

## Reprint

as at 29 November 2007

# Commodity Levies (Blackcurrants) Order 2001

(SR 2001/333)

Commodity Levies (Blackcurrants) Order 2001: revoked, on 29 November 2007 (after expiring on 5 November 2007), by clause 30 of the Commodity Levies (Blackcurrants) Order 2007 (SR 2007/329).

## Preamble

At Wellington this 5th day of November 2001

Pursuant to section 4 of the Commodity Levies Act 1990, Her 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 section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

**This order is administered in the Ministry of Agriculture and Forestry.**

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**1 Title**

This order is the Commodity Levies (Blackcurrants) Order 2001.

**2 Commencement**

This order comes into force on the 28th day after the date of its notification in the *Gazette*.

**3 Interpretation**

In this order, unless the context otherwise requires,—

**Act** means the Commodity Levies Act 1990

**BCNZ** means Blackcurrants New Zealand Limited

**collection agent** means a person whose business (whether alone or together with any other business) is or includes buying blackcurrants from growers

**grower** means any person who produces blackcurrants in New Zealand for commercial purposes

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

**levy** means the levy imposed by clause 4

**levy money** means the money paid under this order as levy

**levy year** means—

- (a) a period of 12 months beginning on 1 October and ending on 30 September; and
- (b) includes the period beginning on the commencement of this order and ending on 30 September 2002

**mediator** means a person appointed under clause 18; and, in relation to a dispute, means the mediator appointed to resolve that dispute

**society** means the society of growers incorporated under the Incorporated Societies Act 1908 whose name, immediately before the commencement of this order, was the Blackcurrant Product Group (Incorporated).

#### **4 Levy imposed**

- (1) A levy is imposed on blackcurrants that a grower produces in New Zealand and sells to a collection agent.
- (2) The levy is payable to BCNZ.

#### **5 Basis of levy**

- (1) The levy on blackcurrants sold during any levy year must be calculated on the basis of their weight in kilograms at the first point of sale.
- (2) The levy must be paid at a single rate.

#### **6 Initial rate of levy**

- (1) BCNZ must fix the rate of the levy for the levy year ending 30 September 2002 on the recommendation of the society and with the approval of the Minister of Agriculture.
- (2) BCNZ may fix the rate of levy for that levy year by any means by which it may lawfully make the decision.

**7 Later rates of levy**

- (1) Except as provided in clause 6, BCNZ may fix the rate of levy for a levy year—
  - (a) by any means by which it may lawfully make the decision; and
  - (b) in accordance with subclause (2).
- (2) The rate fixed under subclause (1) either—
  - (a) may not be greater than the rate for the previous levy year; or
  - (b) must be approved by the growers at the last annual general meeting of the society or at a special general meeting of the society.
- (3) If the growers do not approve the rate of levy for a levy year at either the annual general meeting of the society or a special general meeting of the society, the rate of levy for that levy year is the rate of levy that applied to the previous year.

**8 Notification of rate of levy**

- (1) The rate fixed under clause 6 or clause 7—
  - (a) must be notified by BCNZ in the *Gazette*; and
  - (b) applies to blackcurrants sold by growers to collection agents in the relevant levy year.
- (2) BCNZ must also, by its newsletter, advise all levy payers and collection agents known to it of the rate of levy that applies to the relevant levy year.

**9 Growers primarily responsible for paying levy**

- (1) Growers are primarily responsible for paying the levy imposed under clause 4.
- (2) No grower is exempt from paying the levy.

**10 Collection agents must pay levy on blackcurrants sold to them and recover it from growers**

- (1) A collection agent must pay the levy on blackcurrants that a grower sells to that collection agent.
- (2) A collection agent may recover the levy (and any GST paid in respect of it) from that grower by deducting the levy from the price otherwise payable to that grower for the blackcurrants.

- (3) A collection agent may not charge a collection fee for paying or recovering the levy.

**11 BCNZ to invoice collection agents quarterly in arrears**

- (1) BCNZ must invoice collection agents for the levy quarterly in arrears.
- (2) The levy—
  - (a) is due on the date that the invoice is issued; and
  - (b) must be paid on or before the 20th of the month following the date that the invoice is issued.
- (3) However, for the quarter ended 30 September, BCNZ must invoice collection agents for levy due—
  - (a) during the quarter ended 30 September; and
  - (b) on the kilograms of remaining stock of blackcurrants for which no levy has been paid.

**12 Conscientious objectors**

- (1) A grower who objects on conscientious or religious grounds to the manner of recovery by BCNZ of an amount of levy money may pay the amount concerned to the chief executive of the Ministry of Agriculture and Forestry.
- (2) The chief executive must pay the amount to BCNZ.

**13 BCNZ must spend levy money**

BCNZ must spend or (pending its expenditure) invest all levy money paid to BCNZ in accordance with the following purposes:

- (a) product research and development:
- (b) education:
- (c) promotion of blackcurrants:
- (d) market research and development:
- (e) day-to-day administration of BCNZ:
- (f) quality assurance.

**14 BCNZ must consult growers on spending of levy money**

- (1) BCNZ—

- (a) must consult growers as to how it is to spend levy money at the annual general meeting of the society; and
  - (b) may consult growers as to how it is to spend levy money at any special general meeting of the society.
- (2) BCNZ must provide each known levy payer with a copy of the audited accounts of BCNZ as soon as practicable after the audit is completed.

### **15 Records**

- (1) A grower must, for each levy year, keep records of—
- (a) the name and address of each collection agent to whom the grower has sold blackcurrants; and
  - (b) the quantities of blackcurrants sold to each collection agent.
- (2) A collection agent must, for each levy year, keep records of—
- (a) the name and address of each grower from whom blackcurrants were bought; and
  - (b) the quantities bought from each grower; and
  - (c) the amount of levy deducted in respect of each quantity.
- (3) BCNZ must, for each levy year, keep records of—
- (a) each amount of levy money paid to it; and
  - (b) the person who paid each amount and the date on which it was received; and
  - (c) how the levy money was spent or invested.
- (4) The records required by this clause must be retained for at least 2 years from the end of the levy year to which they relate.

### **16 Confidentiality of information**

- (1) No officer or employee of BCNZ, or any other person or organisation that gathers information, may disclose (except to some other officer or employee of BCNZ) any information obtained—
- (a) under or because of this order; or
  - (b) under the Act in relation to this order.
- (2) Subclause (1) does not affect or prevent—
- (a) the production of records or accounts under section 17(1) of the Act; or

- (b) the production of any statement under section 25 of the Act; or
  - (c) the giving of evidence in any legal proceedings taken—
    - (i) under or in relation to this order; or
    - (ii) in relation to this order, under or in relation to the Act.
- (3) Subclause (1) does not prevent BCNZ from—
- (a) disclosing or using any information (not being information relating to an identifiable person) for statistical or research purposes; or
  - (b) disclosing or using any information for the purposes of invoicing and collecting the levy; or
  - (c) disclosing or using any information with the consent of every identifiable person to whom it relates.

**17 Remuneration of persons conducting compliance audits**

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

**18 Appointment of mediators**

- (1) This clause applies to any dispute about—
  - (a) whether or not any person is required to pay the levy; or
  - (b) the amount of the levy payable.
- (2) Any party to the dispute may ask the President of the Institute of Chartered Accountants of New Zealand to appoint a person to resolve the dispute by mediation and, in that case, the President (or a person authorised by the President to do so) may appoint a person to resolve the dispute by mediation.
- (3) 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 25.

**19 Remuneration of mediators**

- (1) A mediator must be paid remuneration (by way of fees and allowances) as agreed to by the parties to the dispute.
- (2) If the parties to a dispute cannot agree on a mediator's remuneration, the President of the Institute of Chartered Account-

ants of New Zealand (or a person authorised by the President to do so) 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 fixed by the President (or authorised person) and specified as an amount to be paid by that party.

**20 Time and place of conference**

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

**21 Who may attend conference**

Except as provided in clause 22, only the parties to a dispute and the mediator may attend a conference organised by the mediator.

**22 Mediator may allow representative to attend conference**

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

**23 Right to be heard at conference**

Every party to a dispute, 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.

**24 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 a dispute to verify the evidence by statutory declaration.

**25 Mediator may resolve dispute 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) If subclause (1) applies, the mediator 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 decision of the mediator.

**26 Appeal to District Court**

- (1) A party to a dispute who is dissatisfied with the decision made by a mediator under clause 25 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 after the making of the decision concerned; 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 notify the appellant and the other parties to the dispute; and
  - (b) 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) 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.

**27 Revocation**

- (1) The Commodity Levies (Blackcurrants) Order 1995 (SR 1995/220) is revoked.
- (2) Despite subclause (1), amounts of levy that become payable before the commencement of this order to BCNZ under the Commodity Levies (Blackcurrants) Order 1995 continue to be due and payable as if that order had not been revoked.

Marie Shroff,  
Clerk of the Executive Council.

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**Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force on the 28th day after the date of its notification in the *Gazette*, imposes a levy payable to Blackcurrants New Zealand Limited on blackcurrants sold by growers to collection agents. The order revokes and replaces the Commodity Levies (Blackcurrants) Order 1995.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 8 November 2001.

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## **Notes**

### ***1 General***

This is an eprint of the Commodity Levies (Blackcurrants) Order 2001. It incorporates all the amendments to the as at 29 November 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

### ***2 About this eprint***

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

### ***3 List of amendments incorporated in this eprint (most recent first)***

Commodity Levies (Blackcurrants) Order 2007 (SR 2007/329): clause 30  
Commodity Levies Act 1990 (1990 No 127): section 13(1)

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