

## Serial Number 1938/160.




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**THE EXPORT LICENSES REGULATIONS 1938.**

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 5th day of  
December, 1938.

Present :

THE RIGHT HON. M. J. SAVAGE PRESIDING IN COUNCIL.

IN pursuance and exercise of the powers conferred on him by the Customs Act, 1913, and by section 10 of the Reserve Bank of New Zealand Amendment Act, 1936, and of all other powers enabling him in that behalf, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby make the regulations hereinafter set forth.

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REGULATIONS.

1. These regulations may be cited as the Export Licenses Regulations 1938, and shall come into force on the 7th day of December, 1938.

2. In these regulations—

“Goods” includes all goods that are within the meaning of the expression “New Zealand products” as used in section 10 of the Reserve Bank of New Zealand Amendment Act, 1936 (whether raw or manufactured), and also includes animals, and any other movable personal property which the Minister by notice in the *Gazette* declares to be goods for the purposes of these regulations :

“Licensee” means a person to whom a license has been granted under these regulations, and includes the agent of a licensee :

“Minister” means the Minister of Customs :

“Reserve Bank” means the Reserve Bank of New Zealand established under the Reserve Bank of New Zealand Act, 1933 :

“Trading bank” means a bank carrying on the business of banking in New Zealand, but does not include the Reserve Bank.

## PROHIBITING EXPORTATION OF GOODS WITHOUT LICENSE.

3. (1) Except as provided in clause 15 hereof, no goods shall hereafter be exported from New Zealand except in accordance with the terms of a license issued under these regulations :

Provided that nothing herein shall apply with respect to any goods that are already laden upon the exporting ship before the date of the commencement of these regulations.

(2) These regulations shall apply with respect to the export of any goods, notwithstanding that a license or other authority for the export of such goods may be in force under any Act or under any regulations other than these regulations.

(3) The issue of a license under these regulations with respect to any goods shall not absolve any person from the obligation to comply with the requirements of any Act or of any other regulations with respect to the export of such goods.

## KINDS OF LICENSES.

4. (1) A license under these regulations may be—

- (a) A particular license ; or
- (b) A general license ; or
- (c) A purchaser's license.

(2) A particular license shall be a license to export the goods specified therein in a ship specified therein.

(3) A general license shall be a license to export goods from a specified port or from specified ports, during a specified period. Any such license shall, according to its tenor, apply with respect to goods of all kinds, or be limited to the specified kind or specified kinds of goods mentioned therein.

(4) A purchaser's license shall be a license to export from New Zealand any goods that have been purchased in New Zealand in the circumstances or under the conditions referred to in clause 12 of these regulations.

5. (1) Application for a particular license in respect of any goods may be made to the Collector of Customs at the port at which such goods are proposed to be placed on board an exporting ship, and a particular license in respect of those goods may be issued by that Collector.

(2) Application for a particular license shall be in the form No. 1 in the Schedule hereto, and a particular license in respect of the goods referred to in the application may be granted in the form appearing at the foot of the said form No. 1.

6. (1) Application for a general license may be made to the Comptroller of Customs at Wellington, and a general license may be issued by the Comptroller.

(2) Application for a general license shall be in the form No. 2 in the Schedule hereto, and a general license may be granted in the form appearing at the foot of the said form No. 2.

(3) A general license may be at any time revoked by the Comptroller. Notice in writing of the revocation of a general license, and of the date when the revocation has become or becomes effective, shall be forthwith given by the Comptroller to the licensee.

7. (1) Application for a purchaser's license in respect of any goods may be made to the Collector of Customs at the port at which such goods are proposed to be placed on board an exporting ship, and a purchaser's license in respect of those goods may be issued by that Collector.

(2) Application for a purchaser's license shall be in the form No. 3 in the Schedule hereto, and a purchaser's license in respect of the goods referred to in the application may be granted in the form appearing at the foot of the said form No. 3.

8. (1) Every application for a license under these regulations shall be made by the applicant in quadruplicate.

(2) The application for a license and the license (if any) granted in terms of the application shall together form one document.

#### CONDITIONS OF PARTICULAR LICENSES AND GENERAL LICENSES.

9. Subject to the provisions of these regulations, every particular license issued thereunder shall be issued subject to the following special conditions, namely :—

(a) Forthwith on obtaining any shipping documents or drafts relative to the goods to which the license relates, the licensee shall deliver the same to the appropriate office of the trading bank named in his application (hereinafter in this clause referred to as the local bank).

(b) In the case of goods exported for sale, the licensee shall pay or cause to be paid the net proceeds of the sale of those goods forthwith after the receipt thereof by the licensee or by any person on his behalf, either to a branch or agent of the local bank in London or to a branch or agent of the local bank in the place where the goods are sold, and shall at the same time deliver or cause to be delivered to that branch or agent a statement of particulars as to the sale of the goods and as to the proceeds of the sale.

10. Subject to the provisions of these regulations, every general license issued thereunder shall be issued subject to the following special conditions, namely :—

(a) Forthwith on obtaining any shipping documents or drafts relative to any goods to which the license relates, the licensee shall deliver the same to the appropriate office of the trading bank named in his application (hereinafter in this clause referred to as the local bank) :

(b) Within six days after a certificate of clearance has been granted to the ship in which any such goods have been exported the licensee shall deliver to the Collector of Customs at the port of shipment a statement (in such form as the Collector may require) in respect of the goods shipped by the licensee in such ship in terms of his license, showing particulars as to the kind or kinds of goods exported, the number of packages with descriptive marks, the weight or quantity of the goods, their estimated value at the time and place of shipment, and such other particulars (if any) as the Collector may require. The said statement shall also disclose whether or not the goods have been exported for sale, and, in the case of goods that are not intended for sale, shall disclose the purpose for which they have been exported :

- (c) In the case of goods exported for sale the licensee shall pay, or cause to be paid, the net proceeds of the sale of those goods, forthwith after the receipt thereof by the licensee or by any person on his behalf, either to a branch or agent of the local bank in London, or to a branch or agent of the local bank in the place where the goods are sold, and shall at the same time deliver or cause to be delivered to that branch or agent a statement of particulars as to the sale of the goods and as to the proceeds of the sale.

APPLICATION OF PROCEEDS OF SALE OF GOODS EXPORTED UNDER PARTICULAR LICENSE OR GENERAL LICENSE.

11. (1) The following provisions shall apply with respect to the net proceeds derived from the sale of goods exported from New Zealand under the authority of a particular license or a general license.

(2) On receipt by an overseas branch or agent of the local bank of the proceeds of the sale of the goods (in accordance with the special conditions attached to the license by the foregoing provisions of these regulations), the local bank shall forthwith cause the net proceeds of the sale to be paid by its overseas branch or agent to the Reserve Bank or to the authorized agent of the Reserve Bank, and shall as soon as practicable notify the Reserve Bank in Wellington of the receipt and disposal of those moneys by its overseas branch or agent, with particulars of the sale :

Provided that the Reserve Bank, in its discretion and subject to such conditions (if any) as it thinks fit to impose, may in any case permit the local bank to dispose of the whole or any part of the net proceeds of sale otherwise than in accordance with the requirements of this subclause.

(3) The moneys paid to the Reserve Bank or its agent pursuant to this clause are hereinafter in this clause referred to as "foreign credit."

(4) On payment of any foreign credit to the Reserve Bank or its agent in accordance with this clause, the Reserve Bank shall forthwith pay to the local bank an amount equal to the value of the foreign credit, converted into New Zealand currency at a rate not less than the then current rate of exchange. If any question arises as to the current rate of exchange, in relation to this subclause, it shall be determined by the Reserve Bank.

(5) The local bank shall (subject to any agreed or customary charges and to any contractual rights and liabilities as between the bank and the licensee) hold the amount received by it from the Reserve Bank as aforesaid to the credit and subject to the directions of the licensee.

(6) For the purposes of this clause the licensee shall be deemed to have irrevocably appointed the local bank as his agent to receive and dispose of the proceeds of the sale of the goods to which his license relates, and shall be deemed to have authorized and directed the local bank, acting as his agent, to dispose of the net proceeds of the sale of those goods in the manner prescribed by this clause.

## SPECIAL PROVISIONS AS TO PURCHASERS' LICENSES.

12. (1) This clause applies in every case where, in order to provide for the purchase in New Zealand of goods intended for export from New Zealand, credit or currency has been made available in New Zealand in exchange for any overseas credit or currency. Such overseas credit or currency is hereinafter in this clause referred to as "foreign credit."

(2) Where any bank in New Zealand or any other person has obtained any foreign credit in circumstances to which this clause applies, that bank or person shall from time to time, as credit or currency is made available and is used in New Zealand in the purchase of goods, pay to the Reserve Bank or its agent an amount of such foreign credit, equal in value, at the then current rate of exchange, to the New Zealand credit or currency made available and used in the purchase of goods:

Provided that the Reserve Bank, in its discretion and subject to such conditions (if any) as it thinks fit to impose, may in any case permit any bank or other person as aforesaid to dispose of the whole or any part of the foreign credit otherwise than in accordance with the requirements of this subclause.

(3) On payment of any foreign credit to the Reserve Bank or its agent in accordance with the last preceding subclause, the Reserve Bank shall forthwith pay to or to the order of the local bank, or such other person as aforesaid, an amount equal to the value of the foreign credit, converted into New Zealand currency at a rate not less than the then current rate of exchange.

(4) A purchaser's license shall not be granted in any case unless the Collector of Customs is satisfied that foreign credit has been paid to the Reserve Bank or its agent in accordance with the foregoing provisions of this clause or that arrangements, satisfactory to the Reserve Bank, have been made for payment of such foreign credit to the Reserve Bank or its agent as and when the Reserve Bank may require, or that the Reserve Bank has authorized the foreign credit to be otherwise disposed of in accordance with the proviso to subclause (2) hereof.

(5) If any question arises as to the current rate of exchange, in relation to this clause, it shall be determined by the Reserve Bank.

## SECURITY BY LICENSEES.

13. (1) Before any license is issued under these regulations the applicant for the license shall, if required so to do by the licensing officer, give security for compliance with the conditions of the license and the requirements of these regulations.

(2) Unless in any case some other security is accepted as sufficient by the licensing officer, the security hereinbefore referred to shall be a bond in the form No. 4 in the Schedule hereto, executed in favour of His Majesty the King by the applicant and by one or more sureties to be approved by the licensing officer, conditioned for the compliance by the licensee and all other persons with the conditions of the license and the requirements of these regulations.

(3) Any bond or other security given in respect of a particular license or a purchaser's license shall, unless the licensing officer otherwise determines, be for a sum equal to twice the estimated value of the goods to which the license relates, at the time and place of export. In the case of a general license the bond or other security shall be for such sum as the licensing officer considers adequate.

(4) In this clause the expression "licensing officer" means the Comptroller of Customs or a Collector of Customs, as the case may be.

#### OFFENCES AND PENALTIES.

14. (1) Every person commits an offence against these regulations who, in any application for a license under these regulations, makes any statement which to his knowledge is false or misleading in any material particular, or who otherwise misleads or attempts to mislead the Comptroller or any Collector of Customs, or any other person concerned in the administration of these regulations.

(2) Every person, being the holder of a license under these regulations, commits an offence against these regulations who commits a breach of any of the general or special conditions of his license or who fails to comply with any such conditions.

(3) Every other person commits an offence against these regulations who aids or abets, or conspires with any licensee to commit, a breach of the general or special conditions of his license or to fail to comply with any of those conditions.

(4) Every person who commits an offence against these regulations in relation to any New Zealand products (within the meaning of section 10 of the Reserve Bank of New Zealand Amendment Act, 1936) shall be liable to a fine of £1,000, and, in the case of a continuing offence, shall be liable to a fine of £500 for every day on which the offence is committed or continued.

(5) Without limiting the provisions of the last preceding subclause, the provisions of the Customs Act, 1913, shall apply in all respects as if the prohibition by these regulations of the export of goods were lawfully and effectively made by Order in Council issued under the authority of section 47 of that Act.

#### EXCEPTIONS.

15. (1) Nothing in the foregoing provisions of these regulations shall apply with respect to—

(a) Any goods exported or proposed to be exported through the Post Office, unless in any case the Minister determines that the export of any such goods through the Post Office shall be subject to these regulations :

(b) Any goods exported as ships' stores :

(c) Any other goods in respect of which the Minister by direction in writing determines that these regulations shall not apply.

(2) Without limiting the general authority conferred on the Minister by paragraph (c) of the last preceding subclause, any direction given for the purposes of that paragraph may relate to—

(a) Any goods intended solely for use or consumption in any specified place or in any specified places :

(b) Any goods of a specified kind or of specified kinds :

(c) Any goods to be exported in a specified manner or at or within a specified time.

(3) Any direction given by the Minister for the purposes of this clause may be at any time varied or revoked in like manner.

#### GENERAL PROVISIONS.

16. From every decision of the Comptroller of Customs or a Collector of Customs under these regulations there shall be a right of appeal to the Minister, whose decision shall be final.

#### SCHEDULE.

##### Form No. 1.

##### *The Export Licenses Regulations 1938.*

##### APPLICATION FOR PARTICULAR LICENSE TO EXPORT GOODS.

To the Collector of Customs at .....

Full name of applicant : .....

Occupation : .....

Address : .....

Local office of New Zealand bank to which shipping documents to be delivered : .....

Value of goods at port of shipment : .....

Name of ship by which goods to be exported : .....

Place to which goods to be exported : .....

Goods intended for sale (or goods not intended for sale) : .....

If goods not intended for sale, the purpose for which they are proposed to be exported : .....

The above-named applicant hereby applies for a license to export in terms of the particulars set out above the goods described below :—

Distinguishing Marks.	Description of Goods, and Number and Description of Packages.	Quantities.

Date : .....

Signature : .....

I hereby license the exportation of the goods described in the above application in accordance with the provisions of the Export Licenses Regulations 1938.

Signature : .....

Collector of Customs.

Date : .....

Form No. 2.

*The Export Licenses Regulations 1938.*

APPLICATION FOR GENERAL LICENSE TO EXPORT GOODS.

To the Comptroller of Customs,  
Wellington.

Full name of applicant : .....  
 Occupation : .....  
 Address : .....  
 Local office(s) of bank(s) in New Zealand to which shipping documents to be delivered : .....  
 Port(s) to which license is to apply : .....  
 Duration of license : .....

The above-named applicant hereby applies for a general license to export goods from New Zealand in terms of the particulars set out above.

*Date* : .....

*Signature* : .....

I hereby license the exportation of goods in terms of the above application and in accordance with the provisions of the Export Licenses Regulations 1938.

*Date* : .....

*Signature* : .....

Comptroller of Customs.

Form No. 3.

*The Export Licenses Regulations 1938.*

APPLICATION FOR PURCHASER'S LICENSE TO EXPORT GOODS.

To the Collector of Customs at .....

Full name of applicant : .....  
 Occupation : .....  
 Address : .....  
 Purchase price of goods (New Zealand currency) : .....  
 Date and place of purchase of goods : .....  
 Port from which goods to be exported : .....  
 Name of ship by which goods to be exported : .....  
 Bank or other person in New Zealand entitled to foreign credit in respect of goods : .....  
 Date and place of payment of foreign credit : .....

The above-named applicant hereby applies for a license to export the goods purchased as above described and mentioned hereunder :—

Distinguishing Marks.	Description of Goods and Number and Description of Packages.	Quantities.

*Date* : .....

*Signature* : .....

I hereby license the exportation of the goods described in the above application, in accordance with the provisions of the Export Licenses Regulations 1938.

*Signature* : .....

Collector of Customs.

*Date* : .....



## Form No. 4.

*The Export Licenses Regulations 1938.*

## BOND.

KNOW all men by these presents that we [*Full name of licensee*], of [*Address*], [*Occupation*], (hereinafter called "the Licensee") and [*Full name of first surety*], of [*Address*], [*Occupation*], and [*Full name of second surety*], of [*Address*], [*Occupation*], are jointly and severally held and firmly bound unto His Majesty King George the Sixth in the sum of . . . . . pounds, to be paid to His Majesty and his successors, for which payment to be well and truly made we bind ourselves jointly and each of us severally and respectively, our and each of our executors and administrators, firmly by these presents.

Sealed with our seals and dated this . . . . . day of . . . . ., 19..

WHEREAS the above-bounden licensee has made an application dated the . . . . . day of . . . . ., 19.., for a (particular) (general) (purchaser's) license to export goods under the Export Licenses Regulations 1938 :

Now the condition of the above-written bond or obligation is that if the licensee and all other persons bound thereby shall punctually and faithfully observe and comply with the conditions of the license and with all the requirements of the Export Licenses Regulations 1938, relating to such license, then this bond shall be void and of no effect, but otherwise the same shall remain in full force and effect :

Provided always that no extension of time or other indulgence granted to the licensee for compliance with any conditions of the license or with any requirements of the said regulations, and no neglect or forbearance to enforce such compliance, shall in any way release any person hereby bound, his executors or administrators, from his or their liability hereunder, and no waiver of any one or more of the said conditions or requirements shall affect the liability of the licensee or any other person hereby bound, his or their respective executors or administrators, from his or their liability hereunder.

Signed, sealed, and delivered by }  
the said [*Licensee*] in the }  
presence of—

Signed, sealed, and delivered by }  
the said [*First Surety*] in }  
the presence of—

Signed, sealed, and delivered by }  
the said [*Second Surety*] in }  
the presence of—

C. A. JEFFERY,  
Clerk of the Executive Council.

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Issued under the authority of the Regulations Act, 1936.  
Date of notification in *Gazette* : 6th day of December, 1938.  
These regulations are administered by the Customs Department.