

Reprint
as at 18 September 2012



**Biosecurity (American Foulbrood –
Apiary and Beekeeper Levy) Order
2003**

(SR 2003/283)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 20th day of October 2003

Present:

Her Excellency the Governor-General in Council

Pursuant to section 90 of the Biosecurity Act 1993, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This order is administered by the Ministry for Primary Industries.

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Order

1 Title

This order is the Biosecurity (American Foulbrood – Apiary and Beekeeper Levy) Order 2003.

2 Commencement

This order comes into force on the 28th day after the date of its notification in the *Gazette*.

Biosecurity (American Foulbrood – Apiary and Beekeeper Levy) Order 2003: confirmed, on 22 December 2004, by section 8(a) of the Subordinate Legislation (Confirmation and Validation) Act 2004 (2004 No 110).

3 Interpretation

In this order, unless the context otherwise requires,—

1998 Order means the Biosecurity (National American Foulbrood Pest Management Strategy) Order 1998

Act means the Biosecurity Act 1993

apiary has the same meaning as in clause 2(1) of the 1998 Order

apiary levy means the apiary levy calculated in accordance with clause 7(3) and (4)

base levy means the levy referred to in clause 7(2)

bee means the honeybee (*Apis mellifera*) including its eggs, larvae, pupae, and semen

beehive means a thing constructed and being used to keep bees; but does not include an introduction cage or a mailing cage

beekeeper means a person who owns beehives

introduction cage means a cage used for introducing a queen bee to a beehive

levy means the levy imposed by clause 4

levy money means money paid under this order as levy

levy year—

(a) means a period of 12 months beginning on 1 June and ending on 31 May; and

(b) includes the period beginning on the commencement of this order and ending on 31 May 2004

mailing cage means a cage used for transporting a queen bee and attendant worker bees

management agency means the body that on the commencement of this order was known as the National Beekeepers' Association of New Zealand Incorporated

Minister means the Minister of the Crown who recommended the making of the 1998 Order

National American Foulbrood Pest Management Plan means the plan made under the 1998 Order

registered apiary—

- (a) means an apiary that is entered on the register of apiaries maintained by the management agency under clause 23 of the 1998 Order; and
- (b) includes an apiary that should be notified to the management agency under clause 15(1)(b) of the 1998 Order.

Clause 3 **National American Foulbrood Pest Management Plan**: inserted, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Clause 3 **National American Foulbrood Pest Management Strategy**: revoked, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

4 Levy imposed

- (1) A levy is imposed on all beekeepers in New Zealand.
- (2) The levy is payable to the management agency.

5 Beekeepers responsible for paying levy

Each levy year, all beekeepers are responsible for paying the levy.

6 Management agency must collect levy

- (1) The management agency, or its agent, must collect the levy from beekeepers.
- (2) The management agency, or its agent, is entitled to recover the cost of collection.

*Determination of levy***7 Basis of calculation of levy**

- (1) The levy must be calculated on the basis of—
 - (a) a base levy; plus
 - (b) an apiary levy.
- (2) The base levy for each beekeeper is a fixed amount.
- (3) The apiary levy for each beekeeper is the sum of the number of registered apiaries owned by the beekeeper, as at 31 March of the previous levy year, multiplied by a fixed amount.

- (4) For the purposes of subclause (3), the sum of the number of registered apiaries owned by a beekeeper must be treated as 1 if, as at 31 March of the previous levy year, the beekeeper—
 - (a) owned fewer than 11 beehives; and
 - (b) had fewer than 4 apiaries.

8 Maximum rate of levy

The maximum rate of the levy (excluding goods and services tax) is—

- (a) \$20 per beekeeper for the base levy; plus
- (b) \$15.17 per apiary for the apiary levy.

9 Payment of levy

The levy must be paid at a single rate.

10 Management agency must fix actual rate

The management agency must fix the actual rate of levy—

- (a) for the levy year ending on 31 May 2004, by any means by which it may lawfully make decisions;
- (b) for each subsequent year, after consulting with beekeepers under clause 16.

11 Rate if no rate fixed before beginning of levy year

If the management agency does not fix the actual rate of levy before 20 January of the previous levy year, the levy for that year is payable at the rate last fixed under clause 10.

12 Notification of levy rate

- (1) For the levy year ending on 31 May 2004, the management agency must, as soon as practicable after fixing the rate of levy, notify it in the *Gazette*.
- (2) For each subsequent year, the management agency, on or before 20 January of the previous levy year,—
 - (a) must notify the rate of levy—
 - (i) on the management agency's website; and
 - (ii) by notice in *The New Zealand Beekeeper*; and
 - (iii) by notice in the *Gazette*; and

- (b) may notify the rate of levy in the newsletters of groups or associations of hobby and commercial beekeepers that are known to the management agency.
- (3) If *The New Zealand Beekeeper* ceases to be published, the levy rate must be notified in—
- (a) any publication that replaces it; or
 - (b) if no publication replaces it, a publication specified for the purposes of this order by the Minister by notice in the *Gazette*.

Payment of levy

13 When levy payable

- (1) For the levy year ending on 31 May 2004, the due date for payment of the levy is the date—
- (a) specified by the management agency in an account, to be sent no later than 20 working days after the commencement of this order, to each beekeeper; and
 - (b) that is not less than 14 days after the date on which the account in paragraph (a) is sent.
- (2) For each subsequent year,—
- (a) the levy must be paid in a lump sum, on or by 1 June; and
 - (b) the management agency must send an account, not less than 28 days before 1 June, to each beekeeper.

14 Penalty for late payment

If any amount of the levy has not been paid by the close of the due date, the following amounts must be paid to the management agency in addition to the amount otherwise payable:

- (a) 10% of the amount of the unpaid levy; plus
- (b) for each month that the amount is outstanding, 2% of the amount of the unpaid levy (including additional levies owing under this clause).

15 Purposes for which levy must be spent

The management agency must spend all levy money paid to it on the administration and operation of the National American Foulbrood Pest Management Plan.

Clause 15: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

16 Consultation on how levy spent

- (1) The management agency must, before the start of each levy year, consult with beekeepers on how the levy money is to be spent.
- (2) The management agency must use the following process to consult beekeepers:
- (a) it must send to every beekeeper a proposed budget for the levy year's expenditure; and
 - (b) it must give every beekeeper an opportunity to make submissions to it on the proposed budget; and
 - (c) it must send to every group or association of hobby and commercial beekeepers known to it a copy of the proposed budget.

Miscellaneous

17 Records

- (1) The management agency, or its agent, must, for each levy year, keep records of—
- (a) the rate at which the levy was collected; and
 - (b) each amount of levy money paid to it and the person who paid the amount; and
 - (c) how the levy money paid to it was spent.
- (2) The management agency must ensure that the records referred to in subclause (1) are retained for 7 years after the close of the levy year to which they relate.

18 Conscientious objectors

- (1) A beekeeper who objects on conscientious or religious grounds to paying the levy in the manner provided for by this order may pay the amount concerned to the Director-General of the Ministry of Agriculture and Forestry.
- (2) The Director-General must pay the amount to the management agency.

19 Remuneration of Auditors

A person appointed as an Auditor under section 100P of the Act must be remunerated by the management agency at a rate determined by the Minister after consultation with the management agency.

Clause 19: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Arbitration in case of dispute

20 Appointment of arbitrator

- (1) This clause applies to any dispute about—
 - (a) whether or not a person is required to pay the levy; or
 - (b) the amount of levy payable.
- (2) The parties to a dispute may agree to submit the dispute to arbitration.
- (3) If the parties to a dispute 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.
- (4) For the purposes of the Arbitration Act 1996,—
 - (a) an agreement under subclause (2) is an arbitration agreement; and
 - (b) the arbitrator (whether appointed by agreement or under subclause (3)), is an arbitral tribunal.

21 Application of Arbitration Act 1996 to dispute

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 a dispute submitted to arbitration under this order.

22 Payment of arbitration costs

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

23 Appeal to District Court

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

Diane Morcom,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 23 October 2003.

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Notes

1 *General*

This is a reprint of the Biosecurity (American Foulbrood – Apiary and Beekeeper Levy) Order 2003. The reprint incorporates all the amendments to the order as at 18 September 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not

included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

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

Subordinate Legislation (Confirmation and Validation) Act 2004 (2004 No 110): section 8(a)
