



**THE NIUE FRUIT CONTROL REGULATIONS 1945**

C. L. N. NEWALL, Governor-General  
ORDER IN COUNCIL

At the Government Buildings at Wellington, this 21st day of  
February, 1945

Present :

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL

PURSUANT to the Cook Islands Act, 1915, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

**REGULATIONS**

**PART I.—PRELIMINARY**

1. These regulations may be cited as the Niue Fruit Control Regulations 1945.
2. These regulations shall come into force on the 1st day of March, 1945.
3. In these regulations, unless inconsistent with the context,—  
“Fruit” means bananas and kumara :  
“Minister” means the Minister of Island Territories, and includes the delegate of the Minister under these regulations :  
“Resident Commissioner” means the Resident Commissioner of Niue :  
“Secretary” means the Secretary of Island Territories :  
“The 1924 regulations\*” means the regulations made under the Cook Islands Act, 1915, on the 22nd day of September, 1924, for the inspection and fumigation of fruit intended for export from Niue and for other purposes.
4. Subject to the express provisions of Regulation 3 hereof and unless a contrary intention appears, expressions used herein have the meanings assigned to them by the 1924 regulations.
5. Regulation 21 of the 1924 regulations is revoked.
6. The 1924 regulations shall be read subject to these regulations.
7. Any notice to be given by the Minister under the provisions of these regulations shall be given in the Island of Niue and shall be there given in such manner as the Minister thinks sufficient.
8. The Minister may delegate to the Secretary all or any of the powers and authorities exercisable by the Minister in New Zealand under these regulations and to the Resident Commissioner all or any of the powers and authorities exercisable by the Minister in Niue under these regulations, and the fact that the Secretary or the Resident Commissioner exercises any of such respective powers and authorities shall be conclusive evidence of the existence of a delegation sufficient for the valid exercise of the powers and authorities so exercised.

\* Gazette, 25th September, 1924, Vol. III, page 2213.

## PART II.—ASSUMPTION OF CONTROL

9. The Minister may from time to time by notice assume control of the whole or any portion of the fruit produced in Niue and intended for export from Niue (whether to any other part of the Cook Islands or to a destination outside the Cook Islands) as from a date to be stated in the notice.

10. Unless otherwise provided therein, every such notice shall be deemed to include fruit harvested at the time when the notice comes into force and fruit thereafter during the continuance of the notice to be harvested whether or not in existence at the time when the notice comes into force.

11. Any such notice may at any time be withdrawn by further notice stating the date of withdrawal.

12. The exercise by the Minister of any power or authority assumed by him under the provisions of these regulations shall be deemed to be a public purpose within the meaning of section 364 of the Cook Islands Act, 1915.

13. All contracts, whether made before or after the coming into force of these regulations, shall at all times after the coming into force of these regulations, unless the Minister is a party thereto or unless the Minister's written consent is given thereto, be void and unenforceable so far as such contracts relate to the sale or other disposition or to the carriage or export of fruit subject to the control of the Minister.

14. No person shall after the coming into force of these regulations make or be a party to or enter either as principal or agent into any contract of a kind declared by the last preceding regulation to be void and unenforceable.

## PART III.—EXERCISE OF CONTROL

15. The Minister may from time to time by notice allocate maximum quantities of bananas and kumara respectively that any planter or any district or locality defined in the notice shall be permitted to supply for export in any specified shipment or during any specified period.

16. The Minister may from time to time fix prices below which any species of fruit intended for export shall not be sold or purchased in Niue.

17. In respect of all fruit intended for export of which the Minister has assumed control, the Minister may in Niue or elsewhere—

- (a) Take delivery of, grade, pack, handle, and store such fruit :
- (b) Ship such fruit on such terms and in such quantities as he thinks fit :
- (c) Sell and grant options for sale of or otherwise dispose of such fruit in such manner and upon such terms as to price, payment, delivery, transport, rejection, and other matters as he thinks fit :
- (d) Insure such fruit against any insurable risk :
- (e) Destroy such fruit :
- (f) Generally do all such things as in his opinion are necessary for, or incidental to, the due discharge of his functions in handling, distributing, and disposing of fruit or otherwise in exercising control over fruit as fully as an absolute owner of fruit might do.

18. Nevertheless, as between the owner subject to the Minister's control on the one part and the Minister on the other part, the Minister shall be deemed to be the agent of the owner so that the

mutual rights, obligations, and liabilities of the Minister and the owner shall be determined in accordance with the law governing the relations between principals and agents; save that nothing herein contained shall be construed to limit the right of the Minister to exercise without the authority of the owner of any such fruit any power with respect to such fruit expressly or by implication conferred on the Minister by or by virtue of these regulations.

19. For the purposes of these regulations and in order to provide packing-sheds, offices, stores, or buildings of any kind, the Minister may, on behalf of and in the name of His Majesty and on such terms and conditions as the Minister may determine, acquire the freehold or leasehold of any land, or land and buildings, and the same may from time to time be disposed of permanently or for a term of years in manner prescribed by section 355 of the Cook Islands Act, 1915.

20. The Minister may also acquire fruit-cases, shooks, machinery, plant, and other personal property of any kind whatever.

21. The Minister may in his discretion advance to any grower to whom moneys by way of distribution under these regulations are contingently payable any sum not exceeding the amount estimated to be so payable.

22. In the exercise of his powers the Minister may in Niue and in New Zealand act by the officers of the Cook Islands Public Service or by the officers of the Department of Island Territories or by contractors, consignees, attorneys, or other agents, and may accordingly enter into contracts and appoint agents on such terms and conditions as he may determine for the carrying-out of his functions.

23. The powers conferred by this Part of these regulations (except those set out in Regulations 17 and 18 hereof) may be exercised notwithstanding that control over fruit has not been assumed or is not for the time being exercised.

#### PART IV.—APPLICATION OF FUNDS

24. All moneys received by the Minister in respect of the sale of fruit or otherwise howsoever shall be applied as follows:—

- (a) In payment of the expenses, commissions, and other charges and claims in respect of the carrying-out of these regulations:
- (b) In payment for services rendered by the Cook Islands Public Service, the Department of Island Territories, the Controller and Auditor-General, and any other Department of the Government:
- (c) In payment of the salaries, wages, travelling expenses and allowances, and remuneration of any kind whatever due to officers, servants, and agents of the Minister:

Provided that travelling allowances and expenses allowable to officers of the New Zealand Public Service or of the Cook Islands Public Service shall be at the rates provided from time to time in the regulations applicable respectively to those Services:

- (d) In payment of purchase-money and rent for land and buildings acquired or occupied for the purpose of these regulations and purchase-money for fruit-cases, shooks, machinery, plant, and other personal property acquired for the purpose of these regulations:
- (e) In the erection, acquisition, maintenance, enlargement, or improvement of packing-sheds and equipment for the same:

- (f) The distribution to the owners of fruit disposed of in such sums or proportions as the Minister thinks equitable having regard to the nature, quality, quantity, and season of delivery of fruit disposed of, the amount realized on disposal, and the costs and charges involved in realization :
- (g) In cases where fruit which has been packed for export has not been exported through no fault of the Minister or of the producer, for making such payments to the producers as the Minister may determine :
- (h) In payment of all other moneys for which the Minister is liable in the carrying-out of the provisions of these regulations.

#### PART V.—ACCOUNTS

25. Proper and complete accounts shall be kept by the Minister of all operations and of all fruit received and all moneys received and expended for the purposes of these regulations.

26. Such moneys and accounts shall be subject to audit in the same manner in all respects as if such moneys were public moneys within the meaning of the Public Revenues Act, 1926, at such times as the accounts of the Niue Treasury are audited as provided by law.

27. A summary of accounts for the preceding twelve months or from the date of the last audit, duly audited and set forth in such form as the Controller and Auditor-General may require, shall be published by the Minister within three months after the date of such audit.

28. The Treasurer at Niue shall keep an account of the proceeds of the sale of fruit, and all such proceeds shall be deposited either in the Public Account at the Reserve Bank of New Zealand at Wellington for credit of the Consolidated Fund, Deposits Account, Niue Fruit Account, or with the Treasurer at Niue.

29. All moneys paid to the Treasurer at Niue shall be kept in a separate account known as the " Niue Fruit Account ".

30. Moneys shall be withdrawn from the Deposits Account, Niue Fruit Account, in accordance with the provisions of the Public Revenues Act, 1926, and the regulations thereunder relating to the withdrawal of moneys from the Public Account.

31. Moneys shall be withdrawn from the Niue Fruit Account with the Niue Treasury for the purposes of these regulations in accordance with the provisions of the Cook Islands Treasury Regulations 1916.

#### PART VI.—PENALTIES

32. Any person making or being a party to or entering either as principal or agent into any contract in breach of these regulations or acting under or seeking to carry out or enforce any contract declared by these regulations to be unenforceable commits an offence and shall be liable on summary conviction to a fine not exceeding £50.

33. Any person who obstructs or impedes or attempts to obstruct or impede the Minister or any officer of the Cook Islands Public Service or of the Department of Island Territories or any agent of the Minister in exercising any of the functions, powers, authorities, or duties vested in or conferred by or under these regulations commits an offence and shall be liable on summary conviction to a fine not exceeding £50.

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

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 22nd day of February, 1945.

These regulations are administered in the Department of Island Territories.

By Authority: E. V. PAUL, Government Printer, Wellington.—1945.