

Kiwifruit Export Amendment Regulations 2001

Pursuant to Part 2 of the Kiwifruit Industry Restructuring Act 1999, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Agriculture, makes the following regulations.

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1 Title

- (1) These regulations are the Kiwifruit Export Amendment Regulations 2001.
- (2) In these regulations, the Kiwifruit Export Regulations 1999¹ are called "the principal regulations".

2 Commencement

- (1) Regulations 3(4) and 4 come into force on the day after the date of the notification of these regulations in the *Gazette*.
- (2) The rest of these regulations come into force on 1 July 2001.

¹ SR 1999/310

3 Continuing requirements as to ZGL Limited's corporate form

(1) Regulation 22(1)(b) of the principal regulations is amended by revoking subparagraph (i), and substituting the following subparagraph:

“(i) means producers under the share allocation plan under the Act and persons who became or become producers after 31 March 2000; and.”

(2) Regulation 22(1) of the principal regulations is amended by revoking paragraph (c).

(3) Regulation 22 of the principal regulations is amended by revoking subclause (2), and substituting the following subclause:

“(2) ZGL Limited must have no rules about maximum shareholding.”

(4) Regulation 22 of the principal regulations is amended by adding the following subclause:

“(3) This regulation does not prevent ZGL Limited from having shares with voting rights based on supply criteria under regulation 23(1)(a)(ii).”

4 Contents of constitution

Regulation 23(1) of the principal regulations is amended by revoking paragraph (a), and substituting the following paragraph:

“(a) the rights specified in section 36(1)(a) of the Companies Act 1993 may be negated or altered by the constitution of the company only—

“(i) in respect of a holder of shares who has ceased to be a producer within the meaning of regulation 22(1)(b) or for the purpose of the enforcement of any rules about maximum shareholdings in ZGL Limited under regulation 22(2):

“(ii) for the purpose of limiting shareholders' voting rights based on supply of kiwifruit to ZGL Limited:.”

5 Revocation

Regulation 23(1)(a)(i) (as inserted by regulation 4) is revoked on 1 July 2001.

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Kiwifruit Export Regulations 1999. They come into force on 1 July 2001 except for regulations 3(4) and 4 which come into force on the day after the date that these regulations are notified in the *Gazette*.

Regulation 3 amends regulation 22 of the principal regulations by—

- replacing regulation 22(1)(b)(i), which relates to the class of producers among whom ZGL voting shares must be fully tradeable. Currently, all owners of land on which kiwifruit is produced for export sale are within the class. The effect of the amendment is that certain former producers again become part of the class entitled to buy, sell, and hold shares:
- revoking regulation 22(1)(c), which provides that ZGL must allow persons who cease to be producers to trade their shares to dispose of them:
- replacing regulation 22(2), which currently enables ZGL to set a maximum limit on the number of shares held by any shareholder, with the requirement that ZGL must have no rules about maximum shareholding:
- adding new regulation 22(3) which provides that nothing in regulation 22 prevents ZGL from having shares with voting rights based on supply criteria under regulation 23(1)(a)(ii).

Regulation 4 replaces regulation 23(1)(a) of the principal regulations which relates to altering the voting rights of shares under ZGL's constitution. Currently, ZGL is prevented from altering the voting rights attached to the shares issued under the share allocation plan except in relation to shareholders that have ceased to be producers and to enforce rules about maximum shareholdings. The effect of the amendment is to preserve the existing position until 1 July 2001, but also to authorise the alteration of voting rights of those shares for the purpose

of limiting shareholders' voting rights based on supply of kiwifruit to the company.

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