



**RASPBERRY MARKETING AUTHORITIES (DISSOLUTION)
REGULATIONS 1999**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 12th day of July 1999

Present:

THE HON WYATT CREECH PRESIDING IN COUNCIL

PURSUANT to section 3 (2) of the Primary Products Marketing Act 1953, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council and on the recommendation of the Minister for Food, Fibre, Biosecurity and Border Control, makes the following regulations.

ANALYSIS

1. Title and commencement
2. Interpretation

PART 1

END OF RASPBERRY MARKETING AUTHORITIES

3. End of marketing authorities
4. No new levies payable to Council
5. Interests in property

PART 2

DISSOLUTION OF COUNCIL AND AUTHORITY

6. Notice of proposed dissolution of Council and Authority
7. Getting in assets, etc

8. Distribution of assets
9. Pre-dissolution report, etc
10. Dissolution
11. Debts owed to Council, etc, after dissolution

PART 3

DISSOLUTION OF DISTRICT COMMITTEES

Preliminary Provisions

12. Vesting of unsold stock in new marketing companies
13. Notice of proposed dissolution of District Committees
14. Getting in assets, etc

*Distribution of Assets of Nelson Raspberry
Marketing Committee*

15. Establishment of subsidiary
16. Distribution in relation to Cold Storage Nelson Limited shares
17. Distribution of remaining assets of Nelson Raspberry Marketing Committee

*Distribution of Assets of Other District
Committees*

18. Distribution of assets of Canterbury Raspberry Marketing Committee
19. Distribution of assets of Otago Raspberry Marketing Committee
20. Distribution of assets of North Island Raspberry Marketing Committee

Dissolution of District Committees

21. Pre-dissolution report, etc
22. Dissolution
23. Debts owed to District Committees after dissolution

PART 4

MISCELLANEOUS PROVISIONS

24. Distributions to be made in accordance with existing records
25. Liability for debts of Council, Authority, and District Committees
26. Unclaimed money
27. Functions under Act
28. No compensation for loss of office
29. Revocation
30. Savings

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Raspberry Marketing Authorities (Dissolution) Regulations 1999.

(2) These regulations come into force on 16 August 1999.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“Act” means the Primary Products Marketing Act 1953:

“Authority” means the Raspberry Marketing Export Authority established under the Marketing Regulations:

“Council” means the Raspberry Marketing Council established under the Marketing Regulations:

“Current grower”, in relation to the Nelson Raspberry Marketing Committee, means a person who either—

(a) Was a grower during the year beginning on 1 July 1998 and ending with 30 June 1999; or

(b) Has retained his or her interest in the raspberry industry by retaining his or her beneficial interest in shares in Cold Storage Nelson Limited:

“Director-General” means the Director-General of Agriculture and Forestry:

“District Committee” means each of the following district Raspberry Marketing Committees established under the Marketing Regulations:

(a) The Nelson Raspberry Marketing Committee:

(b) The Canterbury Raspberry Marketing Committee:

(c) The Otago Raspberry Marketing Committee:

(d) The North Island Raspberry Marketing Committee:

“Grower”, in relation to a District Committee, means a producer (as defined in the Marketing Regulations) in the district defined in regulation 13 of those regulations for the committee:

“Levy” means any levy, contribution, or deduction made under regulation 24 or regulation 25 of the Marketing Regulations:

“Marketing Regulations” means the Raspberry Marketing Regulations 1979.

(2) Any term that is not defined in these regulations, but that is defined in the Act or in the Marketing Regulations, has the meaning given to it by the Act or those regulations.

PART 1

END OF RASPBERRY MARKETING AUTHORITIES

3. End of marketing authorities—(1) The Council and each District Committee must cease all business as a marketing authority at the commencement of these regulations.

(2) The Authority must cease all business at the commencement of these regulations.

4. No new levies payable to Council—(1) No person is, on or after the commencement of these regulations, required to pay a levy to the Council or a District Committee.

(2) This regulation does not prevent—

(a) The Nelson Raspberry Marketing Committee making a deduction under regulation 24 (1) of the Marketing Regulations in respect of raspberries sold by or through the agency of the Committee before the commencement of these regulations:

(b) The Canterbury and North Island District Committees recovering levies imposed under regulation 25 (2) of the Marketing Regulations before commencement of these regulations:

(c) The Otago Raspberry Marketing Committee collecting an annual levy imposed on a producer under regulation 24 (3) of the Marketing Regulations before the commencement of these regulations:

(d) The Council making a deduction under regulation 24 (4) of the Marketing Regulations in respect of raspberries exported before the commencement of these regulations:

(e) The Council recovering a contribution from a District Committee under regulation 24 (5) of the Marketing Regulations that was determined by the Council before the commencement of these regulations.

5. Interests in property—Except as provided in these regulations, no person has an interest in any property of the Council or a District Committee solely by reason of being or having been required under the Marketing Regulations to pay a levy to the Council or to a District Committee.

PART 2

DISSOLUTION OF COUNCIL AND AUTHORITY

6. Notice of proposed dissolution of Council and Authority—The Council must, as soon as practicable after the commencement of these regulations, by advertisement in a newspaper circulating generally in its area of operations,—

(a) Give notice of the proposed dissolution of the Council and the Authority; and

(b) Call for any claims against either of them to be made in writing to the Council by a due date (being not less than 1 month after the date of the advertisement).

7. Getting in assets, etc—As soon as practicable after the due date specified under regulation 6 (b), the Council must—

- (a) Get in, sell, transfer, or otherwise dispose of all of its real and personal property and that of the Authority; and
- (b) Pay or arrange to satisfy all of the creditors of the Council and the Authority, both secured and unsecured, and all persons with proper claims against the Council or the Authority; and
- (c) Hold funds sufficient to meet any expenses relating to the dissolution of the Council and the Authority.

8. Distribution of assets—On being satisfied that the provisions of regulation 7 have been complied with, the Council must distribute its remaining assets in equal shares to the District Committees.

9. Pre-dissolution report, etc—(1) As soon as practicable after the provisions of regulations 7 and 8 have been complied with, the Council must—

- (a) Send to the Minister its annual report and audited accounts; and
- (b) Dispose of all books, accounts, and records of the Council under the direction of the Director-General; and
- (c) Distribute to the District Committees, on the same basis as the distribution under regulation 8, any remaining funds held under regulation 7 (c).

(2) On being satisfied that the requirements of this regulation have been complied with, the Council must advise the Director-General in writing accordingly.

10. Dissolution—(1) The Director-General must give notice in the *Gazette* of the dissolution of the Council and the Authority as soon as practicable after receiving the advice of the Council under regulation 9 (2).

(2) The Council and the Authority are dissolved as from the date specified in the notice.

11. Debts owed to Council, etc, after dissolution—(1) On and after the date of the dissolution of the Council and the Authority, any money that remains owing as a debt to the Council or the Authority is owed to the District Committees in equal proportions.

(2) The Nelson Raspberry Marketing Committee is empowered to recover those debts on behalf of the District Committees, and may deduct the reasonable costs of doing so from any amounts recovered.

(3) Subclause (2) does not limit any other power to recover debts.

PART 3

DISSOLUTION OF DISTRICT COMMITTEES

Preliminary Provisions

12. Vesting of unsold stock in new marketing companies—(1) The rights, interests, liabilities, and obligations of the Nelson Raspberry Marketing Committee in respect of unsold raspberry stock vest in Southern Alpine Marketing Limited on the commencement of these regulations.

(2) The rights, interests, liabilities, and obligations of the Canterbury Raspberry Marketing Committee in respect of unsold raspberry stock vest

in Raspberry Marketing Limited on the commencement of these regulations.

13. Notice of proposed dissolution of District Committees—Each District Committee must, as soon as practicable after the commencement of these regulations, by advertisement in a newspaper circulating generally in its area of operations,—

- (a) Give notice of that District Committee's proposed dissolution; and
- (b) Call for any claims against that District Committee to be made in writing to that District Committee before a due date (being not less than 1 month after the date of the advertisement).

14. Getting in assets, etc—As soon as practicable after the date specified in regulation 13 (b), each District Committee must—

- (a) Get in, sell, transfer, or otherwise dispose of all of its real and personal property; and
- (b) Pay or arrange to satisfy all of its creditors, both secured and unsecured, and all persons with proper claims against the District Committee; and
- (c) Hold funds sufficient to meet any expenses relating to the dissolution of the District Committee.

Distribution of Assets of Nelson Raspberry Marketing Committee

15. Establishment of subsidiary—(1) The Nelson Raspberry Marketing Committee is empowered and required to establish a company to be registered under the Companies Act 1993 as Rubus Investments Nelson Limited.

(2) The company is a subsidiary of the Committee at the time of the company's establishment.

(3) When the Committee is dissolved, any shares in the company that are owned by the Committee are cancelled.

16. Distribution in relation to Cold Storage Nelson Limited shares—(1) The Nelson Raspberry Marketing Committee must, on being satisfied that the provisions of regulation 14 have been complied with in relation to the Committee,—

- (a) Nominate a vesting date for the Cold Storage Nelson Limited shares held by the Committee; and
- (b) Inform Cold Storage Nelson Limited, and the trustees under the trust deed, of the vesting date so nominated.

(2) On the nominated vesting date,—

- (a) The Cold Storage Nelson Limited shares held by the Nelson Raspberry Marketing Committee in trust under the trust deed vest in Rubus Investments Nelson Limited; and
- (b) The Cold Storage Nelson Limited shares beneficially owned by the Nelson Raspberry Marketing Committee vest in Rubus Investments Nelson Limited; and

(c) The Nelson Raspberry Marketing Committee must ensure that Rubus Investments Nelson Limited issues shares to current growers in accordance with the distribution formula in subclause (3).

(3) That distribution formula is 1 share for every 30.4 kg of raspberries grown by the person and marketed through the Nelson Raspberry Marketing Committee during the 10-year period ending with 30 June 1999.

(4) "Trust deed" means the trust deed made in 1977 between the Nelson Raspberry Marketing Committee and Leonard Noel Chambers and Cyril William Flowerday as trustees.

17. Distribution of remaining assets of Nelson Raspberry Marketing Committee—The Nelson Raspberry Marketing Committee must, on being satisfied that the provisions of regulation 16 have been complied with in relation to the Committee, transfer its remaining assets to current growers in proportion to the quantity (by weight) of raspberries marketed through the Committee during the 10-year period ending with 30 June 1999.

Distribution of Assets of Other District Committees

18. Distribution of assets of Canterbury Raspberry Marketing Committee—The Canterbury Raspberry Marketing Committee must, on being satisfied that the provisions of regulation 14 have been complied with in relation to the Committee, distribute any remaining assets to Raspberry Marketing Limited.

19. Distribution of assets of Otago Raspberry Marketing Committee—(1) The Director-General may appoint a person to act on behalf of the Otago Raspberry Marketing Committee for the purpose of these regulations.

(2) That person must—

- (a) Ensure that regulation 14 is complied with in relation to the Committee; and
- (b) Determine whether there are any assets to be distributed, and if so, distribute them to growers in accordance with a formula that the person considers appropriate; and
- (c) If the person determines there are no assets to be distributed, provide a statutory declaration to that effect to the Director-General; and
- (d) Ensure that regulation 21 is complied with in relation to the Committee.

20. Distribution of assets of North Island Raspberry Marketing Committee—(1) The Director-General may appoint a person to act on behalf of the North Island Raspberry Marketing Committee for the purpose of these regulations.

(2) That person must—

- (a) Ensure that regulation 14 is complied with in relation to the Committee; and
- (b) Determine whether there are any assets to be distributed, and if so, distribute them to growers in accordance with a formula that the person considers appropriate; and
- (c) If the person determines there are no assets to be distributed, provide a statutory declaration to that effect to the Director-General; and
- (d) Ensure that regulation 21 is complied with in relation to the Committee.

Dissolution of District Committees

21. Pre-dissolution report, etc—(1) As soon as practicable after the provisions of regulations 14 to 20 have been complied with in respect of a particular District Committee, that District Committee must—

- (a) Send to the Minister its annual report and audited accounts; and
- (b) Dispose of all books, accounts, and records of the District Committee under the direction of the Director-General; and
- (c) Distribute, in the proportions and to the persons specified in regulations 17 to 20 as applicable to that District Committee, any remaining funds held under regulation 14 (c).

(2) On being satisfied that the requirements of this regulation have been complied with, the District Committee must advise the Director-General in writing accordingly.

22. Dissolution—(1) The Director-General must give notice in the *Gazette* of the dissolution of the District Committee as soon as practicable after receiving the advice of a District Committee under regulation 21 (2).

(2) The District Committee is dissolved as from the date specified in the notice.

23. Debts owed to District Committees after dissolution—On and after the date of dissolution of a District Committee, the Director-General may—

- (a) Recover any money that remains owing as a debt due to the District Committee; and
- (b) Either—
 - (i) Pay out that money as if it had been received before dissolution; or
 - (ii) Pay that money to the Commissioner of Inland Revenue, and then regulation 26 applies to it; or
 - (iii) Pay out that money in any other manner that the Director-General considers appropriate, having regard to the size of the amount.

PART 4

MISCELLANEOUS PROVISIONS

24. Distributions to be made in accordance with existing records—Distributions under these regulations are to be made in accordance with the existing records of the relevant District Committee as to—

- (a) The persons who are growers;
- (b) The quantity of raspberries marketed through the Committee.

25. Liability for debts of Council, Authority, and District Committees—No person who receives any distribution is, by reason only of receipt of that distribution, liable for any debt of the Council, Authority, or a District Committee.

26. Unclaimed money—(1) This regulation applies if the person to whom a District Committee or the Director-General is to distribute money cannot be found.

(2) The District Committee or Director-General may pay the money to the Commissioner of Inland Revenue and send to the Commissioner particulars of the payment and of the person on whose behalf the money was held.

(3) The District Committee and the Director-General are then relieved from all further liability in respect of that money.

(4) The money is paid to the Commissioner as unclaimed money, and section 4 (3) of the Unclaimed Money Act 1971 applies to it.

27. Functions under Act—(1) It is a function of the Nelson Raspberry Marketing Committee to comply with the provisions of these regulations.

(2) Subclause (1) is for the avoidance of doubt and for the purpose of section 5A (4) of the Primary Products Marketing Act 1953.

28. No compensation for loss of office—No member of the Council, the Authority, or a District Committee is entitled to compensation for loss of office resulting from the dissolution of that body.

29. Revocation—The Raspberry Marketing Regulations 1979 (S.R. 1979/151) are revoked.

30. Savings—Despite the revocation of the Marketing Regulations, for the purpose of implementing the provisions of these regulations, until the body is dissolved under these regulations—

- (a) The Council, the Authority, and the District Committees continue; and
- (b) The members of the Council, the Authority, and the District Committees who hold office as at 30 June 1999 continue in office; and
- (c) The provisions of the Marketing Regulations that would facilitate the implementation of these regulations continue to apply to the Council, the Authority, and the District Committees.

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, which come into force on 16 August 1999, deregulate the marketing of raspberries in New Zealand by—

- (a) Revoking the Raspberry Marketing Regulations 1979; and
- (b) Providing for the dissolution of various bodies constituted under those regulations.

The bodies are the Raspberry Marketing Council, the Raspberry Marketing Export Authority, and 4 District Raspberry Marketing Committees (for Nelson, Canterbury, Otago, and the North Island).

The principal effect of these regulations is that, from 16 August 1999, raspberries may be freely sold, instead of having to be sold through the Marketing Authorities constituted under the regulations.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 15 July 1999.

These regulations are administered in the Ministry of Agriculture and Forestry.