



ANALYSIS

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1967, No. 140

An Act to amend the Apple and Pear Marketing Act 1948
[24 November 1967]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Apple and Pear Marketing Amendment Act 1967, and shall be read together with and deemed part of the Apple and Pear Marketing Act 1948 (hereinafter referred to as the principal Act).

(2) Except as provided by section 4 of this Act, this Act shall come into force on the first day of December, nineteen hundred and sixty-seven.

2. Constitution of Board—(1) Section 3 of the principal Act is hereby amended by repealing subsections (2), (2A), (2B), (3), and (4), and substituting the following subsections:

“(2) The Board, the members of which shall be appointed by the Governor-General on the recommendation of the Minister, shall consist of—

“(a) Four members, who shall be nominated by the Fruit-growers’ Federation; and

“(b) Two other members.

“(3) The members appointed under paragraph (b) of subsection (2) of this section shall, in addition to their other functions as members of the Board, represent the interests of consumers of apples and pears.

“(4) At the first meeting of the Board in each season the Board shall elect one of its members to be Chairman and another to be Deputy Chairman of the Board.

“(5) Every person elected as Chairman or Deputy Chairman shall hold office as such until his successor is elected under this section:

“Provided that if the office of any such person as a member of the Board is vacated, an election to fill the vacancy in the office of Chairman or Deputy Chairman shall be held at the first meeting of the Board held after the vacancy is filled.

“(6) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property, and of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.”

(2) Every member of the Board in office at the commencement of this Act shall continue in office until his office is vacated in accordance with the principal Act:

Provided that the members holding office as Chairman and Deputy Chairman shall hold office as such until their successors are elected in accordance with the principal Act as amended by this Act.

(3) Section 7 of the principal Act (as inserted by subsection (3) of section 2 of the Apple and Pear Marketing Amendment Act 1959) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Any deputy appointed under this section to act for a member appointed under paragraph (a) of subsection (2) of section 3 of this Act shall be nominated by the Fruitgrowers’ Federation.”

(4) Section 2 of the Apple and Pear Marketing Amendment Act 1950, section 2 of the Apple and Pear Marketing Amendment Act 1954, and subsections (1) and (2) of section 2 of the Apple and Pear Marketing Amendment Act 1959 are hereby repealed.

3. Meetings of Board—(1) Section 8 of the principal Act is hereby amended by omitting from subsection (3) the word “two”, and substituting the word “three”.

(2) Section 8 of the principal Act is hereby further amended by repealing subsection (4) and substituting the following subsection:

“(4) At all meetings of the Board the quorum necessary for the transaction of business shall be four members, including at least two members appointed pursuant to paragraph (a) of subsection (2) of section 3 of this Act and at least one member appointed pursuant to paragraph (b) of that subsection.”

4. Prices for current season—(1) Notwithstanding the provisions of the principal Act, the average price to be paid by the Board to growers of apples and pears in respect of the season ending with the thirtieth day of November, nineteen hundred and sixty-seven, shall be such amount (being not less than the average price heretofore determined by the Minister and published in the *Gazette* of the thirtieth day of March, nineteen hundred and sixty-seven at page 449) as the Minister, after consultation with the Fruitgrowers' Federation, determines and notifies in the *Gazette*.

(2) Notwithstanding the provisions of the principal Act, the price payable under section 17 of that Act to each grower for apples and pears purchased by the Board during the season ending with the thirtieth day of November, nineteen hundred and sixty-seven, shall be reduced by an amount equal to three and one-third cents for each packed case of apples or pears or for the equivalent quantity of apples or pears which are not so packed.

(3) The amount by which the sum payable to each grower is reduced pursuant to subsection (2) of this section shall be recorded in the books of the Board, and shall be repaid to the grower in such manner and at such time as the Minister, on the recommendation of the Fruitgrowers' Federation, determines.

(4) This section shall come into force on the date of the passing of this Act.

5. New Part IIA inserted in principal Act—(1) The principal Act is hereby amended by inserting, after Part II, the following new Part:

“PART IIA**APPLE AND PEAR PRICES AUTHORITY**

“18A. Apple and Pear Prices Authority—(1) There is hereby established an Authority to be called the Apple and Pear Prices Authority.

“(2) The Authority, the members of which shall be appointed by the Governor-General on the recommendation of the Minister, shall consist of—

“(a) One member, who shall be appointed as Chairman after agreement between the Minister and the Fruitgrowers’ Federation:

“(b) Two members, who shall be nominated by the Fruitgrowers’ Federation:

“(c) Two other members.

“18B. Term of office of members of Authority—(1) Except as otherwise provided by this Act, every member of the Authority shall be appointed for a term of four years, but may from time to time be reappointed.

“(2) Notwithstanding anything to the contrary in this Act, every member of the Authority, unless he sooner vacates his office under section 18D of this Act, shall continue in office until his successor comes into office.

“(3) Of the first members appointed under subsection (2) of this section, one appointed under paragraph (b) and one appointed under paragraph (c) of that subsection shall retire from office on the termination of two years from the date of their appointment. The members so to retire shall be determined by agreement of the members concerned and failing agreement shall be determined by lot.

“18c. Deputies of members of Authority—(1) In any case in which the Minister is satisfied that the Chairman or any member of the Authority is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for the Chairman or for that member during his incapacity.

“(2) Every deputy appointed under this section to act for any member appointed under paragraph (b) of subsection (2) of section 18A of this Act shall be appointed on the nomination of the Fruitgrowers’ Federation.

“(3) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Authority, and any deputy acting for the Chairman shall have all the powers of the Chairman.

“(4) No appointment of a deputy and no acts done by him as such, and no act done by the Authority while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

“18D. **Extraordinary vacancies**—(1) Any member of the Authority may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister.

“(2) If any member of the Authority dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

“(3) An extraordinary vacancy shall be filled by the appointment of some qualified person in the same manner as the appointment of the vacating member.

“(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

“18E. **Meetings of Authority**—(1) The first meeting of the Authority shall be held on a day to be appointed in that behalf by the Minister.

“(2) Subsequent meetings of the Authority shall be held at such times and places as the Authority from time to time appoints.

“(3) At all meetings of the Authority the presence of every member of the Authority entitled to be present, or his deputy, shall be necessary for the transaction of business.

“(4) The Chairman shall preside at all meetings of the Authority at which he is present.

“(5) All questions before the Authority shall be decided by a majority of the valid votes recorded thereon.

“(6) Subject to the provisions of this Act, the Authority may regulate its procedure in such manner as it thinks fit.

“18F. **Functions of Authority**—(1) The general function of the Authority shall be to determine, in accordance with this Part of this Act, the average price which the Board is to pay for apples and pears produced in New Zealand which are acquired by the Board.

“(2) The Authority shall consult with the Minister before it fixes average prices under this Part of this Act.

“18g. Determination of average price—(1) Not later than the last day of February in each season, commencing with the season commencing on the first day of December, nineteen hundred and sixty-seven, the Authority shall determine the average price to be paid by the Board for all apples and pears purchased by the Board from growers during that season.

“(2) The average price for apples and pears shall be determined by the Authority as if the apples and pears—

“(a) Had been grown in the Hawke’s Bay or the Nelson district; and

“(b) Were bare fruit ungraded and unpacked; and

“(c) Had been delivered by the grower to the receiving depot of the Board nearest to the orchard on which they were grown.

“(3) In determining the average price, the Authority shall have regard to the following matters:

“(a) The necessity in the public interest of maintaining the stability and efficiency of the apple and pear growing industry:

“(b) Movements in the costs of producing and marketing apples and pears:

“(c) The amounts which apples and pears acquired by the Board, and products manufactured by the Board from any such apples and pears, are realising, market prospects for the season, and other marketing trends known to or anticipated by the Authority:

“(d) The state of the accounts of the Board:

“(e) The current and future requirements of the Board for finance for capital expenditure or for other special purposes:

“(f) Any submissions made by the Board or the Fruit-growers’ Federation:

“(g) Any other matters considered by the Authority to be relevant.

“(4) If, after the average price has been determined for any season, the Authority is of the opinion that the average price for that season should be increased, the Authority may, subject to the provisions of subsection (6) of this section, determine a new and increased average price for that season.

“(5) The Authority may direct that any new average price determined under subsection (4) of this section shall have effect from such date during the season as the Authority specifies.

“(6) No average price determined under this section shall, by more than five percent, exceed or be less than the maximum average price determined in respect of any period during the last preceding season:

“Provided that nothing in this subsection shall apply in respect of the season commencing on the first day of December, nineteen hundred and sixty-seven.

“(7) Notification of any average price (including any increased average price determined by the Authority under subsection (4) of this section) determined by the Authority under this section shall be published by the Authority in the *Gazette*.

“18H. **Prices to be paid by the Board**—(1) For the purposes of this section the term “average price pool” means an amount equalling the price which would be payable by the Board if all apples and pears acquired by it from growers in a season were acquired at the average prices determined by the Authority in respect of that season.

“(2) The prices to be paid by the Board to growers in respect of apples and pears which become the property of the Board shall be fixed by the Board in respect of each season in relation to the average price determined by the Authority.

“(3) The Board may fix different prices in respect of different kinds, varieties, grades, qualities, or sizes of apples or pears, or by reason of any other special conditions or circumstances which in the opinion of the Board warrant the fixing of different prices, and may from time to time vary any such prices:

“Provided that the Board may from time to time, with the prior approval of the Minister, fix different prices for apples or pears of the same kind or variety and of the same grade, quality, or size acquired by the Board under any special arrangement or subject to any special terms or conditions:

“Provided also that, subject to the provisions of subsections (4) and (5) of this section, the total amount paid to growers under this section in respect of any season shall not exceed the average price pool for that season.

“(4) In addition to the prices paid under the foregoing provisions of this section, the Board may pay to growers such amounts relating to the costs to growers of marketing apples and pears as the Board may determine. Without limiting the generality of the foregoing provisions of this

subsection, any such costs may include labour and other costs incurred as the result of special work done or arrangements made in respect of the picking, packing, grading, transport or storage of apples and pears.

“(5) Where apples and pears purchased by the Board are grown in districts other than Nelson or Hawke’s Bay, the Board may pay to the growers of the apples and pears, in addition to the prices fixed under the foregoing provisions of this section, such amounts in respect of any such apples and pears purchased by it as may be from time to time determined by the Board:

“Provided that any amount paid under this subsection shall not, except with the prior approval of the Minister and subject to such conditions as he thinks fit to impose, exceed the amount of the cost of transportation that would have been incurred if the apples and pears in respect of which the payment is made had been transported in the most economical manner from the Nelson district or the Hawke’s Bay district (according to which of those districts is more convenient of access) to the principal town in the district in which the apples and pears were grown.”

(2) The following enactments are hereby consequentially repealed:

- (a) Sections 15, 16, 17, and 18 of the principal Act:
- (b) Section 4 of the Apple and Pear Marketing Amendment Act 1951:
- (c) Subsection (2) of section 6 of the Apple and Pear Marketing Amendment Act 1954:
- (d) Section 4 of the Apple and Pear Marketing Amendment Act 1959.

6. Reserve fund—Section 22A of the principal Act (as inserted by section 6 of the Apple and Pear Marketing Amendment Act 1954) is hereby amended by repealing paragraphs (a) and (b) of subsection (6), and substituting the following paragraphs:

“(a) So much of the annual profit as the Board thinks fit shall be paid to growers from whom the Board has purchased apples and pears during the season in respect of which the profit was made:

“Provided that, except with the consent of the Minister, the amount paid under this paragraph shall not exceed fifty percent of the annual profit:

“(b) So much of the annual profit as is not paid to growers under paragraph (a) of this subsection shall be transferred to the reserve fund.”

7. Guarantee of prices—Section 23 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsection:

“(1) The prices which the Board fixes and the payments authorised to be made under section 18H of this Act shall be duly paid as required by this Act.”

8. Consequential revocations—The following regulations are hereby consequentially revoked:

- (a) Regulation 17 of the Apple and Pear Marketing Regulations 1949:
- (b) The Schedule to the Apple and Pear Marketing Regulations 1949 (as substituted by regulation 2 of the Apple and Pear Marketing Regulations 1949, Amendment No. 4):
- (c) The Apple and Pear Marketing Regulations 1949, Amendment No. 4.

This Act is administered in the Department of Agriculture.
