

## Information on matters to be specified in the Levy Order (as required by section 6 of the Commodity Levies Act 1990)

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This is data that will form part of the application to the Minister. It will form the basis for much of the actual Commodity Order. The section headings are from the “Commodity Levies Act 1990”.

### 1. Section 6 (1)(a) The organization:

Forest Growers’ Levy Trust Inc (FGLT)

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### 2. Section 6(1)(b) The commodity

The levy is imposed on all “harvested wood material” from “plantation forests” in New Zealand .

“Harvested wood material” means:

- a. means any material that is, or is derived from, trees harvested from a plantation forest; and
- b. without limitation, includes logs, woodchips, bin wood, posts, hogged material, and forest waste; but
- c. does not include Christmas trees, tree bark sold directly from the forest, or firewood sold for household consumption

Whilst tree bark sold separately is not to be subject to the levy, there will be no adjustment for the proportion of bark on levied logs.

“Plantation forest” is defined as forests that have been physically planted including forests that have grown as a result of a planted forest such as wildings and regeneration. Production from planted native forest will be levied.

Logs will be levied on the reported weight just prior to passing through the mill gate or just after crossing the wharf gate threshold.

No product meeting the definition of the levied commodity will be exempt from the levy.

### 4. Section 6(1)(c) The persons primarily responsible for paying the levy:

Plantation forest owners.

## **5. Section 6(1)(d) The basis on which the amount of levy is to be calculated or ascertained:**

The levy is to be calculated on the basis of the reported weight in tonnes at the mill door or wharf gate threshold.

One cubic metre of log is deemed to equal one tonne, irrespective of the cubic metre calculation formula and methodology (2D, 3D, Ellis, Jas etc).

For bin-wood and fuel wood, a saw log conversion of 1:1 shall be used.

For wood-chip produced in the forest, the measurement unit is green tonnes.

The conversion rate will be 2.7 Green tonnes per BDMT or BDU.

For wood sold on mass (wood area including air spaces), a factor of 50% wood content will be used to calculate the volume in cubic metres.

## **6. Section 6(1)(e) The persons (if any) to be exempt from paying the levies:**

No forest owner or product meeting the definition of levied commodity will be exempt from the levy.

## **7. Section 6(1)(f)(iii)**

In some cases the levy is to be paid by the Forest Owner being the person primarily responsible for paying it, in some cases the levy is to be paid by the product owner immediately prior to the mill door or immediately subsequent to the wharf gate, the levy point, who may not be the forest owner but who shall be able to recover the levy from the Forest Owner.

## **8. Section 6(1)(g)**

Where the product owner at the levy point is not the forest owner, the product owner(s) shall be able to recover the levy charge from the previous owner by direct charge, to the extent that the person primarily responsible for paying the levy is the Forest owner.

## **9. Section 6(1)(h)**

The extent (if any) to which persons are to refrain from disclosing information:

No levy related information collected either under or because of the levy, or under the Act may be disclosed to any person other than an officer or employee or contractor to FGLT, unless it is required by law.

FGLT, or contractor to FGLT, may however, disclose information:

- for the purpose of producing records or accounts under section 17(1) of the Act;
- for the purpose of producing any statement under section 25 of the Act;
- necessary in the giving of evidence in any legal proceedings;
- for the purpose of collecting levies;
- for statistical or research purposes but in such a form that does not identify any individual levy payer or levy collector; and
- with the consent of every identifiable person / company to whom the information relates.

**10. Section 6(1)(i) How the organisation is to spend the levies, or a means by which the organisation is to consult levy payers about how the levies are to be spent:**

The levy will be spent in accordance with the principles of “The Plantation forestry Roadmap -2020-2050”, from which there will be an annual work plan established. The annual work plan will be available to give all plantation forest owners the opportunity to comment on it.

The levy will not be spent on any trading and commercial activity.

**11. Section 6(1)(j) Whether the levy must be spent by the organisation, or may be paid to and spent by branches or subsidiaries of the organisation:**

All levy money paid to the organisation, will be spent by it on behalf of Plantation Forest Owners.

**12. Section 6(1)(k) The periods in respect of which the levy is to be paid:**

The levy year is the 12 months between 1st January and 31st December, The new levy will take effect from the 19th November 2019. The levy paid from 19th November 2019, will be reported in the 2020 levy year report.

**13. Section 6(1)(l) Whether the levy is to be paid at a single rate or more different rates, and if at different rates the things to which the different rates may apply:**

The levy is to be paid at a single rate to be fixed by the FGLT.

**14. Section 6(1)(m) One of three levy rate regimes, including “A maximum rate of levy, with the organisation empowered to set the actual rate”:**

The levy rate will be a single rate fixed annually by the FGLT. In the first year the rate will be 27 cents per tonne (excluding GST) with the maximum levy rate in any year subsequent year to not exceed 33 cents per tonne (excluding GST).

**15. Section 6(1)(n) How the rates of levy are to be notified:**

As soon as practicable after fixing the rate of levy for any levy year, the FGLT will notify the rate in:

- New Zealand Gazette
- NZFOA Bulletin
- NZFOA e-News
- FFA Newsletter or other publication
- One or more major metropolitan daily circulating newspapers: and
- Directly by email to all forest owners and all levied product owners other than forest owners, whose email address is known to the FGLT.

**16. Section 6(1)(o) Fees to be charged for collecting the levy:**

Persons not primarily responsible for paying the levy, who pay it and recover it shall not be entitled to charge the FGLT a fee for paying and recovering it.

### **17. Section 6(1)(p) How often is the levy to be paid:**

The levy is to be paid monthly on invoice from the FGLT.

### **18. Section 6(1)(q) The due and latest days for payment of the levy:**

The levy is to be invoiced monthly. Payment is due on the date the invoice is issued. The latest date for payment is the 20th of the following month.

#### **Section 6(2)(f) Late Payment**

A penalty of 5% is payable on the entire amount of any levy which is not paid by the latest date for payment. A further penalty of 2% per month will be payable on the unpaid amount of any levy (not including any penalties) which is not paid one month after the last day for payment.

### **19. Section 6(2)(a)**

General purposes for which the levy is to be spent is the advancement of the plantation forest growing sector in New Zealand .

### **20. Section 6(2)(d)**

Processing plants and marshalling and/or stevedoring companies will supply data as determined by the FGLT to the FGLT or its agent, sufficient to enable the levy to be invoiced to the product owner.

### **21. Section 8 Conscientious objectors:**

Any levy payer who objects on conscientious or religious grounds to the manner of recovery by FGLT of an amount of levy money may pay the amount concerned to the Director-General of the Ministry.

The Director-General will pay the amount to FGLT.

### **22. Section 11 Resolution of disputes:**

Where a dispute arises about:

- a. whether a person is required to pay a levy; or
- b. the amount of levy money payable.

A party to the dispute may ask the President of the Arbitrators and Mediators Institute of New Zealand Incorporated (the President) to appoint a person to -

- a. organize and preside at a conference of the parties; and
- b. attempt to resolve the dispute by mediation.
- c. on receiving a request the President (or a person authorised by the President to do so) may appoint a person to resolve the dispute by mediation.
- d. the mediator's appointment ends when—
  - the parties resolve the dispute themselves; or
  - the mediator resolves the dispute (see "Mediator may resolve dispute in certain cases")

### **Remuneration of mediators**

1. A mediator must be paid remuneration (by way of fees and allowances) agreed to by the parties.
2. However, if the parties cannot agree on a mediator's remuneration, the President (or a person authorised by the President to do so) must—
  - fix an amount or several amounts to be paid to the mediator as remuneration; and
  - specify the amount (if any) that each party must pay.
3. Each party must pay to the mediator the amount fixed by the President (or authorised person) and specified as an amount to be paid by that party.

### **Time and place of conference**

Every conference of the parties organised by a mediator is to be held on a day and at a time and place fixed, and notified in writing to the parties, by the mediator.

### **Conference to be held in private**

Except if a mediator allows a representative of a party to attend a conference, only the parties and the mediator may attend a conference organised by the mediator.

### **Representatives**

If satisfied that in all the circumstances it is appropriate to do so, a mediator may allow a representative of a party to attend a conference of the parties organised by the mediator.

### **Right to be heard**

Every party, and every representative of a party allowed by the mediator to attend a conference of the parties organised by a mediator, may be heard at the conference.

### **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 the mediator's own initiative, seek and receive any evidence, and make any investigations and inquiries, that the mediator thinks desirable to resolve a dispute.
3. A mediator may require any person giving evidence at a conference of the parties to verify the evidence by statutory declaration.

### **Mediator may resolve dispute in certain cases**

A mediator may resolve a dispute for the parties if the mediator—

- a. has organised and presided at a conference of the parties but the dispute has not been resolved; or
- b. believes that the parties are unlikely to resolve the dispute, whether or not the parties confer directly.

If the mediator resolves a dispute, the mediator must give each of the parties written notice of the mediator's decision and the reasons for the decision.

The parties must comply with a decision of the mediator.

### **Costs of mediation**

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

### **Appeal to District Court**

1. A party who is dissatisfied with a decision made by a mediator may appeal against the decision to a District Court.
2. An appeal is to be brought by the filing of a notice of appeal within 28 days of the making of the decision concerned, or within any longer time that a District Court Judge allows.
3. The Registrar of the District Court must—
  - a. serve a copy of the notice of appeal on every other party to the dispute; and
  - b. fix the time and place for the hearing of the appeal; and
  - c. notify the appellant and the other parties of the time and place for the hearing of the appeal.
4. Every party may appear and be heard at the hearing of the appeal.
5. On hearing the appeal, the District Court may confirm, vary, or reverse the decision appealed against.
6. The filing of a notice of appeal does not operate as a stay of any process for the enforcement of the decision appealed against.