

**Reprint
as at 1 April 2014**



**Commodity Levies (Satsuma
Mandarins) Order 2008**

(SR 2008/369)

Commodity Levies (Satsuma Mandarins) Order 2008: revoked, on 1 April 2014, by clause 32(a) of the Commodity Levies (Citrus Fruit) Order 2014 (LI 2014/44).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 6th day of October 2008

Present:

His Excellency the Governor-General in Council

Pursuant to section 4 of the Commodity Levies Act 1990, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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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.

This order is administered by the Ministry for Primary Industries.

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Order 2008**

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Order

1 Title

This order is the Commodity Levies (Satsuma Mandarins) Order 2008.

2 Commencement

This order comes into force on 28 November 2008.

Commodity Levies (Satsuma Mandarins) Order 2008: confirmed, on 18 December 2009, by section 8(c) of the Subordinate Legislation (Confirmation and Validation) Act 2009 (2009 No 67).

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Commodity Levies Act 1990

collection agent means a person whose business (whether alone or together with any other business) is or includes—

- (a) buying satsuma mandarins from growers; or
- (b) selling satsuma mandarins on behalf of growers, including wholesalers, auctioneers, procurers, brokers, agents, produce distribution centres, retailers, and exporters

grower means any person who produces satsuma mandarins 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 4

levy money means money paid under this order as a levy

levy year means,—

- (a) for the first year, a period beginning on the date of commencement of this order and ending on 31 March 2010;
- (b) for each subsequent year, a period of 12 months beginning on 1 April and ending on 31 March

mandarin product group means the NZCGI Mandarin Growers Product Group

mediator means a person appointed under clause 22(2); and, in relation to a dispute, means a mediator appointed to resolve it

NZCGI means New Zealand Citrus Growers Incorporated

processing, in relation to satsuma mandarins, means artificial drying, bottling, canning, evaporating, freezing, or preserving

satsuma mandarin means any of the following mandarins and their hybrids:

- (a) amber gold:
- (b) aoshima:
- (c) ishikawa:
- (d) kawano:
- (e) miho:
- (f) miyagawa:
- (g) okitsu:
- (h) silverhill.

Levy imposed

4 Levy imposed

- (1) A levy is imposed on satsuma mandarins that a grower produces in New Zealand for sale or export as fresh fruit.
- (2) However, subclause (1) does not apply to satsuma mandarins that are graded out of a fresh export or fresh domestic line and sent for processing.
- (3) The levy is payable to NZCGI.

Payment of levy

5 Growers primarily responsible for paying levy

A grower of satsuma mandarins is primarily responsible for paying the levy on them.

6 Collection agents must pay levy and recover it from growers

- (1) A collection agent must pay the levy (and any GST payable on the levy) on satsuma mandarins that the collection agent—
 - (a) buys from a grower (except through another collection agent); or

- (b) sells or exports on a grower's behalf.
- (2) A collection agent may recover the levy (and any GST paid in respect of it) from the grower by—
 - (a) deducting the amount of the levy (and any GST payable on it) from the payment made to the grower; or
 - (b) recovering the amount of the levy (and any GST paid in respect of it) as a debt due from the grower.
- (3) If subclause (2)(a) applies, the collection agent must provide the grower with information regarding the amount of the levy deducted.
- (4) A collection agent who pays the levy may deduct from the payment—
 - (a) a collection fee of not more than 10% of the amount of levy (exclusive of GST); and
 - (b) any GST payable on the fee.
- (5) Subclauses (1) and (2) do not apply to a collection agent if—
 - (a) the grower—
 - (i) has given the collection agent written notification that the grower intends to pay the levy directly to NZCGI; and
 - (ii) has obtained the written agreement of NZCGI to accept direct payment of the levy; or
 - (b) the grower—
 - (i) sells satsuma mandarins directly to the public; or
 - (ii) directly exports satsuma mandarins.

7 When levy payable

- (1) The due date for payment of the levy to NZCGI is,—
 - (a) for a grower who pays the levy directly to NZCGI, at the end of each quarter of the levy year; and
 - (b) for a grower who pays the levy through a collection agent, the date on which the collection agent deducts the levy from the grower.
- (2) The latest date for payment of the levy is the 20th day of the month following the due date for payment.

8 Additional levy payable if levy not paid in time

If any amount of the levy has not been paid by the close of the latest day for payment, 10% of the amount of the unpaid levy (excluding additional levies owing under this clause) must be paid to NZCGI in addition to the amount otherwise payable.

9 Levy must be paid at single rate

The levy must be paid at a single rate.

*Rate of levy***10 Basis of calculation of levy**

The levy must be calculated on a per kilogram basis at the first point of sale.

11 Maximum rate of levy

The maximum rate of levy that may be fixed is 2 cents per kilogram (excluding GST).

12 Fixing of levy

- (1) The mandarin product group must fix the levy rate for the first levy year at its annual meeting in 2008, which meeting may be held before the commencement of this order.
- (2) For each subsequent levy year, the mandarin product group may fix the levy rate at the mandarin product group annual meeting in accordance with NZCGI's voting rules.
- (3) Growers attending the mandarin product group annual meeting who are not members of NZCGI must be given speaking rights on the levy rate.

13 Rate if no rate fixed before beginning of levy year

If the mandarin product group does not fix the levy rate before the beginning of a levy year, the levy for that year is payable at the rate last fixed under clause 12.

14 Notification of levy rate

- (1) As soon as practicable after fixing the levy rate for a levy year, NZCGI must notify the rate—
 - (a) in the *Gazette*; and

- (b) in *The Orchardist*; and
 - (c) in the *Citrus News* or any other industry publication; and
 - (d) by direct mail to all growers and collection agents known to NZCGI.
- (2) If *The Orchardist* or *Citrus News* or both cease to be published, the levy rate for a levy year must be notified in—
- (a) any publication that replaces either of those publications; or
 - (b) if no publication replaces either of them, a publication that the Minister of Agriculture specifies by notice in the *Gazette*.

Expenditure of levy money

15 NZCGI must spend levy money

NZCGI must—

- (a) spend all levy money paid to it;
- (b) invest the levy money until it is spent.

16 Purposes for which levy money may be spent

- (1) NZCGI may spend the levy money for the following purposes relating to satsuma mandarins or growers:
- (a) research, including market research;
 - (b) product development;
 - (c) export market development;
 - (d) quality assurance;
 - (e) education and information;
 - (f) generic promotions;
 - (g) grower representation;
 - (h) day-to-day administration of the mandarin product group.
- (2) NZCGI must not spend any levy money on commercial or trading activities.
- (3) A project by the mandarin product group valued at more than \$20,000 a year may proceed only if approved—
- (a) at an annual meeting of that group, or at a special meeting of that group called for the purpose; and

- (b) in a vote conducted in accordance with NZCGI's voting rules.

17 Requirement to consult on how levy money is spent

- (1) The mandarin product group must consult growers on how the levy money is proposed to be spent.
- (2) The mandarin product group must undertake the consultation required under subclause (1)—
 - (a) through quarterly newsletters to all members of NZCGI; and
 - (b) at each NZCGI annual general meeting.
- (3) Growers attending any annual general meeting or special general meeting who are not members of NZCGI must be given speaking rights on all matters relating to the expenditure of levy money.

Record-keeping and information requirements

18 Records

- (1) A grower must, for every levy year, keep records of—
 - (a) the quantity of satsuma mandarins sold or exported; and
 - (b) the name of the collection agent or exporter used (if any); and
 - (c) the amount of levy paid to NZCGI.
- (2) A collection agent must, for every levy year (in respect of each grower of satsuma mandarins from whom the collection agent bought satsuma mandarins in that year for resale or export, or on whose behalf the agent sold or exported satsuma mandarins grown by the grower), keep records of—
 - (a) the name and address of the grower; and
 - (b) the quantity of satsuma mandarins bought for sale or export; and
 - (c) the quantity of satsuma mandarins sold or exported on behalf of growers; and
 - (d) the amount of levy collected and paid to NZCGI.
- (3) NZCGI must, for every levy year, keep records of—
 - (a) each amount of levy money paid to it and, in relation to each amount,—
 - (i) the date on which the levy was received; and

- (ii) the name of the person who submitted the levy;
and
 - (b) how levy money was spent or invested.
- (4) Each grower and collection agent must—
 - (a) retain the records prepared under subclause (1) or (2) for at least 2 years after the date of payment to NZCGI of the levy to which the records relate; and
 - (b) for the purposes of determining the amounts of levy payable, provide NZCGI with a copy of those records within 20 working days after receiving from NZCGI a written request for a copy of those records.
- (5) NZCGI must retain the records prepared under subclause (3) for at least 2 years after the levy year to which the records relate.

19 Confidentiality of information

- (1) An officer, employee of NZCGI, or any other person who gathers information, must not disclose (except to some other officer or employee of NZCGI) any information obtained under this order unless—
 - (a) the person who provided the information and every identifiable person to whom it relates consents to its disclosure; or
 - (b) its disclosure is required by law.
- (2) Subclause (1) does not affect or prevent the disclosure of information, records, or statements for the purposes of—
 - (a) assisting with the collection of the levy; or
 - (b) section 17(1) or 25 of the Act; or
 - (c) evidence given in any legal proceedings taken under, or in relation to, this order or the Act.
- (3) Subclause (1) does not prevent NZCGI from disclosing or using any information for statistical or research purposes if the information is in a form that does not identify any individual.

Miscellaneous

20 Conscientious objectors

- (1) A grower or collection agent who objects on conscientious or religious grounds to paying an amount of levy in the manner

provided for in this order may pay the amount to the chief executive of the Ministry of Agriculture and Forestry.

- (2) The chief executive of the Ministry of Agriculture and Forestry must pay the amount to NZCGI.

21 Remuneration of auditors

A person appointed as an auditor under section 15 of the Act must be remunerated by NZCGI at a rate determined by the Minister of Agriculture after consultation with NZCGI.

Mediation of disputes

22 Appointment of mediators

- (1) This clause applies to any dispute about—
 - (a) whether a person is required to pay the levy; or
 - (b) the amount of levy payable.
- (2) Any party to a dispute may ask the President of the Arbitrators and Mediators Institute of New Zealand Incorporated (the **President**) to appoint a person to resolve the dispute by mediation.
- (3) If asked under subclause (2), 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 29.

23 Remuneration of mediators

- (1) A mediator must be paid remuneration (by way of fees and allowances) agreed to by the parties to the dispute.
- (2) If the parties to a dispute cannot agree on a mediator's remuneration, the President (or a person authorised by the President) must—
 - (a) fix the remuneration to be paid to the mediator; and
 - (b) specify how much of that remuneration (if any) each party must pay.
- (3) A party must pay to the mediator any amount specified as payable by that party under subclause (2)(b).

24 Conference to resolve dispute

- (1) A mediator may organise and preside at 1 or more conferences between the parties to a dispute to try to resolve the dispute.
- (2) Every conference must be held on a day, and at a time and place, fixed by the mediator and notified in writing to the parties.

25 Conference must be held in private

Only the mediator and the parties to a dispute may attend a conference, unless clause 26 applies.

26 Representatives

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

27 Right to be heard

The following persons may be heard at a conference:

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

28 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 to verify the evidence by statutory declaration.

29 Mediator may resolve dispute in certain cases

- (1) A mediator may resolve a dispute for the parties if—
 - (a) the dispute is not resolved at a conference; 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.

30 Costs of mediation

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

31 Appeal to District Court

- (1) A party to a dispute who is dissatisfied with the decision made by a mediator under clause 29 may appeal to a District Court against the decision.
- (2) The appeal must be brought by filing a notice of appeal—
 - (a) within 28 days after the decision is made; or
 - (b) within any longer time that 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 time and place to 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) Every party to the dispute may appear and be heard at the hearing of the appeal.
- (5) The 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.

32 Revocation

- (1) The Commodity Levies (Satsuma Mandarins) Order 2003 (SR 2003/55) is revoked.
- (2) Despite subclause (1), amounts of levy that become payable before the commencement of this order to NZCGI under the Commodity Levies (Satsuma Mandarins) Order 2003 continue to be due and payable as if that order had not been revoked.

Reprinted as at **Commodity Levies (Satsuma Mandarins)**
1 April 2014 **Order 2008**

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 9 October 2008.

Reprints notes

1 *General*

This is a reprint of the Commodity Levies (Satsuma Mandarins) Order 2008 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*

Commodity Levies (Citrus Fruit) Order 2014 (LI 2014/44): clause 32(a)
Subordinate Legislation (Confirmation and Validation) Act 2009 (2009 No 67): section 8(c)
