

**Reprint
as at 12 December 2014**



**Commodity Levies (Citrus Fruit)
Order 2014
(LI 2014/44)**

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 24th day of February 2014

Present:
His Excellency the Governor-General in Council

Pursuant to section 4 of the Commodity Levies Act 1990, His Excellency the Governor-General makes the following order, acting—

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

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

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Order

1 Title

This order is the Commodity Levies (Citrus Fruit) Order 2014.

2 Commencement

This order comes into force on 1 April 2014.

Order: confirmed, on 12 December 2014, by section 8(c) of the Subordinate Legislation (Confirmation and Validation) Act 2014 (2014 No 70).

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Commodity Levies Act 1990

citrus fruit means the following fruit and their hybrids:

- (a) grapefruit:
- (b) lemons:
- (c) limes:
- (d) mandarins:
- (e) oranges:
- (f) tangelos

collection agent means a person whose business is or includes—

- (a) buying citrus fruit from growers for sale in New Zealand or overseas; or
- (b) selling citrus fruit in New Zealand or overseas on behalf of growers

first point of sale, in the case of export for sale, means the earlier of the following:

- (a) when the citrus fruit is loaded on an international carrier for export:
- (b) when the citrus fruit is sold to an overseas buyer

fresh means not intended for processing

grower means a person who grows citrus fruit in New Zealand for commercial purposes

GST means goods and services tax payable under the Goods and Services Tax Act 1985

levy means the levy imposed by clause 5

levy year means—

- (a) a period of 12 months starting on 1 April and ending on 31 March; but
- (b) for the final levy year, the period starting on 1 April 2019 and ending on 23 February 2020

NZCGI means the organisation called New Zealand Citrus Growers Incorporated on 1 April 2014

processing means doing any of the following to citrus fruit for commercial purposes:

- (a) artificially drying:
- (b) bottling:
- (c) canning:
- (d) evaporating:
- (e) freezing:
- (f) juicing:
- (g) preserving

sale includes export for sale.

4 GST

A reference in this order to the payment or recovery of a levy must be read as including the payment or recovery of any GST payable on the levy.

Imposition and amount

5 Imposition

A levy is imposed on citrus fruit that a grower grows in New Zealand for commercial purposes, including for processing.

6 Calculation

The levy is calculated on the basis of the weight in kilograms of citrus fruit at the first point of sale.

7 Rates

- (1) NZCGI may set a different levy rate for each of the 4 classes of citrus fruit specified in subclause (2).
- (2) The rates for the first levy year are set as follows (exclusive of GST):

Class of citrus fruit	Rate (cents per kg)
Fresh grapefruit, lemons, and limes	1.0
Fresh mandarins	0.5
Fresh oranges and tangelos	1.0
All citrus fruit intended for processing	0.3

- (3) In order to change the actual levy rate for a class of citrus fruit for a later levy year, the rate must be set as follows:
 - (a) for a class of fresh fruit, at the annual meeting of the NZCGI product group for that class of citrus fruit;
 - (b) for the class of fruit intended for processing, at the annual general meeting of NZCGI.
- (4) The rate must not exceed the following (exclusive of GST):
 - (a) for a class of fresh fruit, 3 cents per kg;
 - (b) for the class of fruit intended for processing, 1 cent per kg.
- (5) If NZCGI does not set an actual levy rate for a levy year, the levy rate currently applying continues to apply.
- (6) If an actual levy rate for a levy year is set after the start of the levy year, it applies only on and from the date on which it is set.

8 Notification

- (1) If NZCGI changes an actual levy rate, it must notify the new rate—
 - (a) in the *Gazette*; and
 - (b) in *The Orchardist* magazine or, if it is no longer published, in any similar publication; and
 - (c) in *Citrus News* or, if it is no longer published, in another industry publication; and
 - (d) by email or post to all growers and collection agents known to NZCGI.

- (2) NZCGI must notify the new rate as soon as practicable after setting it.

Payment

9 Payee

The levy is payable to NZCGI.

10 Payers

- (1) Growers are primarily responsible for paying the levy.
- (2) If a grower uses a collection agent, the agent must pay the levy unless—
 - (a) the grower and NZCGI have agreed in writing that the grower will pay the levy; and
 - (b) the grower has given the agent notice of that agreement by email or post.
- (3) The collection agent may charge a collection fee of not more than 10% of the levy payable (exclusive of GST) plus the GST payable on the fee by deducting the fee plus GST before paying the levy.
- (4) The collection agent may recover the levy on citrus fruit bought from the grower by—
 - (a) deducting the amount of the levy from the payment made to the grower for the fruit; and
 - (b) providing the grower with information about the amount of levy deducted.
- (5) The collection agent may recover the levy on citrus fruit sold on the grower's behalf by recovering the amount of the levy as a debt due from the grower.

11 Conscientious objection to payee

If a grower or collection agent objects on conscientious or religious grounds to paying the levy to NZCGI,—

- (a) the grower or agent must pay the equivalent amount to the Director-General of the Ministry for Primary Industries; and
- (b) the Director-General must pay the amount to NZCGI.

12 Information to determine payment

- (1) NZCGI may request a grower or collection agent to provide it with any information that it reasonably requires in order to determine the levy that the grower or agent must pay.
- (2) NZCGI must make the request by email or post.
- (3) The grower or agent must provide the information as soon as is practicable.

13 Due and latest dates for payment

- (1) The due date for payment of the levy by a grower or collection agent is the date at the first point of sale.
- (2) The latest date for payment of the levy is as follows:
 - (a) for payment by a grower, the 20th day of the month after the last month of the quarter in which the due date falls:
 - (b) for payment by a collection agent, the 20th day of the month after the month in which the due date falls.

14 Additional levy for late payment

- (1) If any amount of the levy remains unpaid after the latest date for payment, additional levy equal to 10% of the unpaid amount must be paid immediately.
- (2) Any additional levy that remains unpaid is not itself subject to this clause.

Spending

15 Purposes

- (1) NZCGI must spend all levy paid to it for the following purposes to benefit growers:
 - (a) product research and development:
 - (b) market research and development:
 - (c) promotion of citrus fruit:
 - (d) quality assurance:
 - (e) education and information:
 - (f) grower representation:
 - (g) day-to-day administration of NZCGI.
- (2) NZCGI must not spend the levy on commercial or trading activities.
- (3) NZCGI must invest the levy until it spends the levy.

16 Consultation

- (1) NZCGI must consult growers on how it proposes to spend the levy in each levy year by—
 - (a) discussing it at the conference of NZCGI and at the annual general meeting of NZCGI; and
 - (b) providing information in quarterly newsletters.
- (2) Any individual project of an NZCGI product group with a value of more than \$40,000 (excluding GST) per annum must be approved by growers of the relevant class of citrus fruit at an annual meeting or special meeting of the product group.
- (3) NZCGI must give at least 3 weeks' notice of the following by email or post to all growers known to NZCGI:
 - (a) each annual general meeting of NZCGI;
 - (b) any special general meeting of NZCGI at which levy spending is to be discussed.
- (4) NZCGI must give at least 3 weeks' notice of the following by email or post to all growers of the relevant class of citrus fruit who are known to NZCGI:
 - (a) each annual meeting of an NZCGI product group;
 - (b) any special meeting of an NZCGI product group at which levy spending is to be discussed.

*Records***17 Growers**

- (1) A grower must record, for each levy year, the following information about its leviable citrus fruit:
 - (a) the weight of the fruit at the first point of sale;
 - (b) the amounts of levy the grower paid to NZCGI;
 - (c) the names and addresses of the collection agents that bought citrus fruit from the grower or sold citrus fruit on behalf of the grower.
- (2) The information must be recorded separately for each class of citrus fruit to which a distinct rate of levy applies.
- (3) The grower must keep the information for at least 2 years after the date on which the relevant levy is paid to NZCGI.

18 Collection agents

- (1) A collection agent must record the following information for each levy year:
 - (a) the names and addresses of growers from whom the agent bought citrus fruit or on whose behalf the agent sold citrus fruit:
 - (b) the weight of the citrus fruit bought from, or sold on behalf of, each grower:
 - (c) the amount of the levy collected and paid to NZCGI in relation to each grower:
 - (d) the amount of collection fees deducted by the agent in relation to each grower.
- (2) The information must be recorded separately for each class of citrus fruit to which a distinct rate of levy applies.
- (3) The collection agent must keep the information for at least 2 years after the date on which the relevant levy is paid to NZCGI.

19 NZCGI

- (1) NZCGI must record the following information for each levy year:
 - (a) each amount of levy paid to it:
 - (b) when the levy was paid:
 - (c) who paid the levy:
 - (d) how it spent or invested all levy paid to it.
- (2) NZCGI must keep the information for at least 2 years after the date on which the relevant levy is paid to NZCGI.

20 Confidentiality

- (1) This clause applies to information obtained—
 - (a) under the Act in relation to this order; or
 - (b) under or because of this order.
- (2) An officer or employee of NZCGI, or any person involved in collecting the levy, must not disclose the information to any one other than an officer or employee of NZCGI.
- (3) However, NZCGI may disclose the information for the following purposes:

- (a) the production of records or accounts under section 17(1) of the Act;
- (b) the production of a statement under section 25 of the Act;
- (c) the giving of evidence in legal proceedings taken in relation to this order;
- (d) determining the voting entitlements of members of NZCGI;
- (e) counting the votes of members of NZCGI;
- (f) statistical and research purposes that do not involve the disclosure of personal information;
- (g) invoicing for and collecting levies.

Disputes

21 Appointment of mediators

- (1) This clause applies to a dispute concerning—
 - (a) whether or not 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.
- (3) If asked, the President, or a person authorised by the President, may appoint a person to resolve the dispute by mediation.
- (4) 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 28.

22 Remuneration of mediators

- (1) A mediator is to be paid remuneration (by way of fees and allowances) as agreed by the parties to the dispute.
- (2) If the parties to a dispute cannot agree on a mediator's remuneration, the President of the Arbitrators and Mediators Institute of New Zealand Incorporated, or a person authorised by the President, must—
 - (a) fix an amount or several amounts to be paid to the mediator as remuneration; and
 - (b) specify the amount (if any) that each party must pay.

- (3) Each party must pay to the mediator the amount or amounts fixed and specified under subclause (2).

23 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 of the matters specified in paragraph (a) by email or post; and
- (c) preside at the conference.

24 Representatives

A mediator may allow a representative of a party to a dispute to attend a conference with the mediator if the mediator is satisfied that it is appropriate to do so in all the circumstances.

25 Conferences to be held in private

Only the parties to a dispute, the mediator, and representatives the mediator allows to attend may attend a conference organised by the mediator.

26 Right to be heard

The following persons may be heard at a conference with a mediator:

- (a) each party to the dispute; and
- (b) each representative of a party allowed by the mediator to attend the conference.

27 Evidence

- (1) A mediator may hear and take into account any relevant evidence or information, whether or not it would normally be admissible in a court of law.
- (2) A mediator may, on the mediator's own initiative,—
 - (a) seek and receive any evidence that the mediator thinks desirable to resolve the dispute; and
 - (b) make any investigations and inquiries that the mediator thinks desirable to resolve the dispute.

- (3) A mediator may require any person giving evidence at a conference of the parties to a dispute to verify the evidence by statutory declaration.

28 Mediators may resolve disputes 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 of the parties written notice of the mediator's decision and the reasons for the decision.
- (3) The parties must comply with the mediator's decision.

29 Cost of mediation

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

30 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the mediator's decision may appeal to a District Court against the decision.
- (2) The appeal must be brought by the filing of a notice of appeal—
 - (a) within 28 days of the making of the decision concerned; or
 - (b) within any longer time 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
 - (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.

Compliance audits

31 Remuneration of auditors

NZCGI must remunerate a person appointed as an auditor under section 15 of the Act at a rate determined by the Minister for Primary Industries after consultation with NZCGI.

Revocations

32 Related orders revoked

The following orders are revoked:

- (a) Commodity Levies (Satsuma Mandarins) Order 2008 (SR 2008/369):
- (b) Commodity Levies (Navel Oranges) Order 2012 (SR 2012/12).

Michael Webster,
for 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 imposes a levy on citrus fruit grown in New Zealand for commercial purposes. The levy is payable to New Zealand Citrus Growers Incorporated. The order comes into force on 1 April 2014. It revokes 2 related orders—the Commodity Levies (Satsuma Mandarins) Order 2008 and the Commodity Levies (Navel Oranges) Order 2012.

This order will be deemed to be revoked at the end of 30 June 2015 unless it is confirmed by an Act passed on or before that day (*see* section 12 of the Commodity Levies Act 1990 (the **Act**)). If the order is confirmed, it will be deemed to be revoked at the end of 23 February 2020 unless it is revoked or extended before then (*see* section 13 of the Act).

Reprinted as at
Commodity Levies (Citrus Fruit) Order 2014 12 December 2014

Date of notification in *Gazette*: 27 February 2014.

Reprints notes

1 *General*

This is a reprint of the Commodity Levies (Citrus Fruit) Order 2014 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Subordinate Legislation (Confirmation and Validation) Act 2014 (2014 No 70): section 8(c)
