in accordance with rules made under the Rating Valuations Act 1998.

(b) *[Revoked]*

Clause 14 heading: amended, on 1 July 2013, by clause 10(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 14: amended, on 1 July 2013, by clause 10(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 14(a): amended, on 1 July 2013, by clause 10(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 14(b): revoked, on 1 July 2004, by clause 10 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

15 Payment of increased levy for late payment

- (1) Any amount of levy payable that remains unpaid after the due date is increased once by 10%.
- (2) Any amount of levy payable (excluding any increased levy payable in accordance with subclause (1)) that remains outstanding at the end of 1 month following the increase under subclause (1) is further increased by 2% at that time, and any amount of levy remaining outstanding at the end of every following month is further increased by 2% at the end of each month.

15A Levies exclusive of GST

The levies determined or fixed under this order are exclusive of goods and services tax.

Clause 15A: inserted, on 1 July 2004, by clause 11 of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183).

16 Auditor's remuneration

A person appointed as an auditor under section 100P of the Biosecurity Act 1993 must be remunerated by TBfree New Zealand at a rate determined by the Minister after consultation with TBfree New Zealand (or, if the consultation occurred before 1 July 2013, the Animal Health Board (Incorporated)).

Clause 16: amended, on 1 July 2013, by clause 11(1) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 16: amended, on 1 July 2013, by clause 11(2) of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201).

Clause 16: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

17 Appointment of arbitrator

- (1) If a dispute arises as to—
 - (a) whether or not any person is required to pay the levy; or
 - (b) the amount of levy money any person is required to pay,—the parties may agree to submit the dispute to arbitration and that agreement is an arbitration agreement for the purposes of the Arbitration Act 1996.

- (2) If the parties 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 and, whether by agreement or in accordance with the Arbitration Act 1996, the arbitrator is an arbitral tribunal for the purposes of the Arbitration Act 1996.

18 Procedures and other matters relating to resolution of disputes

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 all disputes submitted to arbitration in accordance with this order.

19 Payment of arbitration costs

The costs of the arbitration, including the arbitrator's remuneration, must, unless the parties agree otherwise, be determined in accordance with Schedule 2 of the Arbitration Act 1996.

20 Appeal to District Court

- (1) Any 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 of the making of the decision concerned, or within any longer time as 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 other parties to the dispute; and
 - (b) serve a copy of the notice of appeal on every other party to the dispute.
- (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.

Marie Shroff,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Biosecurity (Bovine Tuberculosis—Otago Land Levy) Order 1998 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*

Biosecurity (Bovine Tuberculosis—Cattle and Deer Levy) Order 2016 (LI 2016/111): clause 28

Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2013 (SR 2013/201)

Biosecurity Law Reform Act 2012 (2012 No 73): section 93

Biosecurity (Bovine Tuberculosis—Otago Land Levy) Amendment Order 2004 (SR 2004/183)

Local Government (Rating) Act 2002 (2002 No 6): section 137(1)

Subordinate Legislation (Confirmation and Validation) Act 1999 (1999 No 112): section 2(a)