Commodity Levies Act 1990

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Commencement see section 1(2)

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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 Act is administered by the Ministry for Primary Industries.
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An Act to enable the making of Orders in Council imposing on certain commodities levies payable to bodies corporate representing the views and interests of the persons primarily responsible for paying those levies

1 Short Title and commencement
(1) This Act may be cited as the Commodity Levies Act 1990.
(2) This Act shall come into force on the 28th day after the day on which it receives the Royal assent.

2 Interpretation
(1) In this Act, unless the context otherwise requires,—
agricultural product means a product of the cultivation of the soil
animal means any member of the animal kingdom; and includes a bacterium and a virus
auditor means a person for the time being appointed under subsection (1) or subsection (2) of section 15
commodity means any agricultural, farmed, forestry, horticultural, mineral, or wild product

farmed product means a product that is, or is part of or produced by, animals farmed, fattened, kept, raised, or used, for the purpose of—
(a) the production of the product (whether the production of the product is a principal, subsidiary, or incidental purpose); or
(b) the production of some other farmed product;—
and includes beeswax, honey, and honeydew

forestry product means a product that is, or is part of or produced by, trees

hold includes cause to be held

horticultural product means a product that is, or is part of or produced by, plants grown or growing—
(a) in gardens, greenhouses, shadehouses, or orchards; or
(b) hydroponically

industry organisation means a body corporate to which a levy is payable under a levy order; and, in relation to—
(a) a levy order; or
(b) a commodity on which a levy is imposed by a levy order,—
means the industry organisation to which the levy concerned is payable under the order

levy order means an order under section 4

mineral product means a product that is, or is refined or extracted from, minerals (whether the minerals concerned are, or are found in or beneath,—
(a) land or water; or
(b) the bed of the sea, or of any stream, river, or lake)

Minister means a Minister of the Crown

participant, in relation to a support referendum, means a potential levy payer who returned, in accordance with the requirements of the organisation holding the referendum, a ballot paper—
(a) whether completed or not; and
(b) if completed, whether completed validly or invalidly,—
distributed or made available for the purpose by or on behalf of that organisation

**plant** means any member of the plant kingdom; and includes an alga and a fungus

**potential levy payer**, in relation to a support referendum, means a person who, when the referendum is held, would be one of the persons primarily responsible for paying the proposed levy to which the referendum relates if there were then in force a levy order imposing that levy

**support referendum** means a referendum on whether to approve a proposal that a levy, payable to an organisation, should be imposed on a commodity

**supporter**, in relation to a support referendum, means a participant who returned a valid ballot paper supporting the imposition of the levy concerned

**thing** includes any place, premises, or site, (for example an apiary)

**wild product** means an animal or plant product (whether fossilised or not) that is—

(a) gathered or harvested; or

(b) part of or produced by an animal or plant captured, gathered, harvested, or killed,—

in farms, forests, gardens, orchards, waters, or the wild.

(2) For the avoidance of doubt, it is hereby declared that a commodity may belong to 2 or more of the following classes of commodity: agricultural product, farmed product, forestry product, horticultural product, mineral product, and wild product.

(3) Where an industry organisation acquires or builds up any asset with, out of, or by virtue of spending, money paid to it under a levy order as levy, this Act shall have effect—

(a) in relation to any other asset it acquires in exchange or part exchange for that asset, as if that other asset has also been acquired or built up with, out of, or by virtue of spending, money paid as a levy; and

(b) in relation to any money it acquires in exchange or part exchange for that asset, as if that money has been paid to the organisation under a levy order as levy.
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Part 1  
Levy orders

4  Governor-General may impose levy

Subject to section 5, the Governor-General may from time to time, on the recommendation of a Minister, by Order in Council impose on a commodity a levy payable to a body corporate.

5  Restrictions on making of orders

(1) No Minister shall recommend the making of a levy order, unless the body corporate to which the levy is to be payable (in subsection (2) referred to as an applicant organisation) has—
   (a) asked the Minister to do so; and
   (b) given the Minister a written plan showing how the levy collected in the first full year of collection would be spent.

(2) No Minister shall recommend the making of a levy order imposing on any commodity a levy payable to an applicant organisation, unless the Minister is satisfied, on the basis of information and evidence satisfactory to the Minister,—
   (aa) that—
(i) within the previous 12 months; or
(ii) within the previous 18 months, and before the commencement of the Commodity Levies Amendment Act 1993,—
the organisation has held a support referendum in relation to a proposal that the levy, payable to the organisation, should be imposed on the commodity; and

(ab) that the support referendum was competently devised; and

(ac) that the ballot paper described the proposal clearly, specifying in relation to it all the matters required by section 6(1) to be specified in a levy order, and (in particular) indicated that the imposition of the levy was proposed to be on the basis of one of the following:
(i) production of the commodity:
(ii) the value of the commodity produced:
(iii) the area of land devoted to the production of the commodity:
(iv) the number, quantity, or capacity, of a thing or things of a specified kind used in connection with the production of the commodity, for example,—
   (A) the number of breeding stock, chicks, embryos, hives, or trees; or
   (B) the quantity of electricity; or
   (C) the capacity of plant or buildings; and

(ad) that the support referendum was so publicised that potential levy payers had a reasonable opportunity to be adequately informed about its holding, nature, and possible consequences; and

(ae) that the support referendum was so held that potential levy payers were given a reasonable opportunity to participate in it; and

#af) that the voting in the support referendum was conducted on the basis of one of the matters specified in subparagraphs (i) to (iv) of paragraph (ac) (but not necessarily the matter that the ballot paper indicated was the proposed basis of the levy’s imposition); and

(ag) that more than half of the participants in the support referendum were supporters; and
(ah) where voting in the support referendum was conducted on the basis of production of the commodity, that during the 12 months before the support referendum was held the total amount of the commodity produced by supporters was more than half of the total amount of the commodity produced of all participants; and

(ai) where voting in the support referendum was conducted on the basis of the value of the commodity, that during the 12 months before the support referendum was held the value of the total amount of the commodity produced by supporters was more than half of the value of the total amount of the commodity produced of all participants; and

(aj) where voting in the support referendum was conducted on the basis of the area of land devoted to the production of the commodity, that during the 12 months before the support referendum was held the total area of land devoted to the production of the commodity by supporters was more than half of the total area of land devoted to the production of the commodity by all participants; and

(ak) where voting in the support referendum was conducted on the basis of the number, quantity, or capacity, or a thing or things of a specified kind used in connection with the production of the commodity, that during the 12 months before the support referendum was held the total number of those things, quantity of that thing, or capacity of those things, used in connection with the production of the commodity by supporters was more than half of the total number, quantity, or capacity of that thing or those things so used by all participants; and

(al) where the basis on which voting in the support referendum was conducted was not the proposed basis of the levy’s imposition, that the impact of imposing the levy on that proposed basis will be substantially similar to the impact of imposing it on the basis on which voting was conducted; and

(am) that the matters specified in the order pursuant to section 6(1) do not differ in any material way from those
specified in the ballot paper pursuant to paragraph (ac); and

(a) that the organisation has consulted adequately persons (other than persons entitled to participate in the support referendum) likely to be affected by the payment or collection of the levy; and

(b) [Repealed]

(c) [Repealed]

(d) [Repealed]

(e) [Repealed]

(f) [Repealed]

(g) that—

(i) persons opposing the levy’s imposition on the commodity; and

(ii) other organisations (if any) representing or purporting to represent the interests of the persons who are to be primarily responsible for paying the levy, or any of them,— have had a reasonable opportunity to put their views to the Minister; and

(h) that the Minister has had due regard to all views put to the Minister about the proposed imposition of the levy on the commodity; and

(i) that the uses to which the levy will be put will be closely related to the interests of the persons who will be primarily responsible for paying it; and

(j) that overall, the benefits to the persons who will be primarily responsible for paying the levy of the spending for the purposes specified in the order of the amount of levy likely to be raised will outweigh the disadvantages to them of the imposition, collection, and payment of the levy on the commodity; and

(k) if the levy is imposed on quantities of the commodity imported into New Zealand that—

(i) the importers will benefit from the spending of the levy; and

(ii) the organisation will have regard to the importers’ views on the spending of the levy; and
(iii) the imposition of the levy on imported commodity will not be contrary to New Zealand’s international legal obligations; and

(l) that the organisation, by virtue of its membership and structure, represents adequately the views and interests of the persons who will be primarily responsible for paying the levy; and

(m) either—

(i) that it would be impossible or impracticable to finance the doing out of voluntary levies of the things for which the levy is to be spent; or

(ii) that if the doing of the things for which the levy is to be spent were paid for out of voluntary levies, persons who chose not to pay those levies would derive unearned benefits from the doing of those things; and

(n) that the organisation has or will have in place adequate systems for accounting to persons who will be primarily responsible for paying the levy of its receipt and expenditure (including, in particular, the uses to which it will be put); and

(o) that all other relevant matters known to the Minister have been properly considered.


6 Matters to be specified in orders

(1) Every levy order imposing on any commodity a levy payable to any industry organisation shall specify—

(a) the organisation; and
(b) the commodity; and
(c) the persons primarily responsible for paying the levy; and
(d) the basis on which the amount of the levy is to be calculated or ascertained; and
(e) the persons (if any) to be exempt from paying the levy; and
(f) that—

(i) in all cases the levy is to be paid by the persons primarily responsible for paying it; or
(ii) in all cases the levy is to be paid by persons other than those primarily responsible for paying it, but recoverable by them from those primarily responsible; or
(iii) in some cases the levy is to be paid by the persons primarily responsible for paying it; and in some
cases the levy is to be paid by persons other than those primarily responsible for paying it, but recoverable by them from those primarily responsible; and

(g) to the extent that the levy is to be paid by persons other than those primarily responsible for paying it, but recoverable by them from those primarily responsible,—

(i) the persons who are to pay it; and

(ii) their duties; and

(iii) the means by which they may recover it; and

(h) the extent (if any) to which any persons, or persons of any class or description, are to refrain from disclosing information (or information of any class or description) obtained, or obtained as a result of actions undertaken,—

(i) under the order; or

(ii) in relation to the order, under this Act; and

(i) subject to section 10, either—

(ii) how the organisation is to spend the levy; or

(iii) a means by which the organisation is to consult the persons primarily responsible for paying it as to how the organisation is to spend it; and

(j) whether the levy must be spent by the organisation, or may be paid to and spent by branches or subsidiaries of the organisation; and

(k) the periods in respect of which the levy is to be paid; and

(l) whether the levy is to be paid at a single rate or 2 or more different rates; and if at different rates, the things (whether—

(i) different classes or descriptions of the commodity; or

(ii) different things of a specified kind, connected with the production of the commodity, on the basis of which the levy is imposed)—

(to which the different rates may apply; and

(m) in respect of each rate of levy, one of the following:

(i) a maximum rate of levy, with the organisation empowered to set the actual rate:
(ii) a maximum amount by which the organisation may increase the rate of the levy in any specified period, with the initial rate of the levy to be fixed by the organisation with the approval of a Minister, and later rates to be fixed by the organisation either with the approval of a Minister or within the maximum:

(iii) the rate for a period, being either a rate fixed by the organisation and not higher than the rate last fixed, or a higher rate fixed by a Minister on the recommendation of the organisation; and

(n) how the rates of the levy are to be notified; and

(o) if the levy is to be paid by persons not primarily responsible for paying it and recovered by them from the persons primarily responsible,—

(i) whether or not the persons not primarily responsible are entitled to charge the organisation a fee for paying and recovering it; and

(ii) if so, the amount of the fee, or a means by which its amount may be calculated or ascertained; and

(p) how often the levy is to be paid; and

(q) the due and latest days, or a means for ascertaining the due and latest days, for payment of the levy.

(2) Subject to subsection (3), a levy order imposing on any commodity a levy payable to any industry organisation may prescribe all or any of the following matters:

(a) general purposes for which the levy is to be spent:

(b) maximum and minimum amounts of levy payable:

(c) if the levy is payable on a basis that relates to quantities of the commodity,—

(i) subject to subsection (4), whether or not the levy applies to quantities imported into New Zealand; and

(ii) if so, subject to subsection (5), whether the levy is payable in respect of the imported commodity at a rate that is the same as the rate applying to the commodity produced in New Zealand, or at a lower rate:
(d) the making of returns (whether by producers of a commodity or other persons) to the organisation or some other person or body, for the purpose of enabling or assisting the determination of amounts of levy payable:

(e) circumstances in which, and conditions subject to which, persons may be allowed extensions of time for the payment of any amount of levy:

(f) the payment of additional or increased levy when amounts of levy otherwise payable have been paid late or not paid at all.

(3) No Minister shall recommend the making of a levy order imposing a levy on any commodity unless satisfied that the spending of the levy in accordance with the order would not be, and would not be able to be, contrary to New Zealand’s international legal obligations.

(4) No Minister shall recommend the making of a levy order imposing a levy on a commodity and prescribing that the levy applies to quantities of the commodity imported into New Zealand, unless the Minister is satisfied, on the basis of information and evidence satisfactory to the Minister, that unless the levy applies to imported commodity, exporters or importers of imported product, or other persons acquiring or dealing with imported product, will derive unearned benefits from the expenditure of the levy.

(5) No Minister shall recommend the making of a levy order imposing a levy on a commodity and prescribing that the levy applies to quantities of the commodity imported into New Zealand, unless the Minister is satisfied, on the basis of information and evidence satisfactory to the Minister, that the rate of levy on imported product provided for in the order cannot be greater than the rate necessary to ensure that exporters or importers of imported product, or other persons acquiring or dealing with imported product, will not derive unearned benefits from the expenditure of the levy.


7 Effect of orders
Where a levy order has been made imposing on any commodity a levy payable to any industry organisation, the following provisions shall, in accordance with the order, apply:
(a) every person responsible for paying the levy to the organisation shall do so:
(b) the organisation may recover the levy from any person responsible for paying it to the organisation—
   (i) by deducting it from any amount the organisation owes the person; or
   (ii) as a debt due in any court of competent jurisdiction:
(c) where a person responsible for paying the levy to the organisation—
   (i) is not primarily responsible for paying any amount of the levy; but
   (ii) is required to deduct that amount from any amount the person owes the person primarily responsible, and pay it to the organisation,—
   notwithstanding any rule of law to the contrary, the amount deducted or (if the larger amount from which it is required to be deducted is still in the person’s possession) required to be deducted shall, until it has been paid to the organisation, be deemed to be money held in trust for the organisation:
(d) where a person responsible for paying the levy to the organisation—
   (i) is not primarily responsible for paying any amount of the levy; and
   (ii) is required to deduct that amount from any amount the person owes the person primarily responsible, and pay it to the organisation; and
   (iii) fails to make the full deduction required before paying the amount owed to the person who is owed it,—
   the organisation may recover from the person to whom or which the other amount was paid the amount of the deduction that should have been made, as if the person is a person responsible for paying it to the organisation:
(e) where a person who has paid the levy to the organisation is not the person primarily responsible for paying it, the former may recover the amount paid from the latter—

(i) by deducting it from any amount the former owes the latter; or

(ii) as a debt due in any court of competent jurisdiction.

8 Conscientious objectors
Every levy order shall make special provision for the payment of amounts of levy by persons who object on conscientious or religious grounds to paying it in the manner otherwise provided for in the order.

9 Financial provisions
Where a levy order has imposed a levy payable to an industry organisation,—

(a) the organisation shall open 1 or more bank accounts for the purpose of the levy, and shall use that account or those accounts for the following purposes only:

(i) the deposit of amounts of levy paid or recovered:

(ii) making payments out of levy:

(b) only people for the time being expressly authorised by the organisation shall be capable of operating the account or accounts:

(c) no money shall be paid out of the account or accounts except for a purpose or purposes authorised by the order or this Act.

10 Use of levy
(1) No industry organisation shall spend any amount of levy for any commercial or trading activity.

(2) Subject to section 6(3), in specifying how a levy is to be spent, or a means by which an industry organisation is to ascertain how it may be spent, a levy order—

(a) may specify any purpose or purposes for which no amount of levy shall be spent:

(b) subject to subsection (1) and paragraph (a), may specify all or any of the following purposes:
(i) research relating to the commodity or commodities concerned, or in relation to any matter connected with it (including market research):

(ii) the development of products derived from the commodity or commodities concerned:

(iii) the development of markets for the commodity or commodities, or products derived from the commodity or commodities:

(iv) the promotion (including generic advertising) of the industry concerned, the commodity or commodities, or products derived from the commodity or commodities:

(v) the protection or improvement of the health of animals or plants that are, or parts of which are, or from or by which is or are produced or gathered, the commodity or commodities concerned:

(vi) the development or implementation of plans or programmes of quality assurance (relating or relevant to the commodity or commodities concerned):

(vii) education, information, promotion, or training, (relating or relevant to the commodity or commodities concerned):

(viii) day to day administration of the organisation’s activities (not being the administration, direct or indirect, of any commercial or trading activity undertaken by the organisation or on its behalf):

(ix) any other purpose the Minister thinks fit.

(3) Subsection (2)(b) of this section does not limit the generality of section 6(2)(a).

(4) An industry organisation may, with the written approval of a Minister, and subject to the conditions (if any) subject to which the approval was given, spend any amount of a levy it has imposed pursuant to a levy order for a purpose prohibited by subsection (1) or by the order.

(5) The Minister shall not give an approval under subsection (4) unless satisfied that—
(a) the spending of money for the purpose concerned will benefit most of the persons primarily responsible for the payment of the levy concerned; and

(b) if some members of the industry spend money for the purpose, other members who have not done so will derive unearned benefits from the expenditure; and

(c) persons who, together, are primarily responsible for paying considerably more than half the amount of the levy concerned each year support the spending of money for the purpose.

(6) Nothing in subsection (1) prevents an industry organisation from—

(a) using any part of a levy for buying limited quantities of the commodity or commodities concerned, or of any product made from it or them, if those quantities are bought for 1 or more of the following purposes: promotion, research, education, product development, and market development; or

(b) reselling (with or without modification or processing) all or any part of any limited quantity of the commodity or commodities bought for 1 or more of those purposes.

(7) Nothing in subsection (1) prevents an industry organisation from—

(a) using any part of a levy to undertake or pay for the undertaking of any promotion, research, product development, or market development, undertaken with the intention of achieving commercial or financial benefits; or

(b) exploiting commercially (otherwise than by the use of any part of a levy) the results of any promotion, research, or development, for whose undertaking any part of a levy was (whether with or without the intention of achieving commercial or financial benefits) used or paid; or

(c) using any part of a levy to undertake or pay for the undertaking of the publication or sale of any educational, informative, or promotional material, (whether or not at a profit); or

(d) investing any part of a levy, pending its expenditure.
11 Resolution of disputes
Every levy order shall provide for—
(a) the appointment of mediators to resolve disputes as to—
   (i) whether or not any person is required to pay the levy concerned;
   (ii) the amount of levy any person is required to pay;
(b) the procedures to be followed by mediators; and
(c) remuneration of mediators; and
(d) the payment of costs in relation to mediation; and
(e) a right of appeal to a District Court Judge against decisions of mediators; and
(f) any other matters relating to the resolution of such disputes.

12 Orders to be confirmed
(1) Where in any year a levy order has been made on or after 1 January and before 1 July, and—
(a) has not been revoked with effect on or before 1 July in the next year; and
(b) has not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of the Regulations (Disallowance) Act 1989,—
it shall be deemed to have been revoked with the close of 30 June in that next year unless it has been confirmed by an Act of Parliament passed on or before that day.

(2) Where in any year a levy order has been made after 30 June and on or before 31 December, and—
(a) has not been revoked with effect on or before 1 January in the year after the next year; and
(b) has not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—
it shall be deemed to have been revoked with the close of 31 December in the year after the year in which it was made, unless it has been confirmed by an Act of Parliament passed on or before that day.

(3) Unless a levy order has already been—
(a) revoked; or
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(b) disallowed under the Regulations (Disallowance) Act 1989; or

c) confirmed by an Act of Parliament,—
the Minister on whose recommendation it was made shall, by notice published in the Gazette at least 6 months before the day with the close of which the order may (under subsection (1) or subsection (2)) be deemed to have been revoked, indicate the Minister’s intentions with regard to its continuing in force.

13 Levy orders to expire after 6 years

(1) Subject to subsection (2), a levy order shall be deemed to have been revoked with the close of the sixth anniversary of the day before the day on which it was made, unless—

(a) it has been revoked (or has been deemed to have been revoked) with effect on or before the sixth anniversary of the day on which it was made; or

(b) it has ceased to have effect on or before the sixth anniversary of the day on which it was made, by virtue of the Regulations (Disallowance) Act 1989.

(2) Subject to subsection (3), the Governor-General may, by Order in Council made at least 12 months before the day on which the order concerned would otherwise be deemed under subsection (1) to have been revoked, extend for a specified period (of not more than 5 years) the currency of a levy order that is then in force; and in that case (subject to subsection (3)), the order shall not be deemed under subsection (1) to have been revoked until the extended period has expired.

(3) Where the currency of a levy order has been extended under subsection (2), it may from time to time be further extended under that subsection.

(4) Section 12 and, except for subsection (1)(b), section 5 apply to the making of an order under subsection (2) of this section.

Part 2

Miscellaneous provisions

14 Levy orders to provide for records to be kept
For the purpose of ascertaining whether or not a levy order is being complied with, the order shall provide for—
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(a) the keeping of accounts and records of specified classes or descriptions by industry organisations, persons collecting levies, and persons who are or may be liable to pay the levy concerned, or any of them; and
(b) any such records to be retained for a specified period.

15 Compliance audits

(1) While a levy order is in force, the Minister who recommended its making may, at the request of the industry organisation, appoint 1 or more auditors to conduct an audit of the affairs of all or any of the following:
(a) some or all of the persons collecting the levy;
(b) some or all of the persons who are or may be liable to pay the levy (whether or not as persons primarily responsible for paying it):
(c) both.

(2) While a levy order is in force, the Minister who recommended its making may, if a mediator has been appointed to resolve a dispute, appoint an auditor to conduct an audit of the affairs of all or any of the persons involved in the dispute.

(3) No person is qualified for appointment as an auditor unless the person is a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996), or a member fellow or associate of an association of accountants constituted in some part of the Commonwealth outside New Zealand, and for the time being approved for the purpose of the audit of company financial statements by the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Companies Act 1993 by notice published in the Gazette.

(4) No officer or employee of any of the following persons or organisations shall be appointed an auditor:
(a) any industry organisation:
(b) any person engaged in the collection of levies under the levy order concerned:
(c) any person who is or may be liable to pay a levy under the levy order concerned.
(5) Every person appointed as an auditor shall be entitled to re-
muneration (paid by the industry organisation concerned) as 
provided in the relevant levy order.

Section 15(3): amended, on 7 July 2010, by section 10 of the New Zealand 
Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

Section 15(3): amended, on 1 October 1996, by section 23 of the Institute of 

Section 15(3): amended, on 1 October 1995, by section 10(3) of the Department 

16 Purpose of compliance audits
(1) The purpose of an audit conducted by an auditor appointed 
under section 15(1) is (so far as is practicable) to ascertain in 
respect of the affairs of the persons whose affairs are to be 
audited, and report to the Minister on, as many of the following 
matters as are relevant to those affairs:

(a) the extent to which persons required to pay the levy 
concerned are doing and have done so:

(b) the extent to which appropriate amounts of the levy con-
cerned are being and have been paid:

(c) the extent to which appropriate amounts of the levy con-
cerned are being and have been collected:

(d) the extent to which appropriate amounts of the levy con-
cerned are being and have been paid over to the organi-
isation by persons collecting it:

(e) the extent to which accounts and records are being and 
have been kept:

(f) the extent to which accounts and records that are being 
and have been kept are being and have been properly 
kept.

(2) The purpose of an audit conducted by an auditor appointed 
under section 15(2) is (so far as is practicable) to ascertain in 
respect of the affairs of the parties to the dispute, and report 
to the mediator concerned, the Minister, and those parties, on 
matters of fact that are in dispute.

17 Power of auditors to require production of records
(1) For the purposes of conducting an audit, any auditor specific-
ally or generally authorised in writing in that behalf by a Min-
ister may from time to time require any person (being an in-
dustry organisation, a person collecting levies, a person who is or may be liable to pay levies, or any employee or officer of an industry organisation or any such person) to produce for inspection within a reasonable period specified by the auditor any records or accounts in the possession or under the control of that person (being records or accounts that are required to be kept under this Act or by a levy order), and may take copies of or extracts from any such document.

(2) Every authorisation under subsection (1) shall contain—
   (a) a reference to this section; and
   (b) the full name of the auditor; and
   (c) a statement of the powers conferred on the auditor by subsection (1).

(3) Subject to section 16(2), except in respect of a prosecution under this Act or an action for the recovery of any amount due under this Act, no auditor who exercises powers under this section shall disclose to any other person (other than a Minister or a person authorised in that behalf by a Minister) any information obtained by the auditor as a result of the exercise of the power.

(4) Notwithstanding subsection (3), the Official Information Act 1982 applies in respect of any information held by a Minister that was obtained pursuant to this section.

18 Assessment of performance of industry organisations

(1) In this section, performance, in relation to an industry organisation to which a levy is payable under a levy order, means all or any of the following matters:
   (a) the extent to which the organisation may or may not be complying or have complied with the order and (in relation to the order) this Act:
   (b) the extent to which the organisation may or may not be using or have used the amounts of the levy paid to it efficiently and economically:
   (c) the extent to which the uses to which the organisation is putting and has put the amounts of the levy paid to it may or may not benefit (or, as the case may be, have or have not benefited) the persons primarily responsible for paying it.
(2) If—
   (a) satisfied that there is sufficient concern among the persons primarily responsible for paying a levy under a levy order about the performance of the industry organisation to justify an assessment of that performance; or
   (b) not satisfied that the performance of an industry organisation under a levy order is adequate,— the Minister may appoint any person to conduct an assessment of, and report to the Minister on, that performance.

(3) For the purpose of conducting an assessment, a person appointed under subsection (2) has, and may exercise and perform, all the powers of an auditor under section 17; and sections 15(5) and 24 shall apply accordingly.

(4) Within 28 days of receiving a report under subsection (2), the Minister shall give a copy to the industry organisation concerned.

19 Power of search

(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who, on an application made in the manner provided in subpart 3 of Part 4 of that Act by a constable or designated person, is satisfied that there are reasonable grounds to believe that there is in any place any document, article, commodity, or thing that is evidence of the commission of an offence against this Act, may by warrant authorise the constable or person to search the place.

(2) Subject to subsection (2A), the provisions of Part 4 of the Search and Surveillance Act 2012 apply.

(2A) Despite subsection (2), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a warrant issued to a named constable or to every constable.

(3) In this section a designated person means a person (being an auditor or a person employed in the Public Service) who is for the time being—
   (a) designated by a Minister as a person who may exercise powers of search under this Act; or
(b) a member of a class of person designated by the Minister as persons who may exercise powers of search under this Act.

(4) No person or class of person shall be designated under subsection (3), unless the Minister concerned is satisfied that the person, or persons of that class, is or are suitably qualified and trained to exercise the powers of a designated person.


Section 19(2): replaced, on 1 October 2012, by section 21(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 19(2A): inserted, on 1 October 2012, by section 21(3) of the Search and Surveillance Act 2012 (2012 No 24).

20 Powers conferred by warrant
[Repealed]

Section 20: repealed, on 1 October 2012, by section 21(4) of the Search and Surveillance Act 2012 (2012 No 24).

21 Warrant to be produced
[Repealed]


22 Other duties of person who executes a warrant
[Repealed]


23 Prohibition on obstruction

The owner, occupier, or person in charge, of a place that a person authorised pursuant to a warrant issued under section 19 enters for the purpose of searching shall not obstruct that person.
24 Offences

(1) Where a person—
   (a) avoids or attempts without reasonable excuse to avoid paying any levy payable by that person under a levy order; or
   (b) refuses or fails without reasonable excuse to collect any levy required to be collected by that person under a levy order; or
   (c) refuses or fails without reasonable excuse to pass on or dispose of any levy collected by that person in the manner prescribed by a levy order; or
   (d) refuses or fails without reasonable excuse to issue an invoice to any other person in the manner prescribed by a levy order; or
   (e) fails to keep or properly maintain records or accounts of any leviable activity carried on by that person sufficient to satisfy the requirements of any levy order; or
   (f) refuses or fails without reasonable excuse to submit (within the time required) any statement or return required to be submitted by that person under a levy order; or
   (g) submits any statement or return required to be submitted by that person under a levy order that to that person’s knowledge is false, incomplete, or misleading in a material particular; or
   (h) refuses or fails, without reasonable excuse, to comply with any requirement made under section 17(1), that person commits an offence against this Act and is liable on summary conviction to a fine not exceeding $10,000.

(2) Any offence against this Act committed by any employee or agent in the course of employment or agency shall be deemed to have been also committed by the employee’s or agent’s employer or principal if it is proved that the act or omission constituting the offence occurred with the employer’s or principal’s authority, permission, or consent.

25 Annual report and statements

(1) As soon as is practicable after the end of a financial year during which a levy has been paid to an industry organisation under
a levy order, the organisation shall prepare in respect of the year—

(a) statements (relating only to money paid to the organisation under the order as levy, and assets acquired or built up with or out of, or by virtue of spending, money paid under the order as levy) of the organisation’s financial position at the end of the year; and

(b) statements of the organisation’s receipt and expenditure of money paid as levy under the order; and

(c) all other statements necessary to show fully—

(i) the organisation’s financial position as aforesaid; and

(ii) the financial results of all of the organisation’s activities involving the use of money paid to the organisation under the order as levy, or the use of assets acquired or built up with or out of, or by virtue of spending, money paid under the order as levy;

and the organisation shall ensure that the statements are audited within 90 days of the end of the year.

(2) Notwithstanding any enactment to the contrary, an industry organisation that is required by subsection (1) to prepare statements in respect of any year shall include them in its annual report for that year.

(3) Subject to subsection (4), an industry organisation that is required by subsection (2) to include statements in its annual report shall, as soon as the report has been completed, give a Minister a copy; and the Minister shall table it in the House of Representatives not later than 6 sitting days after receiving it.

(4) Where an enactment other than this Act—

(a) requires an industry organisation to give a Minister a copy of its annual report; and

(b) requires the Minister to table it in the House of Representatives,—

the organisation shall, to the extent that the enactment and subsection (3) impose different requirements, comply with that enactment and not that subsection.

(5) An industry organisation that is required by subsection (2) to include statements in its annual report shall take all reasonable
steps to ensure that all persons primarily liable for paying the
levy to which the statements (or any of them) relate receive a
copy—
(a) as soon as is reasonably practicable after the report has
been completed; and
(b) whether or not they are members of the organisation.

26 Repeal of other legislation relating to levies
(1) Subject to subsection (2), the enactments specified in subsec-
tion (3) are hereby repealed, with effect on 1 January 1996.
(2) A levy order imposing on a commodity a levy payable to an
industry organisation may, with effect on a day earlier than
1 January 1996, repeal any enactment specified in subsection
(3) that relates to the imposition on or in respect of the com-
modity (or a related commodity) of a levy payable to the or-
ganisation (or a predecessor of the organisation).
(3) The enactments concerned are—
(a) the Orchard Levy Act 1953:
(b) the Vegetables Levy Act 1957:
(c) the Vegetables Levy Amendment Act 1960:
(d) the Berryfruit Levy Act 1967:
(e) the Vegetables Levy Amendment Act 1972:
(f) the Orchard Levy Amendment Act 1972:
(g) the Vegetables Levy Amendment Act 1975:
(h) the Vegetables Levy Amendment Act 1978:
(i) [Repealed]
(j) the Vegetables Levy Amendment Act 1980:
(k) the Vegetables Levy Amendment Act 1981:
(l) [Repealed]
(m) section 44(2) of the Meat Act 1981:
(ma) [Repealed]
(mb) [Repealed]
(mc) [Repealed]
(n) [Repealed]
(o) the Orchard Levy Amendment Act 1982:
(p) the Berryfruit Levy Amendment Act 1983:
(q) the Orchard Levy Amendment Act 1985:
(r) the Orchard Levy Amendment Act 1987:
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(s) \[Repealed]\n
(t) the Berryfruit Levy Amendment Act 1988:

(u) the Orchard Levy Amendment Act 1988.

(4) When an enactment specified in subsection (3) is repealed by or under subsection (1) or subsection (2), so much of the Schedule of the Regulations (Disallowance) Act 1989 as relates to that Act shall then be deemed to have been repealed.


Schedule

Form of search warrant

[Repealed]

Search and Surveillance Act 2012

Public Act 2012 No 24
Date of assent 5 April 2012
Commencement see section 2

1 Title
This Act is the Search and Surveillance Act 2012.

2 Commencement
(1) Part 1 and subpart 1 of Part 3 (other than section 49(3) and (4)), and sections 136, 140, 141, 148, 162, 165, 166, 167, 168, 169, 170, 171, 172, 175, 179, 180, 181, 247, 248, 251(3), 325 (other than section 325(4) and (6)), 334(1) and (7), 337(4), 342, 343, 346, 347, 349, 350, 352, 353, 354, 355, and 356 come into force on 18 April 2012.

(2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.

(3) To the extent that it is not previously brought into force under subsection (2), the rest of this Act comes into force on 1 April 2014.

(4) In this section, provision includes any item, or any part of an item, in the Schedule.


Part 1 General provisions

5 Purpose
The purpose of this Act is to facilitate the monitoring of compliance with the law and the investigation and prosecution
of offences in a manner that is consistent with human rights values by—

(a) modernising the law of search, seizure, and surveillance to take into account advances in technologies and to regulate the use of those technologies; and

(b) providing rules that recognise the importance of the rights and entitlements affirmed in other enactments, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Evidence Act 2006; and

(c) ensuring investigative tools are effective and adequate for law enforcement needs.

Part 5
Amendments, repeals, and miscellaneous provisions

Subpart 4—Regulation-making powers, transitional provisions, and review provision

Transitional provisions

351 Transitional provision relating to provisions brought into force under section 2

(1) Despite any amendment in Part 5 of this Act,—

(a) where an application has been made under an authorising Act before the relevant commencement, and the application is not finally determined before that date, the provisions of that Act continue to apply to the application and to any matter or obligation relating to the application in all respects as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and

(b) those provisions continue to apply to a continuing warrant and to any matter relating to the warrant in all respects as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and

(c) those provisions continue to apply to any other proceeding, matter, or thing commenced and not completed before the relevant commencement as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and
ately before the relevant commencement) had not been enacted.

(2) Subsection (1)(c) does not limit the provisions of the Interpretation Act 1999.

(3) In this section,—

authorising Act means an Act amended by Part 5
continuing warrant means a warrant or other authority issued under an authorising Act—
(a) before the relevant commencement; or
(b) on or after that date on an application made before that date

relevant commencement, in relation to an authorising Act, means the commencement of a provision in Part 5 that amends an authorising Act.
Reprinted as at 1 October 2012

Contents
1 General
2 Status of reprints
3 How reprints are prepared
4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
5 List of amendments incorporated in this reprint (most recent first)

Notes

1 General
This is a reprint of the Commodity Levies Act 1990. The reprint incorporates all the amendments to the Act as at 1 October 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”)
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Notes

- 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)

Search and Surveillance Act 2012 (2012 No 24): section 211
New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74): section 10
Commodity Levies Amendment Act 1995 (1995 No 85)
Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(3)
Commodity Levies Amendment Act 1993 (1993 No 151)