

**Rules of**

**N.Z. AVOCADO GROWERS' ASSOCIATION INC.**

**1. NAME**

- 1.1 The name of the Association is N.Z. AVOCADO GROWERS' ASSOCIATION INCORPORATED.

**2. DEFINITIONS/INTERPRETATION**

“**AIC**” means Avocado Industry Council Limited

“**Association**” means N.Z. Avocado Growers' Association Incorporated.

“**Chief Executive Officer**” means the individual appointed pursuant to Rule 8 hereof.

“**Commodity levy**” means a levy imposed on avocado production pursuant to the provisions of the Commodity Levies Act 1990 or any statute in substitution therefor.

“**Executive**” means the Executive Committee established by Rule 5.

“**Exporters**” shall mean exporters currently registered with the AIC pursuant to the current export marketing strategy approved by the New Zealand Horticulture Export Authority.

“**Member**” means any member of the Association as defined by these Rules.

“**PIN**” means the property identification number allocated in terms of the New Zealand Grown Fruit and Vegetable Regulations 1975 or such other unique identifier as is assigned to avocado orchards in New Zealand.

**“Representative”** means a member of the Executive duly qualified in terms of Rule 5 hereof.

**“Territorial authority”** shall have the meaning ascribed to that by the Local Government Act 1974 or any statute in substitution therefor. Where a territorial local authority mentioned in these Rules merges, changes its name or is abolished, reference to that territorial authority in these Rules shall be deemed to relate to the organisation or body having an area most closely approximating that of the succeeded territorial authority.

**“Voting members”** shall mean both a Levy member and an ordinary member of the Association.

### **3. OBJECTS**

3.1 The objects of the Association are:

3.1.1 To promote the sale and consumption of avocados in New Zealand and overseas.

3.1.2 To promote the production of avocados in New Zealand and to foster and establish a closer bond of unity and co-operation amongst all those engaged in the production and/or sale of avocados in New Zealand.

3.1.3 To establish and maintain in New Zealand an association of growers of avocados for the mutual benefit and assistance of members.

3.1.4 To acquire by correspondence, experiment or otherwise any knowledge that is liable to be of interest or practical service to the members of the Association and disseminate the same to all members and other persons by all available means,

particularly by the use of such agencies as meetings, demonstrations, lectures, seminars, publications, email, maintenance of an internet website or any other appropriate electronic means as an addition.

- 3.1.5 To collect and administer levies collected from members or other persons and to act as an “industry organisation” as that term is defined in the Commodity Levies Act 1990.
- 3.1.6 To arrange in relation to avocado production within New Zealand research and development, promotion, market research, training, technology transfer, quality assurance, pest and disease control, planning, administration, and any other purposes approved by the Association.
- 3.1.7 To acquire by lease, purchase or otherwise hold or dispose of, for cash or terms or deferred payment, real and personal property of every description for the purposes of the Association.
- 3.1.8 To provide and raise funds for the purpose of the Association by levy, borrowing, subscriptions, annual or otherwise, or by any other means.
- 3.1.9 To co-operate with any Department of State or other person or organisation which is or may be working for any of the foregoing or cognate objects.
- 3.1.10 To affiliate, take shares in, become members, or otherwise howsoever co-operate with any other person, body or organisation having similar objects and contribute to the funds of any such body or organisation.
- 3.1.11 Generally do all such things as the Association may from time to time, consider beneficial to its members.

## **4. MEMBERSHIP**

4.1 Membership of the Association shall be classified as follows:

4.1.1 **“Levy member”** shall be any person who has in the preceding financial year of the Association been primarily liable to pay a Commodity levy to the Association and has so paid in respect of avocados produced in New Zealand.

Payment of the Commodity levy by a collection agent shall be deemed to be payment by the person primarily responsible.

Where a Commodity levy has been paid on behalf of a partnership or corporate body that payer shall nominate one natural person to be its Levy member of the Association.

4.1.2 **“Ordinary member”** shall be the person (who may also be a Levy member) who is growing avocados within New Zealand or, in the opinion of the Executive, intends so to do and is nominated as an Ordinary member by the holder of a PIN **PROVIDED THAT** where that holder has several PINs which relate to one avocado orchard encompassed in one rating assessment by its territorial local authority then one only Ordinary member shall be nominated by that holder.

4.1.3 **“Associate member”** shall be any person who in the opinion of the Executive is growing avocados within New Zealand and is not otherwise entitled to membership of the Association.

4.1.4 **“Life member”** shall be any person elected to that office at a general meeting of the Association pursuant to a motion approved by the Executive.

- 4.2.1 The Executive shall maintain a register of members and classes of members and prescribe the documentation required to establish membership.
- 4.2.2 Such documentation shall require reference to a PIN together with details of the volume of avocados supplied from the property identified by that number in the two years ended 30 April preceding such application.
- 4.2.3 The Executive may where it has reasonable cause to question the content of such documentation require a potential member to verify the information in such application.
- 4.2.4 The register of Levy and Ordinary members shall be updated annually. A nominee may be changed at any time by notice to the Association in such form as the Executive prescribes.

## **5. MEMBERSHIP OF EXECUTIVE**

- 5.1 Nominations for the Executive shall be called by the Chief Executive Officer by such means as s/he considers appropriate at least two months prior to the Annual General Meeting. Nomination forms must contain the consent of the nominee, but no other formality shall be required.
- 5.2 Voting papers for a postal ballot shall be issued not less than one month prior to the Annual General Meeting and must be returned not less than one week prior to that meeting.
- 5.3 The Executive shall determine such other matters, including the appointment of a returning officer as may be recommended by the Chief Executive Officer, to ensure a fair election.

- 5.4 Each Representative must be a Voting member of the Association throughout the term of office.
- 5.5 The Executive shall consist of ten (10) members:
- 5.5.1 Five (5) shall be elected on a regional basis by Voting members who are also qualified as electors of the territorial authorities defined in this clause 5 and vote only for Representatives of the region for which they are qualified to vote.
  - 5.5.2 In addition five (5) members shall be elected at large by all Voting members of the Association.
- 5.6 A Voting member may be qualified as an elector either by appearing on the residential electoral roll or as a nominee on the ratepayer electoral roll of the territorial authority.
- 5.7 The regional boundaries and number of Representatives for those regions shall be as follows:
- 5.7.1 Bay of Plenty – the two Representatives shall be duly qualified electors of the Whakatane District Council, Tauranga District Council, Western Bays District Council, Opotiki District Council or Thames Coromandel District Council.
  - 5.7.2 Far North – the one Representative shall be a duly qualified elector of the Far North District Council.
  - 5.7.3 Mid North – the one Representative shall be a duly qualified elector of the Whangarei District Council or Kaipara District Council.

- 5.7.4 Rest of New Zealand – the one Representative shall not be qualified as an elector of any other region.
- 5.8 A candidate may seek election both as a regional Representative and as a Representative at large, but in the event of being successful in both elections shall be deemed to be elected as a regional Representative only and the consequential vacancy in the members elected at large shall forthwith be filled by the Executive by appointing the next highest polling candidate in that election.
- 5.9.1 Subject to rule 5.10, each Representative shall be elected for a two (2) year term but retiring Representatives shall be eligible for re-election.
- 5.9.2 In 2004 and subsequent even numbered years at least three of the regional Representatives and at least two of the Representatives at large shall retire.
- 5.9.3 In 2005 and subsequent odd numbered years at least two of the regional Representatives and at least three of the Representatives at large shall retire.
- 5.10 If necessary the retiring Representatives in either category shall be determined by lot.
- 5.11 Representatives shall hold office until the close of the annual general meeting following a successor being elected, or the Representative ceases to be a Voting member, resigns from the Executive, dies, or is removed from office.
- 5.12 If for any reason (including a casual vacancy) in any one year there are insufficient Representatives in respect of a region or in the Representatives at large then the Executive may appoint a qualified member who shall hold office only until the next following election.

- 5.13 The Executive shall not be bound to fill any vacancy notwithstanding that membership of the Executive then consists of less than ten (10) members and the existence of such vacancy shall in no way affect the validity of any acts or decisions on the part of the Executive.
- 5.14 Any Representative shall have the right to appoint an alternate to attend a meeting of the Executive in his or her stead by notifying the Chief Executive Officer of the Voting member so appointed prior to commencement of that Executive meeting. Such alternate shall for all purposes have the power of the appointor and be deemed to be a member of the Executive for the duration of the meeting.

## **6. OFFICERS**

- 6.1 The members of the Executive shall elect one of their number as the Chair and one of their number as the Vice-Chair at its first meeting following the Annual General Meeting.
- 6.2 Where the Chair becomes incapable of acting by reason of illness, absence or other sufficient cause or during a vacancy of the office of Chair or if the Chair considers it not proper or desirable to act in any specified matter the Vice-Chair shall have and may exercise all the powers, functions and duties of the Chair.
- 6.3 If either the Chair or Vice-Chair ceases to hold office for any reason the Executive shall elect one of their members to that vacant office.

## **7. CESSATION OF MEMBERSHIP**

- 7.1 Any member ceasing to qualify for membership in accordance with the Rules shall be struck off the register of members by the Executive Committee.

## **8. POWERS OF THE EXECUTIVE**

8.1 The general functions and powers of the Executive shall be:

8.1.1 To control, administer and manage the property and affairs of the Association;

8.1.2 To carry out, effect and perform the objects of the Association according to these Rules.

8.1.3 To appoint from their number Directors of the AIC or any other company or body for which the Association has authority to appoint Directors or representatives on such terms and conditions as the Executive thinks fit.

8.1.4 To appoint Directors of the AIC as directed by Exporters.

8.1.5 The Chair shall be appointed as a Director of the entity acting as a “recognised product group” in relation to the avocado industry under and pursuant to the terms of the Horticultural Export Authority Act 1987.

8.2 The Executive may employ such employees or contractors either honorary or otherwise upon such terms and conditions and remuneration as the Executive thinks fit and may from time to time remove and replace any person so appointed.

8.3 In particular, the Executive shall appoint a Chief Executive Officer and delegate to that appointee such powers as it may consider appropriate, but such delegation shall in no way derogate from the responsibility of the Executive to discharge its functions under these Rules.

- 8.4 The borrowing powers of the Association shall be vested in the Executive.
- 8.5 Proper minutes shall be kept of all meetings of the Association and the Executive and the minutes of all meetings of the Executive shall be open to inspection by all members thereof.
- 8.6 All members of the Executive shall have one vote, but the Chair on each occasion shall have a casting vote as well as a deliberative vote.
- 8.7 The Executive may from time to time confer upon members of the Association such powers of the Executive under these rules as they see fit and shall determine the duties those members of the Association are required to perform and may as the Executive deems expedient withdraw, revoke or vary such powers or duties.

## **9. EXECUTIVE MEETINGS**

- 9.1.1 The Executive may meet together for the despatch of business, adjourn and otherwise regulate their meetings and procedures as they may think fit.
- 9.1.2 Members of the Executive shall where appropriate preserve the confidentiality of information provided to them and the Executive may formulate appropriate guidelines and undertakings to protect such confidential information.
- 9.2 Any six (6) members of the Executive shall constitute a quorum.
- 9.3 The contemporaneous linking together by telephone or other means of communication of a quorum of Executive members whether or not any one or more of the members is out of New Zealand shall be deemed to constitute a meeting of the Executive and all the

provisions in these Rules as to meetings of the Executive shall apply to such meetings provided that:

9.3.1 All the members of the Executive entitled to receive notice of meeting are notified by telephone or other means of communication and are linked by telephone or such other means for the duration of the meeting; and

9.3.2 At the commencement of the meeting each of the Executive members taking part in the meeting acknowledges that they are able to hear each of the other members taking part.

9.4 At any meeting of the Executive there may be present by direction or invitation such employees, contractors or other persons as the Executive decides.

9.5 The Chair shall preside at every meeting of the Executive unless absent from that meeting.

9.6 A member of the Executive committee shall be deemed to have resigned if such member is absent for three consecutive Executive meetings without obtaining leave of absence from the Executive.

## **10. FUNDS**

10.1 Any money of the Association not immediately required for expenditure may be invested on deposit on such terms and in such manner as the Executive may from time to time determine.

10.2 The Executive shall open at any bank or banks such accounts including trust accounts as are necessary for the exercise of its powers and functions under these Rules.

- 10.3 The withdrawal or payment of money from any such bank accounts shall be by cheque or other means signed or authorised by such persons as the Executive may from time to time appoint.

## **11. ACCOUNTS AND AUDIT**

- 11.1 The financial year of the Association shall end on 30 April 2002 and 30 April thereafter.
- 11.2 The Executive shall keep full and correct accounts of all financial transactions and of assets, liabilities and funds.
- 11.3 At the end of each financial year the Executive shall prepare full financial reports to ensure that members are adequately informed as to the activities of the Association in the preceding financial year and shall arrange the audit of those accounts.
- 11.4 A copy of the audited accounts of the Association together with a report of the Association's auditor shall be laid before the Annual General Meeting of the Association.
- 11.5 That Annual General Meeting may recommend items or areas of expenditure to the Executive and while such recommendations will not bind the Executive it shall nevertheless at the next following Annual General Meeting report in detail as to its compliance or otherwise with such recommendations.
- 11.6 No member of the Association or any person associated with a member shall participate in or materially influence any decision made by the Association or the Executive in respect of the payment to or on behalf of that member or associated person of any income, benefit or advantage whatsoever.

11.7 Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value). The provisions and effect of this Rule shall not be removed from these Rules and shall be included and applied into any document replacing this Rule.

## **12. GENERAL MEETINGS**

12.1 An Annual General Meeting of members of the Association shall be held once in each financial year.

12.2 Thirty (30) days' written notice shall be given to members of the Annual General Meeting of the Association.

12.3 The agenda of the Annual General Meeting shall include the following:

12.3.1 Consideration and if appropriate approval of the Association's accounts for the preceding financial year;

12.3.2 Appointment of an auditor;

12.3.3 Setting the levies to be collected by the Association pursuant to the terms of the Commodity Levies Act 1990;

12.3.4 Setting the subscription (if any) payable by each class of membership of the Association;

12.3.5 Generally reviewing the Association's operations in the preceding financial year;

12.3.6 Receiving and considering a report from the Chief Executive Officer and the Chair of the Association;

12.3.7 Receiving and considering reports and accounts from the AIC as if the meeting was of shareholders in the AIC.

12.3.8 Considering any remits initiated by members by written notice to the Chief Executive Officer at least six (6) weeks prior to the Annual General Meeting;

12.3.9 Conducting such other general business as the members think fit.

### **13. SPECIAL GENERAL MEETINGS**

13.1.1 The Executive may at any time convene a general meeting of members of the Association and shall convene such a meeting if required to do so by a requisition in writing signed by not less than twenty-five (25) Voting members between them holding not less than 5% of the voting entitlement established in accordance with Rule 14 hereof as at 30 April preceding the date of such requisition.

13.1.2 Any requisition as aforesaid shall specify the objects or purpose of the meeting and the Executive shall within one (1) month after receipt convene a meeting for a date not later than two months after the date upon which the requisition shall be received.

13.2 The notice convening such meeting shall be given in writing to all members and shall give adequate information regarding the object or purpose of the meeting. At least fourteen (14) days, notice of a special meeting whether convened after a requisition or at the instance of the Executive shall be given.

**14. MEETING PROCEDURE**

- 14.1 Any member of the Association shall be entitled to speak at a general meeting of the Association.
- 14.2 Voting at a general meeting shall be by a show of hands or poll if so directed by the Chair, or if so demanded by not less than ten (10) Voting members present at that meeting.
- 14.3 At all general meetings of the Association a quorum shall be twenty-five (25) Voting members personally present.
- 14.4 At any general meeting the Chair or in his or her absence the Vice-Chair shall serve as Chair of the general meeting.
- 14.5 Where a poll is demanded only Voting members shall be entitled to vote. Such voting shall be weighted in accordance with production volumes established in terms of rule 4 hereof on the following basis:
- 14.5.1 Each ordinary member shall have one vote;
- 14.5.2 Each Levy member shall have one vote for each 1,000 tray equivalents of production (rounded up) based on the highest such production in one of the two years ending 30 April preceding such vote;
- 14.5.3 “Tray equivalent” in this clause shall mean 5.5kg of avocado fruit;
- 14.5.4 A Levy member shall also be entitled to vote as an Ordinary member if so nominated pursuant to clause 4 hereof.

**15. POSTAL BALLOTS**

- 15.1 The Executive shall direct that a postal ballot of Voting members be held to determine the following issues:
  - 15.1.1 Any changes to these rules;
  - 15.1.2 Any issue which a general meeting of the Association has determined shall be referred to a postal ballot;
  - 15.1.3 Such other matters as the Executive may determine.
- 15.2 Ballot papers shall be sent to Voting members together with such background information, whether supplied by the Executive or otherwise, as will enable Voting members to be fully and fairly informed on the issue to be resolved by such postal ballot.
- 15.3 The form of such postal ballot paper shall be as determined by the Executive for each such vote.
- 15.4 The date for return of postal ballots shall be not less than ten (10) nor more than thirty (30) days after the date upon which the ballot paper is posted to Voting members.
- 15.5 The number of votes available to each Voting member shall be determined in accordance with Rule 14 hereof.
- 15.6 Any issue determined by postal ballot shall be deemed to be passed if a majority of votes cast at such postal ballot is in favour of the resolution.

**16. PROXIES**

- 16.1 Any Voting member shall be entitled to appoint a proxy to vote at a general meeting of the Association with the form of such proxy being determined by the Executive.
- 16.2 The proxy shall vote in the manner directed by the proxy form.
- 16.3 In the event that an issue is put to the vote by a general meeting in a form different to that stipulated by the notice of meeting, whether by way of amendment, addition or other variation then the proxy shall be deemed to be invalid in relation to voting on that particular issue.
- 16.4 Any instrument appointing a proxy shall be deposited with the Association at its registered office at least 24 hours prior to the meeting to which the proxy relates.

**17. BORROWING POWERS**

- 17.1 The Association shall have power to borrow or raise money and pay interest thereon and secure payment of the same or the satisfaction or performance of any obligation or liability to be undertaken or incurred by the Association.
- 17.2 Such security may be by way of mortgage, charge, debenture or lien upon the whole or any part of the Association's property or assets whether present or future.

**18. COMMON SEAL**

- 18.1 When the Executive so resolves the common seal of the Association shall be affixed to any document in the presence of at least two (2) members of the Executive who shall affix their signatures to every document so sealed.

18.2 Any instrument bearing the common seal of the Association and issued for valuable consideration shall be binding on the Association notwithstanding any irregularity touching the appointment or the authority of the Executive to issue the same.

**19. REGISTERED OFFICE**

19.1 The registered office of the Association shall be situated at such place as may from time to time be determined by the Executive of the Association.

**20. ALTERATION OF RULES**

20.1 These rules may be altered by postal ballot in the manner set out in Rule 15 hereof.

**21. NOTICES**

21.1 Every notice required to be given to members shall be posted to that member at the address nominated in the documentation referred to in Rule 4 hereof.

**22. DISPOSAL OF ASSETS IN WINDING-UP**

22.1 In the event of the Association being wound up under the provisions of the Incorporated Societies Act 1908, the property of the Association shall be realised and the funds disbursed in such a manner as the Association shall decide by resolution at a meeting convened for that purpose.

22.2 If upon the winding up or dissolution of the Association there remains after the satisfaction of all incidents and liabilities or any property whatsoever the same shall not be paid to or distributed amongst the members of the Association, but shall be given or transferred to some other organisation or body having objects similar to the objects of this

Association or to some other charitable organisation or purpose within New Zealand. No addition to or alteration of the non-profit aims (Rule 3), personal benefit prohibitions (Rule 11) or this winding up Rule shall be approved without the approval of the Commissioner of Inland Revenue.

22.2 The provisions and effect of this Rule shall not be removed from this document and shall be included and applied into any document in place of this document.