

Hon. Mr. Nash.

PRIMARY PRODUCTS MARKETING
AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Primary Products Marketing Act, 1936. Title.

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

No. 56—1.

Short Title.

1936, No. 5

Separate Divisions of Primary Products Marketing Department.

Allocation of functions of Department between separate Divisions.

Officers of Department.

1. This Act may be cited as the Primary Products Marketing Amendment Act, 1937, and shall be read together with and deemed part of the Primary Products Marketing Act, 1936 (hereinafter referred to as the principal Act).

2. The Primary Products Marketing Department established under the principal Act shall be divided into separate Divisions as follows:—

- (a) The Dairy-produce Export Division;
- (b) The Internal Marketing Division;
- (c) Such other Division or Divisions (if any) as may hereafter be constituted.

3. (1) In so far as the functions of the Department are concerned with dairy-produce exported or intended for export from New Zealand they shall be exercised by the Dairy-produce Export Division.

(2) Except as provided in the *last preceding* subsection, the functions of the Department shall, unless and until another Division of the Department is duly constituted, be exercised by the Internal Marketing Division.

(3) Notwithstanding anything in the foregoing provisions of this section, any of the functions of the Department may, by direction of the Minister, be exercised by any Division of the Department.

4. (1) There may from time to time be appointed a fit and proper person, to be called the Director of the Dairy-produce Export Division, who, under the direction of the Minister, shall be in charge of that Division.

(2) There may from time to time be appointed a fit and proper person, to be called the Director of the Internal Marketing Division, who, under the direction of the Minister, shall be in charge of the Internal Marketing Division.

(3) There may from time to time be appointed a fit and proper person to be the Director of any other Division of the Department that may hereafter be constituted.

(4) The person holding office as the Assistant Director of Marketing at the commencement of this Act shall be deemed to have been appointed as the Director of the Dairy-produce Export Division, and the person holding office as the Director of Internal Marketing at

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the commencement of this Act shall be deemed to have been appointed as the Director of the Internal Marketing Division.

5 (5) On the occurrence from any cause of a vacancy in the office of the Director of any Division of the Department (whether by reason of death, or resignation, or otherwise), and in case of the absence from duty of any Director (from whatever cause arising), the powers, duties, and functions of such Director may be exercised and performed by any person authorized in that behalf
10 by the Minister.

(6) The fact that any person exercises or performs any power, duty, or function of a Director with the concurrence of the Minister shall be conclusive evidence
15 of his authority so to do.

(7) For the purposes of this section the powers, duties, and functions of a Director shall be deemed to include such of the powers of the Minister as may be duly delegated to that Director.

20 5. (1) The Minister may from time to time, by writing under his hand, delegate to the Director of any Division or to any other person such of his powers under the principal Act as he thinks fit.

Delegation of powers by Minister.

(2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of
25 any power by the Minister in person.

(3) Any such delegation may be made subject to such conditions and restrictions (if any) as the Minister thinks fit, and may be made either generally or in relation
30 to any particular matter.

(4) Unless and until any such delegation is revoked it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office it shall continue to have
35 effect as if made by the person for the time being holding office as Minister and, in the event of the Director of any Division to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as
40 Director of that Division.

(5) The fact that any person, purporting to act under a power delegated by the Minister under this section, exercises any power of the Minister shall, in the absence of proof to the contrary, be sufficient
45 evidence of his authority so to do.

Consequential
repeal.

(6) Section seven of the principal Act is hereby amended by repealing subsections two to six thereof.

(7) The reference in subsection four of section eight of the principal Act to section seven of that Act shall hereafter be read as a reference to this section.

Department
may fix prices
and conditions
of sale of
certain
foodstuffs.

6. (1) This section applies with respect to dairy-produce, fruit, honey, and eggs, and shall also apply to such other foodstuffs (if any) as the Governor-General may by Order in Council from time to time declare to be subject to the provisions of this section.

(2) The Department may from time to time, in respect of any defined district or locality or for the whole of New Zealand, fix the wholesale or retail prices at which any foodstuffs to which this section applies may be bought or sold, or may fix margins within which any such foodstuffs may be bought or sold, and may also fix general conditions subject to which sales of such foodstuffs shall be made. Such margins may be fixed as maximum prices and minimum prices, or may be fixed by reference to the amounts or percentages by which selling-prices may exceed buying-prices.

(3) Notice of any prices, margins, or conditions of sale fixed by the Department in accordance with this section shall be given to persons directly affected thereby by public notice or in such other manner as the Department thinks fit.

(4) The provisions of section twenty-five of the principal Act (as to offences in respect of the sale of dairy-produce) shall, with the necessary modifications, apply in respect of the sale of any foodstuffs in respect of which prices or margins have been fixed in accordance with this section:

Provided that no person shall be convicted of any offence under this subsection in respect of any foodstuffs if he satisfies the Court that he did not know and had no reasonable opportunity of knowing, when the offence was committed, that prices or margins had been fixed in respect thereof or the prices or margins that had in fact been fixed.

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7. If, in order to secure the economic and orderly marketing in New Zealand of any foodstuffs to which the *last preceding* section applies, it is at any time in the opinion of the Governor-General in Council necessary

Department may be empowered to take, at fixed prices, any foodstuffs to which last preceding section applies.

5 so to do, he may, by Order in Council, make regulations--

(a) Authorizing the Department to take, at prices to be fixed by the same or any subsequent Order in Council, any such foodstuffs, and to export so much thereof as in the opinion of the Minister will not be required for consumption in New Zealand; or

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(b) Authorizing the Department to control the export of any such foodstuffs by any person or authority other than the Department.

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8. The Minister may from time to time, as he thinks fit, appoint an Advisory Committee or Advisory Committees to assist the Department in the conduct of any business carried on by it.

Minister may appoint Advisory Committees in aid of Department.

9. (1) For the purposes of the Internal Marketing Division of the Department there shall be established at the Reserve Bank of New Zealand an account, to be known as the Internal Marketing Account.

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Internal Marketing Account.

(2) Part X of the Public Revenues Act, 1926, shall apply with respect to the Internal Marketing Account in the same manner as it applies to the several accounts mentioned therein.

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See Reprint of Statutes, Vol. VII, p. 46

(3) The Internal Marketing Account shall be operated on only by cheque signed by or on behalf of the Director of the Internal Marketing Division and countersigned by the Audit Office. For the purposes of this section the Minister of Finance may from time to time authorize any officer of the Internal Marketing Division to sign cheques on behalf of the Director of that Division.

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(4) No limits imposed by any Act upon the borrowing-powers of the Government of New Zealand or of any person on behalf of that Government shall operate to limit the authority conferred on the Reserve Bank of New Zealand by paragraph (gg) of section thirteen of the Reserve Bank of New Zealand Act, 1933, as amended by section twelve of the Reserve Bank of New Zealand Amendment Act, 1936, and the said paragraph shall be

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1933, No. 11

1936, No. 1

construed as an authority for the Bank to grant and for the Government to receive accommodation by way of overdraft in aid of the Internal Marketing Account, and the said account may be overdrawn accordingly.

(5) This section shall be deemed to have come into force on the twentieth day of September, nineteen hundred and thirty-seven. 5

Subsidiary accounts.

10. For the purposes of the Internal Marketing Account there may be opened at the Reserve Bank or at any other bank, in New Zealand or elsewhere, such imprest or other subsidiary accounts as may from time to time be authorized in accordance with the Public Revenues Act, 1926. 10

Moneys payable into or out of Internal Marketing Account.

11. (1) There shall from time to time be paid into the Internal Marketing Account all moneys derived from the operations of the Internal Marketing Division of the Department, and any other moneys that may be lawfully payable to that Account. 15

(2) There shall from time to time, without further appropriation than this section, be paid out of the said account— 20

(a) All moneys payable by the Crown in respect of the price of any foodstuffs or other commodities acquired in the course of the operations of the Internal Marketing Division of the Department (including the cost of remitting such moneys to the persons entitled to receive the same); 25

(b) All charges payable by the Crown in respect of the freight, insurance, storage, or marketing of any such foodstuffs or other commodities (including any expenses incidental to any of the matters herein specified); 30

(c) Any interest payable to the Reserve Bank of New Zealand on any overdraft of the said account; and 35

(d) Any moneys payable out of the said account in accordance with the *next succeeding* section.

(3) There shall also from time to time be paid out of the said account, in accordance with the appropriation of Parliament, the salaries and allowances of officers of the Internal Marketing Division and all other expenditure incurred in the administration of that Division. 40

12. (1) There may from time to time, without further appropriation than this section, be paid out of the Dairy Industry Account or the Internal Marketing Account, as the case may be, such sums as the Minister
5 may approve for the purpose of equalizing, as far as practicable, the net returns received or payable in respect of dairy-produce or in respect of any other foodstuffs to which section *six* of this Act applies, in any case where—

Authorizing payments out of Dairy Industry Account or Internal Marketing Account for purpose of equalizing returns from dairy-produce or other commodities.

10 (a) Such dairy-produce or other foodstuffs have been acquired by the Department; or

(b) The Department has fixed prices or conditions governing the purchase and sale of any such dairy-produce or other foodstuffs by or to
15 persons other than the Department.

(2) Any sums payable in accordance with this section may be paid to such persons as, in the opinion of the Minister, are equitably entitled thereto.

(3) Payments in accordance with this section may be
20 made in respect of any dairy-produce or other foodstuffs that have been manufactured or produced or have been acquired by the Department at any time after the commencement of the principal Act.

13. (1) Notwithstanding anything in section twelve
25 of the principal Act or in section *eleven* or section *fifteen* of this Act, the Minister of Finance may from time to time authorize the making of any adjustments between the Dairy Industry Account and the Internal Marketing Account if in his opinion any moneys payable
30 into or out of either of the said accounts should more appropriately be paid into or out of the other of the said accounts.

Adjustments between Dairy Industry Account and Internal Marketing Account.

(2) The Minister of Finance may also from time to time authorize the transfer from any one to the other
35 of the said accounts of such amounts as he deems proper in respect of services rendered by one Division of the Department for the purposes of another Division, or in respect of any commodities acquired by one Division for marketing or other disposal by another Division.

14. (1) The Dairy Industry Account shall be operated
40 on only by cheque signed by or on behalf of the Director of the Dairy-produce Export Division and countersigned by the Audit Office. For the purposes of this section the Minister of Finance may from time to time authorize
45 any officer of the said Division to sign cheques on behalf of the Director.

Operations on Dairy Industry Account.

Repeal.	(2) Subsection three of section ten of the principal Act is hereby repealed.	
Payments out of Dairy Industry Account.	<p>15. (1) There shall from time to time, without further appropriation than this section, be paid out of the Dairy Industry Account—</p> <p>(a) All moneys payable by the Crown in respect of the price of any dairy-produce acquired in the course of the operations of the Dairy-produce Export Division of the Department (including the cost of remitting such moneys to the persons entitled to receive the same):</p> <p>(b) All charges payable by the Crown in respect of the freight, insurance, storage, or marketing of any such dairy-produce (including any expenses incidental to any of the matters herein specified);</p> <p>(c) Any interest payable to the Reserve Bank of New Zealand on any overdraft of the said account; and</p> <p>(d) Any moneys payable out of the said account in accordance with section <i>twelve</i> of this Act.</p> <p>(2) All payments heretofore made out of the Dairy Industry Account shall be deemed to have been as validly made as if the <i>last preceding</i> subsection had been in force when such payments were made and as if the Dairy-produce Export Division of the Department had then been duly constituted.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p>
Repeal.	(3) Section twelve of the principal Act is hereby consequentially amended by repealing subsection two thereof.	30
Dairy-produce acquired for export may be withheld from export.	<p>16. (1) Any dairy-produce that has become the property of the Crown in accordance with section eighteen of the principal Act may be withheld from export if the Minister determines that it is required for consumption in New Zealand.</p> <p>(2) Where by Order in Council under section twenty of the principal Act prices are fixed in respect of dairy-produce exported from New Zealand, such prices shall apply with respect to all dairy-produce that becomes the property of the Crown, in accordance with section eighteen of the principal Act, at any time within the period to which such Order in Council relates, and payment shall be made therefor in accordance with section nineteen of that Act notwithstanding that such</p>	<p>35</p> <p>40</p>

dairy-produce has not at the time of payment been exported, or notwithstanding that any such dairy-produce may have been withheld from export in accordance with the foregoing provisions of this section.

5 **17.** Section eighteen of the principal Act is hereby amended by omitting from the proviso thereto the words “ published in the *Gazette* ”, and substituting the words “ in writing given to the owner of such dairy-produce ”. Section 18 of principal Act amended.

10 **18.** (1) The prices fixed by any Order in Council under section twenty or section twenty-two of the principal Act may, in accordance with this section, be at any time in like manner varied. Prices fixed by Orders in Council under principal Act may be varied.

15 (2) Any variation increasing the price to be paid for any dairy-produce may be made to operate retrospectively in so far as it relates to prices to be paid by the Department, but shall not be retrospective with respect to prices to be paid by any other person.

20 (3) No variation reducing the price to be paid for any dairy-produce shall apply with respect to any dairy-produce in respect of which a higher price has been paid or in respect of which a right to receive or an obligation to pay a higher price has accrued before the making of the variation.

25 **19.** Section twenty-nine of the principal Act is hereby amended, as from the commencement of that Act, by inserting, after the words “ registered in the United Kingdom ” in subsection five thereof, the words “ or elsewhere ”. Section 29 of principal Act amended.

30 **20.** Without in any way limiting the power to make regulations conferred on the Governor-General in Council by section fifteen of the principal Act, it is hereby declared that regulations may be made under that section for the purpose of preventing damage to or the deterioration of any foodstuffs by reason of the Regulations.
35 improper packing or handling thereof in their course of transit from the producer to the consumer.

21. The principal Act is hereby consequentially amended in the manner indicated in the Schedule hereto. Consequential amendments of principal Act.

Schedule.

SCHEDULE.

CONSEQUENTIAL AMENDMENTS OF THE PRIMARY PRODUCTS MARKETING
ACT, 1936.

Number of Section affected.	Nature of Amendment.
Section 4 ..	By omitting the words " which, under the control of the Minister, shall be charged with the administration of this Act "
Section 5 ..	By repealing subsections (1), (2), and (3); and by omitting from subsection (4) the words " to be the Director or an Assistant Director ", and substituting the words " as a permanent officer of the Department "
Section 8 ..	By omitting from subsection (3) the words " to be the Director of Marketing, or to be an Assistant Director of Marketing ", and substituting the words " as an officer of the Department "
Section 9 ..	By omitting the words " the Director, acting with an Assistant Director or ", and substituting the words " the Director of any Division of the Department, acting "
Section 12..	By omitting from subsection (1) the words " sale of dairy-produce by ", and substituting the words " operations of the Dairy-produce Export Division of " By omitting from subsection (3) all words after the words " salaries and allowances of officers ", and substituting the words " of the Dairy-produce Export Division and all other expenditure incurred in the administration of that Division "