



## ANALYSIS

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1977, No. 73

**An Act to amend the Apple and Pear Marketing Act 1971**

[25 November 1977]

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**—This Act may be cited as the Apple and Pear Marketing Amendment Act 1977, and shall be read together with and deemed part of the Apple and Pear Marketing Act 1971 (hereinafter referred to as the principal Act).

**2. General powers of Board**—(1) Section 11 (1) of the principal Act is hereby amended by inserting, after paragraph (h), the following paragraph:

“(ha) Where, in the opinion of the Board, such an activity may conveniently be carried out in association with the Board’s general functions and powers in relation to apples and pears and may be of benefit to the Board, for the handling, transport, storage, treatment, marketing, and disposition of such

horticultural products other than apples and pears as the Minister may for the time being approve.”.

(2) Section 11 (2) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Where, in the opinion of the Board, participation by the Board in the operations of any company, whether incorporated in New Zealand or elsewhere and whether carrying on or proposing to carry on operations in New Zealand or elsewhere, may conveniently be undertaken in association with the Board’s general powers and functions and may be of benefit to the Board, subscribe for or otherwise acquire shares in that company:”.

**3. Apples and pears to which Part II of principal Act applies**—Section 18 (1) of the principal Act is hereby amended by inserting, after the word “sold”, the expression “, or exported for sale,”.

**4. Determination of average price**—(1) Section 27 (3) (b) of the principal Act is hereby amended by omitting the words “producing and”.

(2) The said section 27 is hereby further amended by repealing subsection (6), and substituting the following subsection:

“(6) No average price determined under this section shall be greater by more than 10 percent or less by more than 5 percent than the maximum average price determined in respect of any period during the last preceding season.”

**5. Industry levy on apples and pears**—(1) The principal Act is hereby further amended by inserting, after section 31, the following section:

“31A. (1) Every grower shall pay to the Board, before the 31st day of August in each year, a levy, to be called the industry levy, on all apples and pears sold, or exported for sale, by him during the year that ended with the previous 30th day of June.

“(2) All industry levy due and payable shall constitute a debt due to the Board which shall be recoverable accordingly by the Board in any Court of competent jurisdiction.

“(3) The rate of industry levy payable on apples and pears in every year ending with the 30th day of June shall be fixed by the Authority, after consultation with the Minister, by notice in the *Gazette* before the preceding 1st day of

December; and the Authority may fix one rate for apples and another for pears, or fix a zero rate in respect of apples or pears or both of them:

“Provided that the rate of the industry levy in respect of apples for the year ending with the 30th day of June 1978 shall not exceed 0.25 cents per kilogram.

“(4) Where the Authority fails to fix a rate of industry levy for apples or pears for a year ending with the 30th day of June before the preceding 1st day of December, the rate applicable in the preceding such year shall be deemed to have been fixed in respect of that year.

“(5) In fixing the rate of industry levy the Authority shall have regard to the following matters:

“(a) The cost to the Board of processing apples and pears:

“(b) The state of the Reserve Account:

“(c) The state of the apple and pear growing industry generally.

“(6) No rate of industry levy in respect of apples or pears shall be greater by more than 10 percent than the rate applicable to apples or pears, as the case may be, last fixed by the Authority or 0.25 cents per kilogram, whichever is the greater.

“(7) All money received by the Board by way of industry levy shall be paid into the Industry Account, and expended for the following purposes only:

“(a) The financing of the processing of apples and pears:

“(b) The reduction of any deficit in the Reserve Account:

“(c) The promotion of the interests of the apple and pear growing industry.

“(8) Notwithstanding anything in this section, where, in the opinion of the Board, the payment of any amount of industry levy by any grower who has applied for its remission before the date it becomes payable would cause that grower undue hardship, the Board may remit the payment of all or part of that amount; and the amount so remitted shall in that case cease to be payable.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, after the definition of the term “Industry Account”, the following definition:

“‘Industry levy’ means the levy imposed by section 31A of this Act.”.

(3) Section 26 (1) of the principal Act is hereby consequentially amended by adding the words “and to fix the rate of industry levy in accordance with this Act”.

**6. Industry Reserve Account and disposition of annual profit**—(1) Section 33 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsections:

“(5) Where in any year the books of account of the Board show that it has made a profit, there 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 so much of that profit as the Minister, having taken into account the profitability and economic position of the apple and pear industry, the state of the Board’s finances, and the desirability of repaying as rapidly as practicable any deficit in the Reserve Account, may approve:

“Provided that without the consent of the Minister of Finance the Minister shall not approve the payment to growers of more than half of any such profit.

“(5A) Where in any season the Board has fixed different prices for apples or pears of the same kind or variety and of the grade, quality, or size acquired by the Board under any special arrangement or subject to any special terms or conditions, it may, in its discretion, in making payments to growers pursuant to subsection (5) of this section, take account of apples and pears purchased at those prices, and make payments only to growers of those apples and pears, or make greater payments to those growers, in respect of those apples and pears, than those made to the growers of other apples and pears purchased by the Board.

“(5B) So much of any annual profit as is not paid to growers pursuant to subsection (5) of this section shall be transferred to the Reserve Account.”

(2) Section 33 (2) (b) of the principal Act is hereby consequentially amended by omitting the expression “paragraph (b) of subsection (5)”, and substituting the expression “subsection (5B)”.

**7. Export of apples and pears**—Section 44 of the principal Act is hereby amended by adding the words “or who exports any apples or pears without the prior consent of the Board”.

**8. Regulations**—Section 47 of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraph:

“(fa) Prescribing the incidence and manner of collection of the industry levy:”.