

POTATO GROWING INDUSTRY BILL

EXPLANATORY NOTE

1. This Bill establishes a Potato Board and defines its powers and functions.

2. Growers, and merchants engaged in the marketing of potatoes, will be equally represented on the Board and the representatives of growers will, from a date to be appointed, be elected. Provision is made for a member of the Public Service to be appointed to the Board in an advisory capacity.

3. *Clause 14* sets out the principal function of the Board, which is to ensure that an adequate supply of main crop potatoes shall be available for consumption in New Zealand.

4. *Clause 15* provides that the Board may fix a levy payable by growers of main crop potatoes in districts to be prescribed and *clause 16* provides for the application of moneys received by the Board.

5. *Clause 19* provides for the making of contracts between growers and the Board. Every such contract shall provide that all potatoes grown in accordance with the contract shall be purchased from the grower.

6. *Clause 20* provides for the appointment of wholesalers authorized to purchase from growers and to sell potatoes in respect of which contracts have been made with the Board.

7. The manner of holding elections and the manner in which any levy shall be paid and collected will be prescribed by regulations.

Hon. Mr. Holyoake

POTATO GROWING INDUSTRY

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A BILL INTITULED

AN ACT to Establish a Potato Board, to Define its Powers and Functions, and to Make Provision for the Regulation of the Potato Growing Industry. Title.

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

1. This Act may be cited as the Potato Growing Industry Act, 1950. Short Title.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“ Appointed day ” means a day to be appointed for the first election of members of the Board by the Minister by notice in the *Gazette*: 5

“ Board ” means the Potato Board established by this Act:

“ Grower ” means a person engaged in the business of growing potatoes for sale:

“ Main crop potatoes ” means any potatoes 10 produced from tubers planted after the first day of August in any year and delivered by the grower between the first day of March and the thirtieth day of November in the following year to any person for the purposes of sale: 15

“ Minister ” means the Minister of Marketing:

“ Purchase ” includes every mode of acquisition, whether for valuable consideration or not, including acquisition by an agent for sale on consignment, but not including acquisition by 20 way of security only; and “ to purchase ” has a corresponding meaning:

“ Sale ” includes every mode of disposition whether for valuable consideration or not, including disposition to an agent for sale on 25 consignment, but not including disposition by way of security only; and “ to sell ” has a corresponding meaning:

“ Seed potatoes ” means main crop potatoes complying with the standards specified in that 30 behalf by the Board:

“ Table potatoes ” means main crop potatoes complying with the standards specified in that behalf by the Board.

Potato Board established.

3. (1) There is hereby established a Board to be 35 called the Potato Board.

(2) 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 40 such other acts and things as bodies corporate may lawfully do and suffer.

4. (1) Until the appointed day the Board shall consist of seven members to be appointed by the Governor-General on the recommendation of the Minister, of whom—

Membership of Board.

- 5 (a) One member shall be an officer of the Public Service appointed to the Board in an advisory capacity, and shall hold office during the pleasure of the Governor-General;
- 10 (b) Three members shall be nominated by the New Zealand Grain, Seed, and Produce Merchants' Federation, Incorporated; and
- (c) Three members shall be nominated by the Federated Farmers of New Zealand, Incorporated.

15 (2) On the appointed day, the members appointed under paragraph (c) of subsection *one* of this section shall go out of office and an election shall be held, as hereinafter provided, for three members of the Board.

20 (3) From the appointed day the Board shall consist of seven members, of whom one shall be the person appointed pursuant to paragraph (a) of subsection *one* of this section, three shall be appointed as provided by paragraph (b) of subsection *one* of this section, and three shall be elected as hereinafter provided.

25 5. (1) Except as otherwise provided in this Act, the members of the Board shall hold office for a term of three years, but may from time to time be reappointed or re-elected.

Terms of office of members of Board.

30 (2) With respect to the first members of the Board appointed under paragraph (b) of subsection *one* of section *four* of this Act, the following provisions shall apply:—

35 (a) One of those members shall retire at the expiration of one year from the date of their appointment, another member shall retire at the expiration of two years from that date, and the third member shall retire at the expiration of three years from that date:

40 (b) The member to retire at any time shall be decided by agreement of the members concerned, or, failing agreement, shall be determined by lot.

(3) With respect to the first members elected to the Board the following provisions shall apply:—

(a) One of those members shall retire at the expiration of one year from the appointed day, another member shall retire at the expiration of two years from the appointed day, and the third member shall retire at the expiration of three years from the appointed day: 5

(b) The member to retire at any time shall be decided by agreement of the members concerned, or, failing agreement, shall be determined by lot. 10

Election of members.

6. The members elected to the Board shall be elected by growers in the manner prescribed by regulations made under this Act. 15

Chairman of Board.

7. The Chairman of the Board shall be elected by the Board from among its members at its first meeting, and thereafter at intervals of not less than one year.

Deputies of members.

8. (1) In any case in which the Minister is satisfied that any member of the Board is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office the Minister, after consultation with Federated Farmers of New Zealand, Incorporated, if the member was elected or was appointed under paragraph (c) of subsection *one* of section *four* of this Act, and with the New Zealand Grain, Seed, and Produce Merchants Federation, Incorporated, if the member was nominated by that body, may appoint a deputy to act for the member during his incapacity, and any such deputy shall, while he acts as such, be deemed for all purposes to be a member of the Board. 20 25 30

(2) No appointment of a deputy and no acts done by him as such, and no act done by the Board 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. 35

Extraordinary vacancies.

9. (1) Any member of the Board 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. 40

(2) If any member of the Board dies or resigns, or is removed from office, the vacancy shall be deemed to be an extraordinary vacancy.

5 (3) Except as provided by section *ten* of this Act, the Governor-General may appoint some person to fill an extraordinary vacancy. Every such appointment shall be made in the same manner as the appointment of the vacating member.

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

(5) The powers of the Board shall not be affected by any vacancy in the membership thereof.

15 **10.** (1) In the event of an extraordinary vacancy in the office of an elective member of the Board the vacancy shall be filled by election in the manner prescribed by regulations made under this Act:

Filling of extraordinary vacancy where member elected.

20 Provided that where any such vacancy occurs within six months before the expiry of the term of office of the member whose office has become vacant, the Board may by resolution determine—

(a) That the vacancy shall be filled by appointment by the Board of a person qualified to be elected as a member; or

25 (b) That the vacancy shall not be filled until the next election of members is held.

(2) Every person appointed by the Board pursuant to this section shall for all purposes be deemed to have been elected to fill the vacancy.

30 **11.** (1) The first meeting of the Board shall be held on a day to be appointed in that behalf by the Minister.

Meetings of Board.

35 (2) Subsequent meetings of the Board shall be held at such times and places as the Board from time to time determines.

(3) The Chairman of the Board, or any two members thereof, may at any time call a special meeting of the Board.

40 (4) At all meetings of the Board the quorum necessary for the transaction of business shall be four members entitled to vote.

(5) The Chairman shall preside at all meetings of the Board at which he is present.

(6) The person appointed pursuant to paragraph (a) of subsection *one* of section *four* of this Act may attend all meetings of the Board, but shall not be entitled to vote on any question arising at any such meeting and the Chairman shall have a deliberative vote (unless he is the person so appointed), but shall have no casting vote. 5

(7) In the absence of the Chairman from any meeting of the Board the members present shall appoint one of their number to be the chairman of that meeting.

(8) All questions arising at any meeting of the Board shall be decided by a majority of the valid votes recorded thereon. 10

(9) A resolution in writing signed, or assented to by letter or telegram, by all members of the Board entitled to vote shall be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted. 15

(10) Subject to the provisions of this Act and of any regulations thereunder, the Board may regulate its procedure in such manner as it thinks fit. 20

Advisory and
technical
subcommittees.

12. (1) The Board may from time to time appoint such advisory or technical subcommittees as it thinks fit to advise the Board on such matters concerning the potato growing industry as are referred to them by the Board. 25

(2) Each advisory or technical subcommittee may, in addition, furnish to the Board reports on any matter concerning the potato growing industry in respect of which the members of any such subcommittee have special knowledge or experience. 30

Remuneration
and travelling
expenses of
members of
Board.

13. (1) The Board shall pay to the Chairman and to the members of the Board such remuneration by way of salary, fees, or allowances as the Governor-General in Council from time to time approves, either generally or in any particular case. 35

(2) The Board shall pay to the Chairman and the members of the Board and to the members of any subcommittee appointed by the Board such travelling expenses and such allowances as may from time to time be prescribed by regulations made under this Act or as may be approved by the Minister of Finance in any case to which regulations do not apply. 40

14. (1) The principal functions of the Board shall be to ensure that an adequate supply of main crop potatoes shall be available for consumption in New Zealand and for that purpose to enter into contracts with
5 growers for the growing of main crop potatoes and to exercise and perform such functions, powers, and duties in relation to the marketing, distribution, and provision of potatoes as are conferred or imposed on it under this Act.
- 10 (2) The Board shall have all the powers and authority necessary, conducive, or incidental to the performance of its functions.
- 15 15. (1) The Board may from time to time fix by way of levy the charges (if any), not exceeding in any case a levy of thirteen shillings a ton, that shall be payable in accordance with this section by growers of main crop potatoes.
- 20 (2) Any levy imposed under this section shall be payable only in respect of potatoes grown in such district or districts as the Board from time to time determines.
- (3) The Board shall from time to time determine whether the levy shall be payable in respect of table potatoes or seed potatoes or both table and seed potatoes.
- 25 (4) Subject to the provisions of this section the levy shall be payable to the Board by all growers of main crop potatoes sold by the grower and of the class or classes in respect of which the Board has determined that a levy shall be payable.
- 30 (5) No levy shall be payable under this section in respect of any potatoes sold and delivered by a grower in a lot of not more than one sack containing potatoes of a total weight not exceeding one hundred and eighty pounds if the potatoes are sold to some person for his
35 own use and not for resale in any form.
- (6) No levy shall be payable under this section until there has been published in the *Gazette* a copy of a resolution of the Board—
- 40 (a) Fixing the amount of the levy;
(b) Determining the district or districts where potatoes shall be subject to a levy in accordance with this section;
(c) Determining whether the levy shall be payable
45 in respect of table potatoes, or seed potatoes, or both table and seed potatoes; and
- Functions of Board.
- Levy on potatoes sold by growers.

(d) Prescribing the standards of quality, size, and condition with which potatoes shall conform before they may be classed as table potatoes or seed potatoes as the case may be.

(7) Any levy payable under this section shall be paid and collected in such manner as may be prescribed by regulations under this Act. 5

(8) No grower shall sell any potatoes in respect of which a levy is payable under this section and no person shall purchase any such potatoes from the grower unless the levy has been paid by the grower: 10

Provided that where the levy is payable only in respect of table potatoes, no person shall be deemed to have committed a breach of this subsection if the sale in respect of which the breach is alleged is to a purchaser who intends to use or sell the potatoes as seed potatoes. 15

Application of
moneys received
by Board.

16. All moneys received by the Board, whether by way of levy or otherwise, shall be paid by the Board into a separate account at a bank to be approved by the Minister, and shall be applied by the Board as follows:— 20

(a) In payment of the expenses, commission, and other charges incurred by the Board or for which the Board may become liable in the exercise of its functions:

(b) In payment to growers who have entered into contracts with the Board of such amounts as may be necessary to fulfil the obligations of the Board under any such contracts: 25

(c) In payment of the salaries and wages of officers and servants of the Board: 30

(d) In payment of the remuneration, travelling expenses, and allowances payable to members of the Board or of any subcommittee:

(e) In payment into a reserve fund from time to time, as the Board in its discretion determines, of such amounts as the Board may consider necessary to enable it to carry out its operations under this Act: 35

(f) For such other purposes as may be prescribed.

Board not
to borrow
without consent
of Minister
of Finance.

17. (1) The Board shall not borrow any money, or mortgage or charge any of its property or rights, except with the precedent consent in writing of the Minister of Finance. 40

(2) For the purpose of enabling the Board to commence to exercise its functions without delay, the Minister of Finance may from time to time, upon such terms and conditions as he thinks fit, advance to the Board, out of moneys to be appropriated by Parliament for the purpose, any moneys required for the payment of any preliminary or general expenses (including salaries) payable by the Board before it has sufficient revenue for the payment thereof.

10 18. The Board may from time to time appoint agents to act on its behalf in connection with the entering into of contracts with growers. Agents of Board.

15 19. (1) The Board, or any of its authorized agents, may from time to time enter into a contract with any person growing potatoes in any district where a levy is payable under this Act, for the growing of main crop potatoes of specified classes on such area as may be specified in the contract. Board may contract with growers.

20 (2) Except with the approval of the Board, no grower who has entered into a contract under this section shall sell any seed potatoes or table potatoes to which the contract relates produced from the area specified in the contract except to the Board or to a wholesaler authorized in that behalf under section *twenty* of this Act: 25

Provided that where any such contract relates only to table potatoes the grower shall not be deemed to have committed a breach of this subsection if he sells any such potatoes to a purchaser who intends to use or sell the potatoes as seed potatoes. 30

(3) Every contract entered into under this section shall provide that all potatoes to which the contract relates shall, if the terms of the contract have been complied with by the grower, be purchased by the Board or by a wholesaler authorized as aforesaid at prices to be ascertained in accordance with the terms of the contract. 35

(4) Any contract entered into under this section may contain such provisions (not inconsistent with this Act or with regulations made thereunder) relating to the growing, harvesting, grading, delivery, distribution, storage, or price of the potatoes to which the contract relates as may be agreed upon between the contracting parties. 40

(5) Nothing in this Act shall be construed to affect the exercise by any person of any power to fix prices in accordance with the Marketing Act, 1936, or the Control of Prices Act, 1947.

1936, No. 5
1947, No. 51

Appointment of
authorized
wholesalers.

20. (1) The Board may from time to time appoint any person who makes application in that behalf, to be an authorized wholesaler who shall be authorized to purchase from growers and to sell potatoes in respect of which contracts with the Board have been made under this Act. 5
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(2) If any application of any person under this section is refused by the Board and the applicant disputes the decision of the Board, the dispute shall be referred to arbitration, and for that purpose this subsection shall be deemed to be a submission within the meaning of the Arbitration Act, 1908, and the reference shall be deemed to be to two arbitrators. 15

See Reprint
of Statutes,
Vol. I, p. 346

Contracts of
Board.

21. (1) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the common seal of the Board. 20

(2) Any contract which, if made between private persons, must be signed by the parties to be charged therewith shall, if made by the Board, be either under the common seal of the Board or signed by two members of the Board on behalf of or by direction of the Board. 25

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Board by any two members acting by direction of the Board, but no oral contract shall be made for any sum exceeding fifty pounds. 30

(4) Any instrument executed by an authorized agent on behalf of the Board shall bind the Board, and if executed as a deed shall have the same effect as if it were under the common seal of the Board.

(5) Notwithstanding anything to the contrary in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided by this section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board. 35
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22. Without limiting any of the powers conferred on the Board by this Act or otherwise howsoever, the Board shall have full authority from time to time to make and carry out such arrangements and give such directions as it thinks proper for any of the following purposes:—

General powers of Board.

(a) For the handling, transport, storage, and disposal of potatoes acquired by the Board or any authorized wholesaler:

(b) For the export of any such potatoes:

(c) For the insurance against loss of any potatoes acquired by the Board:

(d) For the treatment, for purposes of preservation or otherwise, of potatoes acquired by the Board, and for the marketing and disposition of potatoes treated as aforesaid:

(e) For furthering the sales of potatoes in New Zealand or elsewhere, whether by advertising, experimental shipments, or otherwise howsoever:

(f) Specifying the standards of quality, size, and condition with which potatoes shall conform before they may be classed, for the purposes of this Act, as table potatoes or seed potatoes as the case may be:

(g) Generally for all such matters as are necessary for the exercise of the functions and powers of the Board.

23. (1) Not later than the fifteenth day of November in each year the Board shall report to the Minister as to the total area in respect of which contracts have been entered into under this Act for the ensuing season.

Reports by Board to Minister.

(2) Not later than the thirtieth day of June in each year the Board shall report to the Minister as to the yield of table potatoes, whether the subject of any contract under this Act or not, expected from the current crop in districts where a levy is payable under this Act.

(3) If, after considering any report made to him under this section and after consultation with the Board, the Minister is of the opinion that the supplies of potatoes in New Zealand available for consumption are or may be insufficient, he may direct the Board to make

arrangements for the importation of potatoes and the Board, so far as it is able to do so, shall comply with any such direction.

Officers of the Board.

24. (1) The Board may appoint such officers as it deems necessary for the efficient carrying out of its functions under this Act. 5

(2) The Board may make payments to or subsidize the National Provident Fund or any fund or scheme established with the approval of the Governor-General in Council for the purpose of providing superannuation or retiring allowances for its officers and servants. 10

Audit of accounts.

See Reprint of Statutes, Vol. VII, p. 10

25. The accounts of the Board shall be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and public stores and the audit of local authorities accounts. 15

Annual report and accounts to be presented to Parliament.

26. (1) The Board shall, as soon as practicable after the thirtieth day of November in each year, furnish to the Minister a report of its proceedings and operations for the year ending on that date together with a copy of its accounts for that year. 20

(2) A copy of the report and of the accounts shall be laid before Parliament within twenty-eight days after they have been furnished to the Minister if Parliament is then in session and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session. 25

Exemption from taxation.

27. The Board shall be exempt from land tax and income tax and from the social security charge.

Members of Board not personally liable for its acts.

28. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board. 30

Offences.

29. (1) Every person commits an offence against this Act who without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations thereunder. 35

(2) Every person who commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit any offence against this Act, or 40

against any regulations made for the purposes of this Act, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

5 **30.** (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof. **Regulations.**

10 (2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- 15** (a) Prescribing the manner of payment and collection of levies imposed under this Act:
- 15** (b) Prescribing the procedure to be adopted in and the manner of holding elections to be conducted under this Act:
- 20** (c) Regulating the distribution of potatoes in respect of which a levy has been paid or is payable:
- (d) Prescribing offences against the regulations.