

# APPLE AND PEAR MARKETING AMENDMENT BILL (NO. 3)

## EXPLANATORY NOTE

THIS Bill creates a price stabilisation scheme for apples and pears. Under this scheme 2 reserve accounts are created—a Capital Account and a Stabilisation Account. The Capital Account is to be used for the Board's capital programme, and the Stabilisation Account is to be used for the price stabilisation scheme.

In every season, there will be determined a supplementary price for apples and a supplementary price for pears. In most seasons a supplementary price will be the average of the net return per kilogram that, in the opinion of the Board, is likely to be received for apples or pears during that season and the net return per kilogram received during the previous season. But this may be modified in the light of the size of the balance in the Stabilisation Account. Also there will be fixed in every season a Capital Charge, which will be a flat rate per traycarton of apples and pears purchased by the Board during that season. In any season, growers will receive initial prices for apples and pears on the same basis as in the past, as in the past supported if necessary from the Board's reserves. Where at the end of the season there remains a profit, the Capital Charge will be credited to the Capital Account, together with any amount of unpaid Capital Charge from a previous season. The residue up to the supplementary price will be paid to growers, and of any residue remaining, half will be paid into the Stabilisation Account and half will be paid to growers.

*Clause 1* relates to the Short Title.

*Clause 2* relates to the determination of supplementary prices. Each such price is to be the average of the net return per kilogram for apples or, as the case may be, pears likely to be obtained during the season concerned, and the net return per kilogram received during the preceding season. But where there is a shortage in the Stabilisation Account, the supplementary price may be reduced accordingly.

*Clause 3* repeals section 31A of the principal Act, which relates to the imposition of an Industry Levy on apples and pears.

*Clause 4* repeals section 33 of the principal Act and substitutes 4 new sections.

New *section 32A* provides for the establishment of a Capital Account.

New *section 32B* provides for the fixing of the Capital Charge. The Capital Charge is to be fixed by the Board in the light of its likely capital expenditure over the next 5 seasons, and the quantities of apples and pears likely to be purchased by the Board from growers during those seasons.

New *section 32c* provides for the establishment of the Stabilisation Account. There will be credited to, and debited from, the Stabilisation Account the various amounts used in stabilising apple and pear prices. It is, however, provided that where there is, in the opinion of the Board, an excess amount in the Stabilisation Account, it may, with the consent of the Minister of Finance, distribute the excess to growers.

New *section 33* provides for the disposition of seasonal profits. Where in any season, after the payment of basic prices for apples and pears purchased by the Board from growers during that season, the Board makes a profit, it will deduct from that profit the Capital Charge payable in respect of the apples and pears purchased from growers during that season together with any amount of Capital Charge not paid during previous seasons. This amount will be retained by the Board and credited to the Capital Account. Any residue then remaining, up to the supplementary price, will be distributed to growers. If there is any residue remaining after that payment half will be credited to the Stabilisation Account and half will be distributed to growers.

*Clause 5* makes a drafting amendment, consequential upon amendments contained in the Apple and Pear Marketing Amendment Act 1980 but omitted from that Act, to section 34 (1) of the principal Act.

*Clause 6* repeals section 35 of the principal Act and replaces it with a new section 35, having the effect of limiting the Board's powers of investment so as to ensure that at all times there is readily available or realisable by the Board an amount equal to at least half of the amount for the time being credited to the Stabilisation Account.

*Right Hon. Mr MacIntyre*

**APPLE AND PEAR MARKETING AMENDMENT  
(NO. 3)**

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ANALYSIS

Title	4. New sections substituted
1. Short Title	32A. Capital Account
2. Determination of supplementary prices	32B. Capital Charge
3. Industry levy on apples and pears	32C. Stabilisation Account
	33. Disposition of seasonal profit
	5. Guarantee of prices
	6. Powers of investment

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**A BILL INTITULED**

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

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

**1. Short Title**—This Act may be cited as the Apple and Pear Marketing Amendment Act (No. 3) 1980, and shall be read together with and deemed part of the Apple and Pear Marketing Act 1971\* (hereinafter referred to as the  
10 principal Act).

**2. Determination of supplementary prices**—(1) The principal Act is hereby amended by inserting, after section 27, the following section:

\*1971, No. 33

Amendments: 1974, No. 75; 1977, No. 73; 1979, No. 76; 1980, No. 9

“27A. (1) Before the 1st day of March in every season the Authority shall determine, in accordance with this section,—

“(a) A supplementary price for all apples purchased by the Board from growers during that season; and

“(b) A supplementary price for all pears purchased by the Board from growers during that season. 5

“(2) Subject to subsection (3) of this section, the supplementary price for apples or pears for any season shall be the average of the following amounts:

“(a) The average return per kilogram (after the deduction of all costs and before the deduction of any payments under section 28 of this Act), that, in the opinion of the Board, it is likely to secure from its trading activities in apples or, as the case may be, pears during that season: 10

“(b) The average return per kilogram as aforesaid secured by the Board from its trading in apples or, as the case may be, pears during the previous season. 15

“(3) In calculating supplementary prices for apples and pears, the Authority shall take into account the balance for the time being in the Stabilisation Account, and where, in the opinion of the Authority, that balance is not sufficient to meet any demands likely to be made on it, the Authority may determine supplementary prices lower (by the same proportionate amount for apples as for pears) than those specified in subsection (2) of this section. 20 25

“(4) The Authority shall publish in the *Gazette* a notice of the determination of any supplementary price under this section.

“(5) If no supplementary price for apples or pears purchased by the Board from growers during any season has been determined before the 1st day of March in that season, there shall be deemed so to have been determined the supplementary price for apples or, as the case may be, pears so determined in respect of the previous season.” 30 35

(2) Section 26 (1) of the principal Act (as substituted by section 2 (1) of the Apple and Pear Marketing Amendment Act 1980) is hereby consequentially amended by adding the following paragraph:

“(c) To determine in each season, in accordance with this Part of this Act,— 40

“(i) The supplementary price for all apples purchased by the Board from growers during that season; and

“(ii) The supplementary price for all pears purchased by the Board from growers during that season.”

5 (3) Section 27 (1) of the principal Act (as substituted by section 3 of the Apple and Pear Marketing Amendment Act 1980) is hereby consequentially amended by inserting after the word “price”, in both places where it appears, the words “per kilogram”.

**3. Industry levy on apples and pears**—(1) Section 31A of  
10 the principal Act (as inserted by section 5 (1) of the Apple and Pear Marketing Amendment Act 1977) is hereby repealed.

(2) Section 2 of the principal Act is hereby consequentially amended by repealing the definition of the term “industry  
15 levy” (as inserted by section 5 (2) of the Apple and Pear Marketing Amendment Act 1977).

(3) Section 26 (1) of the principal Act (as substituted by section 2 (1) of the Apple and Pear Marketing Amendment Act 1980) is hereby consequentially amended by re-  
20 pealing paragraph (b).

(4) Section 47 of the principal Act is hereby consequentially amended by repealing paragraph (fa) (as inserted by section 8 of the Apple and Pear Marketing Amendment Act  
25 1977).

(5) Sections 5 and 8 of the Apple and Pear Marketing Amendment Act 1977 are hereby consequentially repealed.

**4. New sections substituted**—(1) The principal Act is hereby amended by repealing section 33, and substituting the following sections:

30 “32A. **Capital Account**—(1) For the purposes of this Act, the Board shall open in its books of account an account to be known as the Apple and Pear Industry Capital Funding Account.

“(2) There shall be credited to the Capital Account—

35 “(a) All amounts retained under section 33 (2) of this Act; and

“(b) All capital gains made by the Board.

“(3) There shall be debited from the Capital Account only capital losses incurred by the Board.

“32B. **Capital Charge**—(1) In this section, “Capital Charge” means a charge fixed under subsection (2) of this section; and, in relation to any season, means the Capital Charge fixed in respect of the apples and pears purchased by the Board from growers during that season. 5

“(2) Before the 1st day of March in every season, the Board shall fix a charge per traycarton of apples and pears purchased by the Board during that season, to be used in calculating the amount payable into the Capital Account out of the profit (if any) made by the Board during that season. 10

“(3) In fixing a Capital Charge, the Board shall have regard to its likely capital expenditure, borrowing, and depreciation, during the season concerned and the 4 following seasons, and to the quantities of apples and pears likely to be purchased by the Board during those 5 seasons. 15

“(4) If in any season no Capital Charge has been fixed before the 1st day of March, there shall be deemed to have been fixed on the last day of February of that season the Capital Charge fixed under this section in respect of apples and pears purchased by the Board during the previous season. 20

“(5) There shall be payable in respect of the apples and pears purchased by the Board during any season an amount equal to the product of the Capital Charge applicable to that season, and the number of traycartons that, in the opinion of the Board, those apples and pears represent. 25

“32c. **Stabilisation Account**—(1) For the purposes of this Act, the Board shall open in its books of account an account to be known as the Apple and Pear Industry Price Stabilisation Account, which shall be the same account as the Industry Reserve Account existing immediately before the commencement of the Apple and Pear Marketing Amendment Act (No. 3) 1980. 30

“(2) There shall be credited to the Stabilisation Account all amounts retained under section 33 (5) of this Act. 35

“(3) There shall be debited from the Stabilisation Account only—

“(a) The amount of any loss (not being a capital loss) incurred by the Board in any season; and

“(b) Amounts paid under subsection (4) of this section. 40

“(4) Where, in the opinion of the Board, the amount credited to the Stabilisation Account is more than is needed

for price stabilisation, it may, with the consent of the Minister of Finance, given upon and subject to such terms and conditions as he thinks fit, pay all or any part of the excess to growers.

5 “(5) Subject to the terms and conditions (if any) upon and subject to which the Minister of Finance’s consent was given, the amounts payable to individual growers under subsection (4) of this section may be fixed by the Board in its absolute discretion; and the amount (if any) payable to  
10 any individual grower may be calculated having regard to any or all of the following matters:

“(a) The varieties, grades, qualities, and sizes of apples and pears purchased from him by the Board:

15 “(b) The times at which or seasons during which apples or pears were purchased from him by the Board:

“(c) Any other special conditions or circumstances that, in the opinion of the Board, warrant consideration.

“33. **Disposition of seasonal profit**—(1) In this section, unless the context otherwise requires,—

20 “‘Capital retention’, in relation to any season, means the amount retained by the Board under subsection (2) of this section out of that season’s seasonal profit:

25 “‘Seasonal profit’, in relation to any season, means a trading profit made by the Board in that season:

“‘Supplementary pool’, in relation to any season, means the total amount (if any) that would be payable by the Board for the apples and pears purchased by the Board from growers during that season if they  
30 were all purchased at a price equal to the amount (if any) by which the supplementary price for apples or, as the case may be, pears determined under section 27A of this Act in respect of that season exceeds the average price for apples or, as  
35 the case may be, pears determined under section 27 of this Act in force at the time those apples or pears were so purchased.

“(2) Where in any season the books of account of the Board show that it has made a seasonal profit, the Board  
40 shall retain the lesser of the following amounts:

“(a) An amount equal to the whole of that profit:

“(b) The sum of—

    “(i) The amount payable under section 32B (4) of this Act in respect of that season; and

    “(ii) Every amount payable under section 32B (4) of this Act in respect of any previous 5  
season that has not yet been retained under this subsection.

“(3) Where in any season the capital retention is less than both the seasonal profit and the supplementary pool, the Board shall pay to the growers from whom it purchased any apples or pears during that season the total amount by which the capital retention is less than the lower of the supplementary pool and the seasonal profit. 10

“(4) The total amount payable under subsection (3) of this section in respect of any season shall so be paid that every grower from whom the Board purchased any apples or pears during that season receives an amount bearing the same proportion to that total amount as the amount paid by the Board under section 28 of this Act for those apples or pears bears to the total amount paid by the Board under that section for all 15  
apples and pears purchased by the Board from growers during that season. 20

“(5) Where in any season the seasonal profit exceeds both the capital retention and the supplementary pool, the Board shall retain half of the amount by which the seasonal profit exceeds the higher of the supplementary pool and the capital retention, and pay the other half to the growers from whom it purchased apples or pears during that season. 25

“(6) The amounts payable to individual growers under subsection (5) of this section may be fixed by the Board in its absolute discretion; and the amount (if any) payable to any individual grower may be calculated having regard to all or any of the following matters: 30

    “(a) The varieties, grades, qualities, and sizes of apples and pears purchased from him by the Board during the season concerned: 35

    “(b) The times at which those apples and pears were so purchased:

    “(c) Any other special conditions or circumstances that, in the opinion of the Board, warrant consideration.” 40

(2) Section 2 of the principal Act is hereby consequentially amended by omitting the definition of the term “Reserve Account”, and inserting, in their appropriate alphabetical order, the following definitions:

“‘Capital Account’ means the Apple and Pear Industry Capital Funding Account established by section 32A (1) of this Act:

5 “‘Stabilisation Account’ means the Apple and Pear Industry Price Stabilisation Account established by section 32c (1) of this Act.”

(3) As soon as is practicable after the commencement of this Act there shall be credited to the Capital Account half the Amount immediately before that commencement credited  
10 to the Industry Reserve Account.

(4) Section 6 of the Apple and Pear Marketing Amendment Act 1977 is hereby consequentially repealed.

**5. Guarantee of prices**—Section 34 (1) of the principal Act is hereby amended by inserting, after the words “section  
15 28”, the words “or section 28A”.

**6. Powers of investment**—The principal Act is hereby amended by repealing section 35, and substituting the following section:

“35. (1) Subject to subsection (2) of this section, the  
20 Board may invest any of its money that is not for the time being required for any other purpose in any of the following manners:

“(a) In New Zealand Government securities:

“(b) On deposit in the Bank of New Zealand:

25 “(c) In any other security for the time being authorised in that behalf by the Minister of Finance.

“(2) The Board shall take all practicable steps to ensure that at all times amounts together equal to at least half of the amount for the time being credited to the Stabilisation  
30 Account are held by the Board either on current account or in investments that are, in the opinion of the Board, capable of being realised sufficiently rapidly to meet any likely call upon them.”