

AMENDED: SEE ACT, 1924 NO. 30

AMENDED: See Act. 1925 No. 52

New Zealand.



ANALYSIS.

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1923, No. 28.

Title. AN ACT to make Provision for the Control of the Export of Dairy-produce. [28th August, 1923.]

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

Short Title. 1. This Act may be cited as the Dairy-produce Export Control Act, 1923.

Act to be brought into operation by Proclamation. 2. (1.) This Act shall come into operation on a date to be specified in that behalf by the Governor-General, by Proclamation approved in Executive Council.

(2.) A Proclamation shall not issue under this section unless and until a majority in number of the producers, within the meaning of this Act, have, at a poll to be taken for the purpose as herein provided, voted in favour of a proposal that this Act should be brought into operation.

(3.) At the poll to be taken as aforesaid proposals shall be submitted in the following form:—

Voting-paper on Proposal to bring Dairy-produce Export Control Act into operation.

1. I vote that the Act be brought into operation.
2. I vote that the Act be NOT brought into operation.

(4.) Every voter at the poll on the proposals submitted under this section shall be entitled to one vote only, and shall record his vote by striking out the proposal for which he does not wish to vote.

(5.) A proposal under this section shall be deemed to be carried if a majority of the valid votes recorded at the poll is in favour thereof, but not otherwise.

(6.) For the purposes of a poll under this section an officer of the Public Service shall be appointed as Returning Officer, and the Returning Officer shall make all necessary arrangements for the conduct of the poll.

(7.) The poll to be taken under this section shall be taken on a day or days to be appointed in that behalf by the Minister of Agriculture, being not later than the first day of November, nineteen hundred and twenty-three, and may be taken by post.

(8.) On the completion of the poll the Returning Officer shall make a declaration as to the result, and shall forward the same to the Minister of Agriculture, who shall cause notice of the same to be published in the *Gazette*.

(9.) The notice published in the *Gazette* shall be conclusive evidence of the result of the poll.

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

Interpretation.

“Dairy-produce” means butter and cheese:

“Producers” means persons carrying on business as suppliers of milk or cream to factories manufacturing dairy-produce for export.

4. (1.) There is hereby established a Board to be known as the New Zealand Dairy-produce Control Board (hereinafter referred to as the Board).

New Zealand Dairy-produce Control Board.

(2.) The Board shall consist of—

(a.) Two persons (herein referred to as Government representatives) to be appointed by the Governor-General, on the recommendation of the Minister of Agriculture, as representatives of the New Zealand Government; the Governor-General shall not appoint any person rejected by a vote of the producers as hereinafter provided:

(b.) Nine persons (herein referred to as producers' representatives) to be appointed by the Governor-General as representatives of producers on election in manner hereinafter provided.

(3.) In addition to the members to be appointed pursuant to the last preceding subsection, the Governor-General may appoint one member as representative of persons for the time being engaged in business as manufacturers of dairy-produce, or as sellers of such produce out of New Zealand, whether as agents or on their own account. Such member shall be appointed for a term of three years, but may at any time be removed from office by the Governor-General on the recommendation of the Board, or may from time to time be reappointed on the expiry of any term of appointment.

(4.) Of the producers' representatives six shall be elected in the prescribed manner by direct vote of the producers carrying on business in the North Island, and three shall be similarly elected by producers carrying on business in the South Island.

(5.) Every person appointed as a Government representative under this section shall hold office during the pleasure of the Governor-General.

(6.) With respect to the first members appointed as producers' representatives the following provisions shall apply:—

(a.) Three of such members shall retire on the thirtieth day of June in each of the years nineteen hundred and twenty-five, nineteen hundred and twenty-six, and nineteen hundred and twenty-seven:

(b.) The members so to retire in any year shall be determined by lot, save that in each of the said years two representatives from the North Island and one representative from the South Island shall retire:

(c.) Any member retiring as aforesaid shall be eligible for reappointment to the Board.

(7.) Except as provided in the last preceding subsection, every person appointed as a producers' representative shall hold office for a period of three years from the date of his appointment, save that he may be reappointed in the manner prescribed by paragraph (b) of subsection two hereof, or may at any time be removed from office by the Governor-General on the recommendation of the Board.

(8.) On the death, resignation, or removal from office of any member of the Board appointed as a producers' representative the Governor-General shall, on the recommendation of the Board, appoint some fit person to be a member of the Board for the residue of the term for which such first-mentioned person was appointed.

(9.) The powers hereinafter conferred on the Board shall not be affected by any vacancy in the membership thereof.

5. The Board shall be a body corporate, with perpetual succession and a common seal, and shall be capable of holding real and personal property, and of doing and suffering all that bodies corporate may do and suffer.

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

(2.) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Board, be either under the seal of the Board or signed by two members of the Board on behalf of and by direction of the Board.

(3.) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Board by any two members acting by direction of the Board, but no verbal contract shall be made for any sum exceeding twenty pounds.

7. (1.) In any case in which the Governor-General is satisfied that any member of the Board is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General, on the recommendation of the Minister of Agriculture if the member so incapacitated is a Government representative, or on the recommendation of the Board in any other case, may appoint some fit person to be named by the Minister or the Board, as the case may

Incorporation
of Board.

Contracts of
Board.

Provision for
appointment of
members.

require, to be a deputy to act for that member during such incapacity; and any deputy shall, while he acts as such, have all the powers and authority of the member for whom he is so acting.

(2.) No such appointment of a deputy and no acts done by him as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

8. (1.) The first meeting of the Board shall be held on a day to be appointed in that behalf by the Minister of Agriculture. First meeting of Board.

(2.) At the first meeting the Board shall appoint one of its members to be the Chairman of the Board.

(3.) On the second Wednesday in July, nineteen hundred and twenty-four, and on the same day in each succeeding year, the Board shall hold a meeting for the purpose of appointing a Chairman for the ensuing twelve months. Appointment of Chairman.

(4.) Any person appointed as the Chairman of the Board shall hold office until the appointment of his successor in accordance with this section, and shall be eligible for reappointment.

9. (1.) Except as provided in the last preceding section, meetings of the Board shall be held at such times and places as the Board shall from time to time appoint. Other meetings of Board.

(2.) The Chairman of the Board, or any four members thereof, may at any time call a special meeting of the Board.

(3.) At all meetings of the Board five members (of whom at least one shall be a Government representative) shall form a quorum.

(4.) The Chairman shall preside at all meetings of the Board at which he is present.

(5.) In the event of the absence of the Chairman from any meeting of the Board the members present at such meeting shall appoint one of their number to be the chairman of the meeting.

(6.) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting-vote, and a decision of the majority of the members present shall be the decision of the Board.

10. The Board may appoint such officers as it deems necessary for the efficient carrying-out of its functions under this Act. Officers of Board.

11. (1.) There is hereby also constituted an agency of the Board in London (hereinafter called the London Agency), which shall consist of such number of persons as the Board may decide from time to time, one of whom shall be appointed by the Governor-General on the recommendation of the Minister of Agriculture, and shall hold office during his pleasure. London Agency of Board.

(2.) The other members of the London Agency shall be appointed by the Board, and shall hold office during the pleasure of the Board.

(3.) It shall be the duty of the London Agency to keep the Board advised as to current prices of dairy-produce and as to other matters relative to the disposal of New Zealand dairy-produce in England or elsewhere, and generally to act as the agent of the Board in accordance with the directions of the Board.

12. For the purpose of enabling the Board effectively to control the export, sale, and distribution of New Zealand dairy-produce the Governor-General may, acting under the powers conferred on him by the Customs Act, 1913; and its amendments, prohibit the export from Dairy-produce not to be exported save in accordance with determination of Board.

New Zealand of any dairy-produce save in accordance with a license to be issued by the Minister of Agriculture, subject to such conditions and restrictions as may be approved by the Board.

Board may assume control of dairy-produce intended for export.

13. (1.) The Board is hereby empowered to determine from time to time the extent to which it is necessary, for the effective operation of this Act and the fulfilment of its purposes, that the Board should exercise control over the export of dairy-produce from New Zealand, and may assume control of any such dairy-produce accordingly.

(2.) In any such case the control of the Board shall operate as from a time to be specified in that behalf by the Board by notice given in conformity with this Act.

(3.) Notice by the Board of its intention to assume control of any dairy-produce may be given either by service on the owner of any dairy-produce or on any person having possession thereof, or by publication in any newspaper or newspapers, in accordance with such conditions as may be prescribed. Every such notice shall, subject to the provisions of this Act, have effect according to its tenor.

(4.) The control to be exercised by the Board over any dairy-produce may, as the Board in any case determines, be absolute or limited.

(5.) All dairy-produce of which the Board has assumed absolute control shall be shipped as the Board directs, and shall be sold and disposed of only by the Board, or by direction of the Board, at such times and in such manner and on such terms as the Board in its discretion determines.

(6.) Where the Board has assumed limited control the extent of its control shall be defined by notice as aforesaid, or by agreement between the Board and the owners of the dairy-produce or other persons having authority to enter into an agreement with the Board with respect to such dairy-produce.

(7.) Notwithstanding anything to the contrary in the foregoing provisions of this section, the Board shall not exercise its powers under this section with respect to the sale of any dairy-produce if the Board is satisfied—

(a.) That there is subsisting a contract for the purchase and sale of that dairy-produce made before the commencement of this Act; or

(b.) That there is subsisting a contract for the purchase and sale of that dairy-produce made after the commencement of this Act but before the Board has given notice of its intention to assume control of that dairy-produce;

and that the dairy-produce to which any such contract as aforesaid relates is to be exported from New Zealand not later than the thirty-first day of August, nineteen hundred and twenty-four.

(8.) Notwithstanding anything to the contrary in the foregoing provisions of this section, the Board shall not exercise its powers under this section with respect to the sale of any dairy-produce so as prejudicially to affect the operation of any contract of agency in respect of the sale of dairy-produce out of New Zealand if such contract has been entered into in writing on or before the first day of July, nineteen hundred and twenty-three.

14. (1.) After the constitution of the Board, or after such later date as the Board may by public notice appoint, no contract for the carriage by sea of any dairy-produce to be exported from New Zealand shall be made, save by the Board acting as the agent of the owners of that dairy-produce or of other persons having authority to export the same, or in conformity with conditions to be approved by the Board:

As to contracts for shipment of dairy-produce.

Provided that if the Board established under the Meat-export Control Act, 1921-22, by resolution notified to the Board under this Act, determines not to enter into any contract for the sea carriage of meat save in accordance with an arrangement between that Board and the Board under this Act, the Board under this Act shall not, while such resolution remains in force, have authority to enter into any contract for the sea carriage of dairy-produce, save in accordance with an arrangement to be made with the Meat-producers Board.

(2.) Every contract for the carriage of dairy-produce by sea made otherwise than in conformity with this section shall be void.

(3.) Every person other than the Board who, after the constitution of the Board, or after such later date as aforesaid, exports any dairy-produce from New Zealand shall, on making entry therefor under the Customs Acts and before such entry has been passed, produce to the Collector or other officer of Customs sufficient evidence to satisfy him that the contract for the shipment of that dairy-produce has been approved by the Board.

(4.) The foregoing provisions of this section shall apply, with the necessary modifications, to contracts made before the constitution of the Board (whether before or after the commencement of this Act), save that the approval of the Board shall not be required for any such contract if the dairy-produce to which it relates is exported from New Zealand not later than the thirty-first day of August, nineteen hundred and twenty-four.

15. (1.) There shall be paid by way of levy on all dairy-produce exported from New Zealand after a date to be fixed in that behalf by the Governor-General in Council, whether such dairy-produce is subject to the control of the Board or not, such charges as may from time to time be fixed by the Board, not exceeding the maximum charges that may be prescribed in that behalf by regulations under this Act (being not more in any case than one-eighth of a penny in respect of each pound of butter and one-sixteenth of a penny in respect of each pound of cheese exported as aforesaid).

Levy on dairy-produce exported from New Zealand.

(2.) All moneys payable under this section in respect of any dairy-produce shall be paid to the Collector of Customs on or before the entry of that dairy-produce for export, and shall be paid into the Consolidated Fund.

(3.) The net amounts paid into the Consolidated Fund as aforesaid, after deducting such proportion as may be prescribed in respect of the services of the Collectors and other officers of Customs, shall from time to time be paid to the Board without further appropriation than this section, and shall form part of the funds of the Board.

16. (1.) Without limiting any authority specifically conferred on the Board with respect to any dairy-produce, the Board shall have

Particular powers of Board.

full authority to make such arrangements and give such directions as it thinks proper for the following matters :—

- (a.) For the handling, pooling, and storage of dairy-produce ;
- (b.) For the shipment of such dairy-produce on such terms and in such quantities as it thinks fit ;
- (c.) For the sale and disposal of dairy-produce on such terms as it thinks advisable ;
- (d.) For the insurance against loss of any such dairy-produce either in New Zealand or in transit from New Zealand and until disposed of ; and
- (e.) Generally for all such matters as are necessary for the due discharge of its functions in handling, distributing, and disposing of New Zealand dairy-produce.

(2.) For the purpose of securing any advances that may be made to the Board or to the owners of any dairy-produce at the request of the Board the Board shall, by virtue of this Act and without further authority, have full power on behalf of the owners to give security over such dairy-produce and to execute all mortgages and other instruments of assurance in the same manner in all respects as if the Board were the legal owners of such dairy-produce.

17. All moneys received by the Board by way of levy under section fifteen hereof or in respect of the sale of dairy-produce or otherwise howsoever shall be paid by the Board into a separate account at a bank to be approved by the Minister of Finance, and shall be applied by the Board as follows :—

- (a.) In payment of the expenses, commission, and other charges incurred by the Board or for which the Board may become *liable in the course of its business* :
- (b.) In payment of the salaries and wages of officers and servants of the Board :
- (c.) In payment of travelling-allowances, fees, or other remuneration to members of the Board or of the London Agency (not being persons permanently employed in the service of the Government) :
- (d.) In payment of advances made by the Board to the owners of any dairy-produce on account of the price of that dairy-produce :
- (e.) In payment into a reserve fund, from time to time as the Board in its discretion determines, of such amounts not exceeding in any year the maximum amount levied for that year under section fifteen hereof as the Board may consider necessary to enable it to carry on its operations under this Act :
- (f.) In payment of the balance to the owners of dairy-produce controlled by the Board in proportions to be fixed by the Board by reference to the quantity and grade of the dairy-produce handled by the Board in respect of the several producers or other owners of dairy-produce.

18. The accounts of the Board shall be subject to audit in the same manner in all respects as if the moneys of the Board were public moneys within the meaning of the Public Revenues Act, 1910.

19. (1.) The Board in its corporate capacity shall in all its operations under this Act be deemed to be the agent of the owners of all

Application by
Board of moneys
received by it.

Audit of Board's
accounts.

Liability of Board
for its acts or
omissions.

dairy-produce of which the Board has assumed control; and the mutual rights, obligations, and liabilities of the Board and the several owners shall accordingly be determined in accordance with the law governing the relations between principals and agents, save that nothing herein shall be construed to limit the power of the Board to exercise, without the authority of the owner of any dairy-produce, any power with respect to such dairy-produce that may expressly or by implication be conferred on the Board by or by virtue of this Act.

(2.) The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

20. For the purpose of enabling the Board to carry out its Regulations. functions under this Act the Governor-General may make regulations prescribing the maximum charges to be paid by way of levy in respect of dairy-produce exported from New Zealand, and all such other regulations as he thinks necessary for the purpose of enabling this Act to be carried into effect.
