

## Tough Challenges for Farm Industries

MAF briefing papers to the new Minister of Agriculture, David Carter, argue New Zealand's meat industry has '*underperformed*', the co-op structure has failed to develop '*vibrant growth strategies*', the global financial crisis increases the risk of financial distress for some farmers and processors: these are some of the challenges facing New Zealand's farming industries.

For generations, New Zealand, figuratively, rode on the sheep's back: now the price of wool is at its lowest recorded level in real terms, and sheep numbers are declining rapidly. Poor profitability and the reduction in sheep numbers make meat industry restructuring a major issue for the sector. MAF believes the agriculture, food and forestry industries are the core of the NZ economy. They generate 64% of merchandise export industries. They are the only major industries in which the country has sufficient scale, market share and supply chains to be truly competitive in international scale. In fact, NZ is the world's largest dairy and sheepmeat exporter, the dairy sector being NZ's top export earner and a key driver of economic growth.

But MAF warns sustaining a position of competitive advantage will not come easily. Critical transitions which need to be made over the next decade include a shift from production-driven industries to industries driven from deep understanding of customer needs, and an evolution of co-operative industry structures which enables these industries to develop vibrant growth strategies.

New Zealand also needs a robust and efficient water allocation framework. In 2002/03, irrigation was estimated to contribute around \$920m net GDP at the farm gate, over what would have been produced from the same land without irrigation. Since then the area of irrigated agriculture has increased by about 25% from 480,000ha to around 600,000 ha.



There is another 1.9m ha of land capable of being irrigated. Currently only about 4% of all freshwater which flows towards the sea is extracted. In Canterbury just 1% of allocated water comes from storage infrastructure. MAF considers development of water infrastructure holds the key to integrated water management, but further development needs to be matched with effective policies to mitigate the potential adverse effects from more intensive agriculture.

## Changes to the Kiwisaver scheme

- The minimum employee contribution rate for employees has been reduced from 4% to 2% from 1 April 2009. (The new 2% rate will be the new default rate for those who do not elect a rate). This opens up the Scheme to people who cannot afford to contribute 4% from their pay. Note though, that to get the home subsidy of \$3000 to \$5000, contributions at 4% of pay need to have been made for three to five years.
- The compulsory employer contribution has been capped at 2% of the employee's gross salary or wages from 1 April 2009.
- The employer tax credit paid to employers to offset some of the cost associated with compulsory employer contributions has been discontinued from 1 April 2009.
- The exemption from employer superannuation contribution tax has been capped at the employer's minimum compulsory contribution of 2% from 1 April 2009.
- The fee subsidy of \$40 per year is to be discontinued from 1 April 2009. This will hurt all members but will be most noticeable in children's accounts.

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## Flexible Working Arrangements

Flexible working arrangements came into force on 1 July 2008. Certain employees now have a right to request flexible working arrangements to enable them to meet the needs of people in their care.

Before it became law, a survey showed that most employees dropped out of the workforce to take care of their young families rather than approach their employers to vary their employment conditions for fear of being penalised for taking such action.



### For the Employee

An employee can request to have flexible working arrangements relating to the hours of work, days of work or place of work (or a combination).

Any employee who has been working for their employer for six months or more, has not made another request for the past twelve months, and is responsible for the care of another person, is eligible to make a request for flexible working arrangements.

The employee will need to formally make their request with an application in writing. The written application must:

- state the date of request and that it is being made under Part 6AA of the Employment Relations Act;
- state how they wish to vary the conditions of employment
- specify whether the proposed working arrangement is to be for a fixed period of time or permanent;
- explain how it will help the employee take better care of the person cared for; and
- explain what changes, if any, the employer may need to make to accommodate the flexible working arrangements.

### For the Employer

The employer does not have to accept the request but does have a legal duty to consider such a request. The employer must notify the employee within three months of the formal application as to whether the request has been accepted or declined. If the employer approves the request, the amended working conditions will be permanent (unless arranged for a fixed period of time).

If the employer refuses the request, they have to notify the employee of the grounds of refusal and the reasons for their decision.

The broad grounds for refusing the request include the following:

- Detrimental impact on the quality or performance of work
- Burden of additional costs
- Inability of the business to reorganise work amongst existing staff or recruit additional staff
- Insufficiency of work during the periods the employees proposes to work
- Detrimental effect on ability to meet customer demand
- The request is inconsistent with a collective employment agreement to which the employee is bound

If the employee is not satisfied with the employer's refusal, it may be referred to mediation. Failing that, it can be referred to the Employment Relations Authority. The Authority, however, will not challenge the employer's decision but consider whether the process was followed correctly.

## Cars – Buy or Lease?

Often business owners get confused when car dealers use 'buying versus leasing' as their sell-point. Leasing here normally refers to finance leases rather than operating leases. There are no real tax advantages of purchase over a finance lease, although sometimes treatment of GST between different types of finance leases may vary.

Whether the car is bought or on a finance lease, the tax treatment remains the same for depreciation, interest expense, if any, and Fringe Benefit Tax, if any.

If the car dealer is referring to an operating lease, then there are differences in the tax treatment.

The question of buying versus leasing is more a cash flow problem. If the business buys the car outright, it will not incur interest costs; however, leasing is probably a better alternative if the business is able to put the purchase money to better use.

A finance lease is just another term for hire purchase, whilst an operating lease is where a vehicle is not owned at the end of the lease period.

## Voluntary Administration

It is interesting to note that not many (insolvent) companies have taken advantage of the new legislation that came into force in November 2007.

Voluntary Administration lets a failing business continue under an independent administrator by granting a moratorium on its debts and by allowing it to trade out of difficulties under skilled management, with the hope of returning more to the company's creditors than would be the case if the creditors had enforced their rights and liquidated the company.

The independent administrator can be appointed by the directors, a liquidator, a secured creditor or the court, but only with the creditors' agreement. Once the administrator is appointed, they take control of the company and its business operations and have a precise process and timeline (25 working days) within which to investigate and assess the company's future trading ability (and thereby its profitability). At this point, the administrator will meet the creditors and put forward a proposal which may be accepted or rejected by the creditors.



Voluntary Administration would appear attractive to those insolvent companies that:

- Have a core of profitability but are burdened with historical debts
- Were undercapitalised in their start-up stages and now have exhausted all sources of funding
- Are able to pay the fees of an independent administrator out of "future trading".

In liquidation, the Inland Revenue Department is ranked ahead of the company's unsecured creditors whereas in a Voluntary Administration, the IRD has no special status and does not get paid before the other creditors. This is another advantage that creditors have in Voluntary Administration where the GST or PAYE debt remains outstanding to the IRD.

Whereas the new process offers a reasonable alternative to creditors who were otherwise compromised under the Companies Act 1993 procedures, the reality is that it may be too late to pursue the viability of the company.

The onus remains with the directors of the company to spot the financial difficulties at an early stage, make a frank assessment of the company's position and act accordingly. After all, directors do have a duty to act responsibly.

## Half-full or half-empty!



Things aren't all bad. Highlights of some good news uncovered include:

- ✓ NZ lending criteria has not been tightened as drastically as elsewhere;
- ✓ Petrol prices are far below levels which dragged the economy a few months ago
- ✓ Interest rates have fallen and will fall further;
- ✓ House prices have fallen so home loan affordability has improved
- ✓ Kiwi dollar's fall is another positive development, providing a boost for exporters;
- ✓ Sheep meat prices are holding up and the Meat Industry Association reports earnings from lamb cuts are much stronger than a year ago.

True, forecasters say the economic outlook for the next several months is somber. But hey – they were wrong about 2008 this time a year ago!!!!

## Newsletters via the website

Thank you for registering to receive our newsletter by e-mail.



## A Piece of Philosophy!

### The Mayonnaise Jar and 2 cups of coffee



When things in your life seem almost too much to handle, when twenty-four hours in a day are not enough, remember the mayonnaise jar and the two cups of coffee.

A professor stood before his philosophy class and had some items in front of him. When the class began, he wordlessly picked up a very large and empty mayonnaise jar and proceeded to fill it with golf balls. He then asked the students if the jar was full. They agreed it was.

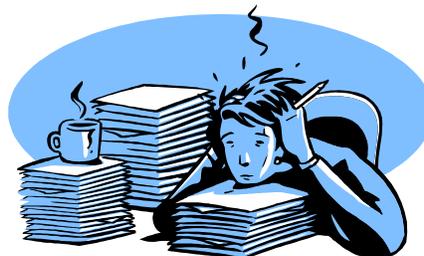
The professor next picked up a box of pebbles and poured it into the jar. He shook the jar lightly. The pebbles rolled into the open areas between the golf balls. He then asked the students again if the jar was full. They agreed it was. The Professor next picked up a box of sand and poured it into the jar. Of course, the sand filled up everything else. He asked once more if the jar was full. The students responded with an unanimous 'yes'.

The Professor then produced two cups of coffee from under the table and poured the entire contents into the jar effectively filling the empty space between the sand. The students laughed.

"Now," said the professor as the laughter subsided, "I want you to recognize that this jar represents your life. The golf balls are all the so important things - your family, your children, your health, your friends and your favourite passions - and if everything else was lost and only they remained, your life would still be full. The pebbles are the other things that matter like your job, your house and your car."

"The sand is everything else - the small stuff. If you put the sand into the jar first," he continued, "there is no room for the pebbles or the golf balls. The same goes for life. If you spend all your time and energy on the small stuff you will never have room for the things that are important to you. Pay attention to the things that are critical to your happiness. Take care of the golf balls first - the things that really matter. Set your priorities - the rest is just sand."

One of the students inquired what the coffee represented. The professor replied with a smile "The coffee just shows that no matter how full your life may seem, there's always room for a couple of cups of coffee with a friend!"



### Quote of the Month

***"God invented housework to make filing tax returns seem less tedious".***

Clarissa Fox, b. 1970.