

# Proactive Release

Date: 22 February 2022

The following Cabinet papers and related Cabinet minutes have been proactively released by the Minister of Foreign Affairs

Title	Reference
United Kingdom Free Trade Agreement Legislation Act and Apple Transitional Export Quota Act: Commencement Orders Paper UKFTA Legislation Act Commencement Order 2023 Apple Transitional Export Quota Act Commencement Order 2023	LEG-22-MIN-0227 CAB-22-MIN-0570

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government;



# Cabinet

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### **Report of the Cabinet Legislation Committee: Period Ended 9 December 2022**

On 12 December 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 9 December 2022:

Proactively Released by the Minister  
for Trade and Export Growth

LEG-22-MIN-0227

**United Kingdom Free Trade Agreement Legislation Act and Apple Transitional Export Quota Act: Commencement Orders**  
Portfolio: Trade and Export Growth

CONFIRMED

Rachel Hayward  
Secretary of the Cabinet

Proactively Released by the Minister  
for Trade and Export Growth



# Cabinet Legislation Committee

## Minute of Decision

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### United Kingdom Free Trade Agreement Legislation Act and Apple Transitional Export Quota Act: Commencement Orders

Portfolio                      Trade and Export Growth

On 8 December 2022, the Cabinet Legislation Committee:

- 1        **noted** that the Free Trade Agreement (FTA) between New Zealand and the United Kingdom of Great Britain and Northern Ireland will enter into force on such date as the Parties may agree in writing, once the Parties confirm completion of their respective applicable legal requirements and procedures for entry into force;
- 2        **noted** that in February 2022, Cabinet approved the text of the FTA and invited the Minister for Trade and Export Growth to issue drafting instructions to Parliamentary Counsel Office to draft legislation to give effect to the FTA [CAB-22-MIN-0045.01];
- 3        **noted** that in June 2022, the Cabinet Business Committee approved the United Kingdom Free Trade Agreement Legislation Bill (the Bill) for introduction [CBC-22-MIN-0032];
- 4        **noted** that the United Kingdom Free Trade Agreement Legislation Act and the Apple Transitional Export Quota Act (the Acts) received Royal Assent on 15 November 2022;
- 5        **noted** that the Acts referred to above must come into force on the same day that the FTA enters into force, and that they will be brought into force by the Commencement Orders referred to in paragraph 9 below;
- 6        **noted** that the exact commencement date for the Acts to come into force will be inserted into the Commencement Orders when the date of entry into force of the FTA is known;
- 7        **noted** that a waiver of the 28-day rule is sought:
  - 7.1      so that the Commencement Orders can come into force when the date of entry into force of the FTA is known;
  - 7.2      to facilitate a more expeditious entry into force of the Acts and the FTA;
  - 7.3      on the grounds that early commencement is necessary to comply with statutory or international obligations;
- 8        **agreed** to waive the 28-day rule;

- 9 **authorised** the submission to the Executive Council of the:
- 9.1 Apple Transitional Export Quota Act Commencement Order 2023 [PCO 25157/3.0];
  - 9.2 United Kingdom Free Trade Agreement Legislation Act Commencement Order 2023 [PCO 25156/3.0];
- 10 **authorised** officials to bring the FTA into force (in accordance with Article 33.8 (Entry into Force) of the FTA).

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Michael Wood  
Hon Dr David Clark  
Hon Dr Ayesha Verrall  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

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for Trade and Export Growth

Office of the Minister for Trade and Export Growth  
Chair, Cabinet Legislation Committee

## **United Kingdom Free Trade Agreement Legislation Act and Apple Transitional Export Quota Act: Commencement Orders**

### **Proposal**

- 1 This paper seeks authorisation for:
  - 1.1 submission to the Executive Council of the United Kingdom Free Trade Agreement Legislation Act Commencement Order;
  - 1.2 submission to the Executive Council of the Apple Transitional Export Quota Act Commencement Order (the Orders); and
  - 1.3 a waiver of the 28-day rule for each Order.
- 2 The two Orders (Annex A and Annex B) are necessary to bring the two Acts into force. The two Acts implement and give effect to New Zealand's obligations under the New Zealand-United Kingdom Free Trade Agreement (FTA).
- 3 The Orders each contain placeholders for the commencement date of each Act. These details will be inserted, and the Orders finalised, once the date of entry into force of the FTA is known (which will not be until after the Committee has considered the commencement orders).

### **Policy**

- 4 Most of the obligations in the FTA are already met by New Zealand's existing domestic legal and policy regime. A number of legislative and regulatory amendments are required, however, to align New Zealand's domestic law with certain obligations in the FTA. These amendments are provided for in the United Kingdom Free Trade Agreement Legislation Act 2022 (UK FTA Act), and the Apple Transitional Export Quota Act 2022 (Apple Quota Act).<sup>1</sup>
- 5 Both Acts received Royal Assent on 15/11/22.
- 6 The UK FTA Act is an omnibus Act that amends the Copyright Act 1994, the Dairy Industry Restructuring Act 2001, the Overseas Investment Act 2005, the Overseas Investment Regulations 2005, the Tariff Act 1988, the Tariff, and the Customs and Excise Regulations 1996.
- 7 The Apple Quota Act implements New Zealand's commitments to administer a 3-year transitional quota for apple exports.

<sup>1</sup> Drafter's note: At the time of drafting of this Cabinet paper, the legislation had passed the third reading stage in the House. By the time Cabinet considers this paper, both Bills will have received Royal Assent. Therefore, we refer to them as Acts rather than Bills.

- 8 Each Act will come into force on a date appointed by the Governor-General by Order in Council. This accommodates Article 33.8 (Entry into Force) of the FTA, which stipulates that it enters into force on a date agreed by the Parties following the completion of necessary domestic processes by each Party.
- 9 As the two Orders implement policy decisions already approved by Cabinet as reflected in the two Acts [CAB-22-MIN-0045.01 refers], the Orders do not require any new policy decisions to be made and are entirely routine.
- 10 The Acts must come into force on the same day that the FTA enters into force. The exact commencement date for the Acts to come into force will be inserted into the Orders after Cabinet considers them, but before they are provided to the Executive Council.
- 11 New Zealand has been consistent in public messaging to the United Kingdom that we would aim to complete domestic processes by the end of 2022. The United Kingdom's domestic processes <sup>s6(a)</sup> will likely be completed in the first half of 2023.
- 12 Approval of the Orders are the last step in New Zealand's domestic processes to bring the FTA into force. Completion of New Zealand's domestic processes in 2022 will mean:
- 12.1 the two Acts, and the FTA, can enter into force as soon as possible after the United Kingdom completes its own domestic processes; and
- 12.2 New Zealand has achieved its target of completing domestic processes this year, aligning with both public messaging and messaging to the United Kingdom; and
- 12.3 <sup>s6(a)</sup>
- 13 Therefore, Cabinet approval is sought now for the Orders for submission to the Executive Council, once the entry into force date of the FTA is agreed. This will ensure New Zealand can agree an entry into force date as early as possible, as soon as the United Kingdom has completed its domestic processes.
- 14 Approval to submit a commencement order and other relevant secondary legislation to the Executive Council once the date of entry into force was known occurred previously, for the Regional Comprehensive Economic Partnership [LEG-21-MIN-0612 refers].
- 15 If approval of the Orders is sought after the United Kingdom completes its domestic processes, agreeing an entry into force date of the FTA would need to take into consideration the time required to seek approval of the necessary Orders. <sup>s6(a)</sup>

### **Timing and 28-day rule**

- 16 Agreeing the earliest possible entry into force date of the FTA (following completion of each Party's domestic processes) has the advantage of facilitating more expeditious entry into force of the Acts and the FTA. However, if the date of entry into force agreed with the UK does not allow sufficient time to comply with the 28-day rule, then a waiver will be required to implement this obligation.
- 17 Therefore, I am seeking a waiver of the 28-day rule so as to be able to bring the FTA into force as early as possible.

### **Compliance**

- 18 The Orders comply with:
  - 18.1 the principles of the Treaty of Waitangi;
  - 18.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 18.3 the principles and guidelines set out in the Privacy Act 2020;
  - 18.4 relevant international standards and obligations; and
  - 18.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### **Certification by Parliamentary Counsel**

- 19 The Orders have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet, subject to the need to add the commencement date to each order, once that date is known.

### **Impact Analysis**

- 20 In accordance with the Cabinet Manual and Standing Orders 405 and 406, all multilateral treaties or "major bilateral treaties of particular significance" concluded by New Zealand require the preparation of a National Interest Analysis (NIA). A NIA for the FTA was prepared in accordance with the necessary requirements, and was considered by Cabinet at the time that approval to sign the FTA was sought (CAB-22-MIN-0045.01).

### **Publicity**

- 21 Once the entry into force date is agreed with the United Kingdom, and as soon as possible, I will issue a press release and officials will engage with stakeholders.
- 22 The Orders will also be gazetted and published on the New Zealand Legislation website.



### Proactive release

- 23 This paper should be proactively released within 30 business days of the final decision being taken by Cabinet, with redactions where necessary.

### Consultation

- 20 The following agencies were consulted in the development of this paper: the Ministry of Business, Innovation and Employment, the Ministry for Primary Industries, New Zealand Customs Service, the Treasury, and Parliamentary Counsel Office.

### Recommendations

I recommend that Cabinet Legislation Committee:

- 1 **note** that the Free Trade Agreement between New Zealand and the United Kingdom of Great Britain and Northern Ireland will enter into force on such date as the Parties may agree in writing, once the Parties confirm completion of their respective applicable legal requirements and procedures for entry into force;
- 2 **note** that on 28 February 2022 Cabinet approved the text of the FTA and invited the Minister for Trade and Export Growth to issue drafting instructions to Parliamentary Counsel Office to draft legislation to give effect to the FTA [CAB-22-MIN-0045.01 refers];
- 3 **note** that on 20 June 2022 the Cabinet approved the text of the United Kingdom Free Trade Agreement Legislation Bill (the Bill) for introduction into the House [CAB-22-MIN-0232 refers];
- 4 **note** that the United Kingdom Free Trade Agreement Legislation Bill and the Apple Transitional Export Quota Bill received Royal Assent on 15/11/22;
- 5 **authorise** the submission to the Executive Council of the annexed United Kingdom Free Trade Agreement Legislation Act Commencement Order and the Apple Transitional Export Quota Act Commencement Order when the date of entry into force of the FTA is known;
- 6 **authorise** officials to bring the FTA into force (in accordance with Article 33.8 (Entry into Force) of the FTA);
- 7 **agree** a waiver of the 28-day rule to facilitate more expeditious entry into force of the Acts and the FTA.

Authorised for lodgement

Hon Damien O'Connor

Minister for Trade and Export Growth

**Annex One: United Kingdom Free Trade Agreement Legislation Act  
Commencement Order**

Proactively Released by the Minister  
for Trade and Export Growth

**Annex Two: Apple Transitional Export Quota Act Commencement Order**

Proactively Released by the Minister  
for Trade and Export Growth

# United Kingdom Free Trade Agreement Legislation Act Commencement Order 2023

## Order in Council

At Wellington this                      day of                      2023

Present:  
in Council

This order is made under section 2 of the United Kingdom Free Trade Agreement Legislation Act 2022 on the advice and with the consent of the Executive Council.

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## Order

### 1      **Title**

This order is the United Kingdom Free Trade Agreement Legislation Act Commencement Order 2023.

### 2      **Commencement of United Kingdom Free Trade Agreement Legislation Act 2022**

The United Kingdom Free Trade Agreement Legislation Act 2022 comes into force on [*date to be inserted*].

Clerk of the Executive Council.

### Explanatory note

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

This order brings the United Kingdom Free Trade Agreement Legislation Act 2022 (the **Act**) into force on [*date to be inserted*], which is the date on which the Free Trade Agreement between New Zealand and the United Kingdom of Great Britain and Northern Ireland (the **FTA**) comes into force.

The Act amends existing legislation to enable New Zealand to implement its obligations under the FTA (*see also* the Apple Transitional Export Quota Act 2022).

At the time of making this order, the text of the FTA is available at <https://www.mfat.govt.nz/assets/Trade-agreements/UK-NZ-FTA/NZ-UK-Free-Trade-Agreement.pdf>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Ministry of Foreign Affairs and Trade.

# Apple Transitional Export Quota Act Commencement Order 2023

## Order in Council

At Wellington this                      day of                      2023

Present:  
in Council

This order is made under section 2 of the Apple Transitional Export Quota Act 2022 on the advice and with the consent of the Executive Council.

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## Order

### 1 Title

This order is the Apple Transitional Export Quota Act Commencement Order 2023.

### 2 Commencement of Apple Transitional Export Quota Act 2022

The Apple Transitional Export Quota Act 2022 comes into force on [*date to be inserted*].

Clerk of the Executive Council.

### Explanatory note

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

This order brings the Apple Transitional Export Quota Act 2022 (the **Act**) into force on [*date to be inserted*], which is the date on which the Free Trade Agreement between New Zealand and the United Kingdom of Great Britain and Northern Ireland (the **FTA**) comes into force.

The Act enables New Zealand to implement its commitment to administer a transitional quota for apple exports (*see also* the United Kingdom Free Trade Agreement Legislation Act 2022).

At the time of making this order, the text of the FTA is available at <https://www.mfat.govt.nz/assets/Trade-agreements/UK-NZ-FTA/NZ-UK-Free-Trade-Agreement.pdf>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

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