

Version
as at 24 December 2024



Commodity Levies (Maize) Order 2024 (SL 2024/67)

Cindy Kiro, Governor-General

Order in Council

At Wellington this 13th day of May 2024

Present:

Her Excellency the Governor-General in Council

This order is made under section 4 of the Commodity Levies Act 1990—

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

Contents

	Page
1 Title	3
2 Commencement	3
3 Interpretation	3
<i>Levy imposed</i>	
4 Levy on maize	3
5 Exemptions and refunds	4

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This order is administered by the Ministry for Primary Industries.

	<i>Levy rate</i>	
6	Basis for calculating levy	4
7	Levy rate	4
8	Notifying levy rate	4
	<i>Paying levy</i>	
9	Due and latest dates for payment	5
10	Additional levy for late payment	5
11	Conscientious objection to paying FAR	6
	<i>Recovery of levy from growers</i>	
12	Recovery of levy from growers	6
	<i>Fee for collecting levy</i>	
13	Collection agent may charge FAR collection fee	6
	<i>Spending levy money</i>	
14	FAR must spend levy money	6
15	Purposes for which levy money may be spent	6
16	Consulting on how levy money spent	7
	<i>Returns</i>	
17	Growers and collection agents must make returns to FAR	7
	<i>Records</i>	
18	Growers must keep records	7
19	Collection agents must keep records	7
20	FAR must keep records	7
21	Records must be kept for 2 years	8
	<i>Confidentiality</i>	
22	Confidentiality of information	8
	<i>Dispute resolution</i>	
23	Mediation of disputes	8
	<i>Compliance audits</i>	
24	Remunerating auditors	9
	<i>Revocation</i>	
25	Commodity Levies (Maize) Order 2018 revoked	9
	Schedule	10
	Mediation of disputes	

Order

1 Title

This order is the Commodity Levies (Maize) Order 2024.

2 Commencement

This order comes into force on 1 July 2024.

Order: confirmed, on 24 December 2024, by section 8(d) of the Secondary Legislation Confirmation Act 2024 (2024 No 58).

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

Director-General means the chief executive of the Ministry for Primary Industries

FAR means the industry organisation that, on the commencement of this order, was known as the 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 payable under the Goods and Services Tax Act 1985

levy means the levy imposed by clause 4

levy money means the money paid or payable under this order as a levy

levy rate means the rate fixed under clause 6

levy year means,—

(a) for the first levy year, the period that begins on 1 July 2024 and ends on 30 June 2025; and

(b) for each subsequent year, a period of 12 months that begins on 1 July and ends on 30 June

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

Levy imposed

4 Levy on maize

- (1) A levy is imposed on maize seed sold for sowing.
- (2) The levy is payable to FAR.
- (3) Growers of maize are primarily responsible for paying the levy.
- (4) A collection agent who sells maize seed to a grower for sowing—

- (a) must pay the levy (including any GST payable on it); and
- (b) may recover the levy from the grower (*see* clause 12).

5 Exemptions and refunds

- (1) A grower is exempt from paying the levy on maize seed that is used in the same levy year to sow a crop to replace a failed maize crop that a collection agent verifies as having failed to establish.
- (2) If the grower has already paid the levy in relation to a maize crop that cannot be harvested due to flooding or other climate-related disasters, FAR must refund the amount of the levy paid.
- (3) For the purposes of subclause (2), standing maize that is fed to stock is deemed to have been harvested.

Levy rate

6 Basis for calculating levy

FAR must calculate the levy payable in a levy year on the basis of the number of maize seeds a grower buys from a collection agent in the levy year.

7 Levy rate

- (1) For the first levy year, the levy is \$1 per 10,000 seeds (excluding GST) purchased by a grower.
- (2) For each subsequent levy year, FAR must fix the levy rate 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 payable at the rate last fixed.
- (4) The levy must be paid at a single rate.
- (5) The maximum rate of the levy is \$1.40 per 10,000 seeds (excluding GST) purchased by a grower.

8 Notifying levy rate

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

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

Paying levy

9 Due and latest dates for payment

- (1) The due date for payment of an amount of levy on any quantity of maize seed is the earlier of—
 - (a) the date on which the grower pays for the maize seed; and
 - (b) the date on which payment of the invoice for the maize seed is due.
- (2) If an amount of levy payable for a month is \$2,000 or greater (excluding GST), the latest date for payment is the last day of the month following the due date for payment.
- (3) If an amount of levy payable for a month is less than \$2,000 (excluding GST), the payer may choose to pay in accordance with subclause (2) or combine the levy payment for the month with levy payments for 1 or more subsequent months in the same quarter, in which case the latest date for payment is as follows:

Combined levy	Latest date for payment
Combined levy comprising payments for the first and second months of a relevant quarter and that is \$2,000 or more plus GST	Last 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	Last 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 (regardless of the amount)	Last 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)	Last day of the month following the close of the relevant quarter

- (4) 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 last day of the month following the close of the relevant quarter.
- (5) 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 Additional levy for late payment

- (1) If a grower or collection agent does not pay an amount of levy money by the latest date for payment, the grower or collection agent must pay FAR,—
 - (a) for the first month, an additional levy of 5% of the unpaid amount; and

- (b) for each subsequent month that the amount (or part of the amount) remains unpaid after the required date, an additional levy of 1% of the unpaid amount.
- (2) Any additional levy imposed by subclause (1) that remains unpaid is not itself subject to subclause (1).

11 Conscientious objection to paying FAR

- (1) A person who objects on conscientious or religious grounds to paying the levy in the manner provided for in this order must pay the equivalent amount to the Director-General.
- (2) The Director-General must pay the amount received to FAR.

Recovery of levy from growers

12 Recovery of levy from growers

A collection agent may recover the levy (including any GST payable on it) from a grower by invoicing them for the levy at the same time as invoicing them for the maize seed.

Fee for collecting levy

13 Collection agent may charge FAR collection fee

- (1) A collection agent who pays the levy to FAR may charge a collection fee of not more than 1% of the amount of levy collected (excluding GST).
- (2) A collection agent may recover the collection fee in subclause (1) by deducting from the collection agent's levy payment to FAR—
 - (a) the collection fee (excluding GST); and
 - (b) the GST payable on the collection fee.

Spending levy money

14 FAR must spend levy money

FAR must—

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

15 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 or growers:
 - (a) research and development:
 - (b) education and training:
 - (c) collection, collation, and publication of information:

- (d) day-to-day administration of FAR.
- (2) See section 10(1) of the Act, which prohibits the use of levy money for commercial or trading purposes.

16 Consulting on how levy money spent

Each levy year, FAR must consult growers on how it proposes to spend levy money using the following methods:

- (a) discussions with local arable research groups:
- (b) discussions with grower research committees:
- (c) annual meetings:
- (d) seminars:
- (e) field days.

Returns

17 Growers and collection agents must make returns to FAR

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

Records

18 Growers must keep records

A grower who buys maize seed must, in each levy year, keep records of the following for that levy year:

- (a) each quantity of maize seed bought:
- (b) the name and address of the seller of each quantity of maize seed.

19 Collection agents must keep records

A collection agent must, in each levy year, keep records of the following for that levy year:

- (a) each quantity of maize seed bought by a grower from the collection agent:
- (b) the name and address of the grower of each quantity of maize seed:
- (c) each amount of levy money paid to FAR and the date of each payment.

20 FAR must keep records

FAR must, in each levy year, keep records of the following for that levy year:

- (a) the amount of every levy paid to it:
- (b) the date on which the levy was received:
- (c) the person who paid the levy:
- (d) how (if at all) amounts of levy were invested:
- (e) how and when amounts of levy were spent.

21 Records must be kept for 2 years

The records required by clauses 18 to 20 must be kept for at least 2 years after the end of the levy year to which they relate.

Confidentiality

22 Confidentiality of information

- (1) No officer or employee of FAR 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 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 that do not involve the disclosure of personal information; or
 - (b) for invoicing or collecting the levy; or
 - (c) if every identifiable individual to whom it relates consents to its disclosure; or
 - (d) as required by law.

Dispute resolution

23 Mediation of disputes

- (1) This clause applies to a dispute about—
 - (a) whether a 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, in which case the provisions in the Schedule apply.

Compliance audits

24 Remunerating auditors

FAR must remunerate a person appointed as an auditor under section 15 of the Act at a rate determined by the Minister of Agriculture after consultation with FAR.

Revocation

25 Commodity Levies (Maize) Order 2018 revoked

The Commodity Levies (Maize) Order 2018 (LI 2018/82) is revoked.

Schedule

Mediation of disputes

cl 23

1 Appointing mediators

- (1) If asked by a party to a dispute under clause 23(2) of this order, the President of the Arbitrators and Mediators Institute of New Zealand Incorporated (or a person authorised by the President) may appoint a person to resolve the dispute by mediation.
- (2) 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 7 of this schedule.

2 Remunerating 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 a mediator's remuneration, the President (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).

3 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.

4 Attendance at conferences

- (1) The parties are the only persons who may attend the conference to the dispute, unless subclause (2) applies.
- (2) 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.

5 Right to be heard

Each person who attends a conference may be heard at the conference.

6 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 their own initiative,—
 - (a) seek and receive any evidence that they think desirable to resolve the dispute; and
 - (b) make any investigations and inquiries that they think desirable to resolve the dispute.
- (3) A mediator may require a person giving evidence at a conference to verify the evidence by statutory declaration.

7 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 party written notice of the mediator's decision and the reasons for the decision.
- (3) The parties must comply with the mediator's decision.

8 Mediation costs

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

9 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the mediator's decision may appeal to the District Court against the decision.
- (2) The appeal must be brought by filing a notice of appeal—
 - (a) within 28 days after the decision is made; 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; 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 process for the enforcement of the mediator's decision.

Rachel Hayward,
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 July 2024, imposes a levy on maize seed bought by growers from retailers (defined as collection agents in the order). Growers are primarily responsible for paying the levy, but retailers who sell maize seed to a grower for sowing must pay the levy. Retailers may recover the levy from growers. The levy is payable to the Foundation for Arable Research Incorporated.

Before this order, a levy was imposed on maize seed by the Commodity Levies (Maize) Order 2018. This order revokes and replaces that order. The revocation does not affect the amount of levy money that became payable under that order before the revocation.

This order must be confirmed by an Act before the close of 30 June 2025. If it is not confirmed, it will be revoked on the close of that date. *See* subpart 3 of Part 5 of the Legislation Act 2019.

If the order is confirmed, it will be revoked at the close of 30 June 2030, unless it is extended under section 13(2) of the Commodity Levies Act 1990.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 16 May 2024.

Notes

1 *General*

This is a consolidation of the Commodity Levies (Maize) Order 2024 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Confirmation Act 2024 (2024 No 58): section 8(d)