

# House of Representatives

# Supplementary Order Paper

**Tuesday, 15 November 2016**

## **New Zealand Horticulture Export Authority Amendment Bill**

### *Proposed amendments*

Hon Nathan Guy, in Committee, to move the following amendments:

*Clause 31: new sections 62 to 62B*

In *clause 31, new section 62(1)*, after “by Order in Council” (page 17, line 22), insert “made on the recommendation of the Minister”.

In *clause 31*, after *new section 62(2)(a)* (page 17, after line 32), insert:

- (aaa) may specify different amounts or maximum amounts of a fee, or methods of calculating a fee, for different categories of person; and
- (aab) may provide for the Authority or recognised product group charging the fee to determine which category a person belongs to based on prescribed criteria or after following a prescribed process; and

In *clause 31*, after *new section 62(2)* (page 18, after line 3), insert:

- (3) If the regulations exempt persons from having to pay a fee, the reasons for the exemption must be set out in the explanatory note of the regulations.
- (4) Before recommending that regulations be made under this section, the Minister must take reasonable steps to consult the persons who may have to pay the fee.

In *clause 31*, after *new section 62* (page 18, after line 3), insert:

#### **62AAA Levy regulations: levy payable to Authority**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations providing for the

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- payment of a levy by recognised product groups to the Authority to fund the costs of carrying out its functions under this Act.
- (2) Regulations made under this section must—
- (a) specify which recognised product groups or categories of group are responsible for paying the levy; and
  - (b) specify either—
    - (i) the amount of, or method of calculating, the levy; or
    - (ii) the different amounts of, or methods of calculating, the levy payable by different recognised product groups or categories of group; and
  - (c) prescribe requirements for notifying the amount of the levy if it is determined by a method of calculation; and
  - (d) specify when and how the levy must be paid; and
  - (e) prescribe a requirement for the Minister to review the levy at specified intervals.
- (3) The regulations may do 1 or more of the following:
- (a) require the Authority to keep records relating to the receipt and use of levy funds;
  - (b) if the levy is determined by a method of calculation,—
    - (i) require recognised product groups to make returns to the Authority for use in calculating the amount of the levy;
    - (ii) allow the Authority to determine the amount of the levy payable by a recognised product group if the information needed to calculate the levy for that group is unavailable;
  - (c) exempt recognised product groups or categories of group from having to pay the levy or any part of it.
- (4) If the regulations allow the Authority to determine the amount of levy payable by a recognised product group, the regulations must prescribe—
- (a) criteria for determining the amount; and
  - (b) a process for resolving any dispute about the amount determined by the Authority.
- (5) If the regulations exempt product groups from having to pay the levy, the reasons for the exemption must be set out in the explanatory note of the regulations.

- (6) Before recommending that regulations be made under this section, the Minister must take reasonable steps to consult the recognised products groups that will be responsible for paying the levy.
- (7) A levy imposed by regulations made under this section must be reasonable having regard to—
  - (a) the costs incurred by the Authority in carrying out its functions under this Act; and
  - (b) the amount of any income received by the Authority from any other source.

In *clause 31*, replace the heading to *new section 62A* (page 18, line 4) with “**Levy regulations: levies payable to recognised product groups**”.

In *clause 31*, *new section 62A(1)(b)*, replace “fees” (page 18, line 9) with “any fee or levy”.

In *clause 31*, the heading to *new section 62B*, after “products” (page 18, line 16), insert “**for purposes of section 62A**”.

### **Explanatory note**

This Supplementary Order Paper (SOP) amends the New Zealand Horticulture Export Authority Amendment Bill mainly by inserting a new power to make levy regulations. The levy must be paid to the New Zealand Horticulture Export Authority (the **Authority**) by product groups that are recognised under the New Zealand Horticulture Export Authority Act 1987. The levy may be used only to fund costs incurred by the Authority in carrying out its functions under the Act (for example, administering the export licensing of products covered by the Act).

The levy-making power is in addition to the power under *new section 62(1)(a)* in *clause 31* of the Bill to make regulations for fees charged by the Authority. The *new section 62AAA(7)(b)* inserted by this SOP would require the levy to be reasonable having regard to any income that the Authority receives from other sources, including from charging fees.

This SOP also amends *new section 62* (which relates to fee regulations) to—

- ensure that regulations can prescribe different fees for different categories of persons and to ensure that the Authority or recognised product group that charges a fee can determine a person’s category (because, for example, a tier 2 export licence for one product may allow market access that is similar to a tier 3 licence for another product); and
- require that, before recommending that regulations be made, the Minister for Primary Industries consult the persons (whether exporters, producers, or recognised product groups) that may have to pay the fee.

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