

**AUSTRALIAN HORTICULTURAL CORPORATION (EXPORT CONTROL)
REGULATIONS**

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SCHEDULE 1

PRESCRIBED FINANCIAL ARRANGEMENTS

SCHEDULE 2

PRESCRIBED OFFENCES

- In force under the Australian Horticultural Corporation Act 1987

1. These Regulations may be cited as the Australian Horticultural Corporation (Export Control) Regulations.*1*

Commencement

2. Regulation 21 commences on 1 January 1991.

Interpretation

3. In these Regulations, unless the contrary intention appears:
"apples" does not include any dried or processed product made from,

or including, that fruit;

"approved credit assessor" means a person or a body approved by the Corporation

under subregulation 15 (2);

"approved export program" means a program approved by the Corporation under subregulation 15 (3);

"approved form" means a form approved by the Corporation under subregulation 15 (1);

"Australian domestic market" means a place specified in regulation 16;

"citrus fruits" does not include any dried or processed product made from, or including, those fruits;

"Corporation Permission" means the notice published by the Corporation under regulation 12;

"export" means the export of horticultural products from Australia;

"growers' organisation" means:

(a) the Australian Apple and Pear Growers' Association; or

(b) the Australian Citrus Growers' Federation; or

(c) the Australian Nashi Growers' Association; or

(d) the Australian Fresh Stone Fruit Growers Association;

"horticultural products" means products of a type specified in regulation 4;

"import" means the importation into another country of horticultural products exported from Australia;

"licence" means a licence to export horticultural products granted under regulation 7;

"licensee" means the holder of a licence under regulation 7;

"licence period" means:

(a) the period of 3 years commencing on 1 January 1991; and

(b) every subsequent period of 3 years;

"nashi" means the fruit of the species *Pyrus pyrifolia*, but does not include any dried or processed product made from, or including, that fruit;

"pears" does not include any dried or processed product made from, or including, that fruit;

"prescribed financial arrangement" means a financial arrangement specified in paragraph 17 (a);

"prescribed offence" means an offence specified in paragraph 17 (b):

(a) that has not been quashed; or

(b) in relation to which the person convicted of the offence has not been pardoned;

"repealed Regulations" means the Regulations specified in regulation 21;

"stone fruit" means a fruit:

(a) of the species *Prunus armeniaca*, commonly called apricot; or

(b) of the species *Prunus persica*, commonly called nectarine or peach; or

(c) of the species *Prunus americana*, *Prunus besseyi*, *Prunus cerasifera*, *Prunus domestica*, *Prunus insititia*, *Prunus munsoniana*,

Prunus nigra, *Prunus salicina* or *Prunus spinosa*, commonly called plum; but does not include any dried or processed product made from, or including, that fruit;

"the Act" means the Australian Horticultural Corporation Act 1987.

4. These Regulations apply to the following horticultural products:

- (a) apples;
- (b) citrus fruits;
- (c) nashi;
- (d) pears;
- (e) stone fruit.

Control of the export of horticultural products

5. The Corporation is empowered to prohibit the export by a person of horticultural products to a place outside the Australian domestic market unless the person:

- (a) is a licensee; and
- (b) complies with the Corporation Permission.

Application for a licence

6. (1) An individual, a partnership or a corporation may apply for a licence.

(2) The applicant must use the approved form.

(3) The Corporation may require the applicant to have the applicant's financial standing assessed by an approved credit assessor.

(4) If the Corporation, or an approved credit assessor who assesses the applicant's financial standing, asks the applicant to give it information about the applicant's financial standing, or a statement of the applicant's assets and liabilities, for the purpose of assessing the application, the applicant must give the information or statement to the Corporation or the assessor.

Grant of a licence

7. (1) The Corporation must:

- (a) if an applicant is eligible to be granted a licence grant a licence to the applicant; or
- (b) if the applicant is ineligible to be granted a licence refuse to grant the licence.

(2) An applicant is ineligible to be granted a licence if:
(a) the Corporation requires the applicant to have the applicant's financial standing assessed by an approved credit assessor; and
(b) the applicant has not had the applicant's financial standing assessed.

(3) An applicant is ineligible to be granted a licence if:
(a) the applicant has not been given a financial rating under subregulation 9 (2); or
(b) the applicant has been refused a financial rating under subregulation 9 (3).

(4) The Corporation may grant a licence to an applicant who is ineligible to be granted a licence under this regulation or regulation 7A, 7B or 7C if:
(a) the matter by reason of which the applicant is ineligible to be granted the licence was caused by circumstances beyond the applicant's control; and
(b) the applicant took reasonable precautions to prevent the existence of the matter.

(5) A licence must set out the kinds of horticultural product for which it is issued.

(6) The Corporation must, if practicable, grant or refuse to grant a licence within 56 days after the day on which the application is made.

(7) If the Corporation refuses to grant a licence, it must give the applicant a notice that includes:
(a) the reasons for its decision; and
(b) a statement to the effect that, subject to the Administrative Appeals Tribunal Act 1975, an application may be made to the Administrative Appeals Tribunal for review of the decision; and
(c) except where subsection 28 (4) of the Administrative Appeals Tribunal Act 1975 applies a statement to the effect that a person whose interests are affected by the decision may request a statement under section 28 of that Act.

(8) The validity of a refusal to grant a licence is not affected by a failure to comply with subregulation (7).

Ineligible individuals

7A. An individual is ineligible to be granted a licence if he or she:

(a) was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at his or her request, less than 5 years before the day on which the application is made; or

(b) was a partner in a partnership that was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at the partnership's request:

(i) while he or she was a partner; and

(ii) less than 5 years before the day on which the application is made; or

(c) was a partner in a partnership that:

(i) was the holder of a licence, under the Regulations or the repealed Regulations; and

(ii) entered into a prescribed financial arrangement:

(A) while he or she was a partner; and

(B) less than 5 years before the day on which the application is made; or

(d) was a director of, or a shareholder who held a controlling interest in, a corporation that was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at the corporation's request:

(i) while he or she was the director or the shareholder who held a controlling interest; and

(ii) less than 5 years before the day on which the application is made; or

(e) was a director of, or a shareholder who held a controlling interest in, a corporation that:

(i) was the holder of a licence, under the Regulations or the repealed Regulations; and

(ii) entered into a prescribed financial arrangement:

(A) while he or she was the director or the shareholder who held a controlling interest; and

(B) less than 5 years before the day on which the application is made; or

(f) entered into a prescribed financial arrangement, unless the arrangement was discharged, completed or terminated more than 5 years before the day on which the application is made; or

(g) was convicted of a prescribed offence not more than 5 years before the day on which the application is made.

Ineligible partnerships

7B. A partnership is ineligible to be granted a licence if a partner:

(a) was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at his or her request, less than 5 years before the day on which the application is made; or

(b) was a partner in a partnership that was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at the partnership's request:

- (i) while he or she or it was a partner; and
- (ii) less than 5 years before the day on which the application is made; or
- (c) was a partner in a partnership that:
 - (i) was the holder of a licence, under the Regulations or the repealed Regulations and
 - (ii) entered into a prescribed financial arrangement:
 - (A) while he or she or it was a partner; and
 - (B) less than 5 years before the day on which the application is made; or
- (d) is an individual who was the director of, or a shareholder who held a controlling interest in, a corporation that was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at the corporation's request:
 - (i) while he or she was the director or the shareholder who held a controlling interest; and
 - (ii) less than 5 years before the day on which the application is made; or
- (e) is an individual who was a director of, or a shareholder who held a controlling interest in, a corporation that:
 - (i) was the holder of a licence, under the Regulations or the repealed Regulations; and
 - (ii) entered into a prescribed financial arrangement:
 - (A) while he or she was the director or the shareholder who held a controlling interest; and
 - (B) less than 5 years before the day on which the application is made; or
 - (f) entered into a prescribed financial arrangement, unless the arrangement was discharged, completed or terminated more than 5 years before the day on which the application is made; or
 - (g) was convicted of a prescribed offence not more than 5 years before the day on which the application is made.

Ineligible corporations

- 7C. (1) A corporation is ineligible to be granted a licence if a corporation that holds a controlling interest in the corporation:
- (a) held a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at its request, less than 5 years before the day on which the application is made; or
 - (b) was a partner in a partnership that was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at the partnership's request:
 - (i) while it was a partner; and
 - (ii) less than 5 years before the day on which the application is made; or
 - (c) entered into a prescribed financial arrangement, unless the

arrangement was discharged, completed or terminated more than 5 years before the day on which the application is made.

(2) A corporation that entered into a prescribed financial arrangement is ineligible to be granted a licence unless the arrangement was discharged, completed or terminated more than 5 years before the day on which the application is made.

(3) Subregulation (4) applies to the following persons:

- (a) a director of a corporation that applies for a licence;
- (b) an individual who is a shareholder who holds a controlling interest in a corporation that applies for a licence;
- (c) a director of a corporation that holds a controlling interest in a corporation that applies for a licence;
- (d) an individual who is a shareholder who holds a controlling interest in a corporation that holds a controlling interest in a corporation that applies for a licence.

(4) A corporation is ineligible to be granted a licence if a person:

- (a) held a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at his or her request, less than 5 years before the day on which the application is made; or
- (b) was a partner in a partnership that was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at the partnership's request:
 - (i) while he or she was a partner; and
 - (ii) less than 5 years before the day on which the application is made; or
- (c) was a partner in a partnership that:
 - (i) was the holder of a licence, under the Regulations or the repealed Regulations; and
 - (ii) entered into a prescribed financial arrangement:
 - (A) while he or she was a partner; and
 - (B) less than 5 years before the day on which the application is made; or
- (d) was a director of, or a shareholder who held a controlling interest in, a corporation that was the holder of a licence, under the Regulations or the repealed Regulations, that was revoked by the Corporation, otherwise than at the corporation's request:
 - (i) while he or she was the director or the shareholder who held a controlling interest; and
 - (ii) less than 5 years before the day on which the application is made; or
- (e) was a director of, or a shareholder who held a controlling interest in, a corporation that:
 - (i) was the holder of a licence, under the Regulations or the repealed Regulations; and
 - (ii) entered into a prescribed financial arrangement:

(A) while he or she was the director or the shareholder who held a controlling interest; and

(B) less than 5 years before the day on which the application is made; or

(f) entered into a prescribed financial arrangement, unless the arrangement was discharged, completed or terminated more than 5 years before the day on which the application is made; or

(g) was convicted of a prescribed offence not more than 5 years before the day on which the application is made.

Duration and renewal of a licence

8. (1) A licence:

(a) commences on 1 January 1991 or on the date on which it is issued, whichever is the later; and

(b) ceases to be in force:

(i) if it is revoked on the day on which it is revoked; or

(ii) in any other case at the end of the licence period.

(2) Before a licence ceases to be in force, the licensee may apply to the Corporation to renew the licence.

(3) The Corporation may renew the licence or refuse to renew it.

(4) Regulations 7 to 7C (inclusive) apply to an application for the renewal of a licence as if the licensee were an applicant for the grant of a licence.

Credit ratings and details of licensees

9. (1) The Corporation must:

(a) determine a scale of financial ratings that it will give to an applicant for a licence, and to a licensee, to indicate the applicant's or licensee's financial standing; and

(b) include in the scale:

(i) a rating that indicates whether the applicant or licensee is a trustee company; and

(ii) a rating that indicates whether the applicant or licensee commenced business less than 12 months before the rating is given; and

(iii) a rating that indicates whether the amount of the applicant's or licensee's net worth is less than 0; and

(c) publish the scale of ratings in a form readily available to the public.

(2) The Corporation must give a financial rating to an applicant for a licence if the information provided by the applicant is adequate to allow the Corporation to make a fair assessment of the applicant's financial standing.

(3) In spite of paragraph (1) (b), if the information provided by the applicant is inadequate to allow the Corporation to make a fair assessment of the applicant's financial standing, the Corporation may refuse to give a financial rating to an applicant.

(4) The financial rating given to a person who is granted a licence is taken to be the rating that the Corporation gave the licensee while the licensee was an applicant.

(5) At any time while a licence is in force, the Corporation may:
(a) require the licensee to have the licensee's financial standing assessed by an approved credit assessor; and
(b) give a new financial rating to the licensee.

(6) At any time while a licence is in force, the licensee may apply to the Corporation for a new financial rating.

(7) If the licensee applies for the new financial rating, the Corporation may give, or refuse to give, the new rating.

(8) The Corporation may use information given to it by an approved credit assessor for the purpose of deciding:

(a) whether to give a financial rating or a new financial rating;
and
(b) the rating it will give.

(9) The Corporation may publish:

(a) the name of a licensee; and
(b) the licensee's business address; and
(c) if the licensee is a partnership - the names of the partners;
and
(d) if the licensee is a corporation - the names of:
(i) the directors of the corporation; and
(ii) the shareholders who hold a controlling interest in the corporation; and
(e) the kinds of horticultural products that are set out in the licensee's licence; and
(f) the kind of business undertaken by the licensee; and
(g) if the licensee agrees in writing - the licensee's current financial rating; and
(h) if the licensee does not agree to the publication of the licensee's financial rating:
(i) a statement that the licensee has not agreed to the publication of the rating; and
(ii) if the licensee gives a reason for not agreeing - the reason.

(10) If a licensee, in writing, withdraws the licensee's consent to the publication of the licensee's financial rating, the Corporation must not undertake any further publication of the rating.

(11) If the Corporation gives, or refuses to give, a financial rating or a new financial rating, it must give the applicant or the licensee a notice that includes:

- (a) the reasons for its decision; and
- (b) a statement to the effect that, subject to the Administrative Appeals Tribunal Act 1975, an application may be made to the Administrative Appeals Tribunal for review of the decision; and
- (c) except where subsection 28 (4) of the Administrative Appeals Tribunal Act 1975 applies - a statement to the effect that a person whose interests are affected by the decision may request a statement under section 28 of that Act.

(12) The validity of:

- (a) a financial rating; or
 - (b) a new financial rating; or
 - (c) a refusal to give a financial rating or a new financial rating;
- is not affected by a failure to comply with subregulation (11).

Conditions of a licence

10. (1) It is a condition of a licence that:

- (a) the licensee complies with the Corporation Permission; and
- (c) the licensee participates in approved export programs that relate to:
 - (i) a place to which the licensee exports horticultural products; or
 - (ii) the horticultural product that is specified in the licence; and
- (d) the licensee exports the horticultural product that is specified in the licence:
 - (i) during the period of 12 months following the date of issue of the licence; and
 - (ii) during every subsequent period of 12 months; and
- (e) the licensee pays a fee that is payable under regulation 14 within 28 days after the fee becomes payable; and
- (f) the licensee provides a return required by regulation 19; and
- (g) the licensee does not provide information that is false or misleading in a material particular:
 - (i) in the application for a licence; or
 - (ii) to an approved credit assessor; or
 - (iii) to the Corporation in response to a notice under subregulation 13 (2); or
 - (iv) in a return required under regulation 19; and
- (i) if the licensee is a natural person - the licensee:
 - (i) does not enter into a prescribed financial arrangement while being a licensee; and
 - (ii) is not convicted of a prescribed offence while being a

licensee; and

(j) if the licensee is a partnership - a partner of that partnership:

(i) does not enter into a prescribed financial arrangement while the partnership is a licensee; and

(ii) is not convicted of a prescribed offence while being a partner; and

(k) if the licensee is a corporation - the corporation, or a director of, or shareholder who holds a controlling interest in, the corporation:

(i) does not enter into a prescribed financial arrangement while the corporation is a licensee; and

(ii) is not convicted of a prescribed offence while being a director or a shareholder who holds a controlling interest in the corporation; and

(l) if the licensee is a partnership - the licensee will inform the Corporation of a change of partners within 28 days of the change; and

(m) if the licensee is a corporation - the licensee will inform the Corporation, within 28 days, of a change:

(i) of the controlling shareholder; or

(ii) that results in a shareholder holding 20 percent or more of the licensee's shares; or

(n) if the licensee enters into a prescribed financial arrangement while the licence is in force - the licensee will inform the Corporation within 28 days after entering into it; and

(o) if:

(i) the licensee; or

(ii) if the licensee is a partnership - a partner; or

(iii) if the licensee is a corporation - a director of, or an individual who is a shareholder who holds a controlling interest in, the corporation;

is convicted of a prescribed offence - the licensee will inform the Corporation within 28 days after the licensee, partner, director or shareholder is convicted; and

(p) if the Corporation requires the licensee under subregulation 9 (5) to have the licensee's financial standing assessed by an approved credit assessor - the licensee will have its financial standing assessed as soon as practicable; and

(q) if the Corporation asks the licensee under subregulation 13 (2) to give information to the Corporation - the licensee will give the information to the Corporation as soon as practicable.

(2) Paragraph (1) (d) does not apply:

(a) if the period between:

(i) the date of issue of the licence; or

(ii) the end of a period specified in subparagraph (1) (d) (ii); and the date on which the licence ceases to have effect is less than 12 months; or

(b) if the licensee is unable to export horticultural products

because of:

- (i) an inadequate supply of horticultural products that are of export quality; or
- (ii) insufficient transport to allow the licensee to export horticultural products; or
- (iii) industrial action that has prevented the export of horticultural products by the licensee; or
- (iv) a substantial reduction in access to, or the closure of, an export market; or
- (v) any other matter that is beyond the control of the licensee.

Revocation and variation of licences

11. (1) The Corporation may revoke a licence if:

- (a) the licensee applies to the Corporation to have it revoked; or
- (b) the licensee fails, without reasonable excuse, to comply with a condition of the licence or the Corporation Permission.

(2) The Corporation is not required to revoke a licence under paragraph (1) (b) if the failure to comply with a condition or the Corporation Permission was:

- (a) of a minor nature; and
- (b) not intentional on the licensee's part.

(3) The Corporation may vary a licence:

- (a) if the licensee asks it to do so - by adding a kind of horticultural product to the licence; or
- (b) if the licensee does not export a kind of horticultural product set out in the licence within the period referred to in paragraph 10 (1) (d) - by omitting the kind of horticultural product from the licence.

(4) If the Corporation is of the opinion that a licence may be revoked, or varied under paragraph (3) (b), the Corporation must:

- (a) notify the licensee of its opinion and the reasons for its opinion; and
- (b) request the licensee to show cause, in writing, not more than 21 days after the date on which the notice was given, or a longer period if the Corporation determines, why the licence should not be revoked or varied.

(5) If the licensee does not show adequate cause, the Corporation must revoke or vary the licence, and the Corporation must give the licensee a notice that includes:

- (a) the reasons for the decision; and
- (b) a statement to the effect that, subject to the Administrative Appeals Tribunal Act 1975, an application may be made to the Administrative Appeals Tribunal for review of the decision; and
- (c) except where subsection 28 (4) of the Administrative Appeals

Tribunal Act 1975 applies - a statement to the effect that a person whose interests are affected by the decision may request a statement under section 28 of that Act.

(6) The date of effect of the revocation or variation of a licence is the date on which the Corporation notifies the licensee of its decision.

(7) The validity of the revocation of a licence is not affected by a failure to comply with subregulation (5).

Corporation Permission

12.(1) The Corporation may publish the Corporation Permission, setting out conditions that must be complied with by a licensee before and after the export of horticultural products to a place outside the Australian domestic market.

(2) If the Corporation publishes the Corporation Permission, the export of horticultural products to a place outside the Australian domestic market is prohibited unless the exporter complies with the conditions set out in the Corporation Permission.

(3) The Corporation must ensure that the Corporation Permission is readily available to the public.

(4) The Corporation Permission may include, but is not limited to, conditions in relation to:

(a) the rate of commission that is payable to a licensee who exports horticultural products on behalf of the owner of the products by that owner;

(b) the persons to whom a licensee must, or must not, export horticultural products;

(c) the kinds of horticultural products that may, or must not, be exported;

(d) the quality, colour, shape or size of horticultural products that may, or must not, be exported;

(e) the type of container or package in which horticultural products must, or must not, be exported;

(f) the number, including a maximum or a minimum number, of horticultural products that must be contained in a container or a package;

(g) the manner in which horticultural products must, or must not, be labelled;

(h) actions that a licensee must, or must not, take if the licensee is exporting horticultural products to a place specified in the Corporation Permission.

(5) If the Corporation decides to publish the Corporation Permission, the Corporation must give a copy to each licensee to whom the Corporation Permission applies, together with:

(a) a statement to the effect that:

(i) the licensee may apply, under subregulation 18 (1), for review of a condition specified in the Corporation Permission; and

(ii) subject to the Administrative Appeals Tribunal Act 1975, an application may be made to the Administrative Appeals Tribunal for review of the decision of the Corporation; and

(b) except where subsection 28 (4) of the Administrative Appeals Tribunal Act 1975 applies - a statement to the effect that a person whose interests are affected by the decision may request a statement under section 28 of that Act.

(6) The Corporation Permission takes effect in relation to a licensee on the date on which it is given to the licensee.

Monitoring of the licence and the licensee

13. (1) At any time while a licence is in force, the Corporation may examine the licensee's compliance with:

(a) these Regulations; or

(b) the Corporation Permission; or

(c) the conditions to which the licence is subject.

(2) For the purposes of these Regulations, the Corporation may, by notice, ask the licensee to give to it the information set out in the notice relating to:

(a) the licensee's conduct as a licensee; or

(b) the licensee's financial arrangements; or

(c) if the licensee is a partnership - the identity of the partners; or

(d) if the licensee is a corporation - its ownership and its management arrangements; or

(e) whether, since the licence was granted, any of the following persons has entered into a prescribed financial arrangement:

(i) the licensee; or

(ii) if the licensee is a partnership - a partner; or

(iii) if the licensee is a corporation - a director of, or a shareholder who holds a controlling interest in, the corporation;

(f) whether, since the licence was granted, any of the following persons has been convicted of a prescribed offence:

(i) if the licensee is an individual - the individual; or

(ii) if the licensee is a partnership - a partner; or

(iii) if the licensee is a corporation - a director of, or a shareholder who holds a controlling interest in, the corporation.

Fees

14. The Corporation may charge such fees as it considers necessary to enable it to recover costs that it incurs in controlling the export of horticultural products.

Approvals

15. 1) For the purposes of regulation 6, the Corporation may approve the form in which an application for a licence must be made.

(2) For the purposes of regulation 7, the Corporation may approve a person who carries on the business of assessing the credit-worthiness of persons or corporations as an approved credit assessor.

(3) For the purposes of subregulation 10 (1), the Corporation may approve a program that is intended to organise, or to improve the efficiency of, the export of a horticultural product, whether or not to a particular place, if:

(a) a growers' organisation requests the Corporation to approve it; and

(b) the program is consistent with the objects of the establishment of the Corporation; and

(c) the Corporation has consulted with exporters of horticultural product and persons whose interests would be directly affected by the approval of the program.

The Australian domestic market

16. For the purposes of these Regulations, the Australian domestic market comprises:

- (a) American Samoa;
- (b) Antarctica;
- (c) an external Territory;
- (d) Australia;
- (e) the Cook Islands;
- (f) the Federated States of Micronesia;
- (g) Guam;
- (h) the Independent State of Papua New Guinea;
- (i) the Independent State of Western Samoa;
- (j) the Kingdom of Tonga;
- (k) the Midway Islands;
- (l) Niue;
- (m) Pitcairn Island;
- (n) the Republic of Fiji;
- (o) the Republic of Kiribati;
- (p) the Republic of Nauru;
- (q) the Republic of Vanuatu;
- (r) the Solomon Islands;
- (s) Tahiti;

- (t) the Territory of New Caledonia and Dependencies;
- (u) Wake Island.

Prescribed financial arrangements and prescribed offences

17. For the purposes of these Regulations:

- (a) a financial arrangement specified in column 2 of an item in Schedule 1 is a prescribed financial arrangement; and
- (b) an offence prescribed in column 2 of an item in Schedule 2 is a prescribed offence.

Review of decisions

18. (1) A licensee whose interests are affected by the decision to specify a condition in the Corporation Permission may apply to the Corporation, within 7 days of being given the Corporation Permission, for the review of the decision.

(2) The Corporation must consider the application and must:

- (a) confirm the decision; or
- (b) publish a Corporation Permission that omits or varies the condition.

(3) Subregulation (1) does not prevent a licensee from applying to the Administrative Appeals Tribunal under subregulation (4).

(4) An application may be made to the Administrative Appeals Tribunal for the review of a decision:

- (a) not to grant a licence under subregulation 7 (1); or
- (b) not to renew a licence under subregulation 8 (3); or
- (c) to give a particular financial rating under subregulation 9 (2) to an applicant for a licence; or
- (d) to refuse to give a financial rating under subregulation 9 (3) to an applicant for a licence; or
- (e) to give, or to refuse to give, a new financial rating under subregulation 9 (7) to a licensee; or
- (f) to revoke a licence under subregulation 11 (1); or
- (g) to vary a licence under paragraph 11 (3) (b); or
- (h) to specify a condition in the Corporation Permission under regulation 12; or
- (i) not to appoint a person or body under subregulation 15 (2) as an approved credit assessor.

Returns

19. (1) A licensee must not, without reasonable excuse, fail to give a written return to the Corporation setting out, in relation to a calendar year:

- (a) the total quantity of each variety of each type horticultural

product that the licensee has exported to a place other than a place in the Australian domestic market;

- (b) the value of that total quantity; and
- (c) the average price per kilogram of that total quantity.

(2) A return under subregulation (1) must be given to the Corporation no later than 31 January in the year following the year to which the information relates.

(3) The Corporation may, in relation to:

(a) each consignment of horticultural products exported by a licensee to a place other than a place in the Australian domestic market in a month; and

(b) each purchaser of the consignment; issue a notice, requiring the licensee to give to the Corporation, by the fourteenth day of the following month, a written return providing details of any of the following matters that the Corporation specifies in the notice:

(c) the total quantity of each variety of each type of horticultural product included in the consignment; and

(d) the value of that total quantity; and

(e) the country of import; and

(f) the name of the purchaser; and

(g) the name of the ship, or the identification of the aircraft, in which the consignment was exported; and

(h) the date on which the consignment was exported; and

(i) the rate of commission paid to the licensee; and

(j) if the Corporation Permission specifies conditions in relation to:

(i) the kinds of horticultural products that may, or must not, be exported; or

(ii) the quality, colour, shape or size of horticultural products that may, or must not, be exported; or

(iii) the type of container or package in which horticultural products must, or must not, be exported; or

(iv) the number, including a maximum or a minimum number, of horticultural products that must be contained in a container or a package; or

(v) the manner in which horticultural products must, or must not, be labelled;

sufficient information to show that the licensee has complied with those conditions;

(k) the total weight of the consignment; and

(l) the class of horticultural product exported; and

(m) the State or Territory in which the horticultural product was grown; and

(n) the place in Australia from which the horticultural product was exported; and

(o) the final destination of the horticultural product; and

(p) any other matter relating to the export of the horticultural

product.

(4) A licensee must inform the Corporation of any change in the information specified in paragraph 9 (9) (a), (b) or (f) within 28 days after the change occurs.

(5) For the purposes of subregulation (3), if parts of a consignment are exported in different ships or aircraft, the return must set out the information in relation to each part of the consignment.

(6) The Corporation may, by notice, require a person who has been a licensee at any time during the 2 years before the date of a notice to give to the Corporation a return or information that is:

- (a) specified in the notice; and
- (b) required by the Corporation for the purposes of the Act.

(7) The period within which a person must give a return under subregulation (6):

- (a) must be specified in the notice; and
- (b) must not be less than 28 days after the date of the notice.

Giving of notices

20. (1) A notice that must be given by the Corporation to a licensee may be sent to the licensee at the licensee's address shown on the licence or to another address given by the licensee to the Corporation for that purpose.

(2) A notice that must be given by the Corporation to a person who is not a licensee may be sent to the person at the business or residential address last known to the Corporation or to another address nominated by the person.

Repeal of the former Australian Horticultural Corporation (Apple and Pear Export Control) Regulations

21. Statutory Rules 1988 No. 187 and 1989 No. 34 are repealed.

AUSTRALIAN HORTICULTURAL CORPORATION (EXPORT CONTROL) REGULATIONS - NOTE 1

1 The Australian Horticultural Corporation (Export Control) Regulations (in force under the Australian Horticultural Corporation Act 1987) as shown in this reprint comprise Statutory Rules 1990 No. 422 amended as indicated in the Tables below.

Table of Statutory Rules

Year and	Date of	Date of
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number	notification in Gazette	commencement
1990 No. 422	21 Dec 1990	
R. 21:	1 Jan 1991	
	Remainder: 21 Dec 1990	
1991 No. 436	19 Dec 1991	1 Jan 1992 -
1996 No. 289	18 Dec 1996	1 Jan 1997 -

Table of Amendments

ad=added or inserted am=amended rep=repealed rs=repealed and substituted

Provision affected	How affected
R. 3	am. 1996 No. 289
R. 4	am. 1991 No. 436; 1996 No. 289
R. 5	am. 1991 No. 436
Rr. 6, 7	rs. 1991 No. 436
Rr. 7A-7C	ad. 1991 No. 436
R. 8	am. 1991 No. 436
R. 9	rs. 1991 No. 436
Rr. 10-12	am. 1991 No. 436
R. 13	rs. 1991 No. 436
R. 16	am. 1991 No. 436
Rr. 18, 19	am. 1991 No. 436
Schedule 1	am. 1991 No. 436