



## ANALYSIS

Title	
1. Short Title	
2. Definition of Tobacco Research Committee	
3. Functions of Board	
4. Information to be supplied to Committee	
5. Levy on tobacco leaf used in manufacture	
6. New financial provisions substituted	
22. The Tobacco Growing Industry Account	
23. Special funds and reserves	
23A. Money payable into and out of Tobacco Growing Industry Account	
23B. Borrowing powers and advances to Board	
	23c. Unauthorised expenditure
	23d. Exemption from taxation
	7. Criteria upon which licences, transfer of licences, and basic quotas are to be granted or determined
	33A. Criteria upon which licences are granted and transfers of licences approved
	33B. Criteria upon which the initial basic quota applicable to any land is to be determined
	8. Classification of tobacco leaf
	9. Payment for quota leaf under sales between manufacturer and grower
	10. Validation

---

1976, No. 62

**An Act to amend the Tobacco Growing Industry Act 1974**

[25 November 1976]

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 Tobacco Growing Industry Amendment Act 1976, and shall be read together with and deemed part of the Tobacco Growing Industry Act 1974 (hereinafter referred to as the principal Act).

**2. Definition of Tobacco Research Committee**—Section 2 of the principal Act is hereby amended by repealing the definition of the term “Tobacco Research Council”, and substituting the following definition:

“‘Tobacco Research Committee’ means the Tobacco Research Committee established pursuant to section 9 of the Scientific and Industrial Research Act 1974:”.

**3. Functions of Board**—(1) Section 10 (1) of the principal Act is hereby amended by omitting from paragraph (d) the word “industry”, and substituting the words “industry; and”.

(2) Section 10 (1) of the principal Act is hereby further amended by adding, after paragraph (d) (as amended by subsection (1) of this section), the following paragraph:

“(e) To acquire and market tobacco grown in New Zealand where it is necessary in the interests of the tobacco growing industry of New Zealand.”

(3) Section 10 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsections:

“(1A) The Board shall have all such powers, rights, and authorities as may reasonably be necessary or expedient to carry out its functions under subsection (1) (e) of this section and, without limiting the generality of the foregoing, the Board shall have full authority to make and carry out such arrangements and give such directions, notwithstanding anything in this Act, as it thinks fit—

“(a) For the acquiring and marketing by the Board of tobacco:

“(b) For the handling, pooling, transport, and storage of tobacco:

“(c) For the insurance against loss of any tobacco for the time being the property of the Board:

“(d) For the establishment of a fund for the purpose of meeting any loss or damage to tobacco acquired by the Board and for the taking of such other steps as the Board thinks fit for that purpose.

“(1B) In subsection (1A) of this section the expression ‘tobacco’ means tobacco leaf and stems (not being manufactured tobacco) which has been processed and redried in preparation for manufacture.”

(4) Section 10 (2) of the principal Act is hereby amended by inserting, after the words “of its functions”, the words “(other than under subsection (1) (e) of this section)”.

(5) Section 10 of the principal Act is hereby further amended by adding, after subsection (2), the following subsection:

“(3) The Board may from time to time prescribe forms of applications and such other forms (other than the forms of a licence) as may be required for the purposes of this Act and may also, with the consent of the Minister, prescribe the fees to be paid to the Board in respect of such applications and in respect of the granting of licences thereunder.”

(6) Section 52 of the principal Act is hereby consequentially amended by repealing paragraphs (a) and (b), and substituting the following paragraph:

“(a) Prescribing the form of a licence granted under section 32 of this Act:”.

**4. Information to be supplied to Committee**—The principal Act is hereby further amended by inserting, after section 15, the following section:

“15A. The Committee may require a grower to supply to the Committee such of the information prescribed in section 11 (4) of this Act and such other information as is necessary to enable the Committee to determine the grower’s basic quota or adjusted quota:

“Provided that every member of the Committee shall maintain and aid in the secrecy of any such information so supplied to him.”

**5. Levy on tobacco leaf used in manufacture**—(1) Section 21 of the principal Act is hereby amended by omitting the words “may from time to time be fixed by the Board, not exceeding in any case a levy of 3.5 cents per kilogram green-weight”, and substituting the words “the Board, with the approval of the Minister, may from time to time determine by notice in the *Gazette*”.

(2) Section 21 of the principal Act is hereby amended by adding, after subsection (4), the following subsection:

“(5) The Board shall from time to time prescribe the methods to be adopted in the collection of the levies that may be imposed on tobacco under subsection (1) and subsection

(2) of this section and in the collection of any additional levy which the Board has resolved to collect under subsection (4) of this section on behalf of the New Zealand Tobacco Growers' Federation Incorporated."

(3) Section 52 of the principal Act is hereby consequentially amended by repealing paragraph (f).

**6. New financial provisions substituted—**(1) The principal Act is hereby amended by repealing sections 22 and 23, and substituting the following sections:

**"22. The Tobacco Growing Industry Account—**(1) For the purposes of this Act there shall be established at any bank approved in that behalf by the Minister of Finance an account to be known as the Tobacco Growing Industry Account.

"(2) The Board may from time to time open at any branch or agency of the bank in which is kept the Tobacco Growing Industry Account or, with the consent of the Minister of Finance, of any other bank, such imprest or subsidiary accounts as it deems necessary or desirable in the exercise of its functions or powers.

"(3) Every account under this section shall be operated on only by cheque or other instrument (not being a promissory note or bill) by such person or persons as the Board appoints from time to time for that purpose:

"Provided that no such cheque or instrument shall be signed by one person only except with the prior consent of the Audit Office and subject to such conditions as the Audit Office thinks fit to impose.

"(4) Every payment of money from any account by the Board shall be authorised by a prior resolution of the Board or shall be submitted to the Board for authorisation at its next ordinary meeting.

"(5) The Board shall from time to time by resolution fix the amount that may be held at any time in any imprest or subsidiary account, not exceeding \$200 in any case where the account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

**"23. Special funds and reserves—**(1) With the consent of the Minister of Finance, the Board may from time to time out of its funds set aside in a separate bank account any money to form a fund or funds for any special purpose or as a reserve.

“(2) The Board may from time to time apply the money so set aside to form any such fund only for the purpose for which the fund was established, and may invest in the manner specified in subsection (3) of this section any money so set aside and pay the proceeds of the investment into the fund.

“(3) The Board may invest any part of any such fund or any other money available for investment in the following manner:

“(a) In New Zealand Government Securities:

“(b) On deposit with any bank for the time being approved by the Minister of Finance:

“(c) In any manner, or in any securities, that may from time to time be authorised in that behalf by the Minister of Finance.

**“23A. Money payable into and out of Tobacco Growing Industry Account—**(1) There shall be paid into the Tobacco Growing Industry Account all money which, at the commencement of this section, forms part of the funds of the Tobacco Board.

“(2) There shall from time to time be payable into the Tobacco Growing Industry Account all money derived from the operations of the Board and any other money that may lawfully be payable to the Account.

“(3) There may from time to time be payable out of the Tobacco Growing Industry Account all money payable by the Board, and all costs, charges, commission, and expenses whatsoever incurred by the Board or the Tribunal or for which the Board or the Tribunal may become liable, in the exercise of their functions and powers.

**“23B. Borrowing powers and advances to Board—**(1) The Board may from time to time, with the prior consent in writing of the Minister of Finance, borrow money from any person and may mortgage, charge, or pledge any right, title, estate, or interest in any of its property, for the purpose of securing the repayment of that money:

“Provided that, if the repayment of any amount borrowed by the Board is guaranteed by the Minister of Finance under subsection (2) of this section, the loan shall be subject to such terms and conditions as the Minister of Finance thinks fit.

“(2) The Minister of Finance may from time to time, on behalf of the Crown, give in respect of any advance made to the Board by any person any guarantee, indemnity, or security on or subject to such terms and conditions as the Minister thinks fit.

“(3) The Minister of Finance may from time to time, on behalf of the Crown, enter into agreements with the Board for the purpose of giving full effect to the provisions of this section.

“23c. **Unauthorised expenditure**—The Board may, for purposes not authorised by this Act or law for the time being in force, expend in any year any sum or sums not amounting in the aggregate to more than \$500 or such additional amount authorised in that behalf in respect of any year by the Minister of Finance.

“23d. **Exemption from taxation**—(1) The Board shall be exempt from the payment of land tax and income tax.”

(2) Section 25 of the principal Act is hereby consequentially repealed.

(3) Section 27 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Board shall, as soon as practicable after the end of each financial year ending with the 30th day of September, cause the accounts of the Board for the financial year to be balanced and prepare a balance sheet of the Board at the end of the financial year, together with revenue or any other accounts showing the financial transactions for that year and a statement of source and application of funds.”

(4) Section 28 of the principal Act is hereby consequentially amended—

(a) By inserting, after the word “accounts” wherever it appears in subsection (1) and subsection (2), in each case the words “and balance sheet”:

(b) By inserting in subsection (1), after the words “for that year”, the words “and the report of the Audit Office thereon”.

**7. Criteria upon which licences, transfer of licences, and basic quotas are to be granted or determined**—(1) The principal Act is hereby further amended by inserting, after section 33, the following sections:

“33A. **Criteria upon which licences are granted and transfers of licences approved**—(1) In considering any application for a licence or an application for an amendment to a licence under section 32 of this Act, or any application for the transfer of a licence under section 33 of this Act, the Committee shall have regard to—

- “(a) The ability of the applicant or, as the case may require, the transferee to conduct the growing of tobacco leaf in an efficient and businesslike manner; and
- “(b) The standard and suitability of the facilities, equipment, and premises to be used in the carrying on the business of tobacco leaf growing; and
- “(c) The need to promote the growing of tobacco leaf of sufficient quality and the capacity of the applicant or, as the case may require, the transferee to produce leaf of such a quality in relation to the nature of the land in respect of which the application is made and any other relevant factors; and
- “(d) The quantities and grades of tobacco proposed to be grown in relation to the domestic or, if applicable, overseas demand for that quantity or grade of leaf and the production or productive capacity of existing licensees; and
- “(e) The orderly development of the tobacco growing industry in New Zealand; and
- “(f) The ability of the applicant or transferee to fulfil any obligation imposed on him under this Act or any condition attached to any licence granted under this Act or under any regulations made thereunder; and
- “(g) Any other prescribed criteria.

“(2) Nothing in this section shall limit section 32 (2) or section 33 (3) of this Act.

“33B. **Criteria upon which the initial basic quota applicable to any land is to be determined**—In determining the initial basic quota of tobacco leaf applicable to any land for the purpose of section 32 of this Act, the Committee shall have regard to—

- “(a) The relative potential capacity of the land for growing tobacco; and
- “(b) The average production of tobacco leaf of the district in which the land is situated; and
- “(c) The previous use of the land; and
- “(d) The known ability and experience of the grower in growing tobacco leaf.”

(2) Section 52 of the principal Act is hereby consequentially amended by omitting from paragraph (c) and paragraph (d) the words “the criteria”, and substituting in each case the words “additional criteria”.

**8. Classification of tobacco leaf**—The principal Act is hereby further amended by repealing section 45, and substituting the following section:

“45. (1) Prior to the purchase of any tobacco leaf by any manufacturer, or by the representative of any manufacturer, or by any other person the leaf shall be classified in the manner prescribed under subsection (2) of this section.

“(2) Tobacco leaf shall be classified by an approved classifier in accordance with the Schedule of Standard Grades and any rules for the time being prescribed by the Board relating to the manner in which the Schedule is to be applied and the duties of approved classifiers.

“(3) In this section the term ‘approved classifier’ means a person appointed, on the advice of the Board, by the Minister from time to time, being an appointment made for such period as the Minister may specify in the notice of appointment.”

**9. Payment for quota leaf under sales between manufacturer and grower**—(1) Section 47 of the principal Act is hereby amended by inserting, before the words “A manufacturer”, the expression “(1)”.

(2) Section 47 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:

“(2) Nothing in this section shall apply with respect to purchases by any manufacturer from the Board.”

**10. Validation**—Every act done and every agreement and arrangement made by the Minister of Finance or the Minister of Trade and Industry or the Board or any member thereof before the commencement of this Act which if it were done or made after the commencement of this Act would have been lawful and effectual is hereby declared to have been validly done or made, and always to have been validly done or made.