

Serial Number **33/1936.****THE DAIRY FACTORY SUPPLY REGULATIONS, 1936.**

Enacting authority: His Excellency the Governor-General in Council.  
Act pursuant to which the regulations were made: The Agriculture  
(Emergency Powers) Act, 1934.

Date on which the regulations were made: 23rd day of September,  
1936.

Date of notification in *Gazette*: 24th day of September, 1936.

PURSUANT to the Agriculture (Emergency Powers) Act, 1934, and for the purpose of giving effect to certain recommendations of the Commission of Inquiry referred to in the Preamble to that Act, and generally for the purpose of securing the effective conduct of the dairy industry, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

**REGULATIONS.**

1. (1) These regulations may be cited as the Dairy Factory Supply Regulations, 1936.

(2) These regulations shall come into force on the day following notification in the *Gazette* of the making hereof.

(3) In these regulations, unless inconsistent with the context,—

“ Commission ” means the Executive Commission of Agriculture established under the Agriculture (Emergency Powers) Act, 1934 :

“ Dairy regulations ” means the Dairy-produce General Regulations, 1933 :\*

“ Director ” means the Director of the Dairy Division of the Department of Agriculture :

“ License ” means a license under the Dairy Factories (Licensing) Regulations, 1936, or under the dairy regulations :

“ Owner ” means the owner ; and includes all and any one of persons entitled jointly or in common ; and includes the owner's agent or manager ; and, in the case of a company, includes the manager, secretary, or other principal officer thereof :

“ Registered ” means registered under the dairy regulations.

Terms defined by the dairy regulations shall have the respective meanings assigned to them by those regulations.

\* *Gazette*, 18th May, 1933, Vol. II, page 1341.

Amendments—Amendment No. 1: *Gazette*, 27th July, 1933, Vol. II, page 1941.

Amendment No. 2: *Gazette*, 22nd February, 1934, Vol. I, page 430.

Amendment No. 3: *Gazette*, 12th September, 1933, Vol. III, page 2573.

(4) Where by these regulations any liability is imposed upon an owner, every person being an owner as hereinbefore defined shall be liable jointly and also severally, and notice given to any owner of a dairy shall be good notice on all of them.

(5) The Dairy Suppliers Regulations, 1936\*, are hereby revoked.

2. If the Commission is satisfied that any manufacturing dairy or dairies registered as a creamery or creameries and established in or near any locality is or are adequate and suitable for the manufacture into creamery butter of the cream produced in that locality, and that such cream can be conveniently collected and delivered to such creamery or creameries for the purpose of being manufactured into creamery butter therein, regard being had to the distances covered, the class of roads traversed, the time occupied in transit, the frequency and cost of collection, and such other matters as the Commission deems to be relevant, the Commission may give notice in writing to the Director that on and after a date to be specified in such notice it requires that all cream produced in such locality and intended to be manufactured into creamery butter shall be weighed, graded, and tested at the creamery in which it is to be so manufactured into creamery butter and not elsewhere.

3. Upon receipt of any notice given pursuant to clause 2 hereof the Director shall cancel as from the date specified in such notice every certificate of registration and license then in force in respect of any cream-receiving depot situated in the locality mentioned in such notice, and shall forthwith give notice in writing to the holder of every such certificate of registration and license of such cancellation.

4. On and after the date on which the cancellation of the certificate of registration or license in respect of any cream-receiving depot becomes effective it shall not be lawful for any person to receive or accept thereat any cream intended to be manufactured into creamery butter.

5. The Commission shall have power—

- (a) To define areas from which all cream produced in supplying dairies therein may be collected and received by owners of manufacturing dairies registered as creameries for the purpose of being manufactured into creamery butter.
- (b) To define the routes along which cream produced in supplying dairies may be collected by or for delivery to owners of such manufacturing dairies for the purpose of being manufactured into creamery butter.
- (c) To assign to the owner of any such manufacturing dairy any area or routes defined as aforesaid from or along which cream produced in supplying dairies in such area or along or adjacent to any such route may be collected or received by such owner for the purpose of being manufactured into creamery butter in his dairy.
- (d) To assign any area or route defined as aforesaid or any portion thereof respectively to the owners of two or more manufacturing dairies registered as creameries subject to such conditions as the Commission may consider reasonable.

\* *Gazette*, 5th March, 1936, Vol. I, page 422.

- (e) To fix a date upon which any such definition and assignment shall take effect, and to give notice thereof before the date aforesaid to the owners of all manufacturing dairies thereby affected.

**6.** On and after the date on which the definition and assignment of any area or route or portion thereof respectively pursuant to the last preceding clause hereof takes effect, it shall not be lawful for the owner of any other manufacturing dairy registered as a creamery to whom notice of such definition and assignment has been given to collect or receive any cream produced in any supplying dairy in such area or along or adjacent to such route or portion thereof respectively except with the express consent in writing of the Commission and subject to such conditions as the Commission may impose.

**7.** The Commission shall have power—

- (a) To define areas from which all whole milk produced in supplying dairies therein may be delivered to and accepted by owners of manufacturing dairies at which whole milk is delivered for the purpose of being subjected to any process of manufacture other than treatment for sale for human consumption as liquid milk or cream.
- (b) To assign to the owner of any such manufacturing dairy any area defined as aforesaid from which all whole milk produced in supplying dairies in such area may be delivered to and accepted by such owner for the purpose of being so manufactured or processed.
- (c) To assign any area defined as aforesaid or any portion thereof to the owners of two or more of such manufacturing dairies subject to such conditions as the Commission may consider reasonable.
- (d) To fix a date upon which any such definition and assignment shall take effect, and to give notice thereof before the date aforesaid to the owners of all manufacturing dairies thereby affected.

**8.** On and after the date on which the definition and assignment of any area or portion thereof pursuant to the last preceding clause hereof takes effect, it shall not be lawful for the owner of any other manufacturing dairy to whom notice of such definition and assignment has been given to collect or receive for the purpose of being manufactured or processed any whole milk produced in any supplying dairy in such area except with the express consent in writing of the Commission and subject to such conditions as the Commission may impose.

**9.** The Director shall not hereafter issue any certificate of registration or license to any person in respect of any premises to be used as a manufacturing dairy or as a dairy factory, as the case may be, without the consent in writing of the Commission.

**10.** When by reason of the exercise of the powers of the Commission to define areas and routes as provided in clauses 5 and 7 hereof, a co-operative dairy company registered under Part III of the Dairy Industry Act, 1908, is not permitted to continue to receive any cream or whole milk from any person being a supplier who is a shareholder of such company, the company shall, unless the Commission otherwise

directs, on being requested by such person so to do, forthwith resume all shares held by him to the number requisite to qualify for the milk or cream supplied by him to the company during the last complete season of such supply, and shall pay him the amount of capital paid up in respect of such shares to the number aforesaid.

**11.** In any case where as a result of any determination of the Commission it is necessary that all milk or cream from any supplying dairy shall be delivered to or collected by the owner of a manufacturing dairy other than the owner of the manufacturing dairy to or by whom such milk or cream has theretofore been delivered or collected, and where any moneys have been advanced by the owner of the last-mentioned manufacturing dairy to the owner or occupier of such supplying dairy on terms that the moneys so advanced with interest thereon shall be repaid by way of deductions to be made from moneys payable by the owner of such last-mentioned manufacturing dairy for milk or cream supplied by the owner or occupier of such supplying dairy, then the owner of the first-mentioned manufacturing dairy shall, if such owner does not contract with the owner of such last-mentioned manufacturing dairy for an assignment to him of the right to receive payment of such moneys and interest thereon, make such deductions as may be agreed upon between the owner or occupier of the supplying dairy and the owner of the first-mentioned manufacturing dairy and the owner of the last-mentioned manufacturing dairy from moneys payable from time to time by such owner for milk or cream supplied to him by such owner or occupier of such supplying dairy, and shall pay the amount of all deductions so made to the owner of the last-mentioned manufacturing dairy. If any dispute or difference shall arise as to the rate or amount of the deductions so to be made the matter shall be settled by arbitration in the manner prescribed by the Arbitration Act, 1908.

**12.** The Commission, as a condition of exercising any of the powers conferred on it by these regulations, may in any case in which the Commission considers it proper so to do fix and award such sum by way of compensation as it thinks fit or as may be agreed upon to the owner of any manufacturing dairy that the Commission considers will be prejudicially affected by the exercise by it of such powers, and may specify the owner or owners of any manufacturing dairy or dairies that the Commission considers will be benefited thereby by whom the amount so awarded shall be paid and the portion thereof to be paid by each such owner if there are more than one. The Commission may make such stipulations and conditions as to the time, method, and terms of payment as it may think reasonable. The amount of such compensation shall be recoverable as a debt by the owner entitled thereto from the owner or owners liable therefor.

**13.** Nothing in these regulations shall be deemed to affect the right of any person being the occupier of a supplying dairy to supply at his option either whole milk or cream to the owner of any manufacturing dairy, provided that in the exercise of such option no transfer by the said occupier of supplies of milk or cream produced in his dairy shall be made except in conformity with the provisions of any Act or regulations governing the transfer of such supplies.

14. Where at any time after the coming into force of these regulations any person, being the occupier of a supplying dairy has supplied milk or cream produced in his dairy to the owner or manager of any manufacturing dairy registered as a creamery, cheese-factory, or skimming-station, the owner of such manufacturing dairy—

- (a) Ceases to purchase milk or cream produced in supplying dairies by reason of having disposed of the business of such manufacturing dairy to the owner of any other manufacturing dairy registered as a creamery, cheese-factory, or skimming-station, or to the owners of two or more such dairies ; or
- (b) Refuses to continue to purchase milk or cream produced by the said occupier in his dairy—

the following provisions shall, notwithstanding anything to the contrary contained in paragraph (b) of the proviso to clause 55 of the dairy regulations, apply, that is to say,—

- (i) If the business aforesaid is acquired by the owner of one such manufacturing dairy the said occupier shall not, at any time after receipt of a notice in writing signed by such owner and before the 1st day of July next following the expiration of three years from the date of such acquisition, supply any milk or cream produced in the said supplying dairy during the period aforesaid to the owner or manager of any manufacturing dairy registered as a creamery, cheese-factory, or skimming-station other than the manufacturing dairy acquiring the business aforesaid :
- (ii) If the business aforesaid is acquired by the owners of two or more such manufacturing dairies the said occupier shall not, at any time after receipt of a notice in writing signed by such owners and before the 1st day of July next following the expiration of three years from the date of such acquisition, supply any milk or cream produced in the said supplying dairy during the period aforesaid to the owner or manager of any manufacturing dairy registered as a creamery, cheese-factory, or skimming-station other than the manufacturing dairy specified in that behalf in such notice.
- (iii) If in refusing to continue to purchase milk or cream produced by the said occupier in his dairy the owner of such manufacturing dairy is acting in pursuance of any order or determination of the Commission made under these regulations, or in pursuance of an agreement in writing in that behalf made with the owner of another manufacturing dairy registered as a creamery, cheese-factory, or skimming-station, the said occupier shall not at any time after the receipt of a notice in writing signed by the Commission or (as the case may require) by one or other of such owners (being the parties to any such agreement), and before the 1st day of July next following the expiration of three years from the date on which such order, determination, or agreement is expressed to take effect, supply any milk or cream produced in the said supplying dairy during the period aforesaid to

the owner or manager of any manufacturing dairy registered as a creamery, cheese-factory, or skimming-station other than the manufacturing dairy specified in that behalf in such notice.

- (iv) No owner or manager of any manufacturing dairy registered as a creamery, cheese-factory, or skimming-station other than the owner or manager of the manufacturing dairy to whom the said occupier is entitled under subparagraphs (i), (ii), or (iii) hereof to supply milk or cream produced in the said supplying dairy shall during the period aforesaid collect, receive, or purchase any milk or cream produced by the said occupier in the said supplying dairy.

**15.** The Commission shall have power to give all such orders and instructions as may in its opinion be necessary in respect of any matters incidental to the due exercise of the powers conferred on it by these regulations.

**16.** The Commission shall have power from time to time, of its own motion or on application made to it, to revoke, modify, amend, or vary any order, determination, instruction, consent, direction, or notice made or given by it in pursuance of these regulations.

**17.** The Commission in any inquiry that it may undertake in pursuance of these regulations may, if it thinks fit, associate with it in an advisory capacity one or more members of the New Zealand Dairy Board.

**18.** Any order, determination, instruction, consent, direction, or notice that may be required to be made or given by the Commission pursuant to these regulations shall be sufficient if signed by the Chairman, Deputy-Chairman, or any other member of the Commission purporting to act for the Commission.

**19.** Any notice to be given under these regulations may be sent by registered post addressed to the person to be served at his last-known place of business or residence, or, in the case of an incorporated body, addressed to such body at its registered office, and any notice so given shall be deemed to have been given at the time when it would be delivered at its destination in the ordinary course of registered post.

**20.** Every person who—

- (a) Fails to observe or perform any duty directly or by implication placed upon him by these regulations; or
- (b) Does anything contrary to the provisions thereof; or, in particular
- (c) Not being the owner of the manufacturing dairy to whom any area or route or portion thereof respectively is assigned pursuant to these regulations, collects or receives any milk or cream in such area or along or adjacent to such route or portion thereof respectively—

commits a breach of these regulations and shall be liable for every such act to a penalty of £5.

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Issued under the authority of the Regulations Act, 1936.

These regulations are administered by the Executive Commission of Agriculture.