

PRIMARY PRODUCTS MARKETING BILL

EXPLANATORY NOTE

THE purpose of this Bill is to provide for the establishment of Marketing Authorities enabling producers of primary products to regulate the marketing of those products.

The products which are excluded from the definition of "primary products" are, at present, all the subject of separate Acts.

The Bill provides that Marketing Authorities may be established by regulations made by the Governor-General in Council on the recommendation of the Minister of Agriculture. The Minister is not to recommend the making of regulations establishing a Marketing Authority unless he is satisfied that a majority of the producers of the primary product concerned are in favour of the establishment of an Authority regulating the marketing of that product.

Any regulations made under the proposed Act must be laid before Parliament and will expire unless expressly validated by an Act passed during the session in which they are so laid before Parliament.

Clauses 5 to 16 provide for—

- (a) The incorporation of Marketing Authorities:
- (b) Contracts of Marketing Authorities:
- (c) Appointments of officers of Marketing Authorities:
- (d) The superannuation of employees of Marketing Authorities:
- (e) The remuneration of members of Marketing Authorities:
- (f) Borrowing by Marketing Authorities:
- (g) The annual presentation to Parliament of reports and accounts of Marketing Authorities:
- (h) The audit of accounts of Marketing Authorities:
- (i) The investment of funds of Marketing Authorities:
- (j) Penalties for offences against regulations:
- (k) The protection of persons acting under the authority of the Act or regulations thereunder.
- (l) The exemption of Marketing Authorities from taxation.

These provisions will apply to all Marketing Authorities, thus avoiding the necessity of repeating the provisions in each set of regulations made under the proposed Act.

Clause 17 provides that, in the exercise of its functions, a Marketing Authority is to comply with the general trade policy of the Government and any directions given by the Minister pursuant to the policy of the Government.

Hon. Mr. Holyoake

PRIMARY PRODUCTS MARKETING

ANALYSIS

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| Title. | 10. Borrowing by Marketing Authority. |
| 1. Short Title. | 11. Annual report of accounts to be presented to Parliament. |
| 2. Interpretation. | 12. Audit of accounts. |
| 3. Regulations. | 13. Investments. |
| 4. Regulations to expire unless confirmed by Act. | 14. Offences. |
| 5. Incorporation of Marketing Authorities. | 15. Protection of persons acting under authority of this Act or of regulations thereunder. |
| 6. Contracts of Marketing Authorities. | 16. Marketing Authority exempt from taxation. |
| 7. Appointment of officers. | 17. Marketing Authority to comply with trade policy and directions of Government. |
| 8. Superannuation of employecs. | |
| 9. Fees and travelling allowances. | |

A BILL INTITULED

AN ACT to provide for the establishment of Marketing Authorities for the purpose of regulating the marketing of primary products and to make provisions with respect to those Authorities.

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 Primary Products Marketing Act 1953.

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

“ Dairy produce ” includes—

- (a) Milk and cream; and
(b) Butter, cheese, and all other products of milk or cream, whether derived therefrom by manufacturing processes or otherwise:

“Marketing Authority” means any Board, Committee, Authority, or other body established as a Marketing Authority by regulations under this Act:

“Minister” means the Minister of Agriculture: 5

“Primary product” means any product of agriculture, horticulture, grazing, poultry farming, or bee keeping; but does not include dairy produce, wheat, potatoes, apples, pears, tobacco, wool, livestock, or meat. 10

Regulations.

3. (1) For the purpose of providing for the marketing of primary products, and generally for the purpose of enabling the producers of primary products to control the marketing of the products that they produce, the Governor-General, on the recommendation of the Minister, may from time to time, by Order in Council, make all such regulations as may be considered necessary. 15

(2) In particular, but without in any way limiting the generality of the authority conferred by subsection *one* hereof, regulations may be made under this section for all or any of the following purposes: 20

(a) Establishing Marketing Authorities and defining their powers and functions:

(b) Providing for the appointment of members of Marketing Authorities, whether pursuant to an election or otherwise: 25

(c) Providing for the elections of members of Marketing Authorities:

(d) Providing for such matters in relation to the membership and the management of the affairs of Marketing Authorities as may be considered necessary: 30

(e) Providing for the appointment of committees or subcommittees of Marketing Authorities and for the delegation of powers to any such committees or subcommittees: 35

(f) Providing for the acquisition of primary products by Marketing Authorities and for the marketing, whether in New Zealand or elsewhere, of primary products so acquired: 40

(g) Providing for all such matters relating to the prices to be paid and the method of payment for primary products acquired by Marketing Authorities as may be considered necessary: 45

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- 5 (h) Providing for the regulation and control by Marketing Authorities of the marketing and distribution of primary products, whether or not those products have been acquired by a Marketing Authority:
- (i) Providing for the appointment of agents by Marketing Authorities:
- (j) Prescribing conditions to be observed by persons engaged in the production of primary products:
- 10 (k) Providing for the licensing of persons engaged in the production, sale, storage, or distribution of primary products and for the conditions subject to which licences may be granted, refused, transferred, renewed, or revoked:
- 15 (l) Providing for the imposition, payment, and disposition of levies in respect of primary products:
- (m) Providing for the payment of fees in respect of functions exercised by Marketing Authorities:
- 20 (n) Providing for the receipt and disposition of any moneys or assets of Marketing Authorities:
- (o) Providing for the establishment of accounts by Marketing Authorities and for special funds or reserves within any such account:
- 25 (p) Prohibiting the sale of primary products except in accordance with the provisions of the regulations:
- (q) Obtaining any information or particulars that may be required for the purposes of Marketing Authorities:
- 30 (r) Prescribing offences against the regulations and the penalties for any such offences.
- (3) The Minister shall not recommend the making of any regulations under this Act establishing a
- 35 Marketing Authority unless he is satisfied, on such evidence as he considers adequate, that a majority of the persons engaged in the production of the primary product to which the proposed regulations relate are in favour of the establishment of a Marketing Authority
- 40 in respect of that product.

(4) At least one member of each Marketing Authority shall be appointed as Government representative, and any member so appointed shall, in addition to his other functions as a member of the Authority, represent the interests of consumers of the primary product concerned. 5

(5) Any regulations made under this Act may apply generally throughout New Zealand or within any specified district or districts or part or parts thereof.

(6) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session. 10

Regulations to
expire unless
confirmed by
Act.

4. All regulations laid before Parliament in any session pursuant to section *three* of this Act shall expire on the close of the last day of that session except so far as they are expressly validated or confirmed by an Act of Parliament passed during that session. 15

Incorporation
of Marketing
Authorities.

5. (1) Every Marketing Authority shall be a body corporate with perpetual succession and a common seal, and shall be capable of acquiring and holding real and personal property, and of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer. 20

(2) A Marketing Authority may, out of its funds, purchase, take on lease or hire, or otherwise acquire such land, buildings, plant, machinery, and equipment as in the opinion of the Authority are necessary for the performance of its functions. 25

(3) A Marketing Authority may, if it thinks fit, sell, transfer, lease, hire, or otherwise dispose of any of its real or personal property. 30

Contracts of
Marketing
Authorities.

6. (1) Any contract which, if made between private persons, must be by deed shall, if made by a Marketing Authority, be in writing under the common seal of the Authority. 35

(2) Any contract which, if made between private persons, must be signed by the parties to be charged therewith shall, if made by a Marketing Authority, be either under the common seal of the Authority or signed by two members of the Authority on behalf of or by direction of the Authority. 40

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

(4) A Marketing Authority may by writing under its common seal empower any person, either generally or in respect of any specified matters, as its attorney to execute instruments on its behalf in any place in or beyond New Zealand. Any instrument executed by such an attorney on behalf of a Marketing Authority shall bind the Authority, and if executed as a deed shall have the same effect as if it were under the common seal of the Authority.

(5) Notwithstanding anything to the contrary in the foregoing provisions of this section, no contract made by or on behalf of a Marketing Authority shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Authority or to give effect to a resolution of the Authority.

7. (1) A Marketing Authority may appoint such officers as it deems necessary for the efficient carrying out of its functions and duties.

Appointment of officers.

(2) Any person in the service of the Crown may be appointed to be an officer of a Marketing Authority, but no person shall be entitled to hold office concurrently as an officer of a Marketing Authority and as a servant of the Crown except—

(a) In the case of a person subject to the Public Service Act 1912, with the consent of the Public Service Commission; and

See Reprint of Statutes, Vol. VII, p. 522

(b) In any other case, with the consent of the Minister of the Crown to whose control he is subject.

8. A Marketing Authority may out of its funds subsidize the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and servants.

Superannuation of employees.

- Fees and travelling allowances. 1951, No. 79
9. There shall be paid to the members of a Marketing Authority and of any committee or subcommittee of a Marketing Authority remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such Authority were a statutory Board within the meaning of that Act. 5
- Borrowing by Marketing Authority.
10. (1) The Minister of Finance may from time to time, on behalf of Her Majesty the Queen,— 10
- (a) Advance moneys to a Marketing Authority; and
- (b) Give in respect of amounts borrowed by a Marketing Authority any guarantee, indemnity, or security, upon or subject to such terms and conditions as the Minister of Finance 15 thinks fit.
- (2) All moneys required to be paid by the Minister of Finance under this section shall, without further appropriation than this section, be paid either out of the Consolidated Fund or out of the Marketing Account 20 established under the Marketing Act 1936 as the Minister of Finance directs.
- 1936, No. 5
- (3) A Marketing Authority shall not borrow any moneys or mortgage or charge any of its property without the prior consent in writing of the Minister of Finance. 25
- Annual report and accounts to be presented to Parliament.
11. (1) Every Marketing Authority shall, in each year, as soon as practicable after the date of the end of its financial year, furnish to the Minister a report of its proceedings and operations for the year ended 30 on that date, together with a copy of its accounts for that year.
- (2) The date of the end of the financial year of each Marketing Authority shall be prescribed by the regulations establishing that Authority. 35
- (3) A copy of the report and of the accounts shall be laid before Parliament within twenty-eight days after the same 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 40 the commencement of the next ensuing session.
- Audit of accounts. See Reprint of Statutes, Vol. VII, p. 10
12. The accounts of a Marketing Authority 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 45 public stores and the audit of local authorities' accounts.

13. Any moneys of a Marketing Authority which are available for investment may be invested in the manner following:

Investments.

- (a) In New Zealand Government securities; or
- 5 (b) On deposit in the Post Office Savings Bank or in any other bank authorized in that behalf by the Minister of Finance; or
- (c) In any other securities that may from time to time be authorized by the Minister of Finance.

10 14. (1) 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 any regulations made under this Act for which no specific penalty is

15 prescribed in the regulations shall be liable on summary conviction to a fine not exceeding two hundred pounds, in the case of an individual, and, in the case of a company or other corporation, to a fine not exceeding one thousand pounds.

Offences.

20 (2) No penalty in excess of that provided in subsection *one* of this section shall be prescribed in any regulations under this Act.

25 15. Except as otherwise expressly provided in regulations under this Act, no action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person against the Crown, or any officer or person acting in the execution or intended execution of this Act or any regulations thereunder for or in respect of any damage, loss, or injury sustained or alleged

30 to have been sustained by reason of anything done or purporting to be done under the authority of this Act or of any regulations thereunder.

Protection of persons acting under authority of this Act or of regulations thereunder.

16. A Marketing Authority shall be exempt from land tax and income tax, and from the social security charge

Marketing Authority exempt from taxation.

35 17. In the exercise of its functions and powers, a Marketing Authority shall comply with the general trade policy of the Government of New Zealand, and shall comply with any general or special directions given by the Minister to the Marketing Authority pursuant

40 to the policy of the Government in relation thereto.

Marketing Authority to comply with trade policy and directions of Government.