

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKAUROA ROHE**

**NO. CIV-2019-404-2787**

**UNDER** sections 239Y, 239AT, 239ADI and 239ADO of the  
Companies Act 1993

**IN THE MATTER OF** **SUNFRUIT ORCHARDS LIMITED (ADMINISTRATORS  
APPOINTED)** a duly incorporated company having its  
registered office at 3249 Ohaupo Road, RD2, Hamilton  
3282

**BETWEEN** **ANDREW JOHN MCKAY AND ANDREW JAMES  
BETHELL AS ADMINISTRATORS OF SUNFRUIT  
ORCHARDS LIMITED (ADMINISTRATORS  
APPOINTED)** Level 4, BDO Centre, 4 Graham Street,  
Auckland 1010

**Applicants**

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**ORDERS UNDER SECTIONS 239Y, 239AT, 239ADI  
AND 239ADO OF THE COMPANIES ACT 1993**

**Dated: 22 April 2020**

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 **Simpson Grierson**  
Barristers & Solicitors

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**To: Sunfruit Orchards Limited (Administrators Appointed)**

1. The interlocutory application without notice made by Andrew John McKay and Andrew James Bethell (**Administrators**) as administrators of Sunfruit Orchards Limited (Administrators Appointed) (**Company**) on 20 April 2020 was determined by His Honour Justice Jagose on 22 April 2020.

2. The determination was made upon reading:

- (a) the Administrators' interlocutory application without notice for orders under ss 239Y, 239AT, 239ADI and 239ADO of the Companies Act 1993 (**Act**), dated 20 April 2020;
- (b) the affidavit of Andrew John McKay in support of the Administrators' interlocutory application without notice, dated 20 April 2020; and
- (c) the memorandum of counsel for the Administrators, dated 20 April 2020.

3. The following orders were made:

- (a) leave is granted that this application may be determined on a without notice basis;
- (b) under s 239AT(3) of the Act, the convening period defined in s 239AT(2) of the Act be extended in respect of the Company to 28 October 2020 (**Extended Convening Period**);
- (a) the period for giving notice of termination of pre-administration employment contracts under s 239Y(3) of the Act be extended in respect of the Company to 28 October 2020 (**Extended Employee Period**);
- (b) without prejudice to the Administrators' right to terminate under s 239Y(3) of the Act, the Extended Employee Period be extended on the following terms and conditions:





- (i) the Company must continue to pay salaries and wages which accrue to the Company's employees under pre-administration employment contracts from the date of the Administrators' appointment until the date of termination of such contracts under s 239Y(3) of the Act or 28 October 2020, whichever is earlier;
- (ii) the Company must pay annual leave which has accrued during the Extended Employee Period to any employees of the Company who have their employment terminated during or at the end of the Extended Employee Period;
- (c) the Administrators' liability under s 239ADI(2) of the Act for rent and other payments that accrue under agreements relating to the Company's use, possession and occupation of property during the administration be limited to rent or other payments that accrue in the period beginning after 28 October 2020 (**Extended Lease Period**);
- (d) under s 239ADO of the Act, notice of these orders is to be given to each known creditor of the Company by:
  - (i) emailing copies of the orders to the creditor's email address by which the Company normally communicates with that creditor;
  - (ii) where an email address for a creditor is not known, or at the creditor's request, by posting copies of the orders to the physical address by which the Company normally communicates with that creditor; and
  - (iii) posting copies of the notices on the Administrators' website at [www.bdo.nz/Sunfruit-Orchards-Limited](http://www.bdo.nz/Sunfruit-Orchards-Limited);
- (e) leave is granted to any person who can demonstrate a sufficient interest to apply to modify or discharge these orders within 10 working days of service; and





- (f) leave is reserved to the Administrators to apply further in respect of any ancillary issues arising out of the orders made.

**Dated**

22 April 2020

**Signature:**



(Deputy) Registrar

**Sealed:**

Deputy Registrar  
High Court  
Auckland

