



ANALYSIS

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1980, No. 9

An Act to amend the Apple and Pear Marketing Act 1971

[28 August 1980]

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

1. Short Title—This Act may be cited as the Apple and Pear Marketing Amendment Act 1980, and shall be read together with and deemed part of the Apple and Pear Marketing Act 1971 (hereinafter referred to as the principal Act).

2. Function of Authority—(1) Section 26 of the principal Act is hereby consequentially amended by repealing subsection (1), and substituting the following subsection:

“(1) The general function of the Authority shall be—

“(a) To determine in each season, in accordance with this Part of this Act,—

“(i) The average price to be paid by the Board for apples that are produced in New Zealand and acquired by the Board during that season; and

“(ii) The average price to be paid by the Board for pears that are produced in New Zealand and acquired by the Board during that season; and

“(b) To fix the rate of industry levy in accordance with this Act.”

(2) Section 4 of the Apple and Pear Marketing Amendment Act 1977 is hereby consequentially repealed.

3. Determination of average prices—(1) The principal Act is hereby amended by repealing section 27, and substituting the following section:

“27. (1) Not later than the last day of February in each season the Authority shall determine—

“(a) An average price for all apples purchased by the Board from growers during that season; and

“(b) An average price for all pears purchased by the Board from growers during that season.

“(2) If, after an average price for apples or pears has been determined for any season under subsection (1) of this section or under this subsection, the Authority is of the opinion that that price should be increased, the Authority may, not later than the 30th day of November in that season, determine an increased average price for apples or, as the case may be, pears for that season.

“(3) An average price determined under subsection (2) of this section shall take effect on the day on which the notice under subsection (8) of this section is published, or such other date during the season concerned as the Authority may specify in that notice.

“(4) In determining any average price, the Authority shall have regard to the following matters:

“(a) The necessity in the public interest of maintaining the stability and efficiency of the apple and pear growing industry:

“(b) Movements in the costs of marketing apples or, as the case may be, pears:

“(c) The amounts that apples or, as the case may be, pears, acquired by the Board, and products manufactured by the Board from any such apples or pears, are realising, market prospects for the season, and other marketing trends known to or expected by the Authority:

“(d) The state of the accounts of the Board:

“(e) The current and future requirements of the Board for finance for capital expenditure or for other special purposes:

“(f) Any submissions made by the Board or the Fruit-growers’ Federation:

“(g) Any other matters considered by the Authority to be relevant.

“(5) Subject to subsection (6) of this section, no average price for apples or pears determined under subsection (1) or subsection (2) of this section in respect of any season shall be greater by more than 10 percent or less by more than 5 percent than the maximum average price for apples or, as the case may be, pears so determined in respect of the previous season.

“(6) To the extent only that the Authority is satisfied that the average price for apples or pears has fallen significantly behind market realisations, it may determine in respect of any season an average price for apples or, as the case may be, pears that is greater by more than 10 percent than the average price for apples or, as the case may be, pears determined in respect of the previous season.

“(7) The Authority shall publish in the *Gazette* a notice of the determination of any average price under subsection (1) or subsection (2) of this section.

“(8) If in any season no average price for apples or pears has been fixed under subsection (1) of this section before the 1st day of March, there shall be deemed so to have been fixed the average price for apples or, as the case may be, pears in force at the end of the previous season.”

(2) For the purposes of section 27 (5) of the principal Act (as substituted by subsection (1) of this section) there shall be deemed to have been determined in respect of the season that ended with the 30th day of November 1979 a maximum average price for apples of 10.4456 cents per kilogram and a maximum average price for pears of 17.567 cents per kilogram.

4. New sections substituted—The principal Act is hereby amended by repealing section 28, and substituting the following sections:

“28. **Board to fix prices**—(1) Subject to subsection (4) of this section, the Board shall from time to time during each season fix prices to be paid to growers for apples and pears acquired by the Board during that season.

“(2) Without limiting the generality of subsection (1) of this section, but subject to subsection (4) of this section, the Board may under subsection (1) of this section fix different prices for different kinds, varieties, grades, qualities, or sizes of apples or pears, or by reason of any other special conditions or circumstances that, in the opinion of the Board, warrant the fixing of different prices; and, subject as aforesaid, may from time to time vary any such prices.

“(3) Subject to subsection (4) of this section, the Board may from time to time, with the approval of the Minister, fix for apples or pears acquired by the Board under any special arrangement or subject to any special terms and conditions a price that differs from that otherwise payable for apples or pears of the same kind, variety, quality, grade, and size.

“(4) The total amount paid to growers under this section for the apples or pears acquired by the Board during any season shall not exceed the total amount that would be paid by the Board for those apples or pears if they were all acquired at the average price for apples or, as the case may be, pears, determined under section 27 of this Act in force at the time they were acquired.

“28A. **Additional payments**—(1) In addition to the price payable under section 28 of this Act, the Board may make to growers of any apples or pears acquired by the Board such payments relating to costs borne or incurred by growers in respect of those apples or pears as the Board determines.

“(2) Without limiting the generality of subsection (1) of this section, the costs relating to which the Board may make payments under that subsection may include labour and other costs incurred as a result of special work done or arrangements made in respect of the picking, grading, packing, transport, or storage, of any apples or pears.

“(3) Subject to subsection (4) of this section, where any apples or pears acquired by the Board were grown in a district other than Nelson or Hawke’s Bay, the Board may make to the grower of those apples or pears, in addition to the price payable under section 28 of this Act and any payments made under subsection (1) of this section, such payments in respect of those apples or pears as the Board from time to time determines.

“(4) No payment made under subsection (3) of this section in respect of any apples or pears shall, except with the approval of the Minister and subject to such conditions as

he imposes, exceed the transportation costs that would have been incurred if those apples or pears had been transported in the most economical manner from the Nelson district or the Hawke's Bay district (whichever is the more convenient of access) to the principal town in the district in which those apples or pears were grown."

5. Industry levy for apples and pears—(1) Section 31A of the principal Act (as inserted by section 5 of the Apple and Pear Marketing Amendment Act 1977) is hereby amended by repealing subsection (5) (c) and subsection (7) (c).

(2) Notwithstanding anything in the said section 31A, no person shall be liable to pay any amount of industry levy in respect of sales of apples or pears made during the year ending with the 30th day of June 1980.

6. Remuneration and travelling expenses of members of Board, Authority, and Committees—The principal Act is hereby amended by repealing section 36, and substituting the following section:

"36. (1) The Board shall pay to its members, and to the members of any advisory or technical committee appointed by the Board, such fees, salary, allowances, and travelling allowances and expenses, as the Board by resolution from time to time determines.

"(2) The Board shall pay to members of the 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—

"(a) The Authority is hereby declared to be a statutory Board within the meaning of that Act; and

"(b) That Act shall apply accordingly."

7. Permitted sales to consumers—(1) Section 43 (1) (c) (ii) of the principal Act is hereby amended by omitting the expression "50 km" (as substituted by section 2 (b) of the Apple and Pear Marketing Amendment Act 1974), and substituting the expression "65 km".

(2) Section 2 (b) of the Apple and Pear Marketing Amendment Act 1974 is hereby consequentially repealed.