

Version
as at 31 May 2023



Apple Transitional Export Quota Act 2022

Public Act 2022 No 60
Date of assent 15 November 2022
Commencement see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry for Primary Industries.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Apple Transitional Export Quota Act 2022.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council.
- (2) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1): this Act brought into force, on 31 May 2023, by clause 2 of the Apple Transitional Export Quota Act Commencement Order 2023 (SL 2023/107).

Part 1

Preliminary provisions

3 Repeal of this Act

This Act is repealed at the end of the last day of the year that is the second year after the year in which the FTA comes into force.

4 Purpose

- (1) The purpose of this Act is to implement New Zealand's obligations under the FTA, as those obligations relate to fresh apples.

- (2) To achieve that purpose, this Act provides for New Zealand Apples and Pears Incorporated, on behalf of the Crown,—
- (a) to design and operate a quota system that—
 - (i) operates for up to 3 years (in the period 1 August to 31 December in each of those years); and
 - (ii) enables apples to be exported from New Zealand to the UK free from duty, in accordance with the FTA; and
 - (b) to fulfil New Zealand’s reporting obligations under the FTA in relation to the quota system.

5 Interpretation

In this Act, unless the context otherwise requires,—

apple exporter means a person who exports apples grown in New Zealand

apples means fresh apples, other than cider apples

authorised person means an individual authorised by NZAPI under section 28

Customs means the New Zealand Customs Service

Director-General means the Director-General of MPI

export means to send to another country, whether directly or indirectly

export certificate means a certificate issued by NZAPI under section 18

FTA means the Free Trade Agreement between New Zealand and the United Kingdom of Great Britain and Northern Ireland, done at London on 28 February 2022

Minister means the Minister of Agriculture

MPI means the Ministry for Primary Industries

NZAPI means New Zealand Apples and Pears Incorporated

quota system means a system designed under section 8

quota year means the period from 1 August until 31 December in each year that the FTA is in force

UK means the United Kingdom of Great Britain and Northern Ireland.

6 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect, for this Act, according to their terms.

7 Act binds the Crown

This Act binds the Crown.

Part 2

Quota system and annual allocations

Quota system

8 NZAPI must design and operate quota system

- (1) NZAPI must design and operate a quota system for allocating the access to the UK apple market afforded by the FTA (but *see* Schedule 1 if the FTA comes into force in 2022).
- (2) NZAPI has complete discretion to determine all elements of a quota system, including its allocation mechanisms, but, in doing so, NZAPI must—
 - (a) comply with the requirements of section 9; and
 - (b) consider the extent to which the system will be fair and equitable to, and efficient for, all apple exporters; and
 - (c) satisfy the requirements of sections 11 and 12.
- (3) A quota system designed and operated under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

9 Minimum requirements

- (1) A quota system must comply with all relevant requirements of the FTA.
- (2) For each quota year, a quota system must provide for all of the following:
 - (a) a portion of the quota to be allocated to each existing apple exporter who applies for quota for that year; and
 - (b) a portion of the quota to be set aside for new apple exporters who may apply for quota for that year; and
 - (c) a process for a quota applicant to seek a review of any allocation decision in relation to their application; and
 - (d) a process for issuing export certificates under section 18.
- (3) A quota system may take into account any proportion of quota allocated to a person that—
 - (a) was unused in the previous quota year; and
 - (b) was notified to the person under section 14(1)(c) as required to be returned to NZAPI for reallocation; but

- (c) was not returned or was incorrectly returned—
when determining the allocation of quota, or any adjustment of allocation of quota, to the person for the following year (for example, by reducing the allocation by the amount of the unused quota).
- (4) A quota system must not—
- (a) discriminate between persons or classes of person (except to the extent authorised under subsections (2)(a) and (b) and (3)); or
 - (b) make the allocation of quota subject to preconditions or requirements other than for the purposes of—
 - (i) complying with the FTA; or
 - (ii) ensuring that the quota system, and any particular quota consignment, is accepted by UK or New Zealand government and administrative bodies (as relevant); or
 - (c) impose any condition or limitation on quota that has been allocated (for example, by prescribing when, within a quota year, a quota consignment may be exported); or
 - (d) require any person to give information to NZAPI under this Act except to the extent necessary to enable—
 - (i) the quota system to be designed, operated, and enforced effectively; and
 - (ii) New Zealand to fulfil its obligations under the FTA.
- (5) Despite subsection (4)(c), a quota system may require that unused allocation be returned to NZAPI.
- (6) If NZAPI replaces a quota system, it must ensure that the new system provides for a fair adjustment of any amounts already allocated or set aside under the system it is replacing.
- (7) To avoid doubt, nothing in this section prohibits a quota system design that uses a first-come-first-served allocation mechanism, so long as the system complies with subsection (2).
- (8) In this section,—
- existing apple exporter** means an apple exporter who exported apples to the UK during the previous quota year (or calendar year, in the case of the first quota year)
- new apple exporter** means an apple exporter who did not export apples to the UK during the previous quota year (or calendar year, in the case of the first quota year).

10 Amendment

- (1) NZAPI may amend a quota system at any time.

- (2) If a quota system is amended, the consultation and notification requirements in sections 11 and 12 apply as if it were a new quota system, unless the amendment clearly has—
- (a) no impact on the share of quota allocated to any person; and
 - (b) no impact on whether a person receives any allocation in any subsequent quota year; and
 - (c) no significant financial impact on any person to whom quota has been allocated.
- (3) An amendment made to a quota system under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

11 Consultation

NZAPI must not finalise a quota system without consulting all apple exporters known to it and considering their feedback.

12 Notification to apple exporters and others

Before implementing a finalised quota system, NZAPI must give a written notice summarising the system (including an explanation of any allocation calculation) to—

- (a) all apple exporters known to it; and
- (b) the Minister.

Annual allocations

13 Allocations to be made in accordance with quota system

For each quota year, NZAPI must—

- (a) invite applications for quota allocations; and
- (b) decide them in accordance with the quota system.

14 Notification of decisions

- (1) NZAPI must notify each quota applicant of the following:

- (a) the quota allocation calculation (if any); and
- (b) the name of, and quota amount allocated to, each applicant; and
- (c) if applicable, the date by which any unused allocation must be returned to NZAPI; and

- (d) the status of any amount not yet allocated; and
 - (e) the process, and latest date, by which an applicant may request a review of the quota allocation decision in relation to their application.
- (2) NZAPI must give the notice in writing as soon as practicable after deciding the allocations.
- (3) NZAPI must also publish the same information on its Internet site.

15 Review of allocation decisions

- (1) A person may request a review of a quota allocation decision in relation to their application, and NZAPI must reconsider its decision if the person has applied—
- (a) in accordance with the process as notified to applicants under section 14(1)(e); and
 - (b) by the date stated in the notice.
- (2) NZAPI may decide either of the following and must notify the person, in writing, accordingly:
- (a) to increase the allocation:
 - (b) to leave the allocation as initially set.

16 Use of allocations

A quota holder must not trade their quota allocation.

17 Return of unused allocations

- (1) This section applies if NZAPI requires quota holders to return unused allocation to it during a quota year.
- (2) A quota holder must return any unused allocation by the date specified under section 14(1)(c), and NZAPI must, as soon as practicable,—
- (a) notify all other apple exporters known to it that it has quota to reallocate; and
 - (b) invite applications for a share of the reallocation by a date specified in the notice; and
 - (c) publish the same information on its Internet site.
- (3) NZAPI must then reallocate the quota among any applicants as if it were allocating annual quota, and sections 13 and 14 apply accordingly with any necessary modifications.

Export certificates

18 Export certificates

- (1) NZAPI must issue tariff rate quota export certificates to quota holders for the purpose of providing evidence of eligibility for entry into the UK of—

- (a) a particular consignment of apples; or
 - (b) a particular quantity of apples exported or to be exported by a specified exporter.
- (2) NZAPI must issue an export certificate to a quota holder if—
- (a) the quota holder applies for a certificate; and
 - (b) the application is made in accordance with any requirements specified in the quota system; and
 - (c) NZAPI is satisfied that the certificate should be issued.
- (3) NZAPI may refuse to issue an export certificate to a quota holder if—
- (a) their application does not comply with any requirements specified in the quota system; or
 - (b) NZAPI is satisfied on reasonable grounds that the certificate should not be issued; or
 - (c) the quota holder has not paid any fees owing under this Act, or has paid them after the due date.
- (4) NZAPI must ensure that export certificates issued under this section comply with any relevant requirements specified in the FTA.

19 Exports must be in accordance with certificate

No person may export apples to the UK under the quota system unless—

- (a) the person holds an export certificate for the apples; and
- (b) the export is carried out in accordance with—
 - (i) the information stated in the certificate; and
 - (ii) any other applicable requirements of the quota system; and
- (c) the person is not subject to any action taken by NZAPI under section 25 that would prohibit the export.

Part 3 General provisions

Information requests and sharing

20 Requests by NZAPI for information

- (1) NZAPI may request and use information from any person, including quota holders, quota applicants, and any other apple exporters, to enable—
- (a) the quota system to be designed, operated, and enforced effectively; and
 - (b) New Zealand to fulfil its obligations under the FTA.
- (2) Without limiting subsection (1), NZAPI may request and use information for 1 or more of the following purposes:

- (a) allocating quota;
 - (b) monitoring compliance with this Act and the relevant parts of the FTA;
 - (c) sharing information under sections 21 to 23;
 - (d) conducting a review under section 26.
- (3) For the purposes of designing a quota system and making allocations, NZAPI may request—
- (a) an apple exporter’s total export volume of apples for all export markets, for up to 3 calendar years before the first quota year, broken down by market locations; and
 - (b) an apple exporter’s total export volume of apples in any quota year, broken down by quota exports and non-quota exports.
- (4) A request under this section must be in writing and set out why the information is required.
- (5) A request under this section may be—
- (a) a one-off request; or
 - (b) a request for information to be given at specified intervals (for example, periodic reports on the volume of apples actually exported under a quota allocation).
- (6) A person must comply with a request as soon as practicable or by any date specified in the request.
- (7) NZAPI must ensure that appropriate protections are or will be in place to maintain the confidentiality of information collected and used under this section.

21 NZAPI, Customs, and MPI may share information

- (1) For the purposes of operating and enforcing the quota system and fulfilling New Zealand’s obligations under the FTA,—
- (a) NZAPI may share any information it collects under section 20 with Customs or MPI, or both; and
 - (b) Customs may share any relevant information that it holds under any legislation with NZAPI or MPI, or both.
- (2) Without limiting subsection (1), information may be shared between NZAPI, Customs, and MPI for the following purposes:
- (a) to allow NZAPI to inform Customs that it has cancelled an export certificate;
 - (b) to allow NZAPI to verify that a quota holder is providing correct information to it;
 - (c) to allow MPI to receive information from Customs so that MPI may assist in ensuring that New Zealand is fulfilling its obligations under the FTA.

- (3) NZAPI, Customs, and MPI must ensure that appropriate protections are or will be in place to maintain the confidentiality of information shared under this section.
- (4) To avoid doubt, NZAPI, Customs, and MPI may share commercially sensitive information under this section.

22 NZAPI must share information with Director-General

- (1) The Director-General may request NZAPI to share information, or a copy of a document that it holds, with the Director-General.
- (2) The Director-General may make a request if satisfied that the information or document will assist the Director-General in providing information to the Minister so that the Minister may be satisfied that New Zealand is fulfilling its obligations under the FTA.
- (3) NZAPI must comply with a request from the Director-General as soon as practicable, and the Director-General may use the information or document for the purpose referred to in subsection (2) so long as appropriate protections are in place or will be in place to maintain the confidentiality of the information.
- (4) To avoid doubt, NZAPI may provide commercially sensitive information to the Director-General under this section.

23 NZAPI must share information with UK authority

- (1) For the purpose of fulfilling New Zealand's reporting obligations under the FTA, NZAPI must provide to the UK authority, for each quota year,—
 - (a) information relating to the initial allocation and any reallocation of the annual quota volume for that year; and
 - (b) information relating to export certificates issued by NZAPI during that year.
- (2) The information provided under subsection (1)(b) must—
 - (a) be provided monthly, or as otherwise agreed between NZAPI and the UK authority; and
 - (b) include the following information for each export certificate issued:
 - (i) the exporter's name and address; and
 - (ii) the corresponding UK importer's name and address; and
 - (iii) the quantity of apples; and
 - (iv) the quota year to which the certificate relates and its expiry date (if any).
- (3) In this section, **UK authority** means the entity nominated by the UK for receiving the information provided by NZAPI under this section.

24 NZAPI must publish certain information

- (1) NZAPI must publish the following information on its Internet site:
 - (a) for each month of a quota year, the percentage of the total quota volume exported for that month and the quota year to date;
 - (b) when the total quota volume for the quota year is reached, a notice to that effect.
- (2) The information required under subsection (1)(a) must be published within 10 working days after the end of each month.
- (3) The information required under subsection (1)(b) must be published as soon as practicable after the total quota volume is reached.
- (4) In this section, **total quota volume** means the maximum volume of apples permitted to be exported to the UK under the quota system for a quota year.

*Enforcement***25 Actions NZAPI may take for non-compliance**

- (1) NZAPI may take 1 or more of the actions specified in subsection (2) against a person if it is satisfied that the person—
 - (a) has exported apples to the UK as a quota holder but in excess of their quota allocation; or
 - (b) has exported apples to the UK as a quota holder but without an export certificate for the apples; or
 - (c) has done or is likely to have done any other thing in breach of the quota system; or
 - (d) without reasonable excuse, has failed to—
 - (i) provide information to NZAPI when required or requested to do so under this Act; or
 - (ii) return unused quota allocation to NZAPI by the date specified under section 14(1)(c); or
 - (iii) pay any fee owing under this Act by the required date; or
 - (e) has knowingly given false or misleading information when required or requested to provide information under this Act.
- (2) The actions are—
 - (a) suspend, by written notice, any right the person has to export under the quota system for a period specified in the notice (which must be no longer than 12 months from the day on which the notice is issued):
 - (b) refuse, by written notice, to issue 1 or more export certificates to the person for a period specified in the notice (which must be no longer than 12 months from the day on which the notice is issued):

- (c) cancel any export certificate issued to the person.
- (3) Before acting under subsection (2), NZAPI must, by written notice, inform the person of the following:
 - (a) that it intends to act in the way specified in the notice; and
 - (b) the reasons for doing so; and
 - (c) the person's right to seek a review of its decision under section 26; and
 - (d) the latest date by which the person may exercise that right.

26 Review of decisions about action for non-compliance

- (1) A person may seek a review of a decision NZAPI has made in relation to them under section 25.
- (2) NZAPI may—
 - (a) conduct the review itself and make a decision; or
 - (b) appoint an independent person to investigate and make recommendations to NZAPI, and then make the decision.
- (3) In either case, NZAPI has complete discretion to decide upon the process.
- (4) NZAPI must give written notice to the person of—
 - (a) its decision; and
 - (b) the reasons for its decision; and
 - (c) the person's right of appeal under section 27.
- (5) NZAPI must publish information about the right to reviews, and the manner in which they may be conducted, on its Internet site.

27 Appeal against review decisions

A person who is dissatisfied with a decision of NZAPI made under section 26 may, within 20 working days after notice of the decision is given to them, appeal to the High Court against the decision.

28 Authorised persons

- (1) NZAPI may authorise suitably qualified and trained individuals to execute a search warrant issued under section 29.
- (2) An authorisation must—
 - (a) be made in writing; and
 - (b) state that it is made under this section; and
 - (c) set out the following:
 - (i) the name of the individual;
 - (ii) the purpose for which the authorisation is given;

- (iii) the duration of the authorisation (which may be until it is revoked).

29 Powers of inspection to investigate offence

- (1) An issuing officer (as defined in the Search and Surveillance Act 2012) may issue a search warrant to an authorised person, or a constable, authorising them—
 - (a) to search—
 - (i) any place where apples are held or are likely to be held (including any place that is not a place of business); or
 - (ii) any place where documents relating to apples are held or are likely to be held (including any place that is not a place of business); or
 - (iii) any vehicle, aircraft, or ship; and
 - (b) to copy any document, or part of a document, relating to apples found at that place, vehicle, aircraft, or ship; and
 - (c) to seize any computer system or other data storage device in order to access any document, or part of a document, relating to apples that may be stored on that device.
- (2) An issuing officer may issue the search warrant if satisfied that there are reasonable grounds to believe that—
 - (a) an offence against this Act has been, is being, or is intended to be committed; and
 - (b) there is evidential material in relation to the offence on or in the place, vehicle, aircraft, or ship.
- (3) Part 4 of the Search and Surveillance Act 2012 applies in relation to this section, but sections 118 and 119 apply only in respect of a warrant issued to a constable.

Offences, penalties, and proceedings

30 Offences

- (1) A person commits an offence if the person—
 - (a) exports apples to the UK as if doing so under the quota system when no quota has been allocated to the person; or
 - (b) exports apples to the UK in breach of section 19; or
 - (c) with intent to deceive, gives false or misleading information, or makes a material omission, when required or requested to provide information under this Act.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding \$10,000.

31 Strict liability

In any proceedings for an offence under section 30(1)(a) or (b), it is not necessary for the prosecution to prove that the defendant intended to commit the offence.

32 Defence available

- (1) It is a defence in any proceedings for an offence under section 30(1)(a) or (b) if the defendant proves that—
 - (a) the contravention was due to an event or a cause beyond the defendant's control; and
 - (b) the defendant took all reasonable steps to prevent the contravention.
- (2) A defendant is not entitled to rely on any event or cause referred to in subsection (1)(a) as part of a defence under this section unless—
 - (a) they have served on the prosecutor notice in writing identifying the event or cause relied on; and
 - (b) the notice is served no later than 10 working days before the date on which the hearing of the proceedings commences.
- (3) Subsection (2) does not apply if the defendant has leave of the court to rely on the event or cause.

33 Liability of companies and persons for actions of agents or employees

- (1) For the purpose of proceedings for an offence against this Act, an act done or omitted to be done on behalf of a person other than a body corporate (**person A**) by—
 - (a) an agent or employee of person A; or
 - (b) any person at the direction or with the consent or agreement, whether express or implied, of an agent or employee of person A,—is treated also as the act or omission of person A.
- (2) For the purpose of proceedings for an offence against this Act, an act done or omitted to be done on behalf of a body corporate by—
 - (a) a director, agent, or employee of that body corporate; or
 - (b) any other person at the direction or with the consent or agreement, whether express or implied, of a director, agent, or employee of that body corporate—is treated also as the act or omission of the body corporate.
- (3) However, if proceedings are brought under section 30(1) in respect of an act or omission under this section, it is a defence if the defendant proves,—
 - (a) if they are a person other than a body corporate, that—
 - (i) they did not know, nor could reasonably be expected to have known, that the offence was to be or was being committed; or

- (ii) they took all reasonable steps to prevent the commission of the offence:
 - (b) if they are a body corporate, that—
 - (i) neither the directors nor any person involved in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be or was being committed; or
 - (ii) the body corporate took all reasonable steps to prevent the commission of the offence:
 - (c) in all cases, that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.
- (4) For the purposes of this section,—
- (a) a person (**person A**) may act as an agent of another person, including a body corporate (**person B**), irrespective of whether person A is employed by person B or acting for reward:
 - (b) an agent or employee of person A is treated as also acting as an agent for person B.

34 Liability of directors and managers

- (1) If a body corporate commits an offence under section 30(1), every director, and every person concerned in the management of the body corporate, also commits an offence under that section if it is proved that—
- (a) the act or omission that constituted the offence took place with the director's or person's authority, permission, or consent; or
 - (b) the director or person knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.
- (2) Every person to whom subsection (1) applies is liable on conviction to the fine specified in section 30(2).
- (3) A person may be convicted of the offence even though the body corporate has not been charged with that offence or a similar offence.

35 Time for filing charging document

- (1) A charging document in respect of an offence against this Act must be filed within 2 years after the date on which the offence was committed.
- (2) This section overrides section 25 of the Criminal Procedure Act 2011.

Recovery of costs

36 NZAPI may set fees to recover costs

- (1) NZAPI may, by notice, set fees payable by quota applicants and quota holders for processing quota applications and issuing export certificates.
- (2) However, before setting any fee, NZAPI must consult all apple exporters known to it and consider their feedback.
- (3) NZAPI must notify fees set under this section, and the date by which they must be paid, to—
 - (a) all apple exporters known to it; and
 - (b) the Minister.
- (4) A notice issued under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication The maker must publish it in accordance with the Legislation (Publication) Regulations 2021 LA19 s 74(1)(aa)

Presentation The Minister must present it to the House of Representatives LA19 s 114

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116

This note is not part of the Act.

Protection of authorised persons

37 Protection of authorised persons

- (1) An authorised person who does any act or omits to do any act in exercising a power conferred on them under this Act is not under any civil or criminal liability in respect of the act or omission.
- (2) Subsection (1) applies unless the person has acted, or omitted to act, in bad faith or without reasonable cause.

Conflicts of interest

38 Conflicts of interest must be disclosed

- (1) NZAPI must have a process for its officers to manage any conflicts of interest that arise when they are acting under this Act.
- (2) For that purpose, NZAPI may use any process that it currently implements when conducting its operations or affairs but must adapt it (where necessary) to provide for the following:
 - (a) an officer must disclose any interest in a matter, with details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) as soon as practicable after they become aware that they have an interest; and

- (b) the details must be recorded—
 - (i) in a register kept by NZAPI; and
 - (ii) in the minutes of the meeting at which the disclosure is made or the first meeting held after the disclosure (as the case may be); and
- (c) the officer must not—
 - (i) vote or take part in any decision relating to the matter; or
 - (ii) sign any document relating to the matter; or
 - (iii) participate in any other way in relation to the matter, except with the chairperson's permission.
- (3) If an officer does not disclose an interest (and does anything contrary to subsection (2)(c)),—
 - (a) NZAPI must notify the Minister; and
 - (b) NZAPI may reconsider any relevant decision; but
 - (c) NZAPI must not cancel or amend any quota allocation already made in reliance on the decision.
- (4) The criteria set out in section 39 must be used to determine whether an officer has an **interest** in a matter for the purposes of this section.
- (5) In this section and section 39, **matter** means NZAPI's performance of its duties or exercise of its powers under this Act.

39 When officer has interest

- (1) An officer is **interested** in a matter if the officer—
 - (a) may obtain a financial benefit from the matter; or
 - (b) is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, sibling, nephew, niece, uncle, aunt, or first cousin of a person who may obtain a financial benefit from the matter; or
 - (c) may have a financial interest in a person to whom the matter relates; or
 - (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates.
- (2) However, the officer is not **interested** in a matter—
 - (a) just because they receive an indemnity, insurance cover, remuneration, or other benefits permitted under NZAPI's constitution, or any legislation, in their capacity as an officer; or
 - (b) if their interest is the same or substantially the same as the benefit or interest of all or most other members of NZAPI due to the membership of those members; or

- (c) if their interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence them in carrying out their responsibilities under this Act.

Notices

40 Notices

NZAPI may give a person written notice under this Act by—

- (a) delivering or leaving it at the person’s last known home or work address; or
- (b) emailing it to the person at their last known personal or work email address.

Replacement of NZAPI

41 Governor-General may replace NZAPI

- (1) If NZAPI ceases to operate, or is going to cease to operate, the Governor-General may, by Order in Council made on the recommendation of the Minister, appoint a replacement body to carry out the functions and duties conferred on NZAPI by this Act.
- (2) The Minister must not make a recommendation unless the Minister—
- (a) has consulted apple exporters; or
- (b) is satisfied that MPI has consulted apple exporters on the Minister’s behalf.
- (3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Provisions relating to FTA

42 No liability for changes in UK access arrangements

Neither the Crown nor NZAPI is liable to any person for any loss or damage arising from—

- (a) any reduction (including a reduction to zero) in quota allocation to any person arising out of a reduction in the total quantity of quota access available to the UK; or

- (b) any other action that has the effect of nullifying, limiting, or imposing conditions on the quota access available to the UK as set out in the FTA.

43 Matters not affected

- (1) Nothing in this Act prevents the Crown from engaging in international trade negotiations for the purpose of—
 - (a) amending or terminating the FTA; or
 - (b) establishing, amending, or terminating any other quota or other trade system for apples.
- (2) Nothing in this Act prevents any person from exporting apples to the UK without holding a quota allocation or an export certificate if the person is doing so under a right that lies outside the quota system.
- (3) For example,—
 - (a) a person who is not a quota holder may export apples during the quota year so long as they pay the relevant tariff; and
 - (b) a person who is a quota holder may export apples during the quota year beyond their quota allocation so long as they do not claim the apples as falling within their allocation and pay the relevant tariff.
- (4) This section is to avoid doubt.

Schedule 1

Transitional, savings, and related provisions for this Act

s 6

1 Quota system requirements replaced if 2022 first quota year

- (1) This schedule applies if the FTA comes into force in 2022 (and, as a result, 2022 is the first quota year).
- (2) The quota year must be treated as the period from the date on which the FTA comes into force until 31 December 2022.
- (3) If the FTA comes into force on or before 16 December,—
 - (a) clauses 2 to 5 override Part 2 of this Act (other than sections 18(4) and 19) and section 36; and
 - (b) the rest of this Act (including sections 18(4) and 19) applies with any necessary modifications.
- (4) If the FTA comes into force after 16 December, no quota system for the year is required under this Act.

2 NZAPI must implement quota system

- (1) As soon as practicable after the FTA comes into force, NZAPI must implement the quota system set out in this clause.
- (2) NZAPI must calculate the total quota amount.
- (3) NZAPI must publish a notice on its Internet site inviting applications from any apple exporter for quota allocations.
- (4) The notice must state—
 - (a) the total quota amount available for allocation; and
 - (b) that applications close at the end of the day after the day on which the notice is published; and
 - (c) that applications will be decided at the sole discretion of NZAPI, taking into account—
 - (i) the relevant requirements of the FTA; and
 - (ii) the amount of time remaining in the quota year; and
 - (iii) the number of applications received; and
 - (iv) whether there are more applications received than the total quota amount available for allocation.
- (5) In this clause, **total quota amount** means the amount of quota available for allocation (being the remainder, on a pro rata basis, of the total quota amount set out in the FTA for the first quota year).

3 NZAPI must make allocations as soon as practicable

NZAPI must, as soon as practicable after the application period closes,—

- (a) allocate quota (taking into account the matters listed in clause 2(4)(c)); and
- (b) notify applicants in writing of their quota allocation (if any).

4 Export certificates

(1) NZAPI may issue 1 or more export certificates to a person—

- (a) at the same time as it notifies the person of the outcome of their quota application under clause 3; or
- (b) at any other time that NZAPI thinks fit, taking into account the amount of time remaining in the quota year.

(2) NZAPI must ensure that export certificates issued under this clause comply with any relevant requirements specified in the FTA.

5 Recovery of costs

(1) NZAPI may charge a fee for issuing an export certificate under clause 4.

(2) The fee is payable by the person to whom the certificate is issued.

(3) The amount of the fee may include an amount necessary to recover NZAPI's costs associated with processing the quota application concerned.

Notes

1 *General*

This is a consolidation of the Apple Transitional Export Quota Act 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Apple Transitional Export Quota Act Commencement Order 2023 (SL 2023/107)