

Version
as at 24 December 2024



Commodity Levies (Cereal Silage) Order 2024 (SL 2024/68)

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.

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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.

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Order

1 Title

This order is the Commodity Levies (Cereal Silage) Order 2024.

2 Commencement

This order comes into force on 1 July 2024.

Order: confirmed, on 24 December 2024, by section 8(b) 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

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

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 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 under clause 4

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

levy rate means the rate fixed under clause 7

levy year means,—

- (a) for the first levy year, the period that begins on 1 July 2024 and ends on 31 December 2024; and
- (b) for each subsequent year, the period of 12 months that begins on 1 January and ends on 31 December.

Levy imposed

4 Levy on cereal silage

- (1) This order imposes a levy on cereal silage.
- (2) The levy must be paid to FAR.
- (3) Growers of cereal silage are primarily responsible for paying the levy.

5 Exemption

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 their farming operation; and
- (b) the amount of levy that would be payable on the cereal silage in that levy year does not exceed \$50 (excluding GST).

Levy rate

6 Basis for calculating levy

FAR must calculate the levy on the basis of the area of land from which cereal silage is harvested.

7 Levy rate

- (1) The levy on cereal silage for the first levy year is \$10 per hectare of land from which cereal silage is harvested (excluding GST).
- (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 the rate most recently fixed under this clause.
- (4) The levy must be paid at a single rate.
- (5) The maximum rate of the levy is \$25 per hectare of land from which cereal silage is harvested (excluding GST).

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
- (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 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 last day of the month following the due date for payment.

10 Additional levy for late payment

- (1) If a grower does not pay an amount of levy money by the latest date for payment, the grower 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 amount of the unpaid levy.
- (2) Any additional levy imposed by subclause (1) that remains unpaid is not itself subject to subclause (1).

11 Conscientious objectors

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

Spending levy money

12 FAR must spend levy money

FAR must—

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

13 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 or growers:
 - (a) research and development:
 - (b) education and training:
 - (c) collection, collation, and publishing 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.

14 Consulting on spending levy money

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

15 Returns

- (1) FAR may request, in writing, from each grower any information that FAR reasonably requires to determine 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.

Records

16 Growers must keep records

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 date and amount of each levy paid.

17 FAR must keep records

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.

18 Records must be kept for 2 years

The records required by clauses 16 and 17 must be kept for at least 2 years after the end of the levy year to which they relate.

*Confidentiality***19 Confidentiality of information**

- (1) No officer or employee of FAR, and no other person who gathers information, may disclose (other than to some other officer or employee of FAR) any information obtained—
 - (a) under 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 relating to this order or the Act.
- (3) Subclause (1) does not prevent FAR from disclosing information—
 - (a) for statistical or research purposes, if the information is in a form that does not identify any individual; or
 - (b) for assisting with the collection of the levy; or
 - (c) if the person who provided the information and every identifiable person to whom it relates consents to its disclosure; or
 - (d) as required by law.

*Dispute resolution***20 Mediation of disputes**

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

Compliance audits

21 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

22 Commodity Levies (Cereal Silage) Order 2018 revoked

The Commodity Levies (Cereal Silage) Order 2018 (LI 2018/83) is revoked.

Schedule

Mediation of disputes

cl 20

1 Appointing mediators

- (1) If asked by a party to a dispute under clause 20(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 mediator to resolve the dispute.
- (2) 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 7 of this schedule.

2 Remunerating mediators

- (1) The parties must pay remuneration to the mediator (by way of fees and allowances) as agreed by the parties.
- (2) If the parties 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 the amounts fixed and specified under subclause (2) to the mediator.

3 Conferences under control of mediators

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 email or post; and
- (c) preside at the conference.

4 Attendance at conferences

- (1) The parties to the dispute are the only persons who may attend the conference, 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 within 28 days after the decision is made or 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) Each 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.

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 cereal silage harvested by growers. Growers are primarily responsible for paying the levy. The levy is payable to the Foundation for Arable Research Incorporated.

This order revokes and replaces the Commodity Levies (Cereal Silage) Order 2018. The revocation does not affect amounts 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 on 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 (Cereal Silage) 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(b)